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

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LOSING CONTINUES CONVENTION RECORDS CONSISSION



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# **VOLUME SEVEN**

by

LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

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# LOUISIANA CONSTITUTIONAL CONVENTION RECORDS COMMISSION

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# TABLE OF CONTENTS

Page
September 7, 1973 [43rd Day's Proceedings]
September 8, 1973 [44th Day's Proceedings]
September 12, 1973 [45th Day's Proceedings]
September 13, 1973 [46th Day's Proceedings]
September 14, 1973 [47th Day's Proceedings]
September 15, 1973 [48th Day's Proceedings]
September 19, 1973 [49th Day's Proceedings]
September 20, 1973 [50th Day's Proceedings]
September 21, 1973 [51st Day's Proceedings]
September 22, 1973 [52nd Day's Proceedings]
September 25, 1973 [53rd Day's Proceedings]
September 26, 1973 [54th Day's Proceedings]
September 27, 1973 [55th Day's Proceedings]
September 28, 1973 [56th Day's Proceedings]
September 29, 1973 [57th Day's Proceedings]
October 2, 1973 [58th Day's Proceedings]
October 3, 1973 [59th Day's Proceedings]
October 4, 1973 [60th Day's Proceedings]
October 5, 1973 [61st Day's Proceedings]
October 6, 1973 [62nd Day's Proceedings]
October 9, 1973 [63rd Day's Proceedings]
October 10, 1973 [64th Day's Proceedings]
October 11, 1973 [65th Day's Proceedings]
October 17, 1973 [66th Day's Proceedings]

Friday, \_eptember 7, 1973

Mr. B B1 c1: A1 mighty God and Father of seven that the again for the privilence of a dressing here. We have that our service today will be the privilence of a dressing and will. We ask that You give us the wisdo, the grave to do the job as You think we ought to do it. Make us be charitable to one We ask all of this in the name of e u ...

Mr. Chairman, ladies and gentle-The second secon

Mr ing Mr hair an and fellw vleyate, when i was tait at this rownine yo tendar, I errited a rimal at a house which I and in ad there in-auter for is year. Mr though in the each the tatted that the oritist the intince and the tatted that the oritist gave to the different is wrecenting. They yer which do sever tried is rimal are well, that wa's errient. What is do sever the oritist at each what is do sever the original errient.

<text>

Mr. Stinson Just one second. N.w. Mr. Stala, if yo had listened correctly to me yesterday. I was not belitting your efforts. I merely said that if they had set forth in detail, you would not have had to do o much work to try to yet it. Tha was the point. I had no way of knowing where your client was at the present the 1 tried to fid out. That one point that you won partice before on your cliester was not you have the point that you won partice work to me the point of the for work of the see. But you had in work and work to

# PATITUNS, MEMORIALS, AND LUMMUNICATI NO

has been twice amended.

### Amondmont

<u>Mr. Poynter</u> The next amendment is sent up by Delegates Kelly and Jack. Amendment No. 1. On Page 4, line 15, delete Amendment No. 1 proposed by Delegate Burson and

adopted by the convention on September 6, 1973. Mr. Chairman, I might say there has been some question as to the full implication of the amendquestion as to the full implication of the amend-ment. On basic interpretation of the amendatory my reference to the word either "precisely" or "reasonably" so that the portion of the sentence would read, "the accused shall be informed." The present word is "reasonably" which was added after taking out the word "precisely" by the amendment proposed by Delegate Burson. The effect of this amendment, by deleting the word "reasonably," in effect, would be to have neither word there.

Explanation Mr. Kelly Mr. Chairman and ladies and gentlemen of the convention, this has been kicked around guite a bit and l'm not going to take a great deal of your time on it. First, this amendment would simply remove the word 'reasonable' which has been inserted. .on line 15 of page 4, it presently reads, "shall be reasonably informed of the naise amendment will do nothing more than delete Delegate Burson's injection of 'reasonable' in there. Now, in ight say that we're not trying through this amendment, and it's my understanding from the Clerk that this will not restore the word 'precise-ly.' We're not trying else. What I think we have done, at this particular point, is reduce the rights of the individue in this particularly.' "completely.' or anything else. What I think we have done, at this particular point, is reduce the rights of the individue in this particular cose refer you to Article 1, Section 10, of the 1921 constitution, and this is what is that we've been operating under, and that's the law that we've been operating under, and that's the law, think, that if we are going to do anything, let's continue operating under that particular lauguage. We know what it means. I might add that this is not by intention of trying to write free trial discovery devices in criminal cases into the constitution, it's been in the constitution, is soment since 1921. The convention has apparently emphasized, over the yast day or two, that they do not want to The convention has apparently emphasized, 1921. The convention has apparently emphasized, over the past day or two, that they do not want to write discovery devices in criminal cases into the left to the legislature. All third dee, so is simply says what I think we want to say. It says, "In all criminal prosecutions, the accused shall be inform-ed of the nature". We're not going to say he is going to be precisely informed, reasonably informed ... I meant you are either informed or you're not informed, so I submit this to you.

Mr. Tate Mr. Kelly, in restoring the language of the present constitution, from the debate yesterday, I do not understand you to mean to reinstate the very technical jurisprudence under that language that said the Bill of Information or the indict-ment had to contain a certain amount of details that couldn't be cured. Is that...

Mr. Kelly No, sir, that's not the intention.

Mr. Tate It's not the intention to reinstate

Mr. Kelly That's correct.

Mr. Roemer Delegate Kelly, if L understand what you're trying to do, you are trying to get around a similar incident to saying like "reasonably

accurate." What does that mean to you, "reasonably accurate"?

Mr. Kelly Well, of course, Buddy, that's less than accurate, that's for sure.

<u>Mr. Roemer</u> That's exactly right, so you are say-ing that "reasonably informed" is less than informed. Isn't that what you are trying to say?

Mr. Kelly That's what we are trying to get around

Mr. Gravel Mr. Kelly, as I understand your amend-ment it would, of course, delate the mendement of Mr. Burson that was adopted yesterday. Now, if we vote in favor of your amendment, just as a point of clarity I'd like to have this determined, in favor of your amendment, it would restore, would it not, the word "precisely" to the place where it was be-fore the Burson amendment was adopted?

Mr. Kelly Now, I discussed this, Mr. Gravel, with Wr. Poynter on this particular point. I am informe by the Clerk that it will not. In other words, if my amendment passes, the language on line 15 of page 4 will now read, "shall be informed." It will not restore the word "precisely." l am informed

Mr. Gravel Well, this is one of the very few times, I guess, in my life that I have disagreed with Mr. Poynter, but I think I'w delete the Burson amend-ment, unless I'm not clear on what it provided, that we are then reinstaing the committee language. I would suggest as a technical matter, and in an abundance of precaution, and in order to be fair. abundance of precation, and in order to be fair, that we add to your amendment, Amendment No. 2, which would then delete the word "precisely" after the restoration of the language that was deleted by the Burson amendment. I think that may be

<u>Mr. Kelly</u> I have no objection to that, and I meant if the convention is willing to do that, well, that's fine.

Mr. <u>Gravel</u> Mr. Chairman, may I ask for a ruling from the Chair? Then, one way or the other we can be sure what we are doing here because I do have some confusion about it. If there is a clear rul-ing and <u>that's what the result of it will be</u>, then, okay. Either we have to have a clear runny nom the Chair, in my judgment, or we have to have an Amendment No. 2 to accomplish what Mr. Kelly wants

Mr. Henry Why don't I just rule? I'm going to rule that we'll withdraw the amendment and we'll make the change. There is nothing wrong with it,

Mr. Jerkins Point of order, Mr. Chairman. Would we besetting a dangerous precedent by presuming now that a clearly established rule of parliamen-tary procedure is not the rule, and that we have to make such an amendment as Mr. Gravel suggests? When we take off an amendment, it's standard par-he formey panguage. If we start thin sing that we have to do that, I see in the future all sorts of dongers that might arise. Now, there is no doubt about Mr. Poynter's interpretation of this proce-dure, is there? Point of order, Mr. Chairman. Wouldn't

Mr. Henry There is no doubt about Mr. Poynter's interpretation of this or most any other thing, but I think it will clear up everybody's mind to go ahead and withdraw it and resubmit the amend-ment, Mr. Jenkins.

Mr. Poynter Amendment No. 1 [10 Mil. Kellig]

Page 4. Line 15, delete Amendment No 1 propulated by Delegate Burson and adopted by the invention of September 6, 1973, and on page 4, line 15, after the word "shall be" strike out the word "reasonably." Strike out the word "reasonably."

### Explanation

Her Keily Hell. I think everyone understands the intent of the amendment, and the only other thing that I have to add is that I have talked with Mr Burson, who was the author of the amendment that inserted the word "reasonably," and he says he hay o objection to this particular amendment. It is my understanding from talking with Mr. Stinson and Mr. Roy, and I assume they have polled the L mittee on the Bill of Rights, that the committee has no objection to it. Thave nothing more to add.

### Point of Drder

Mr. Deshotels Mr. Thairman, I raise a point of order, please. My question to the Chair is would not Amendment No. 1. I'm not talking about Amendment No. 2, but Amendment No. 1, would it not be a reconsideration of Mr. Jack Burson's amendment?

Mr. Henry Not at all, Mr. Deshotels, because it does not accomplish the same thing as did the Burson amendment.

Mr. Deshotels But, Mr. Chairman, doe n't it accomplish the same thing that would have been accomplished if his amendment had failed?

Mr. Henr, Not in my judgment, no, sir.

Mr Deshotels well, the word "precisely," you ruled would still be there.

#### Point of Information

Mr Jack I want to state in the first part of the question, I think Mr. Poynter is correct, but if we are going to do what we are getting ready to do now, we are soure enough going to be in a mess. If we are going to change this instead of going right lie Mr Burson's and my andment, I suggest we take out the whole sentence, take out all words beginning on line i & with the words lin all nor siteen and insert therein the following word. In all criminal prosecutions, the accused shall be informed of the nature and cause of the accusation against him. That way, you spell it out-third grade; everybody hould get it. How about that, Mr. Poynter?

that, Mr, Poynter? Mr Prynter Mr. Jack and members of the convention, 1 frankly, my understanding would be that the anement a originally drawn would have had the sennent a originally drawn would have had the sennent a originally drawn would be that the anement a originally drawn would be that the sennent a originally drawn would be that of another and the senne contract and the that you have said what you will are not sail field that you have said what you want in ay Bota set of a endents, in essen e, constitutes nothing more than a set of in tructing the end to the fast encolled, your intention and de ire will be each first and another that when this proposal i finfast encolled, your intention and de ire will be each first an asset of in tructure the way it was drawn the first time in the way wow that for relly main amended it ar right or by Wr. Trawn), an fir you refer, the way that Mr. as it has instited, all interest in the linear half wind the sais religing, have inned in the another wind the sais religing, have inned in the bar wind the sais religing, have inned in the sain wind the sais the the same hand, wind the same exercise the the same hand wind the sain the first the same hand wind the sain the first the same hand wind the same the s

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Mr. eigh A i continent or with the dis-

ar an-old ont to Mr on a drout a to felete from that the work mas nation

Mr Henry No. sir, it would not be hopedornale. Mr 'eigh

#### lo \nq

Ar in an Ar hairman, adde and entleme of the convention. I don't want to take any title up in an favor of this endent be an entrould do what Mr. Kelly said t would do, which would be to present constitution and require that a defendant be informed of the nature of the Charge again the Ne want to try and ske the record clear, newever, that we would like to try and get away from the hypertechnical jurisorudence that exists at the present time and we would encourage, if that does any good, the legislature to loos at this area. (Eddel) of the nature of the Charge again the state would encourage, if that does any good, the legislature to loos at this area. (Eddel) of the insure, statutorily, better information to the defendant. Now, of course, the virtue of doing that by statute rather than by the constitution is, if something doesn't writ, then yru an come back and change it-you don t have to submit a constitutional amendment. But, basin a'y, this amendment will leave the law in the condition that its in an the present ince and the legislature its wission, it deem appropriate. To lupport the amendment and urge you to account.

#### Questions

Mr. Pugh You are not suggesting that it wouldn't be appropriate for this Constitutional Convention to charge the legislature with the responsibility of drafting criminal discovery statutes, are you?

Mr. Burson Not at all. In fact, Mr. Pugh, in our office we have started a procedure as of this year, in connection with the Twenty-seventh Judicial District Court, of criminal pre-trials wherein we have rather full discovery. I think that a Int could be done in the system of criminal astie in this direction, which would help everybody concerned

 $M_{\rm T}$  Pugh Nell, the reason I asked is I way using to have an amendment providing for reinal dictory to submit to this onstitution and he said a while ago that he believed the in genus was a anst it being in the constitution, and that unprised me.

Mr. Bar on the only thing is, I think not would want to simply leave the terms and conditions of that to the legislature rather than trying to let them out in the constitution.

Mr Pugh Do you have in mind, pertap , tracking the 'en k Act

Mr bur un Sir?

Mr ugh Would you have in its that the it lature optical title en k. A t in uit anal

Mr. Lur on Frankl. I'r not faulliar with it. Mr

Mr lugh Thit' the distory at, the fearmant is overvat.

Mr ir n I not faill ar en hwith t t

He sectors, He large states the fact that such that that you many interactions of the sector secence of the sector sectors the sector sector sector that the sector sectors in the sector sector that the sector sector sector sector sector sectors and the sector sector sector sector for sector sector sectors in the sector sector sector sector sectors sector sectors sec-

nr. oursum ine jurisprudence would remain the same, but whis would still not preclude the legit-lature from statutorily going in and doing differ-ent things. I think clearly this could be done. It could be done either by amendment to the court [Code] of criminal procedure or just simply by

[Amendment reread and adopted without bjection.]

# Amendments

<u>Mr. Poynter</u> Amendment No.1. (There are several sets of Derbes amendments; these have two amend-ments to them and add some language.) Amendment No.1. On page 4, line 11, after and delete line 13. On line 14, at the beginning of the line, delete the words and punctuation "for his detention." (*Amendment No. 2*). On page 4, line 12, after 'Section 12." insert the follow-ing: "When a person has been detained for the commission of any offense, he shall be advised of and against self-incrimination, his right to the assistance counsel and to court appointed counsel, if indigent.

### Explanation

Mr. Derbes Ladies and gentlemen, I had a couple of amendments on this section, and all of them have been withdrawn except for this one. I've learned in the brief period of time that I've been at this convention that when there is a conflict e the commission of the when there is a Conflict blie to follow the head rather than the heart. I happen to believe that all people who are accused, and certainly anybody who is detained by virtue of the commission or alleged commission of an offense, should be afforded all of his Miranda the control by any body when is is body ince the by virtue of the control by a single control by the control by Now, I don't quite know what their i have a noted on the know whether their rights have indeed on one a matter of constitutional law, but to create the obligation on the part of the detainer for advising these people of their legal rights, without definthese people of their legal rights, without defining legal rights, is so vague and overbroad as to create, in my mind, a duty upon law enforcement which cannot easily, thoroughly, and efficiently be exercised. Thank you, and I urge the adoption

Mr. Derbes, you and I discussed a Mr. Lanier certain couple of matters concerning your amendment yesterday, and I also discussed it with some of the members of the Bill of Rights Committee with reference to their language and your language that says, "when a person has been detained." Is not true that people can be detained by other than police officers?

<u>Mr. Lanier</u> For example, a private person can make an arrest for a felony pursuant to the provisions of Article 214 of the Code of Criminal Procedure.

Mr. Derbes

Mr. Lanier ployees can make detentions of shoplifters under Article 215 of the Code of Criminal Procedure.

Mr. Derbes

<u>Mr. Lanier</u> Now, would I be correct in saying that it is your intention, here, to make this require-ment of law enforcement officers to give this warning and that it is not intended to apply to

<u>Hr. Berbes</u> That's my intention, yes. I'd like to point out to the convention that where this comes properly advised of my conviction be croperly used in furtherance of my conviction because I was not properly advised of my rights." Now, if the only term used in this constitution is "legal rights," a defendant could go into court and say that "a statement taken from me, even though I was advised incrimination, my right to cruit appointed coursel, that that statement cannot be used against me be-cause I was not advised of my right to trial by jury or my right to a jury verdict based on a cretain proportion of the number of jurors, or I was not advised of my right to bail," or any of the scores and scores of legal rights provided by-ing to simplify this and do what I think the commit-tee intended, but I don't think you can eitablish a conduit for all legal rights in this constitution without being overbroad and general and thereby jeopardizing the relationship of law enforcement to the individual defnant. That's my intention, yes. I'd like to

Mr. Jenkins I have a couple of question , Janes. You said that this might apply to people after conviction or people detained in mental institu-tions. Isn't the title of this section "Rights of the Accused," and aren't all these sections on criminal justice in chronological order when we say "Rights of the Accused,' in Settion 12... "Initiation of Prosecution" next, "Grand Jury Proceeding next, "Fair Trial" next, and "Fraitby Aren't they all in chronological breer, and desen't this clearly apply to the rights of the ac used.

Mr. Derbes Mr. Jenkins, it's not lear to me, frankly; no, it's not lear to me.

When it says "Rights of the Accused"

is the title of Section 12, it's not lear to conthat you are talking about someone who has been a used rather than so eone in a ental inititution or after a conviction?

Mr. Derbes This section, like so many ention of fmis article, I think, is not drafted as clearly as it could be infortunately. I don't derive and don't infer the same ready and clear definition of it that you do.

Nr. Jenking Let me ask you this, also. You ay ...you leave out the committe's language which said, 'khen a person has been detained, he shall be imediately advised," for one thing, "for the reason for his detention-he shall be immediately advised of the reason for his detention. Now, you haven't included that language in your amendment. Shouldn't people who are detained be told why they are being detained?

Mr. Derbes Mr. Jenkins, it says, "he shall be advised of the nature of that offense.

Mr. Jenkins No, but that's in the prosecution. That can be much later in the proceedings. We're saying when he's detained.

Mr. Derbes No, Mr. Jenkins, it says, "When a person has been detained for the commission of any offense, he shall be advised of the nature of that offense." Now, how do you argue with that?

Mr. Jenkins Well, of course, what the committee is talking about here is detention, and detention meaning something compulsory--you are being kept by the police. Couldn't you be detained simply to be a witness, and shouldn't you be told that you are being detained to be a witness?

Mr. Derbes I guess so, and maybe I've left out witnesses. But I think that the scope of your original provision is much more dangerous in the way that it is going to affect the problems of adducing statements in court than whatever problem I may have overlooked in treating witnesses as a result of this amendment.

Me. Gravel. Mr. Derbes, I'm inclined, first of all, to agree with you about the overbreadth of the language in the committee proposal but I do pose this question to you. Isn't it a fact that in your amendment that you have not provided for situations where persons have been lawfully arrested when it may not yet have been determined that a crime or an offense has actually been committed, and to that extent wouldn't you say that your amendment probably is lacking to some extent in providing for the rights that you would seek to growide for persons who are arrested or detained?

Mr erbes Let me try to narrow thi i sue, Mr. Gravel. Isn't t true that whenever anybody arrested, he is arrested for the om i sion or alleged i on of an offense?

Mr Gravel Not mere arly, he could be topped on u picion for investigation of the possibility that an offense ha been consisted. That' dime, you know, by investigators any, many times

Mr merbe well, then he'r ni he ni detained, i he?

Mr Gravel No, he ould be arrested.

Mr lerbe well, then if he arie ted, he's arre ted for the or i ion

### urther bills ion

Mr.  $j_{\rm e}$  Mr. Theorem , locket, and ignorithmen of the shows then, we rise in equality in the hand of the shows the show the shows in the show of the shows the s

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#### Questions

Hr. Fontenot Mr. Roy, I don't neces aris agree with Mr. Derbes' proposal either but I would lie to ask you a question. If we don't adort Mr. Derbes' proposal concerning this lanuage when a person has been detained', suppose you have a person, I mean...' talking about a conitiee primitalking about a conitient primisite and the reason for his detaint on Y. Make certain situations where a invenile in sime body might be shoplifting in a store and you don't have a police officer or anybody, are you going to rebody to advise him of his constituti nair ints? Desn't thi I anuage require that

Mr. Roy Mr. Followit, I us answered that, A Bill of Rights is a statement of rights of the people against the stat and not again the citizens. A sitizen does not have to inform our if he catche you moling his locus of the matrihis home I don't nave to start ayin i Mr. Fontenot effore I date you to the polite tathin, I want to inform you of your rights. I am of the tate, I an it to again in form and in the reduct as the later of the our rights are not vehicle the I atch our and limit inform and four of the form

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Mr Roy e aire, Mr fintent, the hidde f that the mplitterin reverse truther a law and in the fint the source defines a reverse that the bate conjust and a life in the parametric definition of the source of the first source that the main sou

about Mr. Derbes' amendment and the committee proposal is suppose a police officer, and of course the way this thing is drawn this woon apply to as 'undertions', speeding tickets, and other types of things. Suppose a police officer or game warden or whoever he iss..constable, did not advise the person of these rights. What would be the consequence? Nould that mean the whole prosecution would be thrown out or would that mean that only any statements are given or any evidence seized pursuant to the detention would be ushed?

<u>Mr. Roy</u> Mr. Lanier, that's a valid question and 1 Can only answer it this way. I can tell you what I feel would be...l think probably our court would follow present jurisprudential interpretation on totten without the benefit of thearning would be suppressed and I would hope that's the way it would go, but I can't say what the court would do in the year 2000 and maybe if there were great abuses of that, the court would take a different tact and say "you know, we're going to impose a little more restriction on this". I just don't know, all I know is that we can't write a statutory provision in the constitution.

<u>Mr. Lanier</u> Well, would you agree that under the present law a violation of a constitutional provision like this would not, would not be a grounds for a motion to quash the charge?

# Mr. Roy Yes.

[Previous Question ordered.]

### Closing

Mr. Derbes Ladies and gentlemen, I'm merely trying to bring this thing within reason. What the committee is trying to do is to establish a conduit here for all legal rights and I'm really in favor of that but it's just going to create an undue burden I think, so let's be specific in this particular part of the constitution or let's say nothing about it in the constitution. Now, you have a choice, you can leave it up to the United States Supreme Court and the courts of this state of the constitution but if a be yound about it on the constitution but if a be yound about it on the constitution but if a be yound to be the specific, otherwise I think we run a terrible risk here. Thank you.

> [Division of the Question ordered. Amendment No. 1 reread and rejected: 50-58. Motion to reconsider tabled. Amendment No. 2 reread.]

### Point of Information

Mr. Munson Mr. Chairman, do we not now have a Situation that if this amendment passes we have two first sentences; one on top of the other one? We did not delete the first sentence, this puts it on the same line.

 $M\underline{r}.$  Henry No, not in my opinion, no. Mr. Clerk, explain why, in my opinion that's incorrect. You got me into this.

Mr. Poynter I don't think I can get you out either.

Mr. Henry In my many years of presiding, I have concluded that Mr. Poynter has finally been wrong and the mendment is not going to fit and the question is not divisible, and Mr. Poynter you're overruled.

Why do you rise, Mr. Derbes? You can't withdraw the amendment because the previous question has been ordered. Does that answer your question?

 $\begin{bmatrix} Ru & es & Suspended & to & a & low & w & thdrawal \\ f & Amendment & N > - 2 \end{bmatrix}$ 

# Further Obscussion

Mr. Derbes Mr. Chairman, I would like to point out that Mr. Gravel has a better amendment than mine, and I move to withdraw mine.

<u>Mr. Henry</u> Well, I certainly hope so and I have decided again that Mr. Poynter was right and I was wrong because this amendment could have been day it could...just to prove that it wasn't as bad and that we were right in the first place. Mr. Stinson. You've just got a lot of repetitive language but it would read "when a person has been detained for the commission of any offense he shall be advised of the nature of that offense, his right to stlence and against self-incrimination, his right to the asal sistance of coursel and to appointed coursel if indigent. When a person has been detained werk.

[Amendment withdrawn.]

## Amendment

<u>Mr. Poynter</u> Amendment No. 1, go the Jack amendment, page 4, between lines 19 and 20, in floor amendment No. 1, proposed by Delegate Avant and adopted by the convention on yesterday at the end of line 3, place a comma after the word "record" and add the following: "Without cost to the state. I m sorry, "Without cost to him." Right.

### xplanation

<u>Mr. Jack</u> Mr. Chairman and members, yesterday we passed the amendment of Mr. Avant that provided "no person shall be subjected to imprisonment or no person snail be subjected to imprisonment or forfeiture of his rights of property without the right of judicial review based upon a complete record of all evidence upon which such judgment is based." This right may be intelligently waived. record of all evidence upon which such such superest is based." This right may be intelligently whived. Before that amendment was taken up I read it like the others and I was in agreement except for one thing. I feel strongly and have always, when a person is tried..remmber everyboy that is tried is not guilty, plenty of people are innocent-that don't think the should have to pay for his defense by having to pay for a record. Now, the Supreme Court in that Illinois case held that if you are indigent you are entitled to a record. There are many people that can encode that support of the sourt would be as indigent you can ended that the term of the court would be as indigent so I have an amendment that simply promutried, is to be furnished where there is an appeal without any cost to that defendant. I think it is perfectly fair. It will be left up to the legislature as to how the yow kit out as to whether the parish pays for it or the state pays for it. Fersonally if I was in the legislature. I would say the cost of yor may people are charged with crime they ice not all. They may be a person..South Louisiana charged with a crime. North Louisian charged with a crime. North Louisian charged with a crime. North Louisian an charged with a crime. A morth appeal to a reas of alw, you reserve bills of Exception. To udo get paid for taking loke, an absolute joke because even though you have a meror under a Bill of Exception unless bearing on that Bill of Exception but that is a joke, an absolute joke because even though you have an error under a Bill of Exception unless there is prejudicial error the court can't reverse it. How in the world are you going to tell whether record of the testimony? I've had, I would say. every reverse al except a few that I don't know whether it was proper to reverse it or not. There whe duer it was proper to reverse it or not. There error of law, you've not to know what the whole error of law, you've not to know what the whole case was about or else you're just raking a uness case was about or else you're just taking a guess at it, and what you are doing if you don't pass my amendment, ladies and gentlemen, what you're doing, you're going to be saying "a person that's plumb

Indigent, no if is and's...he gets a free record, but f'a cover trules he's not indigent and they might going to be a question of fact whether that person is indigent. If its ruled he's not, he is not in be position to pay...now these records... I know in Gaddo cost a lot, they cost a dollar and over a page. That's a lot of money, depends on how much evidence. If it's a weeks trial you're looking at a lill between five and six hundred dollars and man a person house the records... I know in factor the resonance of the second dollars and a man a person house the second dollars and we her and person house the second dollars and man a person house the second dollars and man a person house the second dollars and man a person house the second dollars and the family but yet still not an indigent in getting a free record. I'm just saying that if we're going we are, let's don't say some people get a full opportunity to present their case all the way from the lower court with the jury to the Supreme Court and they get a record but other people do not get a record. If if ere heard of discrimination that wendment of Judge Dennis and i will take that up when it comes but it doesn't provide for this, it leaves it to the legislature. The legislature has never done it; I tried to get them to do it when was there and they're not going to do it because the police jury is afraid they will have to pay for it, and cerdsin people of the state, and certainly somebody's got to pay for it and the state should peliver in fording ereson a complete fair trial, treat everybody the same, pass my amendment, if you on't beliver in it go on and kill my amendment.

### Vice Chairman Alexander in the Chair

### Questions

Mm weiss Delegate Jack, I'm a little concerned about this amendment but it is contingent upon a matter that has already been discussed by the committee and that is what do you consider an indigent case?

Mr.lack I just went over that, doctor. The courts can be different...l don't know, they used to say..call them paupers though.

Mr. Weiss Are we discriminating if we...are we sub idizing crime in the indigent and not in those who can afford it with your amendment?

Mr. dat 1 don't sy you're subsidizing but 1'm saying if you just...let's uust take an example... if you're a person that's no good, won't work or anything, and 1'm not low rating any particular people but if you don't do anything and you beat the heck out of your wife and you're an yood the transcription, no if's or and so no it. But if you re a borderline, you work hard and you're ut a certain number of hidren, then the court ay rie you are not an ind ent and you don t get the transcription. Dut ent ently you, you know until recently you could get electrocuted for a cri e and You d get life, then't or thirty years but if you're broke or if you're an indignt, whatever that may ean that leading hard tu ee, and to find, here t's, there it goes, you're at in yent, you

Mr. dell, if we re going to provide free lutire for all why should we ust limit the free if ury trial to the indigent and why not pro ide it then for all people?

Mr. ack Free cost of Jury trial

Mr. Weiss: Well, free cost of proceeding of the actured

Mr a F You don't have to pay for the uny in a crisinal rase. If you lose in a civil, a e you do

Mr. Stin on Mr Jack, onsidering the st of all

this, your even the the analysis of the converted seven the the seven the seven the seven the seven the seven and seven the seven and seven the seven and seven the seven seve

Mr. Jack Mr. Stinson, In going with it this way. It's nothing personal to me, if you ladies and gentlemen want to draw a di tinction between different people and whether they get a fair trial or don't or get ful trial that syour buinel but you can have that anoment. That just fullers those stopped the death penalty, could get ele trial ut it un out innocent, pay for his transcript, and his widow and children couldn't even get his money back for what he paid for the transcript after the funeral.

Mr. Smith Mr. Jack, won't this polle ury have to pay all this cost Won't it be considerable?

Mr. Jack No. I didn t leave it at that I stateearlier, Mr. Smith. It will be up to the legislature on this thin, and I thin the fairest way, as I said, and if I was in the legislature still, i said I would say the state hould pay it the asse I repeat, you have crime committed in the various parishes or alleged crime. Committed or people tried whether they are innocent or guilty that don't live in the parish.

Mr. Smith Well hasn't the legis ature turned this down time and again?

Mr. Jack That's right. But they turned it down ...nobody pays. This would ake them have to do something about it because the court reporter wouldn't do it without it.

### Further Discussion

Mr. A. Landry Mr. Chair an, ladies and gentlemen, I rise in opposition to this amendment. Under the present louisiana law, any person who is an indgent can secure a fre 'ranscript and there i no reason to put this i the constitution to fre nee transcript at the to find the tapayers when he might be a million te. I feel that that would be discrimination ind it would hurt those indigents because the parines and the state would have to pay for all of these transcripts and tell you this, that a clerk that everyte a person who is in Annia applies for a writ of habeas corpus, we finist hin free of charge, not only a copy of the inditment but all of the proceedings, and therefore there is no need for this in the constitution. It would place a terrific tas bur would exempt those who could pay from paying for the transcript and I urge you to defeat the amendment.

### Further Discussion

Mr Rayburn Mr Chairman and feilwide exists, I rise in opposition to this endent be ause you re talking about writing that is going to out sine one a tree dous a sourt of ney I can see right now where the people, if we writing the source on the constitution, are ing the stitute is ature the next set ion and this of the tratitute our in this and, is constant to other sourt you might be speak in stiture the next set ion and the source of the end of the speak in stiture the next set of production of the source of the speak in stiture whether it will be the outly mean in the end of the speak in stir and the speak in stinument per on the speak in stir and the end of the speak in stir and the speak in the speak ing if a matter that is nother of the speak ing if a matter that is nother of the state and all other writ the next sha

that according to law at this time. I just wanted to call that to your attention. I think that if a person wants a transcript, they can get if under the present procedure but if you put if in the con-stitution you are going to create a tremendous amount of added expense to the taxpayers of this state and I just wanted to call that to your atten-

<u>Mr. Jack</u> Mr. Chairman and delegates, your atten-tion just a minute. I want to answer one question. I knew as well as l'im sitting here when I intro-duced that amendment, who would come up and speak but my good friend "Sitxy" Rayburn, well...we had the same thing in the legislature except in the Legislature it was allways the police jury, as I Legislature it was always the police jury, as J recal, would be the one having to pay for it sila-ture whether the state would pay for it or the police jury, that's the only two because the de-fendant is not to. This is just and it belongs in this Bill of Rights thing. I've sat here ever since we came back this week hearing about giving people fair trials. Every race, color, creed, man, people fair trials. Every race, color, creed, man, woman, child, everything, be fair to them, give them the same trial; the same justice, everything. Now, here is an opportunity to put your hand on the green button and do what you say you want to do. I've heard more talk about being fair under this I've heard more talk about being fair under this Bill of Rights; protect everybody. Now, I thought for all those years in the legislature, a person was not protected in a criminal case and I fol worky to pay for the transp. If not vegot the more to pay for the transp. If not vegot the pay a dollar or more a page, you get it. If you are poor, and there's no doubt about you can't then you still get it. I'm talking about the mass of people in between, they don't get its o that is some kind of unusual justice; some have a record to appeal on; some don't have a record to appeal on; appeal on; not not have a record to the this day and time appeal on; some don't have a record to appeal on; just like good government costs money. All things that are done proper, looks like this day and time cost money. You raise your children properly it costs you money...you want to raise them and let them run wild like a ragamuffin and juvenile courts get them and everything, it'll be the cheapest thing you do and you won't be raising them. So I say let the legislature be forced by this amendment to pass on it and somebody pay for it and I say the state ought to. Thank you.

<u>Mr. Singletary</u> Mr. Jack, this is a friendly ques-tion. Isn't it true that in the original trial in a criminal proceeding that there is no charge to the defendant? It doesn't cost him anything, is that correct, except if he can afford to pay for his attorney, he has to pay....

No. In the criminal case, now we are <u>Mr. Jack</u> No. In the criminal case, now we are not taiking about the de novo, little city court, we are talking about where the appeal goes to the Supreme Court, where the fines over, I think, five hundred, or could be over that, and the punishment over six months. It goes up on bills of exception, and d, our mode thing. Now on a bill of excep-cover six morths. tion, the only thing you can get taken at the 'ex-pense of the state and, or parish, is what little evidence the court says is directly connected with that particular objection. Consequently, you don't have a record where it has all the evidence, then the Supreme Court says even though its an error shown by a bill of exception, unless it's a preju-dicial error, you don't get a reversal. Prejudi-clight mans that if the error hadn't happened, you clight mans that if the error hadn't happened, you Now, how can you cell whether the error was preju-dicial without having the whole record? Mr. Lingletary Well, I spree, I agree with init,

Mr. Jack. What I'm saying 's, that elept if a man can pay for his attorney, '' he's charged in a criminal proceeding, his trial doesn't cost him. Is that

Mr. Jack Oh, you mean...are you talking about an indigent?

Mr. Singletary No, sir, I'm talking about....

Mr. Jack All right, you'd say a man's got money?

Mr. Singletary Yes, sir.

Mr. Jack All right..

Mr. Singletary If a man is an indigent or if he can afford to pay, the trial....

Mr. Jack Now, that's right, if he's indigent or he's got money, he can get this record because if he can afford to pay it....

Mr. Singletary trial. I'm talking about the original

Mr. Jack Well, that's what we are talking about.

Mr. Singletary All right.

Mr. Jack But you don't get that record free.

Mr. Singletary But if he appeals, it costs him a considerable amount. Is that right?

Mr. Jack It certainly does cost.

Mr. Singletary Is that fair?

Mr. Mr. Jack It's terribly unfair, I think, to make anybody pay for these records of taking the testi-

Mr. Singletary Isn inequity in the law? Isn't this a chance to correct an

 $\underline{\mathsf{Mr}}$  , Jack  $[1\ certainly\ is. A man...there's been people electrocuted that didn't have a record, and that's horrible.$ 

Mr. J. Jackson Mr. Jack, as you know, we're talk-ing about this cost factor again. But is it not true that when you look throughout the state, that we are spending millions of dollars on highways, we are spending millions of dollars on highways, we've recently got...the legislature will proba-bly have to deal with an increase in the cost of Superdome in New Orleans, we just spend millions of monies for capital improvement. We're talking about a recording that would allow for a better implementation of the criminal justice system, then we ought to weigh this cost in perspective, and we ought to look at it in terms of some of the other into, not only

Mr. Jack You are correct. There's your life, Tiberty, is the most important...and your health, too...those are the most important things you've got. If you lose those, you are gone. How, I want to further answer this, Mr. Stinson, even aman that gets convicted, not the innocent, but he got convicted, that record later could show miti-

Mr. Alexander Your time is up, Delegate Jack.

Mr. Pointer A end ent No. 1 [ \*\* ], page A, between lines 19 and 20, delete floor Aread ent No. 1, proposed by Delegate Avant and adopted by the convention on September 6, 1973, and insert in lieu, thereof, the following: "No merson shall be subjeted to imprion ent or forfeiture of his right or propert, without the right of judi all review based upon a written or sorid represent review based upon a written of sond recording hall be paid a provided to law.

Eplanation Mr Mrn, Mr, Atting Chair an and fellow dele-dates, his mendment is a clarification of what is believe is the intention of convention, and the in-tention of Mr. Avait and Mr. Kelly and others who spon red the original amendent. Here, and the original amendent, the present that the present Avant amendment, the present anduage, could be interpreted to creaving the same thing that Mr. Jack had asked the convention to spell out once clearly. The Avant amendment says that No erson shall be subjected to imprisonment of forfeiture of his rights or property without the right of judicial review based upon a record of all evidence upon which such Judgment 15 based. Sal read that, that could easily be interpreted to appeal in every case whether or not you are fan-digent, io atter what the circu tances. I am ditention to clarify and do what Mr. Avant and Mr. Kely, I believe, wanted to do which was to sin Ply ake sure that a recording is made of all of the tot lony and then leave it up to the legisla-ture as to who would get that transcribed free, at the cost to the state, or who would have to pay for it himself. This makes it clear that anyor's to row how may den the the state to row how would support the cost to the state, or who would have to pay for it himself. This makes it clear that anyor's to not how may den the transcribed free, at the cost to the state, or who would have to pay for it himself. This makes it clear that anyor's to not how may den the to the state to row how would support the original meters the to reave the anyor's to not how may den the convention the state to not y have to pay the tot on the state, or who would have to pay the tot meter. This makes it clear that anyon's to not how may den the convention the state to row how would the state to not y have the anyon's the the review the anyone the rever the the rever the state the state to not y have the state to not have the state to not y have the state to not y have to have the the state the reve

doe now, that indigents be provided a free tran-sorr ption of such a reiord. It makes it clear that the legislature could afford it. eccord th someone who could afford it. However, I dlike to say I discussed this amend-ent with hi yesterday and it so y understanding that he has no objection to the spelling out of the oit being paid as provided by law. And it is my intention not to interfere with the basic con-cept, but to make it lear that the legislature may die who pays for the oit of trans iption and are ord for an appeal.

Mr. inwan Judge Dennis, is it required by law, when un eview for the record, that the record be typed out. When you say "transcription," you mean typed out by a stenographer? Or can that record be provided on a tape so that the judges, how many they are in the review, can listen to the tapes?

Mr Tenni No, it i required that the part that is being considered in connection with the object-

Mr minman well, rould the unlineary hange that recording to provide for the us of tape recording to listen to the priseding in tead of typed at? If they could, the cost suid be se dued the redowly because you an make five in ten dub to fa tape for about ten let than ten dol-lars, fur or five dollar!

Mr enni Yes, r, I believe that nuld be channed legislatively n w, and I believe under this amend ent it ould till be privided by

Mr bollman. The reason I brought it up, there are

uet an idea.

Mr Vennil

Mr. Janir hank ...., Mr. hais a Jone Jeni . the way the written it aud ay that no er n shal be utje ted to forfeiture of his property without right of Judi-ial review,

Mr. Jennis Mr. Lan er, that the, I have not added that language. That anguage was in Mr. Avant's amendment, and I am not atte pting to change the basi mum eit that Mr. Avant amend ent ret

Mr. Lanier Well, Judge Dennis, don't you think we should know what kind of transcripts we are going to be paying for, if it's going to be a transcript of a bail bond forfeiture, or another question

Mr. Dennis. My own viewpoint is that this would apply. You could satisfy this in a guilty plea or a bail bond forfeiture by simply providing the minutes of the court. But if there is testimony taken in a proceeding, and it is necessary in order for the higher court to review the case, then that

<u>Mr. Lanier</u> So, the only way you could be safe on a bond forfeiture would be to transcribe it, because, I believe, you have up to six = onths to contest a bond forfeiture, don't you?

Mr. Dennis No. I don't think you need any testi-mony transcribed on a bond forfeiture. I think simply a minute entry of court would be sufficient

Mr. Avant Judge Dennis, in my discussion with you yesterday. I understood that you were simply in-serting the words, "a written or sound recording, and, of course, the provision that the cost of the transcription of the sound recording hall be paid

Mr Avant, I did not intend to make

Mr Avant Well, would you .

Mr "enni I think this an versicht on part It chould read, "un na unlete written rr sound re ordin of all eviden e,

Mr. Avant Well, would you ake a techni al amend ment, then, to this amend ent to ake it read, a co plete record of all evidence to make it a

Mr Venni Ye, Fr, Fw ld he happy t d if the onvention would all when the with raw i and add that word

# Amendment

Mr. Poynter Amendment No. 1 [by Mr. Dennis], it been substantially redrafted just to amend the prior amendment

prior amendment. On page 4, between lines 19 and 20, in Floor Amendment No. 1, proposed by Delegate Avant and adopted by the convention on September 6, 1973, on line 4, at the end of the line, add the follow-

ing: "the cost of the transcription of such records

Simply adds the sentence, "the cost of the transcription of such records the sentence, "the cost of the transcription of such record shall be paid as provided by law."

<u>Mr. Dennis</u> Mr. Chairman, fellow delegates, after Mr. Avant pointed out the problem that he did, we agreed to change the amendment to make certain that it does not do violence to the concept origi-nally set forth in Mr. Avant's amendment.

My amendment now simply says that "the cost of transcription of the record shall be paid as pro-vided by law." This would allow the legislature vided by law. Ints would allow the legislature the freedom to require that persons who are not indigent, persons who can afford to pay for tran-scription of the record, would have to pay for themselves. But, under the present law, as you know, the legislature has already provided that indigents shall be provided a free record. This would not disturb that rule of law.

# Questions

De Blieux Judge Dennis, under the Avant <u>mr. De biteux</u> Judge bennis, under the Avant amendment as we presently have it, wouldn't the legislature have to provide that, anyway? Isn't this...words that you want to add to it just merely surplus verblage in the constitution? The legislature would have to do that, anyway, under that amendment

<u>Mr. Dennis</u> Mr. De Blieux....Senator, I would not have offered the amendment had I thought it was surplusage. I think it's extremely necessary, and I want to clarify the intention of the convention. I think that the...Mr. Avant's amendment as it presently stands could be interpreted either way, and I am making certain that it's interpreted one way, and that is, that the legislature may provide who pays for the cost of the rec...of transcribing the testimony.

<u>Mr.\_De Blieux</u> Well, I just want you to get... get you to think about this amendment a little while because I feel like it's just additional words that are not needed in the constitution. just ask you to do that because that's what I think.

Senator De Blieux, we considered this Mr. Quants standor be billed, we considered this problem, this issue, for at least twenty hours in the Judiciary Committee. I have thought about it a whole lot, and I do feel that this amendment is necessary in order to clarify the intention of the

Mr. Stinson Jim, I'm concerned about the sound recordings. Now, I believe you answered a prior question there that the legislature would tell the Supreme Court to revise your rules and accept a cassette, or any other type of recording device. If, under the present rules, they wouldn't accept it, would they?

Mr. Dennis I'm not sure I understand your question. [1158]

Mr. Stinsor you say a writter or counding record-ing. A sounding recording is a tape recorder.

<u>Mr. Dennis</u> Mr. Stinson, 1 apologize for the con-fusion, but I have withdrawn that amendment and the one I have now does not say anything about sound

Mr. Stinson I'm sorry. Thank you.

Mr. Pugh 1 wanted to see a copy of the amendment or have somebody read it, or something.

Mr. Dennis Well, I can read you what it is if....

Mr. Pugh l want to see it Let me ask you one question, if 1 may. You say the cost of the transcription of such sound recordings.

<u>Mr. Dennis</u> No, sir. I apologize again for the confusion. I have withdrawn that amendment. The amendment I am offering now simply says "the cost of the transcription of such record shall be paid as provided by law."

Mr. Pugh Well, now, wouldn't that preclude the use of video tapes because you wouldn't transcribe a video tape, and that obviously is the coming

Mr. Dennis I don't think so, Mr. Pugh, I think "transcription" would cover a reproduction of a reproduction of a video tape.

<u>Mr, Duval</u> Judge Dennis, is it....l realize part of this goes to the Avant amendment which you are, in essence replacing here, but is the thrust of these words to do away with trials de novo?

Mr. Dennis No, sir.

 $\underline{\mathsf{Mr}}$ . Duval In other words, you are still going to have your...if its your intent to still have the right to trial de novo. If its not, what's the use of having a transcript if you have a trial de novo is what I'm getting at.

Mr. Dennis Well, as Mr. Avant pointed out when he sponsored his amendment, the judiciary article we have adopted does allow for us to get away from trial de novos. It doesn't require it. But if we do get away from trial de novos, Mr. Avant wants to make sure that everyone has an effective appeal, everyone who is endangered of being incarcerated have an effective appeal without a record.

Mr. Duval So this would primarily come into play. Then, in the event the legislature does away with trials de novo.

Mr. Dennis In other words, to clarify...the judiciary article would allow the legislature to go either way, trial de novos or not. If they don't, Mr. Avant is saying, "You've got to provide the man a record."

I'm coming along and I'm saying, "The state can say who pays for the record....the transcription of the testimony." That's what's happening.

Mr. Duval All right.

Mr. Avant Mr. Chairman, I didn't have a question. I had a point of order. All I wanted to do was make a request, since there appeared to be some amenoment, as it would read it Judge Uennis ameno-ment was put on it so that everybody can listen and then everybody can understand. Because the business about the sound recording and all that has been taken out, and if you just read the way it will read if Judge Dennis' amendment is adopted, [ would appreciate it.

Mr. Alexander Just one.... The delegate requests that the Clerk will read the amendment if adopted, as it would read. That is the Avant amendment plus the Dennis amendment. The Clerk will make that correction...ome mo-

Mr. Poynter Delegate Avant and read as follows, your amendment begins first sentence, "No person shall be subjected to imprisonment or forfeiture of his rights or property without the right of

evidence upon which such judgment is based." Add the sentence, "The cost of the transcription of such record shall be paid as provided by law. This right may be intelligently waived."

Mr. <u>Perez</u> Judge Dennis, isn't it true that if this amendment is not adopted, the legislature would have the authority to do what is provided in your proposed amendment?

Mr. Dennis Would you not sure I understand. Would you restate the question? I'm

<u>Mr. Perez</u> Isn't it true that even if this amend-ment is not adopted, that the legislature would have the authority to do what is provided in your amend-ment, that is, provide for who shall pay for the cost of ... of transcription?

Mr. Dennis As I said, earlier, Mr. it could be interpreted either way. As I said, earlier, Mr. Perez, 1 think ambiguous as it stands. For that reason, I am of-fering the amendment. Otherwise, I would not offer the amendment. I would not take up the time of the

Mr. Perez Well, could you tell me how effectively we can mandamus or force the legislature to adopt

Mr. Dennis that if Mr. <u>Dennis</u> Well, Mr. Perez, as it stands, I think that if a man took an appeal and the state didn't provide him a written record, the Supreme Court might interpret it to say that he had to be released

Well, in the absence of the legislature Mr. Perez Well, in the absence of the legislature passing a law, even with your amendment, isn't the

Mr. Dennis No, sir, I don't think the Supreme Fourt could interpret it the way I just stated Fourt could interpret it the way i just stated with my amendment. With my amendment here, the Supreme Court can readily see that it was the in-tention of the convention that the legislature be allowed to say to someone who can afford a record, "No, we are not going to transcribe the record for

And when he takes an appeal, then he's not en-titled to be released from imprisonment simply be-cause he doesn't have a record.

Mr. Perez My question is, until, unless the leg-is ature does provide, what position, then would the defendant have or the convicted person on ap-

Mr. Dennis well, Mr. Perez, the legislature has already provided that an indigent is entitled to free record, and those who are not indigent are

Mr. Champagne The only question I had is your amendment, is designed to insure that not neces-sarily the state has to pay for all these tran-scripts? Is that right?

#### Mr Dennis You're right, Mr. Champagne

Mr. Jack. Mr. Chairman and members, this is entire Ty wIndow-dressing. I'm against the Dennis amend-

ment. The Avant a endment that we passed, the only rea on I voted for it was had instructed Mr. Glassell that draws the amendments to draw y amendment without cost to the person that's the defendant, provided Avant's passed. Without my amendment, which was defeated, the Avant amendment

is purely window-dressing. The legislature, it my knowledge, back since 1940 when I became a member of the House of Repre-sentatives, has always had, still has the right to pays for it. I saw twenty-four years and ever since they are not going to pay for it except where they are made to do it. We passed other things in this constitution that say what the law is. That solf-operated. You confit inname membered say for for the solf the solf that the law is that the solf-operated. You confit inname membered say for the solf that that the solf that the solf that the solf that that that t You pass all the constitutional amendments say for them to do it, they won't do it, maybe. They were

all here. But if you had passed that little simple amend-ment, without cost to the defendant, then they would do it for the simple reason if a man took an appeal and you didn't provide him with a transcript. he'd get a new trial. The legislature is putting money before complete justices of allowing every-body to have the same kind of trial. If you pass the Dennis amendment, you are put-ting window-dressing in the constitution that don t mean a continental. And it's not fair to people, and remember, when we are talking about trials.

and remember, when we are talking about trials, there have been many a person that's innocent that'b been tried and more now days, percentage wise, than

been tried and more now days, percentage wise, than they used to were tried, just think how you would hate if you...the judge said you are not indigent, but you couldn't pay for it. All right, you wouldn't get the transcript. Some fellow that clearly had nothing, he would get it. You've got two yard sticks of justice. Now, let's just be frank and don't put this window-dressing in here. where budge thin may denot there we's a tlinn and

Now Judge Dennis, or someone discovered, maybe under the Avant amendment, there was a slipup and that anybody could get a transcript under it. I would rather leave that there, the possibility, than to have this one that's going to leave it up, under the Dennis amendment, to the legislature who you know good and well is not going to order the state to pay for it or the police juries. So that is pure window-dressing, pure, simply, uncondition-ally, and just don't believe in trying to fool and let's just decide this thing. And I hope some body smarter than I am, and there are plenty of you are, that can switch language around if we de-feat the Dennis amendment, so that we can get another floor amendment in and leave it up to the state to pay for it.

Hr. <u>De Blieux</u> Hr. Chairman and ladies and gentle-men. Im going to be very brief because Hr. Jack made my talk for me except he didn't say it in the manner in which I would have said it. The only thing I can say is, this amendment is entirely unnecessary. The legislature would have

to implement the near amendment anymay, the trep-the language is entirely unnecessary. It's addi-tional verbiage which we don't need in the consti-tution. If we are going to shorten the constitu-tion, let's don't put words in it that mean nothing, and these words would mean nothin in sofar a that

Mr Dennis Mr Lhairman and fellnw delegates. th's amendment vinply -larifies what i believe was the intention of Mr Avant and the onvention earlier. Mr Avant has apreed to it. Mr, Sil on has take mey habithe to to at fights com itsee does not away mey habithe to at fights com itsee does not avant and a second of the only reason you'd vote against it would be

to leave the section ambiguous. I submit to you that those who are against it are hoping that it would be interpreted to require the state to pro-

I'm simply making it clear that the legisla-ture can say, "No, if you can afford a record, you have to pay for it, but those who can't afford it, the state will pay for it."

So I ask for you to adopt the amendment.

### Chairman Henry in the Chair

[Amendment adopted: 92-20. Motion

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Velazquez, et al.], on page 4, at the end of line 19, add the following: "the legislature shall provide for a uniform system for securing counsel for indigents including qualifications and compensation" would appreciate that this language would go in Would appreciate that this language would go in front of the language of the Avant amendment and that it was inserted between lines 19 and 20, and this instruction says at the end of line 19. So this would be at the end of line 19 and before the Avant language as now amended by the Dennis amend-

Mr. Velazquez Mr. Chairman, fellow delegates, basic to the American concept of justice is the concept of a fair and an adequate defense. The most glaring problems in this field occur in the situation where the defendant is indigent. The purpose of this amendment is to help all those segments of society in the greatest need of help. I don't believe anyone at this convention wants I don't believe anyone at this convention wants any citizen to be railroaded to Angola becurr adequate coursel should extend beyond an unwill-ing attorney, drafted by an overworked judge. None of us would want to stand before the bar of justice accused of a crime and defended by a lawyer who. accused of a crime and defended by a lawyer who dion't want to be there, who wanted to be somewhere else making some money. This is not an attempt to supplements or supplant Section 12; it's rather a supplement. It puts the exact mechanism in the hands of the legislature where it belongs. It only mandates the legislature to provide for a uniform system. This uniform system could be a mixed sys-tem. It could be a combination of the old and could be a completely new system. The key word is "uniform." This is a bill to help poor citizens who have been accused of crime. If the poorest who have been accused of crime. If the poorest citizen of this state can't receive justice, then no citizen is safe. I urge your consideration and your support for this amendment.

Delegate Velazquez, you and 1 discussed Mr. Lanter Deregate Fraducz, you and i uistosse his matter previously, but to make sure the record has what your intention is, I'd like to ask you a couple of questions. As I understand your amend-ment, it is not intended to require either the public defender system or the indigent defense system, but would authorize both systems to exist siwas an overall uniform system for the state. Is that correct?

<u>Mr. Velazquez</u> That is exactly correct, Mr. Lanier. It puts it in the hands of the legislature to set a uniform system either including some of the old, some of the new, or whatever they feel the system should be.

In other words, in Lafourche Parish If we want of the other words, in factor the raiss if we wanted to have the indigent defense system we could have that, and in New Orleans if they wanted the public defender system they could have that pro-viding there was uniform legislation establishing Mr. Velazquez That it exactly correct.

Mr. <u>Stinson</u> I believe your answer to the question was that a uniform system would permit a mixed system. When you say the legislature shall enact a uniform system, doesn't that mean that they are one and the same for every parish and every dis-

<u>Mr. Velazquez</u> Mr. Stinson, you can pass an ice cream law that covers chocolate ice cream, vanilla ice cream, fudge ripple, and chocolate walnut, and it would still be a uniform ice cream law.

Mr. Stinson But it's not a uniform color ice cream law.

Mr. Velazquez I'm not passing a uniform color law. I'm trying to leave color out of this, Mr.

Mr. Stinson But I'm afraid though that when you have it, it's not going to be what we want by your amendment.

Mr. Velazquez I feel it will be, Mr. Stinson.

Mr. Velazquez, if this is going to Jenkins allow indigent Defender Boards to exist in some parishes and then in other parishes you'll have a parishes and then in other parishes you in have a Public Defender System, why are you even proposing this thing? I don't understand. What's the mean-ing of "uniform system" if it's not to put all parishes under the same sort of system?

Mr. Velarquez In the first place, you are trying to put works in my mouth. I'm trying to set-up a "uniform system." "Uniform system' doesn't mean everybody's got to wear a green uniform and wear a clown hat. Nor does it mean that everybody has to do everything exactly the same. It provides for a "uniform system." Uniform in that gustice is given to indigents. This is the basis of the uniformity. and the method is left to the legislature of which you are a member; and I'm sure that if you want that particular system, then you go to the legislature and you stress it.

Mr. Jenkins Then what is the purpose of the amend-ment? What does it accomplish that we don't already have?

As important as the letter of the Mr. Valezquez As important as the letter of the law, is the spirit of the law. Indigents and the concept of indigent defense deserves constitutional

<u>Nr. Duval</u> Nr. Chairman, fellow delegates, l rise in support of the basic concept set forth in Nr. Velazque?'s amendment. Let me tell you right now how the system of justice for indigents works. In various parishes we have what's called an Indigent Defenders Board, and just a few lawyers get on this board, a lot of whom have never practiced criminal law. They don't know anything about it. They get an appointment for some indigent who's been in jail maybe two or three months. They are very busy with their practice. They get distracted, and they some bose him every now and then and ask him how he's up in the parish jail for a year or longer because his lawyer was appointed and then finally withdrew because he felt like he wasn't doing a good job. Then they tried to appoint another one, and there was no lawyer available. Then the court had to appoint a lawyer not under the indigent defender appoint a lawyer not under the indigent detender panel, and it's a very unworkable system, and it's very unfair to people who get attorneys appointed who really don't care or really aren't able to handle the job properly. I think what we really need in Louisiana is a public defenders system.

This is the best way that people who are indigent an be defended and won't have to stay in jail for a long time, we'll get people who are specialists in the field and won't have the disdavantage of the state having the expertise and the defendant not having it. It hink it's ... that this is the ball thrust of Mr. Velarquez's amend ent, and I think that this convention should go on record margeting by the with the hope that we will ultimately end u with a public defender system for indigent permis accused of crime. This is the only way they will be fairly represented although many lawyers conscientiously attempt to represent indigents when they are appointed if they are on the indigent defenders panel. A lawyer does not do priver justice to mandate the legislature to establish a public

### Further Discussion

Mr. Bursen Mr. Chairman, fellow delegates, I rise in Support of this amendment, I am the for-mer chairman of the Indigent Defendant Board in St. Landry parish, when this system that we're operating under now was first started. I echo Mr. Dwal's sentiments in that I find that a great many lawyers are reluctant to undertake the defense particularly of serious crimes, not so much because they are not willing to undertake to perform their duty as a member of the bar, but simply because they are somewhat fearful of their lack of know-ledge in the field of criminal law. I support Mr. Velazquez's notion however that what we need is not necessarily a pure public defender system, although I will frankly state that I think every parish in this state ought to have a public defender, but I think that it would be good to retain a mixed sys-tem for this reason: it seems to me that it would help the overall understanding of the legal profes-sion of the system of criminal justice and engender the kind of understanding that makes for a better system of criminal justice, if we continue to lawyers are reluctant to undertake the defense system of criminal justice, if we continue to allow, and indeed require in some cases, members of the bar at large to have contact with the pro-ble s of criminal defense. I think that by-andblews of criminal defense. I think that by-and-large my expreience has been that some of the best jobs of defending indigent criminals that I have seen done were done by people who were not criminal lawyers, but they were good lawyers and when they out appointed, they took their appointment seri-ously, and they did an outstanding job. I had the responsibility by appointment, myself, of defending someone in a capital trial for murder. It lasted intesten days, and I think it's still probably the longest trial that was ever held in St. Landry marish. My corounsel in that case were two lawyers longest trial that was ever held in St. Landry parish. My cocounsel in that case were two lawyers who were not specialists in criminal law, in any sense of the word, and they did an outstanding job. So I think that it would be a mistake for us to pin ourselves to either system. Let's do what Mr. Velazquez says we can do under his language, and I agree with him. Let's opt for a combination. How-ever, I think that the requirement that we have defender in each parish, and I am for that because I will frankly state that of all the rights that you can dive criminal defendents, one of them mean you can give criminal defendants, none of them mea a thing without the right to coursel. In my own personal opinion the <u>Gideon v. Wainwright</u> decision which gave criminal <u>defendants</u> in <u>Felony</u> ares the right to coursel, absolutely was the most impor-tant landmark in establishing the rights of the accused in our constitutional law. I urge your support of this amendment.

### Question:

Mr. Jenkins Mr. Burson, so then you disagree with Mr. Velazquez You believe that this will require a public defender to be appointed for each parish Is that correct? Is that what you said?

Mr. Bur of The language doesn't say that. 1

out twant to read into it anything that it doesn' ay. It says "a uniform system." I'm saying though, Woody, that y own personal opinion is that each parish ought to have a public defender.

Mr Jenkins Well, if a uniform system would perit some part hes to have public defenders and others to have boards, what does the amendment accomplish?

Mr.Burson I think that if you mandate the Teglislature as you do in this language to create a uniform system, i have enough confidence in the legislature that through the legislative process they will work out a uniform system that will meet the needs that exist.

Mr. Jenkins But under the section without this amendment the legislature has all the authority it needs to do the same thing, doesn't it?

Me Burson Well, I'm not real sure that they are smadated to do this under the ... in fact. In sure that they are not mandated to do it under the present constitution, and I think that it is appripriate that we would include such a mandate in the new constitution. I might point out that the legislature has made significant strides In this area. When I first started practicing law, when you got appointed to defend a criminal case, you didn't get plaid for it... se for copting, but the legislature then set up the indigent Defendant Board and the Criminal Defense Fund ...

#### Further Discussion

Mr. Jack Mr. Chairman and ladies and gentlemen, I am coauthor of this amendment although on the copy my name somehow or another happens not to be here. The first thing I want to mention to clarify it, in the use of the words "for uniform system," that doesn't mean that every parish or every judi-cial district, if you said it that way, would be the same. You know you can go by, for instance, you could provision or clisis nee, would have a coublic defender system. You could provide if the legislature thought so. Another one might have some type of indigent defense group, or the lesser ones a system that's in vogue now where individual attorneys are appointed. It might decide who would by the fact. attorney's are appointed. It might decide who would pay them and how they would be paid. But the fact that it says. For uniform system" does not mean that the poor parishes would have to support the public defender system. It might... undefound the source state pay for the whole thing. They would be the ones to decide all that. Now, I have seen actual cases too many times for this thing to happen again, not exactly on a bigamy, but I'm just going can afford it to have a public defender system or amor cases where a lawer is anomined, and he ust proper insigent Defense board to merely make su many cases where a lawyer is appointed, and he just confers with the defendant. They do not explore every possibility of guilt even though the person says they were guilty. Now, here's an interesting case. I wasn't the attorney for this lady, but I letter the facts. Now, here were the facts, and I immediately got in touch with people in east I immediately got in touch with people in east Texas and found it to be the truth. Now this lady, what she had done, being married, she was enained with a man while she was still married, in her opinion, and she'd seen her husband from who was separated over in east levas just the day be-fold him one was going to get married. She got married. Now, someboy turned her in She pled guility; it was not in Caddo, in another parish. guilt, it was not in taugo, in another parts in a firm dover there in feast discovered after getting back from a vacation, reading about this lady go inquip for bigamy, wrote her, and lo and behold, it turned out, three hours before this lady who was serving

time for bigamy got married, three hours before she got married, unbehownst to her, her husband was killed in an auto accident over three in east Texas. She intended to be a bigamist because she loved that man so, and he wanted to marry her, but actually she wan't guilty of bigamy because he had been killed in a wreck. Now you can say that lawyer, I know, must have felt bad afterwards because he didn't check out. Because you cannot be guilty of bigamy if your spouse was dead even a second before the marriage ceremony that would have made you a bigamist. Im sying 11 uses a would have made aurdened trying to make those lawyers take care of all of that. This is a good bill that Hr. Velazquer has here and I think 1've explained about the question of "uniform." Now, if anybody desn't understand it, 1'll try to answer any questions if I have any time.

> [Previous Question ordered. Record vote ordered. Amendment adopted: 99-11. Motion to reconsider tabled.]

### Amendments

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Derbes], on page 4, line 12, after Section 12 delete the remainder of the line, delete lines 13, and 14 at the beginning of the line, delete the word and punctuation 'for his detention.' Amendment No. 2, on page 4, line 12, after "Section 12' insert the following: 'When any

Amendment No. 2, on page 4, line 12, after "Section 12" insert the following: "When any person has been arrested or detained in connection with the investigation or commission of any offense, arrest or detention, his right to silence, his right against self-incrimination, his right to the assistance of counsel, and to court-appointed counsel, if indigent".

### Explanation

Mr. Derbes Ladies and gentlemen, this hopefully makes up for any of the deficiencies in the earlier amendment. Again, it sets forth with particularity the various rights of an accused and the rights of the subject in an investigation. It does so specifically rather than generally because, I feel that the general provision of the committee's proposal is too vague, and may in fact be too onerous for efficient and consistent administration. I urge the adoption of the amendment.

### Ouestions

<u>Mr. Lanier</u> Mr. Derbes, is it your intention that this would provide to the provisions of our stop and frisk law in Louislana, which is Article 215.1? Because if it would, would it be your intention to overrule the case of <u>State v. Ampley</u> which provides that you don't have to give a Miranda warning in this stop and frisk situation.

<u>Mr. Derbes</u> Mr. Lanier, the word "arrest" has specific connotations and the word "detention" has specific connotations. The requirements of this section do not vest until there has been actual detention or actual arrest.

<u>Mr. Lanier</u> So would it be your intention, and Linis is for the purpose of the law enforcement people who would have to operate under this provision, is it your intention that this provision would not apply in a stop and frisk situation under Section 215.12

<u>Mr. Derbes</u> That's my intention but I'd also point out that the scope of the amendment, with respect to the circumstances of its administration, is equivalent to rather than more restrictive than the original committee proposal.

Mr. Pugh I'm very much in favor of your amendment, but I ask whether of not it's possible to make a technical change--instead of "his right to silence" "his right to remain silent."  $\frac{\text{Mr. Derbes}}{\text{permission}} \quad I \text{ have no objection to that, and with } \\ \text{from the Chair I would be happy...}$ 

Mr. Henry What kind of technical change do you want to make?

Mr. Pugh Instead of "his right to silence," "his right to remain silent."

[Amendment withdrawn and resubmitted with correction.]

# Questions

<u>Mr. Roemer</u> Jim, as to this matter of equivalence with the committee reporting with your first amendment, you the point, the contention that your your second amendment, the one we're considering now is more expansive than your original amendment, but less expansive than the original committee proposal.

<u>Mr. Derbes</u> Well, I'm talking about, and I'd like to draw this issue rather narrowly, I'm talking about the circumstances in which it would be applicable, not necessarily the rights that would be administered but the circumstances in which it would be applicable. As I understand the original committee protein I and it beive that what ra pommittee's intention was, in that instance, to say that whenever a person was detained by a law enforcement officer as a subject of an investigation or as an arrestee, that he should be advised of his legal rights. So I think to that extent they pare equivalent. Now, perhaps, and I can't interpret all the committee's intentions, but perhaps the committee wanted it to go further than that, but I haven't been able to discern that from speaking to the committee merks.

<u>Mr. Stinson</u> Mr. Derbes, of course, you didn't speak to me. I don't know who you spoke to, But in my opening address as you heard and I'm sure, is that different words come of different lawyers' mouths, and they usually mean the same thing. Now, would you please make another technical amendment, and say 'and any other legal rights?"

Mr. <u>Derbes</u> Absolutely not, Mr. Stinson. That's the reason why I'm up here. If you don't understand that ...

Mr. Stinson I understand what you're doing. Isn't it a fact that you're locking in these, and if they decide later on that he has other rights, he'll be denied those rights?

Mr. Derbes Mr. Skinson, can you please spend about fifty.... I tell you what, you take five minutes, and you tell us what the rights of a syminal defive minutes; it'll take you a course in criminal procedure or a course in criminal justice to explain all the legal rights of a defendant in any criminal proceeding.

<u>Mr. Stinson</u> 1 don't agree with you. I have taken those courses, and I have practiced for thirty or forty some odd years, and I still say when you don't know, you shouldn't try to name them. You should say "legal rights" and the courts would interpret that..

<u>Mr. Derbes</u> That's the reason why I'm up here, Mr. <u>Stinson</u>, <u>because</u> I think "legal rights" is too broad and too vague and almost insusceptible of efficient, professional administration.

Mr. Stinson Well, I'm sorry, but you don't agree with the committee after much research, and I'm sure you must be right and the rest of us wrong

[Previous Question ordered. Amendment adopted: 100-9. Motion to reconsider tabled.]

### Amendment

Mr. Hardin [Assistant Flerk]. [Amendment by Mr. Brew]. On page 4, line 16, after the word and punctuation "him" delete the remainder of the line and delete lines 17 through 19 both inclusive in their entirety.

### Explanation

Hr. Drew Mr. Chairman, ladies and gentlemen of the convention, my objection, and the reason I have to do this last sentence in Section 12 and the reason I offer this amendment, is because of the words "by imprisonment." Practically any offense that I know of from speeding on up and down is subject to jail, and therefore this would make it man dort that Lity have ar cases. Now cof course, part of the argument is that the fifth Circuit Court of Appeal has so recently ruled. That does not mean that this part of the supreme Court. I think that we're going overboard. I think this is a matter that we are locked in with federal declisions, and I don't think it's a matter that the counsel that is reguired under those cases, and I think this matter should come out of our constitution. You might see in the very near future that we're in direct conflict with federal law instead of in accord with federal law on the subject. I ask adoption of the amendment.

### Further Discussion

Mr. Pugh Mr. Chairman, fellow delegates, 1 only rise to advise you that Mr. Drew said, "that case has not been affirmed." On June 12, 1972, the United States Supreme Court in the case of <u>Hamlin</u> felt that every person who might, as a result of the charge, spend so much as five minutes in jail, was entitled to coursel. The law is that if you may be imprisoned, regardless for the term involved, you have the right to counsel, and I'm in favor of the section as it reads and opposed to the amendment.

### Questions

Mr. Lanier Mr. Pugh, is it not true that under Louisiana law and particularly Article 884 of the Code of Criminal Procedure, that even if an offense was set up as punishable only by a fine, that the law requires that in default of payment of the fine that imprisonment is authorized whether specifically put in the penalty clause of the statute or not?

Nr. Pugh That's in the section that you had reference to ... the Hailin case was a Florida case. I didn't want to imply that it was a Louisiana case.

Mr. Perez Mr. Pugh, if you say that is what the feweral courts have ruled, why do we need this in the constitution? I thought that we were trying to write a brief constitution.

Mr Puth I can't tell you what the committee had n mind All I'm doing is opposing this amendment.

Mr. B.e.er. 8 b. in line with Delegate Lanler yestion new, would that in effect nean that every asse whether it had orin nel punish ent. incar-eration in its term, or ult nately if you had to default on payment would require ounsel? I that not true?

Pr Pugh Tes, sir, The law as Lappreciate it and a enum ated by the inited tate 'upreme fourt in that den on, which the Larven may as a reluit of the ifferie with which he to be charged or it being hamged as be reluined it spends o much as five inite in all if he invited It doesn't make any difference what you give him The mere fact that he might have that as a punishment entitle him to counsel.

Mr. Roemer All right, but let take it a step further for us country boys and tell me the answer to this question if you could. If we had a penalty orime, but in default of payment of said penalty, you had to spend time in jail then you'd be entitled to counse under this provision. Is that not correct?

Mr. Pugh That's correct. I see nothing wrong with that, quite frankly.

Hr. Boy, Hr. Puph. as I understand it, you believe that whether you are going to be in jail for three days because of a crime on thirty days or three years, that you're still in jail, and you do believe that people are entitled to counsel and not ... just they are entitled to the assistance of counsel if they choose or if they are indigent they should have it. In't that true?

Mr. Pugh It doesn't make any difference to me how long a fellow may stay in jail. Five minutes for me would be too long, frankly, but it's not a question of how long, it's if.

> [Previous just n order d. Amen ment rejected: 3-7. Motion to re-insider tabled. Previous Question rier d the Section .]

### Closing

<u>Mr. Stinson</u> We close. Thank you for your patience, and let's go ahead and adopt it. I think it will be helpful to everyone. Thank you.

[section passed: 98-13. Notion t remnsher tabled .]

Recess

[Quorum Call: 10. delegates present and a guorum.]

### ersonal Privilege

Mr. Jenkins Mr. Chairman, delegates, a young Tady from my district has brought honor to the State of Louisiana. I wanted to call it to your attention, because you may find it of interest. Miss Debbe Ann Ward, who is a twenty-one year old senior at L. S. U., whose parents are Mr. and Mrs. Bennett Ward of Dayton Street here in Baton Rouge, was the proliminary winner in the talent competition of the Miss American Paceant in Atlantic City, television sets. I believe it s tomorrow night, perhaps we can all root for her in hopes that she will be successful in winning the Miss American crown.

### eading of the Section

Mr. Poynter "Section 13. In tiation of Prosecution

Setion 13. Prosecution of feiones shall be initiated by indictment or information, provided that no person shall be held to answer for a apital crime or a felony neck antily pun hable by hard labor, except on inditment by a grand for the same if fense, except on his own application for a new trial ne when a "strial is de lared or a mition in arrest of udde ent is u tained

### \_planation

Mr Guaris o Ladie and set even if the view finn, we now begin the viting dealing with the person, the align do, after he has been arrested and the wething the procedure by which the encual in t initiated plane the view dual

course, you know we have two types of crimes felonies and misdemanors. What we provided for in this section is that a capital crime of which there are five now in the State of Louisiana and those felonies which necessarily are punishable by hard labor shall necessarily be on indictiment by grand jury and by no other method. That is, the district attorney cannot bill a person for a capital crime or a felony necessarily punishable by hard labor merely by filing his certificate of probable cause to bring this person to trial. You have to be indicted by a grand jury. The section goes on that "no person shall be placed twice in igopardy"; that's in line with the present constitution, insofar as once a person is put in jeopardy for a crime, then if the is acquited of that crime or the D. A. or someone drops the charges or for some reason he's found not guilty or nol-pros, then he cannot be put in jeopardy for that singular

I'm open to questions.

### Questions

Mr. Lanier Mr. Guarisco, is it not true that under the present constitution and under Article 437 of the Code of Criminal Procedure that the only offenses for which a grand jury is presently required is capital offenses?

<u>Mr. Guarisco</u> That's correct, but, Mr. Lanier, there are some...l have enumerated twenty different crimes in the State of Louisiana, including capital cases of which there are five, that are necessarily punishable at hard labor.

Mr. Lanier Isn't the crime of simple burglary necessarily punishable at hard labor?

Mr. Guarisco That's correct.

<u>Mr. Lanier</u> Do you have any idea what it would cost the different parishes to have to have grand juries in all of these types of cases?

<u>Mr. Guarisco</u> The answer to that...I'm not particularly interested in the cost if it's going to suspend the rights of an individual. Are you familiar with the case of <u>Pugh</u> v. Rainwater?

Mr. Lanier I've seen the report that Mr. Roy had in the newspaper. I have not read the text of the opinion, but as I recall it, that went off on the question of whether or not there was a magistrate's hearing or whether or not a Bill of Information served to supplant a magistrate's ruling on probable cause. Is that correct?

Mr. Guarisco That's right.

Mr. Lanier So, what does that have to do with whether or not there should be a grand jury indictment in a simple burglary?

Mr. Guarisco Well, I think it's very simple. I think that a peeson that's detained at the time of arrest and before arraignment or his trial. And then he should be afforded some opportunity by detached body, either a committee magistrate or a grand jury, of whether or not a probably cause exists.

Mr\_Lanier Now, one further question. If you couple this provision with the provision in Section 14 that requires that the transcript of the testimony of the witnesses appearing before the grand jury be given to all defendants, wouldn't that pretty well mean that in all of these cases you would have discover?

<u>Mr. Guarisco</u> That can be construed that way. The accused should have a right to the transcribed testimony of all witnesses before the grand jury, yes.

Mr. Derbes Mr. Guarisco, isn't the real protection

For a defendant at the outset of a critical proceeding, the preliminary hearing rather than the grand jury indictment?

<u>Mr. Guarisco</u> I'm sorry, I didn't understand your question.

<u>Mr. Derbes</u> I said isn't the real protection of a criminal defendant at the outset of a preliminary hearing, at the outset of a criminal proceeding, a preliminary hearing rather than a grand jury indictment? Which is to say, isn't the grand jury more or less the handmaiden of the district attorney and to require a grand jury indictment in all cases punishable by hard labor is really just kind of window dressing?

Mr. Guarisco I agree with your statement that the grand jury is the handmaiden of the district attorney's office. Also, however, we have other protections for that later on in the section.

Mrs. Warren I just want you to explain briefly to me what mistrial means.

Mr. Guarisco Well, a mistrial generally speaking is some reason...there are procedures that happen during the trial that may cause it to be prejudicial against the defendant and that way the judge would say what he calls a mistrial: that is, the trial is called off for what was done improperly.

Mrs. Zervigon Mr. Guarisco, in order to try and vote intelligently on this section, I would like to know what percentage of cases that are brought before a grand jury by a district attorney does the grand jury fail to return an indictment?

Mr. Guarisco I don't know the percentages, but I don't think there is hardly any cases that the D.A is hell-bent on getting a true bill on, that he is not successful.

<u>Mrs. Zervigon</u> Well, it's my understanding that the committee stuck this grand jury provision in this particular section as a protection for the accused. Isn't that correct?

Mr. Guarisco Supposedly, yes.

<u>Mrs. Zervigon</u> Well, if the district attorney gets an indictment through the grand jury almost every time he asks for it, I was wondering, what sort of protection that is?

Mr. Guarisco Well, Mary, I think this section has it be read in conjunction with the following section, which gives the defendant and the accused certain protections that he does not now have, that would make the grand jury a more impartial body than the arm of the district attorney's office.

<u>Mrs. Zervigon</u> But, it's your feeling that as of now, and we can only consider this section by section as we vote on it, going before the grand jury the percentage of cases in which there isn't an indictment might be lower than the percentage of cases nol-prossed by the district attorney just on his own.

Hr. Guarisco The district attorney can nol-pros the case even if the grand jury comes back with the true bill. He can always nol-pros the case. That's no problem, but in the first instance if the D. A. just nas to certify by a Bill of Information, then he is the prosecutor. I don't think he is a detached person. At least he has to do before the grand jury and they may be detached if we put these other safeguards that we intend to do in "14" to make it a amore independent body.

### Amendment

Mr Poynter Amendment No. 1 [ $b_0$  perfecte purshed). On page 4, line 23, place a comma "," after the word "crime" and delete the remainder of the line and at the beginning of line 2% delete the words

[1164]

and pun tuation pure nable by hard labor.

### Explanation

The durate the sphere dispassion stelly. The old like two do so first of all by agreening on tirely with what He. Guarsco said about the necessity for reading sections 1 and 14 together. The read in for that is s-and your vote sight be governed intending by what you want to do on Sect on 14 - the reason for that is funds: under the present law, Constitutional Article I, Section 9, which you can look at in your book, it ays that a prosecution for an offense which may be punished by death shall be instituted by "dictment by a grand jury." Nobody que tion that or by life imprisonment." Mine would simply delete or a "capital crime" because the present interpretation is a even with the present grand jury system, that in parishes and 1 m going to use an example of a man who's here - such and lim going to use an example of a man who's here - such as lefferson, where there are two hundred felonies per month - it would be a practical impossibility to bring all of these cases before the grand jury, and you wouldn't be able to get them to trial. I'm going to speak for the situa-tion I'm familiar with. The primary use of the grand jury, in my parish is on those cases which are (a) either of such a serious nature, such as how ic/de, agmraviated rape and so on, that prudence dictates you ought to have a grand jury indictured, or secondly, some cases, and there are not an in one mind dather or one the avience usefiles brinn-In his own mind whether or ot the evidence justifies bring-In this own mind whether or not the extuence justifies of mig ing them to trial. In that event, he wants to run them by these twelve men from his parish. I think while it's popu-lar to say that the grand jury is a tool of the 0.A.-that you will find if you check the record on it, that state grand juries - I mont talking about federal grand juries grand juries - 1' not talking about federal grand juries because l'moging to get to that in a 'inite - but in state grand juries you'll probably find that no true bills are returned on a high percentage of cases - simply because the D.A. sees after running the evidence in front of the grand jury that it doesn't usitly pushing for an indict-ment. That is one of the uses of the grand jury today. Now, he federal law mich requires the use of grand jury of all crimes has really made the federal grand jury a perfunctory or rubber stand. It's bare 'rare in y view that you get a situation where the federal grand jury is going to return an ind intent on practically everything they line totale. mey present which an object to any introduction of evidence by the take and who can get some evidence suppressed at that inn and may well get the case thrown out of court. This signal point in any Proceeding 15's of the takute under the logithms Code of Critinal Procedure, it is a mode in right the harge adjunct you is by a Bill of Infor-mating in the process adjunct you is by a Bill of Infor-mating in the process adjunct you is by a Bill of Infor-mating in the process adjunct you is by a Bill of Infor-mating in the process adjunct you is by a Bill of Infor-mating in the process adjunct you is by a Bill of Infor-mating in the process adjunct you is by a Bill of Infor-mating in the process adjunct you is a single some inter-tion if you reque to be I bring that to your attention, be assed into it's messary that you would under tand the dirt is der tide with thi whole topic. Two have een there are there is in far uffield in a rayity that you would the ave a grand jury proceeding. In it is the asset, there are regrand yor process adjunct adjunct is would into the dirting the by a ultif point, is not that out is would into the dirting the by a ultif point, is not that out is won your the dirting the by a ultif point, is not that out is won your

tou have this electwoon in and 'wen'y it include thirty ". . . uld in lude all or the name to case which is one The use of the next section of the next section where the an areadown with use or tudy, arere to an areadown with the ore tudy, arere to an areadown with the ore tudy, arere to an areadown with the ore at the areadown and the section with would remain the section of the thet word the section of the sectio legitature. The is lature his required in the ude of irming Procedure that you have arin it. preliminary es-a nation if you are have ed on a 111 of infimation. By the same token, they could go into the crimial procedure article and they uid require, if addit in to the critical tional minimum, that you also needed a grand jury indictment on other specific crimes. But it is very difficult thing for us to do here in the constitution today. For instance, if we set a minimum of twenty years, what would then keep the legislature from turning around and reducing all the penalties to ninteen year? You would be playing a game with this is no excluse a business to he having a game with Now you consider Section 13, you have to consider also that what I've been talking about up until now is the grand jury what I've been talking about up until now is the grand jury as it operates at present. But under Section 14, the grand jury process would be greatly complicated. I think, and all the district attorneys I've talked to think, that it would be complicated to such an extent as to make it virtually useless as a tool of inveitigation in examining the accurary of accusations made. Why? Well, it would give the right to compulsory process for presenting witheleas to the grand jury for interrogation. If I were a defense attorney and I had a client that I wanted to slow down the prosecution of. I'd have a hundred subpoens served for character witnesses. The grand jury, i guess, would have to liten to all of them what would that do to your average grand jury term? You couldn't bring the cases forward. You couldn't get the in a posture to bring them to trial. The transcribed testin of any witness, appearing before the grand jury is provided for. If we are going to provide for the transcribed testi-mony of witnesses, then I thin we have ill led the server crime prosecution, for instance? I have been authorized be-cause of conversations that I've had with Ossie Brown, who's the district attorney here in East Baton Rouge Parish, who is charged with the obligation of prosecuting corruption in is charged with the obligation of prosecuting corruption in required that any witness before the grand jury has to have an attorney. Well, now if you are investigating one depart-ment, it's a simple thing for the man at the head of the department to get one lawyer and have him stand in there in line, ready to represent every single witness who appears be-fore that grand jury. The grand jury is not going to hear from those witnesses what it otherwise would have heard and mind some of what I would agree are abuses in the system, and especially in the feetand grand jury of the source of the fore a federal grand jury, you have no right to counsel. I had the staff research it and there's not a single state in the funon that guarantees anybody the right does it by statute, a grand jury. There is one state which does it by statute. a grand jury. There is one state which does it by statute, Washington Again, I want to get back to the point that I'-making over and over again, that it ay be that you an do this well by slatute

### Point of Order

 $M_{\rm ec}$  as given a think  $M_{\rm e}$  during in the duble the state of the maximum state of the maximum state of the maximum state of the maximum state of the s

Mr. H.nry Well, it's first one bing another the stoor, the cars idea interrelated, wherever volument to all in a real deal of 's itude is abeau, Mr. prov.

Exclanation intinued

Mr. Burson I'm just trying to make the point we can't <u>Pr. buryson</u> I'm just trying to make the point we can c. consider Section 13 in isolation. We have to consider it both with what has gone before and what has come after, what will come after, what come after, by domether the one has been been been as the section what comes after, by amendment would leave the present law alone. J want to state here and how that if, before the day is over, we could come up with some manageable way to define those crimes which are serious enough that we to define those crimes which are serious enough that we could all agree ought to go before a grand jury, that we could go with that. Well, so far as I know, nobody has been able to come up with that definition. So, until we can come up with that definition, then let's leave that question open where it should be to the state legislature to deal with in their own good time and in their own proper deliberations. Let's not freeze into the constitution something that we will find we can't live with later on and then be in a bad position to come back and try and change it. 1'll answer any question....

# Ouestions

Mr. Roy Mr. Burson, are you seriously telling the truth to <u>mr. soy</u> mr. ourson, are you seriously tering the truth to this convention when you say that after asking for a prelimi-nary examination, if a district attorney bills you on his own, that you are still entitled to the examination and not merely to a question as to the amount of the bail or bond? Are you trying to tell these people that?

Mr. Burson Mr. Roy, if you will wait a minute, I'll get the code ...

Mr. Roy No, no, don't get the code; get the Louisiana Su-preme Court case that decided that. I know what the code says. But isn't it a fact that the Louisiana Supreme Court recently held that once the district attorney has billed and you have acked for your preliminary examination, the examina-tion is with respect to the amount of bail or bond only and not as to whether a charge should have been filled [filed] in the first place? Isn't that what the Supreme Court held, Mr. Burson?

Mr. Burson The Supreme Court held that in such cases it was Mr. Burson The Supreme Court held that in such cases It was discretionary with the court. Article 296 of the Code of Criminal Procedure says, "If the defendant has not been in-dicted by a grand jury for the offense charged, the Court shall, at the preliminary examination, order his release from custody or bail, if from the evidence induced it appears that there is not probably cause to charge him with the offense or with the lesser included offense."

Mr. Roy Yeah, but you're evading my question, and J'm ask-ing you to tell the truth. Isn't it a fact that it's discre-tionary with the court? When you told this convention you were absolutely entitled to a preliminary examination before your judge after...even after the D.A. billed you that that is incorrect and the only thing the Supreme Court said you're absolutely entitled to is the amount of bail or bond. Now, isn't that the truth?

Mr. Roy, in my experience I have never seen the Mr. Burson court refuse to grant someone a preliminary examination when the person was charged with a Bill of Information.

You're not answering my question, Mr. Burson. Don't you know, as the astue lawyer that you are, that when you told this convention that you are absolutely entitled to a hearing on the issue of the charge, that that is incorrect? The Louisiana Supreme Court has interpreted that article you have just read and to say that the court may limit it to a

Mr. Roy, I am indebted to you for the knowledge Mr. Burson fact that this matter has been ruled upon by other than the Louisiana Supreme Court when you pointed out to me that the Fifth Circuit said, that a man could not be held in jail in such cases without a preliminary examination. I be-lieve that the federal law still applies to us in Louisiana.

Well, I'll let you read that Pugh case. It doesn't exactly say what you think it says. But you do admit that you were a little inaccurate in your statement previously?

Mr. Burson Not in the totality of the criminal law, which I think we've got to consider. We can't consider just the state provisions without considering the federal requirements.

Vice Chairman Casev in the Chair

<u>Mr. Guarisco</u> Mr. Burson, you said earlier that you didn't know whether or not you had a criterion by which a crime would be serious enough to go before a grand jury. Is

Mr. Burson I said that no criteria that I had seen proposed today was manageable and workable, that in lieu of that we should leave this matter for the legislature and leave the law alone, not venture into something that we don't know what the outcome will be, except that we do know it will further clog up the court system and make it impossible to bring criminal cases to trial.

Mr. Guarisco Do you think the criterion...the committee proposal of "a capital crime is necessarily punishable by hard labor" is a criterion?

Mr. Burson Yes, sir.

Mr. Guarisco If you are out there cutting that cane, that's a criterion to have a grand jury indictment. Don't you think?

Mr. Burson But, of course, Mr. Guarisco, all of this pre-sumes that the grand jury is going to do something more lenient in favor of the defendant than the district attorney will do, which is an assumption that I have found not to be borne out in practice.

Mr. Pugh lsn't it a fact, Mr. Burson, that this is the only state in the Union, the only one that 1 know of, that allows a district attorney to quash an indictment once it's been rendered by a grand jury?

Mr. Burson As far as I know.

Mr. Pugh This is the only state that will allow that?

Mr. Burson Yes, sir.

Well, is it not a fact that if this grand jury Mr. Pugh Well, is it not a fact that if this grand jury doesn't do what you think it ought to and it indicts a man, you can still guash the indictment?

Mr. Burson Yes, sir.

# Further Discussion

Mr. Roy Mr. Acting Chairman, ladies and gentlemen of the convention, I rise in opposition to this amendment for seve-ral reasons. Let me tell you that J'm not so wedded, right off the bat, I'm not so wedded to the section proposed by the committee that reasonable changes would not be tolerated as far as I'm concerned. Mr. Burson does more with this amendment than meets the eye. I have been, in a sense, con-cerned and I've declared it before, with the fact that so cerned and I've declared it before, with the fact that so many people in here who are not attorneys and the lawyers get involled in a mumbo jumbo of jargon and language, that you're not familiar with, and you're all in the dark as to what's really being said. I want to tell you that what was stated with respect to an absolute right to a preliminary examination by the previous speaker is incorrect. It is absolutely incorrect. It as does not have that what the absolutely incorrect. One does not have the right to a absolutely incorrect. One does not have the right to a preliminary examination by the trial judge after the district say it like you want, but if you are in any way influenced by that previous statement, discard it. As any attorney who practices in Drieans Parish how many times a person who is in jail, for whom one has been apprinted to represent and files a motion for a preliminary examination. The morning of a preliminary examination the district attorney walks into the courtroom, files a Bill of Information charging the guy with armed robbery or whatever have you - it makes no difference and at that moment the judge on many occasions discharges the preliminary examination and the issue is only one of bail or bond, not whether you understand you should be charged that way. Now, that's right, Mr. Burson is right when he says that we are trying to make the grand jury some-thing more than the arm of the district attorney, and our Section 14 goes a little way to doing that. But let me til you something files that was misstated. We don't guarantee to any person the right to have his witnesses appear in the grand jury room and interrogated by the grand jury. We simply provide, and we believe, that an independent body of citizens, this person's peers, should have the right to have brought there witnesses whom a poor indigent man may not be

able to get to the grand jury otherwise. The grand jury does not have to listen to the witnesses. It may say, as it has done in many occasions in the past, we don't want to hear your witne set and there is nothing that one may do about it 'hat's absolutely the truth, ladies and gentlemen. Our committee never intended, and the language there does not say the prand sury. It oly allows you, you see, the right to support those people to have them there. Now, is that asking so uch, that instead, if I have witnesses who know that 'mn ot guilty of a crime, that I was in Shreeport when the burglary took place in New Dreams and I'm some poor guy that witnesses to present to the grand jury. Then the grand jury can say, Wr. Roy, we don't want to the year in grand jury jurors would say. Well, let's hear that man's witnesses," and the witnesses are heard...

### Question

Mr. Roemer Chris, could you address yourself to the problem raised by Jack in regard to Jefferson Parish, the example he used with two hundred felonies a day or week or something

Mr. Roy 1 hate to say that 1 really find that kind of exaggerated. It desn't necessarily...it may be felonies, but our provision deals with felonies necessarily...it may be felonies, but hard labor. Let me tell you folks who don't know any better, there are two types of juries when you are tried. There is a twelve man jury that can convict you nine out of the leve and you for a solitive felony. It would not apply to those many relative felony. The argument? The philosophic cal argument to me is not that we...

### Further Discussion

Mr. <u>Gravel</u> Mr. Acting Chairman, ladies and gentlemen of the Gonventon, I want to speak briefly in opposition to the Burson amendment. I think that it is far too restrictive, ust as I fee that the proposal by the committee maybe goes too far in the other direction. I homestly believe that there is a far middle ground that we ought to reach with respect to when it is and when it is not mandatory for a grand jury to indict.

Mr. Casey Mr. Gravel. Surry; let me just interrupt. I have a request from a couple of the delegates that they lannit hear. Delegates, please have your seats. Please proceed, Mr. Gravel.

Me. Gavel. I's not going to speak uch longer. Mr. Acting Charman, than you. I just want to point this out to the onvention, and I think that maybe that the delegates may well be aware of It. Regardless of whether the Burson amendment that is before you now is paired in rejected, there will one before you next a processal by Mr. Hugh and myself, wheretim we are that a provision be adopted in the constitution which will require that in all capital cases iof consist hose are cases where the death penalty may be imposed, and in all the position of twenty years or more at hard labor, that in those ares that the grand jury indictment be essential. All aying to you is thi. At the far one side of this parsing at problem, we have those who don't want any intervent in at all by the grand jury in any asse whatwoever esept capital ave. The committee onpoind, on the other hand, kay that all folowy rases must be the tuble to for grand ury not then the sendent and in that reas in, I wild urge the restion of the hyper many and that in each root in the next amendment and it that reas in, I wild urge the restion of the hyper about the above the adoment that we nan unnider and have submitted

### Luestion

Mr. Dech tell. Mr. wavel, y whave een talking ab it a

middle ground. Fou state that Mr. Burson's amendment does not evident strike a ddle ground Doein t Mr. Burson's amendment bring the law exactly where it is today, in other words, that only capital crimes need be brought before a grand jury?

Mr. Gravel It maintains the present iousiana law that requires only that the grand jury be need sary in capital offenses, that's correct. Now the federal system, as you know, requires a grand jury indictment in any federal offense That's correct, Mr. Deshotels

# Further Discu sion

Mr. Chairman, ladies and gentle an of the con-Drew vention, 1'I just take a minute. But let me point out to you one of the inconsistencies of the committee propo al been offered. Of course there is a difference in the size of the jury that hears that case that is punishable with or of the jury that hears that case that is punshable with or without hard labor, with means it may be jail or penilen-tiary, and the jury that hears those that are necessarily penitentiary offenses. We say, in the committee propinsal, that we are trying to protect the individual. Just one example, if you will look at the statute on aggravated crimi-nal mark to be the state of the same state of the same of the same state of fifteen years either in jail or in the penitentiary. that would not be subject to grand jury consideration under the committee proposal. It would on y be those that are mandatory penitentiary. You have aggravated battery, which can carry up to ten years in the penitentiary. not be mandatory to be considered by the grand jury. You have thefts when the taking amounts to a value of five hunhave therts when the taking amounts to a value of five hun-dred dollars or more. You can be imprisoned in the peniten-tiary for ten years; that would not have to go before the grand jury. I think that the Burson amendment is a good amendment. Let us not bog down our criminal justice to such an extent that a speedy and fair trial is an impossibility. When you start talking about grand jurying, putting before the grand jury the andles of cat stated your fair where in the category here, and as I just stated, you are subject to more imprisonment for the other offenses in many instances than you are the ones that are necessarily punishable by hard labor, it just doesn't make sense. I think we have done enough already to the criminal justice in this state done enough already to the criminal justice in this state without further bogging it down. We would have our district attorneys and their assistants tied up day in and day out with grand juries and it is not necelesary. One thing that the proponents of this committee proposal have not taken into consideration: the grand jury indicitent II nothing more than an accusation. The grand jury is an accusatory body. The district attorney with a Bill of Information is nothing more than an accusation of the commission of a crime let me table up from the commission of a crime Let me tell you from y experience, ladies and gentlemen, if I have a defendant to represent, I had much rather go int court representing hi on a Bill of Information than on a though it should not do it, that a grand jury indictment does carry a little heavier stigma toward guilt. I does carry a little heavier slipma toward guilt 1 think it's probably the proponents of this committee proc-sal of doing exactly the opposite from what they intended to do with the exception of our provision requiring that the witnesses have the benefit of coursel and the summoning summoning of witnesse. What this will do will be to are a grand jury an adversary hearing and it was never intended to be an adversary hearing. It is a mean where your peer, your fellowmen, decide if there is enough evidence to where that individual should stand that is all in the

### Que tilni

Mr. Roy Mr. rew, if the a forum to deter monwhether y should be indicated or mit, don't you think that the grand uny should have the opiortunity to hear your wither is if you get them there

Mr. Drew, I don't think that it should be availating because your oppt unit a well arry it one the further, Mr. Bay, and any that the district attorney with it file a fill of formation until he had talked to the defendant and al. f hi with mene. It would be year being a what ye are suring new.

Mr. Roy Have you read the provision to mean that you are entified as an absolute right to have your witnesses in the grand jury room itself? Is that the way you read thi whole section?

Mr. Drew No, I don't read it that way. But you have that right now if the district attorney wants to hear them, and in most pari hes they will hear them if they see fit.

 $Nr,\ Roy$  . Suppose you can't get them there for the district attorney in his gracious manner to allow the grand jury to hear, Nr. Drew. What do you do about that?

Mr. Drew Mr. Roy, I think that you have an entirely different concept of a district attorney from what I do. I have never seen a district attorney that wanted to go to trial without a case that he didn't think he could win.

[Previous Question ordered.]

### Closing

Mc\_Burson. You will have another amendment to vote on in Mr. Gravel'ss.but Lurge you, first of all, to approve my from Section 13 what I deem to be an essential error. I point out to you that the discussion that I made earlier about the 200 felonies a month was simply something that was told to me by the district attorney of the parish involved. But, I can tell you of my own personal knowledge that we've had as many as 600 felonies a year in St. Landry Parish, not all of them purishable by hard labor but a high percentage a burglary case where you catch a man inside the building. A grand jury indictment in that case would be merely proforma. All of these arguments, it seems to me are based on the tacit presumption that all of the district attorneys in the tact presumption that all of the district altoreeys in the state are operating in bad faith, and I don't think that that presumption is justified. I think that these men are elected public officials, and I think that these men are trict attorney who, after all, would have to prosecute the case would want to take a bad case to court and get his invariants beat out. That just due in faith the state with the the the them the the the state of the brains beat out. That just deein't make sense to me, be-cause remember the jury or the people ultimately make the decision in this case. I have seen a few cases where able defense coursel walked the quilty man out and convinced the jury to let them go, but I wouldn't want to do away with the jury system on that account S.o. let's furn that argument around. Just because there have been people, perhaps one in a thousand; I think it's a lot less than that, unjustly accused by grand jury indictments or bills of information, let's not throw out the baby with the bath water. We don't throw the jury system out because a few guilty men get off, guilt or incorrece. So, by the same thewn, let's now throw out the jury that has worked as far as bringing criminal cases to trial in this state and substitute one that we cases to trial in this state and substitute one that we don't know how it's going to work in the convitution. Now I'd be the last one to get up here and tell you that we had Now-I'd be the last one to get up here and tell you that we had a perfect system of criminal justice. God know that is not true, but I am asking you and pleading with you, that let's lave these technical changes to be made where they ought to be made In the legislature. If you're sure that you understand the technical change that's being proposed by the committee, what its practical effect will be, and you agree with that practical effect, ther vote for it. But, if you are in doubt, as I am in grave and serious doubt as to what the practical effect of this would be, and I think the hill the practical effect of this would be, and I think the practical effect would pravely, seriously diminish the ability or innocence of an accused then I ack you to vote for my arendment and let's leave this question where it belongs . the amendments in the code of criminal procedure. Even though we relatish an animum necessity of a capital crime grand jury indictment, the legislature could still, one back and converse any number of other crimes that would require

### Questions

Mr. De Blieux Mr. Burson, I just wanted to see if I understand you right If you're saying by this amendment of yours that it would allow the legislature to determine what crites they wanted to bring before the grand jury other than capital case. Mr Durtson Yer, eit

Mr. De Riseux . Now, if we don't pas your amendment, then the legislature would have no choice in these matters whatsoever.

Mr. Burgen. That is correct, sir. They would be bound to bring any felony necessarily punishable by hard labor. You know what I can imagine happened? I imagine right behind adopting this constitutional provision, the legislature coming in and making all cases with or without hard labor, which would render this thing about playing games. This is too important to play games with statutory material in a constitution.

Mr. Willis Mr. Burson, we haven't made the distinction between a grand jury which is an accusatory body and a petty [petit] jury which is a body that hears the case where it's a contradictory proceeding. Now, with that in view, isn't is a fact that all the witnesses and the accused can have his attorney to defend his case before the petty [petit] jury?

Mr. Burson There's no question about that.

[Reard vote orderel. Amendment adopted:

### Personal Privilege

Mr. Boy. Mr. Chairman, ladies and gentlemen of the convention, I'm not going to take much time. I've never requested this before hul I just think that I ought to respond to maybe some instruction that was made that I disagree with. I don't think that public officials are no good. I don't think that they are dishonest. It doesn't mean that I don't believe that when we're dealing with a Bill of Rights that I'm not going to stand up and do ny utmost to make sure that in all cases possible we obviate the chance of some public official south of the stand to the south that the south that is all cases possible we obviate the chance of some public official south of the stand the south that the south that is all cases possible we obviate the chance of some public anaary. I know personally how I feel about basic rights, judges, for the legislature: I'm glving the DA.'s every right they have. I want to go out and go out clear that I don't accuse any district attorney nor any judge of any misconduct. But, I do say that when we deal with the Bill of Rights, i doesn't answer the guestion to say that this is technical in neutre and let the legislature deal with the Bill of Rights, i to cleares. Now, I but andwen we hill believe in everybody in here there comes a time when we hill believe to a good citizen. I have military service. I've done my job every way I can Just think that I don't want it misunderstood that I have any misjoneption about any views and what have you. Than you.

### Chairman Henry in the Chair

### Amendment

Hr. Popyter This is the Gravel-Pugh amendment. Amendment No. 1, on page 4, line 23, mmediately after the word "for" delete the remainder of the line and insert in lieu thereof the following: "any capital offense, or any felony in which punishment at hard labor for 25 years or more may be imposed your invoiction.

There is no longer a necessity for Amendment No. 2, as those same words were stricken by the Burson amendment.

### Explanation

M<sub>C</sub> Lupp Mr. Charman, follow delegates, by way of what would be a technical assemblers, I call your attention to the fact that there should be a comma after the word "conviction" so that if you yee if to adopt this amondment the language will properly flow within the section. Langhesse that Wr. Buryon available to make the shanes he did in the present section to the extent of elamation the manner in which the committee had presented it. I do not disagree with Mr. Buryon available to make the shanes he did in the present section to the extent of elamation the manner in which the committee had presented it. I do not disagree with Mr. Buryon available to you that any time that a preson it to be shared with a section, crime that the basis of that charges bound the upon an indictement by a grand upy

Y u and I both know that the retra tion never at he, us with the life Y u and I both know, all five respect to Mr Mr Boron, but there are a lot more are than one with of a thousand when web dy wa wrong. Now, our as odment will a thosend when the body as wrong. Now, our am down with the theory of the set of the se ury goes beserk, he an quash that indiciment This , the uny state in which he han, but he can quash that indicitent Therefore, we have no fear about runaway grand juries. Nat worries me, in all due respect, is the posibility of a runaway district attorney, where for some reason, be it whitial or otherwise, he decides to go after somebody. Well, he can do it with a Ingle heet of paper, and the man can you that this is a fair and reasonable amendment. I suggest to you that if you intend for a man to spend 20 years in all or if you intend to take his life, then let it be ini tially started by a grand jury indictment. Are there any

Mr Henry Mr Pugh you had said something in your opening remark...you don't further propose to amend thi amendment?

Mr Pugh No, what I said wa "I thini there needs to be a comma after the word "conviction" instead of a period". I was saving yself the possibility that someone would ask me whether or not it made sense when we got through with it.

Mr Jonroy when Mr Poynter read this, I he years, but I believe Mr Pugh said 20 years? when Mr. Poynter read this, I heard him say 25

Mr Pugn years is what is in the sheet of paper that L have and what 1 intended

Mr. Coursey. If that what I in yours, Mr. Poynter . . years!

Mr Nynter , Mr Yanr

Mc

An I' definit a skin, Mr Gravel Voi're ton gld to he using us and down life that. If you ump up too high, you' get a led u that bigger normention in the kry wu' get a led u that bigger normention in the kry wu'd gru like to peak. Mr Gravel?

Mr Gravel Mr Thairman, adies and gentlemen of the on-viets, first, et ay that I really would prefer for the hairman not to refer tomy age 1' really unsidue of t and f wain t, whenever I plied up the new paper a und by the invite the real of the real interview with the them ty of expirience of the experience that I ve had the lat feer day have been real, real intense I sit inferi that is regioning

Mr. Graine with Mr. Lhairman, I haven I been thing the distribution of the distribution of the finance of the second seco

were to not one uny but he such style in the random units of the random weight of the random strength of the rand Vention to intert in this of ituling a proviment this effect. That before any person an behavior and prime used with an offense for which he might furfelt in 11fe or which be imprisoned in the shale pointentiary for inyeer, are more, that there be the intervention and on ideration of the grant lary selected from the people in order that that particular body can determine with the ilitic attorney, it leval adviser, where or not a charge hal be made of that mannitude Now, that's what this a endment as that you do and mapper climes to which this amendment would apply that ye do have some fort of final drivin and let to be that with his have already provided for the grand jury or the stand jurie within the juri dlith in in with the ditrit it at three, has suppervision and control is urge that you adde this amendment. I will now yield to any queetions

Roeler

Mr Gravel i really don't know that I an an wer that question, Mr Roemer, but I do think this that we in table a dout a grand gury with on istute in every in farme a fair ross-setion of the community, and that that i dy shuld be in a porition to work with the dit rist stutioner. or upon the people of the discrition which thild itrict attorney is involved. I think that there were two ther that wanted to ack oue tion in dvance of Mr. or on, who

Mr Burnn. Mr Gravel, would y, u agree hat even it we left the constitutional informum at only rapital crime, that it would be preright we of the legitisture to one in and

dete it. Mr Burion

Mr. Fur in Fut, you would agree that they und in the tatute

No control. Min served, it unite an ident of this of a regional of a faith conding of that, which is that faith that or of those followed of the of the otype on the otype general.

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[Previous Question ordered. Record vote ordered. Amendment adopted: 58-55. Motion to reconsider tabled.]

### Amendment

Mr. Poynter Mr. Duval is going to go with his amendments here.

They read as follows: Amendment No. 1, page 4, line 25, immediately after the word and punctuation "jury." and before the word "no' insert the following: "no person shall be denied the right to a preliminary examination unless previously indited by a grand jury."

He has no further amendments deleting anything. That's just an additional sentence there.

### Explanation

 $\underline{Wr}$ ,  $\underline{Uwal}$  1'd like to point out that this amendment does not delete any amendment hat's been previously adopted. It merely adds to the section. I'd like to explain this very carefully as 1 think it's important. When Mr. Burson first made his remarks, there was some discussion about a preliminary examination. Perhaps, all of you do not know what a preliminary examination is. An indictment...the purpose of a grand jury indictment is to determine probable cause. If a person is arrested and a bill of information is filed against him, he can be held in custody without probable cause as to his...whether or not he should be incarcerted every bell of the promotion of the probable cause is a preliminary examination becomes discretionary. I think that is wrong. I think your right to a preliminary examination should always be abolute unless there has been a determination of probable cause by a grand jury. I think, as a matter of fact, I feel like a preliminary examination you have a judge. As it now stands you can't even get a preliminary examination has better flow that preliminary examination has better flow a preliminary examination has better flow that a preliminary examination has better files in a preliminary examination has bedter files in a preliminary examination has better files in the base of the discretionary unless there is been a determination were a preliminary examination has been filed. That means that the D.A. merely files a bill..., your right o a preliminary examination, have it not be discretionary unless there is been a day and yury indictment. I bink it's beneficiantion.

### Questions

<u>Mr. Burson</u> Mr. Duval, I have two questions. Really, I agree with you as far as the desirability of a preliminary examination goes, but don't you think that this language would fit real well into an amendment to Article 296 of the code of criminal procedure?

<u>Mr. Duval</u> It might fit there, but I think if we're going into this thing as we are, I think we ought to make it clear here in the constitution.

<u>Mr. Burson</u> Do you know of any other state constitution that has such a guarantee in it?

Mr. Duval 1 have absolutely no idea.

<u>Mr. Deptes</u> Mr. Duval, I've just been arrested for disturbing the peace and I'm about to be arraigned in municipal court where the fine is ten dollars. According to your amendment, I'm entitled to a preliminary examination. Is that correct?

 $\underline{\mathsf{Mr. Duval}}$  Yes, and I wish you'd try to keep order a little more,  $\underline{\mathsf{Mr. Derbes.}}$ 

<u>Mr. Derbes</u> And I've just been arrested for the crime of driving while intoxicated. Now, I'm entitled to a preliminary examination in that.

<u>Mr. Duval</u> Yes, and as you know, if that's your third time you can go to jail for a good many years on that, Mr. Derbes. You might well want that preliminary examination.

<u>Mr. Derbes</u> So in all minor offenses and all petty misdemeanors in all city courts as well as state courts even though imprisonment may not necessarily be mandatory and even though imprisonment may be considerably less than six months. I would still be entitled to a preliminary examination based on your amendment. Is that correct?

 $\frac{Mr.\ Duval}{can\ have}$  That is correct, yes sir. If you want it you can have it.

Mr. Lanier Mr. Duval, at a preliminary examination to establish probable cause, doesn't the state and the defendant both have the right to subpoena witnesses and present their evidence with reference to the case?

Mr. Duval That is right. One reason about this amendment is I hope it's going to substitute for Section 14. I don't think we'll need Section 14 or we adopt my amendment.

<u>Mr. Lanier</u> But, if you do this and a determination of probable cause is made, then you still have to go back and do this all over again for the trial of the case, don't you?

Mr\_Duval That's right, Mr. Lanier, but right now you have an absolute right...if people were informed of their rights, and Mr. Derbes and you know this, they have an absolute right to a preliminary examination immediately upon arrest. But most of them don't know what the heck they're doing and don't ask for it, and the D.A. slips his bill of information in there and it becomes discretionary. You well know that right is absolute. As a matter of fact, under the law, until such time as the information is filed.

Mr. Lanier Let me ask you this, Mr. Duval, if the judge determines there is no probable cause, it does not dismiss the charge, does it?

 $\frac{Mr.\ Duval}{1}$  No, sir. It doesn't dismiss the charge but the D.A. sure sees the handwriting on the wall, 1 imagine...and also, the man is not incarcerated.

Mr. Lanier He can go ahead and have the trial, can't he?

Mr. Duval Oh, he can do it, if he so wishes.

<u>Mr. Lanier</u> That would mean in every speeding case, or no <u>driver's license</u>, or fishing without a license, in all of these cases, you'd have to try each one of these things two times, is that right?

Mr. Duyal. You wouldn't have to try it two times. As you well know, Wr. Lanter, a preliminary examination is not a full trial on the merits, by a long shot. All you have to determine is probable cause, moreover, as you well know, every person arrested has a right to be advised of his right to a preliminary examination. Now, he just isn't.

Mr. Pugh Mr. Duval, incidentally I'm for your amendment, not for the purpose of knocking out the section, but I am for your amendment. I want to ask you if, in your opinion, this will prevent what happens so often...is that when a man asks for a preliminary injunction...Im ean a preliminary examination, the D.A. rushes in and gets a grand jury indict ment. Now, is it your understanding of this when he asks for it, then that itself is the timing factor as to whether or not there's been an indictment?

Mr. Duval That's right.

# Further Discussion

<u>Hr. Burson</u> Hr. Chairman, ladies and gentlemen of the convention. Those that after we get through with the Bill of Rights that I don't have to come up here as often as I do now. I'm sure you hope that much more than I do. I would be remiss in my duties as a delegate if I failed to point out the inherent error that. I think that we're making as a of criminal procedure in the constitution. I said yesterday that we were making nine major changes, but I believe that's up to about eleven now. I'd like to contrast what the legislature did in adopting this code of criminal procedure. A law institute committee formed of defense attorneys, district attorneys, and esteemed members of the bar studied for ten years, took testimony, had meetings, read cases, and then genislature a few times since then. But, we are here addy quite a few times since then. But, we are here today, going to do in one afternoon, on floor amendments, what the legislature has not seen fit to do, yet. I submit to yow. If these projects are worthwhile and I think that probably fit

is worthwhile to provide for a preliminary examination, but we need to get down in a statute somewhere and set out the whys and the wherefores, not just set something up here when we don't know what the consequences of it are going to when we don't know what the consequences of it are going to be, except this: that we do know that in every single case here you are adding an additional delay, you are making pro-secution of criminal cases more difficult, you're making it more difficult to get these cases to trial where the guilt or innocence of the accused can and should be determined. or innocence of the accused can and should be determined. I'd like to point out to you that if we can continue in the trend that we're going in, we're going to put those who have the avowed responsibility for enforcement of the law in this state in the same position that they find themselves in in New York State now, where in New York City last year there were 50,000 felonies committed and only 900 of them were were successfully reconnected and only so of them were able to be brought to trial. Now, if that's what you want then by all means go ahead with it. But, when you are finished, I want to assure you you're going to be looking at a total document that many, many people of good will who feel that we need a new constitution very badly will simply not be able to swallow

[Previous uest in rdered. Amendment rejected: 43-66. Motion to reconsider tabled.]

### Amondment

Delegate Burson sends up amendments. Poynter Amendment No. 1, on page 4, delete lines 23 and 24 in their entirety including all floor amendments previously adopted thereto, and insert in lieu thereof the following: "held to answer for any capital crime or any crime punishable by life imprisonment, except on indictment by a grand".

Mr. Burson Mr. Chairman, ladies and gentlemen of the convention. We are not going to play any games about this amendment. I'll be frank to say that if you adopt it, you are going to set things approximately back in the same place that you did when you accepted my first amendment, because I think that life imprisonment would be included under capital crimes today. Now I think it's worth one more shot at it, though, because I want you delegates who are not

at it, though, because I want you delegates who are not lawyers to pay attention, please, if you have listened to anything that I have said in this convention, to show you the consequences of adopting floor amendments which change the said the said of the same said the same same same test slaure has at its disposal to study these matters. Loak, if you will, at the language dFM. Gravel and Pugh's amendment. It says that 'you have the right to a grand jury indictment in any felony in which purishment at hard labor for twenty years or more may be imposed. "May have the you the you want to you, we are going to have to know here, won't we, what the difference is between this and only feindment mends." only felonies necessarily punishable by hard labor would only felonies necessarily punishable by hard labor would require a grand jury indictment. And i suggest to you that the change of one word from "necessarily" to "may" makes Mr. Gravel"s amendment broader than the committee proposal because the committee proposal required a grand jury indicti-by hard labor. And Mr. Gravel's amendment requires a grand jury indictment for any in which a penalty of temetry years or more at hard labor may be imposed. And there are many crimes under our law which provide that punishment is with or without hard labor.

The committee proposal didn't include those only those crimes defined in terms of necessarily punishable this newfound right that is a drastic change in our present

taw. Now ladies and gentlemen. I ask you in all sincerity, is this what you want to do? I don't think so, and I don't blame in any sense of the word, the proponents of this amend-ment I understand their philosophical position. I respect it. And under different situations, if we were talking about working out the mechanics of a statute. I think something could be worked out In this area. But i shumit to you that this offhand fashion is not the way to do it. It simply isn't the way to do it. Let's do that kind of thing in the way that that Code of Criminal Procedure was adopted after due and deliberate study of the consequences of what we do. Let's not do that kind of thing by a floor amendment Let' not give newfound delays, newfound so-called rights which

have nothing to do with the guilt or innocence of the accused. How can people get up here and keep talking about the grand jury as the rubber stamp of the D.A. and then raise so much cane [cain] about requiring a grand jury indictment for everything. Where is the logic in that position? I don't follow that argument. It just doesn't add up

And I'm requesting to you, urgently, that you realize that unless we know the penalty for each and every crime at the unless we know the penalty for each and every crime at the present time, when we put kently years or ten years or fifty years in the constitution, we don't know what we are including, we don't know what we are leaving out. You may get home and have one of your constituents say, "kell, you mean to tell me that before, the district attorney used to be able to prosecute a simple rape by a Bill of information, and now you are going to require hint og othrough, a grand jury hearing? I'm surprised at you. You say, "kell, I didn't kind of language without realizing the consequences. This is properly statutory material. is properly statutory material

For goodness sakes, let's quit legislating in this consti-tutional convention in the area of criminal law when we don't know the consequences of what we are doing. I'll answer any questions.

# Questions

Mr. Pugh Can you give me the crimes now that would be applicable in the event that the people saw fit to vote against your amendment and leave the so-called Gravel and Pugh amendment standing?

Mr. Burson Mr. Pugh, I had the staff prepare this memoran-dom which is in the hands of the delegates. I asked that it be passed out. I have not checked the accuracy of it, and I would not want to verify it one way or the other. The only thing that I can say is I know it would include a memorus number of crimes that are not presently suscepti-

ble to the requirement of a grand jury indictment, this rubber stamp of the D.A.

Pugh This list that I have, which I assume is the same

That you had prepared, has twelve crimes. Do you have any reason to believe that there are more than twelve crimes that would fall under that category?

Mr. Burson Unless I actually did the research myself, I would think the staff usually does a pretty good job.

Mr. Pugh Well, now, they said aggravated kidnapping was a maximum sentence with hard labor for life, that's death under the present statute, isn't it?

Mr. Burson Yes, sir.

Mr. Pugh All right. May I ask you one other thing? Did you not say at the beginning of your argument that you thought capital crimes would have life imprisonment? Is that what

I said that I put life imprisonment in there be-Mr. Burson cause I think that when the death penalty was outlined bland bl changes that the legislature would have to make in the law to bring the law in line with the U. S. Supreme Court deci-sion, to life imprisonment rather than death.

Mr. Pugh Which are the four crimes right now that call for a death penalty?

Mr. Burson. As far as I can recall, that would be aggravated rape, would be murder, would be aggravated kidnapping, and

Mr. Pugh Thank you.

Mr. Willis Mr. Burson, we have provided in the unitiary plan whereby we can call a grand jury or grand juries

Mr. Burson Yes, sir

Mr. Will is Now, with the statistic , that y u have supplied us with respect to your parish, which are somewhat the same as in my parish, and with no everptions for grand jurors ex-cept those set by the Supreme Court, and with rops to

harvest and with the grand jurors in session only six months out of the year, or two grand juries per year, how long do you think it would take your office to handle the indictments under the Pugh and Gravel amendment for a six-month period?

<u>Mr. Buyson</u> 1 see no practical way to handle them, at all, if you want to be frank about it. We have a very difficult time right now in trying to catch up on a tremendous backlog that we have. We have brought ninety cases to final determination in the first three months of this year...ninety felonies of the nature that would be defined here.

Mr. Willis And if you add the Gravel-Pugh type of crimes, how long will it take....could you do....could you handle the business with the....

<u>Mr. Burson</u> 1 would say, that of those cases which we brought to trial in that period, which represented a maximum effort on the part of our office, we would not have been able to bring to trial more than a third, at the most, of those crimes.

<u>Mr. Willis</u> Now, additionally, what would be the cost to the local government of those grand juries and the waste of time of district attorneys.

Mr\_Burson Well, of course, the police jury has to pay for the cost of the grand jury, and I don't think there's any question but what the cost would be multiplied treemedously, it would have to be. The cost to the sheriff's office operation of issuing all the subpensa. But cost is not the issue Those that say there should be no price tag on justice, fine. All 1'm asking is, let's not give the people who are responsible for the enforcement of law, something that's impossible to operate in an offhand manner with a floor amendment. Let's let the legislature work these problems out.

1 have never heard in the time that I've been concerned about those matters, any person request the district attorney's office to try fewer cases.

Mr. <u>Willis</u> One more question, Mr. Burson, finally. What do you think would be the humor of the grand juror who had to serve from July through December, what type of grand juror would he be if he had to neglect his business for six months? And think about what we are doing here.

 $\frac{Mr.\ Burson}{be\ rather\ poor...}$  ] would think that the humor in that case would be rather poor....

## Further Discussion

<u>Mr. Gravel</u> Mr. Chairman and ladies and gentlemen of the convention. Mr. Burson has made a statement that I suggest to you is absolutely and totally inaccurate. The proposal by the committee would be that there be required a grand jury indictment in every felony case where it was necessarily, that the offense was necessarily purishable by imprisonment at hard labor. There are a lot more cases encompassed by that language...al ot, Mr. Burson. And L certainly would have thought that he would have known that than the cases that would be encompassed by the proposed amedment that this convention adopted and that Mr. Burson now seeks to have you reverse.

Just so you'll have it clearly before you what this amendment proposes to do, that is the amendment that you have already adopted is to require that the grand jury indict in the most serious offenses, where the legislature has prescribed the most serious penalties. Those crimes, there's been no secret about it, those crimes have been listed by the staff as being twelve in number. I am going to read them out to you: Wurder of the first degree, murder of the second degree, the serious sale cases involving narcotics, manslaughter, aggravated argos, simple rape, aggravated kidnapping, aggravated arson, aggravated burglary, armed robbery, abortion.

Those are the cases in which a person can either be condemned to death, there are three of them, or in the other nine cases where he can be sentenced for more than two decades into the state penitentiary under the law.

nine cases where he can be sentenced for more than two decades into the state penitentiary under the law. Mr. Burson is wrong when he tells you that the amendment that you've already adopted enlarges upon the committee proposal. And I would be willing, if Mr. Burson wants to accept this challenge, I would be willing for his amendment or my amendment to stand or fall on a determination by the staff of the scurvacy of the statement that he just made to you. I challenge him, challenge him to justify the statement that he made by the report of the staff of this convention. 1 say, 1 don't suggest for one moment that he did it delibereately. I say that his statement was misleading to you. The proposed amendment that Mr. Pugh and I had, I think was clearly understood by each and every one of you at the conclusion of the debate and discussion on it. This is a second shot. This is the kind of situation that Mr. Burson 1s employing now that Mr. Champagne referred to the other day as being that kind of a case where people just won't dive up. Ladies and gentlemen of the convention, I implore you, don't undo something that has been done for the benefit of

Ladies and gentlemen of the convention, I implore you, don't und something that has been done for the benefit of people who have been charged with the serious offenses defined by the legislature of this state. Keep in mind what I told you before, that if this constitution is adopted, the district attorneys are going to be the single, most powerful people within their judicial district, which, to some extent, they should be. But let's have between that power, a fair cross-section of the community of the people of the district in those instances where man, as a consequence of a criminal accusation can lose his life or his liberty for more than two decades.

### Further Discussion

Mr. Gauthier Mr. Chairman, members of the delegation, I rise in support of the alackson amendment. Burson amendment. I'm sorry. I rise in support of the Burson amendment and let me point out why....I'w was mentioned earlier that in a number of offenses, a grand jury indictment would now be required, and this is good and fine with some exceptions.

let me point out why...it was mentioned earlier that in a number of offenses, a grand Jury indictment would now be required, and this is good and fine with some exceptions. Presently, which Mr. Gravel forgot to mention, possession of marihuana on the third offense, for instance, carries with it zero to teently years which would mean, under the Gravel require a grand jury indictment. I oppose this, why? why? Harmon Drew made a good point that a lot of people missed. As a defense attorney, i feel that going before a jury with a grand jury indictment hanging on to my client, it produces a serious disadvantage. I would rather that he have been charged with a Bill of Information.

Charged with a Bill of Information. Another reason that Burt Willis pointed out adequately, you're going to need full-time juries in a number of parishes to cope with the drug problem which many of them carry life, or over thirty years. Under the Gravel amendment, they would all now have to get grand jury indictments. The workload of a grand jury would triple. It's just...l don't think it's reasonable, I don't think it's practica. Ne won, if I understand Mr. Gravel right, he legislature feel

Now, if I understand Mr. Gravel right, he contends that we are providing for those crimes that the legislature feel are of a necessity serious enough for a grand jury indictment. Let me make this point. Some years ago, a couple of years back, the judges were having a hard time contending with marihuana on a first offense. They approached the legislature and said. The penalties are too harsh. Lower the red aso, and wet happenet the with the geople feil upon and they had criticism, they were criticized publicly, they were criticized at home, and I have legislators who have told me they will not again lower penalties, but rather, would reise them, would raise them.

Therefore, you put them in a bind, and I say to Mr. Gravel, that if you want to isolate these serious crimes, then we are going about it in a backwards way. It seems to me that we are not being reasonable when we require that a third offense of marihuana go to a grand jury. It's just not reasonable, and I beg of you, think of the expense, think of the cost, and also, a lot of defense attorneys feel that we would rather go before a jury with a Bill of information rather than a grand jury indictment. So don't think it's just the defense arguing one way. I beg of you, consider the Burson amendment carefully, and I ask you to support it. Thank you.

Previous Quest on ordered.]

### Closing

<u>Mr. Burson</u> Mr. Chairman, ladies and gentlemen of the convention, when Mr. Gravel said that I was absolutely and totally inaccurate. I hope that he did not mean to say that I was intentionally lying. I may mislead you unintentionally from ignorance on my part. But I promise you that anything that I tell you from this podium is either true or I sure think it's true or I wuldh't say it.

I want to point out to you that the cases embraced in my amendment that would require grand jury indictments under the present law, would be murder, aggravated rape, aggravated kidnapping, certain narcotic sales, treason, and abortion and

any ther crime that the legis ature later decided to define in terms of a death penalty or life imprisonment. The hould be clear understood. Now, that gets us to a problem that I've probably not discussed enough, that Mr Willi

When you've used that simple term, "grand jury, don t forget you are talking abut the requirement that people be moduced to man that grand jury. And those people are going to be your constituents. They are going to have to come fro The beyour constituents. They are going to have to come from our parishes. They are going to have to be paid for by your grand jury Now, we've got a devil of a time, a serious problem (ght now in trying to keep our jury venire for pe-tit jury service intact. It's commonplace at home for us to draw a petit jury venire for criminal jury term where we'll have a hundred names and wind up in court with all but fifty excused for medical reasons, or e cused for one reason or the other. Now what in the world, if we have that hard a time getting people to sit for a week, maybe, or maybe a The getting Deopte to sit for a week, mayDe, or mayDe a day to hear a criminal jury case, are we oping to do when you're going to give us the problem of having to have four or five grand juries in segision in some large parishes like Jefferson, at least three in my parish? Where are we going to find the people to it on these grand unvies for six months at a time". This is the kind of practical problem that alternations the difficultate that most into heave more that epitomizes the difficulties that you get into when you try to legislate in this constitution. I implore you, think cry to regislate in this constitution. I implore you, think of these practical things. Just because something is practi-cal desn't mean that it's inherently of less value or less weight than a philosophical ideal. You know, these practical problems are going to be there

regardless. We expact car provides are yoing to be there regardless. New cart with them away. Now all this talk a four the D.A.'s being the most powerful people in the...if the constitution is adopted, the language we've got in there about the district attorneys is a watering down of language that was in the statutes prior to this time. And as far as I am concerned, the only reason we had to put it in the constitution is because we had a determined move on by the constitution is because we had a determined move on by the attorney general of the state to use usurp powers that have traditionally been those of the local district attorney. And the bas is that I fought that battle on was purely and simply that I thought that the administration of criminal just e should be kept a local matter and not a matter of centralized control, because that created the greatest danger Centralized control, because that created the greatest dange of a police state that you could have. Now I don't know the state that you could have. Now I don't know think it's valid. The point is, don't decide an issue like this, for goodnes is takes, on whether or not you like the D.A., you like me, you may be aggravated to death by me by this the "Tou've heard from me far more often that you would like to have heard. But don't dismiss the validity of the arguments that I make because of that because these arrively and the state of the arguments that I make because of that because these arrively and the state of the sta guments are legitimate, practical problems that would pre-sent an insurmountable barrier to the administration of sent an insummative barrier to the duministration of criminal justice at this stage of our development. And I ask you, just ask yourself one question, "When, in your campaign, did you hear anybody in your district say that they wanted less efficient and effective system of Criminal Justice? Hess children and effective system of criminal dustree when did you hear anybody way that they wanted fewer criminal cases to come to trial? And if you heard that, then by all means vote the way that your constituents want. But I doubt that many of you heard that.

Not o t rr o

### Per onal Privilege

Mr Lennox Mr Chairman and fellow delegates, for those of you who feel the convention has made little progress in re-

cent days, in pleated in announce that there are at reast the elegitions to that conclusion. The Chairman has announced earlifer in the day that more comfortable efforts and the made available soon, perhaps met weet. This result from endles, and diligent negotia-tion function and the common source in the second concluded successfully by the Chairman of Sate University concluded successfully by the Chairman of Sate University concluded successfully by the Chairman of Sate University concluded successfully by the Chairman of July 5 here hum hi

Budget summittee with his pipe weeking in his hands. Upplied with sugar grown in Hawai and refined in California. Men I brought thi to the attention of our esteemed hairman, he immediately brought the weight of his position to bear on those responsible for the atering and an immediate improve-ment was noted we now have a used sugar grown in I hah and

refined in finite and i are involved the mess, Mr. Murice, Mr. Tong and i are involved the mess, we might en oy that acy known a luuis ana cane war, grown in louisiana, refined in Loui iana, using Louisiana labir, paying Louisiana taxes.

 $\label{eq:response} \begin{array}{l} \underline{\mathsf{M}}_{\mathbf{C}}, \underline{\mathsf{Symptor}}, \mathbf{Gymptor}, \mathbf{Gympto$ 

Mr. Roy Ladies and gentlemen of the convention, Mr Mr. Noy Ladies and gentlemen of the convention, mr Chaiman, this section may be even too late to think about, because we felt that if we were going to continue with grand juries, we wanted to make the grand jury more inde-pendent of the judiciary and the district attorney and onie again bring it to that status that it none held and originated

Now, before I get into it, I have.... am somewhat con-cerned because even with Mr. Duval's amendment for a pre in i nary examination that I thought every district attorney and wisdom, voted it down.

The present grand jury system is nothing more than an extension of the arm of the district attorney. I have with me <u>law Review</u> articles that make up this entire file by me take newlew articles that make up this entire file by scholars all over the United States, gotten by the starts ion seeks to do, if you will only read it, and if you will not be influence by this district attorney paper that was put out, page 2 of it, and just read and think about what we have said and you will see that we do not violate the secrecy of the grand jury in any way, shape or form as is suggested in the first paragraph of the second page of their article. We do not violate it with respect to allowing a transcript of the testimony to be disseminated to the other party because, as a matter of fact, once the district attorney s Cause, as a matter of fact, once the district altorney's of the choods to, officient be is recording, then the screer the D.A.'s secretary is actually doing the transcribing. But that's just nit-picking. What we seek to do are three things...l'll yield to your questions. Mr. Lanier, as soon as I've finished cause I'm anxious to answer yours. The first thing that we do is, if the grand jury permits a person who is going to be charged with one of the crimes

for which you have now said that there will be an indictment necessary, then that person may have his attorney present in the room while he is testifying. Now notice it says, "If permitted to testify, on line 31. The grand jury doesn't want to hear me and they are thinking about indicting me. I have no right to testify before them. If they do, my attor-ney may be in the grand jury room with me. Now, we already to wold seem to me that the prospective accused should cer-tainly have in that attorney to the part of the result of the me. es adout anything, it dovides the accused having to get u out of his chair when asked the question, go outside, ask his attorney should lanswer, "yes" or "no", come back in yes or "no he answers and what have you it teliminates a mechanical step That"s all it does. The compulory process of presenting withe ses to the

Intercomputionry process or presenting wither sets to the visitiling the absolute right to prefix to these these witness estiling the absolute right to prefix to these these witness strut with anybody, who the D.A. while and the the A to subpens a witness involved in a are north the Is in-volved, it mergly allows this to subpens the explete and have them appear fourknow some people isy mit want to appear as allow interse even though they know that i's inneent, they may not want to go. It allows me to pubpens the source of citizens sould hear the witness even though they don't have to I just have the beind that good, himmet people would allow a witness to testify if he comes to testify abuit a particular matter, at least if for nothing else more than out of currently.

The third thing that we allow is that if the district attorney chooses to transcribe the testimony of any witness in a case at the time he does, he must submit it to the person who is indicted. Now, let me tell you how that works as a practical matter. The D.A. doesn't have to transcribe the testimony of the witnesses. In fact, it's so, this prothe testimony of the witnesses in fact, it's so, this prowitnesses' testimony he will get transcribed and at that time he would have to give it to the defendant. We think that's only fair. It does not allow the defendant to get the testimony of any witness that the district attorney has supposed before the grand jury, only those the D.A. transcribes. You have to understand that in a grand jury hearing or proceeding, the district attorney does the questioning of all the witnesses. He sits in there and questions, or his assistant does. A recording is usually made. That recording can be listened to by the district attorney or his assiste at any time of thing the district attorney or his assistion at any time of the district attorney conschorine, then that means in common, ordinary English, taken from the written word and put down in print, then the individual accused or indicted is entitled to a copy of it. I'll yield to any questions.

### Questions

<u>Mr. Champagne</u> Mr. Roy, would you agree that most of the delegates here are pretty independent people?

Mr. Roy Most, probably, yes, sir.

<u>Mr. Champagne</u> Mr. Roy, do you know that having served on the grand jury, every time you and some of your other people get up here and say that the grand jury is a tool of the district attorney that you aggravate me seriously?

Mr. Roy I don't know if I aggravate you, Mr. Champagne, and maybe you weren't one of the tools, but I'm telling you and everybody knows whoever has written about it, that the grand jury is an investigative arm usually of the district attorney's office in most cases, not in all.

<u>Mr. champagne</u> Mr. Roy, 1<sup>tm</sup> only suggesting that possibly one of the reasons, or do you know, that possibly one of the reasons you are having so much trouble with your legislation in this constitution is that you are rubbing people the wrong way, Mr. Roy.

Mr. Roy Mr. Champagne, if any delegate has come here and is going to engage in personalities rather than principles, then there is nothing I can do about it, and I hope you are not one of them.

<u>Mr. Lanier</u> Mr. Roy, are you familiar with the principles that are set forth in Article 434 of the Code of Criminal Procedure dealing with secrecy of the grand jury meetings?

Mr. Roy Yes, sir, Mr. Lanier. I'm familiar with that.

Mr. Lanier And doesn't it state that only certain authorized persons can be in a grand jury?

Mr. Roy That's right.

<u>Mr. Lanier</u> And isn't one of those authorized persons the reporter who is to record and transcribe the proceedings of the grand jury?

Mr. Roy That's correct.

Mr. Lanier And isn't this reporter sworn in court to obey the secrecy of the grand jury?

Mr. Roy That's right.

Mr. Lanier Did you not state in your remarks that this was done by the D.A.'s secretary?

<u>Mr. Roy</u> I said, "If the D.A. chooses to have his secretary transcribe some of the stuff, or get copies and make copies of what the reporter has transcribed, it is no longer secret."

Mr. Lanier Well, Mr. Roy, if the D.A. did that, wouldn't he be in violation of these provisions of secrecy and subject to contempt as provided by Article 434?

Mr. Roy No. I don't think so, Mr. Lanier, because by the

same token, if the D. A. may use that testimony in court to make sure that a witness remembers exactly how he said it before the grand jury, he is certainly disclosing it at that time.

<u>Mrs.Zervigon</u> I'm saying you have in here "at all stages of the grand jury proceedings after arrest", that phrase, "after arrest", modifies everything that follows it.

<u>Mr. Roy</u> That's correct, I'm glad you brought that out. Which means that if they want to be investigating me right now for Mafia influence or whatever they want to, they can be doing it and I am not entitled to anything.

Hrs. Zervigon Well, would you inform the delegates that if we adopt this and do not reconsider the grand jury section in the judiciary section, exactly what sorts of procedures we'll have. It's confusing to ne what rights you would have in an investigatory procedure as opposed to which rights you'd have only after arrest.

Mr. Roy Well, Mary, I'm catching some of your language and missing others and it's a....

Mrs. Zervigon Well, as I understand it, what we adopted in the grand jury section of the judiciary article, applies to all the grand jury hearings? Is that correct?

Mr. Roy Mr. Tapper's amendment? Yes, I understood it did.

<u>Mrs. Zervigon</u> Well, I think we could vote on this and feel a little bit more informed if you would describe to us what we'd have if we adopted this section considering what we already have in the judiciary section.

Mr. Roy. Mr. Tapper's amendment simply provides that every witness who appears before the grand jury has the right to counsel being present in the grand jury room, which is what we give to the accused. If the grand jury allows the accused to testify in this case.

Mr. Avant Mr. Roy, this is neither a friendly nor an unfriendly question. I'm simply seeking information. The words, "if permitted to testify", in this section. are they intended to apply to three of the rights that you

Ine words, "if permitted to testify", in this section, are they intended to apply to three of the rights that you give the accused, or only the right to have counsel present. It's not clear to me the way it's drawn.

Mr. Roy It's permitted to apply to all three. That is.... if you're talking about...does the wit...do you have the absolute right to have a witness in the grand jury room? You do not. Only if the grand jury chooses to hear your witness.

Mr. Avant Well, that's what bugs me, it says....

Mr. Roy If permitted to testify refers to the accused, that you have the right to counsel with you.

Mr. Avant Well, now, let's look at the accused, is not permitted to testify, he has no absolute right to testify.

Mr. Roy That's right, he has none.

 $\underline{Mr. Avant}$  So, the grand jury says, "We don't want to hear the accused." Does he then have the right to compel other witnesses to appear and testify?

 $\underline{Mr},\underline{Roy}$  Yes, sir, he would have the right to compel witnesses by complisary...by subpens to appear there and at least tell the 0.4...unless they are going to be charged with aggravated...with aread robbery. I've got three witnesses here, I wish you'd make it known to the grand jury. The foreman can say "We don't want to hear your witnesses, they can go back home." That's it. But, he has the right to get them there by judicial process.

Some witnesses may not go on their own, you know, Mr. Avant.

Mr. Avant I understand. And then the right to the transcribed testimony of any witness is an absolute right, it's not dependent upon whether the accused has testified or not.

Mr. Roy That's correct. If the D.A. chooses to transcribe it, he gives a copy.

Mr. Derbes Mr. Roy, it seems to me that a lot of "accused"

are required to appear before grand juries although they are not, necessarily, arrested. Isn't that correct?

Mr. Roy No. What we try to ...

Mr Derbes wait a minute....wait a minute....at all stages of the grand jury proceedings, after arrest, the accused,

what about all those people who are indeed a subject of a grand jury investigation and who are indeed in danger of being deprived of their rights who are not necessarily arrest-

Mr. Boy That...we knew we could not deal with that, Jim. Fwish we could have, but we couldn't because we knew the convention wouldn't go along with it because that would im-pair the secrecy of the grand jury if they had to let people know whom they were investigated.

But once you've been arrested for the crime of, let's say, armed robbery, as we now have just....amended our section, then you would be that "accused" who would be permitted to testify and have the right to counsel if the grand jury

### Amendment

Mr. Hardin [Assistant Clock], Mr. Arnette sends up the following amendment.

Amendment No. 1, on page 4, delete lines 29 through 32 in their entirety. On page 5, delete lines 1 through 3 in their entirety.

## Explanation

Mr. Arnette Well, this just seems to be in the nature of a technical amendment, though actually, it is fairly techni-cal in nature when you listen to the explanation. It deletes the entire section, but let me explain to you why I thought it would be wise to delete this section

though it would be wise to delete this section. The first clause which gives the accused the right to have his attorney present in the grand jury room while he is being questioned, has already been solved by Section 37 of the Judiciary Article which we have already adopted which says. (Anyone testifying in such proceedings shall have the ight to the advice of counsel while testifying." So there is no need, whatsoever, to put this in this article since we have already taken care of it and gone even farther than

Now the last clause has to do with the transcribed testimony of any witness saying the accused has a right to this well, we have already adopted in the same Section 37 of the Weil, we make already adopted in the same setty opposite point of view which stated. The secrecy of the proceedings, includ-ing even the identity of the witnesses appearing, shall be provided for by law. So, we have already decided this once in this convention. We've reconsidered, laid it on the table.

Now the only other thing that appears in this particular Now the only other thing that appears in this particular section that could have any meaning at all is a ging that the accused would have a right to compulsory process for present-ing witne gas to the grand jury. Well, it's my understanding of the way the grand jury works is that the person who does the questioning is the district attorney or his asistant. No other person may do any questioning which means his counsel could not ask him questions to present a case in the grand jury or something of this sort. If the district attorney just simply chose not to ask him any pertinent ques-tions, he would not have to be the any counter sont bergs and the nor reason to have this particular person there, so it's an emoty right at

So, therefore, I don't see why we need to have any of this section in there, whatsoever.

### Questions

Mr Brown Mr\_Arnette, do you believe that the judicial arille provision, that secrecy shall prevail, would apply to the second state of the second second second second test may, and as I read that, 1 got the impression that rest, everything would remain secret, but the acuted, him-self, probably through his attorney, would be entitled to a runn rigit of the proceedings. And you are main a main amint of the fact that this is in direct conflict. I don't be the conflict, would propagalate it this the orige, why the the second secon we the conflict would you explain a little there is a conflict between the two articles

Mr Arnette Well, the reason : think it's a conflict, in that anyone who is not present while the testimony is being taken, will not know of any of that testimony.

In other words, the district attorney is present. He has a right to that testimony. He has a testimony in his pisses-sion. But no one else who is not present has a right to that testimony. And that's exactly what we said. We wanted to protect the identity of these witnesses who are appearing before the orand iury for reasons that are obvious. Because Decorr ine oname airs for resume that are outloops because nearly uny subserial, some times, th cases of investillation, shed a bad light on people. And we wanted to prevent this. But if we let certain people know what witnesses are appearing and things like this, I don't think...I thin we ought to decide that we didn't want anybody to have that information.

Mr. Brown Well, but the thing I'm asking is, the only person allowed to get this information is the accused under see the conflict. I don't see a direct conflict with the sec-tion you mentioned in the judiciary article. Only the actused will be allowed to get this information. See what I mean?

Mr. Arnette Well, all I'm saying, Senator, is that we have already decided that no one should have that information, and that's what we decided. We did not make an exception for the accused. He does not presently have a right to that information, as I understand it. And I don't see why we ought to give it to him. The whole purpose of Section 37 as we adopted it, as I understand it, was to keep even the identity, definitely the testimony, but even the identity of the witnesses secret.

Mr. Stinson Mr. Arnette, did 1 understand you to say that the only one that asks questions in the grand jury room was the district attorney or his assistant?

Mr. Arnette Well, the grand jury does, also.

Mr. Stinson you? Well what....you didn't say that, though, did

Mr. Arnette No, I neglected to say, Mr. Stinson.

Mr. Stinson Well, your reasoning then, would not follow You said that they, naturally, would not ask the defendant or his witnesses any questions...

Mr. Arnette I did not say "naturally." I said "If he so chose, he wouldn't have to,' and possibly the grand jury would not be guided to ask him any questions, either.

Mr. Stinson Don't you think that a grand jury of twelve, true, impartial people not obligated to the district attorney, are going to want to hear both sides of the picture and should have that right?

Mr. Arnette They might want to, then again they might not. They are guided by the district attorney, they are guided by his assistants, they do ask questions, but it's....

Mr. Stinson Now, you don't mean they are guided by them. You mean they are advised by them.

Mr. Arnette They are advised by them. That is correct.

Mr. Pugh Mr. Arnette, are you aware of the fact that the

Mr. Arnette Mr. Pugh, when you smiled at me I knew it was going to be an unfriendly questiin

 $\frac{Mr}{r} \frac{Pugh}{Pugh} = Ah, no. I have got two of them in fact. Are you aware of the fact that the existing jurisprudence in the state not necessarily where there is a requirement for a transcript, but where it is transcribed that the differ dati is entitled to a mup of the state of the$ 

Mr. Arnette I really don't know Mr. Pugh T am not aware of that

Mr. Pugh Yes One ther question. Availing we agree and Lagree with this statement and by a Justice of the inited (lates Suprese Court in a devision rendered on January 21, 1913, when he was taking about the grand Jury. This great initiation of the taking about the grand Jury.

past has long ceased to be the guardian of the peo-ple for which purpose it was created at Runnymede. Joday it is but a convenient tool for the prosecu-tor too often used solely for publicity. Any ex-perienced prosecutor will admit that he can indict anybody at any time for almost anything before any grand jury' from the United States Supreme Court.

Mr. Arnette Mr. Pugh, I definitely agree with That. That is exactly why I think we ought to keep the testimony of the witnesses secret. We ought to keep the identity of the witnesses secret. You are speaking in favor of my amendment.

As I understood your amendment, it was Mr. Pugh As I not to allow....

Mr. <u>Mr. Arnette</u> It would delete anyone having a right to this information and I think what is happening is people are being crucified in the papers for things that happen at grand juries and even witnesses that have....

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[Previous Question ordered. Record
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Then that does away with the effect of Mr. Henry the section.

# Reading of the Section

Mr. Poynter Se "Section 15. Section 15. Fair Trial "Section 15. Every person charged with a crime shall be presumed innocent until proven guilty, snar: be presumed innocent until proven guilty, and shall be entitled to a speedy, public, and im-partial trial in the parish where the offense or an element of the offense occurred, unless venue be changed in accordance with law. No person shall be compelled to give evidence against himself. accused shall be entitled to confront and cross-examine the witnesses against him, to compel the An attendence of witness, and to present a defense, and to take the stand in his own behalf."

# Explanation

Mr. Stinson Mr. Chairman, and fellow delegates, this is very little if any chinge from our present constitution. Now if any questions, I first want to at least have an opportunity to read this and briefly explain, which I did not do before. I'll answer any questions at the end of that. First, it says "every person charged with a crime shall be presumed innocent until proven guilty, and shall be entitled to a speedy, public, and impartial trial in the parish where the offense or any or...element of the offense occurred, unless venue be changed in accordance with law. Now certainly I don't see how there could be any objection to a statement of that type and naturally it follows to that the leg-islature in its wisdom will provide any additional change as to venue, as to... it is to have, but change as to venue, as to ... it is not barring t legislature after due deliberation to change, but it is guaranteeing those elements which certainly under our form of government the individual is en-titled to and that's that says "no person shall be compelled to give evidence against himself." That is in our present Constitution, it is in the United States Constitution and the jurisprudence of all courts have held that you can't be required to testify, but of course as it said later on you do have the privilege and right if you so wish. I could see how there could be no objection to that statement. "An accused shall be entitled to con-front and cross-examine the witnesses against him. is guaranteeing those elements which certainly statement. An accused shall be entitled to turn, front and need the attent of the state of the state of the state behalf to present a defense and to take the stand in his own behalf." Now I take it there are about three features there. First, on his trial naturally the state has to prove with their wyitnesse; con-The state has to prove with their withesses con-fronting the defendant as he is yuilty and the through his counsel has the right to cross-examine those withesses in his behalf. Certainly there could be no objection to that. Likewise to compel the attendance of withesses. That means that any witness that the defendant wants in his behalf

has the right to go to the Ulerk of Court and nave them symmoned to testify when the defense presents their side of the question and then to take the stand in his own behalf. As you know he cannot be

Mr. Henry Mr. Stinson, wait just a minute let me get you a little order, please.

<u>Mr. Stinson</u> He cannot be forced at the present time to testify against himself and the fact that he fails to do so cannot be commended on by the prosecuting attorney. It is a reversible error if he does. But if he does wish to testify he has toes-examination by the District Attorney. I would like to urge the acceptance of this recommendation. It's very little changet however, it goes.more int devery little change: however, it goes more into de-tail in some of the instances but one thing we did not go into as to the venue person in the present Constitution because it is a statutory matter and the legislature can go into detail if it feels necessary in that instance.

### Question

<u>Mr. Derbes</u> Mr. Stinson, I was wondering if you and the committee wouldn't voluntarily remove the language "take the stand" and put in the word "testify" which seems to me accomplishes the purpose

Mr. Stinson No, sir, I think that does the pur-pose. There is a witness stand and there is no other stand that he could possibly get on except the witness stand.

[Motion for the Previous Question on the Section.]

Point of Information

Mr. Gravel Mr. Chairman, I would like to object. I have ... I didn't know we were going to move that I have ... I didn't know we fast. I have an amendment.

Mr. Henry But Mr. Gravel these are the same things that we have been going over and over already.

Mr. Gravel No. sir. Not my amendment, it is not.

<u>Mr. Henry</u> Well it looked like it to me. Now th convention has spoken on this don't you think Mr. Gravel in all honesty? Now the

Mr. Gravel Are you talking about the amendments about furnishing statements to the defendants?

Well in effect the convention has spoken Mr. Henry Well in effe on that don't you think?

Mr. Gravel Absolutely not. Has not.

All right. Mr. Henry

Mr. Gravel reads We are talking about the amendment that

Mr. Henry ... prior to his trial....

Mr. Gravel No, sir t on that, Mr. Chairman. No, sir the convention has not spoken

Mr. Poynter as follows: Amendment sent up by Delegate Gravel

Amendment No. 1. On page 5, line 13, at the end of the line, add the following: "Prior to his trial, every defendant shall be

ment, for or against him, of any witnesses appearing before any official or employee of the state or any of its political subdivisions or any grand Jury which participated in any investigation of the case for which he is being prosecuted."

### wint of Information

Mr. Gravel Mr. hairman, if I am orre t I would like to address a question of the Chair before I pr ceed. My understanding that the a endment of Mr. Arnette's deleted all of Section 14

Mr Henry That is correct.

Mr Gravel Then I think that technically this instead of being the a endment that I had brepared t to be to come at the end of Section 14 would have to now be technically changed so that it wild be Section 14.

Mr Henry Mr. Gravel, we are on Section 15.

Mr. Gravel Oh, I beg your pardon. I beg you pardon min error. I beg your pardon.

Mr. Henry You are just creating another paragrap aren't you?

Mr. Gravel That is correct, yes sir.

Mr Henry All right. So it will be in Section 15.

### Point of Drder

Mr Burson To raise a point of order, Mr. Chairman Think that we have adopted a rule which requires that amendments be germane to the section under consideration. Am I correct or incorrect in the view of the Chair that the amendment which is proposed would have been germane to Section 14 which we just threw out and in its entirety since it concerns exactly the same subject matter?

Mr Henry it is a germane amendment Mr. Burson because it has to do with the parish...you could say it has to do with the fair trial so I would rule it...it is germane.

## Explanation

Mer uravel Mer. Chairman, first of all het me say this that when the Chair suggested that this matter had been covered by previous amendments I stated that that was not correct and I want to respectfully restate that position. This proposed amendment I hope it has been distributed, does everyone have a copy of it? This proposed amendment has not been lovered by this Convention nor has it been discussed at all. Although I must confess that there may be no bury is that we have touched upon in relations there of this proposed amendment has not been lowered by this Convention nor has it been discussed at all. Although I must confess that there may be in phrase that we have touched upon in relation to this state we have a upon the state that the understand really Mr. Hairman. Now I can't understand really Mr. Hairman. Now I can't understand really Mr. Burson's suggestion or that the is not ger ame because I respectfully submit to this entipe into that this amendment qoes to the very heart of the concet of a fair trial. Worden it those of you who are interested in the reining to what I have to say would stop and reaperson thared doe that person stand at this ment in our del erations at this period of our achievment. He has no rights the has not yet been all orded any right that is in anyway meaningful this what right had is any ou to thin of this, what right had all as you to thin of this, what right had a fair trial that winnes in the heading of this settion in a fair first own let's tak for uit aminute about what information or right of any information a fair first and lay of a fair trial Mit defendants, prast in ally every.ingle defindant on a his finderastin who ha been the recuiling a fair first and upon the later of tinu stand wet indictions this solils of information and upon a fair first one with han been the recuiling a fair first one bas not explicit on the formation wet solil wet any though the later of tinu stand wet indictant, most bills of information. and the softend wet solil wet any tho we have t

the defendant is the distance of them hear is the table of them hear is the table of them hear is the table of table over the deal of the deal of the table of table over the deal ov the defendant and other and total areas inboth for and against you of those witnesses that were interrogated by the professional enforce ent arms of state government by the formal grand juries that have been impaneled and you are entitled to innow what those witnesses said for and against you into the second second and the second second of this convention with the concent of a fair trial? Or is it right to say that the district attorney can retain within hil record and within his file information that might be her full to the defendant but nobody under the sen inow should te ent the district attorney? What the smendment would pro-you must interait a defendant who is going to be tried and who is going to poll by uffer a consequence of that trial you must treat him fairly and it him know what is good and what i bad in the offfria files of the state. Now that's what this amendment but you must the sets that they have and have to dy out boot a case that they have and have to dy out boot a case that they have you too Mr. Lanler to some extend [extent] 1 think. But tell you about a case that they have do and stride the aggravated rape of a white girl, was tried and sentenced to death and for seven years, not six we fough that cas and asserted to and stride the aggravated rape of a white girl, was tried and sentenced to death and for seven years, not six we fough that cas and asserted to and stride the aggravated rape of a white girl, was tried and sentenced to death and for seven years, not six we fough that cas and asserted to an that seventh year when that case that seven haves, not six we fough that case and asserted to and stride the aggravated rape of a white girl, was tried and sentenced to death and for seven years, not six we fough that case and asserted to an the seventh year when head been granted a new trial by the federal courts because the consider whether he was going to be tried a and nor in life, a set d sorre afficient, sorre afficient is life, as a seried sorre afficient is sorre afficient is the prospections witness that had text iffed at state a sworn affidavit, sworn affidavit by the prosecution's witness that had testified at the first trial that she could not under any circum-stances leading of the seal lant whom she had identi-fied upon the brit is the death penalty and let me say in fairness to that dilitrict att rene, he had the courage to ... after finding the false basis for the prosecut on to walk straight forward into the courroom in Rapides Parish and dismiss the charge and set that man free. Now how any times, think of this, how many times do you think it hap the prosecution to that dilitrict att rene with a set that man free. Now how any times, think of this, how many times do you think it hap the prosecution get a tatement from a witness or from somebody who purports to know something about the offene that le exupating and helpful to the defendent? Many times and you know it, but haw many times does that information wrfa.e? I have tried and have handled at any criminal as es as you platory or helpful takes many crime in a la se so the the defendant ladies and gente non this overvent on, read this arefully. It han the neen worked befine, read it arefully. It han the many times do it is non the inter van have need it, durit liken (n anyiki) tel you "hat here inverte befine, read it arefully. It han nit here normed befine, read it arefully. It han here here here here here and it arefully. It han here here here here here and it arefully. It han here here here here here and it arefully. It han here here here here here and it arefully.

don't believe that it is right for us to say in this constitution that a person who has got to go to trial should be entitled to the written, transcribed statements of those witnesses who in the course of investigation said something for him or against him. Us over born go at the comport this concept with the idea of the title of this section "Fair Trial." Thank you very much.

# Questions

<u>Mr. Burson</u> Mr. Gravel, would you agree that up until now while we may not have given the defendant any new rights other than this new right to counsel while testifying before the grand jury that we have not taken away a single right that he has under the present law?

<u>Mr. Gravel</u> 1 don't think that I could truthfully say that we have taken away any constitutional right spelled out in the adequated [antiquated] Constitution of 1921 but we have not accorded to him Mr. Burson the rights to which he is entitled under an enlightened modern society.

<u>Mr. Sandoz</u> Mr. Gravel, could you tell me the names of any states which have a similar provision in their Bill of Rights?

Mr. Gravel 1 don't know of any although there may be some.

Mr. Sandoz Now don't you think Mr. Gravel that...

<u>Mr. Gravel</u> Let me just say this. There may be some states that have it. Actually this concept of course is one that very well would fit in any state's Bill of Rights.

Mr. Sandoz But you do not know of any that have this as a precedent at this time?

Mr. Gravel 1 didn't take it from any other state.

<u>Mr. Sandoz</u> All right. Now my next question sir is this. Could not this be well taken care of in a legislative act?

<u>Mr. Gravel</u> It could be taken care of but it could not be safeguarded Mr. Sandoz.

<u>Mr. Sandoz</u> Isn't this really statutory material, <u>Mr. Gravel</u>?

<u>Mr. Gravel</u> No, sir, it is not. This is a right to a fair trial. I can't think of anything that more properly belongs in the constitution and particularly in this constitution than this particular provision.

<u>Mr. Derbes</u> Mr. Gravel, wouldn't this amendment require production by the state of virtually all police reports?

<u>Mr. Gravel</u> It would require the production of police reports or statements of witnesses that police reports were statements of witnesses that had any information about the offense for which this man was being tried either for him or against him, it would require it. In my judgment sir, it should be required.

Mr. Derbes In other words if the police reports were for example a summary of observations made by the police officers in the investigation of the offense. It would require production of that would it not?

<u>Mr. Gravel</u> If it was a statement of a witness, I don't think ....

Mr. Derbes A police officer can also be a witness.

<u>Mr. Gravel</u> Well I don't think he can be a witness to hearsay testimony. It would depend on the nature of the statement. Mr. Derbes He could be a witness in direct evidence. and in direct support of the conviction and wouldn't it also require if in the police report any summaries of witnesses" statements were made in other words, "I, police officer spoke to Deshotels and Deshotels said, Gravel was seen on the corner of Tulane and Broad doing something." It would require production of that as well.

Mr. Gravel No question about it in my judgment. In other words if there was anything from a police officer who was a witness at the trial or a witness in any respect it would have to be produced and Mr. Derbes, my point so there will be no misunderstanding is that it should be produced.

Mr. Lanier Mr. Gravel, is my understanding of the Fifth Amendment of the United States Constitution correct that this type of information could not be ordered produced from a defendant?

Mr. Gravel What, this particular....

<u>Mr. Lanier</u> This type of information, the statements in his files of the witnesses that he has from a defendant?

<u>Mr. Gravel</u> It would depend on the nature of the statement. This provision is for the rights of the defendant and would have nothing to do with what he would have to do.

<u>Mr. Lanier</u> No, but 1 mean the state could not get this type of information from the defendant just the defendant could get this type of information from the state, is that correct?

<u>Mr. Gravel</u> Well we are getting into something entirely different and I am sure you are sure of it. You know it.

Mr. Lanier 1 think we are talking....

<u>Mr. Gravel</u> Wait a minute let me answer your question. If we are talking about getting from the defendant self incriminating statements that in my judgment would be barred by the Fifth Amendment to the Constitution.

<u>Mr. Lanier</u> The state cannot discover from the defendant is that not correct?

<u>Mr. Gravel</u> Not self incriminating statements that would be correct. Now it might be exculpatory statements but not self-incriminating statements.

Mr. Lanier Can the state discover anything from the defendant or his counsel.

Mr. Gravel Well not under our existing law.

Mr. Lanier So that would mean that....

<u>Mr. Gravel</u> Nor can...now just a minute nor can the defendant discover under existing law in a criminal case anything from the prosecution.

Mr. Lanier In that way they go in even, right?

Mr. Gravel Well they are not supposed to go in. They are supposed to go in with the presumption of innocence based upon you know that constitutional concept.

<u>Mr. Lanier</u> But with yours then the defendant can get this information from the state.

Mr. Gravel Obviously, Mr. Lanier. Obviously, that is what this is all about.

<u>Yr. Stinson</u> Mr. Gravel, if under the present law and under yours too, if the defendant himself appears before the grand jury and he has witnesses that the district attorney summoned, the district attorney has recording of those witnesses, doesn't he?

Mr. Gravel Would have that, yes.

[1178]

Mr. Stinson So therefore it would be fair to both parties

# Mr. Gravel No question about that.

Hr. Stinson Now Mr. Gravel, really the person that your amendment is going to help is the man of lowly means that can't hire investigators to sit outside in and then investigators to check out isn't that a fact it's the poor man that this is going to help.

Mr. Gravel That would certainly be a by-product of it but is not limited to that it is the concept primarily, Mr. Stinson, would include that but mainly the concept here is that whatever is available to the state by way of evidence of testimony from witnesses that that should be made available to the defendant who't going to be tried if you are going to have a fair trial.

Mr. Stinson Now isn't it also a fact that this secrecy that goes against, in my opinion, the rights of the defendant, in fact that the witnesses that are summoned by the Clerk of Court is secret and you don't have access to who has even been summoned to testify isn't that correct?

### Mr. Gravel Yes.

### Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I have somewhat intentionally of the Convention, i have somewhat intentionally attempted to observe our proceedings today and be-ings of criminal injustice but more so with the effects of it and some of the logholes of it ] have somewhat just chosen to take the position of voting somewhat just chosen to take the position of voting my convictions and asking people who shared my con-victions to vote with them. But as I look at this section called the Bill or Rights, I have to some-what agree to Mr. Gravel. I think that when we talked about the Judiciary Department and particu-larly when we talked about the Executive Department that we orvided encode that we provided expanded powers in terms of protecting life, safety, and well-being of the citizens of this state through the district attorney's office of this state through the district attorney's office think when you talk about a section entitled "fair Trials" and the lead out sentence says that every person and 1 don't have it with me but to the effect it says that "every defendant is pre-sumed innocent until proven guilty." It says to me that whether this person is criminal we don't violate which is more sarred than our present grand jury system. We cannot violate the constitution and national concept that every man is presumed innocent jury system. We cannot violate the constitution and national concept that every man is presumed innocent because...until proven guilty and I suggest to you that based on arguments that I have heard that we are getting away from that. I think that we are getting away and we are just presuming that if a that that person is automatically or until some presumably the degree guilty. I think Mr. E. J that that person is automatically or until some presumably the degree quilty. I think Mr. I. J. andry brought a very keen example of the kinds of possibilities that can happen. We tailed about the yor information to a litness, to a defendant. I suggest to you is that you strongly believe that of some of the sacred baits fundamental principles even thought it may at some point provide a thin line in term, of a criminal but that when if you really origine and the infringement that we are closely coming into then is suggest that without the adop-tion of Kr. Gravel's amendment that you leave that dwor open i think that up to this you leave that that is being germane to the amendment but I have heard things about oot involved and i suggest to yu that if we are taiking, we are taiking about the Bill of Rights Section and i stated the other day and i strongly fee this about it. I thin that the rought not be any cole on ussile I in think we have said there is no ost on the protextion and I am not anti N.A. I have supported D.A.'s. I have talked to them. I understand that we must have law and order in this muntry. that we must have law and order in the state but T am also cog-nizant of the fact of many of my constituents and many people who have said that the criminal justice system has not been under the present constitution has not provided adequate redress that people who are falsely accused and I suggest that if things are so perfect at this point in terms of our delibto tighten up the guarantees to a defendant and to puttern up into quartanties to a version and and thil quilty. Then why do we have these various state commissions on law enforcement and criminal justice? There must be some problem wrong. You are constantly having reports coming out this by these various commissions throughout the limited States recommending certain changes in the criminal justice system and I suggest to you that those who are very concerned about criminals being illusive are very concerned about criminals being illusive from justice. I don't see and nobody has 'uTly explained to me how that is possible. I contend again that the whole matter of trials is the matter of legal technicalities. We cannot provide for every loophole that exists and I think that if we want it and we were so concerned about the probles that would arise, then we had the Leccutive De-nopsal. We are in the article that deals with the fundamental rights of a citizen and I want to sug-gest to you very sincerely that I am kind of afraid because when speakers out on provide it is an automagest to you very sincerely that 1 am kind of afrait because when speakers get up here it is an automa-tic assumption and 1 don't know if you feel the same vibrations that 1 do that everybody that goes before a grand jury is guilty. 1 agree with Mr. Burson that as you know we sometimes get very con-fused when we talk about a criminal defendant and a defendant in criminal court. 1 am more inclined to believe at this point that we are talking about criminal defendants rather than a defendant in court because it is becoming very obvious that we are making the presumption that becomes our are guilty are making the presumption that persons are guilty until proven innocent and that if we do anything drastically to change the present procedures then what we are doing is allowing criminals to go free or clogging up the judicial system and I say if that's the way we feel about it then why don't we recommend in this constitution an abolishment of criminal justice

### Further Discussion

Mr Guarisco Ladies and gentlemen of the convention, we had a chance to make some innovations in this country on the criminal's jury system on the criminal justice system in the last section and we deleted it and I thint we made a big mistake. We deleted it and I thint we made a big mistake. We deleted it and I thint we made a big mistake. We deleted it and I thint we made a big mistake. We deleted it and I thint we made a big mistake. We deleted it and I thint we made a big mistake. We deleted it and I thint we made a big mistake. We deleted it and I thint we the dealet we can get and I think we should pass it. I'll tel you why. On the one-hand you have the state, the sheriff's office, the police department, the F.B. I. the district attorney and come what may, on the other slide you have got resconable doubt. That is all we have attorney although I am a lawyer. I handle very few defense coursel defense cases In fact right now a black boy is standing trial for the attempted fire bombing of my parish home so I am sure not a proxecutor or a defense ounsel but I believe in fairness. Mow what is so hort bit habit allowing the feme just to bin w what was written down and blad on it for you can't tee it this is a verter fou find out when we try the case what is so bad about discovery. Mr Burson HII fome up here and say ah, but it osts a lot of oney. Mnney, that a good reason to suspend the rights of an individual, or it take too much time, or it's going to involve too many popele. That's another good ruses, I pass this a modement and I think we will ake one contribution to the viminal untue system in

this state. That's something we can go back and say, "look, we made a charge and we did something for the better." I can't for the life of me see how this is going to get somebody off. I yield to any questions.

### Questions

 $\frac{Mr}{2} \frac{Boy}{2} Don't you agree, Mr. Guarisco, that the facts of a case are the facts and they can't be changed? There is nothing wrong with the presentation of facts either today or next week or the next month and that the jury will determine the case on the facts.$ 

Mr. Guarsico That's correct, absolutely.

Mr. Juneau Mr. Guarisco, this troubles me greatly. The amendment says, "any statement before any official, employee of the state, or any of its political subdivisions." How in the world would a prosecutor know in time eternity where this individual would have given a statement which wouldn't have been at the direction of the grand jury and/or the prosecutor? How would be know that he's got all that information and then three months later he comes up, "Look, you didn't saye me all the information" ti the statement we all the information" it in the state of the said, "Well, an employee of the highway department in Lafourche Parish took a statement from him."

Mr. Guarisco Mr. Juneau, if he has it, I want him to give it. That's all.

Mr. Juneau He doesn't have it, Mr. Guarisco. The question is if he doesn't have it, but there is a statement, what happens under that amendment?

Mr. Guarisco He can only give what he has.

Mr. Juneau It's reversible error, is it not?

Mr. Guarisco I don't know. No.

<u>Mr. Juneau</u> You don't know? The second question that I have, Mr. Guarisco, we're providing, as I appreciate this amendment, a discovery statute for the defendant. Why . . don't you thicknik it would be appropriate then, we would put discovery statute in for the state to put it back in balance? Would you agree with that?

<u>Mr. Guarisco</u> No. The state is not going to go to jail, Mr. Juneau.

<u>Mr. Juneau</u> You wouldn't give the state the equal discovery rights that you would give a defendant? I'm merely asking for discovery.

Mr. Guarisco Of course not, the state is not in the crack.

### Further Discussion

<u>Mr. Pugh</u> Mr. Chairman, fellow delegates, I don't wont you all to get the impression I'm a criminal lawyer because I'm not. I'll only handle a criminal case if it involves due process. Now, I only rise to answer two questions that were propounded. Our question was "How many states have adopted, substantially, the same provisions as these?" I'll tell you that in these states, the same provisions/ vania, New Jersey, Wisconsin, Minnesota, Delaware, Arizona, New Jersey, Wisconsin, Adama Mexico, Minnesota, Delaware, Minnesota, Del

stantially, the same provisions as these? [11] tell you that in these states, the same provisions are there: Illionis, New York, California, Pennsylvania, New Jersey, Wisconsin, Minnesota, Delaware, Arizona, Nevada, Oregon, and New Mexico. In answring the other question, a question was "whether or not the district attorney had the right to compelany information from a defendant?" Let me tell you that the Code of Criminal Procedure has an Article No. 66. Under Article No. 66 of the Code the right to subpoena a person into his office for testimony. I am of the opinion that the mad ness not have to answer the questions, but coupled with that same ection is one that provides that he must, under a subpoena, bring with him such documents as Illion! ngy be subported. If got a absolute requirement under the law, in my ophinon, its bring those documents. So to say that the district attorney thas no possible discovery is wrong. Let me say this, that the recent legislature gave the same power to the attorney general.

### Questions

Mr. Kean Mr. Pugh, the list of states that you just read off that had a substantially similar or similar provision as this, was that in the constitution of those states?

Mr. Pugh No sir, I just said that they had the provisions. Now, I can give you every case that cites what I gave you, if you want it.

Mr. Kean Well, I just wanted to make it clear that the list of states you referred to dealt with this problem by a statute. Is that not correct?

Mr. Pugh No, I have read all the cases; it's been two years since I read them. I can't tell you whether they are constitutional provisions, statutory provisions, or jurisprudential rules nor did I imply or indicate that they were. All I said was these same provisions were, at this point, in these various states.

 $\underline{\mathsf{Mr}}$ , <u>Kean</u> 1'd like to pursue the question that  $\overline{\mathsf{Mr}}$ . Juneau raised briefly, previously, and to which he got no response. That is, and it bothers me as well, this amendment, as I read it, goes farther than asking for statements that the district attorney might have or statements that might have been made before the grand jury. It speaks in terms of witnesses who appear before "any of fits political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee of the state, or any of its political sub-ployee, indicted a person and they went to trial. Would that person have a right to quash that case on the grand is benefit been furnished statements that the district attorney nor the grand jury or wen knew existed?

Mr. Pugh Well, first of all let me answer you by saying 1 did not draft Mr. Gravel's provision. I appeared here for the purpose of answering two questions that were asked 1t may well be that the district attorney may or may not have knowledge of some of these statements, and if you ask me whether that goes beyond the Jencks Act, 1 think it states that 1 read out, the Jenck Act has been applied or has been adopted by Congress and it also provides for discovery.

Mr. Kean I understand that. I'll get back to my point. If the district attorney had no knowledge of a statement made by a witness before an official, or employee of the state, or some political subdivision under which circumstances he did not, could the result of that be a dismissal of the charge by reason of the fact all such statements were not given to the accused?

Mr. Pugh Obviously, the man, the district attorney can't give you any more than what he's got.

Mr. Kean Well, that's what bothers me about this amendment because it would seem to imply that he would have to give something that he doesn't have. Would you not read that into the amendment?

### Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, I suppose it's no use to even bother apoligizing for getting up here aga[m] I'd like to point out a few things that I think are wrong with this proposed amendment. The first thing is, it not only provides

fir what was in the last sentence of Se thin 14 that for what was in the last sentence of Set in 14 main we ust voted out in 11 entirety, that i, hat the defendant had a right to the transcribed to the work of mand uny witnesses, built goes much further than that in addition to the grand jury wilnesses, new wild now have the right to any tatement, and i want to contout to you that this amendment doe not say that those tatement have to be written i don't know, it could include oral statements. Now, we don't tran criticin of oral statements now, we cont in we exactly what this amendment eans We're right a k in the late place we ve been wallowing in all afternoon. This is a statutory matter Mr. ugh, who is knowledgeable in this area, got up heruph, who is knowledgeable in this area, out up here-nant told you that there are twe ver or thirteen tate: that have discoursy provisions, they verall got min the statutes. The Jenck Act that he re-ferred to, which is a federal discovery statute, it's not in the united States Constitution. Mr. Pugh tild you, and I assume that he knows, that this amendment would go further than the Jencks Act; this ared ent would go further than the federal discovery statute. Now, ladves and gentlemen, is that what you want to vote for today. I ask you, is that what you want to vote for? Let's not be setting up loopholer! dream in the constitution. Now, Mr Gravel, I must say, was in error when he said that we had not given the defendant any rights they would have had the tatement of each and every merin a given to the rand jury before the target every are to trail (let') be reasonally about the target every target is the source we will be the source we will be the source we will be able to be source we will be able to be source we will be able to be source we well able able to be source while in the end in use of the form able to be source will be able to be source we well able to be source well able to be sour

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### urther Ni cussion

Mr. tovall Mr. Chairman, ladies and geniemen of the convention, let us remind ourselves that this is the Bill of Rights with an Chairman of the Gravel amendment. I do it because power is easily abused, and justice has often beer cluster in our unicial syste. I think this is a privision which will guarantee guistice to many persons. Urryite of government is based on checks and balances. Ur forefathers gave to us this provision, and because they feit that all men are good, but rather because they recognized the form of the convention. that because this is true of our human nature. There needs to be some check and some balance we see this provision throughout our for of government. Now, this provision that we have and to provide him with this information of which he is going to be tried does give to hi information which, in many cases, will help to prove his inno-cence. I submit to you that this is a high overt in the life of this convention, for here, we are considering a basic principle which can give ustice to those who have been accused. A few moments ado, Mr. E. I. Landry came and aid to me, he said, This is the most basic human right, and he said, I would like for you to go and speak in favor of this amendment.' Before Mr. Landry, who i no eof the most highly repected members of this conven-tion, ame to me and asked this of me. Thad al-ready decided that I would do so. I think he did is because he for the Thristment fith with howed to us a basic belief in man's dignity and in our bait human rights. What | feel is that many of yu have been very adequate coolesmen of our ludeo-Christian fith in the excellent way in which wu have spoken in favor of maintaining and extending and The becaule they know the truth of that of anish they are giving to be tried, and they thus in the set free because we give uppirt to this aren et the Burning aver, this tatutery we'll. I un-to you that the risi la une has most as it tatutery fou and shee even this individual , the defining in which we have bet take a horseen musan right and huan dilly, and it's you apport to this arend int. That you

### Further i i n

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privilege. But I think that this is important enough that I should make a few statements about eBOUGH indi i should make a two sectors dove it. This particular section regards fair trials. There is one thing that you have to decide with reference to criminal laws. First, I want to state this: I am not a criminal lawyer, I'm not connected with the 0.4's office nor do I engage in criminal tell you about in this particular case or any trials that I have engaged in except that I'm interested in fairness and justice for our laws. There is one thing that I think that's more important. think Mr. Segura brought that out when he says, "It's not a question of who wins or who loss of de-it's not a question too, that we have to de-cide, that I hope that you will take into consider-ation. I have a firm belief that everybody who has been acquitted in a case is not always innocent. I have another belief that everybody who is in Angola is not guilty of the crime for which they were sent there. So, it comes down to this question. It depends upon how many innocent people you want to convict upon now many inducent propie you want to tuy one, or how many guilty ones you want to turn loose in order to be sure you do not convict innocent people, or let off too many innocent people or too many guilty people, as the case may be. That's what it amounts to. We are human beings and our just like anybody else, because we are dealing with human nature and the frailties of human nature. Now, I just want you to think about this. If you want to be sure that you give the innocent a fair trial, you'll vote for this amendment. That's the reason I rise here in support of it. If you want to be you are certainly going to convict a sit it because you are certainly going to convict a whole lot more innocent people without this provision than you will with it. It's a choice that's just like that. If you want to favor the innocent, let's give them a fair trial and give them there right to find out what kind of a right or evidence to meet. You have read in papers, and I have, day Now, I just want you to think about this. If you to meet. You have read in papers, and I have, day in and day out, of cases where somebody has come up and found that they were turned loose because They found comes of the second standard of the second seco amendment, and I ask your support of it.

# Questions

<u>Mr. Burson</u> Senator, as a member of the State Legislature, would you be willing to investigate into and sponsor a proper criminal discovery statute?

<u>Mr. De Blieux</u> Yes, I would do that, Mr. Burson. I might say this, that under our present procedures we have, as you well know, that we have courts... There is no difficulty for a rich person to exercise his rights of discovery or than the D.A. already has all the facilities and investigators to do that. What this amendment will do, it will help and protect that poor person who does not have the chance to hire those investigator and they get out and discover this evidence.

<u>Mr. Burson</u> Don't you think that if you were to introduce such legislation in the State Legislature, that you could work it out and get it passed in an acceptable form?

Mr. <u>De Blieux</u> Well, I hope so. I don't know, but I hope so. I'm not a criminal lawyer, as I say, so I don't know what's good and right about that. All I know is the poor gets penalized.

### Further Discussion

Mr. Jack Mr. Chairman and ladies and gentlemen, I rise in opposition to this amendment. I want to point out to you that a grand jury is not a trial [1182]

place for defendants and the prosecution. It's an investigative body. Now, since certain amendents have been defeated and all, there is two things left for grand jury to investigate where it has to left for grand jury to investigate where it has to start by them. They can investigate others, but to prosecute you'd have to have an indictment on capital case or life sentence. Now, I'm a defense attorney, but let me tell you, I like to live, and I want my folks to live. Now, a lot of people, say three has been hood use hilling or a gang killing. See net which to have goold will preserve in a case are not going to have people volunteering to come to a grand jury if they know a transcript of that to a grand jury in they know a transcript of that is going to be handed around to everybody. Now, I do think this amendment is very bad, but I do think that there should be some form of criminal discovery rules, which is a legislative matter. But I don't think you should be given a copy of the testimony before the grand jury. If you do that, you're going to have people not willing to volunteer and going to have people not willing to volunteer and that's where you get people to help solve killings; lots of times they'll come forward on that. Now, by discovery, you could have rules set up in law. You've got them in civil cases where from the opposite side you can get a list of the names and addresses of witnesses known by the other side, whether they were ave witnesses, whether they were addresses of witnesses known by the other side, whether they were eye witnesses, whether they were present, whether you have written statements, and whether you talked to them, had investigators or what not. You can take it from there. Now, this ...a lot of this ground has been gone over. About the only amendment that I can think of to be left to introduce here-and if anybody is going to introduce it, I think they ought to get it next and get it through--I've seen about every amendment to do with grand juries except to give the right to a defendant and/or his attorney to eject the district attorney from the grand jury com. That's how ridiculous some of this is getting, and I say, let defeat this amendment, let's get along. The time is late. We're not making the progress we should. let's Thank you.

Previous Question ordered.]

# Closing

Nr. Gravel Mr. Chairman and ladies and gentlemen of the convention, let me just briefly state, as clearly as I can, what I believe is absolutely wrong with the observations made by one or two of the delegates, and 1 believe was affort to either present this amendment in a different light than the way I presented it. I asked you to do it again, when the amendment and I ask you to do it again, between the amendment and I ask you to do it again, when the amendment and I ask you to do it again, when the amendment and I ask you to do it again, between the amendment in a different light than the way I presented it. I asked you to do it again, when the defendant is being prosecuted. Now, that's as clear, I believe, as anybody can put it and anybody that suggests that there may be some far-flung statement that may have been made by somebody to sourt ony roting to the that of what I hoped is do by this amendment. Now, what I am saying to you is that this language is clear and covers the right of a person to know exactly the basis on which the prosecution is being rout that be one of your loved ones, it may be one of your friends or wasting the conducted by the prosecution arms and fingers of the State of Louisiana. Now, don't you forget at all but that that Investigation is being conducted with your tax money by the people that are employed by you-the taxpayers of the State of Louisianar-who are supposed to be acting, Mr. Perez, I stand the when ng definitive statements are developed or obtained in connection therewith, that

to be innocent that the state says it's going ta prosecute for a criminal offense. I know that you can tget up here, no matter how strongly you feel about an issue, no alter how firm you are in your conviction and belief, and change the minds of some popole who don't want to have their minds of the same strong the same strong the same strong you who will how at this proposal dispassionately. Clearly, and in good conscience and decide whether it's right and necessary to accord a fair trial to a defendant. I ask you to judge this proposal by that test, not by a suggestion that maybe a certain sheriff or a certain district attorney or somebody else doesn't like it because it by cause a hardmon the same strong the same strong and the same forces and the facilities of the prosecution arms of state govern ent in order to develop his defense. Ladies and gentlemen of this convention, does a defendent have an opportunity to exercise, exercise retained, hidden, or suppressed evidence that has been obtained that would help him establish his innocence, or even more importantly than that, that vold pressent before the jury, summons to determine the rightness or the wrongness of his position or, whether or not the totality of the evidence justifies conviction or acquittal. At the very outset of line of Rights. In heave the discussion of whether or not the totality of the evidence justifies conviction or acquittal. At the very outset of line of Rights. In heave the discussion or whether or not the totality of the evidence is stated as stated in the Preable. What, ladies and gentlemen of this convention, did you mean when you said, yadouting the Preable. What, ladies and gentlemen of this convention, did you mean when you said, yadouting the Preable. What, ladies and gentlemen of the individual? Are we protecting these rights of the individual? Are we protecting these rights of the individual? Are we protecting the right so convention, did you mean when you said, yadouting the Preable. What, ladies and gentleri

> [Re\_ ri v te rdered. Amendment re\_ stud: 4 -65. Motion to reconid r tabled.]

### Amendme'n t

Mr. Poynter Amendment No. 1 [by Mr. Derber]. On page 5. Time 13, after the word "to" and before the words in his own behalf." delete the words "take the stand" and insert in lieu thereof the word

### Explanation

Mr. Derbes Technical in nature with all due reference to Mr. Stinson on my left, 'testify" is, I think, better phraseology and | urge the adoption.

### Further Discussion

Mr. Stinson In view of the fact that Mr. Derbes know more than anyone else here, we have no objection to it.

Mr Henri I didn't hear that sir

Mr tinson In view of the fact that apparently he is the learned member of the convention, we have no objection to it.

# Ann uncement

All r t 9 ' k a.m., a li p mb 8 9 ]

Saturday, September 8, 1973

### ROLL CALL

### [74 delegates present and a quorum.]

### PRAYER

These Brien Let us pray. Dear God our heavenly Father, let the light of Thy divine wisdom direct the deliberation of this convention and shine forth in all the proceedings and laws planned for our rule and government. Give us security to accept, give us serenity to accept what cannot be changed courage to change what should be changed and wisdom to distinguish the one from the other. Amen.

### PLEDGE OF ALLEGIANCE

### READING AND ADOPTION OF THE JOURNAL

UNFINISHED BUSINESS

# PROPOSALS ON THIRD READING AND FINAL PASSAGE

Committee Proposal No. 25

### Reading of the Section

ilr. Poynter "Section 16. Trial by Jury in Criminal Cases

Section 16. Any person charged with an offense or set of offenses punishable by imprisonment of more than six months may demand a trial by jury. In cases involving a crime necessarily punishable by hard labor, the jury shall consist of twelve persons all of whom must concur to render a verdict in capital cases or cases in which no parole or probation is permitted, and ten of whom must agree in others. In cases not necessarily punishable by hard labor, the jury may consist of a smaller number of persons, all of whom must concur to render a verdict. The accused shall have the right to voir dire and to challenge jurors peremptorily."

### Explanation

iir\_ Roy IIr. Chairman, ladies and gentlemen of the convention, I guess the faux pas' may have been an omen for what may happen again today. Let me explain what this particular section seeks to do. I'm going to get into some basics of what I think are constitutional law issues and then you that conviction heyord resconable doubt means something more than just convicting; and I say to you that where one can be convicted and twentyfive percent of those who try him believe he is not guilty, then that is not beyond reasonable doubt. The first sentence of this section, of course, does nothing more than give to the accused that conviction beyond reasonable, if he may be thereing to six more is imprison. If he may be thereing to six more is imprison, if he may be that is to six more is imprison, if he may be that to six more, you are entitled to a jury trial. The second sentence 'in cases involving a crime necessarily punisable by hard labor. Not constitutionalize twelve persons.'' Presently jury shall consists of twelve persons.'' Presently is constitutionalize twelve persons in those cases are the cases, ladies and gentlemen, that involve tall cases where the judge must sentence to Angola, but of course may subged it. There are things whet you may be sentenced to a term of hop is constitutionalize twelve persons in those cases are the cases, ladies and gentlemen, that involve tall cases where the judge must sentence to Angola, but of course may subged it. There are things where you may be sentenced to a term of hop is constitutional abor. Now those are presently tried by five-man juries. We do make a change here, in that we say that, of course in canital cases you must have unanimity in the jury. Revieve out of twelve to convict. In cases in which

nn maile o production is permitted shull ust have twelve out of twelve. 'e are attenting to change the law there. Presently under the aread robbery statute, one may be convicted by nine out of twelve people, which is only seventy-five correct and in legislature says that no parole or probation will be permitted, then it would require twelve out of twelve to convict. In all other cases where there may be nine out of twelve to convict, we now provide ten out of twelve. Please give me your attention for just a moment on this issue. Louisiana and the State of Oregon are the only two states again in the whole dnited States and in the whole federal system that allows one to be convicted by nine out of twelve votes of a twelve-Convicted by nine out of their voice of a tweive book of the three-fourths, three-fourths of a hundred is seventy-five. If a hundred of us here today are asked, did so and so do something beyond reasonable doubt and twenty-five out of a hundred say he did not. I submit to you, he has not been say he did not, I submit to you, he has not been convicted beyond reasonable doubt as I appreciate the term. Now mind you, we are the only other state in the Union besides Oregon that permit that. All we seek to do here, you see, is to say in those cases where nine out of twelve may apply. that is be ten out of twelve. That's flue-sixths, that's approximately sixteen and two of inco per-man that s approximately sixteen all working per-cent instead of twenty-five percent. So that then you are making the formula, if you want to call it such and I hate to use figures that way, but at least then eighty-four percent or more of the jury would feel that you were guilty and could return a verdict that I believe would be beyond reasonable doubt. There are not many D.A.'s in my judgment doubt. There are not many D.A.'s in my ludgment who are opposed to this really on any philosophical basis because most of them get their convictions generally with unanimity. My point and the committee's point is that if the rest of the United federal system can require unanimous verdicts, why can't we in Louisiana require at least five-sixths we be to book the require the least five-sixths in detail, that in those cases not necessarily punishable at hard labor, that the verdict--the jury may consist of least show and the sixthe in requires five out of five to convict or acquit. jury size. That is, that we would reduce the jury to no less than six in certain cases and have five out of six convict or acquit. I think it would be logical and would make sense. Now, ladies and gentlemen, Robert Kennedy once said that, "The only people to whom justice is administered are poor." Or the poor are the ones that only get poor." Or the poor are the ones that only get justice. He had a good point. Because if you check with any of the staff, you will find the statistics show that generally ugity, poor, Illit-erate and mostly minority groups are those people who are convicted hy juries. Juries don't en-erally--that's particularly in murder cases--juries just generally don't convict nice-looking.

Mr. Henry We know you get your picture in the paper, Mr. Roy, you...

Hr. Roy No, this is not me, fortunately. Wilbur liChonal do filinous was convicted and sentenced to life imprisonment for rape and murder of a woman who was killed in a park, in which he was found dead crunk lying on his back. Three years

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" Munion " < c., Mr Star a ked open of your strengthen because right know how the room of the ether with  $\lambda$  here with a they east Would you exting the easain what the  $||e||^2$ 

Ni. Roy Br. 1. noti, it's real store ter The alparlance. The ensy this really use the and to see and hear the repone between you and the prospective unor, so that you can aybe detern nearly use units of the you will don't this challenge him. You know uit for ere the usets say ident want you because he know of snickered when he answered un so ething." It literal live to view and see

Hr. Munson ne other thins, I believe you and that in Mr. Burson's variablihey had trid in the capital case. Tait year.

Muccounce on Mr. Roy, do you how that I did t become an assistant district attorney until 197 and those statistic are fre 1972. Dy, know that I've tried five jury trias in two weeks ear this spring? ut seriously, I't it ru that the inited States uprece Court last year in the case of State v. Johnson was confined with Inn issue that you've raised as to whether in not the Louis mine out of tweite to return a which we first the dist of the to return a state of the total they don't of the total cases as, in fact, unity beyond a reasonable doubt? In the the Supre e Curt uphold this as institut a

Mr. Lanier Did your committee have a rule that it took three to file a minority report?

 $\frac{Mr.\ Roy}{by}$  . We later dropped that rule and let it go by with just anybody...

Action on Section 16 deferred.

# Reading of the Section

IIr. Poynter "Section 17. Right to Bail Section 17. Excessive bail shall not be required. Before and during a trial, a person shall be that a bait bail officients out the irror is exident and the presumption is great. After conviction and before sentencing, a person shall be bailable if the maximum sentence which may be imposed is less than five years, and the judge may grant bail if the maximum sentence which may be imposed is greater. After sentencing and until final judgment, persons shall be bailable if the sentence actually imposed is less than five years, and the judge may grant bail if the sentence actually imposed is greater."

# Explanation

<u>Mr. Stinson</u> Mr. Chairman, members of the conven-tion, this is a very important section of our Bill of Rights and that is the fact of bail. Now as we have repeated a number of time, everyone is presumed to be innocent until proven guilty. Interefore, the premise that we got to operate on is that a person who is presumed innocent should not be imprisoned unless he has been proven guilty and that is after a trial. Of course, in cases within the discre-tion of the courts where it's a dangerous person tion of the courts where it's a dangerous person involved in a dangerous crime there are prohibi-tions against that. But I would like to read from this and I will point out as I go through the changes from our present law, there are very few changes from our present provisions of the Constitu-tion of 1921. "Excessive bail shall not be required (that's a repeat, the same thing). Before and during a trial a person shall be bailable by sufficient sureties unless changed with a capital offense (that's the present law) and the proof is evident and the presention is correct (that's a perevident and the presumption is great (that's a re-statement of our present law, and I know of no objection, it was done before our committee or on our committee; and I have heard none from anyone in this convention). It says, "after conviction and before sentencing", those of you who are not lawyers may not appreciate the meaning of this. That means that you are convicted, you can ask that your client be remanded for sentence for two or three or four weeks, whatever a judge decides. Now if a man has been out on bond it only seems logical for him to continue on bond until he is sentenced for him to continue on bond until he is senteneed as to some term or given a suspended sentence or whatever it may be. At the present time, automat-ically he is entitled to be continued on bond, if his sentence that can be imposed is less than five years. Now we added it says, "the Judge may grant if the maximum sentence is to be served is greater." The Judge has the discretion and judges usually in arriving at that decision as to whether you will be ceparitude or bid discling refers to the sheriff's Gepartude or bid discling the type that will not be dangerous to be continued on bond. Now our judges in my district, and I've checked with Judge Dennis, our judges have repeatedly said that they Dennis, our judges have repeatedly said that they wish the law would allow them this permissive diswish the law would allow them this permissive dis-cretion in this case, but it's prohibited. I know of no objection our judges-I checked with them last week-all three of them urged it. Judge Dennis says the judges' association is in favor of it when it's within their discretion. So we would like to continue that, to add this to it. How, and the judge sentencing, that's after you go up and the judge sentencing, that's after you go up and the judge sentencing is not not how whice to take an anneal nr if there is notion to be wents to take an appeal or if there is going to be a presentence investigation and pleas of guilty or convictions, the same thing, it automatically--under the present law he can get out on bail or bond if it's less

Inc. Chairman, 1'11 make it short. I hope the inner tension is the fact that there is no objection. But this last provision is especially important and in most cases that 1've handled and other lawyers, it's some young person who simple that the judge is going to give him a suspended sentence. But the judge has to ask, usually asks, for a presentence investigation by the probation department and it's so clouded with that type of work it usually takes, more than likely, about six weeks. If this is a young boy, man or woman who is still in high school or in college and they have to now-been out on bond all of this time--under the present law, they have to go to judge the source of the source of the source of the judge says "you now are given one year suspended sentence, one year probation." They have served six months in jail with hardened criminals-our parish jails can't separate like we try to at Angola--they have lost out one year's schooling because they've missed six weeks of schooling. It is ab light on them, the fact that they have served in fail. This applies more to the young people than most anyone. This says that the judge again, at his not any mer guilty or harmful after he is convicted than he is before. So if you have the same bond, you're doing I think our people really a justice and not an injustice to pass this,-entirely within the discretion of the judge, you can't force him to, the judge himself says you shall continue on bond or you have to go to jail. I would like to urge the adoption of the judge, you can't force him to, the judge homeself says you shall continue on bond or you have to go to jail. I would like to urge the adoption of the judge, you can't force him to, the judge homeself says you shall continue on bond or you have to go to jail. I would like to urge the adoption of the judge doc continue. If there're any questions, 1'11 be happy to try and answer them.

### Questions

Mr. Burns Mr. Stinson, I'm not against this scation but there is one thing that does concern me a little, as to whether or not there should be some provision put in here--I'm just suggesting this-to exempting a person with a long criminal record from this discretion on the part of a judge. I thoroughly agree with you in the case of a first offender who may have temporarily...but, for a confirmed criminal. It's been my experience in thenty-four years as district attorney that a nelp him. I'm just afraid that some judges might be influenced by that constant knocking on their front door and give a person of that type, bail just to go out and commit another crime.

<u>Mr. Stinson</u> Well, Mr. Burns, of course as I've explained, we are placing the faith in our judiciary. It may be some judges you say-l have no objection, I'm not trying to keen a confirmed criminal out on bond..if you have any amendment, l would not have any objection. I would like to also noint out that this is a matter that, while a member of the legislature, I have worked on for years with Dr. Dale Bennett from L.S.U. Law School. He recommends this. He is in favor of this. I think through him the Law Institute, I believe, with the judge. Of course now as Mr. Burns says, you may have some judge that wants to let them out ranway, but frankly. there are some judges that

disregard the law and let them continue at the present time. I want to make it permissible for those judges who are ones that follow the line of law and see this need.

Mrs. [Miss] Wisham Mr. Stinson, I'm concerned about the statement which states, "After con-viction and before sentencing, a person shall Mrs. be bailable if the maximum sentence which who is going to determine whether the maximum sentence is going to be less than five years." Now who is going to be less than five years and how can they do this before they inow?

<u>Mr. Stinson</u> That provision that you receive after sentencing. Now that means after the judge says you get six years. Now and until final judgment that means that if he wants to appeal it to the Supreme Court, it may take a year to get to the Supreme Court. He has to go to jail for a year and then if the Supreme Court upholds it, then the judge can give him a suspended sentence, but he has been imprisoned for one year.

Mrs. [Miss] Wisham | understand, thank you.

Mr. Burson Mr. Stinson, on your proposed sec isn't the only real substantive change you are Ar. Stinson, on your proposed section The tree only real substantive change you are making other than the ones you've discussed al-ready, to allow the judge to have the discretion to grant bail if the sentence is more than five years, which he doesn't have under the present

Mr. Stinson That's the only thing he does, yes, sir, entirely...and left up to the discretion of the judge. And thank you Mr. Burson...

Mr. Willis This is a friendly question, Mr. Stinson.

In this provision is not the passage, "a person shall be bailable by sufficient sureties," exclusive of allowing a person to be released on his own recognizance?

<u>Mr. Stinson</u> Well, yes, sir. But I feel that if he has been convicted, and he had to be on bonds which would be continued that he shouldn't be released on his recognizance. I think he should

# <u>Mr. willis</u> Well, It says "before and during a trial a person...", but before trial, before a trial, a person shall be..." I'm reading in the pertinent language. "Before a trial, a person shall be bailable by sufficient sureties." I

Does not that exclude hls own recognizance, number 1, and number 2, what or how many sureties do you mean?

Mr. Stinson Well, that's left up usually to the court depending on the value of the property of the surety And I believe the present law says that the judge has to ....

Mr. Willis

Mr. Stinson Well, the. I think it's in the statutory law that takes care of that..

IIr willis Oh, I know it's in the statutory law, but if we are going to put it as a fundamental part of our law, notably a constitution, I don't think we should equivocate.

Mr. Stinson Well, we're not. We are tracking the 921 Constitution which used the word "surety."

### Amendment

Mr. Poynter Amendment No 1 [by Nr. rav.], on page 5. Time 31, after the word "presumption and before the words, "is great" insert the words of guilt".

Gravel Mr. Chairman and ladies and gentlemen "ir. Grave M: Chairman and ladler and generation of the convention, I think probably it's necessary to insert that the presumption we are talking and the proposal suggested by the committee 1 discussed this with a number of people, and 1 don't believe there is any objection whatsoever to the insertion of these two words. And \n order that the sentence can read as follows: "Excessive..." well, excuse me... "before and during a trial a person shall be ballable by sufficient sureties unless charged with a capital offense and the proof is evident and the presump-tion of guilt is great." Mr. Chairman, I move the adoption of the amendment.

amendment.

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [by Ms. rate and Mr. Burson], on page 6, delete lines 1 through 7, both inclusive in their entirety and insert in lieu thereof, the following:

Heu thereof, the following: "The maximum sentence which may be imposed is imprisonment of five years or less. The judge may prant bail at the maximum sentence which may be imposed as inprisonment in excess of five years. After sentencing, and until final Judgment, persons..." and this is the change, strike out the word "may", insert the word, "shall", strike out "may" put "shall"..."persons shall be bailable if the sentence actually imposed is five years or less and the judge in his discretion may grant bail if the sentence actually imposed is in excess of five years imprisonment."

Hr. Gravel Mr. Chairman and ladies and gentle-men of the convention, the argument that I wish to make to you in support of this amendment is that it's snonsored by Gravel and Burson. I move the adoption of the amendment.

Mr. Henry What was that?

Mr. Henry Good grief. I find that hard to believe. I want you all to look at that amend ent carefully be ause anytime Burson and Gravel get

And I might even say that Mr. Maloulides Mr. Gravel likes it.

Mr. Henry That ought to kill it

Mr. Gravel

Mr. Poynter Amendment is sent up by elegates Lanler and Bergerun A endment No 1, on page 5, delete 1 ne 1 through 26, both incluive in their ertirety an

insert in lieu thereof the following: "Section 16. Criminal cases in which the punishment may be capital shall be tried before a jury of twelve persons, all of whom must concur to render a verdict in cases in which the punishment is necessarily confinement at hard labor, render a verdict. Cases in which the punishment is necessarily confinement at hard labor; shall

concur to render a verdict; except in capital

Concur to refider a veroict; except in capital cases, the defendant may knowingly and intelligently waive his right to a trial by Jury. In all criminal prosecutions tried by a jury, the accused shall have the right to full voir dire examination of prospective jurors and to challenge jurors peremptorily. The number of challenges shall be fixed by law."

### Explanation

Mr. Lanier Mr. Chairman and fellow delegates this amendment is the result of a synthesis of Mr. Chairman and fellow delegates, ideas by various of the proponents and opponents of different shades of the way this thing should be handled. I'm authorized to state that this is another proposal upon which Delegates Gravel and Burson are in agreement. That seemed to be quite successful on the past proposal, so 1'd like to bring that to your attention on this one.

This amendment makes three changes in the present law and four changes in the present law and four changes in the present condifferences here.

The present law, in our constitution which is Article VII, Section 41, and also, in Article 782 of the Code of Criminal Procedure, provides that in cases necessarily punishable at hard labor the jury shall be composed of twelve persons, nine

Jury shall be composed of twelve persons, nime of whom must concur to render a verdict. Source of the state o of degree...at what point do you draw the line? Do you draw it at eight, or nine, or ten...we felt, after putting all of our heads together, that ten was a reasonable amount on this. It leads to a situation where you'll get a definitive action in more cases rather than have a hung jury. Because if it required twelve out of twelve to render a verdict, that means if you had anything less than twelve out of twelve, either for innocence or for guilt, you would have what's callee a hung jury, and that means that you would have to go back and to it all over again. And this is one of the moderniza-tions of our criminal procedure, guite frankly of which Louisiana is one of the leaders in the field. The second change in the present law in the present constitution is providing for the so-called botailed jury of six persons rather than five. was a reasonable amount on this. It leads to a

present constitution is providing for the so-cally bothalled jury of six persons rather than five. Under the present law with a relative felony is one in which the purishment may be confinement at hard labor, but it is not necessarily confinement at hard labor. In other words the judge could imple parish lail time, or he could impose the parish lail time, or he could inpose the source of the source of the source of the serious misdemeanors...these are misdemeanors where the purishment is greather than six months or the fine more than five hundred dollars. The present law is that you have a five man jur

or the fine more than five hundred dollars. The present law is that you have a five man jury all of whom must concur in order to render a verdict. This is also Article VII. Section 41 of our present constitution and Article 770 of the Code of Criminal Procedure. We have provided that the bobtail jury shall be composed of six persons, five of whom must concur in order to render a verdict. And the rationale of the five out of six is the same for the rout of thewlow. is the same for the ten out of twelve.

The issue of whether or not you can have less than a twelve man jury has been passed upon by the United States Supreme Court, and this in in

United States Supreme Court, and this is in accordance with law. The next change is with reference to the waiver of your right to trial by jury. Under the present law you can waive your right to trial by jury in cases which are neither capital nor necessarily punishable by imprisonment at hard labor. This is Article 1880 of the Code of Criminal Procedure. We have changed to found the second second second second that is a case that is necessarily punishable by imprisonment at hard labor in the penitentiary. Of course in a capital case you do not wish to imprisonment at hard labor in the penitentiary. Df course in a capital case you co not wish than allow a defendant to waive because that would than mean that one man, the judge, would have to make the decision of guilt or innocence and life and death for the defendant. And guilt frankly, wey, fead should not be adopted in this state and is not adopted in most states. You would almost be not adopted in most states. You would almost allowing a man to commit judicial suicide in front of the judge without a jury.

However, in other cases that are not capital actually this will probably facilitate the administration of justice, because a trial in front of a judge is generally much swifter and not as bound with technicalities as a trial in front of the jury. And the defendant would have the option in his discretion to intelligently waive this particular right.

walke this particular right. The law but it is a change in the constitution, is the ...providing that in a jury trial, the accused shall have the right to full voir dire examination of prospective jurors. This particular subject has very precently received extensive litigation in our Louisiana Supreme Court. It is my understanding that this is the present law. At the present time, the voir dire is provided for in Article 786 of the Code of Criminal Procedure. We felt that

of the Code of Criminal Procedure. We felt that it would be advisable to include the existing jurisprudence into the constitution so that this will be absolutely clear as to what your rights are at the trial of a jury case. Now, at this time it's my understanding that there are quite a few delegates who would like to join in sponsoring this amendment. And if I might, I have been adivsed by the chairman of the committee that the committee has no objection to the amendment. I'd like to ask that Chair if we would be permitted to none the backet to allow would be permitted to open the board to allow

Mr. Champagne Mr. Lanier, are you aware that ['m fully in favor of your proposal because it sounds like good constitutional law, but even if ] didn't know anything about it, it has the only two words in French that I have yet seen in the constitution. And I will be able to tell my many constituents and good friends that Bubba Henry voted for it and I did, and this is acknowledging the French tradition in Louislana.

Mr.Lanier Mr. Champagne, in answer to your guestion when this issue was brought up by Hr. Stagg, I consulted with my fellow delegates from Lafourche Parish, Mr. Landry and Mr. Bollinger, and it was our feeling that this language would be perfectly understandable in our parish.

Mr. Alexander Mr. Lanier, I notice in the sense of "knowingly and intelligently waive, "how can you explain how would a functional illiterate knowingly waive, when he may not know what the word "waive" means? How would you handle that

Mr. Lanier Well, I'm going to tell you. Of course, this would ultimately have to be decided by the judge as to whether this man was capable

Mr. Chehardy Mr. Lanter, you have sixty-six authors. Why don't you call for the question and let the vote on the is ue?

Mr. Lanler Well, I was thinking, Mr. Chenardy, t at if we wanted to fully explore this and denate it...

Mr. Chehardy Well, when you've got sixty-six, that means they understand. Otherwise they wouldn't be coauthors. Why don't you get it over

# Reading of the Section

Mr. Poynter ent

Section 18. No person shall be subjected to Section 15. No person shall be subjected to euthanasia, torture, or cruel, unusual or exces-sive punishments or treatments, and full rights shall be restored by termination of state or federal supervision for any offense."

Nr. Weiss Nr. Chairman, fellow delegates, the right to humane treatment is a very important section of the Bill of Rights. It is interesting maw quickly we forget. The American colonists

Intelligent destinated in the second state. As the second state of the second state of

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Mrs. Brien Hr. Chair an, delenates, I core before you to speak a few words in support of this section. Especially, I ask you not to relove the wird "euthanasia" from this section. Euthanasia means "good dead!. Uit I think wu all agree with me, we wouldn't push anyone in death. Believe me, I re ember what hai ered in Nazi Germany. They were sayin . Nhat is useful is good." German medicine sent two hundred seventy-five thousand so-called unworthy Germans to death. The extremes of the uit Itanian

Mr. Brien Ye, ir, I read that but I h pe it tay, in the set in

Mr R y You understand that if we put ton this mottution that there never shall be any nuthanasia in this tate, the oglilature may never pass such a section. If that is ht?

they came after the Communist and I did not protest because I was not a Communist, then they came after the trade unionist and I did not protest, because I was not a trade unionist..."

<u>Mrs. Brien</u> I don't understand you good, Roy, you'll have to talk louder.

<u>Mr. Derbes</u> I just address this question to any member of the committee who can answer it. What is unusual treatments? What is unusual treatments?...I don't know.

Mrs. Brien Mr. Weiss will answer your question.

<u>Hr. Weiss</u> This is a good question, and the word is new in this section. There have been some questions raised and I think it has been the opinion of the majority of the committee that the word "treatments" might best be deleted, and an amendment is...

Mr. Derbes Do you administer unusual treatments at your office, Doctor?

<u>Mr. Weiss</u> Yes, and that's right. And it's necessary to delete that word, and an amendment is forthcoming in that regard. I appreciate that suggestion.

<u>Mr. Willis</u> Dr. Weiss, I'm loath to find fault, and I may be at fault, but why was the word "rights," and "full rights be restored" instead of "full citizenship be restored." Why was that used?

Mr. <u>Heiss</u> Well, it was the intent of the Committee, both in answer to the previous question, that treatments, unusual treatments to extract statements to the contrary, that the individual may feel as a treatment was intent there...

 $\frac{\text{Mr. Willis}}{1\text{ 'm talking about full rights be restored.}}$ 

Mr. Weiss The same goes true for the rights: The committee was under the impression that all rights, as determined by the declaration of rights should be restored in a humane attitude to those people who have served their time and punishment. In other words, if they have been punished adequately, have met the...

Mr. Willis I understand, I understand, My only guibble is with the use of the word "full rights" in lieu of "citizenship." Does not citizenship adumbrate all rights that you talk about in the Bill of Rights? And would not citizenship be a more appropriate word.

<u>Mr. Weiss</u> You're right, sir, I know I'm not an artist in words, but my understanding is that citizenship and rights are equivalent. There may be some difference.

Mr. Willis My next question, you use the word "excessive punishments." Would that not allow me to appeal and have the judge review a sentence on the grounds that the sentence is excessive and so the punishment excessive?

<u>Mr. Weiss</u> Yes, but it was not the intent of the Committee to question this aspect, but rather "excessive punishments."...

Mr. Willis But the prospect is present, is it not?

<u>Mr. Weiss</u> Yes, and here again an amendment is forthcoming in this regard.

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

Mr\_weiss Delegate Willis, your point is well taken. Believe me, it was the intent of the committee not to create any confusion although, apparently it has in this regard, and there are [1190] amendments forthcoming in answer to your question. The point being in the light..in the eyes of the committee, that excessive punishments might be quesioned at one time, and if Mr. Roy would like to answer that, I'd be happy to have him answer.

Mr. Willis Now, I am loathe to any form of immoral killing. And I note that the word "euthanasia" is used, and the words "guillotine, hanging, abortion, electrocution," are not used. My should a person be not subjected to euthanasia and be subjected to the guillotine, or hanging, or abortion or electrocution?

Mr. Weiss I think that legally this has been well established that this is a type of cruel and unusual punishment in this country. Even today, capital punishment is being questioned by the federal courts as to being cruel and unusual.

Euthanasia is not in the same category in that it is a type of treatment; a physician must render this type of murder. And this mercy killing, as it is called, is the obligation placed upon physicians, primarily as a result of state action. And, therefore, this is a monumental step, I think, in stopping this type of killing.

> [Rules Suspended to allow Committee on Local and Parochial Affairs to meet.]

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Downey], on page 6. The 10, delete line 10 in its entirety and at the beginning of line 11, delete the word and punctuation "treatments," and insert in lieu thereof the following: "torture, or cruel (and a change here), insert the word "excessive," or unusual punishment,"--"torture, or cruel, excessive or unusual punishment,"

### Explanation

Mr. Dennery The purpose of this anendment is to remove only the words "or treatments" at the end of line 1D and at the beginning of line 11. The reason for this is that we're talking about euthanasia in the first line, and then we taik about treatments down here. Frankly, I wouldn't be here had it not been for some very unusual medical treatments, and I don't want to take the risk that the legislature may bar doctors from unusual treatments. The committee advises that they have no objection to that. The balance of it would remain the same except that I've switched the words "unusual" and "excessive" which means nothing.

[Amendment adopted without objection.]

### Amendment

Mr. Poynter Amendment sent up by Delegate Zervigon.

Amendment No. 1, on page 6, line 9, immediately after the word "to" delete the remainder of the line.

### Explanation

 $\underbrace{Mes. Zervigon}_{int} Ladies and gentlemen of the con$ vention, mine was one of the amendments Mr. Henrywas complaining about that was prepared late, andthat's because it takes a little bit of nerve toget up here and move to take out a word that manyof us believe doesn't belong in the constitution.My main reason for moving to have this word deletedfrom this section is that I'm not at all sure whatit means. It seems to me that murder is alreadyarime in this state. Any doctor that would shootsomebody full of a medicine that he or she didn'tneed, give extra sleeping medication, strangleher with a cord because he thought she was on herlast legs anyway, would be liable to be chargedwith murder. What scares me to death about thisword "euthmasta" is that a doctor following his

conscience who doesn't put someone in an iron lung or doesn't perform some sort of surgery that has a ninety percent chance of failure but might succeed, in his professional judgment if he didn't think that it would be useful, would be liable to a charge of cuthanasis in the court, befarit merup here unless 1 felt very, very strongly on this subject, and 111 tell you why. When my grandmother died, she was eighty-seven years. Up to a month before her death she was beautiful to look at. She always wore bright colors, wouldn't wears be and the set of the second second second second to a subject, and 11 tell you why. When my grandmother died, she was eighty-seven years. Up to a month before her death she was beautiful to look at. She always wore bright colors, wouldn't wears be had always said to us when we were growing up, "look, if 1 get sick. lock me in the garage. 1 don't want to be any trouble to anybody." But she was in the hospital for a month, and she said to her doctor, "Doctor, l've had a long, full life. I'm dying of cancer, and everybody knosi thise tubes down ny nose. Let me keen my little bit of vanit to the and ther friend, a woman who was also dying horribly of cancer as hers is the said it so movingly that he acceded to her wishes. Under this provision with no definition attached, would that man have been guilty of euthanasis? I had another friend, a woman who was also dying horribly of cancer as hers is the cortor, "I wan the world to how what causes cancer. Do any kind of test you think you need to do to find out the causes and the possible cures for cancer. I'm dying anyway. Do whatever you think would be useful to you." Would that doctor, following ner wishes have been guilty of murder, that's for ture. Let's keep murder as a crime and let's not put this word outhan sin three. There isn't anybody here that wants old people slaughtered wholesale. Nobody here wants that. Legislators don't want that. See of them are old themselves, 1'11 point oux, Please let's tate this word out, and be ca

### Further Discussion

Hr. Roy. Yes, I certainly will be, Mr. Chairman, and T and t to say let's not get carried away with emotions and understand that what we're saying here is that the state may never pass a law through the legislature which allows some other person or some other people to say that you are going to be allowed to die, or you are going to be put to death. That's very simple. I don't know about Mary's issue, but there is nothing in this section that would prevent the person who's 111 from stating in writing to a physician or into administer certain things to me," and that is not prohibited at all. If a person chooses not our or persons may decide that you will be put to death. That such as that absolute right. All we're trying to say is that never, never will the legislature of this state say that some other persin or persons may decide that you your perission. Now, euthanasia as the staff points out is very well-defined in Webser? I may don't dis a the other is not that a some other persin or person't any dis of your compare the at a some other persin or dying to say. 'Don't treat me.'' It doesn't say that. Now, 'Don't treat me.'' It doesn't say that. Now, 'Don't the at all don't any utreat this is a compared that a low it and any decide chait you your perission. How ever determining, no matter how it has in your due to death at a some other that any due that any utreat me.'' It doesn't say that. Now, 'Don't treat me.'' It doesn't say that the say that any compared this is needed. Florida had an act introduced to allow outhan any circumstance--I don't want anyone ever determining. No matter ho is the rejection of this mendment. Than your would be put to death that any circumstance--I don't want anyone ever determining. The act or 'two outhant's any circumstance---I don't want anyone ther be necestion of this mendment. Than your would be put to death. Than't your would be put to death. Than't your would be put to death. Than't your would be put to death. Sure your don't would be put to death. Than't your would be p

Hr. Fontenct Mr. Roy. I'm not esactly sure 1 IIStenced to your definition of "exchansis." Would abortion come into this thing at all, or was it the intent of the committee to say anything about abortion at all, or are we just concerned about mercy killings?

 $\frac{Mr}{r}$ . Roy Nc, we are talking about individuals who are put to death through some state conduct, and it doesn't address itself to abortion.

Mr. Fontenot You don't consider a fetus, or an embryo, or anything a person...subject to mercy killing.

<u>Mr. Roy</u> Mr. Fontenot, if ever the courts decided that a seven month old fetus is an individual, then it would apply, and I think it should, but... abortion, I just can't answer that.

Hr. Abreham This is a friendly question, but I need an explanation, Chris. Now, you said that this does not prevent a person from requesting a doctor to do something to them, this type of says, "No person shall be subjected to it," regardless of whether they want it or not, and I would ask you, does this language actually say what you intended for it to man?

Mr. Roy Yes, it does. It means that the legislature may not subject, but, Mack, you have to understand that a Bill of Rights is designed to prevent state action and not to stop an individual from saying, "I don't want certain treatment." I'll yield to any other questions.

<u>Mr. Chehardy</u> Chris, now 1 have a very serious problem on this issue. Now on euthanasia, in my particular case, 1 m opposed to it. 1 m opposed to the series of the series of the series of the series to the series of the series of the series of the series of all of the decease to subject to change like we've discussed, what about the problem all of us, of all of the decease Catholics who ate meat on Friday and went to hell, and now they're sitting up there watching us eat meat on Friday. So, there could be a change in the precepts of y refifor it something that you really channed to the constitution as a permanent thing? I'm throwing raised the issue with me, and 1 thought it was good to raise it for everybody else.

Mr. Roy Lawrence, I'm a Catholic, and I don't see it as a religious principle necessarily. I see it as a personal, philosophical one that no state law should ever be passed. Now, if it ever comes to that time we think we should have cuthanasia...

### urther Discussion

Mr. Jenkins Mr. Chairman, delegates. I think this is a very serious subject. I can hardly think of many more serious subjects that we'll consider, and I think that it's improtant that we reconsider Mrs. Zervigon's remarks because I think that she doesn't understand this whole proposition. I think she's made an analytical mistake. There's no way that anyone can be charged with esthanasia. That's not the way the law works. Right niw under on real igent homicide, you are charged with those offenses. If a law on euthanas a were passed through the legislature, it would ake an exception to our murder, negligent homi ide, or manisquer laws. It would say that under certain circumstances, the killing of another human being is not murder, and lawyter. with euthanasia be were that's nit a crime under day criminal statute ever passed or considered futhanasia laws make an explicing to so is one thin

It keeps our law like it is now. It says that you can not in the future have a law passed through the legislature making an exception to our murder, negligent homicide, or manslaughter laws to permit the killing of another human being intentionally. Now, there are several instances where killing of another human being is prohibited under law. If it's an intentional killing, if it's negligent killing, a euthanasia law makes an sorther on the several entities and the several exception to our murder, manslaughter, or negligent homicide laws. A law, if passed through our legislature, will not prohibit euthanasia, so no one would be charged with it. A law passed through will permit euthanasia. It's a great conceptual difference. There's no crime of euthanasia. You con't be charged with it. You can only be charged as now with murder. Now it was said that we have laws against murder and negligent homicide now may be out murder. We want that except he law as it is now, and it makes sure that exceptions can't be made in the future. It's very simple and clear. So l unge the defeat of this amendment.

# Questions

Mr. Lanier Mr. Jenkins, you say that putting this in the constitution keeps the law as it is right now. Would you please give me the citation of where I can find this thing about euthanasia in either the constitution or statutory law?

Mr. Jenkins The law right now in Article 30 of the Criminal Code prohibits this type of criminal activity, namely the intentional killing of another human being. That's the law now.

<u>Hr. Lanier</u> Let me ask you this. Under the law, is not a child viable at the age of six months?

Mr. Jenkins Well, I don't know what particular law says that. There may be some law that says that.

Mr. Lanier At what point in time does a child become a person in the contemplation of the law? Right, an embryo, when does it become a person in the contemplation of the law? When does it become viable?

Mr. Jenkins Well, it varies in different areas of the law depending on the law you're talking about. It may be or sense in the case of abortion. It may be others in the case of inheritance. It may vary from state to state as well.

Mr. Lanier Well, what I'm getting to is suppose you get into circumstance where it is necessary to either kill the mother to save the child or kill the child to save the mother. What would that be?

<u>Mr. Jenkins</u> In those circumstances if you need to kill one or the other, in some cases it is abortion under our law. In other cases it is not, depending on the definitions...

Mr. Brown Mr. Jenkins, I read in the newspaper about a week ago about something that happened down in Florida where a young boy was in an automobile accident I believe, and seven or eight doctors were called in and said, "look, his brain Is dead; there is no response in his brain." But is dead; there is no response in his brain." But heart going; so by use of his lungs that kept his heart going; so by use of his lungs that kept his heart going; so by use of the coning and going. but the conclusion that I read was very conclusive. The brain was dead and that only the machine was keeping this function going. So after a great deal of soul-searching, the parents decided to have the machine cut off and donated his two kidneys to recipients. Well, how do you derine that? Would the cutting of that machine off in a case like that when the brain is dead, where only the machine is I'r. Jenkins Jim, what you have to do is look at our present law now. If that is murder under our present law, then it will be murder still. If that is negligent homicide, it will be negligent homicide still. If it's monslaughter, it's ranslauphter still. If it's none of those it won't be changed by this provision. This provision doesn't change our law in that regard. It only prohibits maing exceptions to it in the future.

Mr. Brown But why should it be there? Then why is it necessary if it only reflects the present law that we already have, when it is kind of cloudy. I don't really understand.

Mr. Jenkins The reason that it's there is that it...

# Further Discussion

Mr. Drew Mr. Chairman, ladies and gentlemen of the convention. I rise in support of Mrs. Zervigon's amendment, and I can very vividly tell you why, and I think Senator Brown brought out one of the arguments that's definitely in favor of Mrs. I have unfortunately been arguments that is definitely in layor of the Zervigon's amendment. I have unfortunately been put in that very position twice during my life-time. One, when my father had lain ill suffering from cancer for six months, and I was called at 1:3D in the morning by the nurse that it appeared that he had passed away, and I immediately went to his home. He was there. I was advised by the nurse that she could call the doctor and they could possibly prolong his life for another few hours or maybe a few days at the most. a rather difficult decision to make. I sa a rather difficult decision to make. I said, "Do not do it. He has suffered enough." Apparently, he was dead. I don't know. And only two years and I can Apparently, he was dead. I don't know. And then only two years ago, I saw my sister lie there gasping for breath for several days, dying with cancer in the Schumpert Santarlum in Shreveport she stopped breathing and was for all instru-form a quick emergency operation and possibly prolong her life for a few hours or possibly a few days if you want me to do it." Again, I with heavy heart said, "Don't prolong her suffering any longer." Mr. Noy and Mr. Jenkins tell you Ladies and entlemen it does not saw "no law shal Ladies and gentlemen it does not say "no law shall Ladies and gentlemen it does not say "no law shall be passed." If you will look back at Section 9 and Section 10, they say, "No law shall be enacted," but there is nothing in this provision about the state taking any action. It says that "it shall not be permitted" is what it amounts It has to be considered. serious. It has to be considered. I am not in favor, and I hope no one interprets my remarks as being in favor of wholesale mercy killings. I don't go with that concept at all. They say there is no law against it. Jf they have not pro-hibited it by some law, or have not mandated the legislature to enact a law which would make it a criminal offense, what have they accomplished by this? I don't know. Maybe under some interpre-tations of the law, maybe Mr. Jenkins is right; maybe I am guilty of murder because I didn't maybe 1 am guilty of murder because 1 didn't prolong the suffering of two people 1 loved very dearly for a few hours or few days. 1 ask you to carefully consider Mrs. Zervigon's amendment. In the suffering of the suffering of the suffering and by all means should be adopted. 1 don't think that this provision is a provision for the constitution. If we need to outlaw it, to prevent the wholesale mercy killings as there is some movement to authorize and legalize, 1 would go with that in the legalsture, but 1 think you are asking the family, the loved orges of those who for months, to say that "no, under our constitution" for months, to say that "no, under our constitution

while in er " Mr. Roy lays don't get e oti nat kell, et me tell you this is so ething that is akef by entonal when you are called up in the make those tipe if de islons. I sincerely hipe you will u port Mrs. Ze vio on se end ent, and et i take this out if the constitution

### Ouestion

Mr. "Well, Mr. Drew, what distinguishment du quarke between killing a person intentionally and letting a person die a natural death? Please ake that distinguish ent because in y ind it's clear, but I'm not sure it's lear in the inds of the other delegates.

Mr Dew I see n difference between intentimal silling and deliberately letting comeone die, I gue s, if that's what you want to say, Mr. D'Heill I don't know that there is any particular distinction in the law.

### Further Discussion

Mr Comar Ladies and gentlemen, I'll be brief, and I ust want to add one thing to what Mr. Roy has sad with regard to the need for this, and he indicated what had happened for instance in Florida. They came within a very few votes of passing a euthanasia bill in Florida. I just wanted to mention to you that one of the arguments ade in behalf of that bill by the doctor who sponsored it was that if it were passed, they would be able to permit fifteen hundred retarded children to die in the hospitals of Florida, and therefore, save the state many millions of dollars a year I hardly think that the dollars mean work when you're trying to save the lives of children. Thank you.

### Ovestions

Mrs warren Mr. Conar, Mr. Kelly made a stateent about the machine being renoved from the patient in Florida. I'm wondering what would happe if you had a person in that condition and you carried him to a hospital and your money ran wut. who would provide this type of care?

Mr <u>Co</u> ar Well, this would happen in any type of case where your money runs out in the hispital. I assume that state would take over the obligation. It would happen in any other type f case also.

Mrs. Warren Thank you.

Mr. Comar But, I unge you to relect this amend ent.

### Further Discussion

The set of the set of

### uestions

Hr. Hayes fr Chanagne, in this priorigine of Tife isn't it true that most doctors out about tell you how long you re doing to live with hiterminal cancer, regardless to...s where does this prolongment of life come in at?

Mr. Charmanne in discussing it with this see doctor who I consider a great profes to a an, he told me that it would be possible in the vermear future in his estimation, to prolong life to the point that any faily would become penniless. He feels that with the advances in medicine it can be prolonged allost indefinitely.

Hr. Hayes This had nothing to do with cure, id

Mr. Champagne With ki ling?

<u>Mr. Hayes</u> With cure. You know, prolonging it, he didn't say he would cure the disease.

Mr. Champagne No, sir. He was hoping for that.

### Further D scussion

possibly can between that sort of a society, and I ask you to vote against this amendment. Let me tell you this; I know a person had good doctors, that had a stroke. That person had good doctors that had a stroke. That person had good doctors back had a stroke. That person had good doctors that had a stroke. That person had good doctors that had a stroke. That person had good doctors person that that person would be a vegetable the rest of their life, that they didn't know how much longer that person would live. I want to tell you that that person would live. I want to tell never be able to rationalize any more and that would die shorly, overcame that disability, regained the full faculties, got up and tended to her affairs. Not too much longer after that she had another stroke. The doctors told them, well, of her ever getting up. In fact of the business, if I remember correctly, some of the relatives even started dividing some of her assets. But she recovered from that and her mind is just as good today as yours and mine. So don't say that we know when a person ought to be put to death. You're interfering with God's purposes on that, and what man has a right to except for a punishment for crime, to decide when another person shall live and when a person should die. That's what were talking about. We're trying to let men should die; that is when you kill them. I'm not takk into consideration the illustrations given by ir. Drew. That is not euthanasia. That is not euthanasia. Euthanasia is what we call and refer

# Vice Chairman Casey in the Chair

Mr. De Blieux I just want to tell you this is a bad amendment, and let's take care of it.

# Further Discussion

<u>Mr. Jack</u> I arise in favor of Nrs, Zervigon's amendment. Now, I just..this is a serious thing; I don't think it belongs in the constitution. If the time ever came that a breathing tube was to be pulled out of my throat. If I had an injury where me opins of physic that work of ever keep me in me opins of physic that work of ever keep me in the opin of physic that work of ever keep me in the opin of physic that work of ever keep that ave any intelligence. Jying there like a vegtable ...I would like for my loved ones to make that decision whether or not that would be removed from my throat for my breathing, and not you. I alies and gentlemen. It would be my life. Also, excruciating paint. It work on paint; I was allve... excruciating paint. I work not hat would be removed in hundred and five. Everybody I thew was dead and I wanted...I was suffering. Shouldn't that be my right to tell them to quit artificially feeding me, to quit artificially making me breathe, to quit a ving me in some kind of breathing apparatus... Just keeping there against my will in pain but let me tell you if you had this preven. But let me tell you hig you how the preven. But let me tell you hig you how the prevents a different thing. That is a decision that was don't study thing things in this constitution that we don't know what's going to be is o I'm for...

 $\frac{Mr.\ Casey}{Delegate\ Drew?}$  Will you yield to a question from

Mr. Jack I'm not going to yield to questions because nobody is an expert on this thing. We just...everybody is going to have to vote like they feel. That's just the trouble with this material having the word in there. Nobody's an expert. Somebody put on my desk, and all of ya'll's, the thing to try to tell us what it was-in detail, the thing to try to tell us what the word meant--mercy killing. That swen know what the word meant--mercy killing. That swen know what the is the sergingured we didn't even know what the list wasdeference, good friends, and I ordinarily would yield, but I don't think that anybody should have me try to answer a question and maybe get something wrong. I'm trying to, as best I can, explain how I feel personally, and I think my members of the family would feel; so that's the reason I'm not yielding to a question.

### Personal Privilege

Mr. Ourso Une reason I rise is that every now and then we would like to be recognized over here by you and the Chairman, because we're going to have to get us a flag to be recognized. Looks like everything is coming from that side over thing in your neek. Second of sill, I know you didn't recognize me for a motion, but if we're going to sit up here and listen to how everybody lost someone in their family, and how many people died, and how they're going to die, we're all going to die...everyone's going, so I'd like to move the previous question.

<u>Mr. Casey</u> Just a minute. Delegate Ourso, I did not recognize you for that purpose. I have a list of speakers here; I'll be glad to put you on the list of speakers. I realize that most of the heavyweight speakers are on the other side of the room, and I try to recognize as many of the delegates who wish to speak as possible. If you would like, I'll put you on the jist of speakers. O.K. Please proceed, Reverend Landrum. Why do you rise, Mr. Chehardy?

# Further Discussion

Mr. Landrum Mr. Chairman, and fellow delegates, I was hoping that I would not have to say anything today. Go through a whole day as I did yesterday without saying anything. But, I believe that this particular amendment is a very bad and dangerous amendment. The very case that you mentioned about Florida the other day; we li in an age where transplant is becoming a very real thing, and how many people will lose their lives because somebody needs a lung; somebody needs a kidney; somebody needs something else. needs a kidney; somebody needs something else. What basically...my argument is this; that no machine will keep a man alive forever. No amount of pills will keep a man living forever. He has a set time to live. Now, if we don't believe that man has a set time to live, then we have to start back over with the Preamble where we talk about God in the Preamble. Ne don't believe in God...if we don't believe that man has a set time to live; we have no right to say that somebody get them out of their misery. Who are we to say that we're going to get somebody out of their misery? I agree with them, but when you talk about pain...three years ago, my Mother with three hundred...with three blood pressure...up to three hundred...with three blood oressure...up to three hundred, a heart condition, a very bad heart, poor circulation, and sugar...the doctor didn't want to do nothing for her, but my Mother is here today. My Mother is alive today. Now, she may not be here no longer than today. How many times has the doctor said that this person will not live? They cannot live. If we believe everything, and I have a great deal of respect for doctors, but I don't believe. but I don't believe in doctors that much that because of the condition right now I'm going to put this person to death. I wish you could have been with me at a meeting here in Baton Rouge with one of the delegates who brought me to lunch one day, and where a leading doctor right here in Baton Rouge;...he told the people at that luncheon that seventy-five percent of all medicine, of all cures that we are using today was just brought about in the last fifteen years; so we never know when something new will be invented. God bless you, and thank you.

### Questions

<u>Mrs. Brien</u> Reverend Landrum, does man have the wisdom or the right to decide whose life is meaningless?

tr. Landrum Hrs. Brien, I'm sorry, I didn't

trs. Brien I said, does man have the wisdom or the r oht to decide whose life is meaningless?

r. Landrum No, 1 don't believe he does

Mrs. Brien Does man have the right to trespass on the very will of the Creator who gives life

Fr. Landru My dear, every time I take a body to the grave I say, "the Lord giveth, and the Lord has taken away,' not man. Thank you.

Mr. Juneau Mr. Chairman and fellow delegates. Thi make these remarks very brief. I'd like to point out one fact to you. Not one, not one of the fifty states in this union has such a provision in their constitution, and I think the reason for that is obvious. We're talking about a very delicate matter, and I don't think there is anybody in this convention who favors mercy killing; at least I don't know of any. That's not the issue. The question is when you're dealing with an intricate, scientific, medical problem that we intricate. Scientific, medical problem that we intricate. I think that it ought to be taken out. Insuccintly put, it's just simply a question; do you want to do...do you want to stretch out in an area we've never stretched before, and take that way from the legislature Mr. Chairman and fellow delegates, Mr. Juneau before, and take that away from the legislature which is a responsive body to the needs of the people, especially in an emotional area like this? people, especially in an emotional area like this for that reason, and that reason alone, I support in the legislature; and as Mr. Jenkins said "we how what the law is today, and I don't look for any change in that regard" so why tamper with it, and why venture into an area that I don't think we know where it's going to be chartered in the

Mrs Brien Do you know right now what could happen in the future?

In the future, Mrs. Brien, nor did the people in the past know what could happen when we were talking about capital punishment and non-capital

Mrs Brien The people in Germany didn't have 1 before either. It never happened before, but it did happen, so don't you think it maybe could nappen here too?

Mr Willis have m re problem. Mr Juneau, that it says no person shal be subjected to euthana la Num, who prevents the subjugation, the state or another person? Where dies the printbotts sure

Mr Juneau I don't inim, that bither e, Mr Illis uit I einth add, the argument nin to be made, and let's get the I ue (learly before the floor right now You're going to hav a subsequent amendment which I ofing the sait and say no law shall prink bits.

than what they have, but I = Liff say that ultimately we still ought to not stick it in, nor has any other state in this union, obviously, for the

Mr killis Well, that prompts e to this question Isn't it more apropos to put whatever is printbited in Section 12 of the legislative article and wait until that time because we haven't settled that one yet-general inspection laws? Isn't that the place for that if we have to put it, now I don t believe we should? If for the amendment.

Mr. Juneau If you would be so inclined, I would

Further Discussion Mr. Fontenct. Mr. Chairman, lei me read the definition of this particular word verybody is so concerned about. I know somebody just read it previously, but Mr. Stagg just showed it to me. "The painless putting to death of persons suffering from incurshe di eases." This is just one definition of it. There's probably a lot of medical definitions; every doctor, probably a lot of medical wo minkt have a different philosophy as to what easely the the state of the second state of the second wo minkt have a different philosophy as to what were in such serious conditions that it was probably the best thing that they do let these certain individuals die. I'm sure everyone of user have been faced with the same situations; hat this person would be: All of do the these certain individuals die. I'm sure everyone of there have been faced with the same situations; hat this person would be: All of do the these certain individuals die. I'm sure everyone of the hest thing that tevel on the sub-probably the best thing that they do let these certain individuals die. I'm sure everyone of use that this person would be: All of do the the second down, but individuals the coment fright the second the subjected to murder for thinking the the second in favor of the blight of flight of the Bill of flight Equations and I'm sure someody has made the comenter for thinking the the second of flight Equations and incurable disease. If you don't put some hanguage in this constitution concerning this particular word, and I'm not in favor of the blight if flight of the Bill of flight Equations in favor of the amendment Hr. Ray has proposed in behalf of the Bill of Right Equations hand the person with our ease legislature. There we certain individuals in florida that personsed worded down, but I don't know what ease(bly could happen with our legislature, there shift hard happen with our legislature. Here shift hard happen with our legislature. Here shift hard happen with our legislature

punishment." Like Isaid, if you vote for the Zervigon amendment, you're going to do away with his particular issue we're talking about. I'm in favor of keeping it in the constitution, and if there's no other speakers on the issue. I move the previous question.

withdrawn.]

# Further Discussion

<u>Mr. Weiss</u> Mr. Chairman, fellow delegates, I'm sure many of your minds are made up. I can't con-fuse you with the facts. Emotion is a very strong the strong with the facts. Emotion is a very strong time. Let me tell you why. This is no old issue; this has been since time eternal; and it's amazing to me that we cannot pass in this body a statement to the effect "Thou shalt not murder." The sixth commandment, the meat of the Holy Bible; but let me explain to you even more so why I'm concerned. Judge Tate and those who are concreated here and there. Judge Tate and those who are congregated in the back, and those who are congregated here and there, and those who are listening patiently and kindly--to cite more than one, two, three, four or five examples where I over the past twenty-eight years have been repeatedly faced with the decision on whether to prolong the act of living and prolong living or to prolong the tot of dying. These are the issues; prolong life or prolong the act of dy-ing. I say to you, euthanasia is killing, mercy killing, ridiculous adjective terminology to mur-der. This is what we're talking about here today. killing, ridiculous adjective terminology to mur-der. This is what we're talking about here today, and it's very imperative that it be in this con-stitution. Now let me tell you, the British Lord of Commons, for thirty-four years, have debated this on three lengthy occasions and have defeated it. There are four legislatures, possibly six, in this country that are now facing this problem; but let me let you know what the young people, some of mercy killing rises; fifty-three percent of people under thirty accept the proposition. Euthanasia idea grows--euthanasia is likely the next great moral debate in the United States; right to die has majority support. If this isn't confusing, right to die...

right to ore... The right to die is not yours or mine alone. We pray every morning to God that we may finish this day, and 1 pray nightly for all of us and myself and my family, and 1'm sure you do. We are not omnipotence, but we have the right to define laws and that's what we're here about. are not omnipotence, but we have the right to define laws and that's what we're here about. I ask you to defeat this amendment and put the word progressive state diling loos lama a forward and ashawed of what our world and country has done. Willions have been murdered in the name of mercy, in the name of anything you want to call it, but this is downight murder. I am sure that those of you that oppose this do not interpret it this way, and the issue is a very simple one in the medical mind. Let the Supreme Court decide, as our cuthanastery this said, on these issues; but the ctive act of killing. If has more that those thing as passive euthanasia; if you agree to die and stop medication, you are entitled to it; you are entitled to discus with your doctor these issue; you are entitled to die. As Mr. Drew pointed out when he was responsible for the un-cord thory to be the or sister, where he had the power consclous Mother or sister, where he had the powe of attorney to speak, but even more so he had a compassionate position. These issues never reach the courts, but what does reach the courts are cost analysis--faulty individuals, insane. Heir is we've had people in prison because of their is less, now, we're simply asking you this, that they not be killed for mercy.

Mr. Kelly Doctor, I am in sympathy with what I think the committee is trying to do, but the thing that bothers me about the wording of Section 12 as it now exists is the situation where the an is on The machine and the doctor...he makes no injection, he does nothing; but the men on the machine or the family, say if it's a child involved, decides 't's hopeless and they say "unplug it." Now, is that situation going to be in conflict with Section 18

Mr. Weiss I see no conflict whatsoever, and l' glad you asked the question because euthanasia is glad you asked the question because euthanasta is mercy killing. When you, as a father of that child, agree, or you, responsible for an unconscious mother, agree, or you with terminal cancer, agree to stop having medications given to you, that's one thing; but when you ask me, as a physician, to kill you that's something else.

Mr\_<u>cannon</u> I would like to know...somehow as a laymon I don't feel that mercy killing as such, a two word definition, is a satisfactory definition of this word that we're discussing. "euthanasia." Could some learned counsel here...or...give me a better definition than purely mercy killing?

Delegate Cannon, I can't, as Chairman, amendment. I would have to refer you to a learned counsel on the floor who can answer that question. The job of the Chairman is to answer questions of order and points of information.

Yes, Delecate Weiss, why do you rise?

Mr. Weiss Point of information. Who is a learned counsel on that, sir?

Mr. Casey Dr. Weiss? Are you a learned counsel on that,

Mr. Weiss Yes, I think I am.

Also, Delegate Duval has been pointed out as a learned counsel.

Mr. Weiss I would be happy to.

[Previous question ordered. Ruc rd ote orderid. Amendment opted: 6-45. Motion to roomsider tabled.]

<u>Mr\_lack</u> The purpose of this amendment is to take out the words "and full rights shall be restored by termination of state or federal supervision for any offense." Ladies and gentle-men, what that is, is to automatically after a person terminates a sentence...he's placed in the position of all of his rights just before he ever went to the pen in his life or was convicted of a felony...Now, we have already gone into this thing of restoring rights and citizenship to people. I hope you will listen to this because unless you do, you might be mislead and have a conflict in what you're doing and what you're done. Now, on page three of the executive material.

executive e and ent, that we find h d way 's under F stated, od here the law renard in the pardon b and and first ffenders, nultiple ffer.

w a perior base end, isn't it true that no atter w a perior baseen, on atter how any times reved a entence, if he has enough miney, he most a parior and his roots are reit red

the inv constitution of the second se have. I don't wint a person to us granted a pardon and restoration of nit censin if his still not worthy of it, that' the whole thing; but thi thim would have in thing hid with that It would give this person "full rinks shall be restored by termination of state r federal supervision for any offense"...wouldn't atter if he had beel to the pen four they, five times. How, I told Mr. lerbes that in y interretations, and I tried to get the attirreg increases if is attorney, and this is going to grant the wate rights if they go through the pardon board now. Everybody, once they are through with their sentence, it's going to wipe the state clean no

Mr. Tapper Nr. Jack, sn't it a fact, though, that if they're bad in the penitentiary they don't let them out? Their shiftence 's extended. They have bad time. They have to have good the in order to get out, isn't that true?

Hr. Jack No, Mr. Tapper, you're wrong. If a person was sentenced to ten years, you couldn't keep him there on and on and on, even though he

Ar. By alter an entire of the evolution, himme that you're mettinn ared of eening ou there, out we're divis to the very end. Ar is jut absolutely wrant with his enclusion that if you review a paid on that the ate is wrant can with resp. It you prior ultiple (from his, but that in that the subcast of the his, but that in the haste and to trigen which is the there have a state of the the end of the the the haste and to trigen was it even than the the subcast of the you're write a state in that is end of the you're write a state is a state of the his of the subcast of the subcast you're write a state of the subcast of the subcast of the subcast white write a state of the subcast is a state of the subcast of the his of the subcast of the subcast is a state of the subcast of the his of the subcast of the subcast is a state of the subcast of the his of the subcast of the subcast is a state of the subcast of the subcast of the subcast of the subcast is a state of the subcast of the subcast of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast of the subcast is a state of the subcast is a state of the subcast is a state of the subcast of the subcast of the subcast is a state of the subcast of the subcast of the subcast is a state of the subcast of the subcast of the subcast is a state of the subcast of the subcast of the subcast is a state of the subcast of the

44th Days Proceedings—September 8, 1973 think, and think that you ought to know, is that when a man. let me tell you one other thing; any-try you plead to if you don't go to Angola and are given a superended sentence because it's a first offender or something like that, you are deprived of certain citizenship rights. Most poor, ignorant, honest...folk don't know that their citi-zenship has been removed. They don't know that they have to go to the governor for a pardon. Sec-ondly, they don't know a lawyer to go give them the money to get the pardon. Now, all we're trying to do is to say that if we believe in reha-bilitation and we believe that when a man has done his time and paid the state back for his crime, he should automatically get his citizenship restored, nis time and paid the state back for his crime, he should automatically get his citizenship restored, which means in certain cases, the right to hold certain types of jobs. There are certain jobs now that you can't hold if you've ever been convicted of a crime without being pardoned. This simply provides that vehicle. The amendment is not cor-rect. It doesn't do what Mr. Jack says it does, and it doesn't address itself to the question that's involved here.

Ouestions

Mr. Lanier Mr. Roy, you don't mean to imply in your statement, do you, that all persons who are released from the penitentiary having served their sentences are rehabilitated, do you?

Mr. Roy Dh, no, obviously not.

<u>Mr. Lanier</u> Now, with reference to your comments about the multiple offender law, is it your posi-tion that a pardon would not preclude the imposition or use or exercise of the multiple offender

Mr. Roy That's right.

Mr. Lanier Is there some jurisprudence on that?

<u>Mr. Roy</u> Mr. Lanier, it's...l don't know that <u>There's</u> actually...is there jurisprudence against it if you have a case...say it, but I don't think there's any and I don't think that anybody could logically argue that the fact you've been pardoned erases the crimes that you actually, in fact, com-mitted. It has nothing to do with the multiple offender law, because it simply restores you to rights of clitizenship which are the right to yote, and not the right to commit crime or to be absolved of having committed crime.

Mr. Lanier Does not the effect of a pardon put the person back in the same position as if the crime was not committed and he was not convicted?

 $\frac{Mr.\ Roy}{1}$  No, it does not. Only with respect to his rights as a citizen, but it does not take away the fact that he was guilty of the commission of a crime.

# Further Discussion

Mr. [A.] Jackson Mr. Chairman, ladies and gentle-men, I rise in opposition to the amendment before you, because I think that the committee was trying you, because I think that the committee was trying to address itself to a rather serious problem that is not described by the few lines of phrases before you. I think that when we talk about orison reform in this country, when we talk about some degree of rehabilitation, we certainly have to recognize the serious problems that confront individuals who have serious problems that confront individuals who have been incarcerated and who are now trying to make their way again in a free society. Now, all of us know the problems that face individuals who have been released from prisons. All we are saying here is that an individual ought not to have to pay the rest of his life, time and time again, that he ought not to have to face the fact that everytime he asked to be employed that he is faced by the fact that he once went afoul of the law. Now, I know that it's a practice in this state for individuals to receive pardons, and I know what the law provides, but I also know that it's awfully expensive to receive also Know that it's awfully expensive to receive a pardon in this state. I do not believe that it's fair to take from a man his basic rights of citizen-ship, to have them pay time and time again, once he has paid his debt to society. Now, I heard someone allude to the fact that the district attorney from Caddo Parish was opposed to the language in this section. I have in my hand the transcribed record of the district attorney's appearance before our of the district attorney's appearance before our committee, and he did not say that this section was in conflict with the multiple offenders law. It is not contained anywhere in this section that I hold here which bears his testimony as it relates to Section 18, Right to Humane Treatment. So, I do not believe that anyone can say that this section violates the multiple offenders law. I also point out to you, ladies and gentlemen, that in other state constitutions we have this section, so in the interest of prison reform, in the action of humane treatment for individuals who have paid their debts to society, I would ask that you would defeat this amendment. If there are no other speakers, Mr. Chairman, I call for the question on the amendment.

[Quorum Call: 78 delegates present and a guorum.

Mr. Singletary I believe the law is that when you're convicted of certain crimes you lose your right to own a weapon. Now, wouldn't the commit-tee proposal stop that? Nouldn't it make that law illegal?

Mr. [A.] Jackson Yes.

<u>Mr. Willis</u> Mr. Jackson, isn't this provision... that last clause sought to be stricken...solely a device whereby a person who has paid his debt to society can go get his receipt from the constitution instead of going to the governor?

Mr. [A.] Jackson Tha That's all it is, sir. That's exactly right, sir.

<u>Mr. Dennery</u> Mr. Jackson, I wanted to ask this question of Mr. Roy and possibly he will listen also; in the event a lawyer such as Mr. Roy or me were convicted of embezzling funds from our clients we would go to jail and we would also be automati-cally disbarred from the practice of law. Under the language of your amendment when full rights are restored, does that automatically restore my right to engage in the practice of law?

Mr. [A.] Jackson No, sir.

Mr. Dennery How do you distinguish that? That is

Mr. <u>Roy</u> Well, you have forfeited your right as a lawyer under the provisions of the Louisiana State Bar Association which are proper laws on it.

Mr. [A.] Jackson Well, not only that, Mr. Dennery, that's not a right. That's a privilege to practice law, to practice medicine, to engage in the profes-sion of teaching is a privilege and when you abuse that privilege you lose it. I move the question, Mr. Chairman.

[Previous Juestin rdered. Record Quorum Call: 96 delegates present and a quorum.]

<u>Mr. Jack</u> All right. Now, I'm great believer in rehabilitation. I've said before if I had an independent income I'd devote my life, long ago, to rehabilitation.

[Voice Vote Quor m 'a' ordered: 98 delegates present and a quorum.]

Mr. Jack All right. As I said, and I ve men-timed before here that I'm a great believer in oner has been renabilitated and should be able to walk out of that peritentiary and pick up a pistol a whole lot of these things you're giving back, and I don't care what you say, anybody at Angola that is been there a year, they know what a pardon and what full rights being restored means. This and what full rights being restored means. This say at Angola, that never voted and never is going to vote, not going to run for office; why does he want his citizenship back? Because it'll wipe out the first, second and third offense and because he cannot later be prosecuted if he commits a crime under a special prosecution of being a second offender or a third offender or a fourth offender. Now, anybody...they call them penitentiary lawyers, hew that, Now, that is a fact of life. Now, if you want to let everybody to save a few cents as know that. Now, that is a fact of life. Now, if you want to let everybody to save a few cents as you say...now, l'm not advocating to have to hire material that a first offender doesn't even go to the pardon board. I'w told you that in my open-ing statement. I'm telling you again. They want to check out these people. Now, the next thing on this business is one of the speakers was talking as the same structure of the speakers was talking as the same structure of the speakers was talking as the same structure of the speakers was talking as the same structure of the speakers was talking as the same structure of the speakers was talking as the same structure of the speakers was talking built they did six them about a questionnaire. The inference was...they didn't complete the thought but the inference was unless this passed or they had a pardon and restoration of citizenship, they' when they get out the pen, you say they're rehabil-itated. Maybe they've killed twenty people...fifitated. Maybe they've killed twenty people..... teen, This is going to treat everybody the same. If this ain't the limit to just say you're rehabil-itation of the sentence...

We see a Amendment No. 1 las er, well, on pairs of dettet them 3 and 11 in their entirety and innert in leu therewithe failowing and 1 think en rubably better get id of the Denery amend ent for arty too entire 1. No aw hall sureit any person

fr. Nerte — Maybe I's samplete , out of seler, fr. haiman, but it see to me that the cion, as it presently reads, says 'no person shall be subjected to forture or run, excessive or unusual punishment," and all that the Roy amendment does

Mr. Henry I don't think that's right, but is ask the Clerk to read t as it present stand I'm adivsed that the new language 1 'no law.

Mr. Chairman, fellow deletates, we do perhaps, some personal problems in which the committee used the words, "no person." The intent was that no law ...that is no legislative act or law would permit or subject individuals to either may have been present...that seven people voide for the Zervigon that may not have been here. The other factor that we would like to point out is that this will answer the problems...I hope... that have been brought up and if there are any questions, we'll be glad to answer them. Other-

Mr. Singletary Doctor, under this amendment would euthanasia be permitted?

Hr. Weiss No law...no law, Delegate Singletary.

 $\underline{Nr}$  . Weiss ... could be enacted which would allow for euthanasia, that is, mercy but not

Mr. Singletary So, under your Interpretation euthanasia would not be permitted?

Er. deiss. 'Io law would be permitted to allow euthanasia.

Mr. Gravel Mr Chairman, I' very sorry t the this question, but I wish the Clerk would read the amendment exactly the way it stands now.

Nr. Gravel | don't know that | understand what is does

Mr. Henry well, apparently the lerk tinks there's something wrong with it. He's trying to clear it is here. Are you not, Mr. Printer?

Mr Henry II that what up privle II, Mr

Hr. Weiss Mr. Gravel, the legislature could pass no law...

Mr. Henry Wait, Dr. Weiss. He understands it. He just wonders if it's written the way you're explaining it, don't you see? Like if he told you to take out the kidney, and you went after the jugular vein...and you cut his tongue out.

 $\frac{\text{Mr. Weiss}}{1 \text{ move}} \quad \text{Do you have a question, Mr. Gravel?}$ 

<u>Mir. Henry</u> Wait, Dr. Weiss, I'll tell you when. We've got to get it right.

Nr. Weiss This has been studied for centuries...

<u>hir. Henry</u> Dr. Weiss, easy...steady as she goes... turn the front mike off please. Kr. Poynter, read it the way it should properly

Mr. Poynter, read it the way it should properly be drawn.

<u>Ir. Poynter</u> Well, there would be two or three ways to do it. I think, at least the way that I decided and probably the fastest way, make Amendment No. 1, striking out the Dennery amendment. Amendment Moc. 1, just strike out the Dennery amendment. Amendment No. 2, on page 6, delete lines 9 and 10 in their entirety and at the beginning of line 11, strike out the word and punctuation "treatments,".

 $\underline{\mathsf{Mr. Henry}}$  And then how would that make the section read?

Mr. Poynter 0.K. it would read as follows, Mr. Chairman:

"Section 18. Ho law shall subject any person to euthanasia, torture, cruel, excessive or unusual punishments."...pick up on line 11... "and full rights shall be restored by termination of state or federal supervision for any offense."

Mr. Henry Now, is that the way you wanted it to read, Dr. Weiss?

Mr. Weiss That is correct, with the advice of my legal counsel.

Ar. Poynter Well, you'd probably need a comma, Nr. Chairman, after the word "punishments", now.

### Questions

Mr. D'Heill Dr. Weiss, Mr. Singletary asked you If eutonasia could exist. The question is not that. The question would be, would our murder laws, manslaughter laws, etc., still be in effect with this and wouldn't you agree that they would be and that's the proper question?

<u>Mr. Weiss</u> Yes, and I think this is what Mr. Jenkins was trying to make the point...

Ms. Zervigon Just to clear up in my own mind exactly what it says is i read the amendment presently before as; is in read the amendment subject a person to euthanasia. You and it to say that no law shall allow euthanasia. In my mind, those are two different subjects.

<u>IIr. Weiss</u> The courts will have to decide these words. I'm not an expert on them, but I know what I mean, and I think I know what the word "euthanasia" today means.

lis. Zerviçon - No sir. I'm questioning you about the difference of "Subject or allow."

<u>Hr. Weiss</u> "Subject" implies to me an active process.

Ms. Zervigon "Subject" implies to me "requires." Is that the way you read it?

Mr. Weiss No, I don't think "subject" means

"require." I don't read it that way.

Mr. Lanier Jr. Weiss, I'm trying to get at, i think what Nrs. Zervigon was getting at. If this thing says 'no law shall subject any person to euthanasia, "would that then mean that private persons could subject someone to euthanasia.

<u>Dr. Veiss</u> No. According to the researchers who... an attorney...it's my understanding, that "subject" means no one can be required. The law may not require. It is an involuntary situation. They do not require that people be subjected to euthanasia.

ir. Lanier Wouldn't we have this same problem with all of these other things too, with the torture, cruel, excessive or unusual punishments?

<u>Dr. Weiss</u> You may not be subjected to it. That is...you may not request it. I believe, to draw an analogy, that you may not commit judicial solide, was the instance you used this morning, so ficely to may here you to contract the solution therefore, you can admit to capital punisment, and yield is usicide and this is the same thing, gentlemen, who are attorneys. Thank you, Delegate thair of the inprison that up (attorneys will better understand it, in that light.

> [Previous Question ordered. Record vote ordered. Amendment adopted: 59-38. Motion to reconsider tabled.]

# Personal Privilege

Ifr. Love Nr. Chairman, delegates to the convention, I won't take a great deal of your time. It just aggrieves me a little to look at the flast of day, and I know that some members are aggrieved because of this. I'll give you an example right now. At a quarter to nine this morning, Robert Aertker was sitting at his desk, he voted every vote, listened to all of the arguments. At 12:20, he told me he had to go to 1.5.0, to make a talk about the Constitutional Convention to the American Robert and the source of the source of the source vote, listened to all of the arguments. At 12:20, he told me he had to go to 1.5.0, to make a talk about the Constitutional Convention to the American Robert and the source of the defit that, he would be back to the convention. Now, it aggrieves me to think that the delegates to this convention are taken and the amount of contribution that they are making to this convention is gauged by record votes here and record votes there. We saw that happen with PAR, and PAR's analysis had no more basis of what a delegate would make to this miker or the number of trips that a delegate would make to pick up coffee. That's about how well thought out PAR's analysis was. Yet, on August 15, PAR wrote to their board of trustes and said, 'the violent reaction," and I quote, "the violent reaction. Therefer, which indicates that if a delegate is going to question FAR, it's a violent reaction. It only adds to the public interest and pust that delegate in a poor light. I submit to you that I would hate to see the press today, pick up the record vote that we had and gauge any delegate's interest I this convention as to whether he was sto whether it was a Saturday at noon, because there are many reasons that a delegate an leave this convention. I'll reiterate again, belegate Artker's proposition. You could look at Delegate Artker and say he is not interested, yet is ally before this gorige document by that I welly may abuge contribu

delegate. to thi , meention within forth events thin, that they an possibly put forth under a deal of frian possibly put for thurder in contribution that they make. It's for this reason that rise, to say that any the that we take are reason yote, or two record yotes, or five record yote, and try to gauge a delegate' contribution, we, so eplace down the line, are goil to do a serious in ustice to one or wre deleates that they will never ever erase off of their record ust as PAR says, I agree with the . 'the violent reastion of certain delegates will only serve one our jose, and that is to add to the public's interest.' It's not whether that delegate is din ma good job, but that the public's interest and that's all that it will accordist.

Pointer Amendment No. 1 [b Mr. prov.]. On rage C. line II, i ediately after the word restored" and before the word "by insert the words "for any first offender". If anyone is still not real sure of everything in section set all a schully, you've got on after the last amendment and then add.

after the last amendment, add...pick up with the word "and' on ine 11. So you put the last a endment together with lines 11 and 12 and that's

Hr. Chairman, ladies and gentlemen of Ir. Drew Ir. Chairman, ladies and gentlemen of the convention, the reason I had asked that it be assed because there is an amendment pending which would change rights' to "restoration of citizenship," which I think is a necessary amend-ment that should be done. Baskcally, what mime does is instead of saying "for any offense," it says "for first offenders," which puts it in line with the article adopted in the executive proposal The only difference between this, with this amend-The only difference between this, with this amend-ent and the executive proposal amendment that was adopted by this convention, is that the executive proposal shall automatic states..."shall automatic this section by the committee. So, this would out Section 1 pretty well in line with what the C vention has already done in the executive proposal except, as I said, this says "for any first offender." The other executive proposal says that 'the first offender shall automatically be eligin be"-that is the distinction which I

Mr yntir A endient No. 1 [s. Mr. Serken]. Mr o, flor A end ent No. 1 proposed by re nates Roy, et al., and adored by the Con-vention on today, i eduately after the word punih ent at the end of aid endient, strike ut the chima , and insert in fuel thereof a mrid and insert in diately thereafter the

The the tree of the set of the se

Mr. Burns Mr. Derbes, you don't think this right should be limited to first offenders?

Mr. Derbes No, sir, I do not. I do not think that this right should be limited to first offe ders.

Mr Arelt two ld out icve to le latero fronta, callon i law halla nvi en en en ciuld not arry i wos on ir anelt wora wea i

Mr. Derbes Absolutely not.

<u>Mr. Velazquez</u> Delegate Derbes, do you know that I consider this the best thing that you have written so far?

Mr. Derbes Are you for it or against it, Mr. Velazquez?

Mr. Velazguez I'm for it.

# Further Discussion

Mr. Drew Mr. Chairman, ladies and genliemen of The convention, I rise to oppose this amendment, and I must make an apology to you when I mentioned this amendment in the earlier amendment that I just offered that was adopted and laid on the table by this convention. The reason I had asked the Chair to hermit me to pass my amendment because I knew intropy of the table of the to come after Derbes' amendment. I wholeheatredly agree with the first part of his amendment which changed "rights," which is way too broad. There is no limit to what one's "rights" are, and to the committee was "citizenship," and for that part hould any to to you are undoing what you just did and laid on the table in my previous amendment. Now, lime that will change the word "rights" of this amendment which will take the good part of this amendment and incorporate it into the proposal. If you do adopt the Derbes' amendment as written, you are completely reversing your stand on the vote you just cast on my previous amendment to limit this adding is entitled to use with my revise the you are do gis entitled to one bite. I raher doubt that a numa being is entitled, with our intelligence, any more than a dog. So, I think we are entitled to one bite and that's all we are entitled to. I ask that you defeat the Derbes' amendment to limit that a numa being is entitled, with our intelligence, any more than a dog. So, I think we are entitled to me bite and that's all we are entitled to. I ask that you defeat the Derbes' amendment to limit ask as possible.

### Ouestions

<u>Mr.Lanier</u> Mr. Drew, did you understand Mr. Derbes to say that even though these persons would have full rights of citizenship that because of their convictions that certain limitations could be imposed upon them?

<u>Mr. Drew</u> I think it would be a perfect example of discrimination, Mr. Lanier, if they are restored to full rights and then turn around and say that the legislature could say they couldn't carry guns.

<u>Mr. Lanier</u> That was exactly my point. Wouldn't we, by that, then be creating a first class of citizenship and perhaps a second class of citizenship?

Mr. Drew Well, I don't know whether I quite understand you. In other words, if we laave the word "rights," which I am very much opposed to, I don't think you could make any distinguishing laws at all between those who may have been convicted and those who had not been convicted.

<u>Mr. Lanier</u> But, is it your position, and don't you think it is the best position that if you are going to reinstate somebody, say like the first offender, let's reinstate him to all rights?

<u>Mr. Drew</u> What does "rights" mean, Mr. Lanier? I think Mr. Dennery brought up a very good question, that if you or I were convicted of a felony and [1202] forfeited our right to practice law, would we automatically be reinstated? I think it's too broad a term. I ask that you defeat this amendment.

# Further Discussion

Mr. Alexander Mr. Chairman and delegates, I rise in support of the amendment for the following reasons: (1) I have had much experience in dealing with criminals, or ex-criminals, or ex-convicts, suppose I say. Let me see, what has happened under the terms of our laws in the State of Louisiana. The fact that crime is very high among us is due parily to those laws which I consider archaic, when he comes out his record follows him. Now, I'm not particular about whether his citizenship is restored for the purpose of voting and/or running for office. I'm not concerned about that kind of man because usually the convict, the one who gets caught up in the law and goes to Angola is not a good citizen, or he may not be a voter, etc., etc., but he has to work. What happens is, once the judge sentences him for a felony, to Angola, he is convicted for Mov, the me give you one brief example. I had a man to come to me who had been to Angola. He reapplied to his former employer for work. The former employer told him, "No, you are an ex-con. I can't employ you." He goes somewhere else for three or four times and he informs ther because all...most aplications, either under civil service--state, federal, or you, or have you ever been convicted of a felony is mid and lie, but they find out anyway after he set only det has been the street, impossible for him to get a job, and what he dees? He commits another crime, and that's why we have so many repeaters. So, i appeat to you to adopt this amendment and make it possible for an ex-convict at least to get a job so he can work and soupport himself and his family, He will not be forced back sit months. The's why you have so many thousands in the jails and in Angola in this state now. Thank you.

# Questions

<u>Mr. Riecke</u> Reverend Alexander, if this Derbes amendment was passed, that wouldn't permit that man seeking employment to tell me, as an employer, that he has never been convicted if he's been convicted four or five times, would it?

<u>Mr. Alexander</u> No, but I tell you what it would do, Mr. Riecke. It would..most employers, especially the various civil service systems investigate, they would not find this in his record.

Mr. Riecke I know, but if he told me the truth, he had been convicted whether this amendment passes or not, and that wouldn't preclude my employing him.

Mr. Alexander That may be true, Mr. Riecke.

### Further Discussion

Mr. Gravel Mr. Chairman, ladies and gentlemen of the convention, I'm going to be brief, and at the conclusion of what I have to say, I am going to move the previous question. Let me make sure that there is no misunderstanding about what this parter. Derbes has already, said it, but I think it needs to be said again, is to say that after a person has served his time in the penitentlary or in jail, or after he has served his period of probation and/or parole, after, so to speak, his debt fully to society has been paid, society will then say. "Otay, we're going to restore to you a couple of limited rights, the right to voue and the right

to hold a job, let's say with the state, or to run for office. It doesn't do anymore than that. It doesn't say that you can't be prosecuted as a second, third, fourth, or fifth offender in the future if you commit to ther offendes. It doesn't say that you are pardoned for the crime that you have committed and that your late has been wiped clean. It simply says that we're going to give you back the minimum things that doesn't say that bour time or you have responded to the duties and bour time or you have responded to the duties and bilgations imposed upon you by the order of probation or the order of parole, depending upon what the case may be. This gives some additional hope to the man who has really tried to and has done what society says he must do, and that is, pay his debt. He's done it. Now, that's all that this amendment does. Mr. Chairman, if there are no further speakers, I would like to move the previous question.

### Questions

Mr. Tapper If you answer this question, I may not have to take up the time of the convention to speak. Mr. Gravel, isn't it a fact Mr. Drew made a statement a while ago that if we adopt this we are going to undo what we did with his amendment? Isn't it a fact, however, that Mr. Drew's amendment went through rather rapidly and he was the only one that spoke on the amendment and there was no opposing side put forth on that amendment?

Mr. Gravel Well, that's correct. I think Mr. Drew had put something additional into the concert that doesn't belong there. What this amendment does not do, and I may have misunderstood Mr. Drew, but I though the said that this would restore the language of the committee to the section. It does not; it limits the language of the committee. I'm not suggesting the messay do by how of it. I timits the language of the committee very appreciably, by saying that...instead of saying that 'full rights shall be restored," by saying that 'only the limited that extent it's a rather substantial departure from the broad sweep of the committee language.

Mr\_\_willis\_\_Mr\_\_Gravel, this one is friendly, or these are friendly. Does not..this amendment does not give the former criminals now citizens to be again, a medal. It just gives them back what is tantamount to or in parallel, corruption of blood.

Mr. Gravel It gives them a taint of respectability, you are right.

<u>Mr. Willis</u> Thank you. Now, about this argument that in adverse to this proposition under consideration, the argument is four-time loser. Well now, what say you to a judge that a man can lose four times in his lifetime? What do you think about that judge?

Mr. Gravel Mr. Will's, don't ask me about the judges, I'm in enough trouble with them already, please.

Mr. Drew Mr. Gravel, did you understand that when I was referring to the committee propolal that I was referring to the multiple offender portion and the second second second second second second Mars, the committee proposal, regardless of the number of convictions. Did you understand that was what I was speaking of about the committee propula?

Me Gravel I think I understood you. All I m saying is that if you suggested that this amendment restores the original iomittee propoial. I don't think it does. I don't think that's what you. probably that s not what you said. I perhaps m sunderstood you. Mr. Drew  $\begin{bmatrix} P & & r. & \cdot dere. & rd \\ v \ te & \cdot dered. & American t ad pted: \\ 80-2^*, & Nt & n \ to \ re & ni \ der \ table \\ Provisional value t & n \ rdered \ n \ the \\ det t & s, \ set \ times n \ ader \ table \ d. \end{bmatrix}$ 

### leading of the Section

Mr. Poynter The next section, Section 19. Right to Vote

Section 19. No person eighteen years of age or older who is a citizen and resident of the state shall be denied the right to register and to vote, except that this right may be suspended while a person is interdicted and judicially declared mentally incompetent, or under an order of imprisonment for conviction of a felony.

### Explanation

Mr. Roy Mr. Chairman, ladies and gentlemen of the convention, there are three things here that we essentially did after a lot of hearings of the people with the registration for voters and several people with the registration for voters and several other women who were interested in the mentally incompetent, and what have you. First of all, we constitutionalized that if you are eighteen years of age or older, you have the right to vote, and if you are a citizen and resident of this state it shall not be denied the right to you to register and to vote. In the past there has been some prob-lem that you had the right to vote, but it appeared that registering was a privilege and that it was a fore, your right was denied. The other thing that we do is, of course, that it makes two exceptions only with respect to not being able to vote--inter-inter with means to be in an institution and dicted, which means to be in an institution and declared by a judge to be inco petent and/or judi-cially declared mentally incompetent because the distinction sometimes between an interdiction prodistinction sometimes between an interdiction pro-ceeding that is brought by members of a family and sometimes a judicially committed person being judi-cially committed for a certain amount of time be-cause maybe of alcoholis ", and then gets out. So, that was the reason that we used those terms. The others that are under an order of imprisonment for conviction of a felony means that if you are under an order of imprisonment, and not necessarily in the pen, that your right to vote is suspended dur-ing that particular term that your any be suspended from the prison but actually under an order of im prisonment. Now, let me tell you just one thing, there are going to be amendments come up that I there are going to be amendments come up that I know of, that Mr. Ambroise Landry is interested in, that tries to say that at no time in the future, ever, will the legislature be able to lower the and this is extremely important. that we say if you are eighteen or loter, you have the absolute right to register and vote if you are a citizen and a resident and you don't have any of these other disqualifications. But, we leave it to the legislature because we don't negate it, that in the you here eighter the interest in the they low are eighter to the set of voting to seventeen, and you may then register and vote at that the. now, it may lower the age or voting to seventeen, and you may then register and vote at that time. Mr. Landry and them have an amendment that's going to be coming up that will say that you will never be able to lower that age. They are going to con-stitutionalize it at eighteen and the legislature

### Ouestions

Mr. Derbes Mr. Roy, the phrase "intendicted and indicially declared mentally in mometent," the construction indicates, would indicate that they are different qualities or difference are to a don't understand the difference. Isn't interdiction a de laration of in umpernece?

<u>Mr. Boy</u> Mr. Derbes, interdiction is a formal hearing that requires notice and what have you, whereas to be judicially declared mentally incompetent may not. You may be sentenced without the hearing to an institution until there is such a hearing.

Mr. Derbes A commitment, a judicial commitment which is what I think you are referring to is not necessarily a declaration of incompetence.

Mr. Roy That's right.

Mr. Derbes But, under these conditions, you have to be both interdicted and judicially...

<u>Mr. Roy</u> "Judicially declared mentally incompetent." Tou can be interdicted for non-mental reasons. You can be interdicted because you can't carry on your business at all, but that doesn't make you mentally incompetent. Therefore, the committee, in studying this, said that you had to be declared judicially mentally incompetent.

<u>Mr. Derbes</u> But, what I'm trying to tell you is that interdiction is a declaration...is a judicial declaration of incompetence and what you are really saying is "interdicted and judicially committed." I think that's what you are really saying.

Mr. Roy No, no, because you may not necessarily be committed anywhere, but you could be "judicially declared mentally incompetent."

Mr. Champagne Mr. Roy, this section would do away with any residential requirements?

<u>Mr. Roy</u> No, sir, it does not. Well let me say... let me answer this. We followed what the United States Courts have said that you have got to be a resident of the state and a citizen.

Mr. Champagne Well, I mean like local you couldn't have anything...

Mr. Roy Sir.

<u>Mr. Champagne</u> In other words if I moved into town today I could go register and vote.

Mr. Roy You have the absolute right to register if you move into a town, but you have to be there thirty days before you can vote and we can't do anything about that, Mr. Champagne, that's the law.

Mr. Conroy I just didn't understand the last part of what you just said, Mr. Roy. You said that you would have to be there for thirty days but that's not in this provision. This would permit you immediately to vote, doesn't it?

Mr. Roy No, it says that...

<u>Mr. Conroy</u> ..."no person eighteen years of age who is a resident of the state shall be denied the right to register and to vote." So that you couldn't even have the thirty day limitation under this provision, could you?

<u>Mr. Roy</u> Well, let me understand you. You have got to...the practical matter, Mr. Landry says it takes thirty days to do both but in any event you are under the present Supreme Court rules. Once you move to a place you may register to vote but cannot vote for thirty days.

Mr. Conroy But it seems to me, as I said, that this provision would preclude that because this says if you've been a resident...if you are a resident at all of the state you can't be denied the right to register and vote, even the day of the election, the way this is worded as I would read it.

Vice Chairman Casey in the Chair

Mr. Willis Mr. Pay, I. .we just left the last sentence in the previous Section 18 and if you look at the last independent clause of the section under consideration, 19, don't you think that we Sorder of inprisonment and convicted of under ony for this reason? I don't understand if that last clause in the section under consideration gens that as soon as he gets out of Angola he can register to vote. In the previous section means when he gets out of Angola that doesn't end that he has to end his supervision. You see what I mean. Don t you this that something should be done to male those fit hand in glove?

Mr. Roy Well, if he is out of Angola and no longer...

Mr. Willis Well, he could be under probation.

Mr. Roy I don't know if I understand. Let me tell what we have attempted to say. That while you are under an order of imprisonment even if you are on probation or suspension for the conviction of a felony you may not vote, but once that probation and suspension ends, even though you were under the order of imprisonment at all times, then you are entitled to vote irrespective of whether you are...

Mr. <u>Willis</u> I believe that's what you wanted to say, but in view of what we said in the last sentence of the previous article, I believe some adjustment should be made to make them coincide don't you see?

Mr. Roy I don't see it, but..

Mr. Jenking Chris, with regard to the question regarding whether or not there could be residency requirements to register and to vote. Isn't it true that right now there is, in fact, no real residency requirement under federal law to either to register or to vote? There is only an administrative delay which is allowed after registration before he can vote, but there is no residency requirement at all. As soon as you become a resident you automatically can register and vote.

Mr. Roy That's correct, Mr. Jenkins, and that's what we are faced with and the Supreme Court has allowed us in the south, in Louislana, thirty days and the rest of the states can make you be there fifty days before you can vote.

Mr. 0.1Neill Mr. Roy, hasn't history shown in the United States that various moves have proceeded a long time to enfranchise more groups of voters for instance, blacks after the Civil War, women in the east or 1919 or so, now the eighteen year olds and even more younder beole.

Mr. Roy That's correct and that's why we have not constitutionalized it at eighteen alone, only that you can't be stopped.

<u>Mr. Dennery</u> Mr. Roy, in connection with that very explanation but, also, in connection with Mr. Derbes' question, it is possible 1 take it that the legislature may sometime in the future provide for the judicial declaration of mental incompetence without interdiction?

Mr. Roy That's correct.

Mr. Dennery It seems to me, therefore, that by saying "interdited and judicially declared men tally incompetent," you are freezing something into the constitution unnecessarily If you would just remove "interdicted and" wouldn't you get exactly the same result and still not freeze anything into the constitution?

Mr. Roy Mr. Dennery, one thing is that you can

have an ex parte here and to declare somebody menhave an expanse mere and to be train one body white to vote at that time and then the election is over, then later he is free and he can vote and he never should have been denied that right to vote. As far as I personally feel, I wouldn't have anything in here that way you know because you get into the in here that way you know because you get into the problems of where you have an interdicted person who is really capable but he is being denied the right to vote under certain circumstances. We were worried that if we didn't have it like we did all the people who were in institutions could demand on the day of the election that the state furnish some type or method of transportation to get them to the voting precinct since we would be giving them the right to vote unless we had the exception "unless interdicted and judicially de-clared incommetent." clared incompetent.'

Mr. Dennery But isn't it true, Mr. Roy, that a lot of people are in state mental institutions who have never been interdicted?

Mr. Roy That's correct, but the only thing is...

<u>Mr. Dennery</u> Therefore, those who are in mental institutions and are not interdicted, under your theory could then demand transportation to vote.

 $\underline{Mr.~Roy}$  . Moise, I think, I think you are right but the point is that we don't deal with the others necessarily like these folks, because we are not excepting them out of it.

### Mr. Dennery 0.K.

Mr. Roy We have considered it and you get to a point where you just get into you know, kind of a little problem there.

# Further Discussion

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, I have looked over these three amendments that are before us; they do not seem to have a great deal of substance to them...I'm just... Mr. Lanier seems to disagree...I was going to suggest that we move the previous question on this section, but if you insist on the amendments...why, I will restrain myself.

### Amendment

Mr. Hardin [Assistant Clerk] A set sent up by Delegates [A.] Landry and others. Amendment No. 1. On page 6, delete lines 14 through 16, both inclusive, in their entirety and insert in lieu thereof the following: "Section 19. Every citizen of the state, upon reaching eighteen years of age shall have the right to register and vote, except that this right may be sussus-

## Explanation

Mr. A. Landry Mr. Chairman, ladies and gentlemen of the convention, this is a technical amendment. It is technical in such a way that we are not going to leave any work for the Committee on Style and is technical in such a way that we are not going the feing All that we mendmit too is price and that age shall have the right to register and to vote and that's all there is to it. If you want persons twelve, thriteen, fourteen or fifteen years old to vote, then vote against my amendment. But, if you feel that the year eighteen is a fair age to adopt my amendment. Under the proposal that's before you now the committee is giving constitu-tional protection to a citizen eighteen years or older. But, if the legislature would reduce the age of voting as low as twelve or thirteen or four-teen or fifteen or you pick out a figure out of out of the proposal the size of the size of the size age of voting as low as twelve or thirteen to four-teen or fifteen or you pick out a figure out of out of the size of it of figure figure the twe the this belongs in the Bill of Rights. I think it should be in suffrage and elections, but we take

it where we find it and so 1 ask  $y_0 u$  to adopt my amendment which will provide every citizen of the State of Louisiana upon reaching the age of eighteen to register and to vote.

### Questions

 $\frac{Mr.\ Roy}{you\ are\ not\ constitutionally\ protecting\ people}$ under eighteen when you are specifically saying that you have got to be eighteen in the future to vote?

Mr. [A.] Landry I think you heard me say, Roy, if you felt that you wanted to lower the voting age then vote against my amendment. If you feel you want to see it at eighteen, then vote for my amendment.

<u>Mr. Roy</u> In other words, if the legislature in the future feel that it is going to lower it to maybe seventeen it may do so under the committee proposal but under yours it may never do so

Mr. [A.] Landry That is correct, Mr. Roy.

Mr. Champagne Mr. Landry, I seem to be...would you say that you are taking a positive approach to this thing rather than a negative one?

Mr. [A.] Landry That is correct. I positively see the eighteen years of age as a person who can register and vote

Mr. Jenkins Mr. Landry, what in your proposal for-bids the legislature from lowering the age? I don't see anything that forbids it.

<u>Mr. [A.] Landry</u> I think that if you read it, it is self-explanatory. It says "every citizen in the state upon reaching the age of eighteen shall have the right to register and vote." Nobody else.

Mr. Jenkins No, but you protect the right of every person who is eighteen to register and vote, but you don't forbid in here the legislature from giving that right to people who are under eighteen, do you, any more than the committee proposal does?

Mr. [A.] Landry I a matter of opinion. I think I do, Mr. Jenkins, that's

<u>Mr. Jenkins</u> I mean I don't disagree with your premise, but I don't see how that yours is any dif-ferent from the committee's, is it, in that regard?

Mr. [A.] Landry I don't think the legislature would have any problem with it.

Mr. A. Jackson Mr. Landry, did you know that the committee felt that this section was necessary for the Bill of Rights, because we consider the right to vote an individual right and not a privilege anymore?

Mr. [A.] Landry I understand that's what the com-mittee's intention was, but I believe that under my amendment it says "persons upon reaching the age of eighteen shall have the right." We didn't use the word "may".

Jackson I was questioning your statement that this did not belong in the Bill of Rights, did you know?

Mr. [A.] Landry It is a matter of opinion.

Mr. Lanier Mr. Landry, did you know that I wanted to ask you a couple of friendly questions?

<u>Mr. [A.] Landry</u> As a coauthor, I imagine that is what you intended.

<u>Mr. Lanier</u> With reference to this business about the privilege of the right to vote. Under the com-mittee proposal would you agree that those who are eighteen years or older would have a constitutional

right to vote?

Mr. [A.] Landry That is correct.

Mr\_Lanier But, if the legislature were to reduce the voling age those who were in the class that were under eighteen years of age would not have a constitutional right to vote, but would only have the privilege granted to them by the legislature to vote.

Mr. [A.] Landry That is correct unless...it would be an amendment to the constitution.

<u>Mr. Lanier</u> So under that category in the total class of persons who would be entitled to vote some would be privileged and some would have a right, is that correct?

Mr. [A.] Landry That's correct.

Mr. Lanier Do you think that is a very good situation for us to create in our constitution?

Mr. [A.] Landry I don't think so, that is why I have the amendment.

<u>Mr. Stinson</u> Mr. Landry, I believe you made the statement that the committee wanted possibly the legislature to let those under eighteen vote in some future date. You know that I am a member of the committee, don't you?

Mr. [A.] Landry Yes, sir.

<u>Mr. Stinson</u> Do you know that I did not intend to do that and that I am certainly opposed to the legislature having that right?

<u>Mr. [A.] Landry</u> I understand that, Mr. Stinson, and may I say that...l don't know what the intention was, but the way it was drafted, it could happen.

Mr. Stinson Now, I am concerned about yours though I am in favor of it, I belfeve, except you use the words "every citizen." Now you don't even require them to be a resident. Don't you think that we will have a problem there?

<u>Mr. [A.] Landry</u> Mr. Stinson, 1 think that is very easily taken care of in the statutes. I think you have no doubt before this is all over with, you will have an election code that will take care of all you don't know where you are as far as registering is concerned or doniciliary is concerned. I heard mentioned awhile ago that a person can come in thirty days, under the present federal voting rights act he can come in, register, providing he has been in the area over thirty days, where he can only vote on federal issues and not on local government issues

Mr. Flory Mr. Landry, if I read your amendment Correctly, I believe what you do in contrast to what was intended by the committee, is that you could go back to requiring a person to pass a test before he could be registered to vote, under the language of your amendment.

Mr. [A.] Landry If you would want to be in violation of the United States Government, yes, but I don't think you could, it wouldn't stand up in court.

### Further Discussion

Mc\_\_Toblas Mc\_ Chairman, fellow delegates, 1 rise in opposition to this amendment. Mr. Bollinger called out that 1 am the youth representative and that is accurate, that is cone reason. What does this amendment do? It freezes forever in the constitution that no person beneath the age of eighter can vote. The committee propolal states that some later date from saying seventeen year olds can sove. It doesn't prohibit the laysing the day may come the future holds for this state. The day may come 112061

when the people of this state bulleye that seven teen year olds can vote or should be allowed to vote or sixteen years olds. Times changes, society, changes. The flexibility is in the committee proposal. I urge you, stick with the committee proposal on this, defeat this amenent.

Chairman Henry In the Chair

### Questions

Mr. De Blieux Mr. Tobas, I would like to ask you and I'd also. if Mr. Landry when he cores back on the second second second second second second second that is contained by the contineers. What is the that is contained by the contineers. Whither one of them denies a person the right to vote who is under eighteen. It only guarantees the right. doesn't it, just guarantees the right of a person who is eighteen or older? It doesn't say anything about persons under eighteen that can t vote. If it denied people the right to vote under eighteen, wouldn't the courced that no person who has not reached the age of eighteen would be allowed to vote?

Mr. Tobias I don't read it that way, Mr. De Blieu-

Mr. De Blieux Well, I just wanted to ask you just because you say eighteen's allowed to vote. What is it that would prevent a person seventeen if the legislature granted the that right, from registering and voting? Find me something in there that would deny that right to a person seventeen under this particular provision of the constitution. This just guarantees the rights of eighteen year olds.

Mr. Tobias | concede it.

Mr. <u>Stinson</u> Mr. Tobias, you said that it foreve freezes it...nothing there says you can't amend the constitution and reduce it, is there?

Mr. Tobias No.

Mr. Stinson So in other words it is frozen until it is amended by a vote of the people of the State of Louisiana.

Mr. Tobias Right. But I think that the legis'ature should be allowed this freedom.

Mr. Lanier I was just thinking Mr. Tobias, would it be possible under the committee proposal that if the legislature or a majority of the legislature felt that it would be advantageous to their reeletion possibilities to have sixteen year olds and seventeen year olds to vote that they could reduce the age?

Mr. Tobias The legislature could?

Mr. Lanier Yes. Under the committee proposal

Mr. Tobias They could provide it by a legislative act, I believe.

Mr. Lanier Right. Then if the subsequent legislature thought that that wasn't such a good idea for their reelection chances they could withdraw it again, couldn't they?

Mr. Tobias That is correct

Mr. Champagne Mr Tobias, do you agree with re that the average individual on reading either proposal would get the impression that we are talking about eighteen year olds voting<sup>5</sup>

Mr. Tobias Yes, sir-

Mr. Goldman Mr. Toblas, I think can understand language, I have read both of these. I can't see any difference in either in eof them, I wish somebody wulld explain the difference to me. I have heard all the discussion, but I still don't see

# 44th Days Proceedings-September 8, 1973 any difference.

Mr. Tobias | conceded Mr. De Blieux's point.

<u>Mrs. Zervigon</u> Mr. Tobias, discussing the concept rather than the language right now. Have you met my twelve year old daughter, just about to be thirteen?

# Mr. Tobias Once.

Mrs. Zervigon Are you aware that after having heard some of the discussion at this convention, I have a great respect for her understanding of the processes of government and think that maybe she would be a good registered voter? Are you aware that when people put down on thirteen year olds that maybe they haven't met them all?

<u>Mr. Tobias</u> I would say that's an accurate statement.

<u>Mr. Stovall</u> Mr. Chairman, members of the delegation, I believe that the reasonably intelligent members of this convention have made up their minds concerning the slight differences between these two points and I, therefore, move the previous question.

> [Previous Question ordered. Amendment adopted: 59-40. Motion to reconsider tabled.]

### Amendment

<u>Mr. Poynter</u> The distribution copies have not arrived on this set of amendments. Amendments [*by Nr. Donnery*] read as follows: On page 6, line 17, after the word "is" delete the words "interdicted and" and on line 18 after the word "incompetent" insert the words "in an adversary proceeding"

# Explanation

<u>Mr. Dennery</u> The purpose of this amendment is that, under the committee proposal as it is presently stated, a person must be interdicted and judicially declared mentally incompetent in order to have his votion rights suspended by the legislature

Use ting rights subsended by the legislature. The subsended by the legislature is the subsended by the legislature with the committee members that the purpose of putting the word "interfaction" in there was to guarantee an adversary hearing, because there are some instances in which a person can be declared, judicially declared, mentally incompetent without an adversary proceeding. These circumstances are such that the committee did not feel that that type person who had been declared mentally incompetent without the right to argue against it should be prohibited from voiting. I pointed out to mentation of mental would be provided by the legislature following an adversary proceeding and that by leaving the words "interdicted ad" in the language it would add the requirement of inter-diction. There are some families who don't want to go through the notoriety of interdiction which but would be willing to have a member of the family proceeding. Certainly those people--the legislature shose pople- iter and the to be a subject on the compare and so forth but would be interdiction. The are some families who don't want to go through the notoriety of interdiction which the and the subject of the family proceeding. Certainly those people--the legislature shose pople. Is upon you family those to contain the avent of the family those the subject of the distribution.

# Questions

<u>Mr. Gravel</u> Mr. Dennery, your amendment would add, as 1 understand it...

<u>Mr. Dennery</u> It would delete "as interdicted," <u>Mr. Gravel</u>. Would read "while a person is judicially declared mentally incompetent in an adversary proceeding." Mr. Gravel All right, but aren't there many, many instances where the determination of mental incompetency are made unilaterally by the court based upon the facts and circumstances that are presented to the court and there really is no actual adversary proceeding, as such?

Mr. Dennery That is quite correct and the reason I put "adversary proceeding" in there is that the committee indicated to me that they placed an interdiction proceeding to guarantee an adversary proceeding.

Mr. Gravel Well, are you meaning...do you mean to say that unless there was, let's say a lawyer on both sides, so to speak, which is what I understand an adversary proceeding to be...

Mr. Dennery That's right.

<u>Mr. Gravel</u> ...that then this particular provision would not apply?

<u>Mr. Dennery</u> Yes, sir. At least a curator appointed to represent the person who is charged or the defendant in a suit, to declare mental incompetence.

Mr. Gravel But the fact that a curator, isn't it correct that the fact that a curator is appointed, doesn't guarantee an adversary proceeding? That is mainly done for the purpose of obtaining service, substituted type service, upon the...

Mr. Dennery Well, I wasn't thinking about a substituted service curator, Mr. Gravel.

<u>Mr. Gravel</u> Ordinarily I agree with you but I think you have injected something here that really is very confusing.

<u>Mr. Dennery</u> I won't argue the point. It is confusing but I felt that if you left the words "interdicted and judicially declared" that you would have a lot of people voting who shouldn't vote and you could not take those rights away from them.

### Further Discussion

<u>Mr. De Blieux</u> Mr. Chairman and ladies and gentlemen of the committee. I just wanted to object to this because there may be some occasions when the legislature might permit the declaration of judicial incompetency that you wouldn't have an adversary proceeding. At the present time I don't know of any, but I don't think that we ought to try to inc. I don't think that we ought to try to don't think that this would be a good amendment. I had thought about proposing an amendment to take out the word "and" because as it is stated in the provision right now you had to be interdicted and judicially declared mentally incompetent in order to be deprived of the right to vote. I think possibly if we change that this would be a bad amendment by absolutely requiring an adversary proceeding to be deprived of the right to vote. I can see instances wherein we may have a provision for a judgment in chambers on some person ho is, because of disailities would be is to chry on his as mint are how have a built for the right to this regard in the to permit somebody else to control of time, to permit somebody else to control of the sist his particular provision is concerned, and I, therefore, oppose the amendment.

[Previous Question ordered. Amendment rejected: 27-66. Motion to reconsider tabled.]

### Amendment

Mr. Poynter Amendment No. 1 [Ju Mr. De Blieux]. On page 6, line 17, after the word "interdicted" delete the word "and" and insert in lieu thereof the word "or"

[1207]

Mr. Dennery enator De Blieux, is it not correct that a person can be interdicted for causes other

Mr. Demnery And you think that anyone who is interdicted should not be permitted to vote whether to be for physical disability or profilgacy or heavy drinking or anything of that sort, you think they should be prohibited from voting?

Mr. De Blieux No. This would be one of the things that would...I don't want to say that you have to have both of them, interdicted and declared dicted for physical reasons then they wouldn't be able to go down to the polls and vote. So you

Dennery Come now, you know you can ge brought led. You have arranged to have people brought to the polls who are physically disabled, haven't

Mr. De Blieux Well, we tried that before, Mr. Dennery. You know you have provisions in New Orleans we don't have in other portions of the

Mr. Arnette Senator, do you realize that if we adopt your amendment that a person who is inter-dicted, say because he is blind, would not be per-

Mr. De Blieux No. 1 just--you have a provision for blind people; they are not interdicted or declared mentally incompetent.

Arnette Well, let me give you another example, ator. Suppose someone has physical handicaps which make him interdicted; you would prevent him from voting by absentee ballot.

Mr. De Blieux You can't vote if you can't get to the Clerk's office. You can't vote an absentce

Mr. Arnette Oh, you are wrong, Senator, you may just request one by mail from the Clerk of Court and they will mail you one.

Mr. De Blieux Ah, that's...

Mr. Arnette Because I have done it. Senator.

Mr. Henry I think I think everybody knew that Mr. Arnette had been interdicted several years ago.

Mr. De Blieux Mr. Chairman.

Mr. Henry Sir.

Mr. De Blieux If this amendment is going to raise all this trouble ['1] withdraw it.

Mr. Henry Wonderful, Mr. Stinson, I don't know whether he is going tu yield, he has already withdrawn the amendment.

Mr. Stinson. Let me ask you a que tion. I am try-ing to save a little time while we are getting an-

Mr. Stinson Mr. De Blieux, could I a k you a question?

Mr. Is lieux, have enders ind I as explain is to yos sin i think it w before the word interdicted, have the words en-ally interdicted then 'or judically or tred to a rental institution. I think that will take care of all of probles, don't \_vu'

Mr. De Blieux It would, ex ept this sical n. Mr. Stinson. What was tring to do is ther be some occasion where you wouldn't have a per-

Mr. Pointer Amend ent No. 1 [23, 97, 10, 1]. On page 6, line 17, immediately after the word delete the remainder of the line and insert in the Objecte the remainder of the line and insert in therein the form of the line and insert in mendment No. 2. On page 6, line 16, at the beginning of the line de let the following: en-taily incompetent, delete the comma . Delet those two words and the punctuation on line 18.

Mr. Stinson Members of the convention, you know, as they say, there is some question about being interdicted for reasons other than mental deficien-cies. I am sure that we only are concerned with those who are mentally deficient and that will take

Now, on the judicial continent, it may be that someone does know about how that's handled. "Usual'y, if a person has property that must be administered, he is interdicted, and also, maybe, committed to a mental institution. But if a person doen't have any property, then there is a judicial commitment, he is not interdivited, he or she is judicial y committed, then when they are released, that is automatically removed. So, I think this covers both of ours. We don't want a person who is men-tally incompetent and not committed and neither do we want anyone to you who is committed and rem-Now, on the judicial continent, it may be that La ij incompetent and net commisses in reside on-fined to a mental institution. So I think this amendment will take care of the problem that we are confronted with. If there are any questions, will be happy to try to answer them.

Mr. Newton I don't have a opy of the allendient. Mr. Stinson.

Mr. Stinion Well, if he interdited and the pre-ference is mental, he would have the beinterdited for mental reasons. And, of sourse, we are written a new constitution and we are now vultim, if a new type of interdiction-imental interdiction. I couldn't be hecaose you have to much mentality.

Mr. Goldman - Doesn't men ally indi ated infer to you that you can interdi't corehody out by think ing this in your mind?

Mr. tin I think.

Mr. Goldman Weil, that - what it infers in the understanding of the two word as put together that way

Mr. Stimion. Not when it's interdicted as we have

[1208]

that's a legal term under our law, it's interdiction, and it says mentally interdicted means for mental purposes.

<u>Mr. Arnette</u> Mr. Stinson, 1 feel for the...for what you are trying to accomplish here, but don't you mean interdicted for mental reasons or for mental cause or something like this?

Mr. Stinson If you want to make a technical amendment, I have no prejudice and no objection...

Mr. Arnette If you can do that, I would like for you to go ahead and do that, and that would solve a lot of problems.

<u>Mr. Stinson</u> Mr. Clerk, can you say that "interdicted for mental reasons," can you make such a technical amendment?

Mr. Henry You want to withdraw your amendment?

Mr. Stinson No, if you make a technical amendment up here, it says, "man who is mentally interdicted"...

Ment by mentally interdicted," and an objection has been raised and they would like "interdicted for mental incompetency," for which I have no objection and I think possibly would clarify...

[Amendment withdrawn and resubmitted with corrections.]

### Amendment

Mr. Poynter Same language, page 6, line 17 after the word "is" delte the remainder of the line and insert in lieu, thereof the following "interdicted for mental incompetency or judicially committed to a mental institution,".

Mr. Henry All right. Would you yield to a question from Justice Tate? The gentleman yields.

Mr. Stinson I'll be glad to except the members of the Supreme Court from that, if they wish?

Mr. Tate No, this is just puzzlement.

Questions

Mr. <u>Tate</u> Mr. Stinson, does that mean, for instance, those people that have those little ex parte interdictions, for instance for nervous breakdowns to go to Pineville, they come home on weekends. All they are is nervous.

Mr. Stinson Yes, sir.

Mr. Tate Do they lose their right to vote?

Mr. Stinson Until they are released and then automatically you've got a discharge and says, "You are now competent, you can go home." That's what the institution gives them.

Mr. Tate But, how about a fellow like me that ought to be?

Never mind, I withdraw that question?

<u>Mr. Kelly</u> Mr. Stinson, there are people judicially committed; say that are alcoholics, and so forth, and they go down to Pineville, or down further south and they stay there two or three days, and they are out and back and forth...and is this amendment going to deny these people the right to vote?

Mr. Stinson As long as they were judicially committed there, now if they are released to go home cured, they get a release and they are not judicially committed.

<u>Mr. A. Landry</u> Nr. Stinson, as a layman, I think a lot of laymen are in this group, isn't it so that interdicted means a judicial interdiction and not just a commitment by the judge to send someone to a mental hospital for just maybe a month or so?

Mr. Stinson Yes, sir.

<u>Mr. A. Landry</u> So that even though he would be committed temporarily to a mental hospital that would not deny him the right to vote. Is that correct?

<u>Mr. Stinson</u> And, also, Mr. Kelly, in answer to yours, Judge Dennis pointed out a matter that most of those that want to go there for the alcoholic cure, they voluntarily go. They are not judicially committed. They go there, and when they get through with the rest cure, they are out and there's...

> [Previous Question ordered. Record vote ordered. Amendment rejected: 38-63. Motion to reconsider tabled. Previous Question ordered on the Section.]

### Closing

<u>Mr. Stinson</u> I want to warn you, if we pass this, every person in every mental institution is going to be able to vote and mandamus to come out, and this is serious. We want to go home, and I think we should certainly not pass something like this...

[Section passed: 81-21. Motion to reconsider tabled.]

REPORTS OF COMMITTEES [1 Journal 461-463]

INTRODUCTIONS OF RESOLUTIONS [1 Journal 463]

> Announcements I Journal 463]

[Adjournment to 9:00 o'clock a.m., Wednesday, September 12, 1973.]

# ROLL CALL

Jesus we thank Thee for all Thy blessings and once again to be able to assemble in Thy name to try to do the things that are pleasing in Thy sight. Our Father in Heaven, we need Your help, Your guidance to show us what to do and to give us the courage to do those things that are pleasing to Thee. We pray the blessing upon each and every family here today. Bless the newsmen, bless the young people that we are working with and those who have gone back to school. In the name of Jesus we pray and ask of all Thy many blessings and for His sake.

# PLEDGE OF ALLEGIANCE

# READING AND ADOPTION OF THE JOURNAL

### Personal Privilege

 $\frac{Mr.~Juneau}{1}$  Mr. Chairman and fellow delegates, I won't take up much of your time, but l do have some information that l thought that you and the people of this state would be interested in. Yo people of this state would be interested in. You know, since January, we have been through some tumultuous times since this convention went into session. During this time of deliberation and debate we've all had moments of discouragement and worry over whether or not we were doing a good job here in Baton Rouge. Well, let me give you some interesting statistics on what we've accomplished interesting statistics on what we've accomplished since we came here in July. I guarantee you that it's going to bolster your spirits, and it will as-sure you that we are moving in the right direction and actually accomplishing what we were sent down here to do. A review of the first three articles adopted by this body shows us that in the present constitution, the number of words on the legisla-tive branch alone is 12,171 words, while the arti-cle which we adopted rotations approximately 4.014 tive branch alone is 12,171 words, while the arti-cle which we adopted contains approximately 4,014 words. That's roughly one-third of the verbiage of the old constitution. In the 1921 version of the Executive Article, there are a total of 12,910 words, but in our Executive Article that we have proposed, it represents approximately 2,517 words, or one-sixth of the number used in the 1921 Consti-tution. It took approximately 3,000 words to cover the Judicity Article which we adopted, but the present constitution or the old constitution con-tains over 30.000 words on the same subject or ten tains over 30,000 words on the same subject, or ten tains over J0,000 words on the same subject, or ten times as many words as what we presently have. The through to date in the old constitution is 55,081 words as compared to 9,531 words in the very same three articles. Gentlemen of this convention, that represents approximately a reduction of eight-two percent in words alone in the first three articles of the constitution. The 1921 Constitution has five but the Constitution. The isol constitution has tive hundred and inety-nine sections contained within twenty-one articles. The document we are working on will contain approximately eight articles with two hundred and seven sections. We are more than half-way through the Bill of Rights and Elections propoway through the Bill of Rights and Elections propo-sal, but when we complete that article, we will have reached the halfway mark of the work to be done by this convention. If each article from here on out, say, will contain approximately four thousand words, it would be compared to 255,450 words used to cover the same subject in the old constitution. I think that these figures speak for themselves and they are really nothing all that I can add to tell you that we have made the kind of progress in trying to come up with a more manageable document which is brief and (profice, and one that the average citizer or an and concise, and one that the average citizen can pick up and comprehend without difficulty. These statistics are a credit to our hardworking staff which has spent--and these statistics are interest-ing--49,485 person hours working on this constitu-tion. Seven thousand six hundred and twenty-eight

of these house, or fifteer percent, were worked over the regular workday week which you would normally encounter. They descreve our praise and our grati-tude, and in closing. I may teil you that I commend this convention and I think the people of this state will be gratified to hnew that the convention is on the might bench. Thenk one

# 1. ournal 464]

### UNFINISHED BUSINESS.

Mr. Poynter Committee Proposal No. 25 Introduced by Delegate Alphonse Jackson, Chairman on behalf of the Committee on Bill of Rights and Elections. It s a Committee Proposal No. 25 introduced by

gentleman on behalf of the committee. A proposal to provide a Preamble and a Declara-tion of Rights to the constitution. The status of the proposal at this date is the convention has adopted the Preamble, Sections 1 through 6 as amended, has deleted Section 7 and Section 8, and thereafter has adopted as amended Section 8, and thereafter has adopted as amended sections 9 through 18, and presently has under con-sideration Section 20, the next section to be con-sidered-The Right to Keep and Bear Arms.

Mr. Poynter "Section 2D. Right to Keep and Bear Arms.

Section 20. The right of each citizen to keep and bear arms shall not be abridged, but this pro-vision shall not prevent the passage of laws to prohibit the carrying of concealed weapons."

<u>Nr. Guarisco</u> I think this is very clear, the right To each citizen to keep and bear arms shall not be abridged, but this shall not prevent the passage of laws to prohibit the carrying of con-cealed weapons." We went through the 1921 Consti-tution and I think the only difference is that it had reference to the militia, and of course, the militia had to do with historical significance in-sofar as the Continental Congress. The state really, in effect, has no standing army so we fet that that wasn't needed. Now, we had testiony find group of that sort and I think we reached compromise as to what we fell would protect the individual insofar as criminal activity and not abridge the freedom to have. . for the pepile to have arms and amunition. I'll yield to any ques-tions.

Mr. <u>Champagne</u> Originally, I think your proposal had "arms and ammunition." Could you tell us why you left "ammunition" out"

<u>Mr. Guarisco</u> Well, we thought it was tacitly understood that you could have ammunition if you had arms. It's always been interpreted that way, so we thought we wouldn't add the excess verblage

Mr. <u>Poynter</u> Amendment sent up by Delegate Avant and many coauthors. Amendment No. 1. On page 6, line 1, atter the word "carrying of delete carn and helete n line 24 in its entirety and insert in iru thereof the following "weapons, conceled on the per on

Mr. Avant Mr. Chairman and fellow delegates, first, I would like to ask that these amendments which are divisible be divided.

divisible be divided. Now, the present constitution embodies sub-stantially the same language as the committee pro-posal with the exception as explained to you by Mr. Guarisco of the reference to the militia. In essence, they both provide that the right of a citizen to keep and bear arms shall not be abridged, but that this provision does not prevent the coasige of all whitors. Now, the purpose of the first amendment to this section is to make it clear that the only law prohibiting concealed weapons will be law hitor would prohibit the carrying of weapons the only law prohibiting concealed weapons will be a law which would prohibit the carrying of weapons concealed upon the person. Now, the reason for that is this, the legislature, of course, so far, under this provision of the Constitution of 1921, has passed no laws with reference to the carrying of concealed weapons except weapons which are com-cealed upon the person. But, the legislature could, in my opinion and in the opinion of a number attorneys who have, consarving of concealed weapons laws prohibiting the carrying of concealed weapons in places other than on the person. More specifiin places other than on the person. More specifi-cally, the legislature could constitutionally, under the language of the Committee Proposal and under the Constitution of 1921, pass a law which mobile, or in a boat, or in an airplane. Similarly, they could prohibit the keeping of a concealed weapon in a business place-such as, behind the counter or under the cash register. Now, other states have passed so hew York, which has the most states have passed so hew York, which has the most stringent gun regulations and gun control of which I am aware. Many states have laws which prohibit the possession of a handgun or carrying it in the glove compartment or under the seat of an autothe possession of a hangun or carrying it in the glove compartment or under the seat of an auto-mobile. The purpose of this amendment is to make sure that the legislature of this state does not sure that the legislature of this state does not have the power to regulate the carrying of con-cealed weapons other than weapons which are con-cealed on the person, it being the opinion of the speaker and of many, many, many other citizens of this state that you should have the right to carry a firearm in your automobile, in your boat, or keep one in your place of business. Now, the purpose of Amendment No. 2 is simply this. The ownership or possession of firearms and ammunition is exten-sively and thoroughly regulated by the federal government. Without a doubt, it will continue to be so regulated and without a doubt, the restric-tions will become in the future, in great likelibe so regulated and without a doubt, the restric-tions will become in the future, in great likeli-hood, more stringent than they are now. The pur-pose of this amendment, and I don't want anybody to not understand the purpose of this Amendment No. 2, is to remove the state from the regulation of firearms for the reason that it is an area that is thoroughly regulated by the federal government to the most minute detail. Therefore, the only reason why the state would be interested in regu-lating or legislating in that area would be to rules and regulations that are more stringent and more restrictive than those which have been enacted by the Congress to which the speaker and many, many other citizens are opposed. To give you a specific example of the type of thing that we are talking about, under the present federal law, a shotgun with a barrel of less than sixteen inches is an illegal weapon. Under the state law with respect to rifles, the law is the same. But, under the state law with respect to infigure, the law har is a law at the law to have a barten that is an least that is the same. But, under the state law with respect to infigure, the law because under state law, under the state law abotgun, or else it is an illegal weapon under state law. It is submitted that there is no need, absolutely no need for a whole maze of conflicting and more restrictive than those which have been absolutely no need for a whole maze of conflicting absolutely no meet for a whole maze of confincting regulations on this subject in an area which is completely, thoroughly regulated by the federal government, has been for many, many years and is going to remain so in the future. Now, thre has

been a lot of talk and spech making in this convention on the subject of crime and on the subject of Jaw and order. Well, I want to submit something about to commit a crime such as burglary or armed robbery, as he sits there in those final moments before he compatis this term in those final moments before he compatis this term in those final moments before he compatis this term in those of the total vectors, or whether it's with or without parole, or whether he's going to have a trial by jury, or whether it's going to take nine or ten or all of them to convict him. Those are not the things that are going through his mind, and those are not the things that will deter him from committing the corne that he has under contemplation in all probability armed and prepared to defend himself. That's what he's thinking about--not "Am loging to get caught next week or next mont and be tried and maybe go to Angola?" The thing that he is corcered about or list little warture the cities, the decard, average, law-abiding citizen of this state, the God-given right to defend himself. And then you talk about law and order. You see how much law and order you have. You see what happens to your crime rate, and I can refer you to nothing more specific than the State of New Concorl of this patts, crime rakes in ringer weapons, control of this patts, crime rakes in the inited.

### Questions

Mr. O'Neill Mr. Avant, you were appointed to this convention, correct, sir?

Mr. Avant Correct.

Mr. O'Neill Who were you appointed to represent?

Mr. Avant Wildlife and Conservation.

Mr. <u>O'Neill</u> Don't you think that they would favor this amendment if those people were here to vote on it this morning?

Mr. Avant I think they would.

Mr. O'Neill Do you think that the laws of the United States are restrictive enough on gun controls that we need not impose any further restrictions on the state level?

Mr. Avant I certainly do.

Mr. Tobias Jack, I call you to the attention of the committee language which reads, "The right of each citizen to keep and bear arms shall not be abridged," and then it continues. In Section 18 of our committee proposal, this proposal, we adopted a provision that reads as follows: "full rights of citizenship shall be restored upon teimination of state of fees." Yould that permit a former felon to carry firearms, under your interpretation?

Mr. Awant I don't think so because the right to citizenship that is referred to in that section are the rights to vote and the restoration of civil liberties. There is a federal law on the subject with which I am most familiar that prohibits the possession or transportation of a firearm by an ex-convict.

Mr. Tobias Mr. Avant, my next question is this. Presently, New Orleans has a firearm registration ordinance which would. . which requires the registration of handguns. This would, in effect, outlaw that.

Mr. Avant It would, sir.

Mr. Tobias Do you believe that some sort of fire-

Mr. Avant 1 tills the carrying of a handgun concealed on one's person is a good law. It would not be affected by this provision, Mr. Tobias, in a large municipal area or in the middle of the Atchafalaya Basin.

<u>Mr. Willis</u> Mr. Avant, what is the only purpose of a weapon or a firearm? The only thing a weapon or a firearm, that is a gun or a rifle, can do is kill, isn't that correct?

Mr. Avant Yes.

Mr. Willis You can't do anything else with it.

Mr. Avant You can shoot targets with it, if you

. <u>Willis</u> Well, the primary purpose of it is to, you shoot targets, is to be skillful at killing,

To be skillful in the use of the weapon,

<u>Mr. Willis</u> Well, if we ultimately agree that the use of the weapon is to kill, then it is to kill. So, we go from there. Now, would the omission of the second amendment that you have, "place the registration of weapons" and so forth, would not the omission allow the legislature to flex with the demand of the time? the demand of the times?

It would allow the legislature to pass a statute which says you cannot keep a firearm in your automobile, you cannot keep one in your boat, and you cannot keep one behind the counter in your business place. That's the purpose of the amend-ment. It would give them that much flexibility,

Mr. Lennox Mr. Avant, my one or two questions deal solely with the so-called "Saturday night special." I'd like to hear your views on why there should not be some registration device for that particular

Mr. Avant 1 see no reason why a so-called "Satur-day night special" should be registered when a Smith and wesson snub-nosed 38 revolver would not be registered. Now, the so-called "Saturday night special, "Ar. Lennox, is a cheaply made, imported, foreign handgun. It is easily concealed, but it is no more easily concealed than many of the Ameri-can handgung, most of these so-called "Satur-shouter as they are to the shoutee because they have absolutely no quality to them at all, and they people can get ahold to them.

Mr. Lennox Why is it that your amendment would oppose the registration of any oncealable handgun, be it a revolver or a "Saturday night special"? You must have some valid reason for proposing....

Mr. Avant Yes, sir, there is. There is a realon, and the realon is this I believe it was in Greece when the military junta took ver, gver there. All weapons in Greece had been regitered for years. The first thing they did was round up the owner of

Mr. Lennox My final question to you show that the parish of Orleans has a handgun reginitration ordinance which, in fait, has been used as an effec-tive tool in apprehending iniminals or penale charged with violent rime."

Mr. Avail and eral of the livers in ance is what extend the been effort in the Arow. Such as would be that is in hear or appreciable effect in the rime rate in the 'ty of New Wire easy, based upon what I read in the news-

Mr. Burson Mr. Chairman, adies and gentle en of the convention, I ask that my name be taken off this amendment, al hough it was originally on, be-cause as so many times in this conventin, i found that when I did my homework afterward that I was that when I did my homework afterward that i was wrong. I think I would be wrong in sponsering th amendment for one simple reason, we would in y view, abrogate present, existing state laws and, abre city more than a second of the state of the hence city more than a second and the second handguns. Yow the state laws involve one than that. I asked the state laws involve one than that. I asked the state laws involve ore than the diffing of frams which cannot be arried by a private citizen, in luding privarily, sawed-off shotguns or shotguns with a barnel less than so many inches in length, mach ne guns, si eners for pistols, etc. Now I have taken the position throughout here that when we were deaing in the area of criminal procedure, that we had not been sent here as a super legislature to change existing state law without proper study. I feel Ynat I would be totally inconsistent to have taken that

sense in the proper server. I deal we that we have the sense of the se

Mr. Lapper Nr. harmar and fellow delegates, i rise in support of the avendment. Find the te-plent out that the redenal has which near are weapons hasn't surfailed surface in the surface surfacted surface in the sty of New Fease surfacted surface in the sty of New Fease surfacted surface in the sty of New Fease beineve the set of will reflect that there have been a humbre and situations unders in the sty of New Felgen since summary. These sty is surface the start of New Fease strengtheres the surface strength of New Fease starts and surface starts and situation of New Fease starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and situation of New Fease starts and surface starts and starts and surface starts and starts and surface starts and starts and surface starts

If we restrict the possession of firearms and weapons for the defense of the innocent people so that a man cannot have a wapon in his business place to protect himself, so that you cannot have a wapon in your home to protect yourself, we are not fooling anybody, ladies and gentlemen. Those people who are going to carry them for unlawful purposes, will not register them. They are not the ones that you are going to control the innocent on the ones that you are going to control the innocent mistake about it. Let's don't had our heads in the sand, talk about the Western type of turning your gun in when you come into two. This was a time, ladies and gentlemen, when there was honor and stilling on the street, and that killing is being done by those who will not register frearms. I urge that you adopt this amendment.

### Further Discussion

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, I rise to encourage you to oppose these two amendments that have been presented to us; because these amendments make it more difficult for us to maintain law and order and for the state legislature to respond to emerging situations in our state. Later on, Mr. Burson has an amendment that at least leaves us where we were in the 1921 Constitution. And I have an amendment which says that the control of firearms might be subject to the police power of the state. So I encourage you to vote against these two

So I encourage you to vote against these two amendments. It seems to me, ladies and gentlemen, that we are dealing here with something that gets to the very heart of whether or not we as a convention are going to maintain a certain integrity and independence, or whether or not we are going to be unduly influend by some special interest group we are going to provide a constitution that might respond to the common good rather than the wishes of some particular special interest. It's a question of whether or not we are going to maintain some flexibility and permit the legislature to respond to whatever the need might be in a responsible manner.

I submit to you that these two amendments are in opposition to the maintenance of law and order, because they simply provide that no restriction could ever be placed on any firearm. I'd like to say to you that Mr. Avant, in appealing to you for support of these two amendments, has stated that a store owner might be restricted in maintaining a firearm. This amendment does not in any way limit a store owner from protecting himself. Mr. Avant seemed to imply that if the store owner would limit his ability to take care of himself. Mr. Tapper says that such registration at some future time might not limit murders; that the criminals would still...would not register. I think we realize that if the legislature at some future time saw fit to pass such limiting legislation, that it would require that future sales of firearms, Mr. Tapper, would be registered. I think all of us here this morning have an appreciation of our wild life, and we enjoy the sport of hunting, and I cetasinly a mot in favor of our doing anything state. But do feel that it is a mistake to assume that we should not give the legislature the authority and the power at some future time, if it sees fit, to respond to whatever a situation might be.

Therefore. I encourage you to vote against these two amendments and to consider the other amendment that will be presented to us.

nank you

### uestion

Mr. Tapper Reverend Stovall, don't you know that

must of the weapons with which murders are committed have first been stolen and have not been purchased, so that they would have been registered?

Mr. Stovall I'm not sure that your assumption is correct, Mr. Tapper. I don't think it is.

### urther Discussion

Mr. <u>Casey</u> Mr. Chairman and delegates, I rise to oppose this amendment and I do so principally because I am from a municipality that does have an ordinance establishing a handpun registration law. It has been helpful in our area to have an ordinance of this type, and the statistics do show it.

I strongly urge the rejection of this amendment, and the adoption of a further amendment of the type that Mr. Burson has introduced which tracks word for word the law as it is today, and therefore, gives the prerogative to the legislature in instances that they might deem necessary and helpful to our community to impose further regulation, whether it be registration or licensing, we don't know today. But the whole key word behind a truly good constitution is the...and that key word is flexibility, and that's all that I urge y to maintain today is that though if the backy of five mears or the years frame that if the backy of five mears or the years frame that. That's all I ask you.

### Questions

<u>Mr. Avant</u> Mr. Casey, did not the same superintendent of police, to whom you just referred, within the last month publicly state that in his opinion the greatest deterrent to crime was for the average law-abiding citizen to be armed and proficient in the use of that arm?

Mr. <u>Casey</u> I don't think that police superintendent wishes to disarm the public. We're talking about control of arms and knowledge of who possesses those dangerous arms and the ability to trace down arms that are used as an instrument in crime. And I think that same police superintendent would indicate my thoughts to you as being accurate, that he does believe in controls. But granted, I'm not disputing the right to own or bear arms, even.

Mr. Avant Did he not make that statement, though, publicly?

Mr. Casey I don't know, Mr. Avant, but I'm sure he probably did. I won't dispute that. I don't think we disagree on that point.

<u>Mr. Weiss</u> Delegate Casey, isn't it true that many criminals use stolen weapons, and licensure and registration laws help the legitimate citizen to recover their stolen weapons, would you not say?

Mr. Casey That's certainly a help, one of the.... that's the same reason, probably, why we license

bicycles, because there is a tremendously high rate of stolen bicycles, for instance, on the LSU campus. And licensing of bicycles is certainly helpful in

<u>Mr. weiss</u> And would you say that the licensure and registration laws on weapons impair the rights of citizens to bear arms at all?

Well, I think maybe, I don't know if You are intending that as a friendly question.... J think you are, and I have to be honest with you. I'm not sure that it would. I need maybe a little bit further explanation on it. But I do have to be honest with you, I'm not sure that it really

I appreciate your friendly question very much.

<u>Mr. Velazquez</u> Mr. Casey, are you familiar with the statistics that show that if you are going to be shot or killed, statistically speaking, it's much more likely you'll be killed by your wife or by an acquaintance than you will be killed by a shot by a stranger?

Mr. Casey Is your question that statistically that....l didn't understand the first part of your

Mr. Velazquez Are you aware of the statistics which show that if you are going to be shot or if you are going to be killed, it's much more likely statistically that you will be shot or killed by your wife or by an acquaintance than you will by a total stranger?

Mr. Casey I don't know if you are trying to give me a message....whether I have that problem or not. But, no, I am not aware of those statistics. But I would imagine that that's correct.

### Further Discussion

<u>Mr. Lennox</u> Mr. Chairman and fellow delegates, two or three very brief points on the subject matter. I think there's been some... there have been state-ments made here that may be somewhat misleading, and I think they should be clarified. In the first place I see nothing in the com-mittee proposal that in any way restricts the right of any clizen to own and house a firearm. "Item the legislature at any time, from consideration of they found that you should not closs the door to that possibility in the future, and I live in an area where the incidence of crime is, perhaps, much higher than in any other place in the State of Louisiana.

Louisiana. Let me give you one example of how registra-tion of handguns in Louisiana has worked to the benefit of law enforcement. An individual was arrested in New Orleans, in Orleans Parish, in the act of perpetrating an armed robbery of a ser-vice station. He was using, at the time of his arrest, a handgun that had been stolen from a gro-cer twn weeks before who was murdered in the act of armed robbery of his store. The police were thereby able to bring evidence to bear on that int happened two weeks before. Now our law in New Or-eans imply says that 'any new handgun purchased after a lertain date has to be registered with the meterive bureau of the New Orleans Polie Depart-ent. Now, I submit to you than you do not wint

Mr. 'toyal' Mr. Lennox, some people were talking own here and I didn't hear your illustration. Would you give that Ilustration indin that we can all hear that very includy? The people were

talking and : couldn't hear it all

leans yarish several months ago. The herogun he was using, in the framed prober, was begin undered in the act of an armed robbery of his store just two weeks before. Now had that grocer's handgun not been registered, the police could never have connected this individual with the nurder of the

<u>Mr. Stovall</u> You think these amendments, if they should be passed, would prohibit that k nd of main-tenance of law and order?

Mr. Lennox I'm going to vote for Amendment No. 1 I'm going to vote against Amend ent No. 2.

Mr. Smith Mr. Lennox, don't you think we are going too far when we tell the legislature that they can t pass any law requiring a licensing of weapons

Mr. Lennox 1 do indeed, and 1 think the day may come in Shreveport or other parts of the state where you wish you had such a right.

Mr. Smith You don't think this should be frozen to the constitution, do you?

Mr. Lennox That's precisely my point. I'm going to vote against Amendment No. 2.

Jenkins Mr. Chairman, delegates, our people Mr. Jenking Mr. Chairman, delegates, our people in this country have three great protections for their freedoms: the 'ury box, the ballot box and the cartridge box. If we ever give up any of those three, then freedom in this country won't last very long. There is no more basic right than the right of self-defense, or self-preservation. A wan annot do away with that right and continue to exist, ne-ther can a people. Some have come up here and alked abow the deterpoint effect of linenue one Zenry who possesses their weapons and the term of a control of the second secon

should not know about our wapons. I know it's not popular to refer to other countries, but if you look as othos to comin fragome, it's now have be didn't have weapons. The first thing Fidel Castro did was, he said, "Come on, campesinos, turn in your weapons for plows." And they did. And that was the end of that. He never had armed opposition; he knew that he could roughshod over the people of Cuba from then on. And he has.

In Czechoslovakia when the Soviet tanks rolled in, they were facing an unarmed clizenry who could do nothing but hurl stones. The same was true in Hungary, the same was true in Poland. We never want a situation like that to exist here. Now, let's talk about what the people want. You can hardly find a more popular issue than this. The people believe they have a right to keep and bear arms without registration and licensure laws. And if we expect to take this constitution to the popile to have in there provisions like this, that show that we respect their wishes and respect their rights.

In my own district I hardlw know a person who favors licensure or registration of firearms. People know that this gets down to basics. This is about as gut an issue as you can find, and they want to maintain their right to keep and bear arms without knowledge by the government, without restriction or control by the government. Mr. Avant has a good amendment. It protects

Mr. Avant has a good amendment. It protects our rights. It protects our people in the future, and it's something the people of this state will stand behind and support fervently. So I urge its adoption.

### Question

Mr. Stovall Mr. Jenkins, you tried to make the fisure as to whether or not we believe in registration of firearms. This is not the issue in this second amendment presented by Mr. Avant, is it? Isn't the question whether or not the legislature might he permitted to respond to some situation at some time in the future, whether or not they might have the freedom and liberty to do so?

Mr. Jenkins The question is whether the legislature, in the future, could ever pass licensure, registration, or special taxation of arms. And the answer, I think, has to be no. The legislature shouldn't have that authority.

### Further Discussion

Mr. <u>0'Neill</u> Ladies and gentlemen of the convention. It's amazing that we stand here this morning debating a right many people who are in favor of taking away, which our forefathers sought to give us long ago. The question then was not whether we should have the right to keep and beer arms, o'whether It was a right that they thought we automatically had. And I think that's the question we come to this moring.

I'd like to ask Reverend Stovall if he's in favor of giving the legislature so much flexibility if when it comes to gambling, he's going to be ready to give the legislature so much flexibility. I'll dy the source of the source of the source of the dy the source of the source of the source of the ling." And I think that's what we're coming to this morning on the right to keep and bear arms. And I think that right should be just stated as Mr. Avant's amendment has it stated. I live in an area here in Baton Rouge where the incidence of rape is higher than I any other the incidence of rape is higher than I any other had nearly fifteen rapes in the ISU area. My wife

I live in an area here in Baton Rouge where the incidence of rape is higher than in any other area of the state. Within this past summer, we've had nearly iffeet "apposes to the LSU area. My wife you the person who comes to rape her won't have a registered gun. No, he'll have a Saturday night special or some such gun, and that's what he's going to use as his weapon. And will it do my wife any good that his gun is not registered? Will they be able to trace it any better? I don't think so. And what difference will it make that my wife has a registered gun? If she uses it, more power to her. If not, it doesn't really matter. I think the average, ordinary man views the situation like Mr. Will's views the situation, dead is dead and guns are made to kill. The average man

I think the average, ordinary man views the situation like Mr. Willis views the situation, dead is dead and guns are made to kill. The average man knows that a criminal will not have a registered gun in most likelihoods. The gun he has will be Stolen. So what difference does registration make? The only person that it harms is the average indivol bave with uset for his is moterial and for his use

Schen, So what university dues registration makers The only person that it heres is the an rad inds to have it just for his protection and for his use. I submit to you that we shouldn't be standing here discussing a right which most people think they automatically have. We are here discussing the right to keep and bear arms. Read that amendment carefully. It also says, "special taxation, no confiscatory taxes will ever be levied on firearms." And I think that's a very important clause in that provision. Those people here who would have you take that out think that registration will do some good. And I think in all sincerity they homestly believe that.

Is uberieve that: Is uberieve that: Is uberieve that ten years ago the incidence of crime was far less than it is today. And Is uberieve to you that back then, there wasn't any registration of guns and that today look at the and the incidence of crime is only just now beginning. I think in the future we are going to see it quadrupled compared to what it is today. And it will quadruple with registered weapons unless we pass this amendment.

### Ouestions

Mr. Munson Mr. O'Neill, I wanted to ask Mr. Jenkins this question a few moments ago but he ran out of time. Perhaps you could answer it for me, because I want to reemphasize a couple of points that he brought out.

In case the legislature were to pass laws requiring the licensing of firearms, what type of citizen do you think is going to go down and have those firearms registered?

Mr. O'Neill Mr. Munson, the average law-abiding citizen who pays his taxes and lives just like the rest of us. Not the criminal, just the average man.

Mr. Munson In other words, you couldn't foresee a criminal going and having his gun registered.

Mr. O'Neill Not very likely, Mr. Munson.

Mr. Munson And in case then, to go a little further with that, that if laws are passed requiring registration of firearms, the only thing it could possibly do would be to take firearms out of the hands of law-ablding citizers. Isn't that correct?

Mr. <u>O'Neill</u> That is absolutely correct, Mr. Nunson. A criminal who goes and registers his firearm would be an absolute fool, and I think you would agree with that.

<u>Mr.De Blieux</u> Mr. O'Neill, I think you are bringing out a very good point there. So, I would imagine from your argument is it correct that the criminals would be opposed to registration of firearms?

Mr. <u>O'Neill</u> No, Senator De Blieux, I don't think they'd care one way or the other; they are going to have them regardless.

Mr. <u>De Blieux</u> And I think you said that most of the crimes probably would be committed with stolen guns. Nouidn't those guns have to be registered to start with? Couldn't it solve two crimes whenever they'd find the gun?

Mr. O'Neill Senator De Blieux, the guns used to make crimes, many of them are not registered and

Mr. De Blieux I want to protect the 1 w-abiding titizen. Nut I don't want to protect the r i-

Mr. O'Neill We 1, you are protection the criminality you don't, or if you do, either way.

<u>Mr. Hayes</u> Mr. Chair an, lad es and gentlemen of The convention, I think what we are saying is the right to bear arms should not be abridged, but it appears that all the discussion is centered around some means of abridging that right to bear arms. right to bear arms is doing nothing more than making criminals out of law-abiding citizens.

I think the federal statutes or the federal law has a system where you have to register even almunition when you buy it. I can't buy a gun. Every time I buy a bullet, I have to register. I have to show my driver's license, and when I buy a gun I have to register the gun under the federal laws. So I can't see any reason for after passing some other rights here, giving the state the right to call in and make criminals out of all the profile i.i.i.think hat's all robe crew before a criminal. thought it would help curb crime, because I'm familiar with this Saturday night special I hear familiar with this Saturday night special I hear them ta king about. They have people who use them on Saturday night, if you don't believe it, check with the undertakers. But I don't think it would help anything. Disarning everybody so the criminal's could just have a heyday knowing that you have nothing to protect yourself with. So I rise in support of the amendment.

Mr. Weiss Mr. Chairman, fellow delegates. I will not repeat many of the things that have been said but only try and clarify the issue. First of which that the majority of the members of the Bill of Rights Committee have not been polled as to this amendment, and that three is no support definitely concessf to this amendment and how you definitely opposed to this amendment and hope you will vote it down.

definitely opposed to this amendment an opp you The issue is very cear. The vection clearly states that no one will be deprived of the right to bear arrs, so I think we can eli nate that wriginally and without question. The issue brought forth by the multiple spon-tors of the floor amendment before you are regis-tration and licensure. And some of the arguments, people are shot by their family members is certainly proved by the irrational or vindictive person is going to use som weapon the vill another person, and if you rule ruit guns, they'll use brickbats and other weapon. To this is not the issue. The of the state and protect them, and I think that this amendment if adopted will do more harm to then kenst law-abiding itticen than good. And I think many people have been misjeed by encirched the honest law-abiding titlen than good. And I think many people have been misled by environal wrignents rather than reason. The honest people have no feer of registration or linensure. Do you puestion that your linense on your automobile is ume method of stealing your automobile from you by the legislators of this state. There's no reason to question this. But when your art to line, you little to know who to let t. These are the issues that are before the people of this that is consure that are before the people of that is consure the initial of the initial when your have not state the initial of the trained when will get sumpt when he has meaning that is not in his puestion, that not his own and in his pues-ion.

country. But let s take witzer and where every ne has in his home a firear - everyone s ever f the illia. Lenta ny tnese are rec.stered f re-arms and everyone has a gun in the in he in Switzerland. These care tact is that are be n presented to you, I think, are irrational, egit-iate and dangerous f in the avaid of citizen. Why should we allow anarchy to rule s that the critical be more effective? Mr. Burson, believe, mas a questin, Mr. Chairman.

<u>Mr. Goldman</u> Dr. Weiss, isn<sup>1</sup>t it true that if we are so scared of our legislature that we think someday they might become like those revirus is in Greece or in fuba, then our constitution with be worth anything anythom, would it.

Mr. Weiss we d better shorten the election er r if we are that frightened, to pernaps i e week r

Mr. Burson Dr. Weiss, do you know that neer Louisiana Crimina Luk that there is a presentin that property recently stolen is found in mer-professional criminal who is m pissession handgun which has been l Censed and recent y ch would be pre-uned to be the thief, that this would be an aid to law enfine ent find as in each by

that what I understand you to say?

urson the law would be that if he Lin mu

Mr. We is no, I think that we have are at its in this country and the object to we do at the w to handle criminals, ust we have ental fa-tives and mental in impetents, and i don't think the answer is going to be need to be need to be sufterland has, which is in instrety different country than the freque capange i three instead States... and, in identally, i with same is en-three time the lize of welterland.

legislature may do in the future about guns. And for that reason, I support it, because I don't want any legislative law passed then that when folks are going hunting, that they have to open up the trunk their car and show their shotguns or whatever

But I feel like Jack Burson does to some extent and about like John Lennox and others with respect to New Orleans, that there are certain areas where we could have some type of limitation of controls. Now what Jack says is true to the extent that our present section, that is what the committee has recommended, is not too far different from the present constitutional provision, so that a court would say that by adopting our section that we auto-

would say that by adopting our section that we duit matically vitiate everything and all jurisprudence in the past that is court interpreted law. if we adopt Jack's second amendment, in my judgment, what Mr. Burson has pointed out would be true that all jurisprudence, all former decisions with respect to carrying certain types of weapons, would be nullified.

would be nullfied. For that reason, I think that in the future we ought to allow the legislature in special cir-cumstances to deal with this problem. Now let me give you one final example, and then I'm going to move the question.

move the question. Now days, we have laws and the legislature may deal with alcoholic beverages with respect to minors, may deal with driving automobiles with respect to minors and what have you. And yet, it appears to me incongroups that we would say that any ten year old may own, it's alright to own it, but may possess and fire while houring, a 3076 which bullet goes at least five miles. It just appears to me that if the legislature risk that he there were certain reasonable laws that should be passed with respect to minors employing weapons or using weapons for hunting or whatever have you, that as long as the law were reasonable, that it would be a valid law. But I'm afraid under Jack's amend-aria a young boy who was accidentally killed, and certainly I'm not against kids hunting I think it's a great thing; I hunted all my life. But I just feel that we should not constitutionalize something amendment. I think the allusions to the ballot box and al these bher online of extinno...fi Amendment No. 1 and rejection of Amendment No. 2. there were certain reasonable laws that should be

### Question

Mr. O'Neill Mr. Roy, do you believe that the legis-The second secon

Mr. Roy Well, that's speculative. They may put on more controls, but there are no real controls at this time; so I wouldn't be opposed...I would depend on what the control was. I move the previous question, Mr. Chairman.

Mr. Chairman and fellow delegates, I <u>Mr. Avant</u> Mr. Chairman and fellow delegates, I wouldn't have come up here to close except for one statement that was made by my very good friend, Reverend Stovall, about vested or special interests. I want to tell you something. I started working on this amendment Thursday, and until this moment not a single human being has asked me to draft it or sponsor it. I believe in it. It's the way I think....,It's what I think should be done and that's why I'm here. Mr.

### Personal Privilège

Mr. Kinchester Mr. Chairman and fellow delegates, as a retired assessor. I have been aggrieved. The rumor is going around that assessors have a con-ceraser. This is block utely not: A fact. The pencil is way out in the open, but I do wish to stand here and pay honor and tribute to the assessing profes-sion. I also more and particular do I pay tribute to the seven New Orleans assessors. The closing date to qualify for reelection was last Friday afternoon. Fire assessors had no ornooit IT is re-Winchester Mr. Chairman and fellow delegates the other two had only token or position. This re-minds me of an incident that happened in the parish of East Baton Rouge a number of years ago. A new assessor had been elected and appeared before our assessor had been elected and appeared before our meeting and outlined the method by which he would equalize and assess property in the East Baton Rouge Parish. An assessor friend of mine sitting next to me who had been an assessor a number of next to me who had been an assessor a number of years leaned over and said, "Winnie, that is a one term dreamer." He was correct. He was only in office for one term. The fact that I wish to bring to your attention is that no one loves an assessor but the people. I thank you.

Mr. Poynter "Section 21. Writ of Habeas Corpus Section 21. The writ of habeas corpus shall not be suspended".

<u>Br. Vick</u> Mr. Chairman and fellow delegates, every since the Magna Garta the right to personal liberty among English speaking peoples of this world has been guaranteed. Considered by the founding fathers of this contry, not one of the highest, but the highest safeguard of liberty was the prompt and effective remedy for testing the legality of his or her imprisonment. The Constitution of the United States says that "the writ of habeas corpus shall not be suspended unless, when in cases of rebellion or invasion, the public safety may require it." The committee in its wisdom after testional by constitution says "the writ of habeas corpus shall not be suspended unless, when in cases of rebellion or invasion, the public safety may require it." This was in the louisiana Constitution of 1021 and the committee, after testimony by experts, considered in toguard be an exercisel constitution investion, rebellion, exercise the Federal Constitution preepts the State Constitution insofar as foreign invasion, rebellion, exercise of the state constitution investion, rebellion exercise of the state constitution investor, rebellion investor, rebellion exercise of the state constitution insofar as foreign investor, rebellion for investor, public, safet constitution insofar as foreign investor.

situation preempts in state Lonstitution insolar hat reign invasion, other ion, std disorders are precisely the time when the writ is most needed by the citizens. As a result the section now simply reads "the writ of habeas corpus shall not be suspended", and I yield for questions.

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Anzalone], on page 6, at the end of line 25, add the words "and preliminary examination". Amendment No. 2, on page 6, immediately after "pended" change the period to a comma and add the following: "and in all felony case, except those indicted by a grand jury, the right to a preliminary examination shall not be denied." Poynter Amendment No. 1 [by Mr. Anzalone], on

Mr. Kean Question for the Chair. Is this amendment germane to the original subject?

Mr. Henry No, sir. The amendment, in the Chair's opinion, is not germane, Mr. Kean.

Mr. Poynter Section 22. Access to Court. Section 22. All courts shall be open and every person shall have an adequate remedy by due process of law and justice administered without denial, partiality, or unreasonable delay for actual or threatened injury to him and his person, provide the person shall be immune from suit and liability."

### Explanation

Explantion

Miss Wisham Mr. Guarisco, would you elaborate a Title more about "adequate remedy" for me, please? What does "adequate remedy" mean as related to this statement?

Mr. Guarisco Well, whatever the remedy may be necessary for the particular action. An adequate remedy for personal injury might be a money compen-sation. Adequate remedy for someone expropriating vomebody's property would be possibly to stop those persons from taking your property. It would depend on the nature of the cause of action whatever it may be, and then the judicial function wuld then the over and make that determination.

Mr. Casey Mr. warns o, on line 29, the beginning phrase, "All courts shall be open," does that specifically then rule out the possibility of losed

Me. Guerisco No. The present constitution nes-all outries now, and we are repeating that part of it, and that still deen't proclude the legis-lature from having special set for luvenile hearings. I don't think that would make any hange

Mr. Casey And this is the exact wording of today's constitution?

Mr. Guarisco Mr. Casey, 1-11 just read it to you to allay your fears "Section 6. Open Courts. In the old constitution, 'All courts shall be open and every person ; it starts with that language.

Mr. Hayes Could you tell me what you mean by "unreasonable delay" in terms of months or years, or something of this nature?

Mr. Guarisco Again, you are talking about a d-cial determination--what's unreasonable and what s reasonable. I don't think we can put definite time schedules down and when a case shall be heard

<u>Mr. Hayes</u> I know you couldn't put down, but is there an absolute limit you say you could place on what is unreasonable? Would you say three years, two years?

Mr. Guarisco I don't think we can do that in the constitution. No, Mr. Hayes, no way. L'might also add to Mr. Casey's question about the courts being open; this is not literally open intofar as opening the door to the physical courtroom. It's open to the litigants figuratively or access to the curts It doesn't have anything to do with the walls, or the doors to the physical courtroom.

Mr. Duval Mr. Guarisco, the word threatened is a change in the law, is it not?

Mr. <u>Guarisco</u> It's a change in the constitution, but I don't think it's a change in the law think you still have redress for threatened in ury via injunctive relief.

Mr. Duyal Let me ask you this. Is it the com-mittee's intention to create new causes of action by inserting the word "threatened" in the consti-

Mr. Guarisco Absolutely not.

Mr. Duval Do you think it possible that through judicial interpretation new causes of atten and be created by use of this word?

Mr. Guarisco I don't think so, but I think it should be left to judicial interpretation

Mr. Guarisco Well, Mr. Perez, we didn't items for this list to be exclusive the intrative, and we felt that if there are any thirr right that a person may properly bring before the must, then would have a remedy or a right to be not it.

He Guaries I think there is a list atter in the fait that the suit suid still properly entertain an exception of no condition to act in, that error may not have a right to bring the suit.

### Amendment

Mr. Poynter Delegate Conroy sends up the following amendment:

Amendment No. 1, on page 7, line 1, after the word "rights" delete the remainder of the line and delete lines two and three, both inclusive in their entirety.

### Explanation

Mr. Correy. The second sentence of this section gains raises the question of sovereign immunity. You may recall that this convention spent the better eign immunity. Ultimately, after many, many different kinds of manchements were presented. Section 14 of the legislative powers section was finally adopted dealing with this question, as this convention ultimately determined it should be dealt with outside the this dustion of the time, and voted against the final amendment which Mr. Kelly had proposed, that set out what would be included in the constitution, but 1 think it imappropriate to fight that battle again after we spent should be deleted and left to be handled under the Section 14 of the legislative Powers Article as we amendment the

### Further Discussion

<u>Mr. De Blieux</u> Mr. Chairman and ladies and gentlemen of the convention, if what Mr. Conroy said is true that we've already passed this particular section and he doesn't don't to redsent a great style and Drafting can decide whether or not they want this particular provision here or the one that's working in the judicial section where we adopted it. I would object to the amendment and just say. "Yote it down and let's go along to something else."

## [Previous Question ordered.]

### los.ing

Mr. Conroy. Just very briefly, the committee itself has concurred as presented in the oral presentation of this with the deletion of this sentence because it is consistent with the prior sentence, and as a member of the Committee on Style and Drafting 1 urge you not to dump things like that into this Committee on Style and Drafting. Let's settle them here on the floor, take it out, and let it be resolved as it was earlier. Thank you.

### Questions

Mr. Avant Mr. Conroy, is it not a fact that this sentence that you are deleting goes beyond the question of immunity of state and political subdivisions and deals with the immunity of private persons?

Mr. Conroy Not in my judgment it doesn't because to the extent that it refers to private persons, there are occasions in which a private person is able to cloak himself with sovereign immunity, and I think the whole question was debated at great length as to the problems that exist on some degrees of personal immunity that do invoke the sovereign wording of the amendment that was ultimately adopted under the Legislative Powers Article, to my appreciation.

Mr. Avant There are personal immunities other than sovereign immunity, and if you delete this sentence, the legislature can extend immunity to classes of persons not on any doctrine of sovereign immunity. Is that not true, sir? Mr. Conroy Well, I don't...not in any fashion that I would regard as dangerous. Certainly the legislature could, but you'd still have your equal protections clause, your due process clause, all the other clauses which protect individuals in their rights and the preservation of their rights, so I don't think that here it's pertinent. I would have assumed and do still assume that the insertion of it here coupled with 'state and its political subdivisions' was intended to inject the issue in connection with the sovering immunity issue.

Mr. <u>Weiss</u> Delegate Conroy, don't you think this is germane to the access to the courts in that it simply defines who may go to the courts, and therefore, the committee put it in for that reason? Don't you think that's good enough reason?

Mr. Conroy I don't follow you.

Mr. Weiss In other words, who may go to the courts for what issue? If you have...

Mr. Conroy That's in the first sentence.

<u>Mr. Weiss</u> And that's right, and it further defines it in that it may because of political, or because of a political subdivision you may appear before the courts, and they are not immune.

Mr. Conroy But we already covered the extent to which they are or are not immune. Dr. Weiss, under the Legislative Powers Article. As I said before, after quite lengthy debate we dealt with that question there and determined exactly to what extent they should be liable.

Mr.Lanier Mr. Conroy, doesn't this sentence here go substantially further than the convention did under the Legislative Section? In fact didn't, in the Legislative Section, didn't we say that the state was not immune for contract in tort, but for all other matters the immunity had to be waived by the legislature?

<u>Mr. Conroy</u> That's correct. The two provisions are inconsistent as they presently are worded. In on, at least it would have to be subject to consideration of amendments which would bring it in line with what was done before, or we'd have to debate as to whether we wanted to stick with what we had done before and so forth. As I pointed out in my argument, I didn't agree with the conclusion that was reached then, and of still mass speed and we ought to delete this sentence and go by what we did before.

<u>Mr. Lanier</u> And if there are substantive inconsistencies, Style and Drafting cannot rectify substantive inconsistencies.

<u>Mr. Conroy</u> They could not rectify them. All they could do is point out back to the convention that there were inconsistencies for the convention to resolve because Style and Drafting could not and should not attempt to resolve substantial differences between sections.

> [Amendment adopted: 78-17. Motion to reconsider tabled.]

### Amendment

Mr. Poynter The amendment is sent up by Delegate Arnette.

Amendment No. 1, page 6, line 32, after the word "for" and before the word "injury" delete the words "actual or threatened".

### Explanation

Mr. Arnette This is a very simple amendment, and the main thing it does is bring the constitution that we're proposing in present line with the

4000 Days Proceedings—September 12, 1810 present constitution. I don't know whether the committee intended to create any new causes of jotton, but I'm afrid that this language might. I don't know that it will, necessarily. It has been universally held throughout the jurisprudence of the nited States, that when you say "in ury, if it's a threatened immediate ingury to someone s rights, it may chill their rights or solething whet his, you do have rederess in the court. This is the definition of "injury so I don't think we possibly create several more causes of action. If it was intended not to create other causes of action. possibly create several more causes of action. If it was intended not to create other causes of action as Mr. Guarisco has stated, then definitely 1 think we ought to leave it out. It is excess verbiage if it does not create anything new. I' yied to

Mr. Roy Mr. Arnette, if a person were going to be liable and had been being liable for the past several weeks, don't you realize that by putting "threatened injury" in here that one could seek redress before the final libel occurred or the that's the reason we put it in here, and it would be left up to the court to determine whether it was serious enough to allow him in court at that

Mr. Arnette Mr. Roy, I'd just like to point out to you under the present law which just states for injury" he may do that right now.

Mr. Roy That's not so because in the present ion sometimes you get met with a prematurity exception, don't you?

Mr. Arnette That's a possibility, yes. I don't want to bring a suit if it is premature. That's the whole point of me taking out "threatened in-

<u>Mr. Roy</u> No, but you understand the court tells you when you go to file the lawsuit because you know that somebody's going to libel and slander you, and he's got it at the newspaper office to do it, and you want to have a hearing on it, the court can say, "your suit is premature because you note not yet been injured, and the threatened injury is not

<u>Mr. Arnette</u> It depends on what type of threatened injury it is, Mr. Roy. You know that as well as I do. If the threatened injury is immediate, if it chils your rights, if it hurts your person, if it hurts your property rights, then definitely it is a injury that a person can get redress for in the courts. The only thing that worries me is the point that you just brought up-that this would open up excess, new litigation, and that's the thing I object to. I think a person's rights as they presently ware are outle adequate to protect hin.

Mr. Roy Don't you think that the Declaratory Judg-ment Act is in essence something of this nature

Mr. Arnette The Declaratory Judgment A t is under the present law which states "for injury, so I don't think we need to change the constitution and I don't think he ought to have standing in the future. I think if we put "threatened" in there future. I think if we put "threatened" in there then we're going to cause problems, we're aoing to cause excess litigation, and I don't think we want to have additional causes of action for people lithink what we want to do is let the people have the rights and lauses of action that they have at present, and this is what my amendment does: It just

Well, if "threaten" doesn't mean anything, or it means exactly what you said with respect to

the constitution why are not affect of puttin

Mr. Will's Mr. Arnette, I cwn the view, and ! 'r :: you do too, that simplicity is the closest thirt t

Mr. Willis Now, we have rid ourselves of the last sentence, and I ask you to look at the first sen-tence, and read it with me, and I'l put a question mark to that later. All courts shall be open and every person shall have adequate remedy by due pro-cess of law and justice." Now, ( ask yu, if a period were to be put there, how can you have ade-quate remedy by due process of law and lustice with out it being administered and so forth. Don't you

Mr. Arnette Well, that's a possibility, Mr. Willis I just saw one particular snake in here, and I d definitely like to kill it right now. If there are

<u>Mr. Gold an</u> Mr. Arnette, I ve been listening t this legal discussion about stopping somebay fro publishing something or something like that because it might be injurious to them. It seems to e like that would be prior restraint. You mean (f it might be injurious to them. It seems to en-like that would be prior restraint. You mean if I was going to run an editorial against some action or against some person whom we thought was doin something wrong, we always send these editorials out to them ahead of time and give them a chaive the reply. Ould they go to court and stronge from run-ning that editorial? That's definitely prior ee-

Mr. Arnette I think you might have a valid point there, Mr. Goldman.

Hr. Avant I don't care to explain that a endment, that is not the amendment I asked be prevared — he amendment was, 'No private persons shall be immune from suit and liability except as otherwise privided

Mr. Casey Mr. Avant, you withdraw your a end ent for correction, is that correct?

Mr. Poynter to it one more time for ne, Mr. Avant, "No private person - rbiht

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Questions

Mr. Tobias Mr. Avant, what is a private person? Do you not mean individual?

Mr. Avant A private person is an individual, a corporation other than a public corporation.

<u>Mr. Perez</u> Is there any companion measure in the present constitution similar to the one that you've offered, Mr. Avant?

Mr. Avant I don't believe, Mr. Perez.

<u>Mr. Perez</u> One thing that bothers me very much is you say, "No private person shall be immune from soilt." Mhat about a child, a minori What about os provisions we have in the Civil Code and otherwise... All of these various situations we have where it prohibits suit in those situations - I'm very much concerned about that.

Mr. Awant Mr. Perez, as you probably know, a minor now is not immune from being sued. He just has to be sued through his tutor, who is the person who represents him in court. But if a minor injures you and he has property, you can sue that minor through his tutor. You can recoup your judgment out of that minor's property. The same is true with recreat to the other catecories you mentioned.

Mr. Perez Can a minor sue at the present time or only through his guardian?

Mr. Avant A minor is sued and he does sue through his legal representative.

Mr. Perez Can a minor sue his father or his parents?

Mr. Avant Under certain circumstances, yes, and under certain circumstances, no.

<u>Mr. Perez</u> But, this would be an absolute right with regard to the suit by the father against a child, child against a father, husband against a wife and so forth which we have many limitations on now in our Civil Code. Isn't that correct?

Mr. Avant This has to do with an immunity, an absolute immunity, Mr. Perez.

Mr. Velazquez Mr. Avant, wouldn't this preclude situations where in some states if a doctor comes upon the scene of an accident, he is required to administer, to give assistance, and in some states when he renders emergency assistance, he is given immunity from any problems that might result from that emergency assistance?

 $\frac{Mr. Avant}{rine,\ Mr.}$  That's a so-called good Samaritan Occtrine, Mr. Velazquez. I don't happen to be in favor of that. I think if he stops, he ought to give you the same type of treatment he's supposed

to give you if you were paying him.

Mr. Velazquez Well, doesn't the good Samaritan Doctrine extend to.... if you see an automobile overturned and as a good neighbor, you stop and try to give the people some assistance and in the process of giving them assistance, you do more damage than good, in some states you would be immure from damage or against that too?

Mr. Avant Mr. Velazquez, that has nothing to do with immunity. You're only required to exercise due and reasonable care and do what an ordinary reasonably prudent person would do under the circumstances. If you were just a private citizen and you stopped to render aid to someone, that's all that would be required of you is to do what a reasonable and prudent person would do under the circumstances. If you were a layman, I don't expect that your failure to perform brain surgery on him would be held to be a lack of due and reasonable care under the circumstances. You just do the best you could. I see no fear, reason to fear in that area.

<u>Mr. Lanier</u> Mr. Avant, I've got an amendment here and it says, "No person shall be immune from suit and liability, except as otherwise provided by law." Is this the one that was changed, are we taking it like this?

<u>Mr. Avant</u> Well, now they said that was my amendment. That was not my amendment, Mr. Lanier. I had an amendment, but they told me that that was my amendment.

 $\frac{\text{Mr. Lanier}}{\text{all we...}}$  Well, but what I'm getting at is that

<u>Mr. Avant</u> If I had wound up changing your amendment because I was erroneously informed that that was my amendment, I apologize.

<u>Mr. Lanier</u> No, no, I don't have an amendment. What I'm getting at is, what is under discussion is that no private person in the constitution or no person as provided by law. Which one are we going with?

Mr. Avant "Except as provided in this constitution."

Mr\_Lanier "Except as provided in this constitution." OK. Then that brings up the questions that I have. What about the interspousal immunity established by statute? If we were to wish to keep that, would we then have to put that in the constitution?

<u>Mr. Avant</u> I don't think that the adoption of interspousal immunity is necessarily going to be sound or valid after the action of this convention the other day, Mr. Lanier.

<u>Mr. Lanier</u> What about the immunity given to the coroner on commitments? Would this amendment have the effect of doing away with that, unless that was placed in the constitution?

Mr. Avant If the coroner wrongfully put you away when any reasonable man, any reasonable coroner wouldn't put you away, for reasons other than medical, for reasons other than his best judgment, why should he be immune?

<u>Mr. Lanier</u> Let me ask you this. Have you had a staff research to see how many immunities are presently statutory in our law?

 $\frac{Mr.}{how}$  Avant I haven't had a research made to see how many there are, but I can tell you there are many.

Mr. Lanier So, in order for us to rationally determine which ones we wish to preserve, we would have to review each one and then vote to see whether it

should go in the constitution or not, if your amendment is adopted. Is that correct?

Mr. Avant No

Mr. Lanier Would not the effect of your amendment, in the absence of putting them in the constitution, be to repeal all of these immunities?

Mr. Avant | don't think necessarily soll... immunities, yes.

Mr. Kean Mr. Avant, following up Mr. Lanier's question, as L appreciate it at the present time, there is a provision in the statutes dealing with tivil defense personnel and it grants to them immunity. As L understand your amendment, that would do away with that statutory....

<u>Mr. Avant</u> That is not an absolute immunity under the statutes. I don't believe, Mr. Kean. If a civil defense personnel comes to your place and just arbitrarily does something to you, he's not immune from that. I to nly says it's a limited immunity under circumstances where they wouldn't be liable anyhow.

 $\frac{Mr.\ Kean}{amendment}$  Whether it's limited or otherwise, your amendment would do away with it?

Mr. Avant That's right.

Mr. Kean And taking your example dealing with the utility company that sprayed the fence lines or whatever they did as I read this amendment, the legislature could grant the utility company immunity from suit under those circumstances.

Mr. Avant No, because it's a private person.

Mr. Kean Dh, I see. In other words you are including in the term "private persons," corporations and so forth?

Mr. Avant The word "person" includes corporations. Corporations are persons as you know, but they are not citizens.

Mr. Kean. So that under your amendment then no private individual, corporation or any other type of organization could be granted immunity unless it was put in the constitution?

Mr. Avant That would not be enjoyed by everyone.

### Further Discussion

Mr. Duval Mr. Acting Chairman. fellow delegates, Trise in admant opposition to Mr. Avant's arendment, although 1 understand his intent. This particular amendment could have more sweeping changes in our present law that we don't know about than anything that's been introduced to this convention. I ask you to very seriously think about it. There are many imminities of various types or another set up in our law for very good reasons. There are really too many to list. But under this, all of them could possibly be obviated. Although it' may not be Mr. Avant's intent, that's what the language says: 'No private person shall be immune from suit and liability.' All your charitable stithomulty in the law, your churches and some of your hospitals, but your churches. Gertainly. All of them are going to subject to liability now under this amendment. In touislana, husband and wife, there's an interspousal immunity. All of this is going to be changed. What about the immunity of legislaturs on the floor of the legislature? They are still a private person. Under Mr. Avant definition they have not all of a sudden beckme public people. The legislature innity is a decision, done away with Many, many different leding on the substant is and the and the and there are in the substant and the public people. The legislature is a decision, done away with Many, many different leding the sum of the are crise on provention and many with sum of the are crise on provention. In the law, the leg, liture in specifically remedy them without a broad sweeping aneument that we have no dea of the ramif ations -- which we haven t studied -- which would be very, very II-adised to adopt without going into this matter very deep cannot urge you enough to vote against this a endment, because we really don't know what t does. What about a minor under four years old? Is this person going to be now guilty... now he can be guilty of negligence? I don't thnow how any chi the. What about the satisfies a series of the child of the satisfies and the same series of the ...if's a no-fault type action. He sonly table immune from suit in tort? He sonly liable for the ...if's a no-fault type action. He sonly table immunity in tort. I realize that is not %. Avant s intention. But under this broad sweeping language no telling what could be found in hell to come under this language. I unge you very wich to vote against this amendment. As I feel we do not have enough information to seriously understand it, that any, many exemptions and immunities and privilegis under law would be repealed to the detriment of Louis ano.

### Further Discussion

Mr. Conroy I want to very briefly under ine what Mr. Duval has said. I rise in opposition to the avendment. Its difficult 1 think for or yatt dessible areas in which immunities presently east that should be preserved for private persons. Mr. Duval has ratiled off some. The questions from the floor indicated others. The basic concept of munities that exists in the present aw are frequently hat some people should be protected within the wisdom of the legislature and others, for the good of the intentions of the state, should be clothed with immunities. Under this category fail the where people such as stockholders in unity, there is the interspousal immunity that was referred to, in other areas, there are occasions when people are, in effect, asked to do dangerous things and clothed with immunity in connection with it otherwise, the things might not get done. I think in this area fails the good Samaritan law, where a doct are its risk with the civil defense immunity. I think on classions we ve found very dangerous circumstances which have existed in the river, where che ical have to be reaved from the river, where che ical have to be reaved from the river, where che ical have to be reaved from the they could operate or perform the things unless they could feel satisfied that they were clothed where hendy could operate or perform the things where hey could feel satisfied that they were clothed where hey are required for the good of the where hey could net undertake without some deree of humanty. I urge you to reject this amediant.

### Further Discussion

Mr. Avant Mr. Chairman, this amendment is a highly technical amendment insofar as the law is concerned. I can see that some of my brothers at the bar don't understand my intention behind the amendment. So if l am in order, I would ask per ision to withdraw the amendment until such the ask an explain it to them.

Amenment with will so a second of the second of the second second

Announcements

[Accuriment t ' A p.m. Thur-lay efterest 9 ]

Thursday, September 13, 1973

### ROLL CALL

### [109 delegates present and a quorum.]

## PRAYER

<u>Mr. Stovall</u> Let us pray. Eternal God, we worship you as the One Who loves us even when we are unacceptable, who is faithful to us even when we are unfaithful to You and Who is dependable even when we are unfaithful to You and Who is dependable even when we are undependable. We pray that as we worship You as such, that this realization of Your grace and goodness and acceptance and love toward us might lead us to establish this kind of relationship, one with the other, and with all mankind. Be present to us as we deliberate together. We pray that You will be with our families and guide the people of this state in their thinking, that all of us together might affirm we offer our prayer in Your name as the One Who was, and is, and ever shall be. Amen.

### PLEDGE OF ALLEGIANCE

### READING AND ADOPTION OF THE JOURNAL

### REPORTS OF COMMITTEES [I Journal 469]

### UNFINISHED BUSINESS

### PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 25 introduced by Delegate Alphonse Jackson, Chairman on behalf of the Committee on Bill of Rights and Elections. A substitute proposal for Committee Proposal No. 2 by the same gentleman on behalf of the committee:

A proposal to provide a Preamble and a Declaration of Rights to the Constitution. The status of the proposal is that the convention has adopted as amended the Preamble, Sections 1 through 6, has voted to delete Sections 7 and 8, and has subsequently adopted Sections 9 through 22 as amended; presently we have under consideration "Section 23. Prohibited Laws."

### Reading of the Section

Mr. Poynter "Section 23. Prohibited Laws Section 23. No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be enacted."

### Explanation

<u>by Boy Mr. Chairman. ladies and gertlemen of the forwarding, this basically is in the present constitution and it simply provides that "no bill of attainder shall be enacted." A bill of attainder is a form of legislative punishment. Back in the old, old days parliaments used to be able to make some type of punishment which was outside the scope of judicial review or judicial punishments. The state of the scope of </u>

[Previous Question ordered on the Section. Section passed: 110-0. Motion to reconsider tabled.]

### Reading of the Section

Mr. Poynter "Section 24. Freedom of Commerce

Section 24. No law shall impair the right of each person to engage in commerce by controlling the production, distribution or price of goods except when necessary to protect public health and safety."

## Explanation

Mr. Jenkins Mr. Chairman, delegates, for a lot of Mr. Jenking Mr. Chairman, delegates, for a lot of people this is a long awaited section. Since the Bill of Rights Committee adopted it, I think it has provided employment for a number of lobbyists who have been able to actively succeed in defeating it, really, through their work. Some of them are mode of progs and I hole that they will thank me that has been good to them for the last few months. There is an amendment which has a sufficient number of croathors on it to delete this section, So I am There is an amendment which has a sufficient number of coauthors on it to delet this section. So I am not going to be very lengthy in a discussion of it and I am not going to answer any questions, as it will be over with shortly anyway; it's going to die a quick death. The point of this section is to try to some extent to get government out of economics, because it has been shown time and time again that good politics usually makes bad economics. We have seen on the national level an utter failure of wage and price controls to accomplish any of the ends which were attempted. These government inter-ventions which occur from time to time -- We have a seen it in this state with regards to milk and We have are not and many state with regards to milk and the and the state of t national wage and price controls and the result, of course, was shortages, particularly when the maximum price set was below the market price. People simply will not produce if it's not profit-able to produce. Minimum prices of course we see in the milk industry in this state. Their purpose is to provent free constitution the substruct of the provent free constitution to the set of the set of the milk industry, for example, everyday are being cheated, not by retailers, not by processors, not by farmers, but by laxs, by government --- a government which prevents them from buying in a free market. Our laws make a criminal out of a maw ho chooses to sell at a lower price. He'll be put in jail for it. That doesn't make sense, particularly in this day and time when prices are constantly increasing. Every time the housewife goes to the supermarket she is faced with higher prices and yet have have a law on the books, the dorely Milk Marketing Law, which makes it possible for people to be put in jail if they will charge her a lower price than the state minimum. It stymies free competition, does not protect anyone. You find as is to prevent free competition because they say competition, does not protect anyone. You find as you look from state to state that farmers, procesdon't have controls as they make in states where you they do, but the consumer in almost every case pays much less for milk and other similar dairy products. The purpose of interventionist legislation, interventionist in the economy, is generally to help one group at the expense of the other. We are going to whelp consumers now and hurt producers, or we are going to help producers in this instance and hurt consumers. I think sconer or later politicians will learn to leave the market alone, let supply and demand and market forces handle the situation. Let people be punished for fraud, misrepresentation and things of that sort, but don't make criminals and things of that sort, but don't make criminals out of men who simply choose to compete in a free market. Of course, many cattlemen are placed in a stange position these days: on the one hand, pro-testing about cellings on beef prices, talking about how evil those controls are and, on the other hand, talking about how we need to preserve milk producers who take opode these are. If fear that sorndeay find themselves on the receiving or bad president per out of the receiving a rouge will and the receiving about how we need to preserve will someday find themselves on the receiving a rouge will and the receive of the routified a rouge will legislation because other political groups will find that they can play the game as well, and what

46th Days Proceedings—September 13, 1973 is now an advanta cou: ontrol ay fend to be al-advanta cou: in the future. Someone has asked, "Ny do we need such ap provision in the com t-tution" It would do no good at all to have it the statutes; if we passed a law saying there should be so prisefixing and put a statute, then if a bill were... and put a statute, then would upersde the first. So, it would do no good at all to have a prohibition again to pri-fixing. Some people, of course, say that If you don't have minimum price-fixing in fill and some other com ditte, you are going to have the credo atled is that you lay have substitution in instances like that. If one group were to get control of a particular comodity, people can always constitute for a outficular comodity, people can always control of a particular commodity, people can always substitute other somewhat similar commodities for it and as they do, the producers in that field, the so-called monopoly field, find that they can't sell their products and they have to lower their prices. Competition comes in and takes care of the situ-ation. We don't have price-fixing in bread or wegetables, both perishable goods, but you notice we don't have monopolies in those fields. In fact we've had more consolidation in the milk industry We very according to the milk industry in this state under price-fixing than most states have had where they have a free market. Another guestion raised by interventionist legislation which intervenes in the free market is the question of rights. The fact is people have a right to make a living, to sell their goods at a price mutually agreeable by them with others -- that's freedom of contract --- and laws which go again t that of intringeness, ought to be ded to be ded of the ded the ded to be ded to be ded of a trend really. In the 1970 proposed Arkansas Constitution, for the first time probably in American history, a section of that constitution would have outlawed price-fixing. Unfortunately. the Arkansas Constitution lost at the polls; 1 hardly think that was one of the reasons, but it lost. I think in future years and other state constitutions and in this state we will see increasing efforts to eliminate controls on prices, production and distribution of goods and service, because the public simply is not going to put up with the dislocations in the free economy that result from such arbitrary intervention. So I urge you to support this section and to defeat the amend-ment that will come, to try to eliminate it.

Mr. Pointer Amendments proposed by Delegate Flory

and many, many coauthor. Amendment No. 1. On page 7, delete lines 7 through 31, both inclu ive, in their entirety.

<u>Mr. Flory</u> Mr. Chairman, and delegater, it is a very simple amendment; it just deletes Section 24 from the proposed article. There are seventy-two coauthors on the amendment. There has been a gre coauthors on the amendment. There has heen a great deal of discussion about the impact of this par-ticular section and i don't want to get into a quarrel with my good friend, Mr. Jenkin, a to what you that perhaps the language that is drawn and presented here does not necessarily accomplish the parpose for which he intended it. First, let me say that believe it's matters that ought to be relegated to the legislature for their on ider-ation in that what he attempt to curre are statutory provision of law in this state. I only give to would do. It would interfere with wethans the he , why; he , ... to event of the event of the event that the called ane to the address of the event of the

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Mr. Stovall Mr. Lhain an, eiber it the investion, one brief statement. I think all st these people have righted thin mit becau ew have been lobbled by different succial interest minor, but rather becaue of the ball minorisitem, and irrelevance of the ist initial because if it lack of erit, and think wido have adequate rightsure to delete it and, therefore, I we the revenue mission

Mr. Poynter the next rection in the through Unenumerated Right te tion ... the end craft in in this constitution is certain right that mit

be construed to deny or to disparage other rights retained by the individual citizens of the state."

### Explanation

Mr. Roy Mr. Chairman, ladies and gentlemen of the convention, this just simply makes sure that any rights that wident tivito to the state still are basically comes from the United States Constitution, Amendment No. 9, which says "the enumeration in a constitution of certain rights shall not be construed to deny or disparage others retained by the people." I know there's an amendment, but it ... 1 don't see what good the amendment does; this is very plain; it's very simple, and I move the adoption of it.

### Question

Mr. Dennery Chris, ...

<u>Mr. Roy</u> It changes people to individual citizens; I wanted to say that, Mr. Dennery; that's the only thing it does.

<u>Mr. Dennery</u> Well, I wanted to ask you, is there any reason for restricting it to citizens? ... of this state l mean? Doesn't the Bill of Rights apply also to individuals who happen to be here who are not citizens of the state?

Mr. Roy Well, Moise, when we covered that --- I don't know that it means only the ---- a Louisiana citizen. A citizen just means a person --- a citizen of the United States is what we interpreted it to be.

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [*by Mr. Jack*]. On page 7, delete lines 12 through 15, both inclusive in their entirety and insert in lieu thereof the following:

"Section 25. Rights of People Preserved Section 25. This enumeration of rights shall not be construed to deny or impair other rights of the people not herein expressed."

### Explanation

Mr. Jack Mr. Chairman, and members, if you were listening carefully when Mr. Chris Roy mentioned about the U.S. Constitution, the U.S. Constitution does not use the words 'individual citizens." It uses the words 'the pepties' constitution and it is the seart words if the pepties constitution does not use the sort of the period constitution the seart words if the pepties constitution is the seart words if the period constitution and the source of the source of the source of the you will look at the Bill of Rights at the beginning of the Bill of Rights that we are considering, you will see it uses 'we, the people of louisina, and the present constitution, it reads, this in the present constitution, it reads, this that in the present constitution, it reads, this that in the present constitution, it reads, this to be construed to deny or inpair other rights of the people not herein expressed." Now, the U.S. Constitution uses the same words. It doesn't use the words 'individual citizens', it uses 'the people. 'Individual citizens', it uses 'the sparently the main autor of. I have talked to him at lunch about it. I still can't see why we can't follow like the lowisdiana Constitution and the present louisiana Constitution and say if you can stop and do a little thinking, this may be the wording to limit the legislature. It may be if you adguted the words "the individual citizen' instead of 'the people, 'and you wone the United States Constitution; the decision of the Supreme Court provides for no discrimination, and I can't for the life of me see why we should use mumbo jumbo Or some unusual wording if we really mean that this would apply to the people of Louisiana. There's some preference, some attempt being made to give some individuals preference over other individuals or else why can't we say, as I repeat. Tike in the United States Constitution, use the words "the the Freamble." We, the people of Louisiana," and close it with the wording as I have stated to you "the people of Louisiana" rather than try to Say "the individual citizens of this state." Further more, if you have it limited to "the individual citizens of this state," that's going to be a discrimination for people that work here, but are to sistle to discriminate against people that ave serving time, that have lost their citizenship till such time it gets it back, whether it's by this Bill against the J.S. Constitution; it's against the system for making this change that's logical. It's against the J.S. Constitution; it's against the ty against the Preamble in this constitution the twe passed earlier in handing this proposal. So I say to be on safe ground, the safe thing is to adopt this amendment I have offered. Thank you.

### Questions

Mr. Derbas Mr. Jack, I don't fully understand this area and I thought perhaps you could help me. First is essentially a limiting document rather than ion of sessentially a limiting document rather than ion United States Constitution reserve to the several states powers not expressly provided for in the Constitution of the United States?

<u>Mr. Jack</u> My understanding is just the same as yours. I think if there wasn't a Section 25 in this proposal here, all rights would be reserved to the people anyway.

### Mr. Derbes Right.

<u>Mr. Jack</u> Well, let me finish. When you ask me a question, I want to have time to answer it. When you say, not preserved 'to the people,' but you say like this is, 'to the individual citizens,' I am beginning to wonder if there isn't some idea of being as a to distribute the say body some being as a to distribute the say body some believe you should not pay takes unless you want to. Now, I don't know what you --- but when you treat everybody the same, then you are not discriminating. When you treat one person one way and another another and that, you are discriminating. The disk to what some body wants to do, but I am afraid of this Section 25.

Mr. Derbes Now, one further question, Mr. Jack?

Mr. Jack All right, one because it may --- if somebody else wants to, I don't want to look like I have run out of time.

Mr. Derbes No. The way that the section is originally worded and the way that the section is worded by virtue of your amendment, doesn't that your section as amended have the effect of raising to a constitutional status rights not specifically mentioned in the constitution? In other words, ordinarily rights granted by the constitution would take precedence over rights provided by inferior types of legislation, but this type of provision seems to say that the specific enumeration of rights in the constitution though they may conflict with rights. Don't you --- do you understand that question?

Mr. Jack You know I'll tell you frankly, you and I have very seldom agreed on anything and we're probably wasting our time, but I do not understand what

you are driving at and maybe you can talk to Mr, boody Jenkins because the tells me there's a whole lat of difference between what the present section is and what this one is that he has in there. He likes the new one; I think the other one is fair because it s to -- use the words "the people.tes, I presume you want this one that's it's in the material.

Mr. Derbes No, I'm against the committee proposal ... I don't want to speak on it, I just ...

Mr. Jack Well, why don't you tell me you're for the floor amendment if you are?

Mr. Derbes I'm for neither, as a matter of fact.

<u>Mr. Jack</u> Well, I don't know how you're going to vote. You'll get a splinter in your finger on the wood.

### Further Discussion

Mr. A. Jackson Mr. Chairman, ladies and gentlemen, with the exception of the title of this amendment, I started to suggest there's not a dime worth of difference but I don't quite like that expression. I think that the committee is opposed to the amendment because we were trying to make clear that the rights we are trying to preserve here are for individuals and not to some group or to a class of individuals and not to some group or to a class of individuals and not to some group or to a class of findividuals and the sist that we are trying to Rights Article, and that is that we are trying to individual; so I would urge the defeat of this amendment and since there are no other amendments before us, I would ask that we would call for the question on this amendment. I so move.

[Motion for the Previous Question withdrawn.]

### Further Discussion

Mr. Jackins Mr. Chairman, delegates, I appreciate Mr. Jack crediting me with this section. I didn't draft the particular language in it, but there is a distinction between Mr. Jack's awery leportant discommittee proposal, and it's a very leportant distuistic distinction between Mr. Jack's awend ment and the committee proposal, and it's a very leportant distuistic distinction between the propole. But what we're talking about here is this: You see, this Constitution reserves it to the "people." But what we're talking about here is this: You see, this Constitution about here is this: You see, this Constitution all sepople have. We haven't attempted to the rights people have. We haven't attempted to married, they have a right to raise a family; they have a right to live and work where they choose. These are rights that people have. We haven't foreseable that in the future some legislation of people goesd that will for to all tight of a strengt of people about here fail of those rights, but it's foreseable that in the future some legislation of the dis not a right of the general right to do that is not a right of the general right but the clittens of the state, we're saying dudy can raise. What we men by the term 'the aright of each individual citizen. It's no kind of those, but the powers protected by the people as a whole and the rights of the individual citizen That's all we're saying by this. It' the same language to believe is in the Wisconin Constitution, It's just simply saying that we're not omniscient hare whole may believe is in the wisconin fonstitution, it's just simply saying that we're not omniscient here when we enumerate rights there are no on there operater, l  $\begin{bmatrix} z_1 & z_2 & z_3 & z_4 & z_5 & z_5 & z_6 & z_6 \\ z_1 & z_1 & z_2 & z_1 & z_1 & z_1 & z_6 & z_1 & z_6 \\ z_1 & z_6 & z_6 \\ z_1 & z_1 & z_1 & z_1 & z_1 & z_1 & z_6 & z_6 \\ z_1 & z_1 & z_1 & z_1 & z_1 & z_1 & z_6 \end{bmatrix}$ 

### Amendment

Mr Boynter 'ne next amendment 's sent is Delegate Warren, Berry, Burson, and any other. This amendment at the previous recuest was passed out on yesterday. It proposes the addition of a Section 22.1, would be "nexted on page 7 between lines 3 and 4. It was passed out on yesterday.

Amendment No. 1, on page 7, between thes and 4, insert the following "section 21. Right to Compensation Section 22.1. The egislature shall provide for adequate compensation for persons imprisoned for crimes which they are proven subsequently not to have comitted.

### Explanation

<u>Hrs. Jorren</u> Kr. Chairman, and fellow delerates, a few days ago I had a statement put on your desk which will show you exactly what I' talkin about. I'm told that one picture is worth a thrusand words, so I tried to get this and I have it's I two d help to explain what I' trying to tag. when sould be add i no out through on a lonb is end i started out, I had some say to e that some persins would be able to get through on a looph e, and I assured them that I was not trying to let anybody that was guilty of a crime be able to escape through a loophole. First I would like to tell you really what gave me the courage to come before you. It was back in flay; there was a meeting held at St. Fraic's de Sales church in New Orleans. It was discussing guilty, is ady to you at this point, is mit childred of anybody. Home of us are perfect the and there trying to write a constitution for the people into saying that this thing is uoing to be perfet. We are not perfect; our legislature in nit erfet, but when we make istakes i think this is the nie time to try to correct some of this if ry u had have heard this little boy, nis male is Lakernee. Drive in Metarike Metarika and heat di h, this is awful, and he said to udde Winsber what can we do i correct this? Before he weit turther he said 'l'd live to know what I can di to further? Then he said 'but do udde Winsber what can we do i correct this? Before he weit turther he said 'l'd live to know what I can di to further? Then he said 'but do udde Winsber what can we do in correct this? Before he weit turther he said 'l'd live to know what I can di to further? Then he said 'but do udde Winsber he constitutional cynentic when it evel in doub this and he tide Mis farme, l'he id to help you draw this up, and I said to Mi uurin "Yu know hen't how anything doub the is to and I don't know what ind if reproves in 'the to some of the rest of you to tell and with the this signing' and he said he thought the stand of the for the apport to be under the with that wuld like to country thy sendent with en is going in a siy wulday if there it and on when the wuld like for the apport to be upend is the wuld like for the apport to be upend is the sound is for the apport to be upend is the is yould like for the apport to be upend is the wuld like for the apport to be upend is the wuld like for the apport to be upend is the is yould is for the apport is the inter of a the of wuld like for the apport to be upend is the wuld like for the apport to be upend is the wuld like for the apport is the inter of a the is to some to read a the you the like to be upend is the perform to be add apport to be upend is the for wuld like for the apport to be upend is the wuld like for the apport to be upend is the for wuld he will yee when wantent to g

me. I would like for the machines to be opened, I am going to send a copy of this to little Lawrence "Low" Wilson in hetairie, and let him know know that I at least tried, and he will see who wanted to go along with him and who didn't. I's going to ask if it's alright with the Chairman at this point that the machines would be open?

<u>Mr. Henry</u> We'll open them in just a minute. There's a man who wants to ask you a question. Will yoy yield to a question from Mr. Fontenot? Lady yields.

Questions

Mr. Fontenot Mrs. Warren, don't you think this should be left up to the legislature instead of putting this in our constitution? Do you think that it's absolutely necessary that it be in our constitution... proposed constitution?

Mrs. Warren Yes, Mr. Fontenot, I really do, in that if you will read ti I'm leaving up to the legislature to decide how they are going about this; but if I didn't think this was important I wouldn't have brought it to you. I don't think you have seen me up here very much, and I think this is rere with, so I think it is very important that we put it in the constitution.

Mr. Fontenot Mrs. Warren, are you aware that many times crimes are committed where there are many victims of these crimes perhaps murdered or maimed or disabled for the rest of their lives, and these criminals who are brought to justice might get out on technicalities? Do you want to provide in your amendment that these victims of these crimes where the criminals get out on technicalities are also compensated?

<u>Mrs. Warren</u> Mr. Fontenot, I think I tried to make that very clear that I don't want anybody out on technicalities. I'm going to go a little bit further with you. Now the law book that I know most about says back in there "spare the rod and you spoil the child." I believe anybody that does wrong has the right to be punished. I don't believe in saying or letting a little child do whatever he wants to do when he is growing up and laugh at him because he is little, because one day he is going off on a technicality, and I think I made this clear.

Mr. Fontenot I think you missed the point. The point is, don't you agree that there are many unsolved crimes and many crimes in which criminals get off where they are victims, and these victims? families are not compensated at the present time?

Mrs. Warren Mr. Fontenot. what I really tried to do is correct an inadequacy that has gone on. Now, I don't think we have this kind of thing every day that I'm talking about, but if it's an injustice I think that it should be corrected, and I think it should be in the constitution.

<u>Mr. Fontenot</u> No, but you still haven't answered my question. My question is what about the victims of crimes that are unsolved? Don't you think their families ought to be compensated also?

### Mrs. Warren If they're unsolved?

Mr. Fontenct Unsolved crimes or crimes that there's never been any arrest on yet. There's a dead boy in the street, he's been short-don't you think is been committed. You want to compensate a guy who maybe went to Angola for a couple of years and is subsequently proved innocent. Don't you want to compensate also, individual viccims who are dead the parents of those victims?

Mrs. Warnen Well, Mr. Fontenot, I don't have any objection to that happering. If you would like to write a proposal or an amendment as to that, I'll oo along with you, but what I'm interested in right now is what I have stated - that these persons who ... years have been taken out of their lives, that they would be compensated. Now, if you haven't solved the murder, I mean the person ... or know who did it, why should the state have to pay for something that they didn't do. The state hadn't convicted anybody of doing anything if that person is just laying in the ...

Mr. Munson Mrs. Warren, in your amendment you say "adequate compensation for persons imprisoned for crimes."

Mrs. Warren That's right.

Mr. Munson You don't say "convicted of crime." What about a person that's been arrested and being held in the local jail, for instance, but hasn't been convicted of anything? Are you talking about paying him even though he hadn't ever been to trial?

Mrs. Warren Well, I'm thinking about that person that has actually been convicted, I think ...

Mr. Munson I know, but that's not what it says. It says "imprisoned."

Mrs. Warren Well, Im talking about a person that has been imprisoned for something that they didn't do. Have you proved that these persons didn't do it?

Mr. Munson No, I'm talking about a person who has been imprisoned and has not obtained bail and hasn't even been tried. Are we going to pay him also?

Mrs. Warren I think that if ...

[19 co-authors added to the amendment.]

## Further Discussion

<u>protenct</u> Mr. Chairman and fellew delegates, I field in Opocition to this amendment. Not so much for the meet of the amendment, l'm not against compensating innocent people who have been put in jail but I am against putting this in the constitution. When you say 'the legislature shall provide for adeguate compensation,' I don't think this is absolutely required in our constitution. If the legislature so desires it can do on its own. We don't have to mandate them to do it. Secondly, they have required to man the them to do it. Secondly, they have required the source of the source

I hope that you can see my point and hope we don't have to put in words like this in our constitution. You're opening the door for all kind of other amendments to provide for special interest groups.

<u>Mr. DeBlieux</u> Mr. Fontenot, now 1 understand your expression was because we didn't compensate the victims of other crimes that we should not compensuffered imprisonment or something of that sort for the damage that he has suffered. I just wondered how would your denial of compensation to somebody who has been convicted and spent time in prison for a crime that he has not committed would offset any-that is boot quilty, but suffered damage; that is to to quilty, but suffered damage; but all beatings, or whatever? How can you offset that? Just because you want to take care of one section in society, does it deny you the right or privilege of taking care of something else if you're not able to? I'd like to ask you this; do you know that to? I'd like to ask you this; do you know that there is a law on the books already to compensate those people which you are speaking about?

Mr. Fontenot Well, if there is a law in the books already, it's in the statutes. Isn't that correct?

Mr. Fontenot That's exactly my point. Why should you put things like this in the constitution when

Mr. Newlon Mr. Chairman, fellow delegates, I rise in opposition to this amendment. Primarily, I think it's tricity a statutory proposition. I'm in favor of providing compensation for people con-vited of crimes of which they are ubsequently shown not to be guilty, but that's a matter for the legilature to do, and that' not what thi amend-ment does. This says "for persons imprisoned for crimes." Now they could be put in jail pending trial and then what happens? Suppose the legis-lature provides a high schedule of compensation and ay that the police ury ha, got to pay it, so going to have to prose ute that ase as hard as the can to try to get a convi tion o that the

Mr. Felly . Mr. Newton, I refer / i to the tanging while ay -for friet for while tree are enven sub-equently not have remented. Fan particle see where this would bren about out inst

Mr. Newton - hat's evaltly what I's taking about

wat use title, he we set the left using that he way using set and the other, one one set tree to be and he files a civil sould set such as the est user trial set and the tree to be unsdiction, and that use de that he was erroneously convited. Would he be entitle to corpensation under hit

Mr. Newton Well, I as use that he would an tribut the type of proble that I gad y reconstructions

Mr. Arnette Autley, don't you think to a me airment have enough statutory ateria in the E

Mr. Newton Well, I don t think we've at that statutory material in this Bill of Rinnts, 5 f :

Mr.

Mr. Newton Well, I'm not going to try to define it, but this has so many prove that we call, resolve them in this convention.

Mr. Denner, Mr. Newton, have you read the dra nition of the word prisoned as oppised to the definition of the word jail used a a verb, do you recognize that there is a distinction between the two?

Mr. Denner Well, as I understand the rule of this convention, and correct e of I taken ir, that under the style and Draftim rule we are to use Webster' dictionar as the or or definition point. If I were to tell you that the wind "imprisoned" means sent to prison, and the wind "jail" means sent to prison, and the wind your argument i not a strong as it was new units

Mr. Newton N., wouldn't be aute what are oning to do about the guy that is entened to lail and ubsequently found out that he wa't guilty? Are you going to den, hit is estimate to do many price in the ret winn to do not that here to many are to set do not that here to the to set of the to set of the set of the to set of the set o

Mr. Newton I don't think you an real restricted lature to addit law . Mo e

Mr Munson Mr Newlin, open a writtwo prinner, we'll ar at Arnola, Mr - Alada Mr  $\mathbb{C}^+$  - Mr -  $\mathbb{S}^+$  in there for literation ar we lay ninetic-time year, he' rotigins to size out. What would prevent Mr - Ala transmission - Mr - Al imprinced, and Mr - Alada prevent mr - the and get paid in what site increases that from a bing increases that the size with the transmission of the transmission of the size with the that from a bing on an addition the size with the free that from a bing on a different mey size the free that from a bing on and then they size the free that from a bing on a different mey size the free that from a bing on a different mey size the size with the size with the size of t

Mr Newton Net a thing

We used them the tendence of tendence of the tendence of tendence of

some time there in prison, and then subsequently he is proven, not by the mistakes that what Mr. Munson stated a few minutes ago about two prisoners getting together, but he is subsequently proven not to have committed the crime for which he was sent there. We are balancing the rights of individuals against that of society as a whole. Now, if it is good for society to prosecute criminals and send them to jail, isn't it good for society to compensate people who they have done an injustice to? Now, that's what this amounts to, and when you've done an injustice to a person like that where he has served some time in prison, lost all of his rights of live inhoid and everything, don't you think he is entitled to some compensation? Tes it that there our society protects the right of individuals who have been falsely sent to prison, convicted and there for a time for something which they did not do. I think this is a higher right and should be protected over a person who has just been maliciously harmed by some criminal action, and I ask you to support the amendment.

### Questions

Mr. Burns Senator, what concerns me in this amendment, you say "which they are proven subsequently not to have committed." Proven in what manner that they were innocent --- they didn't commit the crime? By a court hearing or ...

<u>Mr. De Blieux</u> Mr. Burns, the legislature would have to provide for that. That's where your statutory legislation ... We are only putting here the policy, the policy of the right of the citizens of this state to protect the rights of innocent people, and therefore it would be up to the legislature to implement how it must be done.

<u>Mr. Burns</u> All that's stated in this amendment is that "the legislature shall provide adequate compensation." They don't say anything about that they shall provide for the method of proof.

Mr. <u>De Blieux</u> I think that part of that adequate compensation is to provide how it is to be determined that they are entitled to this compensation. That's part of the legislation. This just sets up the policy.

Mr. Burns Don't you think it would be better if you would state that in here?

Mr. De Blieux Well, it could but you might add more words to it. I think that could properly be taken care of in the legislation.

 $\underline{\mathsf{Mr. Fontenot}}$  Senator De Blieux, you said yourself in these other cases it is in the legislature, isn't that correct? I mean compensating victims of crimes, isn't that correct?

Mr. De Blieux The point that you raise is already in the statutes.

Mr. Fontenot Right, it's in the statutes already. Now, couldn't the legislature, as I said, compensate these innocent victims in the statutes also? That's the point I raise. Don't you agree with that?

Mr. De Blieux It could, but we have put a lot of other statutory legislation in the constitution. In my opinion, Mr. Forenot, and this is a higher opinion, and I certainly think that we ought to mandate the legislature to provide some compensation to these people who have been wronged so much by society which we intend to protect.

Mr. Fontenot You think the right of compensating a victim who is proven innocent is greater than the right to a family to get compensated for an innocent victim of a murder?

Mr. De Blieux In this particular case, I think

there is because sweetimes the families that have been harmed that way, if they can find the individual they have their civil remedies. These people, they haven't any civil remedies; that's what we are giving to them, a civil remedy for the injury that has been done to them. That's all it provides for.

<u>Mr. Fontenot</u> But the innocent person who is let out of the penitentiary, he's still alive where the murder victim is dead, isn't that correct?

Mr. <u>De Blieux</u> Not neccessarily in all cases. Everybody who's been harmed is not necessarily dead.

### Further Discussion

Mr. Conroy I requested the floor on this only when it appeared that we had reached the end of the list of speakers, and no one had spoken in favor of this amendment to whom I felt I could address questions this particular section. I and disturbed, not by the concept, as much as I an by the drafting of the proposal. Wr. Dennery did by means of his questions answer at least one of the questions that I had about the meaning of this section in agying as I understood his questions that 'imprisoned' means sent to the penitentiary after sentencing, I cerl more comfortable if I understood whether this is intended to caver situations where a person is arrested and then never convicted of any crime or whether it applies only after a person has been arrested, found quilty, and certain about the meaning. I am also disturbed about the relation-Shop ed taine that the reading of this proposal with the wiver of immunity deering for comit (such arrested and whether a person who is convicted or arrested and sentenced to prison accordingly, and then aver of is such of the sentenced to charged with several offenses and ultimately found guilty. I'm concerned whether a person who is convicted or arrested as sentenced to prison accordingly, and then later it's found that somebody else pulled the trigger on the gun. He was not the person who actually committed the murder but he did commit a crime. Dous that entile that person to compose attend under this provision as worded? I go bast the course of carrying out the functions of the state. There are times when peels are turing the should be compensated, but I am still very much concerned whet he legislature finds that some prievous wrong has been committed by the state in the course of carrying out the functions of the state. There are times when peels are turt and should be compensated, but I am still very much concerned by the wording of this particulars exfied in my mind I will have to voic against it with

### Questions

<u>Mr. Rayburn</u> Mr. Conroy, I, too, am concerned about this language where it says that "a person who has been imprisoned shall be provided adequate compensation by the legislature." Now, what disturbs me, I think this language is poorly written. If it would say "shall be imprisoned after proof found guilty," but suppose a person is placed in jail and it's six or eight months before his trial comes up, and he is proven not guilty. Would he then be able to come back to the state or to the legislature and get adequate compensation for the time he spent in jail before his trial?

Mr. Conroy As I said in my explanation. Senator, I think he might be able to, and what disturbs me even more is he might not even have to go to the legislature under our waiver of immunity until he actually gets a judgment and gets them to satisfy

## 46th Days Proceedings—September 13, 1973 the judgment.

Mr. Rajburn Now, I wanted to ask Senator De Bl eux this... Ill ask you, you're an attorney. How would the legislature go about providing adequate comensation? I mean it seens to me that that's a judicial question. I don't know; maybe one person would say -I was taking two dollars an hour and I stayed in there so many hours, and another one judi say i was aking eight dollars an molar to comply with this, and certainly if the language was a little better, I could support it wholeheartedly.

Mr. Conro, Well, that's the same problem I had. Senator, because it seemed to me that it should be that the legislature would have the authority to

Mrs. Marren Well, partly I can ask ... you know I have a lot of coauthors on here: I'll put it like this. I said from the beginning that I was not an attorney. I had the concept and I tried to make it very plain as to what I wanted to get over. What I'm trying to say to all of the delegates in this concept, let us get together and write something that would be acceptable and explain it out I file it ought to be, but let's don't put it under the rig and say 'I can't go with it because this is not right. ... take that one out, because I'm going to have another amendment coming to the floor.

Mr. <u>Poynter</u> Amendment No. 1 sent up by Delegate Hayei. It's being par ed out at this tile. Amendment No. 1, on page 7, between lines 25 and 26, insert the following: "Section 26. No penalty, other than that pro-vided by laws, shall be applicable to any convitin for an offense.

Mr. Hayes Mr. Chairman, ladies and gentlemen of the convention, this lane section that I'm propo-ing now has been explained, and I think there was some opposition to the committee becaule they

excilationing it. We have a bad ituation in the tate of Limits in a involving a relation hip or a relation between he traffic C tatime and the ration of in manie mainer. The purpose of this estimates the ta-trainfient stout. Now if you want to trainfient it out, then you vote for the main manifest all it of the stout work of the main in the store if or the main store that the store of the top of the store of the store of the store of the top of the store of the store of the store of the top of the store of the store of the store of the top of the store of the store of the store of the top of the store of t

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Mr. Hein, Delegate Maje, a fread this elimination prohibit vote final first strategy and the prohibit vote first strategy attempt of the strategy and the strategy attempt of the strategy and the strategy and the strategy attempt of the strategy a

By the short line rayin again, the short end of the second secon

The barrent of lawyers who have been convicted of a crime, and your provision is my opinion would prevent the Supreme Court from later bringing in a disbarment against that guy because that's a penalty also. But in the thrust of your remarks. I think your amendment is faulty for that reason, but on your main point, that of insurance premiums, if I'm the guy that's paying that two hundred and twentyfickets, and I haven't gottem arrested, and I haven't had any wrecks, and I keep on paying that same two hundred and twenty-five dollars, but there is another guy with five accidents and the charges of D.W.I. and all the other things that he can have in this state that causes him to be a special risk. He is probably going to cost that insurance courds you propose that everybody pay the same premiums aren't you charging the safe drives more in order to cover those who don't drive safe, should pass?

Mr. Hayes 1'm glad you asked that, Mr. Stagg. You'd come out better because more people in this way would carry insurance. Now, if you would insure all those people who are walking around without insurance and having accidents - 1 looked at the weekend holiday we had off on Labor Day, and I saw a lot of people who had accidents, a lot of people were killed over that weekend period, and I wonder how many of those people had these accidents and didn't have insurance to cover these people. Now, I see a lot of people go in, and you charge them nine hundred dollars on a thousand dollars or maybe the' who hold on the state dos not buy the insurance. Wherher do, hich the state dos not require you to have any insurance. You run hin out of the market. You guarantee insurance companies a market, and what they do is run away ...

Mr. Stagg George ...

Mr. Hayes Yes, sir.

Mr. Stagg Does your amendment before this house at this time require that everyone in the state have insurance on his car?

<u>Mr. Hayes</u> It does not require, and in the state right now it does not require it, but what 1'm saying is if you would put it at a low rate, that's a low enough rate that people could get it, I believe more people would take it, and if more people would take it, it would bring the rates down. Now, I can ... put a nickel in a telephone all over the state and get a telephone all over the state state is the same. On a group policy whether you have cancer, heart trouble, diabetes, or whathave-you, interest rates are the same in that group and they are cheaper that way because people will group up in order to get them, but you don't isolate a person because he has diabetes and make him pay more money. Yes, sir.

<u>Mr. Stagg</u> Do you believe that I would vote for your amendment if it did require everybody to have insurance, and that I cannot vote for it if it doesn't? Do you understand me?

Mr. Hayes The state as it stands right now, Mr. Stagg, T believe, I would like to put it attractive enough right now since the state doesn't require everybody to have insurance--they allow you to have one wreck, which is bad. After you have one wreck and get a D.W.I. they have some SR22, they will go then and require you to have insurance, which is bad. I believe it would be good if everyone could have insurance, but what I'm saying is the people who can and want it can't get it because it costs too much; I believe that if we would have everybody, the eighteen year olds on down, the people who have driver's license would get it. think it would be cheaper for everybody, and it would be better, and it would be more attractive which I think would reduce the rates, and I feel maybe that this should cause ...

[Previous Question order 1.]

### Closing

Mr. Hayes O.K., now you can come on with your questions.

### Questions

Mr. Goldman Mr. Hayes, I agree in the concept, but I think when the ... I don't know whether this can be done constitutionally. When the legislature passed the law making necessary either insurance or the ability to pay ten thousand dollars or more, whatever that law says ... in driving a car, it didn't make it necessary to have that before you bought your car, and that's where the problem lid both out on the fore you could even buy a car, you had to have the insurance, then that would take care of this? Otherwise, I don't see how this would take care of it.

Mr. Hayes 1 agree that we should be able to ... you should have insurance before you buy a license tag, but I think the insurance should be low enough to buy, when you get to that point. I think if insurance was a slotistication in the logislature refused to do this after you have an accident, say if it's a hundred dollars then they require you to put up a hundred dollars with the state, and if somebody uses you within a year's time, then you can go claim the hundred dollars. They don't give

Mr. Goldman My question is could you get that provided for in the constitution?

Mr. Hayes I don't know if I can get this provided, but I would be willing to do anything that would help the citizens, in fact all of the citizens of the state, and if this section could help the people in the state, all of the people in the state get insurance, I'd be willing to amend it to include that everybody carry insurance, but at the same time, we would have to have a market or somebody in the state to provide the insurance for the people.

<u>Mr. Chatelain</u> Delegate Hayes, I'm in sympathy for your objective. I know what you're shooting for, and I'm in sympathy with you, but I'm having a little problem in trying to interpret what would happen to a situation where a driver's license has been removed for some penalty involving a traffic violation or something of that nature. What does your amendment do for that, Mr. Mayes?

Mr. Hayes This is what I feel the penalty should be, Mr. Chatelain, instead of permitting the insurance companies to go around and take these traffic tickets that people go down to the window and pay to somebody, or where they plead yulty, two of them I have here where if you plead to two traffic that the tost five dollars, that's seven points. We have here where if you plead to two traffic that is that cost five dollars, that's seven points. We have here be the seven that's seven points. We have here hundred dollars per year for three years which is two thousand and something dollars, around twenty-one hundred dollars, you see. If your penalty is of such nature, I think that the judge should suspend your license rather than involve your insurance. What you need is the protection for the people, and I think you should have the insurance.

Mr. <u>Rayburn</u> Mr. Hayes, I don't believe your amendment does what you are attempting to do. If I read the amendment right, it says, "no penalty other than that provided by law." Well, the law now is that if you are convicted of D.N.I. that before you can get your license reinstated, you shall have insurance, and that means that you shall have to go

Wr ease Mr. Rayburn, I have to go in the all break risk lan and I have never had an alcident, and i ve been driving thirty-five years. The innumber industry, they per it them to do anything to you they want to. I told you they let them call a "Henry huddle on you anythe they get ready and dicide anything they want to decide. It may at that point do they require Insurance. I think what they have is not the case. Now what should

Mr. Ra burn You either go there or go in what's called the surplus line.' That's right.

Mr. Hajes Now the surplus line means you go into a non-rated agency who is not even admitted to do business in the state. You have these two alterna-tives because of the way we do business here in the State of Louisiana in the insurance industry.

Mr. Ra, burn I don't believe this amendment would correct that, Mr. Hayes.

 $\underline{\mathsf{Mr}}_{-},\underline{\mathsf{Ha}}_{-}\underline{\mathsf{es}}_{-}$  But, you realize -- I'm sorry I can't answer your question -- but the situation does

Mr. Ray urn I realize it is a serious problem, and I'm confronted with it practically every week.

Mr. Hajes I would like to ask a favorable vote on this amendment. It light do the good.

Mr. Psynter Adendment No. 1 [4, 97, 114], on page 7, Time 16 add the following section: the endments now being passed out) ection for Consumer Education and Infor-sion Council.

Mr. Brien Mr. Chairman and fellow delegates, unle Mr. inten Mr. namman and fellow delegates, uniter more frame before you to asy you please to consider the second second second second second second second default of the second second second second second second the second sec and this as it is the time of the feature of the

Mrs. Brief we , this we are taken a standard about protection of the eller the Right, and aybe this the reament in the

Mr. Poynter Mr. Avant, dr y u the want the the same place, or you want to just add it a it

Explanation Mr. Asymt. Mr. Chain an and fellow is enalt, it wells a simple executed of a principle half of the people and the unverneet which they est. If the people and the unverneet which they est. If the the have unreaded to unverneet. If the the have unreaded to the have unverneet. If the non-titut me is the table have to the have the have the have to the the have the have the have to the have the have the have to the the have the have the have to the have the have to the have to the have the have to the have t

We cannot be a provided support of the second state of the second

specific authorities are not granted to the local governments and all other agencies of govern-ment in the constitution, the legislature could not enact laws with respect thereto. This is really a bad, bad, bad, bad amendment. I urge you to reject it.

### Question

Mr. Roy Mr. Perez, do you know that you and 1 agree for the first time since we've been here?

## Mr. Perez Isn't that wonderful?

Mr. Avant 1'm going to have to disagree with my learned colleague, Mr. Perez. The amendment does not do what he says it does. The amendment simply not do what he says it does. The amendment simply says that government, in order to act, must be able to point to some basis in the constitution which authorizes them to so act. There's nothing unrea-sonable about that. It should be self-evident. We are here, entering into a compact or a charter or a covenant or whatever you want to call it, between the people and the people's government. Now, it is not unreasonable to simple require in find the store of the not pervise a simple in the top endofines of the store of the not pervise a simple in the so confines of the contract, and that when it chooses to exercise power that there must be some constituto exercise power that there must be some constitu-tional basis on which to support that power, and that government will not be running around willy-nilly, assuming and implying that it has powers which the people have not delegated to it. Now that's all it does. It does nothing else, nothing more, nothing less. I ask your favorable support for this amendment.

### Questions

<u>Mr. Derbes</u> Mr. Avant, the police power of the federal constitution is specifically provided in the federal constitution, is it not?

Mr. Avant So is it specifically provided in this

Mr. De Blieux Mr. Avant, as you recognize by this amendment that if there is not a specific provision in the constitution that the legislature cannot act upon a subject. Isn't that correct?

Mr. Avant I don't recognize that at all, Mr. De Blieux. It speaks of powers. The longela De Blieux. It speaks of powers. The legislature must have been given the power to act in that area.

Mr. <u>De Blieux</u> Well, that's what i'm carking would If we can't point to some specific provision in the constitution giving the legislature the right to act, they would not be able to act, isn't that

<u>Mr. Avant</u> That's generally correct. What's wrong with that? They have to be able to look to the constitution and say, "This is our authority; this is on which we act.

Mr. De Blieux Do you recognize that right now that the actions that the legislature act upon, that about seventy-five percent of them are not in the constitution as you would advocate they'd have to be

Mr. Avant In detail, you are probably correct, but I'm sure that there is a grant of power in the constitution which can be pointed to and under which

Mr. De <u>Blieux</u> Do you recognize that under this particular provision, there would be very, very few articles when we get through this constitution, the legislature could act in?

Mr. Avant I don't recognize that any more than I recognized your first statement, Senator De Blieux.

Mr\_<u>dennis</u> Mr. Avant, when we sais in the first inree articles that the legislative power is vested in the legislature, the judicial power is vested the judiciary, and the executive power is vested in the executive department. Weren't we necessar-ily saying that there are some implied powers in

Mr. Avant ... No, I don't think we were giving them a grant of inherent and implied powers.

Mr. Dennis Well, if we weren't, why did we say

Mr. Avant I didn't hear you on that.

Mr. Dennis I said, "if we weren't, why did we say that?" Was that a meaningless phrase?

Mr. Avant What phrase are you referring to?

Mr. Dennis To say that these powers are vested in

Mr. Avant Oh, well, that simply means, Judge Dennis, that the legislature shall exercise those powers that are legislative in nature and will not exercise the judicial powers, and that the judici-ary will exercise judicial powers and hopefully. not legislate.

Mr. Conroy Mr. Avant, in the article on Legislat-ive Powers, what specific powers do you feel we gave the legislature to do anything at all?

Mr. Avant Well, we are not through with the consti-tution. We're going to give them the taxing power; we are going to give them other powers; we're going to give them many specific grants of power, some of which will be in general terms, but what this amendment does, Mr. Conroy, this is aimed at govern-mental action in those areas where there is no constitutional basis for government to act. There is no nonver then granted is no power then granted.

# [Amendment rejected: 13-99, Motion to reconsider tabled.]

Mr. Poynter The ne by Delegate Tobias. The next set of amendments is sent up

by Delegate lobias. Delegate Tobias. Inestate Tobias, if it's all right with you to be consistent, we'll make it on page 7, between lines 15 and 16, insert a Section 26. "Section 26. Right to Property Section 26. Except as otherwise provided by

this constitution private property shall not be taken or damaged, except for a necessary public purpose, and unless just and adequate compensation is paid. The right to trial by jury to determine such compensation shall not be denied."

<u>Mr. Tobias</u> Mr. Chairman, fellow delegates, I've <u>asked that Section 4</u>, as we have amended it, be distributed along with my proposed amendment. Two weeks ago today I stood at this podium and urged the defeat of Section 4. At that time I used the phrase which I believe is still appropriate to Section 4. That phrase was "verbal garbage." The purpose of this amendment that I offer is to in effect reopen the question of Section 4. Section 4 as adopted...no person, no average individual can fully understand what Section 4 says. It's extremely, extremely cluttered. It says what my amendment says in luw and subtance. Here's how it says as otherwise provided by this constitution," that takes care of the last sentence of Section 4. The last sentence reading, "the provisions of this sec-tion shall not apply to appropriation of property for levee purposes." As I understand it, the Local Government provision has a provision for levees, allowing this; so this would take care of that.

The phrase private property in Section 4 as we have adopted it, we ve said that "every person, subject to reasonable statutory restrictions, has subject to reasonable statutory restrictions, has the right to acquire, control, enjoy, own, protect, use and dispose of private property. — when you say the words, private property. — owners the private property in this state, and second, that you have a right to do all of these things that we enumerate. It's as simple as that. — In language "shall not be taken or danged' that's continued, continued from Section 4. — The phrase "except for a necessary pub-lic purpose", is signified in the red of each shall more recessary, I added it here to get votes on it. We've got to clean this section us. — "necessary necessary, I added it here to get votes on it. We've got to clean this section up ... "necessary public purpose" and "unless just and adequate com-pensation is paid," "Just and adequate compensa-tion ... it provides for full compensation. It provides for fair compensation. It also takes care of the provisions of the present constitution ...

<u>Mr. Conroy</u> Point of order, Mr. Chairman. The explanation, as well as this amendment, indicates to me that it's to be a reconsideration of Section 4. There's nothing in this Section 20.1 it's intended to propose a rejection of the addi-tional verbiage that is in Section 4. I'd like a ruling from the Chair as to whether this is a proper

Mr. Henry Mr. Conroy, 1 think your point is well taken. 1 think it is in conflict, quite frankly,

I think, consequently, that the amendments are out of order at this time, Mr. Tobias. Mr. Tobias.

Explanation Mr. Inners Mr. Chairman, delegates, I i lb e brief, I not poing to talk on the merits of the proposal dicussing and debating the Right to Property setion, and more than filteen amedments were con-idered and only three paised. Virtually every po-bible issue in that section was challenged, debated withen defeated. There not a thing in this section that's not workable, as far as the way it rits. I have a set and the section was challenged, debated in the defeated. There is not a thing in this section that's not workable, as far as the way it rits. I have the section was character and the section to if we were going to it down per onally and draft it. But there' not a hing in it that can't be cleaned up by Style and undring, without making myention, be au eof the type of wris we're drinn, has had to proceed very Slowly and deliburatry. With the way a particular yste ame out and to it, to ay langing to the way e a going bection with the ya particular yste and the liburation of langing and rehaining and the late date to risk and ya bas and rehaining and the mainter invention. I don't see any reason at thil ate date to the the year particular yste and the liburation of the to far you be and rehaining and the mainter to that you be and and rehaining and the mainter to the the year particular yste and you be the date to the the year particular yste and you be and the late date to the the year particular yste and the late date to the the year particular yste and you be and the late date to the the year particular yste and you be and y

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we we'n mot every one, and we passed see 't and we final, adopted the section. Many of au eload adopt this section. The effort bein a der hit num is to core back and bund the weit in the the objections are the side and the section and the section then and the people who lost 'Pr - bas is is se-fairman of Siyle and rating and if he it is r-ried about the way it's written, ne acht is do something about it there and not try is merite it on the floor. We've redrafted the thing, and we re prepared to ub to our redoings to the 't ite' Siyle and Orafting. We have nelped to try ad thange the siyle of it. Bit substantive changes in it. I have had the in's prudence on the word mecssary, while it the see them, cases in other constitutions which have been litigated. I sub it to you that the wid "no ened to go back and rehash mat was rehashed many, many, many times. I alk you to vide down this motion to reconstruction in the with the we we have the set of the site of the site of the set many, many times. I alk you to vide down this motion to reconstruction which mer the we we have a the set of the site of the source of the word many, many check is the profeed with ur we we have a set of the source we work not every one, and we passed over it and we work. We're almost through the Bill of kight We can go home early this afternon unless, u of en up this can of worms again. So, I suggest the defeat any effort at reconsideration and we leave the article alve dois. It can be read to such that to the committee on Style and Drafting, but we are not ready to accent any substantive chane.

Mr. Abraham Fellow delegates, 1 am n favor of recon idering this part cular section. Now we also this section finally late one day, it was after 6:00 o'clock before this section was finally and the section was finally and the problem of a mendments which were offered to the section. But, is sub it to you that the way it has been ended that we have emaculated this section. I doe mit to do what it was orfginally intimeded and denot do. should be considered now action what in until the robblement is had in an interval. as possible to keep from adding to out to where we did not how where it was going to with  $\alpha$  . I think that this is the proper to either the interval of the car are lead to nection 4 and a rece on a processing the interval with the standard with the standard with the strict either where we take the strict and without gravely with either article in a warr set in the strict at the strict is the strict interval with the strict at the strict is the strict interval with the strict at the strict is the strict interval with either a strict with the strict interval with the strict with the

My entraham second over the state enables and anything te assessments in allowing environments and the second second second second second a second with all the memory is not second to be at it

rather, now that you have had a chance to reconsider, what portion do you oppose in this right to property?

<u>Mr. Abraham</u> I think that a lot of the language now that I<sup>Tve</sup> had a chance to look at the whole thing as it is written now, I don't like the way it's written; I think a lot of the language needs to be ....

### Mr. Weiss Can you be more specific?

## Point of Order

Mr. Pugh 1 voted for Mr. Tobias' suggestion. I am, however, now interstead as a point of order. Are we now going back to Section 4 for every amendment that anybody wants to put on Section 4, before we go to the amendments that are up there on the sections yet ahead of us?

## Ruling of the Chair

Mr. Henry We hadn't decided yet; that's what we are trying to decide. Now here is what we did. We object, or our vossid during the vote by which this section was adopted. So what's being debated now is whether or not we are going to reconsider the vote. It will take a majority of those present and voting to get past this hurdle, Mr. Pugh, fiftyfour to fifty-five, whatever it is. If that vote carries, then we will go back into all ... you can do anything you want to to 4. You can amend it and for thirty minutes or three days. But it's just like we are starting anew, yes, sir.

Mr. Pugh That's all I want to know is whether we are just going to talk about Mr. Tobias' or whatever anybody else wants to bring up.

Mr. Henry Whatever anybody else wants to bring up.

Mr. Pugh Thank you for the clarification.

## Further Discussion

<u>Mr. Champagne</u> Mr. Chairman, ladies and gentlemen, J speak in favor of reconsideration of this section. As it is submitted, I am not proud of Section 4. I submit that this convention is capable of doing a much better job of Section 4. While ordinarily J would like, as most of you, to shorten this procedure, I feel that as submitted, Section 4 may endanger the passage of this complete part of the constitution. I speak in favor of reconsideration. Thank you.

## Further Discussion

Mr. Duval Fellow delegates, I realize we are all impatient. This is, of course, a sensitive issue to many of us. I merely feel this, that when an error is made, we shouldn't merely for the sake of expendices, we shouldn't merely for the sake of expendices, the opportunity to go back and remedy urecall during the debate on this section, the contraites as if that "the there is a serious question as to whether the highway department could now quick-take when you say. The issue of whether the contemplated by the section of the loss of aesthetic or historical values without regard to any legislative assertion." Now I want somebody to all own yleistation and the final data may hear that that meas. I want somebody in all candor and honesty to specifically tell me what that legally meas. I will challenge them when they de. I think is certainly challenge them when they de. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certainly challenge them when they do. I think is certa

but we do ... people clamor for highways; they want reads and streets. With this type of language you could really muddy up the entire operation of government. I think it could be interpreted that way. I think it would do away with quick-taking. I think it could be interpreted that way. I think the primary right is that people whose property is taken are paid complete and full compensation. I think we've cerit's indefinite. I think we cought to reconsider it. I realize it's taking time. I think it's a mistake. I think we've been unintentionally misled, and I think we've been unitentionally misled, and I think we ought to recedy that language. Thank you.

### Further Discussion

Mr. Rayburn Mr. Chairman and fellow delegates, I rise in support of reconsidering this particular section. I can see now where the progress of our orad system in this state could be hampred to a great extent by the words "asthetic and historical value." I have seen its lowed down to some degree constitution, you're going to see more litination than you've ever seen. Maybe this big oak tree out here right on the right-of-way has a historical value -- about three or four people running into it and geting killed. They say "No, don't dig it up because Uncle Charles and Aunt Abby got killed there fourteen years ago. Let it stand." As far as this word "asthetic," I might thint that something is 1 do not believe this is got no business in our present constitution. Now you're going to enter into progress and build better roads and better highways, please don't hamstring the people who have the powers to do that by keeping them in litigation day in and day out. I would hate to see this particular language left in this section. I think everyone is entitled to their day in court. Buil, I dhink you per progress by going too far with words like "asstnetic value." I don't really know what that means. I've asked two or three people and they hadn't told have so meright-of-ways, we just got to have some right-of-way, we us got got to have it or not have a better road or not have progress. I don't know what 's more timportant thy ord willing so many people on the roads we have today.

### Further Discussion

Mr. Rogemer Mr. Chairman and fellow delegates, 1 fise in opposition to the attempt to reconsider this particular section. I, as do you, feel oftentimes that we could have done a better job. Or to put it more succinctly and perhaps more honestly, 1 feel that we've done a job different than I would have done if if I had written it alone. But that in light, a errows a for as 'f to the than I would have to debate an issue that will be debated the rest of this day and on into tomorrow -- an issue that we'n building Section 4 as we now have it. Your ox can and will be gored, too. Your ox can and shall be this a coalition and a collection of various conters, including the word "necessor," including the words "public purpose," including the words "aesthetic value." If you while your joing to go back to this whole section and nt have your particular concept challenged, I submit to you, you better rethink through this whole process. I think we can live with Section 4 becaue it says clearly, under the law, that one it works the section y and will be concept thallenged, I submit to you, you better rethink through this whole process. I think we can live with Section 4 becaues it says clearly, under the law, that one is the yout section y hat concept shall not be taken except for a necessary purpose, a necessary purpose. My gosh,

46th Days Proceedings—September 13, 1973 hosk shout you in this nation and in thi tate werfil Forget it. It's grabbing boer day by ay it has seped on sur toe da by day. If we din they so as safeguard to our property, our r git to that freedom, then what have we done if to disagree with some things in Section 4. But an ust to correct my few doubts, then oue of the trengt, will all obe ill-done. If ut home we don't reconsider this thing and subject our elves, are again to hour after hour of debate, debate already heard here. Let's stor it now becauld is were back to da, then we can be beit to 3, and we everyone of us has ione things we would like to see hanged, we are going to waste our the over and ver again in debate ust like this; that is, debate on whether to reconsider or not.

Mr. Corroy Mr. Roeler, if we reconsider this section and, say, adopted Mr. Tobias' propisal, do you feel that after that that each sentence that was deleted would be the subject of another amend-

mer No question about it, Mr. Conroy. This was built by us, men and woren, and it's

Mr. <u>stagg</u> Mr. Chair an and fellow delemate, after the Section 4 was adopted and was printed in the newspapers of the tate, increaived the first of several letters from city officials concerning what several letters from city officials concerning what this convention had done to the operation of citle like yours and mine. I brought one of the letters to the microphone in order to read from it what the city attorney of my city wrote to the mayor of my sity. We have pretty well gotten down in the exprop-priating authority determines that there is a publir ury in the community is to determine whether it is necessary or not. For example, this would raise questions on street widening as to whether this questions on street widening as to whether this particular street was necessary to open up or not. If we got involved with the jury on this issue, it would raise some treemdous problem. Later he says, The expropriation laws of this state, at the present line, and the urisprudence, at the preient time, is such that, while recognized that exprop-riation is an extremely powerfol weapon, are in a slaintiffs and thend awagent representing both the statistic state ther in head says the their rights are to advise ther in heads as to what their rights are and what might happen. I am aware of no parti-ular arbitrary abuse of expropriation on the part to me was that he and the other nember, of the Lou lane Municipal Association are fared with ome very grave problem in the future under thi lan-guage in the onstitution and that it raises serious que lions in their mind at it whether this so to an verywhelming issue that ity overments and parish government will have to fare when the time cume, in de ideo in this constitution believe that Mr Tablas has quite proper brought to the convention a otion to reconsider this language. I will support his existing to reconsider

Mr. Newton. Mr. tagg, did you brow that the federal government was expropriating a hundred and twenty.

Mr. tagg (ou ou kitt titt the have that we have not on the ary

Mr e-kin to be know of respective we we had not the source of the source of ad the statement of the source of the determinet me exist of the source of the he is that have one the source of the sourc

Mr. Jenvins loe n tot tate the horrer there a right to trial by jury to leter new set and tion and no other n lits to a set average and the set.

Mr. Stagg belie e they on t want even a 'r a' by i'ry on compensation, the, that eva tl, t ue

Mr. Ro. Mr. enkins Well, what I A te the say, To , never ind what is

Tate Mr. ( hall an, are there any string part 1

Mr. Henr. There is neved in net or the previous question in a cound in t Mr.

Earther maniful the second second

My (Neill udge Tat, were no here drin, the drins in of this Rich t, coverty Article whe it was being drivoised

Mr. Late Burtha sart of it, yes, sir

<u>Mr. 0'Neill</u> Well, I don't remember you being here. sir. I remember all these arguments having been raised then and having been dealt with then. Do you know that I hold a California case in my hand which says that the word 'necessity' is not to be used in too limited a sense? It means a want and expediency for the interest or safety of the state.

<u>Mr. Tate</u> Well, Mr. D'Neill, I would say that if the California case says that, they are defining "that cale to be a says that, they are defining "hat cale to sme is that "public purpose" "necessity" are taken as two different things. Until now we have thought "public purpose" means it's necessary for a needed .... when needed for a public purpose, they may take. When you say it has to not only be taken for a public purpose, but that it much be a necessary use, you raise is super that. it must be a necessary use, you raise issues that our courts have rejected time and time again. Wh they say they didn't really need that cloverleaf, When they say iney oion t really meed that cloveriear, they should have had an to testaction of the high-things like that that are really property matters in my option, not for judicial determination. B incidentally, if the legislature later wanted to ad "necessity" that would be another question. But. But to say, right now, we are going to freeze "necessity" in the constitution and possibly bring on all of these terrible consequences that our local governments fear, I think is something that deserves our reconsideration.

Mr. Stinson Judge Tate, aren't you a little con-cerned over the fact if we keep on having memorial parks and this, that, and the other, we are not going to have any property on which to raise food supplies? Every time they go down on a federal highway they think they've got to dress it up and look beautiful. I'm concerned, aren't you, that if we don't stop some of it and prove it's necessary, that there is going to be a shortage of land belonging to private industry and private people to support our population and the rest of the world as we are required to do? Your answer should be yes.

Mr. Tate I'm of course concerned, Mr. Stinson. But, I'm also concerned that the need of the pople for schools, highways, parks, in these cities .... I have recently had the misfortune ... I've recently changed the place I worked from Ville Platte to another place. I wish ... you can appreciate things like parks that are needed some places. Are you for juvenile delinquercy, Mr. Stinson?

Pugh Mr. Chairman, fellow delegates, I had the Mr. rugn mr. chairman, terrow deregates, to the pleasure of offering the first amendment to this specific section when it was initially placed before the floor. I had the pleasure of speaking on this the floor. I had the pleasure of speaking on this section at the time a determination was made, whether or not we should adopt it. At the time that I made the latter speech, I indicated to you that there were some things in that section that J did not agree with. Quite frankly, I did not vote for Mr. Hernandez's amendment. I nearly fell out of mu chair when it was anonrowed. Be that as it of my chair when it was approved. Be that as it of my chair when it was approved. Be that as it may, it was approved by you as a group. I said then and I say now, it would not be difficult to rewrite this section. Any one of a number of law-yers in here could do that. What disturbs me right now, and I like Mr. Tobias' language; I think that's loyal language. I think that's something you can understand. But what worries me right now is I've got some amendments up here to some other sections that I would like for you to favorably. consider. I think I have a right to submit those consider. I think I have a right to submit those to you before we go back and open up this earlier section. I can't understand that we must now revert back to something earlier. Before I had the pleasure of serving with you, you passed many things relating to the legislature. I've got some thoughts on that. You passed many things relating to the executive. I have some thoughts on that as I do on the judiciary. But I'm not going to send you a bunch of amendments because I'm suddenly here. I'm not going to second-guess this group on

all of these things that it has done. I say, let's go on section by section. When we get to the end, if you elect not to approve the article, and it It you elect not to approve the article, and it turns out that the reason you are not approving it is because of this section, then let's address our-selves to the problem as it may then exist. But it's inconceivable. I've got two Lanier amendments here and they are different. Now, if Mr. Lanier can't decide what he wants, how can he expect you all to decide, and have the two of them? In addi-tion to that, I've got another amendment that they don't even have a pame on it. Then live out. don't even have a name on it. Then Ive got and the solution of the solution of

### Point of Order

 $\frac{Mr.\ Smith}{thing.\ I}$  We are going into the merits of this thing. I think we're arguing on the motion to reconsider and it looks like we are going far afield.

### Ruling of the Chair

Mr. Henry Mr. Smith, the motion to reconsider opens the subject ... the entire subject matter for debate. I think you're right. We ought to decide whether or not we are going to reconsider it or not before we get into the merits of it. But it does open the main question to discussion. Why do you rise, Mr. Perez?

### Point of Order

<u>Mr. Perez</u> Point of order. It was my understanding that Judge Tate had moved the previous question and there were no speakers at that time.

### Ruling of the Chair

Mr. Henry Judge Tate had made a motion for the previous question, but he and Mr. Stinson were getting at it so fast and hard, I forgot about it. So, there are no other speakers on the list at this time, and I thought ...

Pugh I want to tell Mr. Stinson that I didn't Mr. Pu intend intend to speak for or against the amendment. The point I attempted to make, perhaps poorly, was that I think we ought to consider whatever we are going to do after we get through with all of the rest of the article.

### Further Discussion

Mr. <u>Hernandez</u> Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to this proposed amendment to Section 4. There is nothing in Section 4 -- 1 want to get this straight, the indext but I am now speaking In section 4 -- I want to get this straight, the amendment is being considered but I am now speaking in opposition to reconsideration, for the reason that there is nothing in Section 4 that has 't been thoroughly considered. It's been amended numerous There is nothing in that section now that times. has not been completely considered and voted on has not been completely considered and voted on. For that reason, I as you to refuse to reconsider this section. Now, Senator Rayburn has brought up something in this even though it had to do with my Rayburnt. The result of the senator Rayburnt is senator and the second second second second second troversy. It merely says "And the final determi-nation as to the necessity of the location shall be made after due consideration of the loss of aes-thetic and historical values without regards to any legislative assertion." I would so since this has all been thoroughly considered, I am opposed to the reconsideration that is up before us at this time.

### Further Discussion

Fellow delegates, I also would like Mr. Stinson

unnece, ar, project. They as it int mit be proven ne essary, well if it not nere ary, thins we have blenty of need that none, can be spent, other than aking parks. Ur ulle of the Spreme Court ay we need he parks the ave of the orime rate. I say in the more the weather inder one erape notice the police that are are if We h pe people are getting out of the farming but Iness --we are really going to have a problem on feeding our people. It is no reason when you have a piece of property that you have slaved and earned and made money and buy it, someone come and say, "kell the city's got a hundred thousand dollars and they want to take your place and build a park." Kell, if it isn't necessary, I think that you have a right to keep that property. If we don't have that right, we don't have many rights at all. I think that is one of the most important. Certainly it should be that they have to prove that If's needed. It's one of the most important. Certainly it should be that they have to prove that it's needed, it's necessary. They would say, "kell, the fact that we just have the money, you get up and move. So, I would like to urge you. Let's leave it like it is. Let's don't recomider. Of course, another way if we reconsider, we've been worrying about the prog-ress we've made so far in this convention. If we reconsider everything ..... a lot of them passed that I don't like, but I'm willing to go abead and let it sink or swim on it own. Don't go back and we'll have at least firty attempts to change other then go. Jurge you let's go ahead and take the rest that we haven't gotten to in this con-vention and forget about going back. Thank you.

Mr. Loynter Tobia' amendment. The text of it remains the same. he instructions now have to change basically, as follows: On page 2, Strike out lines 3 through 9, toth inclusive, including all floor amendment thereto, and also floor Amendment No. 1 proposed by Mr. Perez and adopted by the convention on August 39 which added language between lines 29 and 32 and linest in line therefor the following Section 4. Except as otherwise provided by the constitution, private property, hall not be taken or damaged except for a necessary public pur-pose and unless in t and adequate compentation is.

Mr. Tobia, Mr. Thai man, fellow delegate, o eon-har. Tive heard said that they resided a compromise up here well, let us ugget to you that they have not reached a compromise. The live that I as trying to put before this orvention is, Whith do you went.

do yoù want?" Settin 4 with al of thi verliage, or a "ompletely. or an arendment thereto, which thi u-called compromite u omini furth with which will be ust al ing, if not unner, rid , u want huple, oncise la quage that ay barrail the same thing? Before I was ust off before when I was trying to explain thi amendment, I puinted out that the anguage, Except a therwise pro-vided by thi oncititor, everal the lat ien-tence of Setima 4. The phrase "private property in ludes all of the phrase the whole phrase has the right is aquire, untry, end, you

that is all is a special second secon

A set stutt on: The right to tria by ury to the standard of the set of the s

um, objection may been under That er a language, teces ary public under a t allow the court to uddivall deter le tar They would by that the legislature a my sider such atters ... I beginder dater that the court, can only consider of atter that the

when you want to start basic rights.

## Further Discussion

<u>Mr. A. Jackson</u> Mr. Chairman, ladies and gentlemen of this convention. I recognize that Section 4 entitled "Right to Property," is a very difficult and very complex subject and therefore, it's no wonder that we have reconsidered this question time

and very complex subject and therefore, it's no wonder that we have econsidered this question time and time again during the time we have been in ses-sion. But 1 believe that I can safely say that there will be an amendment that is being prepared the concernent that have been raised in this deliber-ative body. I believe that we are going to make history because we will have an amendment that's acceptable to the committee, that's also accept-able to all of the individuals that have raised questions about this important section. Therefore, I am aking that you would defeat the Tobias' amendment and would allow the committee and the individuals so concerned about this partic-ular subject to offer an amendment that's late. The amendment will meet one of the tests so des-cribed and enunciated by Mr. Tobias, that is that understandable. I think this amendment ill do that. The amendment also will, I believe, repre-sent the best think thy subject. So, therefore, I would as that you would

So, therefore, I would ask that you would defeat the Tobias' amendment and consider an amenddereat the loois anignument and consider an amend-ment that is being offered as a jointly sponsored amendment by the committee, cleaning up the language and erasing by way of the new language, some of the objections as now raised by members of this delib-erative body. I would ask that you would defeat objections as now raised by members of this dello-erative body. I would ask that you would defeat .... I would ask that you would defeat the Tobias' amendment and would consider carefully the amend-ment that will be offered shortly by the committee and by other members of this body. I would like to move the previous question.

[Motion for the Previous Question with-

### Further Discussion

Mr. Arnette ....in many things in this constitu-tion, we realize that a lot of things we are put-ting in here are not constitutional language. The "right to property" as Mr. Tobias had put Mr.

it is very well stated. It gives everyone their rights to property. It says it's not going to be taken unless it's a "necessary public purpose;" i rights to property. It says it s not going to be taken unless it's a "necessary public purpose;" it says that "just and adequate compensation is going to be paid," and it even guarantees a jury trial to word the set is in the amount of the set of that we just reconsidered except it's much, much better stated. If you want to amend this, if you are not happy with Mr. Tobias' language, fine, but it's a much, much better starting place than what we just reconsidered. The language in what we reconsidered is verbose, much of it is unnecessary, much of it is repetitive, it is just bad constitu-tional language. A constitution is supposed to be brief and understandable and to the point. And I think it's brief, we can understand it. It's very clear. And it's essentially the same thing we've got in our present constitution with a few addi-tional safeguards that people insisted on having. I don't think it leaves out any safeguard that some-one wanted to have. And I think this is the type amendment we need to adopt to clear up this

Thank you

I'll yield to any questions, if there are some

Mr. Tobias Mr. Chairman, fellow delegates, I would suggest that you read the first three words of the Preamble, "We the people ...." Well, let of the Preamble. "We the people ..." Well, let me suggest to you this that Section 4 whether it's this amendment that the so-called compromise is coming with, is included, if it's this length, you won't be able to say, "We the people ..." You will be able to say, "We the people ..." It's lawyer's relief section, that's all it is because every person in this state is going to have to go to a lawyer to find out what it means, and it's goe. You see going to med twice as many lawyers in this state if this amendment ... if my amend-ment desn't bass. You are really going to mu ment doesn't pass. You are really going to gum up the works.

the works. I urge you, it's an orderly point to start from, start here. They've got the amendments to change it if you want it... take out the words, "necessary public purpose," to make it "necessary for a public purpose." Please, I urge you, let's clean up this language; clean it up. And nobody would nown how whit the near would ever know what that means. I urge its adoption.

[Amendment rejected: 41-71. Motion to reconsider tabled.]

<u>Mr. Tate</u> Mr. Speaker, I don't know the parliamen-tary name of this motion, but I wonder how many would join in cosponsoring a simple amendment that says, "Private property shall not be taken except says, "Private property shall not be taken except for a public purpose and unless adequate compensa-tion is paid."

Mr. Henry Justice Tate, take your seat, please. Bless you my brother. Go and sin no more. The distribution copies are here. Pass them out and we'll stand at ease for five minutes while everyone reads the ... and I'm sure that everyone will stay in their seat and read their copies. Five minute recess.

### Recess

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

### Amendment

<u>Mr. Poynter</u> Amendments sent up by Delegates Lanier, Jenkins, Heine, Chatelain, Burson and Alphonse Jackson.

Amendment No. 1, on page 2 delete lines 13 through 29, both inclusive in all floor amendments thereto, in their entirety. And I think for .... to make it technically clear, Wr. Lanfer, we ought to specifically delete

the proposed amendment which was adopted by Delegate And I presume that wouldn't be controversy between lines twenty-nine and thirty, and I presume that's not controversial, Mr. Perez, because that language is included in this draft anyway.

Mr. Lanier It's my understanding, Mr. Clerk, and I think Mr. Perez will agree, that this language is included in this proposal and, therefore, that that addition would be in order. But I'd like a that addition would be in order. But I'd like statement on the record from Mr. Perez to that

"Section 4. Right to Property." I'll

Mr. Poynter "Section 4. Right to Property. add that to it, Mr. Lanier. "Section 4. Every person has the right to "Section own use, enjoy, protect and o "Section 4. Every person has the right to acquire, control, own, use, enjoy, protect and dis-pose of private property. This right is subject to reasonable statutory restrictions and the reason-able exercise of the police power. Property shall not be taken or damaged by the state or its polit-ical subdivisions, except for public purposes and with just compensation paid to the owner or into taken or damaged by any private entity authorized by law to expropriate property except for a public and necessary purpose and with just compensation

46th Days Proceedings—September 13, 19/3 To the sweet of in whith reading the ary mall sear bold in weithor. The all error rianses, by lasts and de-tion, and the owner half the monitor and the full extent of hill bold. As mutaness entropy on and the owner half the two in addit the full extent of hill bold. As mutaness entropy on and the owner half the two in addit the prior of owner half the two in addit the prior of owner half the taken for the pu-perior of owner half the taken for the pu-tion of owner half the taken for the pu-tion of owner half the taken for the pu-tion of owner half the taken for the put the taken.

Mr. anier Mr. chairman, fellow delegates, the propriate a ynthe i of ideal of many different competing philosophies that we have here in the

state who had different idea and reeling: about what the basic law of our state should be. This proposal is an atter pt to put all of these contra ting ideas and prilosophies together into a workable article on private property that can govern our state in the years to come. I the differences from the present come itee prope and the differences from the properts of the property of the property of the state of the property of the state of the property of the state of the state of the property of the state of

been considered damnum absque injuria, such as cost of removal and things like that, and I'm glad you brought that point up.

Mr. Pugh I made my point. I don't think the word "owner" is as embrasive as what you purport for it to be. It hasn't been previously so defined.

Mr. Lanier For example, we had a problem at one time as to whether a servitude was a property right, and J think it's pretty clear under the law that it is, and you can't expropriate a servitude, but you are also entitled to compensation for expropriating a servitude.

Mr. Pugh Now you say it's a judicial question. Are you suggesting that there will be a suspensive appeal?

Mr. Lanier We don't make any point on that. I think that would have to be up to the legislature to make that determination.

<u>Mr. Pugh</u> Not when you put in here it's a judicial question, it's not up to the legislature. If you made it a judicial question, then, brother, you've opened up all rights insofar as a suspensive appeal is concerned.

Mr. Lanier I don't think that's necessarily cor-rect because the appeal and the manner of taking the appeal is a procedural thing. The issue of determining whether or not there is a necessary purpose or questions of fact in law which would be determined by the courts; the manner in which an appeal is taken I do not believe would be covered by this particular language, Mr. Pugh, that's my opinion.

Mr. Pugh Well, when you say judicial question, of course we just disagree, that's all. Now, define personal effects, will you?

<u>Mr. Lanier</u> Well, I can't give you an all inclusive definition, just like I couldn't give you an all inclusive definition of the term 'negligence. These would be, I would assume, primarily movable type personal effects on ... a person's clothing. that type of a thing.

<u>Mr. Stagg</u> Mr. Lanier, it would be a part of the legislative history of this constitutional article we are on that the questions were given to the drafter of the provision and to what was his intention for it to mean?

In that connection, then, may I ask again this question? If a man was a tenant in a building that was used for laundry, and if in this laundry he had steam boilers and waterlines and presses and all of the thousands of dollars that it takes to all of the thousands of dollars that it takes to turn a building into a laundry, and the state expropriated the building for the building of a road, is it your opinion that under the language you have drafted, the man who had made those exten-sive leaseholder improvements would have to be paid compensation if the building was taken and destroyed and hie laworky had to no? and his laundry had to go?

I believe that depends, of course, the Lanier <u>An canter</u> is believe that depends, of course, the point is a you well know, can contract as to the measure of damages in expropriations, but if that's his property, if he has a leasehold interest, and value can be placed on a leasehold interest, and it is a real right, and it is my intent and, I believe, the intent of my coauthors that this real right would have a value that can be recoverable in an expropriation.

Mr. Stagg If it took him two hundred thousand Gollars to reinstitute that laundry, in other words, move it out of one building and into another, then he could get compensation to the extent of his loss as your article says "full com-pensation will be paid."

Mr. Lanier Yes.

Vice Chairman Casey in the Chair

<u>Mr. Winchester</u> Mr. Lanier, it is my understanding that the wording "municipalities may expropriate utilities" that that refers to .... private utilities and not public utilities

<u>Mr. Lanier</u> That is correct. It is my understand-ing of the existing law that one public agency can-not expropriate another public agency. That type of a thing would have to be worked out through an intergovernmental cooperation or by a joint resolution or something like that.

Mr. Willis I have three questions. They are Walter Lanier questions for the record. Now you are focusing on the words "judicial question." Would this allow the fifteen day cut-off time under Revised Statutes Title 19, Section 7 regarding all defenses except compensation?

Mr. Lanier It is my understanding of this language that it does not control the procedure ....

Mr. Willis The answer, I assume you say, is yes.

Mr. Lanier Right.

Mr. <u>Willis</u> I don't like that. Now, will it also cut off provisions of the same revised statute tille where the case is filed and fixed and served on the defendant and the trial is held twenty days after he is served. Will that cut that out?

Mr. Lanier No.

Mr. <u>Willis</u> Now, the next question which is corol-lary to that of Mr. Stagg's only this is a country boy, instead of the owner... Instead of the lease-holder being a leaseholder, he is a tenant and the crops are damaged by a pipeline or one of these high power lines, what happens to the tenant with an unrecorded lease? Does that affect him?

Mr. Lanier An unrecorded lease on .... is it a written lease?

Mr. Willis If it's unrecorded it's ....

<u>Mr. Lanier</u> No, no. No, no. ] think you will agree, Mr. Willis, if it is a written lease affecting real property, it is binding on the parties even though it is not recorded. It is just not binding on third persons under....

Mr. Willis I realize....

Mr. Lanier Now if it's verbal, I don't even it's binding between the parties. If it is a Now if it's verbal, I don't even think

Mr. Willis Well, it's a prior lease from year to year, and here's the farmer about to harvest his crop and here's the pipeline coming through it, and they destroy his crop, they pay the owner, but they don't pay the tenant.

Mr. Lanier I believe he would be covered under that situation as I intend to interpret the words, "owner of a real right." Now the question to me would be ....

Mr. Willis You mean to say that their crops are real right of the tenant when it's affixed to the You mean to say that their crops are a land belonging to the owner?

I've got to think about that one, Burt. Mr. Lanier

Think some more, and you'd better make Mr. Willis a good record.

Mr. Roy I don't know what all the exchange was that Mr. Willis raised. But isn't it a fact that right now, if you don't ...we're not certainly taking away any right that people presently have are we?

Mr. Lanier No, definitely not

Mr. Ro. We are giving them more, aren't we?

Mr. Lanier That's our contemplation.

Mr. Roy And right now if the tenant can collect for the damage done to his crop, which I think he can under any part of the constitution because he is damaged, then we certainly are giving him that

<u>Mr. Lanier</u> The real question I had, Mr. Roy, is I believe there is some codal provisions that say, and I believe there is some jurisprudence also that says that a verbal contract dealing with a that says that a verbal contract dealing with a movable is not binding between the parties. So, then, that would mean if it's not binding between the parties, I don't think he would have an interest that ... for which he could recover. I know the part of thick he could recover. I know that is been cases, for example, dealing with min-thral royalties, where people have had verbal agree-ments on mineral royalties and the court has held that since it wasn't in writing, whoever the tille was in, it was theirs and it didn't make any dif-ference what kind of verbal agreement was between the parties.

### Further Discussion

Mr. Tate Mr. Chairman, fellow delegates, with <u>Hr. fate</u> Mr. Chairman, fellow delegates, with regard to this amendment, l rise to oppose it, but not to oppose it as strongly as I do the present language we're replacing. This is, l believe, as legislation, l'd like it; l'd like to see if it worked. My chief objection to it is that It is too much detail in the constlution, and l'll point out one or two instances. I don't plan to take much of your time on this and that we may find it unworkable. Incidentally, I can live with it, but with it, and maybe we shouldn't consider their interests. For instance, for private people you with it, and maybe we shouldn't consider their interests. For instance, for private people you must not only prove it's public, but also neces-sary. Now, and you may in your good judgment, determine that they should have a stronger burden, and perhaps they should, than public agencies. But that means, for instance, farm by farm, farm by farm in each separate place along the route It's a judicial question whether it's necessary to goer hass that they would not be able to commence con-struction until it finished expropriation of a whole series, section of the line. I'm calling whole series, section of the line. I'm calling that to your attention. It may be something you don't think is important, but I think it is some-thing you should consider. Second, the right of trial by jury for compensation, i think it might be a laudable thing to try once again. We seem to forget that we had trial by jury for damages in expropriation cases up until 1948. Here in this busy, crowded twentieth century, in 48 it was aboli.hed. It was abolished becaue it was putting too great a burden on the public improvement that were necessary to accommodate an expanding so lety. too great a burden on the public improvements that were neckstary to accommodate an expanding society. Fir instance, on a highway, on a highway that would hean, could very well mean just for example, one head that the highway through the just that would head that the highway through the just that so or may not think that's a cost that's worthwhile, but it will unquestionably delay the accomplishent of the eventual conclusion of the cost of the high-way and how to build it and where to build it. It will not be a question in highway, but it will be, of course, in the public utilitie. So in hort, it him is's an amedment that has a lut if erit to it if it were legil attion. I thin' i'd be for if it were legil attion. I thin i'd be for the unstitution in herefore, if will just y us chance, in a minute, to vote on worthin ele with out nu h more, if you hould happen to urn this down, which will imply sy. Private troinety hal not be taken in danged except for a public uniones and unle, just and alequate paid, and that which will alime the legil ature [1942]

le expand all of these principle, you have the

Mr. Stovall udge Tate, as a moder of the survey fourt and realizing tratinities the Bill of the do you feel that your aendenet gives the ind of basic rights that this longer egislative ind of aendment doel. Does it give the basil rights

Mr. ate In y opinion, it does ust as does guaranteeing the federal Bill of Rights, ir

Mr. Case. Yield to a question from Mr. Nelli

<u>Mr. Tate</u> Oh, and Mr. O'Neill, I want to ake a public apology. When I said I was here when Sec-tion 4 was debated, I was here in the pre-thenry huddles on it, but it was Section 3 that I was here on. I'm sorry if I asstated it.

Mr. O'Neill That's all right, udge Tate, I appreciate that. Just wanted to ask you, this is the language from the 192° Constitution

<u>Mr. Tate</u> No, I changed it to add unles \_u t and adequate compensation was paid, to ake sure that we have no intention to forbid the less the from adopting the quick-taking expropriation rocedures

Mr. O'Neill Well, Judge Tate, don't you really think that the provision as it's been, the a end-ment that we are debating right now, don't y u think that offers the individual ore r gnt thar

Mr. Tate Mr. O'Neill, unquestionably it does, and it has that merit. What I fear is that s e if the rights that we are specifying because of thill plint in time we think are great. in time we think are great, two years fro n w we might not. We are tying the hands of the

<u>Mr.deninn</u> but there will be m dutt, i we veryone to know that the constructed set of the but the set of the

Mr will i couldn't all outlice are the set tion about what throubles him with remeit to necessity, but init to fast hat there inc-lines and undeline hould, if they are in un-in a hurry of thit i taster live the the right, houldn't they war in advance and we the people proper mit the aid hearth

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Mr. Pugh That's not the jurisprudence?

Mr. Jenkins No, sir.

[Amendment adopted: 82-26. Motion to reconsider tabled. Motion for the

## Amendment

<u>Mr. Poynter</u> Amendment No. 1 [*by Mr. Tato*]. (These are being distributed now.) On page 2, delete lines 13 through 29, both inclusive and all floor amendments thereto in their entirety, and insert

amenoments thereto in their entirety, and insert in lieu thereof the following: "Section 4. Right to Property Section 4. Private property shall not be taken or damaged except for a public purpose and unless just and adequate compensation is paid." Amendment No. 2 deletes the Perez amendment between lines 29 and 30, which was adopted back on

August 30, 1973. I think your language would adequately delete the previous amendment -- the one just adopted.

### Explanation

Mr. Tate Mr. Chairman, without further preliminary, we have had the debate, I just submit this to your good judgment.

> [Previous Question ordered. Amendment rejected: 38-61. Motion to reconsider tabled.]

### Amendment

Mr. Poynter The next amendment is sent up by Delegate Guarisco.

gate buarisco. Amendment No. 1. On page 2, line 13, in Floor Amendment No. 1 proposed by Delegates Lanier, et al and adopted by the Convention on today on line 23, immediately after the word and punctuation "taken." delete the remainder of the line and delete lines 24 and 25 in their entirety.

## Explanation

Mr. Guarisco What I simply want to do with my amendment, and I voted for the lanler amendent, and I think it's a reasonable compromise except that I think we might be redundant in this section, now. I think we are now providing for adequate compensation for each and every landowner in this state, but we have forgotten the person who owns riparian land that's subject to a levee servitude. I simply want to make this amendment delete the exception, the last sentence: "Th provisions of this section shall not apply to appropriation of property for levee and levee drainage purposes." I see no reason why we si drainage purposes." I see no reason why we should accept this particular item. If we do so, then we are denying compensation, and I don't think anyare denying compensation, and 1 don't think any-body in this to cluster to want's to deny compensation taken. Now, I think you might have some fears as to whether or not you can take a levee. That's not a problem. Appropriation, under the law right now, is under the police power of the state. Now, that is taken care of in the second sentence of Section 4. This right is subject to the reason-Section 4. "This right is subject to the reason-able statutory restrictions and the reasonable exercise of the police power." So, we have retained the right to take and appropriate for levee purposes, but if we take this exceptionality in, then this will allow reasonable compensation and fair market value to persons who lose their property for levee purposes. It just puts them in life with everybody else. I don't want to do away that everybody who owes propercys, but I do think that everybody who owes propercys. But I do think that everybody who owes propercys.

## Question

Mr. Lanier Mr. Guarisco, is it not true that the

exercise of the riparian servitude is the exercise of a servitude and is not an exercise of the police power?

Mr. Guarisco I have the 1921 Constitution as interpreted by the courts, and it's case, after case, after case state, under the police power, Case, after Case state, under the poite power, may appropriate property and may deny recovery for property damage in constructing public levees. It is under the police power, over, and over, and over. This is nothing new, but I think it's archaic to not pay people compensation for levee purposes when you pay them for everything else. If we don't treat it here, where are we going to treat it? We're going to treat it somewhere else? I' 1 'm not opposed to appropriation for levee purposes, and if it's another section, that's fine, but I think we ought to treat payment and compensation and so forth right here.

### Further Discussion

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, if you will remember, this matter was thoroughly discussed and thoroughly argued, was thoroughly discussed and thoroughly argued, and the amendment was adopted to put the appropri-ation for levee purposes in a different category with the complete and distinct understanding that when we came to the Local Government Article, which deals with the payment for taking for levee pur-poses, that we would discuss compensation at that time. There is no reason that we should belabor the point nagorith is r the compromise provision by the great additional of the state of the other delegates, and we should reject this amendment.

### [Amendment withdrawn.]

Mr. Casey Now, Mr. Tobias has asked for recognition to speak on the section.

### Point of Information

Mr. 0'Neill Mr. Chairman, we haven't followed this procedure before in speaking on the whole sec-tion, have we? We've only spoken on amendments. Am I correct?

<u>Mr. Casey</u> I think what's "good for the goose is good for the gander," and if the procedure is good for amendments, it's good for the whole section. Please proceed, Mr. Tobias.

### Further Discussion

<u>Mr. Tobias</u> Mr. Acting Chairman, fellow delegates, again I am before you. I called Section 4 before we've now amended it once before, "verbal garbage." It still is "verbal garbage," and you will need an attorney to interpret it. If you really believe

attorney to interpret it. If you really believe this is what the people want, vote for it. Mr. Chairman, I once before called this sec-tion "verbal garbage." It still is "verbal gar-bage." It needs 67 votes to pass; I urge that you not give it the 67 votes. Defeat it, let it be cleaned up. It's still horrible--it's an abom-ination. Unfortunately, with deep regret, I will have to oppose the whole article on Bill of Rights, although there is a lot there that I disagree with.

### Further Discussion

Mr. Stagg Please let me have your attention be-cause we have to decide what to do about a sticky problem. All of you will remember that there was a decision, and there was a campaign to turn down all the amendments, they all were defeated. Included in those that were defeated was an amendment that would provide that the legislature could pay for relocation expenses in order not to lose all federal highway funds. So, the next constitutional amend-ment No. 1 so that we would not lose all federal funds heretofore coming to this state for highway funds heretofore coming to this state for highway and other purposes. Amendment No. 1 reads this way:

danger lies in this language where we have not provided for those funds which comes by way of-selves with such a problem the day after this cons-titution is adopted. Mr. Chairman, that's all wanted to say on this section.

Mr. D'Kell Mr. Chairman, ladies and gentlemen, you know how when you dream things and then you wake up and you think that what you're living is sust what you've dreamed? Well, that's the eva t fee ing i get right now. Two weeks ago on hurs-day, Mr. "oblas got up here and called it 'verbal sarbage," and then other objections were raised. of the past. Well, we pare do the property artific that time, and istand to ask you to pass it again which constitutes this article right now, and I think that we should vive it more votes than that in final passage. Mr. Toblas' conception of pri-vate proporty way and I thely enlained to say you changed much today. I'd live to say that thi section is not what everybody wind want

 $Mrs_{\rm s},$  Warren Mr. O'Neill, would you speak t the question that Mr. Stag, browth up about ot, ou know, being able to get federal fund. Would you

Mr. O'Neill Mrs. Warren, I'm not ure that I'm i qualified to speak on that, but I think 'f there i a problem, then we can follow Mr. Stagq' sugge -

Mr Stags May I read to you tume landware from the provision that will obte to a from the Committee on Revenue. Inance and lawation, since you are oncerned about this, a lam it ays, in their lature may enact legislatum to enable the late. It agencie, blard and commission, and the political subdivision and this sender to sept will freeze law, and regulator is order to sept federal parts pathon in the hist of agital incrowment princet. Now, is you anguing it in field you this that that landware it article, would siver the insteam that I raised

Mr. (Ne 11 Yes, tr, do, Mr. tan, I really dist think that it hould be trought or when the article one back up, at that the, the ane up -

M, not M a a ar we in the transmitting tree to a re-and we is first if the main reaction we we all for an in-way convert does to refer to the domand be elegated in a first we do the domand be elegated in a first we do the domand be elegated in a first we do the domand be elegated in a first we do the domand be elegated in a first we do the domand be elegated in a first we do the domand be elegated in a first we do the domand be elegated in a first we do the domand be elegated in a first we we do the domand be elegated in a first we do the domand be elegated in a first we do the domand be elegated in a first we we do the domand be elegated in a first we we do the domand be elegated in a first we we do the domand be elegated in a first we we the domand be elegated in a first we we the domand be elegated in a first we we the domand be elegated in a first we we the domand be elegated in a first we we the domand be elegated in a first we we the domand be elegated in a first we wate.

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Mr. In the second secon

Mr. Chatelain Well, the word "access" and "physical condition" was the one that frightened me quite a bit.

Mr. Gravel Well, if you'll notice, the freedom from discrimination that we seek by this amendment with respect to physical conditions would be any "unreasonable, capricious, or arbitrary discrimination."

## Mr. Chatelain Thank you.

Mr. Roemer Mr. Gravel, let's make this point again. The amendment to which you address your remarks presently is the one that has nothing to do with the hiring, the firing, the promotion, is that correct?

Mr. Gravel That's correct.

Mr. Roemer Only public areas in access to them.

Mr. Gravel Yes, sir.

Mr. Berry Mr. Gravel, isn't it true that what we have done here is consistent with the 1964 Civil Rights Act that's already in existence?

Mr. Gravel But I think that the concept definitely stems from the Civil Rights Act, yes, Mr. Berry.

[Previous Question ordered. Record vote ordered. Amendment adopted: 79-16. Motion to reconsider tabled.]

Point of Information

Hr. Jenkins, Mr. Chairman, delegates, we have an amendrent that has been passed out. The author is A. Jackson on behalf of the Committee on Bill of Rights and Elections and it deals with freedom from discrimination. It's a little bit different from Mr. Gravel's amendment, but the last sentence of that proposal says 'nothing herein shall be construed to at part freedom of association.' I disk to odden If a Loudd have a suspension of the rules for that purpose.

Mr. Henry Mr. Clerk, can you doctor that thing up and make a real nice amendment for these gentlemen?

Mr. Poynter Yes, sir.

Mr. Henry Well, would you read it the way it ought to read, please, sir?

Amendment

Mr. Poynter 0.K. Amendment No. 1. On page 7, line 16 add the following at the end of the language added by Floor Amendment No. 1 proposed by Mr. Gravel, et al., and adopted by the convention on today. Just simply--"Nothing herein shall be construed to impair freedom of association."

### Explanation

Mr. Jenking Mr. Chairman, delegates, because we are talking about public accommodations, facilities and things of this nature, it could be construed that certain private organizations and places could be considered, by some stretch of the imagination and some judicial opinion, as public and certainly we don't intend for this, I don't think, to apply to place and I which this language would protect us some in that regard. So I would like to move the adoption of this amenent.

### Ouestions.

Mrs. Zervigon Mr. Jenkins, as I understand it, what you are really talking about is the freedom not to associate.

Mr. Jenkins Well, obviously that is, when you talk about freedom of association you are talking about

that just as when jou are talking about freedom of speech, you are talking about the freedom to speak or not to speak as well as what you say.

<u>Hrs. Jervigon</u> No., sir, I believe this is a different thing because I believe the words that you are now laying before the convention for their consideration would mean to me that I could knock on the door of a private club and say, "Let me in; I want to associate with those people."

'Mr. Jenkins No. It's ... freedom of association is not just the right to associate with a given person it's his right not to associate with him. If someone forces you to associate with him, then it's abridging your freedom of association.

Mrs. Zervigon Where is that defined, that the freedom of association really means the freedom not to associate?

<u>Mr. Jenkins</u> Well, I think you just have to understand the meaning of words. I think that's a clear meaning of that expression. Let me also state that that sentence was in the original committee proposal, and so we are just attempting to carry it over into this section.

Mrs. Zervigon Thank you.

<u>Mr. Stovall</u> Mr. Jenkins, you are an attorney, aren't you?

 $\frac{Mr. Jenkins}{I am not an attorney}$ . I have a law degree, but

Mr. Stovall Not an attorney. I'd like to ask you where in Mr. Gravel's proposal is there the possibility that it might be implied that you would be compelled to associate with anyone whom you might not choose to associate with?

Mr. Jenkins well, the nature of the proposal as adopted is rather vague when you talk about what is discrimination, what is a public place, what is a public accommodation, what is unreasonable discrimination? These are all questions that I don't think any of us know right now and the courts are going to have to decide. I simply want to make sure that the courts don't go too far and interpret that certain truly private places are in fact public.

Mr. Roemer It is not unusual, Mr. Jenkins, that I am confused. I want you to know, or do you know that I am confused? You know that?

Mr. Jenkins I'm not surprised.

<u>Mr. Roemer</u> O.K. me either. Now, what confuses me is that you have tacked the line onto the amendment that we just passed, correct?

Mr. Jenkins I'm trying to.

<u>Mr. Roemer</u> 0.K. The amendment that we just passed says, "in access to public areas, accommodations and facilities." Now, what does your amendment do to that?

Mr. Jenkins Well, the question arises as to what in Dificacommodation 1. for example, is a barroom a public accommodation? Possibly it is, possible it int. What if it is a private barroom, a private club; is that a public area? It..you come into some real touchy questions as for instance, whether...do you need a membership card or don't you for it to be a private club...

Mr. Roemer So be it.

Mr. Jenkins ... or is a country club a private place? Obviously, there are some private places and we want to be able to at least allow the court to make that distinction.

Mr. Roemer I understand your problem, Mr. Jenkins,

but I asked you does your amend ent correct that prob == ? Does it define what a public place is, your amendment?

Mr. Jenkins No, it doesn't.

Mr. Roemer Thank you.

Mr. Fulco woody, I m a little bit frustrated myse f. Do we have to have it in the constitution that I have to have freedom of association?

Jenkin No.

Mr. Fulco Do have to have constitutional guar-

Mr. Jenkins No. We don't have to have this sec-tion in the constitution, Delegate Fulco.

Mr. Fulco I know, but ...

Mr. Jenkins But if we are going to have this sec-tion, I certainly think that we need this sentence in it to live us so e protection with regard to

Mr. Fulco I know, but what is it that prohibits u fro association today? Why is it necessary?

Mr. Jenkins If you talk about access to public accommonations not being denied anyone, you have a proble with regard to private associations and they are going to be forced to associate with peo-ple they don't want to.

Mr. Fulso WelT, Woody, am I going to be arrested for associating with some other person in these public places if I am not guaranteed that right in the constitution?

Mr. enkins No, but you might be denied, for instance, if you are a group, the right to continue and aintain the integrity of your group and we want to make sure that that's not continued. This is and annualm the integrity of your group and we want to make sure that that's not continued. This is not a new thing that is just being brought forward right now; it's from the original con ittee pro-posal, Section 7, been in there from the very begin-

Purther Di Gus ion Mr. Jonners. I an forced to speak against thi par-tisular smendment being placed in this particular hace. The rea on I raised the quet ion or oinally is to whether or not it was germane to the subject inter and the quetion is an end to ask Mr. Jonner and a purity location and once the purit area hab-been rented by this private organization and then we lude the quetion area is a mora from an celling, netters an etry and to forth. Now, I mit believe that is what Mr. Gravel and Mr. Berry had in ind when the offerent the stallar e than 66, but believe that hy or letrum donain, by putting the last entrem as the tag is to this, out gut be destruction to that was would be destruction the very new of that was would be destruction in and while and the tag is to this, would have no mention and the tag is to this would have no mention and the tag is to this would have no mention and the tag is to this would have no mention and the tag is to the would have not be the marked of the trees the start mention the start of the trees of the trees of the start of the tagent to the trees of the trees of the trees of the the mention the tagent to the trees of the trees of

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have anythin 1 in will Mr enner that would apport a pelled ut freed as jation provision in some other part of the Rights before we can use it but, for you are point to put this denotes that the some of the particular specific provision that, en frait, i thought represented a rea mailed or no among the divergent view. that had been existent ment, however, then we light us for a distingt the fact that we are indicated by the some of the fact that we are of the to distingt are distingt each distingt and the some of the distingt could agree upon. At then we find to the the ease reached as iddle mound that out of the deseate could agree upon. At then, we take the distingt for the but rather that we cle it out in the ball of the amedment that you reak in you the take we defeat the ensits a end ent, and the find we defeat the ensits a end ent and the find the some the sources of the source of the sources of the we defeat the ensits a end ent and the find

Mr. Stillion Mr. Gravel, I didn t think mai wr Jenkins amendment wat were in think mai wr Mr. Still on Mr. Gravel, I didn t thin, and Wr. Schins, anendenet was very important, at fra what you say, if it ruins what , u hare all ea-done to the people, would you can ear wer the que tions? It, what have you already one to the people and how wild t is ruin wat you have already done to us?

Mr. Gravel I ha enit done ar, "hin t "he e ie We have adopted by a rather blan bit stanta vote a provision that says that in a est pub-lic areas and all or ddations, there had be n discrimination. Now, I don t think that there should be built into t'at wheth a feel fr should be built into tat unkepta 'eas from a sociation being frat ay minister a sint the thrust of the amend ont Nobol, under t knim nor doe Mr. Eakin know exaltly him th corrt are going to onstrue that artivular. This particular provision with that a end with atta he to it and I think that 'we rest and with and the having a confusion provision.

Mr. Stinlon Well, Mr Grave

Mr. Gravel Have a tax-el t what!

Me tink n build in thit we eek root i go up there and known the down among there in a fax exerct to build there and is a root and your and week with the root to the to you wouldn't last end there is the to the root hild be after the second to the to the what this beet

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tion passed: 88-15. Motion to reconsider tabled.]

Amendment

Mr. Poynter Amendments sent up by Delegates Warren and Jack.

Warren and Jack. Amendment No. 1. Dn page 7, between lines 3 and 4, insert the following: "Section 22.1. Right to Compensation Section 22.1. The legislature shall provide for adequate compensation for persons convicted and imprisoned for crimes which they are proven subsequently not to have committed, provided the person did not by perjury contribute to his own conviction."

Explanation

Mrs. Warren I think that this amendment is almost self-explanatory, but some of the delegates what to add a method following the word "provides." I don't think it is really necessary, but I don't object. The important thing is that no innocent object. The important thing is that no innocent person should be imprisoned and not receive compen-sation for time spent in prison. Often people go to prison in the prime of their life and come out old and tired and not able to make a living for themselves and their family. What about the suf-fering of their families while they are imprisoned? They have no relief and they run from one lawyer to another trying to prove the innocence of the person. You can't know hav a tight shoe feels unless you have to wear one; then you know how the pain feels. Death is a sad vehicle. Death is an everyday occurrence, but it has a terrible sting, everyday occorence, bat it mas a terrible sting, yet in most cases one never gives much thought until it reaches into their immediate family and snatches one close and dear to us. Let us, as hard as it might seem, to try to imagine we are the victims of the circumstances. How did you feel when you were accused of something that you did not do? How would you want to be treated under the same circumstances? I want you to ask yourself that question. How would you feel and how did you feel when you were small if your parents accused you of something that you know you didn't do? Would you want them to just say nothing about it and do nothing about it? Mr. Fontenot raised the question when I was up here once before and he said the person who has somebody lying dead in the Street does not get any compensation. I wanted to this. The person lying in the street, the state did not kill them, for the state owes them nothing, and in the next thing persons who are killed.---your family people are killed and laying in the street;--a person that serves time does not give when you were accused of something that you did not street; --- a person that serves time does not give street:---a person that serves time does not give anything to you; it only punishes that person for the wrongdoing that it has done. I say to you that try to look in your heart and think about this per-son who has innocently gone to jail and served time in prisons for something that they did not do and sent you don't want to do something about it. has been taken off of her job, accused of something that she didn't do or he did not do, and then they are found that three teachers are innocent. they are found that these teachers are innocent, they get paid retroactive. What is wrong with an innocent person being paid some compensation for the time that they have spent? Thank you very much.

### Questions

Mr Fontenot Mrs. Warren, again I am going to ask you: Don't you think this could probably be taken care of in the legislature without a constitutional

Mrs. Warren I don't think so, Mr. Fontenot; if I did, I wouldn't still be coming back up here taking the convention's time.

Mr. Fontenot Secondly, do you have statistics to show how many persons have been imprisoned, con-victed and imprisoned for crimes when they were proven subsequently not...l mean how many actually...

Mrs. Warren No. Mr. Fontenot, I don't have .....

Mr. Fontenot fou don't have any statistics at all.

Mrs. Warren ... I gave you a picture of one and I don't have any statistics, but I am sure you could find them. But if it's just one person, I think they deserve some compensation.

Mr. Fontenot You think ... I mean this one per-ought to have this constitutional right, but al these other persons don't need constitutional

Mrs. Warren Under these circumstances, I do.

Mr. Stinson Mrs. Warren, I am concerned about the last part that says "provided the person did not by perjury contribute to his own conviction." Now, what is meant by that?

Mrs. Warren I think if they have contributed to their own, they just told a lie and they are guilty.

Mr. Stinson

<u>Mrs.Warren</u> I mean they could come back. I reall don't want to go into hang-up there. This was added; I've tried to get it down to the point where it would be acceptable to most of the people of I mean they could come back. I really

Mr. Stinson Well, does that mean then that if a person pleads guilty and later...had found out that he really wasn't guilty, he wouldn't recover if he had lied and said he was guilty?

Mrs. Warren Jack though. I don't think so, I'll yield to Mr.

Well, you think Mr. Jack would tell

Mrs. Warren I believe he would.

Jack Mr. Chairman, and ladies and gentlemen, Mr. Jock Mr. chairman, and faules and generation I am a coauthor of this amendment. Mrs. Warren has had this up several times, asked people for help, has a good idea. I've helped here to draft this and a number of others. Now, you are going this and a number of others. Now, you are going to get an amendment that should have been passed out, will be passed out by Senator Rayburn, which is going along with this. Now, here way...his will simply add the words "a method" at the end of the first paragraph. Now, here's the way it will read, if you will look at the Warren---it's words "a method" hare's the way it will read. Words "a method" hare's the way it will read. "The legislature shall provide a method for adequate compensation for persons convicted and imprised "The legislature shall provide a method for adequate compensation for persons convicted and imprisoned for crimes which they are proven subsequently not to have committed provided the person did not by perjury contribute to his own conviction." The way adding this section originally was I wouldn't have supported it, but I am glad to support righting a wrong by adequate compensation where an innocent person was convicted, went to prison and he did not add and aid in his conviction by committing perjury. This is done in lots of states, but the legislature shall provide the method for making legislature shall provide the method for making this. Now, as to how you go about proving his dis-lature will set it up. Many times a person has served time in prison, allegedly having killed another person, and the person has been proven to be alive by coming forward. Many other persons confessed, but the legislature will be the ones to decide what type of proof is necessary to show that the person was innocent who was convicted and sentenced. Now, I would not support such legis-lation unless it had that provision that the person that was convicted was innocent, he must not have committed perjury. Now, where you have these peo-ple at times that are charged with a crime---

40th Day's Proceedings—September 19, 1913 they are innocent, uit they lie, uit er ury the clains an alb when thin the true -- they would be excluded. In it true the for adeuate componentiation where society thru. Use in true er-tait is sha canvited an innocent er on -- that arrson did not do anything to fall under that on-tion like per uris of effort -- and where that remon has been imprisoned for that rie, inder the present as there is in provint in to pay fort its not using to open up a Pandora boy of the type of things and the legis ature will ale the yuide ines. All right, Kr. tinion.

Mr. Stin on Mr. lack, you are covering those that are imprisoned, but suppose o eone wall executed? Non't you think you should take lare of his family?

Mr. ack Well, Mr. tinson, you are a very good Tawyer; you know how to draw arend ent; I m trying to handle this one. Mrs. Warren, to my knowledge, is equal the record or Robert Bruce and the pider. Shout every time she has keit at it; she has served on the committee with me. I see how hard he world and she has kept at it and I volunteered to help

Hr. Stinsin Before your time runs out, I have another question. I don't want you to fillouster. Suppose someone pleads mulity and later is...would this apply to him or not?

<u>Mr. Zervion</u> Mr. Chairman, and delegates, Trise with great reluctance to speak in opposition to this amend ent. Even with amendments that Senator Rayburn will introduce that says that the legisthis mend ent. Even with amendments that Senator Rayburn will introduce that says that the legis-lature shall not provide compensation, bit shall rovide for a ethod of fixing comencion. I at 11 severely troubled by the provision that sum-plant to be found introduced. If a severely troubled by the provision that sum-duced by the provision that sum-the severely troubled by the provision that sum-the severely troubled by the provision that sum-duced by the provision that sum-duced by the provision that sum-duced by the severely severely the severely substant to the severely severely severely the severely severel

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Mr. Zerigon (H., 1996)

Mrs. Zervision No. Inc. and we do in the second states of the second sta

Mr. Lanier Mr. Zerstum, aufault für am this thing i written wouldn't jour ave such the trials, one trial is a sternise weither is the performed such that the sternise weither not he ..., hat on these is affected in the wouldn't yi have to save thrait sternis whether he lied or not is don it.

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methods of payment, I think we just argued half of the day about that on Mr. Jenkins' Property Right Section where we provided constitutionally that a Property Right person must receive just compensation. I belie very strongly we have affirmed the fact that we believe are going to provide just compensation for property, then it seems to me that we ought to follow suit and provide just compensation for the liberties of a person, particularly when the state has unjustly endowed a wrong on an individual. I think Mrs. Warren's amendment as written has much merit. I don't find the kinds of problems of merit. I don't find the kinds of problems of proving innocent. I think, you know, you have got the appeal process, all of that. So ... there are ways that a person can be proven innocent. In think if there's a question of Styling and Drafting that's why we have got a Styling and Drafting that's why we have got a Styling and Drafting Committee so if, you know, you are concerned about proven innocent, but in effect, we know we can accomplish that... that end result, then Style and Drafting can provide the necessary word-age. I would suggest to you that the amendment as Mrs. Warren has proposed attempts to meet all the objections, as I understand it, when it was initially proposed. The objections that I have attempted to ..., relate to and try to enlighten you holds no real valid weight. It only says that the tation is a warren indicate do you that there is a following amendment if this one is adopted to jonsert the word "method." So, I would ask that you give some favorable consideration recognizing the kinds of nct only loss in terms of confinement. you give some ravorable consideration recognizing the kinds of not only loss in terms of confinement, but the kinds of loss to that person's reputation, his status in life, the effect on his family, his liberties, his citizenships and things like that, and I think that the state ought to. I ask for your favorable consideration of this amendment.

### Further Discussion

Mr. Pugh Mr. Chairma, fellow delegates, I rise in favor of this amendment. I don't find great difficulties in resolving the questions that will possibly be posed by this amendment. It clearly states that "the legislature shall provide for adequate compensation for presons convicted and imprisoned for crimes which they are proven subsequently not to have committed." It only happens rarely, but it does happen. You heard me mention the case of <u>Brady vs. Maryland</u> the other night. That's an instance when It Can happen. d wis not guilty. The jury in turn found him guilty. At another trial, the person who should have been convicted and Brady himself was released from the penitentiary. Who of us should suggest that a Victed, and brady nimself was released from the penitentiary. Who of us should suggest that a man like Brady should not be compensated for the time in which he was in the penitentiary and the damage that was done to him? Who of us should best provide that compensation, than the state that put him there with the suppressed evidence in the first place? I reiterate, I move the adoption

### Ouestions

Mr. Willis I have a number of questions. I wonder how long we'll last. Will the legislature pay the minimum wage if a man is sent ... is imprisoned for say, about two years?

Mr. Pugh You say, will they pay at least the minimum wage? I certainly hope so.

Mr. Willis Can you compel the legislature to appropriate compensation? Can you mandamus the

Mr. Pugh Can you mandamus the legislature: 1 think by constitutional act you can mandamus them to do it

Mr. Willis Isn't this a judicial issue, the ques-tion of compensation?

Mr. Pugh You say "Is compensation a judicial issue?"

Mr. Willis Yes.

Mr. Pugh I'd say that the legislature found it not to be so when they provided when a policeman was killed, they paid him ten thousand dollars, and I'm very much for that act, but they had no trouble at that time making a determination of what it was worth.

<u>Mr. Willis</u> Well, that was legislative. Now, is not the victim of a crime, regardless of what crime it is, as damaged as the alleged perpetrator of that crime, later proved not to have committed the crime?

Mr. Pugh No doubt in my mind and I ...

Mr. Willis Why isn't that victim provided for?

Pugh I have no reason or knowledge why Mrs Warren did not provide for that one, but I would support such an amendment.

Now, does not this constitutional pro-Willis vision encourage a conspiracy among inmates whereby one who is for life in the pen, will come out and testify that the other one didn't commit the crime?

Mr. Pugh That same question was asked of Mrs.

Mr. Willis What's your answer?

Mr. Pugh I don't think it would. It's inconcei able to me that the facts as presented by either Pugh I don't think it would. It's inconceivable to me that the facts as presented by either that person or you would actually occur, that two people would conspire to collect money in this fashion. It's too easy to collect money than to be doing it in this fashion.

Mr. Willis Well, we have different views on it. <u>Mr. Willis</u> Well, we have different views on it. Now, a conspiracy ... you know that you can be charged with conspiracy for committing a crime, this, two people can. Let us assume that one of the commits the crime for which both of them are sent. Now, you have the two in Jail. Now, one confesses and says the other one didn't pull the trigger, T did that." Wouldn't that encourage some of that? that them

Mr. Pugh No, because in my opinion, under the existing law, and there is a law that was passed by the 1973 legislature, both of them would still be guilty. I don't think it would be any compensation.

## Further Discussion

Mr. Berry Mr. Chairman and fellow delegates, the In support of this amendment. Our legal system, as good as it is, is not perfect. Sometimes mis-takes are made. There have been instances in which takes are made. Mr. Chairman and fellow delegates, I rise These alls may be marked and the set of the a person has been arrested, charged with a crime, that this amendment be passed.

### Questions

Nr ier Mr. erry, are ou aware of the fact that in Section 1 of this artille we put it a ir vision that say "the right: enu erated in thi article are inalienable by the state preserved inviolate by the state

Mr Larier Thi is entitled "I ght to Compensation "Is that correct?

Mr. Berry 'Right to Compensation. That right.

Mr. Berry That' right.

Mr. Lanier Why haven't we provided something in here for the people who are the victims of crimes, that are injured as a result of crimes?

Hr. Berr, Well, J thini there's a logical distinction between this ... in this particular amendment, the persons have gone through due process of law, and the mistake has been made and an innocent person has been found guily, and it subsequently turns out it was proven he was not guilty and he has spent a number of years in jail. Now, the state had a direct hand in that and incarcerated hi for a nuber of years, while the innocent vitinat, plus the fact you'r remedy at Taw as against the perpetrator insofar as the persons act.

Mr. Lanler But, T mean, Mr. Berry, if the man is imprisoned for life a a practical matter, what type of redress do you have against the man that':

Mr. Berr Nice he i proven innocent, he could stil come back under this implementation of this constitutional andate that thi legislature would

Mr. Locarison locion eerry, olo jou know that we've heard on an unit about it not a fact that lost recently that we provided, after everal amend rents and comproises, onstitutional ust co pen-zation for property rints of individual, and here we are talking about human liberties?

Mr. Berry 1 would certainly equate a perional right over a property right. If you're going to proteit one, you certainly should protect the other.

Further incurring Mr Galey Mr Chair an and deleader, 111 be very brief on Lhis, 11d like to clarity ine thing units ally, that liftor vitue indications and and and the second second second and and witherhold purphical it i would entainly favorally ment der the proper east tent of favorally, favorally indications and the model in the second second second of this type, put test to would entainly favorally test of the second second second second second second of this type, put test to the second second second second test of the second second second second second second second test of the second second second second second second second test of the second second second second second second second test second se

faw for the the iver the we don't know with the neuropertation of ade aterview atom to the iverse is a fatter the set of ade aterview atom to the iverse is a fatter the set of the set of

Hr. Lenna, Mr. asey, as u inn that it a meta-ment passe and the constitution is a meta-adopted, is it possible that the fell at ress of thereafter enact a statute that would require the local parishes to pas all of the enal.

Mr. Casey Well, depending on what it is a night the area of used government, the legislature of it have that authority and is inder the local vern-ent artible that is in the inhibite of inn t show. That active address is elf to the legal on titutional proble

Mr. Lace Well, think that with an inter-trow this a friendly question that with the left and would do that, but I think they will be the obligation on local mer net with relative rabe for handling, let / is an all with y lation or violations of ity relations where a body into to follow the state of a state for violations of the state of a state or violations of the state of a state alled to pay that adeuvate with the

Mr. Avant. Mr. Later, Laters & those in the remark. Here's thir wire that is the set of the set of

## Further Discussion

<u>Mr. Fontenot</u> Mr. Chairman, fellow delegates, I'm going to try to be real brief and I'm going to call the previous question as soon as I'm through with my remarks. I'm in opposition to this amendment not from not wanting to compensate individuals who are subsequently found not to have committed crimes, but I'm against it mainly for the reason that I think this is a legislative matter. I say it is think this is a legislative matter. I say it is a legislative matter because there are many problems with this amendment. I'm going to show you how many problems that I think we have with this amend-ment and if we put this in the constitution, there's going to be a lot of litigation over these problems. First of all, suppose somebody is convicted of a crime and he goes to Angola and somewhere in Angola he gets in a fight and gets killed. Now, there's nowhere in here where his family is com-pensated when subsequently somebody admits to the pensated when subsequently somebody admits to the crime that he was convicted of. That's the first bug in this amenoment. His wife and kids don't get compensated, just him but he's dead so nobody gets compensated, and he didn't even commit the The second problem...this will probably be crime. problems we have with this. How do you get proven not to have committed a crime? What will the test not to have committed a crime? What will the test be? Do you have to be proven innocent beyond a reasonable doubt? What kind of hearing are you going to be entitled to? A criminal hearing or a civil hearing: Can a civil jury undo what a criminal jury put you in Angola for? These are just questions i'm throwing out, i don't know the shat's aby i'm sayion it's a lantichtime arts. that's why I'm saying it's a legislative matter. A third problem: somebody mentioned how the state makes mistakes and innocent individuals end up makes mistakes and innocent individuals end up in the penitentiary. The state also makes mistakes when arresting criminals and these mistakes such as not advising a criminal of his individual rights allow criminals to get off on technicalities. You might call them substantive rules, but I call them procedural technicalities allowing criminals to get off scot free. Now, does that victim of this crime have a constitutional right to compensation? Sena-tor De Blieux said he has a right to compensation have a constitutional right to compensation? Sena tor De Blieux said he has a right to compensation in the statutes, but he doesn't have a constitu-tional right. Another problem, sfourth problem: Suppose, Mr. Willis brought this problem up and I want to just repeat it, a criminal in Angola say, from New Orleans, he was convicted of robbery and he's in there for ten years; suppose a subsequent criminal...a second criminal from New Orleans, Ife in Morgola, no parole---well, thi second criminal could admit that he committed the robbery and the first our could us of f. and get this cobbery and the first guy could get off, and get compensated for the time he served in Angola. T This is another problem. Now, a fifth problem is what

is adequate compensation, like Mr. Casey said. I think all of these problems I've pointed out are legislative in nature and should be handled by the legislature and not by us.

### urther Discussion

<u>Mr. De Blieux</u> Hr. Chairman, and ladies and gentlemen, it won't take me long to move the say arguments heen previously stated, we didn't mind putting into the constitution those words protecting property rights. We wanted to award just and adequate compensation when the state or any other political subdivision took some property from an individual. Here we're talking about not the criminal who got out and did something to an individual liberty and rights of a person have been tain the thus of the take this mendment is all about. We did not ask that this mendment is all about. We did not ask that this mendment is all about. We did not ask that this mendment is losfature take care of that. Why can't we do the same thing insofar as individuals and liberty lis concerned of the individual Taking the legislature she care of that. We did not the legislature take care of that. Why can the legislature she want to put this into this constitution, and l'll tell you this into this constitution go into the statutes with reference to the statute compensation for property rights than we are asking to be done for hum rights and the two, there's a whole lot more language that should go into the statutes with reference to the adequate compensation for property rights than we are asking to be done for human rights and inmandate to the legislature take care of some individual human rights when the statutes who reference to the adequate compensation for property rights than we are asking to be done for human rights and inmandate to the legislature to take care of some individual human rights when the state has done an injustice to an individual, therefore I ask you to approve and adopt the amendment.

### Questions

Mr. Jenkins Senator De Blieux, I certainly agree with you in your support of this proposal. But let me ask you, you seem to keep referring to human rights versus property rights; isn't the right to own property a human right, in fact, one of the most human rights?

Mr. De Blieux That's right, Mr. Jenkins, I think They are both important rights and I don't think we should subordinate one to the other. Let's put them both on the same and equal plane. That's the only thing that I ask you to do.

Mr. Weiss Mr. De Blieux, isn't property a tangible item, whereas justice is an intangible matter?

Mr. De Blieux There may be, but I think they are both very important. We can feel our human rights and our individual rights if you're placed in a prison. It's just as important to you as the dollars you may have in your hand from the property.

Mr. Weiss But don't you think it's improper to equate the two? Property and life are two entirely different matters.

Mr. De Blieux They are very important, both of them.

Previous Question ordered.]

### Closing

Mrs. Warren Mr. Chairman, and honorable delegates, the first fing I would like to say. I think human rights should come above property rights. You tie them all in together. I have listened and I have listened and I have been patient, and I'm not going to stand here and debate it. Senator De Blieux stood up and he told you about the property rights and what we're going to have to have. You're going to have to have some judgment and the legislature is going to have to make the decisions as far as this amendment that I have before you. At this

ont Mr ohnny a kson soon, to finih for e ved to Mr onn a kon

Provide the problem of the second second

[Printer stere. Amendmet sr-e tets Sb-4. Mit to read is abled.]

Mr. Lennox Point of information, Herr Fubrer

Mr. lennox Las e uns Heimgehen! How's that, Hilda?

Mr. Henry You bet your "bippy. Mr. Lennox was appointed to represent indus try, however, he has so far done a beautifu job if representing a certain party other than indus-

RIPORTS OF COMMITTEES

47th Days Proceedings-September 14, 1973 Friday, September 14, 1973

## ROLL CALL

### PRAYER

<u>pr. De Blieux</u> Our Heavenly Father, we thank Thee pairs for the priviles of gathering here. We ask that fou give us guidance this day, that we may go about the affairs of the State of Louisiana for the best interest of all of its citizens. We ask Thy belssing you he delegates here assembled, and that they may have true charity in their heart to ap-proach this sluxifor from a standpoint of what's andelegate. We ask all of this in Christ's name Amen.

### PLEDGE OF ALLEGIANCE

### READING AND ADOPTION OF THE JOURNAL

# REPORTS OF COMMITTEES LYING OVER

### UNFINISHED BUSINESS

### PROPOSALS ON THIRD READING AND FINAL PASSAGE

Unfinished Business

Mr. Poynter Unfinished Business. Committee Proposal No. 25, introduced by Dele-gate Alphonse Jackson, Chairman on behalf of the Committee on Bill of Rights and Elections, which is a substitute for Committee Proposal No. 26, intro-duced by Delegate Jackson. The status of the proposal, that the entire proposal has been adopted, the individual sections proposed have been adopted as amended with the ex-ception of Section 7, Section 8, and Section 24. Additionally, one new section. Section 26, dealing with freedom from discrimination has been adopted or added to the proposed section. Further amend-ments now pend at the desk concerning the proposed ments now pend at the desk concerning the proposed addition of further sections.

### Amendment

Mr. Poynter Copies of t Delegate Derbes sends up amendments. the amendment are presently being dis-

On page 7, between lines (if it's all right with you, Mr. Derbes) between lines 15 and 16, in-sert the following: (make it Section 27 instead

"Section 27. Right to a Healthful Environment Section 27. Consistent with the health, safety, and welfare of all people, the people have a right to a healthful environment."

### Explanation

Mr. Derbes Good afternoon, ladies and gentlemen, Mr. Chairman. The United States of America is al-most two hundred years old. The framers of this constitution, of the original Federal Constitution, in my opinion, did an excellent job in interpreting by broad and general provisions, and in provisiong for by broad and general provisions, the develop-ments of conflicts which occur between human rights and governmental controls. One, I think, area that idd not occur to them which would not industrialization that it is now, is the right of a healthful environment. This amendment seeks to establish that right, but not in the nature of a establish that right, but not in the nature of a privilege, which is to say, that the individual vironment cannot, in so asserting, deny to others the rights to food and fiber, for example, for their health and benefit. The right to transportation or to hospitalization for their benefit. But, it does announce a substantive policy and a substan-tive right that an individual can establish and can assert in order to provide and in order to declare that his environment shall be free from unnecessary polution, free from unnecessary interference on the part of others. So, J urge your favorable consideration of this amendment.

### Questions

Mr. Roy Who told you that the Bill of Rights didn't consider this type of provision?

<u>Mr. Derbes</u> Nobody did, Mr. Roy. If you listened to me, I said the framers of the Constitution of the United States of America, when they met almost two hundred years ago, failed to so provide be-cause this country had not at that time entered into a stage of industrial development equivalent to that of today.

Mr. Roy Do you know that the Bill of Rights con-sidered this? I had a proposed section on it and sidered this? I had a proposed section on it and after going into it, 1 voluntarily pulled it from the committee itself.

Mr. Derbes I had understood that to a certain n. Deroes extent, and perhaps you can elaborate on that a little further. It seems a sound provision to me--a basic constitutional right to me. I'd be interested to know what criticism you have of it.

<u>Mr. Roy</u> Don't you think it's a non self-executing type clause that everybody already has a right to and doesn't need to be stated?

<u>Mr. Derbes</u> Mr. Roy, as I understand the provi-sions of the law, individuals are, in most instances, required to prove things in the nature of nuisance in order to establish what may be environmental in order to establish what may be environmental rights. Or people are required to resort to fed-eral environmental protective statutes which, in my opinion, may be unduly burdensome not only... and particularly on the part of industry. I am simply anouncing a substantive right to a health-ful environment in the constitution, and relying on the courts to interpret it equitably consistant with the health, safety and wefare of all the

<u>Mr. Lennox</u> Mr. Derbes, would you tell me, please, who would decide if this amendment were adopted, where a healthful environment begins and/or ends?

Mr. Derbes Mr. Lennox, it would be a matter of judicial interpretation much as the due process clause of the United States Constitution, the equal protection clause of the United States Con-stitution, the right against self incrimination, the right to trial by jury, etc. are also provided

That provokes my second question Lennox I would assume, then, that each so-called violation of the healthful environment would be tried in the various courts of the State of Louisiana.

Mr. Derbes It would be determined on the basis.. It would be determined, I think, in terms of local law, local priorities, local preference.

Mr. Lennox There could be sixty-four or one hundred and sixty-four different yardsticks under which we would measure healthful environment, then.

Mr. Derbes Well, in the orderly development of Mr. Derves, well, in the orderly development of Jaw, Mr. Lennox, cases of this nature begin in the trial court, advance to the court of appeal, and then to the Supreme Court. Ultimately, a uniform standard or a uniform application of rules would

Mr. Lennox Ultimately and eventually is when? Would you define that for me? Ten years, twenty years?

Mr. Derbes In the same manner, Mr. Lennox, tha any new substantive right created by the legisla ture or created by this constitution would develop --

in the same time frame

Mr Munson Mr Derbes, would vou in der a oke stack an unhealthfullenvirn e-tal fatt, un a a cotton in, su ar ll. Standard i

Mr. Derbes I'm sorry I beg your pardon, Mr Munson. I think that the individual should lave a right to a healthful environment I'n to right to a healthful environment 1' in to try to answer your question precievy. I think that in so e cases smokestack may represent an unnecessary or all un usifiable encroach end up n the environment of neighbors and by the safe token, so destacks of euly all ent production ay represent a completely justifiable and supportably legal encroachment upon the heat in, safety, and we fare of other neighbors. In other owrds, I think it depends upon the stuation.

<u>Mr. Munson</u> But, don't you think that the way your amendment reads which says, "The people have a right to a healthfu' environment," could ean

Mr. Derbes No. 1 don't, to answer your question again. The controlling language of the amendment seems to me to be clear, and that is consistant with the health, safety, and welfare of all people, and in whatever the us timate decision may be, the

Mr. Munion One final question, Mr. Derbes. Bid you know that I think you have a very bad amend-

Mr. Velazyuez Delegate Derbes, this wourdn t allow somebody to pass the Esso refinery, think that they didn't like the swell and go ahead and have that refinery losed down?

Mr. Velazouez Fine, I think you have a very fine amendment here, Mr. Derbes

Mr. Derbes That you. Perhaps you and Mr. Munion can get together.

Mr. Weils lelegate Derbes I'd like to question you on Pelegate Derbes, this poor amendment

Mr. Derbes Did you ay floor or poor?

Mr. Weisi Hr. Kets Poor, poor flior amendment o much time wai pent by the comittee on un issues and eliminated, that I thought you might im-intere ted i one that could one up, and wouldn't it be in onfi it with federal problem. For each ple, cuppoe, as we all innw, that in a cluwed each ple, cuppoe, as we all innw, that in a cluwed each ple, to poor, and the second of heavy up to be up to the assertance individual when it wear upbraither to the assertance individual when it wear and the second of the second of heavy up to the assertance in the second of the seco

Mr. erbei In a word, mm, Ur. Wermi

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Mr. worally loss tave every right in the work in a contact, not really have it to fill the solution of the loss of

Mr. Derbes We all realize that we have come to a point in a modern industrial society where we are living together in such close proximity and where uses that we each make of our respective private properties may, in some instances, redound to the substantial personal detriment of others. We have announced substantial private property rights in this constitution. We have provided for the right of the individual to use and to control and to to pose of his pritime personal right of the individ-al to enjoy, wherever possible and insofra as pos-sible, a healthful environment. An environment that to pollute and to destroy life as we know it rather than to pollute and to destroy life as we know it rather than to pollute and to destroy life as we know it. The provisions of this amendment as presently pro-posed permit the judicial bodies of this state to give due consideration to all aspects which relate to health, safety, and welfare, including those aspects referred to by Mr. Womake in his criticism of dis amendment. So, lurge you to make a twen the have have made no substantial progress, in my opinion, in establishing a new right which reflects the problems of our twentieth century in-dustrial society. So, lurge you to avantialy con-We all realize that we have come to a reflects the problems of our twentieth century in-dustrial society. So, I urge you to favorably con-sider this amendment as a method for guaranteeing to yourselves and future generations a healthful environment which will permit them to thrive and to flourish in an atmosphere of safety and in an atmosphere of comfort, despite the problems of the human zoo that we now frequently find ourselves living in. Thank you.

### Ouestion

<u>Mr. Hayes</u> Mr. Derbes, wouldn't you have to grant a certain amount of pollution in order to guarantee health and safety, for example, like a fuel shortage? We have a fuel shortage now, and we have to pollute in order to overcome this shortage. Don't you have to grant some pollution in order to overcome such shortage?

<u>Mr. Derbes</u> Absolutely, Mr. Hayes, and what I'm trying to get across to the delegates here, and myabe I'm ont being very successful, is that all of the various considerations for the furtherance of life can be taken into consideration. The necessity for fuel and transportation, for educa-tion and hospitalization, for food and fiber, all of these things in determining what is consistant with the health, safety, and welfare of the people can be taken into account.

[Amendment rejected: 32-80. Motion to reconsider tabled.]

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. Jenkins]. On page 7, line 16, add the following section: "Section 26. Freedom of Association Section 26. No law shall impair the right of each person to associate freely with others."

### Explanation

Mr. Jenkins Mr. Chairman, delegates, this section is very similar to the amendment that we considered yesterday except that it would put the right to freedom of association in a new section. This concept has been in the Bill of Rights since your was proposed by the committee. If you check your committee proposal at Section 7 of the original committee proposal at Section / of the original committee proposal, you will see that the last sen-tence of Section 7 attempts to protect the right of every person to associate with others. Of course, we had felt that it would be included in the antidiscrimination section, but because of the large number of amendments, it was not. Also, because a number of people felt like it would not be appropriate in that particular ection. Let me tell you a little bit about this right to freedom of association. It is recognized in a large number of constitutions. Sometimes it is a separate sec-tion; sometimes it is included with the right to tion; sometimes it is included with the right to assemble peaceably because it is a somewhat similar right, although not the same. Freedom of associa-tion, of course, deals with the right of people to join together in organizations, societies, and ven-tures. It dones not deal with the right for them to be physically present at a particular place, that's the right of assembly. Here are what somo other constitutions, so abtuilar right. The German constitutions asys this. 'All Germans have the right to form associations and societies." The Canadian Constitution recognizes in its Section 1, Canadian Constitution recognizes in its Section 1, the freedom of assembly and association. The Universal Declaration of Human Rights, to which the freedom of assembly and association. The Universal Declaration of Human Rights, to which more than a hundred and twenty nations have sign matories, says 'Everyone has the right. The de-European Convention on Human Rights, signed by most western European nations, says 'Everyone has the right to freedom of assembly and freedom of associ-ation with others, including the right to form and to join trade unions for the protection of interests. Was reciting a number of other constitutions and international agreements that clearly recognize this right as fundamental. Sometimes, of course, as I said, this right is in a separate sections, Sometimes it is included with the right to assemble peaceably because it is a somewhat similar right, although not the same. The difference being, of course, that freedom of association deals with the right of people to legally join together in soci-etight on sembly deals with their right to come together physically in a particular place. Another sample, in addition to the citations already given. example, in addition to the citations already given, would be the American Convention on Human Rights signed by every nation in the western hemisphere, which recognizes that in its Article XVI, "every-one has the right to associate freely for ideolo-gical, religious, political, economic, labor, social, cultural sports and other purposes." This is a well recognized principle and ought to be given re-cognization in our state constitution. The reason that it's being offered in this manner is because it was originally intended to be included in Sec-tion 7, but the version of Section 7, of course. that was finally adopted was somewhat different. The committee has agreed to it, and I urge the adoption of this section. I might want to consider consolidation of this section with the freedom of assembly section. There would be no substantive change and only Slight wording changes to do so would be the American Convention on Human Rights assembly section. There would be no substantive change and only slight wording changes to do so. But because we have already approved the freedom of assembly section, and that was, of course, be-fore we dealt with the discrimination section, it is necessary to do it this way, I think. So, I urge the adoption of the section.

<u>Mr. Tobias</u> Mr. Jenkins, I am reading your amend-ment, and you say "No law shall impair the right of each person to associate freely with others." Do you not mean that "no law shall impair the right of each person to associate or not to associate freely with others?"

<u>Mr. Jenkins</u> This is implicit in it because if it were. . . it would not be a free association if one of the parties to the association did not agree. So, this is implicit in it.

My next question is this. You referred to the German Constitution--has a provision similar to this. Were you referring to the East German, West German, or the National Socialist

Mr. Jenkins No, this is the West German Constitu-

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Mr enkine That's right, and it is no received and the second seco

Mr. Avant Now, my question in this By rule of ourt which has the effect of any every meter of the severy lawer to part the left the nouisiana rate Bar Association. Houd that fail by the wayide of this was addocted?

Mr. Avant But he is a person, is he not--a lawyer

Mr. Jenkins Yes, he is a person. That's right.

Mr. Avant He has the correlative right not to associate. Would it not follow that he does not have to associate hiller into the Lowiana State Bar Association if this is in the constitution?

Mr. enkins Well, I don't think that that would be applicable, but the most that that could possibly mean was that he wouldn't have to pay dues to that association. It certainly wouldn't forbid any sort of regulation of standardi or quality or anything like that.

Mr. Avant All right, now, we have other rules which have the effect of law that are attached as conditions to paroles, that people who are paroled not associate with certain ex-convicts, known gamblers and thing like that, and that they not frequent barrooms. Would those type of rule which have the effect of law fall by the way de if this is in the constitution?

Mr Jenkins No, because a person voluntar ly agreea, if he is going to be let out of pri on on parole or probation, to abide by certain terms and conditions. He is getting a pecial benefita special privilege, otherwise, he would be confined to prison, he voluntarily does that and so it wouldn't change that at all

Mr. Alexander Mr. Joniins, does your amendment in y that if a particular proposition in ing a faility, a public facility like a part or a beach, that this group may ay under the provisions of thi amendment that we are using thi beach and in order to as use our freedom of a socialton, we don't want anybody else to use this public faility is that a fait?

Mr vensions No, you see, this deal with the right to legally as crate what you're taling about i the right of a mobily the right to tighther Me've already ald that people have that right under another iction. This deal with the right to ale interper onal relation in a legal bais, and voit' an entirely different in apt

Mr. Alexander. When you say interper nal relations, you have reference to carriage?

 $M_{\rm T}$  leaves  $N_0$ , I durit think that marriage would be within this concept I durit think that it would be estended to that I desit think that that's the term implied by association '

Mr Alexander Well, unt what do you mean, Mr Jenkins, when you say - You know, britinarily, to me niw, every ritizen hallthe right to refran that is set they will dry month and the dis-

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Mr Alennir ee Ten avenne t rinizatir a un riatir t rebership ar tienter a erair t unle you are a eber y ann't

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Mr Pagh Mr. entits, centre et add of what we have yet to onliver, the ment to the effect that even on a to file the list of this vert to the corporation, and to a norm fit it consists if even a centre with the with the each other, doe this each of the safe or cannot be paived

Mr. Jenkins No. It would not still a grant of establish the formation of establish the state of the state of

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Mr. Sons. All (vit, r. sold liste Mr. Utla, while be readed by root t I verweittaket, there is a solar offer.

ence and the amendment on Section 8 was to strike the whole section which was adopted. So the chair is going to rule that this is not identically the same, this amendment is not identically the same, this amendment is not identically the same as that was stricken in Section 8. Proceed, Mr. Goldman.

<u>Mr. Goldman</u> Thank you, Mr. Chairman and fellow delegates, to start off with, I am going to read this again because I don't know whether you were paying attention when the Clerk read it. "The right to trial by jury shall not be abrid-ged in civil cases:" however, the legislature may provide for exceptions to this right of trial by

jury by a two-thirds vote of the elected members of each house of the legislature. Determination of facts by an administrative body shall be subject to review

Jec 4 to review dring is that because our state is unique in its Civil Code, without common law, we have no constitutional guarantee to a trial by jury in civil cases. Now I believe the people of this state are due this guarantee as a constitu-tional right. Therefore, our new constitution should provide this guarantee with reasonably sta-torory exceptions which this amendment provides

Therefore, the first sentence in my amendment Interestore, the sits settledge in my anerdument mont provides for review of facts determined by an administrative body. Now I personally have heard but one objection to this provision even by eminent attorneys in our body. There may be others, but I ve only heard one. This section provides the basic law which should rightfully be anchored into the Bill of Rights Article of our constitution while providing for legislative action for proper

earnestly hope that this section will be adopted.

Mr. Lanier Mr. Goldman, am I correct in reading that this is an absolute right in all cases unless modified by a two-thirds vote of the legislature.

Mr. Goldman The exception is to be provided by a two-thirds vote. When we discussed this in Article VIII, I think the main objection here and the rigamarole was over the fact that we had stated certain exceptions and other exceptions were left out and we got into a whole hassle about it. So this provides for the legislature, where it rightfully belongs, to provide all the exceptions to this by a two-thirds vote.

<u>Mr. Lanier</u> But, would it be true that if the le-gislature wasn't able to muster a two-thirds vote that we'd have jury trials, and interdictions and succession proceedings and divorce and separation cases and quo warranto cases and injunctions and....might that not be true?

That may be true, but I have enough mi. Goldman in the legislature to be the sections endogeneric confidence in the legislature to feel that the vote. I'm one who doesn't express unconfidence in the legislature. I fwe don't have any confidence in our legislature. I don't think we need one.

Mr. Juneau Goldman, I'm a little confused. Isn't this really in substance the same basic provision that we've considered three times in this

<u>Mr. Goldman</u> It's a provision to provide trial by jury in civil cases with exceptions that would be provided by the legislature.

Mr. Juneau Haven't we previously, on three separate occasions, voted on the very same question as to whether or not you shall not abridge the right of a jury trial in civil cases?

Mr. Goldman We may have, but we didn't pass this article and I think this article ought to be in the constitution.

Mr. Juneau Do you know what the votes were on the past three provisions of a similar nature that

<u>Mr. Goldman</u> No, but I know that when we were discussing it, there was a lot of commotion in here and I don't know how many people really paid attention to what they did. So I thought I'd bring it up again for your consideration.

Juneau You think they were confused on all

Mr. Goldman I don't know whether they were or not. Let's see now, whether they are.

<u>Mr. Derbes</u> Excuse me, Mr. Goldman, but this would apply to all small claims and to all juvenile court matters, wouldn't it?

Mr. Goldman It would apply to all civil cases that weren't excepted by the legislature.

<u>Mr. Derbes</u> And the only way the legislature could except, say twenty-five dollar claim in a Justice of the Peace Court **or** ...

Mr. Goldman The legislature could make provision for a certain limitation on the claim.

Delegate Goldman, I'm having a Mr. Chatelain Delegate Goldman, I'm having a little problem as a business man trying to determine in civil cases what amount....at what point in time do you have a jury to hear a case?...a man's being sued for a hundred dollars, for in-stance, does he have a right to have a jury trtal?

<u>Mr. Goldman</u> I just said, if the legislature wants to set a certain limitation on it, they can do it. l don't know what the legislature's going to do.

Mr. Chatelain Thank you, sir.

Mr. Goldman limitation. Well, they can keep the thousand

Mr. Goldman Yes, sir.

Mr. Roemer Delegate Goldman, why the two-thirds vote? What clear and present danger is there in a majority vote that bothers you?

<u>Mr. Goldman</u> Well, everybody seemed to have so much suspicion of the legislature, I thought the two-thirds vote would be good in there. If you don't have any suspicion, I don't mind removing Well, everybody seemed to have so the two-thirds....the majority vote of the legislature...

Mr. Roemer Well, I thought you just said a moments ago that you held no such suspicions. Well, I thought you just said a few

Mr. Goldman I don't.

Well, your amendment does. Mr. Roemer

Mr. Goldman Well, the people here have expressed those suspicions so I thought I'd allay them.

<u>Mr. Dennis</u> Mr. Goldman, do you realize that when the guarantee of a jury trial in civil cases was placed in the United States Constitution that some people thought this was necessary because most of the judges in the states at that time were appointed for life and this is the pattern that the U.S. followed?

But don't you think here in Louisiana since but don't you think here in Louisiana Since we've shortened the terms of judges and insisted that they be elected that they are responsive enough to the people and we don't need to guarantee a civil jury trial in every case and make the le-gislature go back and enact these exceptions in

the Lode of Civil Procedure by a two-thirds vote

Mr. Goldman 1 think we ought to have thin in the constitution, Judge, and I'd like to see t in there. That is the only answer, can give you to that. I don't have any suspicion of the udge either, I think the judge are all fine people But I think the public has a right to a ury trial in a civil case of certain natures, and the legis-

Mr. lennis So I take it you would like for the Tegislature to reenact all of these...l count about twenty exceptions here that are in the Gode of Givil Procedure, now. They would have to go back by two-thirds your and reenact these Other-wise, suits on a prolisoor note for a hundred dollars, that would be subject to Jury trial, exe-cutory, probate, partition, manda us, horses, mans compensation, ementipation, tutor hip, inter-diction, curatorship, legitimacy, filiation, sepa-ration fro bed and board, annulment of marriage or divorce proceedings...all these would be sub-ject to jury trials, under your provision.

Mr. Go d an If the legislature wants to make exceptions in any of those, they have that right to do, and if someone wants to put an amendment to this to have the legislature decide by a ma-jority vote. It's alright with me, I'll vote for

Mr. <u>Singletary</u> Mr. Goldman, since we have pro-vided for appellate review of facts in civil cases, what good does your amendment accomplish? What

Mr. Gold an Well, I think they ought to have a jury trial in their original trial.

Nr. Pugh. Mr. Chairman, fellow delegates, I said Willis, I didn't say anybody else, I rise in op-position to this amendment and I sincerely hope that Mr. Goldman didn't ask me about it earlier and I gave him any encouragement. If I did, I and I wave him any encouragement. If I did, I apologize. Unfortunately, the amediment would give these many things that would...,that these pobut. It would throw us open to jury trials in every instance. I'm also concerned about the two-thirds. I think it ought to be a singly magority. I am in agreement that there should be a pro-vision somewhere here relating... in the constitu-tion relating to civil jury trials. At this point, we don't have anything on it. I think wought this one that throws it open for every phase of the law and, also, that requires a two-thirds

For that reason, I rise in opposition Thank you, Mr. Willis

Mr Fontenit Mr Pugh, do you recall in 'e tion 

Mr Pugh I ay or may not have been here I assume that I was. I know that

Mr. Pugh Excuse her

Mr. Fontenut - Frial by Jury In. 1vil. a e du you recall Mr. Duval's amendment that did away with this because it was a legi lative matter?

Mr. Pugh Sir, I spent probably three hour work ing op some information for the benefit of this delegation relating to civil jury trials, to 1 m

very fail as with that I and the tate entitle think there ught to be so ething in the critical or relation tive I , but I didn't thirk this ught to be t . That a

Mr. Flory Mr. Py n, y quettor has to with the satismetence in the propied accordent would the not give judital review of fat now on add in strative deter instration add by, let 5 say, the Division of Eployent Security at use ployent in urane class which they din it me d

Mr Berry Mr Pugh, wild titl alendent make tipossible to have a jury trial where the isue was really an equitable isue

<u>Mr. Pug</u> Let e tell you that y were rossiy misled from this podium earlier about the dif-ference between on on law and equital e ryssins and fact provisions. It is true that we den c have a separate equity court Now what this would do, this word allow you a jury true in the \_P. ourt.

Mr. Munson Mr Pugh, this are direct tart of by saying the right to trial by lory shall not be abridged in citil case or not that that the state would be paing for this trial which is really an issue between two gets or individ-

Mr. Puch No, sir. I think that contrary be statutorily determined and in or y opinion, this wouldn't make the state bear the cost of a union.

Mr. Munsin You don't think it would be ankatur, the way it written that the tate would by the cost of a jury trial in a live all

Mr. Pugh It never has been in rinal, and te language is substantially the lale in rinal

Mr. Guarisco I just think we are in in the point and especially in the e-d sent that the determination of fact i an addition tive agency is given more instance in a site i court I've been up there any termine want they want to review fact. I've ret or review fact well, et be unstitut ad make the facts determined by an addition that eagency, also, reviewed by the it in the the administrative agent I with addition to the tadmine the fact wedget is the set of the the set

Juditial system The point about the vil ury, every state constitution that we looked at, parantee the right of tizen part instant in the ivi-proven this is none we A far at eve-espition, the prefet every the far at every lang provide for those in the transition I orge you the state of the addet

Hi Jenkini Mi Guariso, enne has ald that h, this i ging to allow trial by ury i a e-ot twenty five dollars - Don't you suppose that

what will happen; well, there will be one bill that will be introduced in the next session of the legislature exempting all the things presently exempted from trial by jury but preserving the basic right so this won't cause any problems at all, will it?

Mr. Guarisco Certainly not, in the present one, anyway, the jurisdictional amount is a thousand dollars and the legislature can pass all its ex-emptions in a transition from the new constitution. That shouldn't be any problem at all.

[Amendment rejected: 22-93. Motion to reconsider tabled.]

### Amendment

Mr. Boynter Amendment No. 1, page 7, between Trass II and 12, insert the following Section 25. Right to Preliminary Examination Section 25. In all felony cases except those indicted by a grand jury, the right to a prelimi-nary examination shall not be denied".

### Explanation

Planchard I haven't....after that last vote. Mr.

Mr. Blanchard I haven't....after that last vote. Glowever, I think this is worthy of your considera-tion and I want to explain it to you. What this does now, it changes the present status of the preliminary examination. Presently, a defendant or an accused has a right to a prelimin-nary examination, but it's discretionary with the court whether or not it will be granted. You have to make application for it and it's within What this amendment does is it makes a prelimi-nary examination a matter of right for the accused. Grourse the amendment does is it makes a prelimi-nary examination a matter of right for the accused. Syrand jury. Of course we have provided for the grand jury and to c... that the accused can go before the grand jury and the can have his coursel in the matter of the synthese states and that the accused the grand jury and the can have his coursel in the and that's why it's expected. However, for the other felory cases, a person should have that same right to a preliminary examination. I was just handed a note asking me to explain what a preliminary examination is exactly what it re the state of the same states of the set of the set of the same right to a preliminary examination is exactly what it re the set of th

A preliminary examination is exactly what it is. You have a right to ask the court to grant an examination. You have a right to call the witnesses against you, and you have a right to do this in the court. The accused as they say, presently has a right to ask for it, but it is not an abso-lute right. The court could grant it for infor-

nation or they can refuse it. Now, 1'm asking you, is it fair to have a pre-liminary examination in felony cases where a grand Imminary examination in felony cases where a grand jury decides it and not when the individual is not accused by a grand jury? I know that there will be objection because they II say it will increase the number of cases

the preliminary examinations, that would be a burden upon the courts. That's a lot of poppycock. Sure there'll be more preliminary examinations. But a person accused should have that right to an examination. I think if the O.A.'s would be much but a person of the control of the control of the much more careful before they took a person to trial.... if in the preliminary examination they find that his evidence is not as strong as he thought it was.

A.J., I'm a little puzzled by the excep-<u>Mr. Kean</u> A.J., I'm a little puzzled by the excep-tion that you make with respect to a grand jury indictment, and as I understood your explanation, you indicated that you made this exception because the accused had a right to be in the grand jury room, etc., with counsel and that was in the nature of a preliminary examination. But suppose you have an accused that is never brought into the grand jury? Suppose he is indict-ed without being in the grand jury?

Mr. Planchard Well, that is why I want the abso-

lute right for a preliminary examination in all felony cases, except that. I feel that if he has this right in the constitution, it raises it to the same status as the accused where the grand jury has indicted. You see what....

Mr. Kean In other words, the other section we adopted provides that if you are indicted by the grand jury, you have a right to preliminary exam-

Mr. Planchard Well, in essence that's what you have because the accused is brought before a grand jury. The evidence is presented to the grand jury. jury. They are to make a determination whether or not the accused....there should be a true bill or no true bill.

Mr. Kean My point is, and there have been in-Stances that I'm aware of where a person has been indicted by the grand jury who never got within two miles of the courthouse. Would he be denied under those circumstances a right to a preliminary examination?

<u>Mr. Planchard</u> It was not my interpretation, no. You're speaking of the exception....that we put fourse Spearing or the exception...that we put in, except those indicted of the Yonever, itill, with the exception...excepting the indictment by the grand jury that we have already taken care of it in another section of the Bill of Rights. and I don't think this is in conflict with that.

Munson Mr. Planchard, as you know, I'm not awyer. I believe you have cited that an indi-ual, or the accused should have the right to a lawyer. vidual, or the accused should have the right to a preliminary examination....that, in other words, that he should have that right indicating that it would be to his advantage to have a preliminary examination. Am I right?

Planchard I feel very definitely.

Mr. Munson Well, on the other side of the coin, a preliminary examination gives what advantage to the state, if any.

Mr. Planchard It gives this advantage. Just the grand jury gives an advantage to stopping the proceedings at that point. If there is not Just as enought evidence to convict a person, then he would not be brought to trial. It would end at that point. In that respect, it is helping the

Mr. Munson Well, wouldn't it also help the state that they would give some additional information that they wouldn't gain without a preliminary

Mr. Planchard Ah.... Munson. I'm sorry.... Ah....ask me that again, Mr.

Mr. Munson I really don't know if I'm asking this right or not. I'm trying to find out if a preliminary...you have said that it would be to the advantage of the accused or the individual to have a preliminary examintion. He should have that right. All right. That's in his favor. What I want to know, the other side of the scale. What advantage does the state gain against the accused by having a preliminary examination?

Mr. Planchard In that respect, they may not find out any more evidence, if that's what you are get-ting to. However, ... however, in this instance, the accused is never made to testify against him-self so you couldn't actually make him do so. But, as I stated before, the advantage on the other side of this coin is, if you can stop a proceedings before it gets started, there's really moment day, of a thert, which they take it on an affidavit and the district attorney may take it all the way to trial before he really has all the evidence. And if, if he can determine before that time, then

It all be a lay not financially to the tate

P Parton well, line with a part of the second secon

Mr. anchard That would be sure in e ture in my part, Mr. Munson, and wou dn't venture to a.

 $\Psi_{r,\ Abraha}$  As I understand the preliminary examination, A. ., the prosecuting attorney and the defense attorne would be there in front of a udge ad would be able to question witnesses of

Mr. Lanchard just the ac used... I ean uit the witnesses against the accused....mit force

Mr. Plan hard I think that' up to the judie in this last ular in tance.

Mr. Plan hard That's right

Mr Grave Mr. Plan hard, I noti e that this ection due not provide for the right to a pre

Mr Plan hard. I think if I read you the defini-tion of a felony, I think that would take are if

Mr. Planchard. A felony of any inner for white an fferner by be enterned to death or i primo-ent at familiation.

Mr. Grave was unless the one for that the not have the death enterne fourare or in the

Mr. ar naro ina a, ar r, rins, Mr. Kearta III tare ut have no in tar r. amoding t

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contrary to what Mr. Kean thinks, is because I believe, and we have to argue rightfully, that if a grand jury indicts you, then obviously there's probable cause for your being charged irrespective of it you appeared before the grand jury or not. It's that simple. I have to give a lot of weight to a grand jury indictment. So, once you've been indicted, whether you appeared or not, it should be enough grounds for holding you and for not giving you the right to the preliminary examination which is aimed only at whether, in fact, you should be held for a particular crime.

be held for a particular crime. I would...I think, Mr. Kean, he may disagree with me; he may say that you know, you haven't shouldn't be entitled...you should still be entitled to a preliminary examination. To be logical, to follow what I think is good law, I think the amendment is good and should not be amended as Mr. Kean would do so, although I think it makes it better for any accused because he would have two shots at it, so to speak, a grand jury would indict him and then; nevertheless, he could come atill make the district attorney go before the judge and prove probable cause for holding him and I think the grand jury...

Mr. Henry You've exceeded your time, Mr. Roy. Now Mr. Planchard has withdrawn his motion to withdraw the amendments. So, we are still on the discussion, then, of the amendments.

### Further Discussion

Mr. Burson Mr. Chairman, ladies and gentlemen of the convention, although we have been typecast by the roles we have played in this convention, I want to make it plain that in speaking on this District Attorneys' Association, and in fact. I have at this moment personal knowledge that there are district attorneys in the state who are op-posed to this amendment. But I join with Mr. Anzalone in here because I understod the purpose of his amendment to be this limited purpose. Under finding of an indictment or the films of a Bill finding of an indictment or the filing of a Bill Inding of an indicate of the film of the of request a preliminary examination to see if there is probable cause for holding you on a criminal charge. After the finding of an indictment or the filing of an information, Article 292 of the puisiana Code of Criminal Procedure says that. "An order for a preliminary examination in felony cases may be granted by the court at any time either on its own motion or on request of the state or of the defendant." The intent of this amendment of the defendant." The intent of this amendment is not designed, and I want to make the record clear on that point, to add to or subtract from the right to a preliminary examination in any case but one, and that would be the case where the dis-trict attorney has elected to go by route of fil-ing a Bill of Information. Under the present law the granting or denial of a preliminary exam-ination would in that limited instance, be deter-mined by the index at his read discretion. law the granting or denial of a preliminary exam-ination would in that limited instance, be deter-mined by the judge at his own discretion. This amendment, the purpose that Mr. Area or told ne requested the preliminary examination in this nar-row instance where he'd been charged by a Bill of Information, that he would have the right to have that preliminary examination. To get away from thas reviewed the evidence, and no third party such as a grand jury has reviewed it, you would have in this case to present sufficient evidence to satisfy the judge that you had a basis for hold-ing the case over, and this is the limited basis he put this amendment in. I could not in any man-rehe for expanding it any further. On the other hand, in the case that Mr. Gravel pointed out where you have a capital crime involved, you would have the right that he referred to under the intent of the framer of this amendment to restrict

any rights that you have under the present law. It is only to expand the right of the defendant in the limited instance where he is charged by means of a Bill of Information. I'll answer any questions.

### Ouestions

<u>Mr. Lanier</u> Mr. Burson, I believe you cited the provision about preliminary examination in the Code of Criminal Procedure?

Mr. Burson Yes, sir.

Mr. Lanier Isn't that a statute?

Mr. Burson Yes, sir.

Mr. Lanier Isn't this provided for by statute under our present law?

Mr. Burson Yes, sir.

Mr. Lanier Do you know of the constitution of any state that has a provision like this in it?

Mr. <u>Burson</u> No, I haven't researched the point, Mr. Lanier.

<u>Mr. Lanier</u> Now, let me ask you this: if the judge rules in a preliminary examination that there is no probable cause, that doesn't terminate the prosecution, does it?

Mr. Burson I don't think that's the effect under the present law.

<u>Mr. Lanier</u> As a matter of fact the D.A. could still proceed with the case even though the judge ruled that there was not probable cause, isn't that true?

Mr. Burson You don't have a final determination in the pre-liminary examination in the sense of a jury final determination of the charge, but 1 think certainly he could hold that the state has not presented enough evidence to hold the defendant over.

<u>Mr. Lanier</u> Well, let me ask you this: the way this thing is written you would have the preliminary examination whether he's in confinement or not though; he could be walking the street, couldn't you?

Mr. Burson That is correct.

Mr. Lanier ... And have a preliminary examination?

Mr. Burson That's correct.

<u>Mr. Lanier</u> Wouldn't it be true in that circumstance that all the judge could do would be to release him from bail?

Mr. Burson Frankly, I can't at the moment think of any other reason for requesting the preliminary examination in that instance.

<u>Mr. Lanier</u> Well, let me suggest one other reason, Mr. Burson. Couldn't a defendant then subpoena all of the state's witnesses and put them on the witness stand and get all of their evidence from them?

Mr. Burson Well, of course, that's presuming he knew who the state's witnesses were beforehand.

Mr. Burns Mr. Burson, there seems to be some uncertainty between lawyers here in discussion of this. In other words, a person or a defendant under this amendmetn wouldn't have the right to an investigation by the grand jury, and then if he were indicted, come back and have the further right of a preliminary examination?

Mr. Burson No, sir. That was not the intent that Mr. Anzalone had. This was limited to the instances

where you file the harge y a Bill finfination It does not in an anner involve rand r. -

Mr Duyal Mr Jurin, Mi Lan er alled ... u ab ut any other state onstitution. Id yo know that the cinitution of lines, me of the more en-lightened and progressive on titution of the united state, provide that no per in hall be held to answer fur a crite punshable by death prionely in the pententias in each of the tent of a grand Jury or the erion ha been give a prompt, prelimar hearing the stabling probable ause id you know that's in the illing consti-tution

Mr. Bur on -1 didn't know that, but I= glad you brought  $\cdot$  t to -y attention

Mr Newton Mr. Chairman, fellow delegates. rie in upport of the amendment. I really got And of subject up a sinuite southen the interment tais ought to be withorism to all the interment it because I felt there was maybe some confusion as to what the purpose of the preliminary hearing was for. As I appreciate it, the purpose of the preliminary hearing where there has not been an indicident is to provide for a judicial review of the f din of the di trict attorne. In there word, where there is been a grand jury indilient, the faith have been reviewed by werve en of the grand ury, and so there should be more of a pre-sumption of guit there, and I don't really want to so that presumption of guil but it's to be given reater weight. Where the destrict attorney files a Bill of information, he does this on hi own, of cource, with whatever evidence he has, and the only reason for having this pre immary hearing is to have a beddy ele pas on the fact a

Mr Yean Pr. Newton, a lapine lat thil a end-nent, all that the district attorney would have to dr th avoid a preli inery early atton would be to take the matter to the graam ury and get an indit in tr, wouldn't in

Mr. Newton that an luter right of nur e, under the pretent law, all he' git to do it file a Bit of Information third bit die ale a little lifference

We name. We obtained, ladit an article of the southing, i ladit with the authors of this mention, is imported to an optaward in the case. This as any firm there that the de-trine and the period with a latit of the bills of the southing of the the southing of the the southing of the the southing of th Mr. \_Hitrin, ladiet an initia en

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Pr. ninter Selelate and the select a

Mr. Forgh. Mr. half-au, the Like Frenzelle, I will provide that their two reconstructions and the have a rules from the state are worth in its of they are exclusive.

We should make and analysis of the set of t

assume you have no objection to having exactly what the law is today. It is my understanding that except for the provision saying, "as otherwise provided in this constitution," it's exactly like the constitution is today. As to the reason for the severability of the other amendment, I'm waver of the fact that some of my friends are interested in this amendment and some are not, and for that reason. I made the second one severable.

### Questions

<u>Mr. Lanier</u> Mr. Pugh, am I correct in that this thing says that there is a right to a trial by jury that shan't be abridged, but unless the right is guaranteed in the constitution, the legislature can waive it, is that right?

Mr. Pugh I'm saying my opinion of the law is that the legislature can waive a jury trial.

<u>Mr. Lanier</u> Under the present constitution is there a guarantee to a right to trial by jury in a civil case?

Mr. Pugh Not under the 1921 Constitution, no , sir.

Mr. Lanier Isn't this provided for in the statutory law?

Mr. Pugh You mean that there be a trial by jury? Yes.

Mr. Lanier How many times is a...have we voted on this subject of trial by jury in civil cases, do you know?

Mr. Pugh Mr. Lanier, I don't believe you've ever yoled on this, and now that you mention the statutory provision, it was with some interest that I looked, just happened to fall open on the local government that you are one of the authors of, and I noticed that there are fifty-two lines in that of legislative material relating to the appointment of vacancies.

<u>Mr. Casey</u> Mr. Pugh, my question is somewhat repetitive of one that Mr. Lanier asked, and I just want to specifically find out, you indicate this is the law today, but it's in the statutes and it's not in the constitution, is that correct?

Mr. Pugh That's correct.

<u>Mr. Casey</u> So you're putting into the constitution something that is not contained in today's constitution, is that correct?

<u>Mr. Pugh</u> That's right. I'm saying that there is a fundamental right to Jury trial; I'm saying that at present it's in the statutes. I reviewed for your interest some time ago on the question of Jury that four out of the fourteen states which adopted the original constitution and the amendments, required this in their Bill of Rights. I think it's appropriate that it be in the Bill of Rights.

Mr. Juneau Mr. Pugh, just as a point of clarification in case this would ever be interpreted, as 1 understand what you've just previously said that this in no manner whatsoever is intended in any fasion [fashion] whatsoever to authorize or destroy the right of appellate review of facts, is that right, sire

Mr. Pugh That's absolutely correct. This amendment does not do that. It doesn't touch the appellate review. I got shot off of that horse some time ago. I think Judge Dennis is trying to get recognition.

<u>Mr. Dennis</u> Mr. Pugh, continuing that line of questioning, if it doesn't give appellate review of facts, what does it do, or why have it? In other words you say, first that the trial by jury shall not be abridged, but then you turn around and say that the legislature can do away with it.

Mr. Pugh I'm making no attempt to change the Taw, Judge Dennis. All I'm saying is, I think the right to a trial by jury is fundamental enough to put in the Bill of Rights. That's all. It doesn't change the law as I understand it, and I challenge any lawyer to find any change in the law in this provision.

Mr. Dennis Well, I'm just asking for information so we can make a record of what we intended by this because it worries me that we say that "there shall be no abridgment," but then we turn around and say, "the legislature can create exception," it doesn't seem to me that we really accomplished anything by even putting this in the constitution.

Mr. Pugh I think the "however" resolves the problems that you're confronted with or concerned with.

<u>Mr. Jack</u> Bob, as you know, I am a plaintiff's attorney in damage suits. However, we've gotten tion, but it looks to me like the way you have this, you say 'the right to trial by jury shall not be abridged," and then it turns around and can make exceptions. I don't follow that. What is the magna, the exact meaning of the word "abridged?" Does that mean "repealed, can't have a jury," or just what does the word there

Mr. Pugh I think the word "abridged" means that it cannot be prohibited in its entrety. When you have the exception relating to the legislature then it allows them to take it in any fashion they want to whether its adoption, anything they want to provide there will be no jury trials on, then there will be none. That's the law as it is today.

<u>Mr. Jack</u> One other and I'll sit down. You have the legislature's already provided for jury trials in cerain things like damage suits, and so forth. Now....

### Further Discussion

Mr. Gravel Mr. Chairman, ladies and gentlemen of the convention, I think that it's necessary that we adopt this amendment because of other actions that have been taken by the convention. It's true that under the present constitution, there is no provision with respect to jury trials in his constitution, this proposed document, provided for the right to a jury trial in criminal cases. We have also provided for the right to a jury trial in some civil cases, particularly expropriation cases. Now, unless we have this provision, unless we have this provision here, it would seem to me therial in any other civil jury case except expropriation cases. Now for that reason, I think it is essential that we say something that was not solder the except as the situation, but that "except as otherwise guaranteed by the constitution in civil subject to the legislature's right to provide for ware to restate and I think this is important for Mr. Jack to realize, if we don't adopt this amendment, it's likely that the legislature could construe our other action ends with respect to cother civil cases besides no end your trial in cases.

### Questions

 $\underline{\mathsf{Mr. Drew}}$  -  $\underline{\mathsf{Mr. Gravel}}$ , without this amendment,  $\operatorname{can}^{*}t$  the legislature abolish the right to a civil jury in any case that is not specified in this constitution?

Mr\_ordie roo ean under the recent law

Mr. Inew Wittens the mentment

Mr Grale le

Mr rew with this end ent, in the solution a system, trial in very all executives upparteenby the solution

Mr Grave I think it is the that '' f

Mr rew we are suttering on the solution with with with that eas as solutions of the rest. as it two

My Grove what i him we're diri, Mi Jeen, and Delieve we tated it a cleary all, as, it te'the legislature by thi lanuage nat we dd not ean that the exclusive...that the rimit is a ury trial in invit ares could nly he ad expron at a ase. There a difference a Lee it between the ituation were in now and the ern button of "I that did not provide f the filth of trial by onry in any civil land

Mr frew init to fact...one one suction. Mr Gravel that the regulature and anymine that they are not prohilited from doing in the constitution

Mr. snavel. I think that guinning the the result of what

Mr inew. Hiw could thin fait that we we provided for a jury in eight pristion (alle be intervented to ean we couldn't in vide in other (alle)

Mr. Gravel Well, I think that that interpretation would us ince e.g. by be using a mable by the two lature when the legit dure would take the parties that there has been a preception to to leak of the right of a low trial in sixel care

Mr. Lean Mr. pravel, how can you have a review of fact by the appel ate court without abridiev the right to trial by only

Mer rave well, id not think that the risk to trial by very well and y arrive with it to only ion that the deter institution is the linal induced if your thouse there was more three was one of the risk trial for the result.

Mr. Feam out we don't have that or was included in the

Mr rave No., or, we do not

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specifically applicable in juvenile cases which specifically applicable in juvenile cases which would ordinarily be applicable in criminal cases, but I don't know if that necessarily raises juve-in case you don't know it we don't have a right to trial by jury in juvenile cases, and all of your various district courts sitting as juvenile courts throughout this state in my opinion are sitting as civil courts, not as criminal courts. Now if we're going to permit juvenile defendants the right to demand a trial by jury, it seems to me that we're providing for substantial problems in the adminisprovioling for substantial propiems in the duminis-tration of juvenile justice that we have to consider very carefully before we grant that right in this constitution. So 1 urge you to give due considera-tion to that very serious question in voting on this amendment, and until it is specifically pro-vided for in the amendment, I would have to urge its rejection.

### Ouestions

<u>Mr. Weiss</u> Are you saying that in a divorce case there'd be a right to trial by jury possibly ac-cording to this amendment?

Mr. Derbes No, I mean that's not it at all, Dr. Weiss. I'm talking about juvenile cases, Dr. Weiss. Juvenile cases where a juvenile is charged with a violation of state law and a proceeding is brought by the State of Louisiang in the interest brought by the State of Louisiana in the interest of the juvenile. Now this constitutes a very sub-stantial amount of the justice system in this state, the area of juvenile justice. Not too many people know about it. Proceedings are essentially for a confidential nature, and people don't really know too much about it in this state, but the juvenile when he appears in court is entitled to a trial; he's entitled to coursel; he's entitled to entitled too sury trici mination, but he's out that if we are going to provide for a right of jury trial in juvenile cases, we'd better be very certain how we do that. It seems to me that inas-much as a juvenile proceeding could very lequitimuch as a juvenile proceeding could very legitimately be considered a civil proceeding that what the first sentence here does or the first clause here does is it announces an unabridgable right of the juvenile to a jury trial. Now if that's what you want, you vote for this, but if you've got any substantial doubts about that, I trust you'll vote against it.

Mr. Weiss But isn't a divorce case a civil pro-

Mr. Derbes Yes, a divorce case...

 $\underline{\mathsf{Mr. Weiss}}$  Well, therefore, this amendment would require in some instances a jury trial if you care to have it.

. Derbes In addition to my remarks about juvenile cases, you are correct.

Mr. Chairman, ladies and centlemen, it like football this weekend is making us work. We can thank athletics for this.

I'm concerned about if this amendment passes. Mr. Chairman, see if you can get me a little order. I can't hear myself and I don't want to miss any of this.

Mr. Henry Give the gentleman your attention.

Mr. Jack . Jack Now, look if you all don't want to lis-n, don't deprive me, if you will, please. Now, we've existed since the '21 Constitution

without anything in the constitution about these without anything in the constitution about these civil juries and damage suits and other things. I've tried plenty. I'm a damage suit lawyer. But I am concerned about this Number 1, and I've under-lined it, it says "the legislature may provide for exceptions to this right of trial by jury." The legislature has already provided. As I gather, they would have to provide again. It would upen that whole field. I know what the exceptions are now. Another thing, it's well known that you have civil juries. It's in the legislative law. Now, here's an interesting thing. I've looked and asked a number of lawyers. You look through the present constitution; you look through we've finished, Bill of Rights, and you look through judiclary...l don't find and these lawyers don't find where it says who sits up there and tries a case. Everybody presumes, the fact that a judge is elected to the district court he's going to try them and that the statule says that and that's who tries them. But it does not actually state in the constitution that a district judge tries them or any other judge tries them. Now, I'm glad that Wr. Derbes and I see eye to eye on some-thing. We're good friends, but a lot of times we differ. This juvenile court is a serious thing as to whether those are civil cases or whether they are criming. I. I'm suyer they have plenty of cases as to whether those are civil cases or whether they are criminal. I'm sure they have plenty of cases in juvenile court in New Orleans than they do up my way. I'm not so sure that they can be classi-fied as criminal. If they are classified as civil, Theo as criminal. If they are classified as civil, those cases, little of non-work option that all those cases, little of none-work option that all those...could be tried as civil cases. I don't see the necessity of this being in the constitution. I have no fear of the legislature taking away the right to civil trial by jury in the damage suits and the other things. They had taken it away, If it ever existed anyway; they dight allow it in the expropriations. That was a different matter entirely. So I reluctantly...I hate to go against my friend and my Caddo representative here, Mr. Pugh. Bob's a good friend, but I just can't agree

on it. Thank you all for quieting down so I could Thank you.

<u>Mr. Pugh</u> Mr. Chairman and fellow delegates... Fellow delegates, in response to Mr. Derbes and so there will be no question about it, 1 have mitten two books on the subject of juvenile laws in coulifamis..two of them. Let me assure you that in coulifamis..two of them. Let me assure you that in the juvenile court. J have also drafted all of the juvenile laws in the State of Louisiana relating to all of that work. It is a matter con-cerning which I have some knowledge. I would not want you to think for a minute that I would propose for your consideration an amendment which would for your consideration an amendment which would do these horrible things in juvenile court. If you take nothing away from me, I assure you this juvenile matter is one I do have some knowledge over. Getting to the basic question, I tell you, I tried to tell you in a memorandum, every state provides for a trial by jury. Louisiana has a trial by jury. This is nothing to do with appel-late reivew of the facts. All it does is the same thing that we thought was good enough to do by one of the Bill of Rights insofar as the United States Constitution is concerned. I'm not misleading you. It's not my nature. If you pass this only 'you'll put in the till of Rid one this doed not be the state of the state of the state and always have had. In any instances where the design of the state way that right to a juvenile matter is one I do have some knowledge and always have had. In any instances where the legislature wants to take away that right to a jury they can do it, and the United States Supreme Court has said they can do it. I'll tell you something else. The United States Supreme Court has also said you don't have to have jury trials in juvenile matters. I yield to questions.

<u>Mr. Derbes</u> Mr. Pugh, I defer to your greater ex-pertise, and in that light would you please tell me whether or not a juvenile case is considered a civil case or a criminal case or what?

Mr Pugh in re Gault inited State 5 re e ...t. says t' quasi civil and ri inal

Mr. erbes So it could be a civil ase?

Mr. Pugh Absolutely. It could be a civil are

Hr. Derbes All right Your amendent say the right to trial by lury shall not be abrided in civil cases unless in instances where it is guaran-teed in this constitution. The legilature ay provide for exceptions to this right. I'nt that

Mr. Pugh And they have done that in the venile atterr. That's what I said. They've already done

Mr. Derbes Since this constitution has aid noth-ing about the conduct of juvenile cases, wouldn't a defendant 3 juvenile pri eeding have an un-abridgeable right to a trial by 'ury if those juve-nile proceedings were indeed considered civi?

Mr. Pugh No sir, when the constitution which purportedly gives the that right specifically says the legislature can take it away from them.' They've already taken it away from them.

Mr. Derbes No. no. This constitution erely says the legislature shall provide for the juris-diction of juvenile court." It doesn't say "the legislature shall provide for the conduct of

Mr. Pugh For your information I drafted the a end ent by which that jurisdiction was to be given there that you make reference to. The point

 $Mr,\ Pugh$  Exactly that, juri diction. The point f is making this very section that we are now considering says "the legislature can provide that there won't be jury trials."

Mr. Gerbel It says 'the legislature ian provide that there won't be jury trial only where the right to trial by jury is guaranteed by the con-stitution." What about tho e in tance where the right to trial by jury is not guaranteed by the bonditurion? Then the legillature an't provide tion abor depend of that right to a trial by uri-ling't that the lear reading from this

Mr. Fough I tell you, Mr. Terbe , I as do turbed about trying to read that out of it as I a trying to read your privilin about oven le laws in it. I don't there inm way I can read that

Mr. Henry You've even ded your thee, in The rullin on the endent, after a review of the vurnal and tabins with the lie is about the areadient that Mr. Ennery the first and review error that Mr. Ennery the transition of the error that Mr. Ennery the transition of the error that Mr. Ennery the transition of the error that Mr. Hen enner even the most user the that the enner the most of the transition of the even of the ender the transition of the even of the even rule that the ender the even of the rule that the even of the even of the rule that the even of the ev

Ferieri Lard, while y and be to other, there's a difference, Mr. Nerrer,

Mr. As page. Next of an were around the more the formation of the sectors of the sectors and the sectors of the

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Mr. Henry Mr. The arm while the interval yue tin ha ben refered, will have that if you want had if the store are those people who do that we would all wighther debate in this all though the been debated thrink the previous gestion as see ardered. The previous gestion as see ardered.

Mr. Perez int forfnatin A : # 23 understand it even with the formation in each are it ut et it. The use-tion, in each are it ut et it. It.y even tes in order to as be a le it i a new retime that correct

Mr. Henn if A end ent to 1 to 1 to 1 think it would arry Arendent to wir to , it e frankly Beauerit to to ta a searte section here. It would be an are ent to the new section, it appeart to e. "referez

Mr. Perez well, then at least the first privilion would require an affirmative sitt. - e.e. tel.

Mr Henry Yei, sir-You are rreit fit doesn't get ixty-even, then A e d e t h would be it of order All right. We'll vote in Americant V. I first

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Mr. Henry The second network ut it reri Mr. Pugh, because the first netward feated

Mr. Porter Annuner No. 1. page 7. Inc 6 alor the function of the function rettrien 6 read strain arrisk to an for the function of the function of the func-to that be readed to the func-tion, haven, the local data of the func-excepted to the func-Alender the function of the annuals of the function of the function of the local function of the function of the local function of the function of the func-set of the function of the function of the local function of the function of the func-in the function of the function of the func-in the function of the function of the func-r by the function of the function of the func-r by the function of the function of the func-function of the function of the function of the func-function of the function of the function of the func-function of the function of the function of the func-function of the function of the function of the func-function of the function of the function of the func-function of the function of the function of the func-function of the function of the function of the func-function of the function of the function of the func-function of the function of the function of the func-function of the function of the function of the function of the func-function of the function of the f

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rejected: 55-52. Motion to reconsider tabled.

Amendment

Amendments sent up by Delegates Poynter Marren, Jack, Velazquez and Rayburn. Amendment No. 1, page 7 between lines 3 and 4 insert the following: "Section 22.1. Right to Compensation

"Section 22.1. Right to Compensation Section 22.1. The legislature shall provide a method for adequate compensation for persons convicted and imprisoned for crimes which they are proven subsequently not to have committed provided the person did not by perjury contribute to his own conviction."

Point of Order

Mr. Arnette Mr. Chairman, are these amendments in order or have we voted on this before? Mr.

### Ruling of the Chair

Mr. Henry Mr. Arnette, we have this ame. Th three more that are substantially the same. Th Mr. Arnette, we have this amendment and Three more that are substantially the same. They are all on this business of compensation. Now, I'm not going to rule that they are out of order. I will let this body determine that, because on <u>Mason's Manual</u>------the book says that the pre-siding officer should never rule an amendment out of doubt he should entertain that it is. In case of doubt he should entertain the amendment subject to the right of a member to rise to a point of order, or he should submit to the House the question of whether the amendment is in order or not. I'll ask that the Clerk read the amendments that are They that the Clerk read the amendments that are coming right behind this. I don't think that will be necessary to do that....

Mr. Arnette, I'm not going to rule that they are out of order. If you want to let the House make the motion, we'll let this body determined it.

### Motion

<u>Mr. Arnette</u> Well, let's just let the House decide then, because I don't know, I think we've voted on it before. I've got nothing against compensation.... I think it would be good for the legislature...

### Amendment reread.

Mr. Arnette has moved that the conven-Mr. Henry Mr. Henry Mr. Afflette has moved that the contact tion determine these amendments to be out of order. His motion being based on the fact that it is his understanding and belief that the convention has considered this same subject matter heretofore.

### Point of Information

<u>Mr. Chatelain</u> Mr. Chairman, 1 would like to get a ruling if you could from the author. Is this identical to the one we voted on? If it is...

Mr. Henry Now, that's exactly what we're talking about. I'm going to let the convention determine. I'm not sure that it's identical to it. So we'll let the delegates decide.

Therefore, when the machine is opened, as many of you as are in favor of considering the amend-ments...I'm going to ask the Clerk to read them again.

Why do you rise, Mr. Jack?

State your point.

### Point of Order

Mr. Chairman, I cannot remember, and Mr. Jack Mr. Chairman, I cannot remember, and I've picked up amendments whether they're yester-day's or today's. I'm a honest person, and I can't vote on this unless I have the Clerk by comparison read yesterday and today's. Because they may be word for word; I don't know. I don't want to cast any doubt on my veracity. The clerk can compare the one we had yesterday...I'm a coauthor...and them he can compare it with the one now. Let us know. Mr. Henry Mr. Clerk. Read the amendments from yesterday,

<u>Poynter</u> I can see right off the words a hod" was not in the amendments submitted by Mr. Mrs. Warren.

<u>Mr. Henry</u> The point being, Mr. Jack, and I think that Mr. Arnette is raising, that while this amendment may not be worded exactly as the amendments we considered yesterday, he's saying that for all pratical purposes we considered the same thing. This is not debatable, Mr. Jack.

Mr. Jack I'm asking a point of order.

Mr. Henry State your point, sir.

Mr. Jack I think you've answered it, because I just don't want to so-called perjure myself. Now if it's different, I want to vote to hear it again, because I'm for it. I'm still for it.

Why do you rise, Mr. Conroy? Mr. Henry

<u>Mr. Conroy</u> You had begun to explain how the vote would go. I was a little bit confused. You had suggested that a vote in favor would be a vote to consider it or a vote in favor of the motion? I was confused as to which way the affirmative vote would go on this.

[Amendment reread. By a vote of 47-59 the Convention declared amendment out of order.]

### Personal Privilege

<u>Mrs. Warren</u> Mr. Chairman and fellow delegates, I accept the decision that you have made. The only reason that I came back with this amendment was Mr. Rayburn had an amendment to the amendment, or Mr. kayourn nad an amendment to the amendment, or to the section that was going to be created, and "a method" was added into it. However, I am sorry that so many people at this convention decided that they would not like to see innocent people given a chance to get compensations for serving given a chance to get compensations for serving time that they were not deserving to serve, who nonce sent out a decree that every male child should be killed in his city. In sending it out he found that his own child was killed by his own decision.

I leave it up to you. Thank you. I am not going to withdraw any other amendments. I have not taken up near as much time on any amend-I have not taken up near as much time on any amend ments as anybody else here had done; so let it all come out. I will since I'm back here...some said they didn't know what I was getting to. Some day you might find yourself in the same situation that the great ruler found when he set out the decree for his own son to be killed. You may find your-selves in the same spot, serving time for things that you did not do and wish you had compensation that it would be provided in your constitution.

### Amendments

<u>Mr. Poynter</u> The next set of amendments are all offered by Delegates Warren and Jack concerning the right to compensation. Distribution copies The next set of amendments are also

the right to compensation. Distribution copies of this set have not arrived. A set of the insert the following: "Section 22.1. The legislature shall provide for adequate compensation for persons convicted and imprisoned for crimes which they are proven sub-sequently not to have committed provided the person tion.

### Point of Order

Mr. Smith We've taken this up before too. I like to make the same motion Mr. Arnette made. This is the same thing we had....

Mr menry : at rule right elease is a -vised -, the lerk that the elare dent a t a endients that we wins dered a relation of

that were de ided ye terday Mri warren, thi et faiend eit i stat Erder because the ale et faiend ent were

Mr.\_\_\_arren Mr. hair an, you re lo kin, at the a endients. I rot I only have these in by head. I said if anyone else had the are idea. I supported their a endient how. I don't have the a endient before this

Mr. Henr. Those are out of order, so call the next set, Mr. Clerk. Mr. Velazquez, do you want either set of yours" why do you rise, Mr. Thompson?

Motion

Hr. The ison Mr. Chairman, all we ve done for the last hour is argue whether amend ents are en ane or what not; so I m r sing to make a oftion that we vote on the entire subject matter.

Mr. Henry Mr. Richard Thompson now oves the previous quection on the entire subject atter Mr. Clerk, there are other amendients. Is that correct?

Mr. Pointer Delegate Velazquez has a set of a endments. He has just withdrawn the econd one Delegate Vilbourne still has a et of a endments

Mr. Fibourne Mr. Lhaiman, I wish to ove to unpend the rules in order that Section 12 can be called from the table and be reconsidered, par-ticularly the language that puts Miranda v. Arizona in the onst Lution.

Mr. Henry Mr. Kilbourne, your motion would be out of order, because yours is to suspend the rules and Mr. Tho pson's is a privileged motion of the previous question on the entire subject matter. So we'll have to dispose of his motion first. There are two sets of amendments, and we don't have a list because we're not on final pas age. Mr. Perez, why do you rise, Sir?

Mr. Perez Point of Information. The entire sub-ject matter on what

Mer. Henry The entire vublet after teing the proposal by the on the tee on the Bill of Rinhs if you vote yer on the ot on, then you mut off debate, any further debate, on this propial, and we wild then all w one debate there wild by non-re debate, period Whower want it has the provester of the set of

Why do you rise, Mr\_ Avant?

Mr Avant Would I be in order to reque t that the lerk read the two a endment, that are till

Pr Hr.

Ms. Jervigin. He hair an, it my under tand n of the rule that we ruld still vote on thise a end ents, but that we ouldn't debate the

Mr leary ley're a t panding through Y u ee they ve never been offeled

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Mr. Henn. Mr. Thospan, the 's 's as' deterination, I as t ay toa' (') t call a ensient we will but it to solt if the

Mr tvall kint rider, M The dele ate did rina kifir - re-tody. He in tha kid is for

Mr Henry Yes, J. M. Let I a land the second second

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Mr. Henry N., Jr. (1) or Statistic Hilbs. Mr. Velazije na statistic Hilbs. I sterior, Mr. Mr. Alts. Alts. eint. Mr. Hilbs.

Monormal and the second second

Mr. Henry Mr. Jack, our rules provide that the may call for a sense of the convention. Now I'm not going to stand up here personally and rule an amendent out of order unless I'm absolutely certain, as is was on the amendment that we had here a while ago, that we had considered one of the identical wording of that on yesterday, don't you see? I'm not going to say that this amendment has or has not been considered because I don't know, in my own mind that it has or that it has not. We'll let the delegates determine, and that's

 $\underline{\mathsf{Mr. Jack}}$  Well, let me ask you this. I'm looking at all of them, and I don't see "felonies" but in this one. Can I be heard and read it?

Mr. Henry ne s we'll read it again, sir. He's already read the amendment and

Mr. Jack Well, alright, the others don't have "felonies" in it. Can he read them so they can understand? I don't want this group voting on something they don't understand.

### Motion

Mr. Velazquez Mr. Chairman, in the....in trying to save some time and to try to get this issue really before the people, I've had a talk with Representative Alphonse Jackson, the Chairman of the Committee on the Bill of Rights, and he has told....given me his solenn word that he will in-troduce legislation to this effect in the next this thing before all the people and before all the elected representatives of the people. And in light of that commisment from Representative Jackson, I request permission to withdrawn my amend Jackson, I request permission to withdrawn my amend-

### [Amendment withdrawn.]

Mr. Poynter Mr. Chairman, the next set of am ments would affect an amendment to Section 12 which has heretofore, of course, been adopted. motion to reconsider has been tabled. Therefo Mr. Chairman, the next set of amend-Therefore, its consideration would have to be preceded by another motion.

### Motion

Mr. Kilbourne Mr. Chairman, I move to suspend The rules for the purpose of removing Section 12 from the table and to reconsider Section 12, specifically for the purpose of removing the first sentence as set forth in the amendment.

Mr. Henry The gentlemen now moves for suspension of the rules for the purpose of reconsidering the vote or calling from the table the motion to re-consider on Section 12. The motion is not debatable

### Point of Information

Mr. Casey Could the Clerk read the sentence that the suspension of the rules is directed at so we'll know what we're removing?

Mr. Henry I think your point is well taken.

### Amendment

Mr. Poynter Mr. Cosey, the amendment that would be proposed at this time, of course it would be open to any amendments, but Mr. Kilbaurne presently does have an amendment, the effect of which would be to delete the previously adopted Derbes' amend-ment which was adopted on September 12. That amendment by Delegate Derbes took out of the com-mittee proposal the first sentence of Section 12

as you have it before you. On page 4, lines 12 through 14, the sentence at that time in the proposal read, "When a person has a right to be detained, he shall immediately be advised of his legal rights and the reasons for

his detention." The Derbes' amendment adopted on September 3

The Derbes' amendment adopted on September 2 deleted that sentence and inserted the following. "When any person has been arrested or detained in connection with the investigation or commission of any offense, he shall be advised fully of the reason for his arrest or detention, his right toon his right to assistance of counsel, and to court-

<u>Mr. Rayburn</u> Mr. Chairman, I merely wanted to know why Mr. Kilbourne wanted to suspend the rules to reconsider this particular provision.

Mr. Henry The Clerk was just reading...there is some language that was deleted. I think that he

Mr. Rayburn He read the Derbes' language, but I wonder why...Mr. Kilbourne....what language he has? I would like to know that, Mr. Chairman.

Mr. Henry All right. Read it again, Mr. Clerk.

<u>Mr. Poynter</u> Mr. Rayburn, the effect of that amendment would be to wipe out the Derbes' amend-ment, as I appreciate it, and to restore the Sec-tion 12 as it was originally drafted before you,

Isn't that correct, Mr. Kilbourne?

Dr just to delete it, period, and leave the first

That's what you want to do? All right. He wants to wipe out the Derbes' amendment and leave as deleted, the first sentence.

### Point of Order

Mr.Ayant Point of order. As I understand the rules, if we suspend the rules with respect to this particular amendment, then the door is open for any and all other amendments to that particular section that anyone may

Mr. A. Jackson To be very brief, I simple want to express the appreciation of the Committee on Bill of Rights and Elections for all of the work done by the members of this convention in making the Declaration of Rights Article a good article that I believe will redound to the benefit of all louisianians. I know that it's been tough and hard. We expected this because we were dealing with some of the real gut issues effecting the rights of individuals. For the last half day, you have been considering amendments that were not authored by this committee. But, we thought that in the interest of everyone receiving full arise bolt tons. We simply anted to say to you that we appreciate the hard work done by members of this convention in making the Declaration of Rights Article an article that we think will exter done by the members of this convention in making or one convention in making the usclaration of Rights Article an article that we think will extend freedom and will provide a glowing edge of dignity and freedom for all Louisianians. I urge the adoption of this Rights Article for the people of

Mr. Rayburn Mr. Chairman and fellow delegates, I would Tike to suggest that we ask someone in authority to try to schedule some time for commit-tee meetings. Revenue, Finance and Taxation has met consistently for the past several months. To-

day, we had a cettin with Pirit a first in hat Constitute I thing we applied to And I would like to unext that newhere in the first I ne. Pir har ran, that we have a title in the title cetting and where not constitute who I ne, Wr har an, that we ave a title the for-titer eventing, and where needs the Mu might have a proposal that Was in inf white entries consistent that they all either the entries of the start hey all either the entries by doing that, we use in white the ter-lieve by doing that, we use in white all ter-and we could save a stort in e. Wr did that Thi-morning in y committee, I think we all of hed a lot. But if we are going to tart metime al-you cannot get a consistent of the store of the store you cannot get a consistent of the store of the store they do not want to come to a consistent of the we can save all this is the store of the store we can save all of the store of the store of the month and showed the store of the store of the month and store of the store of the store of the store mittees to look over other committees proposal and that they are for a the different committees joint meeting of those committees like we do this morning, and I think we accord show do this morning, and I think we accord is do that con-flicts, with what they are going to do, call a store of taster if we could work our problem out in committees, as far as the different committees are this floor. I would be ped to go those of working the out of the store of the place of working the out of the store of the store of the store is the store of the store of the store of working the out

are concerned, in the place of working the out on this floore to suggest that, Mr. Char and, and let me tell you this, a lot is been said about how congress operates. I don't necessarily agree with how they aperate. But they do in nety-nine percent of their work in committees. And I think that if we could have a joint meeting of all com-mittees when they have a proposal to see... we found this morning that one committee has taken that good or is that bad? we went over them, and I hope we solved them. And it should be olved in the committee from of government. Then let he floor take after it after we finally reach an agree-ment. There is...in my opinion, it's fall a lot of erth work on the mothers of this owner the committee submitted when another committee i going to submit a like artice, and I would like to suggest that in the future, we have a little will save a lot of time on the entre convention accerned hours if the and the convention meeting hours if we can olve our problem in a

I ust offer that, Mr Chairman, a a uige tinn

Mr A ackson Mr. Chair an, | Stood here many the ommittee on bill of Right, and Lie ton to one here at the pollur And I have a rear for a king the transmoster of they would on in me here, would be pleased. Will, wanted he to une be age 1 hink

Well, wanted her to sume because L https: that this on ittee represents a trian of this state. And if we were sume us get along and bring out a difficult article using the engand un-of Right. Article, with this onglomeration of hus a being here. I how this unity peak of the strength that we have in this take and I wanted you to see these womerful peak here at wanted of this consistent of the strength of the of this consistent of the the right of the Right Article you that we are in and i the Right Article you that we are in addition were great Right. Art is and I want to express pression to the end of the strength of the they were a part of the strength of the Right Art is you were a part of the strength of the pression to the end of the strength of the they kall was a part of this is the state of the strength of the of etting it jo, ed by this or end in the from the bittle find heart we want to say, Thank You we append to the effort

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47th Days Proceedings—September 14, 1973 and I'm going to be here next Tuesday, as I said. And I'm going to be here. I'm going to be here next Tuesday, as I said. And to a consort every day in the week. My check is the same. I don't get...I did not accept the fore last, I guess. And so far as committees having time, there is Sunday, Monday and Tuesday available for committee meetings, and I don't think it's necessary to go that route. But, I think there is ample time for committee hearings if we use the time which we have wight be allowed to comment the the work one may be one or two days, and allow committees to meet in the morning because, gentlemen, I do realize, and and some people can't do that. And I realize that if tomorrow weren't a football game day, that everybody would be dying to go home, too, and that's fine, because I'm going to be here. "Batto the be bet if und red traine the stand that

fine, because 1'm going to be here. But please understand, please understand that I'm doing the best I can and I'm not trying to frustrate any one of you out there. And I know my temper gets short up here, occasionally, maybe a little too frequently, and for this, I do apolo-gize. You've got a difficult job, and I've got a difficult job. But I say again, and again, and again, I asked for, and you asked for it. And Jum not going to turn it loose, and I hope to God you don't because this is the one chance we've out to do something for the people of this state. you don't because this is the one chance we've got to do something for the people of this state. I think most of you, if not all of you, are sincere. I assure you that I am, and if Tive hurt your feelings, I beg your pardon, and I apologize. You've been short with me at times, and I ve been short with you, and we're going to have to dance for four more months. But I'll be just as nice as my patience will allow me to be, and I hope that you understand what I'm talking about.

[Adjournment to 9:00 o'clock a.m., Saturday, September 15, 1973.]

Mr. Lurns Let us pray. For Heavenly Father, we all 'ry wintinged inco-in a we proceed to draft thin new constitution we ask that Thou would speed up our wink, wild, in that when we desire to get up and speal after two or three de regates have already spoken on the sa-subject that Thou would keep us in our sets, and to offer aready when three have been several of-fermed on the sa a sub-

A resolution to recor end categories for the or-derly transition of material fro the Louisiana Constitution of 1921.

<u>Hs. Zervigon</u> Mr. Chairman and delegates, I think in order for understand what the Com ittee on Leois-lative liaison is trying to accomplish with this resolution. Tou need think to yourself that it's moving day. That for each room in the new house your room, you put the articles in that box. You have one for the living room, one for the dining room, one for the bedroom, and one for the attlc. What this resolution attempts to do is to set up for the available in order toom ove things from the old con-your. If deep them attracted con-tains in the room the extra the set of available in order toom the extra the old con-volume in the other extra volume how here to the intervolution the extra volume how here to easilable in order toom the extra volume how here to easilable in the extra volume how here to easilable in the extra volume how here to easilable in a complexity of the how here to easilable in the extra volume how here to easilable in a complexity of the how here to easilable in a complexity of the how here to easilable in each the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here the extra volume how here to easilable in each to be a the extra volume how here to easilable in each to be a the extra volume how here to be a the extra volume how here to easilable in each to be a the extra volume how here to be a the extra volume how here to be a the extra volume here to be a the extra volume here to be a the extra volume here to be extra volume here to be a the extra volume here to be a the Ms. Zervigon Mr. Chairman and delegates, I think fold up the box marked 'attl=" and you don't use it bo, this sets up various categories in order to easi the transition into the new constitution, and in me der to ake sure that we have a uniform ysite, that we refer to different sources of statutory material where each ne if us inou what the other is talkin about. The four the new constitution, and in the refer to different sources of statutory material where each ne if us inou what the other is talkin about. The four the space of the categories is a statution, which is the atterial we're constitu-ing and passing at this point on the floor. The sel ond which is the atterial we're constitu-ing and passing at this point on the floor. The sel ond which are tatutory but would be use to the hange only by a super-alority. This is what we're talked about amony urrever as the two-thirds a term of the leinstory to make anything. It would be three-warters but it is one the floor and the term of if the lein statutory has a term of the the floor the term on the floor and the term of it is the indicate the two the terms in the theter is the indicate the terms of the term of it is the indicate the terms of the term of the the lein statute the hange to the third is the indicate the internal this there is a lot of it into unnew terms of all if that is the all the internal hous all if that is the statuter is a the to the right here is a new of the is the init to the indicate the indicate the internal there is the indicate the internal hous all if that is the all the is the init to the indicate the indicate the internal hous the is the indicate the internal hous all if that is the is the init is the init to the indicate the indicate the internal hous the is the indicate the internal hous all if that is the is the init is the init to the indicate term is the is the init is the init to the indicate term is the is the init is the init to the is the indicate term is the init to the indicate term is the is the is the init is the init to the indicate term is the is the init is the

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Brown Ms. Zerlon, you would away with enabeling of abjent, although r, the result of a set of the s

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Mr. Tollas t the ba

would be to the convention to do this. Minimal Mr. Henry There wouldn't be any added cost, Mr. Tobias.

### Questions

<u>Mr. Champagne</u> I think you answered it, but it's "yeas", "nays" and "not voting", right?

<u>Ms. Zervigon</u> Yes, sir, rather than "absent". It's to change that one word in the Journal...to allow that word to be changed.

<u>Hrs. Warren</u> ]'m still...l'm a little bit puzzled. Do you mean...l'm for your amendment...but, do you mean, since the question came up, a person could come in, answer roll call, disappear, and he's present all day?

Ms. Zervigon No, ma'am, it doesn't say that. It just says that he's not voting, as it shows on the tally sheet that comes out of the voting machine. Not voting...it doesn't say why he's not voting. On the other hand at present, if an issue comes up that you don't feel sufficiently informed to vote intelligently on, you are recorded as absent, even though you may be sitting in your chair the whole time.

Mrs. Warren I can understand that too, and at the same time I can be sitting in my chair and recorded absent and in the next two or three minutes something comes up and I feel adequate ta vote on it and I'm recorded present. In this amendment you can come in here and push that button and you can be absent all day, but you'd just be recorded as not voting.

<u>Ms. Zervigon</u> That's right, and no reason for your not voting would be shown. Now, a reason is shown that is not accurate for all the people that are not voting on one issue or another.

Mr. Stinson Do you know that they have a course at L.S.U. on Convention '73, and do you know that they have been checking our Journal and the comments have been made, "Look, there are a lot of people that are absent and should be there at their desk listening and tending to their affairs," and this will correct that impression, won't it?

Ms. Zervigon No, sir, I didn't know that, but I believe it will.

Mr. Stinson They've especially been calling attention to the fact to how many are absent and not being here attending to the business.

Ms. Zervigon I appreciate you bringing that up, Mr. Stinson.

Mr. O'Neill Mary, have you checked with the staff to see if this is going to be any more trouble?

Mr. Henry Don't worry, the staff will cheerfully do it. Don't worry about the staff. They don't have much to do anyway.

Mr. Chatelain Mary, l've got a problem trying to analyze this. For instance, last week l had to go to Lafayette to make a talk. I was gone for three hours, and I thought it was more important than being here. Of course, while I was gone I was reported absent. Wouldn't this encourage some of us to leave for two or three hours at a time and, perhaps, just be away? I'm concerned about this.

Ms. Zervigon Mr. Chatelain, it's my opinion that being listed as absent on a roll call vote in the Journal is not really a deterrent to somebody who feels he really must go carry on his business someplace else. All 1'm trying to do is make the Journal read a little bit more accurately, that's all.

Mr. Chatelain Well, you don't think it would

encurage absenteets the solution of as voting. 0.K., number two, this couldn't be in any way construed as a yellow light? If you don't want to vote on an issue...areal hot issue...and you wanted to not vote at all, this wouldn't encourage this kind of operation?

<u>Ms. Zervigon</u> I wouldn't think so, Mr. Chatelain. I believe most of us would like to be known as people who can make up their own minds on an issue.

Mr. Chatelain I appreciate that, and thank you.

Mr. Brown Ms. Zervigon, I'm for your amendment. I think it's good. You might want to consider adding a separate category, "absent press." If you look around right now, except for the Associated Press and Mr. Gillis of the <u>Times-Picayume</u>, they're all absent today, and the press is screaming and hollering about us not showing up. Well. I think that it's a real reflection, the fact that not a bit of the press' since none of them bothered to show up this morning.

Ms. Zervigon Just one thing on that point, the Times-Picayune is here, and the Associated Press is here, but everybody else is gone.

<u>Mr. Flory</u> Mrs. Zervigon, I find no fault with the resolution, but I need a clarification. Suppose we had a quorum call for the record just prior to a record vote and it was a very important matter. How would a person be listed on the record quorum call; would he be listed as absent or would he just be listed as not voting?

Ms. Zervigon If it were in the record?

Mr. Flory For a quorum call.

<u>Ms. Zervigon</u> It would be listed "absent" and "present" as it is on the original roll call. This only applies to a vote on which there is a split of "yeas" and "nays". The third category is people who are not voting for one reason or another.

Mr. Flory Let me be sure I understand what you say, then. If we had, during the middle of the day, a record vote ordered on a very controversial issue, someone called for a quorum call, for a record quorum call, what to know on that record quorum call, would a person be listed as absent at that time which he may actually be absent, or would he just be listed as not voting on a quorum call?

Ms. Zervigon This only changes the rules as it applies to a record vote. It has no effect on quorum calls or roll calls.

### Further Discussion

Mr. Asseff Mr. Chairman, delegates, I object to The resolution: I do not chink thay it is stated confusion. I would have no objection if we added a new category and stated "not absent", then the next category "not voting," so that if a delegate wished to indicate that he was present and not voting for any reason. .that is up to him... here could so indicate. But, I do feel that if you are could as a great deal of confusion when we have record votes. I feel that it would encourage absenteeisn. I don't see why we can't say "yeas". "mays", "absent" or "not voting" and in that way the delegate could be recorded. I object to this.

### Questions

Mr. Willis Dr. Asseff, I understand that these... that there can only be three categories and that you are trying to infuse another one, notably, you can vote "yes" or "no" so that what you're doing is supposing that we can have a fourth category,

aren t , u what ill'r would that be, yell w

Mr Alleff I am not doinn anythim. Mr Hill Ta bethi to what bell dile a lay nify guire alert, youre abent 17 well host within there in way of Ammin wiether you are here and for one reastric, which is your

Mr. Willis Well, hat is where, Doctor, you lo e e. This can either be for or again t, by the bit-tons. Now, f you don't press the buttom, then

Mr Asseff I don't want anything. I want to do it propeny. What i ar saying is this, suppose that we have a quorum call. Suppose that it's a rejord vote. The individual is here, it is one thing; if he is absent, it is an entrely different thing. He can be here and be counted for a quorum call if he doesn t open his mouth, but if he's absent, he cannot be. I feel that if we don't make that distinction, we're causing productions

Mr. Stinson Doctor, you...understand from that that each quorum call they take, if you re not here, that it would be 'absent', not voting would show "absent"...you understood that, didn't you

<u>Mr. Asseff</u> But, we ay go throughout, in a number of votes, a number of record votes, and we have no way of knowing who is absent. think that would discourage those who are making those that would discourage those who are making the set of the set

Mr. Stimon Not when you call a quorum call, aybe, every thirty inutes, and if yoo don't vote that would how it a absent.

Mr Asseff I don't think we ve had any quoru calls that often, and I could leave right after a

Mr. Stinson 20 each day?

Mr. As eft. No. I don't think so I think it's materia, becaue, if you wart e to an wer, a lot of people press the button on a quoru call for somebody else. I lust feel that on the sum you ought to say 'year, 'nays' and if wer going to take it that far, "absent" or 'not viting 'therwise, we cause onfusion and I feel those of as that are here will not get -redit for being here Thank you, Mr. famiman.

Mr. Velazquez or Alseff, wouldn't this lead to smebody's buddy pothing his button in the morning when hell not here and he never, show up all day and there would itilibe moves the work would show that he was mit writing and here would would show that he was mit writing and here would would be nere all day and there would be n wely for the convertion to know the man was not favor and public here here first thim in the room on the initial coll off

Me. As set I have an objection to be not see ay-then the perform could indicate the have that he is here and not voting and it would be re-forded. I would have mobile the to that har's easy enough for this to hand a note to the the rank ay I as here and not other and sign his name. That would live the initial as sign his mame.

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Mr. Brief M. alex, the end a strike five day privile with the action of the sentor Raburni strike in a strike strike Sentor Raburni strike in electory and the that five days is sentor for a strike at the sentor best to a strike and the strike up to an the strike is the strike and the that i do hate the strike and the strike statistic days strike and the strike and the strike at the strike strike and the strike at the strike strike and the strike at the strike strike at the strike strike strike at the strike strike strike strike at the strike at the strike strike

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amendments on a proposal.

Mr. Brown. But, who makes that decision? As to back to the substantive committee and the sub-stantive committee says 'No, we like it just the way it was. That was our intention. That's the way we wanted it reported out." Style and Drafting has final veto power, is that right, they can...they have the decision to determine whether or not it. a substantive change or not. Is that correct?

Style and Drafting certainly has the final say-so as a committee. Of course the final decision makers will be the convention itself, Decuse Style and Drafting must submit the proposal back to the convention, but what we're really con-cerned about are merely two things. Number one, I think the substantive committee might be in a position as the best decision maker as to determine position as the best decision maker as to determine whether a substantive change is a ctually being made because they are most familiar with the subject matter. Secondly, I think it's going to be a time-saver, because if you have seen the recommended stylistic changes on the Legislative Article alone, 264 changes have been recommended by the research staff in the area of style and drafting. So, all 1'm suggesting is that we make sure that these 264 changes, and it is a comparable or similar amount on the Executive Article, that these changes are strictly stylistic.

Mr. Kean Tom, I'm in accord with what you're trying to do; I just want to make sure that I understand the procedure that will be followed once the proposal has been referred to the sub-stantive committee. Whether it makes comments or doesn't make comments, it goes back to the Commit-tee on Style and Drafting and from there will be reported to the floor.

### That's absolutely correct. Mr. Casey

Mr. Casey Mr. Kelly, in answer to that, I went to both Style and Drafting Committee meetings. After the first one I was somewhat concerned that the committee might go too far. That's why I offered the resolution, and as a result of the second meeting. I think this is really what the committee intends to do anyway...to at least committee its efforts with the substantive committee.

Mr. Keilv think you're absolutely right.

Hr. Asseff Mr. Casey, as you know, I am in agreement with you, and as Mr. Kelly pointed out, the Committee on Style and Orafting of which we both are members, unanimously agreed to follow this. Wy only concern is this: Is whether or not thueld be followed. I mean I mall for it, but I'm and the file days, should the report be returned to you let us say on a Friday the selections in the selection of the selection of the selection of the selection of the selection. I'm all for it is all for it all for it is all for it is all for it is all for it all for it is all for i

Mr. Casey Dr. Asseff, I think it's clear, and I don't think we should allow any more than five days and if the committee has submitted it back to the substantive committee on a Friday or a Saturday. I think that substantive committee is under a moral and, of course, a legal obligation under our rules, to do their work rapidly.

Mr. Asseff W right with me. Well, if you're satisfied, it's all

Mr. Goldman Delegate Casey, you probably know

that  $\Gamma^{(n)}$  for this resolution, too. On the question of the five days, that several people seem to be concerned with, isn't it human nature to always put off things to the last minute? If you give them more time, they'll just put it off, If you give them the five days, there's no earthly reason why they can't get it date.

Mr. <u>Casey</u> That's correct, Mr. Goldman. Fifteen days would be no problem now, but on December 26, I think five days could almost be too long. I'd hate to have any more time than five days.

### PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Boynter Committe Proposal NG, 22, introduced by Delegate Stag, Chairman on behalf of the Com-mittee on the Executive Department. A proposal making provisions for a code of ethics and the Louisiana Board of Ethics. The proposal was reported out on August 23, reported favorably, and on August 24 was read and ordered engressed and passed to its third reading.

So the white copy as introduced is still a true copy of the bill. It's Committee Proposal No. 22. ]'ll get the numbers here in a second.

Mr. Gravel Mr. Chairman and laotes any generation of the convention, Committee Proposal No. 22 establishes in the proposed new constitution one Board of Ethics. The purpose of the proposal is to make sure that there shall be uniformity in Mr. Chairman and ladies and gentlemen is to make sure that there shall be uniformity in the determinations with respect to considerations about ethical conduct of all state officials and of all state employees. This particular proposal is rather simple. It's the vehicle autho-rizing, of course, the legislature to act with respect to the adoption of a code, but it also. in Section 8, provides that subject to the confirma-tion of the Senate, that there shall be seven members appointed by the governor, one from each Supreme Court district. (For is, inserted in here in order that the governor, size inserted in here in order that the governor, size inserted in here and otherwise to the constitution. To the composi-tion I should say...of the board. Just so there won't be any misunderstanding about it. I kawn to tion I should say...of the board. Just so there won't be any misunderstanding about it. I want to also direct your attention very briefly to Commit-tee Proposal No. 23. That's the dual office holding proposal that is being proposed by the Com-mittee on the Executive Department, and there is an interrelationship between the proposed dual office holding provision and the Board of Ethics, in that this Board of Ethics would supervise in addition to any other duties prescribed by statute is all mattees relation to the holding of more in all matters relating to the holding of more than one position by employees and officials of the State of Louisiana. Now, Mr. Chairman and ladies and gentlemen of the convention, there have ladies and gentlemen of the convention, there have been many very fine speeches made by delegates to this convention about our image and about what the public wants and about what the public needs and what the public expects in a new constitution. I don't believe that we are going to ever be involved, nor have we ever been involved, in an area more important to the integrity of our efforts and to the successof our efforts than in dealing with these two propresise that are only a by and to the successof our efforts than in dealing with these two proposals that are going to be before you this morning. Reverting back then to committee Proposal No. 22, we ask that you give consideration to this rather short provision with respect to the mandate that the code of ethics be constituted and also the method of its composition in order that we can provide in the constitution the basis for competent and comprehensive legislative artime.

Mr. Zervion Mr. Gravel, is it the intent state that the e be over a pin ter-

Mr. Iravel The consistee did not provide, it in view of the fail that the appoint ent are ade by the givennin, that ay be orethin that in be considered. But the consistee in the Provide

Mrs. Zer Lon You d'dr't insuiss t'e atte m your co-ittee deliberation, at a

Mr. Gravel Mrs. Zervisin, think Mr. Abrahas Li modelin in head. or that particular prodicing was not at the eet ny, but he assysses, it was con-idered, and apparently the consistent decided that the teris would not be overlapping.

Mr. Zervi on I would appreciate some explanation from another committee member on that subject.

Mr. Gravel ust a moment. I beg your pardon.

Mr. Gravel I think the idea there was that it would be left up to the legislature, in the act. That's correct. Thank you, Mr. Abraham. That the legislature could provide for overlapping terms

Mr. U.Neill Mr. Gravel, extending on Mr. er gon's wetton, I notice here there is no in it on the terms that a member could serve, is that

Mr. Gravel That's correct. The legi lature there also could provide for a instation.

Mr. Stinsun Mr. Gravel, if they are all for sixyear, how an they overlap? The legislature an't overlap then. They can't make any for les than that or more than that, so they are all going to have to go out at the end of each it year, so it they

Mr. Gravel I think that the levillature ou d.

Mr. Stinnin. But the way it is now some inverses would apprent all, the next overses is the her in his record term audonic, then the mist one would appoint all again, it that mereit The next thing, Mr. Gravel, this is not in the present on stitution. I thin the level her are they appointed now, from the uprese but ditrits own, or how

Mr. Gravel Mr. itim un, let me ay this the is a privision in the institution with respect to the Board of this , tu two boards of Ethics

Mr 'timon but what areas are they a pointed from

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Mr. Grase No. (did n.t., t) an elementa-Ke did that in one or two ther instance and i this her what you reaging into two fets that the firit appoint enting up to be and is a one through is year into the site of the single because that them will be a terminary provision, and then there in into the site of the nent teedown in the onstitution will be a think in one is two there is a there Mr. Arnette, for telling e stat

Mr. Kean Mr. Kravel, in the recent institution provides for agovals from the loss of the second seco

Me Sravel I think that there is not the there would be an obtained on the second secon

No organization of the set of the

B) Constant, No. Transfer for an entrance of a second structure of the seco

Mr. Gravel In other words, that would be the area in which the Board of Ethics would be able to operate.

Mr. Drew Nothing but conflict of interest, malfeasance, nonfeasance, or any of that couldn't be incorporated in a Code of Ethics.

Mr. Gravel There would not be, and in our opinion should not be, because there is ample provision in the criminal laws of the state to take care of those particular problems if we didn't want to duplicate...

Mr. Drew Well, what it amounts to in fact is, you've left nothing to the legislature, isn't it?

Mr. Gravel I don't agree with that at all, Mr. Orrew. That doesn't follow at all to me, but I don't think that we should talk about the authority of the criminal courts and criminal jurisdiction in the Code or Ethics. That's an entirely separate matter in my judgment.

Mr. Munson Mr. Gravel, you may have already answered this, but what happens to our present Code of Ethics?

Mr. Gravel Well, we presently have two Boards of Ethics.

<u>Mr. Munson</u> One for elected officials and one for state employees.

Mr. Gravel This would be a directive to the legislature that those two boards in effect be consolidated and that one board consider all of the problems that relate to conflicts between public duty and private interest.

Mr. Munson In following Harmon Drew's questions, all of those matters that are covered in the present Code of thics for state elected officials and state employees could not be covered in a new Code of Ethics.

Mr. Gravel I don't understand what you mean by that.

<u>Mr. Munson</u> Well, this only said a Code of Ethics prohlbiting conflict between public duty and private interest. The present Code of Ethics goes much further than that.

Mr. Gravel Kell, all that the present Code of Ethics dies, and I don't think this would prohibit a code of Ethics from doing the would prohibit but all that the present Code of Ethics does is to make it a misdemeanor to violate the provisions of the Code. I mean insofar as any criminal prohibitions are concerned or any criminal consequences are concerned.

Mr. O'Neill Mr. Gravel, I see no provision here for the removal of these people from this board. Can you go into that a little bit?

 $\underline{Mr.\ Gravel}$  Well, I think that the general provisions that have to do with the removal of public officers and employees, of course, would be available in this case.

Mr. O'Neill Could you tell us all, sir, how the present Board of Ethics is composed and who makes the appointments there?

Mr. Gravel I thought I had covered that to the Best of my ability. There are two Boards of Ethics at the present time, one dealing with employees and the other dealing with statewide there are two separate boards. They are constituted in a different manner. Now, the detail as to how they are appointed I don't have before me, but I do know that the Employees Board constitutes five people who are appointed from specific categories. Mr. D'Neill By the governor

Mr. Gravel Let me just say this, Mr. 0'Neill. So There won't be any misunderstanding. Keep in mind that this directive to the legislature is to enact a Code of Ethics, not just a law that deals in part with the concept that we are trying to present here. A code would be in my judgment comprehensive and could include everything that is not specifically excluded by virtue of the language contained here, which is rather limited language.

Mr. Jenking Camille, I hate to admit my ignorance but you know I haven't read these provisions before just now because I didn't know they were coming up. Do we have a research memo on these proposals such as we've been given here on the local government section and on other sections?

<u>Mr. Gravel</u> Not that I know of, sir. No. Not on Committee Proposal No. 22, that I know of.

Mr. Jenkins Well, I mean so we don't have a clear presentation of the differences.

 $Mr_{\dots}Gravel$  Well, Mr. Jenkins, frankly, the commitce feit, and I feel that this is a very simple provision, but a very important provision in the constitution, and all that we are doing here is to in effect say that there shall be one Board of Ethics instead of two, and that the legislature shall prepare a comprehensive Code of Ethics and three, that the Board of Ethics is shall be constituted as set forth in Section 8. Frankly, I think this is a good way to proceed with respect to a constitutional provision, and we are leaving, very frankly, a full implementation of this directive to the legislature.

<u>Mr. Jenkins</u> Well, where in the new constitution would this provision fit? I notice there's no article or section. What article would it be under?

<u>Mr. Gravel</u> Well, that would depend upon how the constitution, the document, is finally composed. It might be under the general provisions or it could be under some other area that would be defined and delineated by the staff. I can't locate it for you now, unless I know what else has been adopted. I don't know that I could even do in adopted in context of the staff. I can't locate would be found for it in connection probably with the general provisions that relate to the government of the State of Louisiana.

Mr. Jenkins Well, can you give me the present citations in the 1921 Constitution on these matters?

Mr. Gravel Article XIX, Section 27.

Mr. Hayes Mr. Gravel, isn't it true that the Supreme Court districts have some inequities in their representation that they don't have a fair representation for each judge?

Mr. Gravel I think the Supreme Court districts are not apportioned according to the "one man, one vote" concept.

<u>Mr. Hayes</u> Right. Now, you have seven districts according to this, and you're trying to use some already cut districts. Wouldn't it be better to use the U.S. representative districts, would have a fair representation for everybody.

Mr. Gravel There's no question but that there would. Then we would run into the probability of having a board constituted of probably nine in order to get an odd number, one from each congressional district and maybe one appointed at large by the governor. That may be an alternate solution. Let me just say this, on the composition here as concerned and so forth. I don't think that the committee has any hard and fast feeling about it. The main idea is to give adequate representation. We

felt that a board of nine would be too large and that s why we went to the Supreme Court district concept, Mr. Hayel. That was the reason for it-

Mr. Gravel, I notice it provides that <u>Mr. burns</u> Mr. Uravel, I notice it provides that a citizen from each Supreme Court district will be ...compose the board. Is there any provision in the present Board of Ethics as to whether elected state officials can be membership?

Mr. Gravel 1 don't know that there is, Mr. Burns; but, of course, the Code of Ethics, 1 think, would have to prescribe any additional, and could prescribe any additional, qualifications or any prohibitions with respect to the holding of membership on the

Mr. Burns - 1 was just wondering as to the propriety of having state officials compose the board, or comprise the board and...and pass on their own

Mr. Gravel Frankly, 1 don't think there is any nue tion but the code should prohibit any employee of the state or any official from the state

Mr. Thompson Mr. Gravel, is this going to limit people that say are lobbyists to this convention, that they couldn't be delegates or hold other of-fices or just what do you mean by this?

Mr. Gravel It won't have any effect on anybody at this convention. Mr. Thompson.

Well, I'm talking about in the future. It's sure it won't because it don't go into effect until after the convention. I understand that the present Board of Ethic are doing a pretty What's going to happen to it?

Mr. Gravel Well, Mr. Thompson, the two--l think I've Kated that--the two boards that are pres-ently in existence...if this constitution passes and if this is adopted, the two boards would then in effect be abolished and substituted for by one board. Now, there is...that's all that it does. There would be only one board of Ethics instead We could spend hours talking about of two. We could spend nours taiving about whether or not you should have the two boards that we presently have. But, we just feel that when we are talking about the conflict between private interest and public duty, there should

Mr., Warren Mr. Gravel, Mr. Burns asked one of the uestion I wanted to all you. The next uestion I, the terms that they would lerve could, if you don't perfy mee innit of term that they ould serve, one ould serve liv year, twelve eighteen and ale a careia out of being on

Mr srave! Well, if the uncreasing unvernor would ontinue to appoint the same people under this provision, if it in Lamended, a lit presently before you, Mr. Warren, that is our ert

Mrs Warren

Mr bravel

Mr. uron Mr. ravit an elsyee, of the total , outral ubdivision of the tate ended under the reent as if Ethis.

bert ant free at you tare IDen' an 'ree' a' y.s.rare vergiving a even er erdalter, the overnor a sort of a 'vin' sin' vet ate the eth cs of a 'fterficial' terite. As perhaps some onf t with the rist' d-viduals to be charged it a rise the ne that we've set out in the Bill of Right, a 'fe right of privacy?

What I tink probally, dntk... Mr. Grave What I to nk probally, don't klow that I quite understand your juest in lecause we are not talking about the soft that exits between two or more pe ple we re taking here about the conflict between up in tereit and about the conflict between ubic liter t and private duty, we retailing here about the ue to not whether ing for the state of the slang, whether is conduct the all taken you know we have a ode of Ethi n the leal profession, the judi arry has a def Ethis : don't believe were taling about the onflict tween that individual and anjoboly ele. We Ben

Mr. Burson Well, that the plint hunh, Mr Gravel. The way this thing is set up, is there any guarantee, for instance, that the inflit which might be allegedly a conflict of ethic right in fact be a publical inflict, and that this Board of thics appointed tially is the governor could be used for such public

Mr. Gravel Well, Mr. Burson, the only way an answer your question is to say that in Sertin A the delimitation of the power of the code of Ethics is limited to the area whereby the an

Mr. Burson Nould you agree that the concernt at I have juit expressed has all been artificulated recently by the tate uperintendent of a trin. Mr. Michot, with recard to a leat n of brea he

Mr <u>Gravel</u> No, ir, like u d n t agree a le livery familiar with that ituation

My ligravel of the balance of the ba

legislators, it's composed of three people: one named by the House, one by the Senate and a retired or a former judge named by the governor. Under this proposal if 1 read it right the governor will name all people. Is that correct?

Mr. Gravel That's correct.

Mr. Rayburn It further includes all elected officials, whether you are a constable or police juror or anything else, is that correct?

<u>Mr. Gravel</u> It would include all persons holding public office either in the state or any of its political subdivisions.

Mr. Rayburn Then the people that are directly involved would have no authority or nothing to do with the makeup of the people who we're going to cover them, is that correct?

Mr. Gravel As I mentioned earlier, Mr. Rayburn, the Code of Ethics could prescribe the qualifica-tions for the appointees by the governor.

Mr. Rayburn Mr. Gravel, are you an attorney?

Mr. Gravel Well, sometimes, Mr. Rayburn.

Mr. Rayburn Would you agree to the same provision that to let the D.A. of each parish in this state select the jury? Or do you think that if you select the jury? Or do you think that if you represent someone that you should have a little something to do with helping to select it. This lets the governor of the state in my opinion, Mr. Gravel, name every person to be named, without any specifications. Our present code lets the House name one, that's as it governs us...

Mr. Gravel No. sir.

Mr. Rayburn ...lets the Senate name one and the governor name one, which I think is pretty fair.

Mr. Gravel Mr. Rayburn, what the present code did is to prescribe that the commission shall consist of five persons--this is with respect to consist of five persons--this is with respect to the legislature--five persons, to be selected in the manner chosen by the legislature. Now, it's my understanding, and I may be in error about this, but it's my understanding that the legisla-ture has provided that the governor shall make these five appointments from categories defined by the legislature. Let's be sure we understand each other.

Mr. Rayburn No. I understand that, but I'm talking about now the Code of Ethics for statewide Pletted officials and members of the legislature. You are correct under the other Code of Ethics, it's five and they specify where they'll come from. The legislature does

Mr. Gravel I think, isn't it correct that the retired judge is selected by the governor.

Mr. Rayburn The retired judge is selected by the governor; the House of Representatives sub-mits one name which cannot be a member, and the Senate submits a name which cannot be a member.

Mr. Gravel But those are names that are submitted to the House and to the Senate, if I recall

Mr. Rayburn No, sir. We nominate them ourselves in the Senate. We submit the names to the governor for him to appoint.

Mr. Gravel Well, I may be in error about this, Mr. Rayburn, but I think you are. I think that the last session when Mr. Methvin was appointed that name was sent to the House by the governor, and I think that when Mr. Ourso was appointed, that name was sent to the Senate by the governor. Mr. Rayburn It was sent there for us to confirm, but in other words the name was sent to the gov-ernor by the Senate.

Mr. Gravel I thought it was done just the opposite.

Mr. Rayburn No, sir, the governor sent the name that we had sent back down for confirmation.

<u>Mr. Gravel</u> Well, it seems to me, frankly, to get by it, that there's an interplay between the gov-ernor's office and the House in the one instance and the governor's office and the Senate in the other instance, before there can be any final...

Mr. Rayburn Mr. Gravel, could you visualize that this could happen: if I m in the legislature or something, and I wan't getting along too good with the governor, and he named all the appointers, and in the heat of a campaign they called me up and accused me of something, could you realize what that could happen to me?

Mr. Gravel If you've got people that are appointed by the governor with no other qualifications es-tablished and they are going to improperly discharge the duties of their office, they could do something wrong, Senator Rayburn. I agree with that.

<u>Mr. Rayburn</u> Yes, sir, I think I've seen a little of that happen. I might have been confused, but I believe I've seen a little, a few things like that happen in this state. I hope it doesn't ever happen again, but it has.

You've probably also seen a lot of Instances where people are holding two jobs that they ought not be holding both of them, too. They're all over the state. There's a lot of that.

Mr. Rayburn I'm afraid that could be said about

Vice Chairman Casev in the Chair

### Amendment

Mr. Poynter Mr. Duval sends up amendments as follows:

(A) FORTER THE OFFECTIVE AND ADDRESS ADDRES

Mr. Duval Mr. Acting Chairman, and fellow delegates. This is bacically an attempt to arrive at a syn-thesis of the feeling of this group. It the...it basically keeps the present law intact. We do have a Code of Ethics and a board...and we have actually two Boards of Ethics; one which investigates employees, one which investigates elected state officials. I think when you attempt

The properties of the set of the

Mr. Flor. Mr. Duval, in regard to the a entent that you have, and in reading the proposal on quale ployient which give to the Board of Ethi-the power of exempting those people in duale -ployment not in positions of truit, don't you, by your amendment, preclude the board from having that authority.

Mr. uuval Perhap :, but it' my...it's my hope that we will delete the dual off-ceholding provision that is going to be proposed by the Executive Department Committee to begin with.

Mr. i'Neill Mr. luval, the point that Senator Rayburn ust reied about what wal contained in the 'epilative Article, would you addre's yourself to that usestion and how it 'ght be resolved if we adjort your amendment?

Mr. Juival It's my understanding that the Leuis-lative Article only applie to the legilator rhemelves. I'm not really familiar enough with t, however, to an wer pelfially.

Mr. an er Mr. nuval, n. te in your a end ent that you say linat this is intended to apply to all tate polyce and elected offi ial all correct in believing that the word stat motifie e ployees and ele ted offi ial

Mr Lanier <sup>6</sup> that it i ab olifely lear, i of not, that thi i not intended to apply tu 6 al jovern ental official or enployee

Mr. Fear Mr. uval, a londering door anonal restriction of a period. Tarter the longer of t

Mr. Inval. Year, it, that was an attempt - and 1 alle - attempt by lattery the such as the such of set of the such attempt of the such -of set of the such - the such attempt of an associatives - the present provides an other time t basis. I be

Mr. Fean A you have it drawn then, all the foar-

Mr. uva "hat right hat sirer

We may be possible, in fact of region that that the back characteristic states that are possible to a contract of the states of the contract of the states of the the states of the states of the states of the the states of the states of the states of the the states of the states of the states of the states of the the states of the states of the states of the states of the the states of the states of the states of the states of the the states of the the states of the the states of the the states of the the states of the the states of the the states of the st

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Mr. Juval Mr. Her. H. a.d. Her.

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Mr. uva rei, in what word is up, in 1... is to withdraw the are dient in the second s

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state employees, we dign t have a great abundanc of evidence to change it to one board, but this gives the legislature the right to have one board in the event that the law needs to be changed. Presently there are two boards and we didn't feel we had enough information to change the law, but we give the legislature the flexibility to change the law in the event that they think it should be only one board.

<u>Mr. Fayard</u> As I further read your amendment, it says, that "the board shall investigate all allega-tions in violation of the code and that the Code of Ethics will prohibit conflict between public duty and private interests." Now is this all the code will be allowed to do? In other words, don't you feel that there are other matters of ethics that should be covered by the code other than just conflict of interest?

Mr. <u>Duval</u> I think you might be right. I think... I think conflict of interests is very broad, however, and can accomplish many things, but it is my opinion that this doesn't limit the legislature from embellishing on that mandate.

Mr. Fayard With this specific language in there, it does not limit the legislature?

Mr. Duval Not at all. I don't think you...yo have to prohibit the legislature in my opinion.

<u>Mr. Brown</u> Would you state again if you have al-ready so stated, why did you limit this just to state officials and didn't include all officials?

Mr. <u>Duval</u> The reason is, that there seemed to be a great deal of opposition primarily to the commit-tee proposal on the basis that political subdivi-sions were included. It felt that it would give the governor a great advantage in elections because he appointed the Board of Ethics, could use it as an in-timidation, it violates home rule concept. This was the basic tenor of the opposition and this is why this amendment is attempting to get something in the constitution on ethics and the Board of Ethics that will meet the sense of the constitution. That's... Mr. Duval The reason is, that there seemed to be

Mr. Brown Are you for it, are you for including all officials personally?

Mr. Duval No. I am for my amendment as it says

Mr. Brown You' local officials? You're against letting it to include

Mr. Duval Yes.

Mr. Arnette Just a couple of questions, Stan. It seems like your last clause here would prevent us from having any other additional duties pro-vided by the constitution. Was that your intent?

### Mr. Duval No.

Mr. Arnette Because it says, that "they would only investigate allegations of the code and outset your other powers and duties consistent with investigations of a code as may be provided by statutes "and does not make any exception for any other provision we might provide in the constitu-tion or any other duties which weren't consistent

Mr. Duval I'm sure if something else is placed in the constitution, we could easily put "except as

otherwise provided in this constitution." I don't think that will be a real problem.

### Further Discussion

<u>Abraham</u> In Committee Proposal No. 3, we passed in Section 8 a session that stated that "legisla-tive office of the public trust in every effort its a violation of that trust, which is a mighty high sounding lanuage. Then we said, "the legis-lature shall enact a code of ethics prohibiting conflict between public duty and private interests of members of the legislature." Well, I submit to you is why are we limiting this only to members of the legislature? We need this Code of Ethics for all state employees and officials and this is what we are attempting to do with this particular committee proposal. The Duval amendment does not detract from this in any way other than it leaves it up to the discretion of the legislature as to how the board or the boards, if they decide detract from this in any way other than it leaves it up to the discretion of the legislature as to how the board or the boards, if they decide to create two, shall be selected and how they will administer their duties. Now, personally, I am in favor of one board to administer this entire ion of the legislature in their infinite wisdom to determine whether they need one board or two boards. The present law, the present constitution in Article XIX, Section 27, provides for the Boards of Ethics. It provides that the legislature shall select the...the members of the boards by whatever means they may want to set up and is willing to leave that open to the legislature is that we do need a code of ethics in this state. Now, all you good government people who are inter-ested in this type of thing, I don't see how you can argue against having a Code of Ethics. I board to administer this Code of Ethics. There is no point in having a Code of Ethics. There is no point in having a Code of Sthics. There is no point in having a Code of thics and in georg. The complaint now is that sometimes that the board is that the the nobody does anything aboard to administer the nobody does anything aboard. The complaint now is that sometimes that the board The complaint now is that sometimes that the board is too limited in its...in its powers and that all it can do. The board needs to be given some powers and duties consistent with the...that needs in order to investigate and to do something about violations of such a code.

We do need to have a Code of Ethics in this ate. There need to be some rules by which our ficials and employees are governed. There does We do need to have a code of Ethics in this state. There need to be some rules by which our officials and employees are governed. There does need to be some watchdog agency who will oversee this code and who will...administer it. I do not see how anyone can say, who is in thrested in good government, can say that we do not will such adoption of this amendment. I will take any amendment that I can get which will provide for such a code and which will provide for a board to administer the code. Mr. Chairman, I the code and which will provide some teeth by which it can administer the code. Mr. Chairman, I there there are conducted some teeth by which it can administer the code. Mr. Chairman, I there there are conducted some teeth by which it can administer the code. Mr. Chairman, I there there are conducted some teeth by which it can administer the code. Mr. Chairman, I there can be a record vote so we can find out how many people are interested in this type of thing.

Mr. Casey We will order a record vote at the proper time, Mr. Abraham.

### Further Discussion

Mr. Drew. Mr. Chairman, and ladies and gentlemen. I have one serious objection to Mr. Duval's mend-ment that I had to the committee amendment also and I think it raises a very serious question that you had better consider. The way it is written, I think that it limits the legislature in carcting a Code of Ethics to prohibit conflict of interests, period. This is a little different from the general constitutional interpretation that you

for the reason here you are specifyin exactly what the legislature can do, therefore, you are limiting by inplication at the least. There will be an amend ent which has been passed out, which Mr. DeBleux, Fayard, and myself have Coathored which 1 think will renove thil prohibition and limitation on the legislature and for that reason, I as that you defeat the a endment

Mr. Poynter Amendments sent up by Delegates Deblieux, Fayard, and Drew. Amendent No. 1. On page 1, delete lines 12 through 23, both inclusive in their entirety and nesert in lieu thereof the following: Section ... Al The legislature shall enact a Code of Ethics for all officials and employees

a close of catter. B he Code of Ethics shall be administered by a Board of Ethics created by the legislature with such qualifications and terms of office and duties

Mr. Chairman, may I withdraw it for a

Mr. toith an Fellow delegates, I'll ask in clos-ing out the birthday party I'll ask..on behalf forward, Mr. Alario. Some things are very sifficult to tell a person in life and I guess you have experient ed this. The three of us room Dogether, and you from time to time have naticed a very obnoxious oder, and on behalf of his two prevents at this time celebrating his 30th Birthday. John, from your two roommates.

Mr. Alario R ght Guard. That' to help take care of some of the odor I gue we have been finding around here. I certainly thank you for elegation. When they put in, they can buy a big ake life that. He di advantage i havin a yuy life Lawrence Chebardy in your deletation who

Mr. Poynter Arendment No. 1 [/ мг. тим] (n page 1, delete lines 'throw h 2, both inclusive in "The rentirety and insert in liew thereof the fol-

the ode of Ethics that be administered by

Hence Mension and Later and pertons of the consolider, with the Another this amed ment the level ature with the another this and ra-foll and consolenation of entering the data would be to intative of entering the data in the source of the transmission would have that to be another the transmission of the source are will involve for the transmission of the source are will involve for the transmission of the source of the other and the source of the transmission of the source of the transmission of the source of the transmission of the source of the source of the transmission of the transmission of the source of

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Me. Awant Me reak under int is etc., where as provided by law suid the act to end lature give the power, the Land the where the remove an elected public of fills for clout the manners other than we have already re-inform the articles that we have us elect for

Mr. Drew Mr. Avant, y opin in would in the we will not go beyond the power, of a relival e

Mr. Roemer Harmon, i it true, and I et the impression for reading this over, that , u in t deal or don't purport to deal at all with local officials; is that true?

Mr. Drew Thi does not, but it doe \_t r it t the legislature fro dealon with 1 al ff a

Mr. Roemer Well, but yu, it eest e and let's see if my interpretation true in Paragraph A of this blank e tion, unar, the legislature shall enart a ode of ern c. I're na state officials and state epoyees There i such mandate in regard ou a official r is a

Mr. Nrew Na andate Yulres rret

Mr. Roener I wonder why we addate on the tate Tevel and don't mandate in a 's all level when it seen't to reith at the necel it if rethins a strength it the same in both places.

Mr. Otta : Mr. Stew, on a different three the content of Antal : Declared a state of the content of uncertainty that the term settlers synonymous with official

Mr. Tobias So you believe it would cover those officers?

Mr. Drew Do I believe it would?

Mr. Tobias ...those officials, yes.

Mr. Drew I do not believe it would cover parish officials, no.

Mr. Tobias Are you aware that the case law in this state would go against you on that?

Mr. Drew That's very possible.

Mr. Jenkins Harmon, isn't it true that the Boards of Ethics right now primarily are advisory in their nature. They can censure, they can criticize, publicize, but they can't actually do anything to anyone, can they?

Mr. Drew As I appreciate it, that's correct.

Mr. Jonking Well, wouldn't your amendment as written change that concept because when you appealable, aren't you saying in effect that they are going to be able to do something to someone, or at least that the legislature could allow them to do something to someone and that, thus, you are going to need a means for appealing those decisions; such as removal from office, such as fines suspensions from offices, things like that?

<u>Mr. Drew</u> Not necessarily, Noody, because 1 think any action taken by the Board of Ethics that would be critical of a person should be subject to review.

<u>Mr. Munson</u> Mr. Drew, since we already have a board..two Boards of Ethics and a Code of Ethics, would you mind telling me why we need to put anything like this in the constitution?

Mr. Drew Mr. Munson, I agree with you wholeheartedly and I am sorry that the whole thing hadn't been deleted. It appeared that the.. it was the consensus of the convention that something was going in the constitution and for that reason, I thought this was much better than the committee proposal.

Mr. Munson But it is a fact that we do have a code of ethics for elected officials and state officials and we do have two boards?

Mr. Drew That is correct. I agree with you wholeheartedly.

Mrs. Zervigon Wr. Drew, to follow up on Mr. Murson's question, isn't it true that in the drafts that we have already done in this convention, we have a Declaration of Disability by the legislature in case someone is unable to serve, we have a method for declaring a vacancy in an office, we have a method for impeachment, we have removal by suit, and of course, there's always defeat at the plus and or the serve shows that can accuse, but cannot dispose. We have plenty of ways of disposing of...state officials already, haven't we?

Mr. Drew We do.

Mrs. Zervigon The other function of a Board of Ethics might be that someone could go and ask...

## Further Discussion

Mr. Gravel Mr. Chairman, and ladies and gentlemen of the convention. I speak in opposition to the proposed amendment by Delegates DeBlieux, Fayard, Drew and Duval, primarily, of course, because I oppose strenuously...strenuously the provision in Section A of their proposed amendment which in effect limits...limits the Code of Ethics to state officials and state employees. If this constitution is going to mandate the legislature to prohibit unethical conduct and to provide a to prohibit uncthical conduct and to provide a manner by which that mandate can be enforced, it must and it should apply to all officials and all employees of government. How in heaven's name can you justify the discrimination in this consti-tution against---that is what it amounts to---state officials and state employees by making them amenable to a Code of Ethics and then saying that the sheriffs and the district attorneys and the assessors and the mayors and all others who are involved as officials in the local government process, all of the many, many thousands of employees who are involved as employees in local government are not subject to a Code of employees who are involved as employees in local government are not subject to a Code of Ethics--hear me well,---of uniform application throughout the State of Louisiana. Ladies and gentlemen of this convention, it's most important that we do everything that we possibly can in this document in order to make sure that wrongdoing does not work from the hottom we from the hord does not work from the bottom up, from the broad does not work from the bottom up, from the broad base of political activity throughout the State of Louisiana, from those areas in every nook and corner of Louisiana that are not subject to the kleig lights of television, to the glare of those who have witnessed the open sessions of the legis-lature, to the newspaper reporters who are able to see the more important officials and employees in action. All this proposed amendment by this committee does in its principal part which this are say this, that the legislature in its wisdom shall enact a Code of Etnics, one prohibiting conflict between public duty and private interests of all officials and employees of the state and its political subdivision. Who in heaven's name who have witnessed the open sessions of the legisof all officials and employees of the state and its political subdivision. Who in heaven's name can object to that kind of a directive? I don't believe that there is anything that we have done or anything that we can do that will instill in the heart and in the minds of the people of the State of Louislana confidence in the integrity of our efforts more than to adopt this simple sentence. This sentence means, Wr. Citizen be Louislana, Wrs. Citizen of Louisna, we are going to direct the legislature to come up with a com-prehensive document that will insure integrity, brehensive document that will insure integrity, honesty, ethical conduct everywhere in the govern-ment of the State of Louisiana." Ladies and gentle-ene of this convention. I know something about the activities at the level below state government where conduct, reprehensible conduct has gone on for years and years unchecked and unrestrained boild prohibit it. On, I know some of you are going to say, "We've got the grand jury to investi-gate into those kind of things and the district attorneys to investigate into those kind of things," but the strict rest into those kind of things," but you stop and think about the experiences in our most recent past. You stop and the speriences in our most recent past. You stop and the sky yoursel the guestion, "if they could act, why didn't they?" Thank you very much.

## Further Discussion

Mr. Chehardy Mr. Chairman, brother and sister delegates. I'm up here to speak against this amendment and all amendments to this particular section. This proposal, Committee Proposal No. 22, is as Mr. Gravel pointed out very simple and it is nothing more nor less than something that every public official isould abide, the criminal laws of the state are such that you would be subject to the penalties imposed by the various sections of the Criminal Code dealing with public officials. However, for a public body, such as we are, charged with bringing a constitution to the people of this state that has meaning, that has intelligence, that contains Bills of Rights, that protects public officials of every category, yet when it comes to an issue which in its basic context and its basic aim is the aim to please... to do the

right thin, by the publi, there 1 al sorts thesitation and fear. As far as '---oncerned. I thin it would be the sorriest reflection on or action if we would. In any way, leave this place today without making kn an our sin ere wish to be bound by all of the Code of althi, not only on a state well, but or a holm ented afficial out as an appointed official or a an employee. If really urge that we arendments would serve spakers would give in... I would his to move for the possage of Proposal No.22, if that's in order, Mr. Chairman'

## Vice Chairman Casey in the Chair

Mr. Casey Well, we have to dispose of the amendment first, Mr. Chehardy, before we can actually pass on the proposal as submitted.

## Further Discussion

er Mr. Acting Chairman and fellow dele-rise to make a couple of brief points just on terms of personal conviction in this matter. I like this amendment in some reparies, particularly in that it gives to the legislature the power to de-ride as to the code and the composition of the board. I think it is far superior to the Proposal No. 22 before you, in that regard. Also, I like it in re-gard to the fact that the governor does not have un-der this particular amendment the license to appoint all the officials or the members of the board that make up the Board of Ethics. However, I cannot see, I fail to discern the difference between corruption or unethical behavior on the state level and at the I fail to discern the difference between corruption or anothical behavior on the state level and at the haps in regard of Board of Ethics or Code of Ethics should not deal with local officials. I can't see that point. This constitution is for all the people and for all the officials in this state. Surely, we're not going to say here today, or we wouldn't have said yesterday, and we certainly won't say to-morrow that what's good and ethical on the state level will be circumvented somehow on the local level and we won't do anything about it. I don't think any the feel that way. How score people say official. Do we want to get at the local official of local official. I'm not talking about spating at the local official. I'm talking about having all me and women who serve in public office, whether it be on a local level or on a state level, adhering to an acceptable statewide Code of fichts, some say. of Ethics; it's as simple as that. Some say, and it was said by Mr. Gravel specifically, tha we don't want to discriminate against the state We don't want to discriminate against the state official and cause him to adhere to a code that we don't have the local official adhere to. Well, "would so a step further and say we are discriminating in another way. You see a Code of Ethics is more than a weapon to hit, owneddy over the head with; it's a blueprint; it's a Unit in the sense of an averagion to nit ower only avide, the sense of the sable print; it is a number of their action, it a useful too. It increases their knowledge about what we expect out of their performance, while you the only in the sense of not having a wrapon, but in the sense of and the sense of the sense attion. Now, let' don't deny them we to den't deny the the benefit of knowledge about what the sense of a sense of a sense of the sense attion. Now, let' don't deny them we to den't deny the the benefit of knowledge at out of the amendment be avec it does not ap far enough. I tracks the language in many respects of HP Unew's whether they be state is local.

## Lucitions

Mr. Fean Buddy, there is nothing in this lection

## Mr. Passer I'm i

Mr Lean i le la companya de la compa

Mr Reemer Instructure to the source of the s

## Further J Luision

Mr. Burson Mr. Chair an, fei wide egatei, ann proised yself to restrain y ur eit, eak f a few days, but Mr. Gravellee it ale a

doing down in your parish that are not right. : don't know if they are crimes but they may be unethical." Now think about that a little bit before you vote. I think if you do, you will support the DE Biteux, Fayard, Drew and Duval amendment as a common sense approach to this problem.

## Questions

Mr. Gravel Mr. Burson, just to make it absolutely clear. As far as a district attorney is concerned, he is actually paid part by the state and part by the police jury. Isn't that correct?

Mr. Burson A major...the major portion of his compensation, in most cases, is by the state.

<u>Mr. Gravel</u> The same thing is true of the assistant district attorneys, part is paid by the state, part is paid by the local governing authority, the police jury.

Mr. Burson I would say, in my case, ninety percent of it is paid by the state...

Mr. Gravel How much are you paid as an assistant district attorney?

Mr. Burson Mr. Gravel, I would be glad to file my income tax returns in the record of the convention when you file yours.

Mr. Gravel No, no. I'll be glad to file mine anytime, but I'm asking you in all fairness and seriously, if you get ten thousand dollars as an assistant district attorney from the state, how much do you get from the parish?

Mr. Burson In my case, I think the compensation from the parish would be about seventy-five or eighty dollars.

Mr. Gravel Well, that's not ninety percent then, is it?

Mr. Casey Just a minute gentlemen. Mr. Burson has exceeded his time, sir. 1'm sorry, gentlemen. We have to follow the rules.

## Further Discussion

Mr. Abraham Ladies and gentlemen, I have no guarrel mith frageraph wind C of this particular paragraphs. I will agree that the language could be and probably is better than what we had proposed in our original proposal, but I cannot in good conscience say that Paragraph A is a good paragraph. How can anyone say, how can single out one class of people and say that then tell another class of people well you don't have to abide by this Code of Ethics. Lither you are for it at all levels. This is about like saying that I'm for motherhood, but I'm only for motherhood for women between age thirty and for you to the tell levels. This is about like saying that I'm for motherhood, but I'm only for motherhood for women between age thirty and for you to be there then y and thirty. Nows does not prohibit the legislature from passing an act which will include local government officials. What are we doing when we pass this mendment as it is, and then hope maybe that the legislature is going to pass an act which will include local government officials. All we are as tand on this issue. We are afraid to take as tand on this issue. We are afraid to take as tand on this issue. We are afraid to take as tand on this issue we here and argue the case of lough that off to the legislature and let then take care of doing this thing. I just can't set how we can stand up there and argue the case or of gooper ment is good government. A Code of thics is a Code of Ethics. It applies to all out to officials and employees of the state and its solitical subdivisions. I just ask which of you people can say that you are not in favor of good novernment at all levels of government?

## )uestions

Mrs, <u>Warren</u> Mr, Abraham, this is a question I wanted to ask anybody. A person receiving money from the state can be either a state employee or city employee? Now you got to be either one or the other one, which one would you be? You are getting money from both the state and you're getting money from the city or the parish. Now, how do you...what category do you put these people in?

<u>Mr. Abraham</u> There is...you are a public employee, Mrs. Warren, whether you are a city or state, if I understand what you are trying to get at.

Nrs. Warren Right. But they are saying they don't want the local or the parishes to come under the same Code of Ethics as the state officials come under. So, I'm trying to find out what is the distinction if you're getting money from the state and you don't want the state to have anything to say about it.

Mr. Abraham In my eyes there is no distinction. You are a public employee and you should all be governed by the same rules.

<u>Mrs. Warren</u> It's all right to trust the legislature when decisions affect somebody else but when it affects me then the legislature is bad. Is that true?

<u>Mr. Abraham</u> I'm not sure that I understand what you're driving at, Mrs. Warren. I might say this, that I have an amendment coming which tracks this exact language except for Paragraph A; it's going to apply to all officials of the state and its political subdivisions.

<u>Mr. Champagne</u> Mr. Abraham, don't you agree though that the best way to do this is maybe to adopt this and then come back and adopt the other one? If you shoot for all, you may get nothing.

Mr. Abraham I cannot in good conscience vote for something that's only half way...and say in affect, I am saying I approve of this and do not approve of it for the others.

Mr. Duval Mack, I realize your intentions are good, but who's going to administer the Code of Ethics as to local officials and employees?

Mr. Abraham This is one reason why l understand that the convention did not like our language that we had and are willing to leave it up to the legislature to provide for the Board or Boards of Ethics and their powers and duties.

<u>Mr. Duval</u> But the way you have it is it's conceivable that a Code of Ethics is going to be administered by the state employees or state officials are going to be administering a Code of Ethics as to local officials and what does that do to home rule?

Mr. Abraham I'm going to leave it up to the infinite wisdom of the legislature to provide for this type of thing, since it does pass the laws which apply to all types of home rule anyway.

Mr. Duval Thank you.

## Further Discussion

Mr. <u>Chatelain</u> Mr. Chairman and fellow delegates, <u>I stand</u> in opposition to the amendment before us now. I'm looking real hard at Abraham's amendment, coming up later. Thank you very much.

Further Discussion

Mr. tovall Mr. chair an ad e ard entre er of the convention, I rise is oposition to the crew a endment for the reason that it die of and enable us to ove to a new day in our state 1 think that if this convention takes the co-profising position which the ponsors of thi amendment cognize that i does. I think we are corprofising ourselve, an tired of bein embarrassed by all of the corrution in y state. I thred if y children we'n meters is on and trials and irrests and convictions of public officials i'm tired of people in places of reiponsibility staling the state bind. I tired of the old politics of self-serving, machine-sould any meta sensibility of the that whatever we can do to create a new atorsphere and a new day in our state, we should do it without hestlation. It seems to me that if we defeat this amendment its presented by the Committee to the discutive Branch, we will be remering a great service to our state. When Governor Edwards spoke to us on January 5 he said. It will be question of whether or not we act on the basis of fear or on the basis of faith. I think thi is one of those occasions when we must act on the basis of faith in our future and in a new day and a new possibility for our state. I, therefore,ch-ourge you do defeat this amendment and to support the wording which is provided in the comittee proposal.

Mr. <u>0 Neill</u> Reverend Stovall, you know we are all tired of these things, too. Do you subscribe to the theory that power corrupts and more power cor-rupts more? I ask you that, because con i, tently

Hr. Casey Gentlemen, gentlemen just a minute. I think...let's not refer to each other' voting records; let's stick to the issue when questions are asked and we will avoid any personal reflection.

Mr. Stovall The que tion has been a kee believe in the statement which was made by Lord Acton back, I think, in the seventeenth entury Acton back, I think, and "Power corrupts, and

Arriner Droue ion Arriner Droue ion Arriner Acting (Mairean, addes and gentlesen of the convention, in just really analed at what happened to these law and order people iertain basis right. We have been ret at every issue with this idea that if we do, law and order will not prevail any nore. Now there is a reat of ithis and the criminal Gode, with down order initial add. I been the quertion to ay, and don't tithe Mr. Gravel and that ditrict attimes don't protect or anythin like that the add there was a lat that went on that wai using don't protect or anythin like that the add there was a lat that went on that wai using don't protect or or anythin like that he add there was a lat that went on that wai in the scope of most A. Usid do, be-used chould at the original build that that any not anying that every local means a the with a rune and her not. We ought they as take with of ithis and prevents a starter with the ad prevent and they are that went with a second chould be the origin that went with a the maging in none type of profit making there are and her not. We ought they as take with the late applic the every boat at a starter with the maging in the term of the application there.

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Mr. Burinn Would mu an wer y settler e - ----

Whether I believe that not contained

Mr unon Well, are outaware at the that we present has he or each that the problem of the attent of a stress of a public approximate of for a stress of the s

Mr Ray din'ne e ari, ee a '' the brand rules that wa A'' a the trip a tate board and if we are runn to deal wirn 2000. Mr Bursin, ther we wight to deal winn it a rai level from the rait the ti, tiat rait

Mr Burin Nei drity) in is that free ri of Etri uid ake to tsi sira rio to a fraucord a la the t

Not ree arth, it would dealer the

Ri Chair an ani fellin le criter, t'er-

Board or Boards of Ethics, just that simple and that is as simple as it should be in our constitu-tion. It will leave broad flexibility to the legi-lature. It can cover local and state officials. It will determine how and what qualifications should be held by the appointed or elected members of the board. It can tell how many members, it can leave up to the legislature about how many members will create thill beave to up to the left. members will create this board or constitute this board; it can tell...leave it up to the legis-lature to say what to do with any decisions that are made by the boards. So, lets leave it as simple as that and leave this flexibility or all of the details or all of the mechanics or all of the powers up to the legislature. In such an interpretation of this amendment, the legislature can say that if these of nocal, parochial and state officials, but it can provide for a Code of Ethics for local and state officials; its, strict-ly left up to the legislature. In ope when this ly left up to the legislature. I hope when this does come up for consideration, that we will adopt just such an amendment. We can eliminate an awful lot of confusion, frustrations or legal technicalities.

Arr De Bleiux Mr. Chairman, ladies and gentlemen, Till try to make this as brief as 1 possibly can, but I want to answer some of the arguments that have been advanced here against this amendment. First, let me tell you this---there is nothing in the constitution, so far, that would prohibit the ing wattower. But, there is nothing in the constitution so far that would force the legisla-ture to enact a Code of Ethics. That's what this amendment is and that's what this section is all about; it's to mandate the legislature that "you shall enact a Code of Ethics." If you are for a Code of Ethics, you are sail no too. Now, why ...let me ask this question. Why do we say state officials and state employees, because they have gurisdiction usually statewide or a large portion of the state connected with the state some, way. Jurisouttion usually statewide of a targe portion of the state connected with the state some way, some form. People don't know the unethical conduct of their state officials nearly as easily as they do their local officials because they are as they do their local officials because they are not that close to them. There is nothing, noth-ing in this amendment that would keep the legisla-officials. If somebody comes up with an amendment to include local officials, I will support it, but let's seize and show that we are for a Code of Ethics and adopt this. I say this to Mr. Abraham. I say this to Reverend Stovall, Mr. Re-mer, Mr. Gravel and all of those. If you are for a Code of Chics, you can still all of the and I will support it, but let's show you are and I will support it, but let's show you are for a Code of Ethics first, by voting for this amend-ment and giving the legislature the authority to put teeth into a Code of Ethics to make it work. to believe we agree upon the principles. We should go ahead and support this amendment and, therefore, show the state that we are for having good state officials and then we can come back and add the local officials if you so desire. But let's start out with the state officials first. I ask your approval of the amendment.

Mr. Senator, one thing that I don't understand is why we need a section like this in this constitution. Isn't this simply a creation of another board, another agency which the legislature has the complete power to create and which already exists, in fact, under our stat-

De Blieux Mr. Jenkins, you as a member of the legislature know that, but as you may not know--

back when you were a youth--we had a civil service that was legislative. It was repealed, there is nothing to keep the legislature from repealing one if there is no mandate that they shall provide one, and that is what we are having. We are com-manding the legislature to provide for a Gode of Ethics. Now, that's ti in a nutshell.

<u>Mr. Jenkins</u> With regard to your particular amend-ment which leaves out the local officials, you know when a lot of us were elected to this consti-tution we thought that...we were feared that this convention might be dominated by the governor. But Convention might be ubminated by the governor. D haven't you noted in the consideration of the executive article under the attorney general's powers and in the consideration of district con-sideration, in this amendment that you are bringing forward and in the local government articles sort of a sinister influence by the court houses around this state from the district attorney down, to have an inordinate amount of influence to give them special privileges and special exemptions in this constitution?

I can't say that I have noted that, Mr. De Blieux I can't say that I have noted tha Mr. Jenkins. I have had some times that I dis-agreed with people, but I never have come to that conclusion that there is a sinister effort on anybody's part.

Mr. Champagne Senator De Blieux, would you agree with me that these people who say,"I want all or none at all" are going to end up with nothing at

Mr. De Blieux That's what I'm afraid of, Mr. Champagne. That's exactly what I'm afraid of... I feel like there is more of an effort to kill it than there is to vote for it.

Mr. Rayburn Either I'm confused or someone else <u>Mr. Rayburn</u> Lither I'm confused or someone els is, it's my opinion that Article XIX, Section 27 of our present constitution says "The Louisiana Board of Ethics for state elected officials... the legislature shall establish a board." The statement has been made at that microphone that there was nothing in the present constitution about a Code of Ethics.

[Amendment adopted: 70-44. Motion to reconsider tabled.]

Mr. Poynter Amendment No. 1 [Ly Wr. Abraham], on page 1, need to now add the language, "strike out convention floor amendment no. 1 proposed by Mr. De Blieux and others and adopted by the convention on today," and delete lines 12 through 23, both inclusive, in their entirety and insert in lieu

inclusive, in their entirety and insert in lieu thereof the following:
"Section (A) The legislature shall enact a Code of Ethics for all officials and employees of the state and its political subdivisions.
(B) The Code of Ethics shall be administered by a Board or Boards of Ethics created by the legislature with such qualifications, terms of office, duties, and powers as provided by law.
(C) The decisions of the board shall be appentable and the legislature shall provide the method of anneal." method of appeal.

Mr. Abraham Ladies and gentlemen of the conven-tion, we have just voted in favor of a Code of Ethics. We are in agreement that we do want a Code of Ethics and a Board of Ethics. All my amendment does, it exactly tracks the language of the De Blieux, Fayard, Drew, Duval amendment. But all it does is changes paragraph (A) to include not only state officials but all local political sub-

d vilce if al, ani ana we're alfrit efferi nere ad wil we'e ir right de for efferi applyt all ub's ffila if this tite r whether nor we want this we'd filt the semention the offica of the last a semention the offica of the last a you hat want and fir to not

Mr. Morial Mr. Abraha, the unit in that wanted t as enator e Bleak a few usen ag when eran ut of 1 e, not nely in thi amend nt but nother arend ent al. through the estimate the abaye adutted of a nother arend the arend the state of the solution of the arend a solution of a solution of the solution of the Senate to viet for anything, whether you say ar in hall

Mr. Areham Bob, I will have to all une, as I have rain throughout this convention, that the legislature are poole of minor and of thirt, and once we have laid here that we would like for them to do a partInular thing, then I a guins to flave my truit "/ the legislature that they will do the second s

mm\_Munson But isn't it really a fait that in this on tutin we an prihibit to legislature from doing certain thing., but we can't force the to do anything that they may not want to do, isn't that a fact?

Mr. A raham That's true of all people. Ust like we ve pailed laws which ay that people can't or must do certain things and they may not

Mr. and r. Mr. Alraham, if we have a unifor ide of Ethics appliable to all public officials, do you feel that the Code should be add in itered in Inval hore rule units by a centralized tate even y, or do you feel that it would be more proper-y ad inistered by an agency in the hore rule worte?

Mr A range Walter, 1 not goin to take a position on that at this particular time becane to 1 think it ould be handled in either ranner. The thing that we need to do it to provide for a ode of thick by whatever way it ight be admin

Mr. Phener Max, in regard to that is truestion Joint you feel that the answer with the that we hould leave that up to the legin ature, but twe your mend emt doe ---leave it up to the ong lature to deride the part build on the and the pullarities of the enformment of the code and the uper te f

Mr. Abrahi That', orreit That' why 1 ay we should not take a protein in that at the time other than we lo need to provide for the code by whatever way the log lature may denide ' but for it to be adount terma

Mr Thatelain. Delegate Abrahar, Sin't in fact your reolution live equal treatment to all the public official in the take, I that orient,

Mr Abraham Yel, it doel

Mr. Raylurn: Mr. Abraha, what effect would mus-amenicent have or a 1 all powerning authority who now has a cole of this, and are now operation order their own local adopted order of this

Mr Alrah I dirt think it would isve ary i ediale affect, firty, be a left a , the levi-

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Ms. Zervigon Yes, we do.

Mr. Lanier Is it working well?

We don't know that, Mr. Lanier, be-s never been a complaint under that Ms. Zervigon cause energy snever been a complaint under that Code of thics. I very much doubt that the people who haven't been stealing from the city, haven't been stealing from the city because there's a Code of thics. In fact, quite the other way around, I've read it and it gives me all kinds of groovy ideas for things I could do that I have more thereable of before never thought of before.

Lanier Let me ask you this, does it provide a Board of Ethics for the city of New Orleans? Mr. Lanier

on It provides that the Civil Service shall act as a Board of Ethics, and it seems to me that the legislature could provide likewise by statute.

Mr. Lanier Do you feel that a statewide Code of Ethics applicable to all public officials could be administered well on the local level by a local Board of Ethics?

I believe that if it's going to be <u>ms. zervigon</u> i believe that if it's going to be administered well, it matters not where it's going to be administered. It could be administered well or ill from Baton Rouge, well or ill from New Orleans, and it really depends a whole lot more on the make up of the commission itself.

. Lanier In your opinion, do you think that would be better administered in New Orleans by a New Orleans board or by a state board?

As I said before, Mr. Lanier, depends a whole lot more on the personalities of the people that make up that board, and the code that is written for them to administer, than it does where they reside.

## Further Discussion

<u>Further Discussion</u> <u>Art LeBleu</u> Mr. Chairman, and fellow delegates. <u>The not going to comment one way or ask you to vote</u> ne way or the other against this proposal, but I just had some thoughts that I though you might be interested in. I was in the legislature when the present Code of Ethics was passed. In the time that I've been there I don't know of one single instance in which it has accomplished any good. To me it cortainly hasn't straightened out any politician who intended to be crooked in that with the straightened in the tappied enly to state wellowing and if we put this language in the constitution, it's just an effort to white-wash the public. I con see no good that will come out of it. You vote to put it in the constitution, that's good, but I'll ell you this: One office that has done more good to straighten out corrupt politics in this state is the legislative auditor. politics in this state is the legislative auditor, and I think the legislature realizes that because and in the past we have increased the budget for the legislative auditor in order to provide more employees, a better staff in order for him to audit the books of the various local and...now, l believe municipalities are included in it too. But, to me the legislative auditor has done more straighten out crooked politics in this state than the Code of Ethics or the Ethics Commission.

<u>Mr. Womack</u> Mr. Acting Chairman, members of the convention, when you look back at this final docu-ment that's going to be submitted to the people, and I find now that this proposal includes local governmental bodies; I go back and check my District Twenty and I find that there is approximately one hundred and fifty people directly covered by this.

a may take a very active polition when election day comes on this final proposal, but nobody can offset or nothing can offset one hundred and fifty people out working in their respective communities, working at the church, working at the school, wherever they are, on a daily basis..so called "down grading" wh we've done, so we need to keep that in mind. I wish I had about thirty minutes because 1 am the Board of Ethics. Those of you that's been around know what I'm talking about. It was used in my particular case as the most rotten, damnable thing had a suit filed and served a seven day notice that we were going to court, and they went to work in a hurry because they didn't want to face court. This is how honorable a Board of Ethics is. out working in their respective communities, working I proposed at that time that the King James version of the Ten Commandment I proposed at that time that the King James version of the Ien Commandment was probably the best Code of Ethics we could have and they said "Oh, that's sacrilegious. You're not going to hem up everything." We need in this case, like in all of the others a broad term that gives the authority to the legisla-ture to act in the field. Like Mr. Munson says, we say the legislature has got to pass one, and when I sit in the legislature as a member and they come up with one I don't like, I can tell you I'm not going to vote for it. Now, you can brand it "motherhoad" or be blamed for being in favor of prostitution if you want to, but I'm still not going to vote for it I don't think it's in the best interest of the future of this state and the people I represent. Conway LeBleu brought up best interest of the future of this state and the people I represent. Conway LeBieu brought up something a few minutes ago; our legislative auditor has moved into the field of checking out it goes a little further than he had said. We have a legislative audit committee that is follow-ing up on the legislative auditor's reports, and they're coming in---if the police jury has been criticized for an item, they're sending out a questionnaire; what it is, how it is, who did it, has it been corrected, what steps have you taken Ages ito has really and the status of the second se must file a written charge against an elected official, and if he does not substantiate that charge in court then he is subject to imprisonment and fine." That stopped the "do-gooders." Had it not been for that amendment, it would have been hard for anybody to be reelected. So let's keep in mind...and I'm just not in any hurry to vote on this. I'm of the opinion that this whole thing this. I'm of the opinion that this whole thing may be looked at a long ways because we've got to consider the two or three approaches. Number one, what's good; number two, what is a fallacy; and number three is what we can get by on local govern-ment and sell without creating the opposition. As I go along day by day, I can see us giving a lot of people a lot of room to say 'I object, and along the line we better give them a lot of reasons for saying 'I'm for it.' Thank you.

# Further Discussion

<u>Mr. Willis</u> Mr. Chairman, fellow delegates, I hope you do not find it poor endurance to hear me. By your leave and fervor, I further hope to merit the time. I ask you to yield your minds to help me caress what few should oppose, a directive that

4sth Days Proceedings—September 15, 1973 lawmakers provide a uniform standard of cinduit those which add in stem dovernment to adjust the upper tops which add the provide the upper of eulation, and conducive to laking if elles difficult for each other if i understand the course give me by the knower of all segrets who presides in that august tribunal of the shiel where prevariation is to no avail, my course is clear and direct. My silence mether silene where prevariation is to no avail, my course is course of the standard of the shiel where prevariation is to no avail, my course is constructed to the standard of the shiel where prevariation is to no avail, my course is constructed to a standard of the shiel where the standard of the shiel where the standard of the shiel udgment based upon as much thought as I ould put to it; so usst state y honor on it and give it logalty. Ours is a dual fon of government. It if far firin prefect, but it is the bast and loss durable form of government I know so we have to play with irresponsibility is an equation as of as the human race, ur invernent officials and employees should discharge ther duties ethically, and our tandard of ethics should be the same because right is right no matter whose actions are tested by that same formula. Among the things that do not previous information is the same because right is right no mether whose actions are to show notive

Mr. <u>Stagg</u> Mr. Will's, in your recollection of things passed, do you recall that we were for years in this state without a Code of Ethics in

Mr. Willis May I finish your question?

Mr. Stayo

Mr. Willis We were without one; we got one; it was taken out, and we got another.

 $Mr.\ Stagg$  And now that it is in the constitution by the vote of the people,  $1\ th^2$  nk since 1964, do you not feel that it should be in the new con--

Mr. Willis M should endure. Most emphatically, and I think it

Mr. Anzalone Mr. Willis, we've had this Board of Ethics since 1964?

Mr. Willi I'll accept that date.

Mr. Anzalone I don't know, I'm asking a question. Do you kn w how many cases this Board of Ethics hav handled since its inception in 1964?

Mr. Will is Glory to the people if they haven't hand ed to many. It ust attests to the fact .

Mr. Willis Let me finish answering your question

## Mr Anzalone Thank you

Mr. Champagne uon't you think, Mr. willi, that some of the erre hady charater to the first look at the ode and then they say let's use, it this in the ode or not. May be they du thi before they commit the att, don't you think it ort of a discouragement from doing these them

Mr. Will's Aboutely, it is a usare again to one wrong, and what's wrong with a directive by a

<u>Mr. Weiss</u> fellow delegate, linm, r ind s ade up. I wont confuse ou with the fait, but it has been said behind every arruent is seen ei ignorance. I believe there a been set. Usin about laws, and ip benetation of the laws, eth and enforcement of a ode fith limit die to make it clear that limit out this fit a endnent and not because limit op, sed to a de of Ethics for all officials of this state and in care all employees of this state limit who grave amendment is an excellent one, and limits no This is not the Issue. The issue is the addition as one peaker, Delegate Rieler, inter ut well, it's a blueprint for the tatt ffillals t follow. It hink Mr intave a evolution and ex-

Mr. Grave Dr. Wei, on type kine that L. as I mentioned to you earlier, that L. i the Abraham amendment I hive takes, if the

Mr. Well hat he problem are en-Arrahan in tage dame et hine en in has too any plucation in the institution pointed out in a reduction of the institution searchly, which is the endine can de in a very specific basis, infinit tetween public data and internet of the endine can be a served.

Mr with Mr hairman, fellw diterre, 1 2 get is here we, elept whilt thisk to real important 1 get p in us or 7 20 built free 1 st fits arthous means at the lise though the arthous the second of the lise though the same thick we me a good of the fits is and we tweed a the fe lature and 1 blus the legt atore as reast a used by the list, and at the the lature and 1 blus the legt atore as reast a used by the list. The second second the the lature and 1 blus the legt atore as the second of the second list fits of the second second to the lature and 1 blus the legt atore as the second of the second list fits of the second se

the previous question.

## Previous Question ordered.]

## Closing

Mr. Landry Mr. Chairman, ladies and gentleme of this delegation, you have been very kind to me in afforded me a bit of undeserved publicity which I appreciate, especially for my grandchildren who someday will read that their grandfather partian. Cipated in a convertion where people gave attention. accept the challenge. I accept the challenge because of the fact that it is difficult. I now realize what the problem six You know, I have tremendous faith in the fact that the "Henry Huddle" Solves many problems miraculously. I have come to this podium and stuck my head in to find out how these people do this lob. Yoy did a job a moment ago where you approved of it. You approved of it to the tune of seventy to forty-four. Now you've already spoken. I've come here to remind you that you are in favor of a Code of Ethics. You spoke beautifully in a loud voice, eventy times. Now all you need to do is reinforce what you said a moment ago and truly, my people need this. We have had this conflict and we need it badly. I'm asking you in all sincerity, put this Code of Ethics into this constitution, and let mese how many green lights, not just a majority, but show me a super majority. Thank you for this provilege.

> [Record vote ordered. Amendment adopted 101-14. Motion to reconsider tabled. Previous Question on the entire subject matter ordered: 66-47. Section passed: 100-15. Motion to reconsider tabled.]

> > Point of Order

 $\frac{Mr. Burson}{to \ debate.}$  I rise to be recognized for the floor

<u>Mr. Casey</u> Mr. Burson, I cannot recognize you because the previous question was called on the entire subject matter, if you may recall.

Mr. Burson Then we don't have to vote again, is that correct?

Mr. Casey We do have to vote again because theoretically, that was in the form of an amendment, let's say.

Mr. Burson Point of order. If this is an amendment to a proposal that we have already adopted then it seems to me you would have to call that proposal off the table where it now rests in order to add anything to it. Is that correct or incorrect?

Mr. Burson Very well, I have, being prepared, a section to this proposal...a new section.

Mr. Casey Mr. Burson, I have already ruled. I apologize to you. I'm trying the best I can to preside, but the previous guestion has been called on the entire subject matter. The only entire subject matter that I know of is Committee Proposal No. 22.

<u>Mr. Burson</u> I have a new section to that committee proposal being prepared. We've had new sections to every other committee proposal proposed as floor amendments. That is what I have being prepared, and the Chair has ruled time and time again that it was permissible to have new sections to committee proposals proposed as floor amendments and that is what is being prepared right now.

Mr. Casey Let me just have a "Casey and Poynter Huddle" just to determine what is the correct parliamentary procedure here.

# Ruling of the Chair

Mr. <u>Casey</u> Delegates, delegates, please let us have your attention just a minute. Under the rules, the Clerk is the official Parliamentarian of the Convention. I will ask him to explain his ruling on the request of Mr. Burson.

Mr. Poynter Well, Mr. Vice Chairman, you've got to do the ruling. I'm the Parliamentarian, but the rules say that the Chair has got to make the ruling. But, as I would appreciate the rules of the Convention, they do require a vote as follows: on each section of every proposal and on the proposal itself, as well. So, hence, I think it would construct the total of the convention of this proposal. A vote would now be in order to adopt the entire proposal.-an amendment which would propose a section, in my appreciation, and additional section to this proposal. A vote would now be in order to also the order unless the previous question on the entire subject matter. Now, It would have bein my appression, or dout question on the entire subject matter, would have had to been confined to the consideration of Section 1, just adopted, Mr. Chairman.

Mr. Casey Now, Mr. Juneau, why did you rise, sir?

Mr. Juneau To clarify the point, Mr. Chairman, I would move for the previous question on the entire subject matter, proposal, excuse me.

Mr. Casey That's in order. Mr. Juneau now moves the... Just a minute. What was that, Mr. Burson.

<u>Mr. Burson</u> My motion was that 1 be permitted to introduce a new section, and I want a ruling from the Chair on that point before you go noto recognize someone else for any other motions. Now, is a new section by amendment to this committee proposal, just as we've had to every other committee proposal, in order or not? Would you rule on that, please?

Mr. Casey Mr. Burson, the Clerk has rendered his interpretation...

Mr. Burson I'm not interested in what the Clerk's interpretation is; I'd like your ruling.

Mr. Casey Now, just a minute, Mr. Burson. Don't get excited, we're going to proceed in a very orderly fashion. The Clerk has rendered his interpretation, and the Chair will rule accordingly that a request on your behalf to offer a new section is in order. However, Mr. Burson, I just wish to proceed further that Mr. Juneau has risen and has made a motion to call the previous question on the entire subject matter...

Mr. Burson Which would, I assume, include my new section.

Hr. Casey. My interpretation of his motion to call the question on the entire subject matter would preclude any further offering of any other sections. That it is my understanding that his motion for the previous question is on the entirety of Committee Proposal No. 22.

Mr. Burson Which would include, would it not, any pending amendments thereto?

Mr e. It would use lude, it would reach. Mr. and the in deration if any further a ena-

Mr. Bursur Therefore, on all future litee rown as new, Inding call Govern entor any ther provide that we nave, would it be there that if get up after the little roopsal is through and I nove the previous queiton on the proposal, that asyone which as a endmen's pro-coing new subsitive the? Is that us rulinn because that's what the effect will be.

Mr. Case. If the otion passes, that's all I can say, Mr. Burson. We have to cross each brid e as we come to it.

Mr. Burson Well, I lust wanted all these other delegates in here to realize what they were doing t themselves later on in this convention, if they uphold this ruling, and I appeal the rulin of the Chair.

Mr. Casey Mr. Bur on, all I can tell you is we have to cross each bridge as we come to it. I

Just a inute. Wait. We're going to aik Mr. Sursin to yo back to the mike now. He's appealing the ruling of the Chair, but I'n not sure what the appeal i on.

Mr. Burson The appeal is that a proposed new section would not be included in a vote or the

Mr. Lasey We will ask the Clerk, as Parliamen-tarian, to make an explanation.

Mr. Founter Mr. Burson, the Chair would have to annum e, before the otion to the previou question i voted on, that there I one alendient at the desk. However, that arendient hal not feen offered. The otion was made. to yu..

Mr. Bursin Did I not tell you that that a end-ent was being prepared before the notion for the previou que tion. Will you deny that

Mr. Puynter

Rr. neron Nell, haven't we, throughout this is nevertion, whenever smeane said they had a end-entropen prepared, allowed thir to be piejard and prevented. Haven't you routinely inturned "seconvection when and indigent, were being prepared."

Mr. a ey liket ha been die "Mr. Lurins, and we ear frilowing the rule or done, that I Drink the overtient fully aware that both have an identification prepared, and by a train the stimulation of the prepared used in a start of the Part has referre prevention would be aware of the contact by have ad a more difficult of prepared contact by start ad a more difficult of prepared

Me torion. And do you think that the define on-

Mr takey of a ake any ton Wr or orderly canner thay, row-a of

Mr. Rayburn ow an a count of the test of the second second

Mr. <u>Casey</u> we have to be the second and and we have on the table with the second when the vote was laid the time the second sec

Mr. Pajburn "hati sins in al. did su have, Mr. Jeri, if the sins the question?

Mr. Pointer I was to kimm to souther in erroll I understand you, on life to the trace of the total motion was made I wa

Nr. Raburn 1 try no to the first of a start of the start

Mr. Poynter a honelt, and the work of Burson' a end end of was certain the state of the state of

Mr. ayourn a hit or of the termine

Mr. carged . We because the formation of the formation o

Mr. Gravel A point of order, Mr. Chairman. Re-gardless of all this that I think is clearly be-fore the convention, isn't the precise issue that is now before the convention, the appeal of Mr. Burson from the ruling of the Chair? If it's in order to do it this way. I move the previous question on that particular matters of that we can

Mr. Casey Well, Clerk indicates. Well, that's nondebatable anyway, the ates. The...

Mr. Gravel How do we ever get to it, though?

Mr. Casey Well, that's what we want to do right

Mr. Anzalone, why do you rise, sir?

Mr. Anzalone Mr. Chairman, you stated a few minutes ago that at the time Mr. Burson made Minutes ago that the time rr. burson make his motion that there was only one amendment on the table or being prepared at that time. Is it not a fact that when Mr. Burson announced that his amendment was forthcoming that Mr. Gravel did say that I do not wish to withdraw my amendment? Therefore, there were two.

Mr. Casey He did say that, but also Mr. Arnette had one, I think, if I'm not mistaken. d one, I think, if I'm not mistaken. Now, let's vote on the appeal. Let's get in

now, is a wore on the appeal. Let's get in motion here, now. Come on. Clerk, will you state the question so that it will be quite clear to all delegates before we vote?

Mr. Poynter In appreciation of your rulings now, Mr. Chairman, is that the convention has voted to adopt Section I which is presently the only section contained within this proposal. The motion has been made for the previous question on the entire subject matter which would now be the adoption of Committee Propoasl No. 22 containing that one Committee Proposil No. 22 containing that one section. Wr. Burson has an amendment which is now at the floor. The Chair has ruled that the effect of adoption, of the motion of the previous question would be that that amendment could not be offered and it would cut off discussion, debate and would vote directly on Committee Pro-posal No. 22, arguing that he has a right to offer the amendment that was on the desk but not intro-duced. Wr. Burson has appealed the ruling of the Chair, that the effect of carrying the motion for the previous question on the entire subject for the previous question on the entire subject matter would preclude the offering of the amend-

Mr. Burson In the event that the motion for previous question loses, does that mean the amend-ment will be considered?

Mr. Casey be in order That's absolutely correct. It would

## Amendment

Mr. Burson Mr. Chairman, fellow delegates, first of all let me express to you my sincere appreciation to the majority that voted to premit me to submit

continue to do as i have done to vote (so permit you the opportunity to present your amendments. This amendment doesn't need very much explanation. It says what it means. I voted for the Committee Proposal No. 22 when it passed, I certainly can't any objection to having a local official Code of Ethics prescribed by the State Legislature. That doesn't disturb me at all. However, I do think that any such code should properly be administered by a local Board of Ethics. Mny? It seems to me that if you decide otherwise, you are leaving which is adopted could be similar, if not identical, to the original committee proposal which would permit a complete centralization of Board of Ethics powers over local government officials. Now, there a complete centralization of Buard of Ethics power-over local government officials. Now, there seems to have been a tacit presumption and some of the debate here today that somehow or other, local officials were inherently more suspect than are state officials. Now, i ask you, is that belief born out by the record? I ask you further, other speakers have pointed out, we have not had a deluge of ethics complaints. It simply seems to me that recordines of the character of Involved and citizens thereof who are not offici-themselves, should be, don't you think, at least as capable of judging on the validity of ethics allegations in their own local communities as a board headquartered here in Baton Rouge that may not know a thing about the local community. seems to me entirely consonant with the regard for home rule, the recoard for maintaininn local seems to me entifely consolant with the regard for home rule, the regard for maintaining local government at the local level, that I think the majority of the delegates to this convention to oass this orocosal. It seems to me that if you reject it, you are leaving the way open for a dangerous and unwarranted centralization ror a dengerous and unwarranted centralization of power in this area, and one that will inevitably be subject to the kind of abuse that other speakers have raised here today. I would also point out to you that there are areas in this state, I'm aware, certainly, of New Orleans, as a case in point, where they have a local Code of Ethics ad-ministered by a local locar et the present time. This amendment would be entirely consonant with that situation. I will answer any questions.

Mn. Armette l've got a cuple of short ones here, Jack. First of all, you say that "any code of ethics for local officials and employees," does that include the State Code of Ethics? In other words, the one we just made provision for.

Mr. <u>Burson</u> Yes, sir. In other words, what the effect of this amendment would be, that whenever the legislature sets up a code of ethics for local officials, they would have to also, at the same time, provide for a local board of some sort to asminister it, and not have what I would deem to be an inherently imposible situation where you would have one central Board of Ethics trying to administer complaints from sixty-four parishes and [...] knows how many municipalities across the state.

Mr. Arnette So what you would be doing... So you want to do is have the legislature force a local board of ethics on a local government for a parish, and you are going to have that board that's set up by the legislature for a parish to do that particular thing? I can't understand that,

I'm not saying that the legislature Mr. <u>Burson</u> i im not saying that the legislature would necessarily set up the board, but however the scheme was devised, it would have to include a local board of ethics. The legislature could leave the selection of that board to any number of

Mr. Arnette Well, et me ask you this then, Mr. Burson. Suppose the egilature does not provide for the local board of ethics. Then all that the

Mr. Burson Well, Mr. Arnette, it see s to me that that pre-u es bad faith on the part of two groups of officials-the State Legislature and The algovern ent. I'm not willing to make those

Mr. Ruemer Jack, as I understand this, you don't That the to one board per parish, do you?

No

Mr. Roemer We could have a board of ethics in each municipality or whatever divisions we want

Mr. Roemer So, instead of having one board or even sixty-four, we could have a thousand and sixty-

Mr. Burson But they would all have to administer the sale code.

Mr. R.e er Well, could we have a thousand and ixty-four boards?

Mr. Burson I don't know what the number of unicipalities is in the tate.

Mr. Jenkin So, ack, now if we take a typical louisiana parish, it has about five or six munic-realities in it. Each one of those municipalities, urder this, would really have to have a board of eth because it wouldn't be local as to that uniipality if it were a parishwide board. Isn't that true?

Mr. entin. So, you would also have to have a garn h board of ethics for the shool board and the plice jury, in any other governing authoritie , wouldn't you?

Mr Jenkins Then, Luppo e as to period di-tricts, you right even have to have period biards of ethic (for then-such as uit-parin di tricts, shing of that ature. Would you have to have use iad boards for them to ?

Mr. Burson Well, if eer to me that could productly be incorporated under the tat scheme, if it was multivarish

Mr. Him is well, whit wanted to an , Mr. Roperge and already asked well is entry in brown to be pain if bit wanted to it the deimate if he many through the list of the deimate if he and given any through the list. I ready this is shall be three mr from the list.

Mr. Jr. n. Well, Mr. Munion, Fave great faith In the left lature, at it to wirk the position

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what cude parsy appried to all tate and out of the second step is a state of the second state of

that cude being appier to all tate and the and any off halwhill e ploved to the white the prefile, ay use that we have a ted to the

No Anzanne. No is a most, for a most such that the branch is a take twilve is the init of the branch is a such that the such is a such that the such is a such as a su

[Record vote ordered. Ameniments reyected JJ-66. Motion to reconsider tabled. Previous Question ordered on the entire subject matter. Primisal adopted: 83-27. Motion to reconsider tabled.]

## Announcements [1 Journal 492-494]

[Adjournment to 9:00 o'clock a.m., Wednesday, September 19, 1973.]

Mr. Warren Let u al Low or read, clean Neaven, father, we thank her to chain lock to our obs this tornin. We als 'n' will no with us and guide us and help u to the 'h thin, that we round to Bessen and keep . . . . . af us asse bled here. Bess of and keep . . . . . .

Mr. Finter committee Proposal No. 17 by relegate Pere: nail an or behalf of the Chimittee on Losa and the high Government, and other delegates and

Explanation Mr. Perez Mr. Chairman, and ladie, and gentlemen of the convention, the chore of the Convention, not call and Parochial Government has been a lengthy ind tedlous one because of the fact that this to mittee had as typed to it over on the convention or statistics, but I did ask the staff to make a completion of the length of the article assigned to this. It tee and to the length of the convention of the length of the article assigned to this. It tee and to the length of the convention of the length of the staff, we were as gread one midred and forty thou and, hight hundred and ten wind which ha been re-duced by the local avernment in ittee to even thoward, the hundred and twenty even with the the quivelent of the near the term the distribution of the length of the term the distribution of the distribution of the term and the distribution of the distribution of the term and the distribution of the distribution of the term and the distribution of the distribution of the term and the distribution of the distribution of the term and the distribution of the distribution of the term and the distribution of the distribution of the term and the distribution of the distribution of the term and the distribution and mered is a distribution we wave the distribution of the distribution of the distribution of the term and the distribution of the distribution

Mr. Munson Mr. Chairman, I intend to make a nor own in a moment, but first I would like to say a few words to the delegates of this convention. in a moment, but first I would like to say a few words to the delegates of this convention. I think my aim in this convention is the same as the aim of every delegate to this convention. And that is to submit to the people of this state a document, when we complete our work, that will be acceptable and that will be adopted by the people of this domary, the same as it has been yours. I think we have done fairly well up until now. Even though there is some statutory material in the proposals that we have adopted, I'll say, again, I think we have done fairly well. But I do think we have reached the point now, today, where we really have to make up our minds where we are going from here. We still have this proposal on local government, education, revenue and taxation, I believe, and may be one other to consider. I don't want to be any part of spending three million dollars of the taxpayers' money and have either. I recognize the fact that the Committee on local and Prochel Bovernment has certainly either. I recognize the fact that the Committee on Local and Parochial Government has certainly shortened very extensively what's in our present constitution. I also recognize the fact that dot of the reasons for some the fact that mendments to the people have been caused by local government. I would say somewhere between seventy-five to niety percent of the amendments hat we've had to submit to our people has been caused by local government. I do not think that the proposal a proposed to unday, solves that we've had to submit to eutropeople has been caused by local government. I do not think that the proposal a proposed to onday, solves that we've had to submit to eutropeople has been caused by local government. I do not think that the proposal is proposed to onday, solves that we'll have in this state if we adopt this proposal, all you have to do is add up the number of munici-plities, villages, cities, drainage districts, levee boards, etc. I am an advocate, a strong ad-vocate of home rule and local government. But in my opinion, ladies and gentlemen, this proposal is, I think you might as well abolish the Louisiara legislature. That's just about how strong this proposal is. I do not want this convention to have to battle it out on the floor of this con-vention hall for the next two or three weeks, think there is room for compromise. I think the problems can be worked out; I think the best place to work out those problems is in the Comproblems can be worked out; I think the best problems can be worked out; I think the pest mittee on Local and Parchial Government, and for that reason, Mr. Chairman, and the reasons I have enumerated, I would like to now move that Committee Proposal No. 17 be recommitted to the Committee on Local and Parchial Government.

[Motion to recommit the Proposal to Committee.]

## Questions

Mr Perez Mr. Munson, would you explain to me what the difference is between this committee proposal and all of the other committee proposals which we have already considered, where we debated and amended and reamended and amended all over again these various other articles? What recommitted when we did not recommit legislative, judicial, executive, or bill of rights?

Mr. Munson Mr. Perez, I respect you and your committee for the work that you have done. I just...I thought I had already given my reasons. I just think that there is entirely too much, or much more statutory material in your committee proposal up to now. And in the spirit of trying to cooperate and solve the problems that are posed by this proposal. I just think it's best for all of us as a whole to go on to another matter while we try to work this out in your committee rather than on the floor of this convention.

Mr. Willis Mr. Munson, why shouldn't we be

dircussing the committee proposal instead of cussing it so that we can make room in our discussion for the compromises which you advocate? Don't you think the proper procedure would be to go about our business and save that money you talk about and start discussing this proposal instead of cussing it before hand?

Mr. Munson Mr. Willis, I am not cussing it. I am discussing it, and I fully, I am firmly convinced that we'll all be better off to discuss this proposal in committee, come to some sensible salution, and then come back to this convention for further discussion as we have done with other proposals.

Mr. willis I appreciate.... I appreciate what you are trying to do, but you are trying to do in such short time what it took the committee in such long time to do, and you are trying to deviate from a procedure which has been followed for four other committees, something which is unheard of, thus far, in this convention. It's a step backwards to my mind.

Mr. Munson Mr. Willis, in my opinion, we will not lose a single day's time for the simple reason we can go on with other business that's already before this convention while this is being done in committee.

# Mr. Willis To each his own.

Mr. Bollinger Mr. Munson, did not Mr. Perez and his committee do one thing that no other committee did and that was offer each delegate, in a letter, the opportunity to come before that committee and discuss any differences that we disagreed or didn't agree with in that committee proposal?

Mr. Munson If you suggest that, I will say yes. But I don't personally know that to be a fact. I don't know whether any other committee has done it or not, Mr. Bollinger.

Mr.Bollinger And is it not also true that this proposal was not reported out for a good while, and as Mr. Perez stated, for the reason that he invited each delegate to come before the committee. My point in asking this question is, why do you think now each delegate would go before this committee and bring out all these differences you are mentioning when they never did do it before?

<u>Mr. Murson</u> I'm not suggesting that each delegate of to Mr. Perez's committee. I'm merely suggesting that I think it's so highly controversial, Mr. Bollinger, and has so much statutory material that it can best be worked out in a committee rather than fight it out on the floor.

Mr. Burson Representative Munson, I understand your great concern about this article. When did you finish reading the article?

Mr. Munson Mr. Burson, I'm not Representative Munson; neither am I ex-Representative Munson. I am a former Representative. There is a difference.

Mr. Burson When did you finish reading the article?

Mr. Munson I have tried to wade through it ever since it's been on my desk, Mr. Burson.

Mr. Burson Have you ever appeared before the committee to offer any suggestions as to possible changes in the article?

Mr. Munson No, sir, I haven't.

Mr. Burson Do you intend to do so if we go on?

Mr. Munson Yes, sir.

Mr. Burson Don't you think you could offer those same suggestions in the form of floor amendments as has been done on all the previous articles?

Mr. Munson I don't think that this proposal, unless you want to delete each ection one by one, ompletely, and start completely over. bat would be as summerstion.

Mr. Burson In other words, you would like to just delete local government in Louislana, then, wouldn's .uu?

Mr Munson That's absolutely not true. I think my record speaks for itself in the seventeen years Tave been in the fegislature. I m a strono advocate of local government. I am not in favor of etting up thousands and thousands of Y modoms

Mr. Burson to you think you are a better expert on local government than the Police Jury Association and the LMA who have approved this article, then?

Mr. Munson I am a former member of the Rapides Par sh Police Jury. I was a member for eight years.

Mr. Burson I ask you, sir, do you think that your opinion in this regard is better than the opinion of the LMA and the Police Jury Association who have both approved this?

Hr. Hunson If you are going to abolish the legisiature and keep the police juries, then if it goes to that extent, Mr. Burson, I would say I am as good an expert as any member of the Police Jury Association.

Mr. Burns Mr. Munion, I'm a little concerned about the effect of your amendment, or your proposal, rather, your motion, as to what it could possibly produce or what could be the effect of it. In other words, if this com ittee has worked on this article for eight months and a half, what could they possibly do within the next few weeks... with us in session from Tuesday through Saturday even mg?

Mr. Munson hope they come up with a better proposal, Mr. Burns. I hope that they would come up with a better proposal than what we have been presented with.

Mr. Burns But I was just wondering what they ould do in maybe two or three week that they ouldn't have done in eight and a half months?

Mr. Murson Well, Mr. Burns, partially in answer to that usestion, I as a member of the Committee on Hatural Resources. We oxited during the first La months of this year on everything that' in that proposal. We are now going back through every bit of it and, to some extent, hanging it substantially from what we voted on six months ago The ame thing is no done fin any committee

Mr Nunez Mr Mun on, could you be one peofir and tell u what art le or what section, or in partirular, what are you diagreein with in the proposition in the proposal?

Mr. Munson senator, for one thing, I think Sentin 5, if adjuted like t I, would also In the Tegnilature of which you are a member 'wrild rey that end on 6 centainly would rave a seat Jeal of friction between two very journal yrrups a well a suite a sumer in other either in the proposal

Mr. Nunez: Weil, would you fin iden a pripilation or a till on that we type there either an or ahead will what they had rather than terring the prominit the whole article.

Mr. Minion I don't brifeve I have the tostand here and official ection. I through the tost renator, and I find tatutory material on protionity every of tion.

Mr. Nunez. You dilagnee you a, two e thirs, and onw you ray all fifty one sections.

Mr Minin Y, aled to ale e naled a couple But I think of the fair tatut -- ater , enatur

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Pr rear Mr hairman, fell w de e ate: ie to oppise Mr Musson' otion (in tamit unusual tria, the first like is a screet de estire article a provide attrian discussion or debate oneennen that was is a have sole experience in attent to real is a part of a processi where ontriver ent in reversi instances when in ade test wir rit was suggested to me that it was ut of er. All in no instance that is no of the time real this convention voted to recoll the provide, understand the basic tisse which is the real whether or not we are going to have mean tri local government ho e rule in this state with from what is the present law of this state with respected coal government

Under the law and urispruden e of this tate today, local government is viewed as a restrice ' the legislature, with the eception of erhalows the generation of the legislature with utrain the whim and will of the legislature with utrains and this proposal would give to the only were met maningful home rule and who dun is the Striller bearingful home rule and who dun is the Striller the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the years and would perit and is verified to the recessary field by the state of the transition of the transition the transition of the transition of the transition to the coal Government is a state of the convention want is relative to the transition of that's what the convention want. If the convention want is relative to the transition of the conduct of the weight of the transition the year of a ball we before the state and the ording the the state of the state of the field the weight of the the state of the transition of the state and the state of the transition of the state of the transition of the state of the state of the transition of the state of the state of the transition of the state of the transition of the state of the state of the transition of the state of the state of the the state of the state of the state of the the state of the the state of the state of the state of the the state of the state of the state of the the state of the state of the state of the the state of the state

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interests do not want meaningful home rule provisions in this state, and if you vote to recommit this article as now proposed by Mr. Munon, I would take it that this convention does not want meaningful home rule in this state.

# Further Discussion

Mr. Lowe Mr. Chairman, delegates to the convention, I rise to also oppose Mr. Munson's motion to recommit this article, and I do so for several reasons.

First of all, 1 believe that it's a terrible precedent for this convention to take at this particular stage in our deliberations. 1 can make a comparison to you and that is with Revenue, a comparison to you and that is with revenue, finance and Taxation Committee. I believe that we have in that particular committee as many con-troversial items as you will find in any article that will come before this deliberative body. We voted consistently eleven to eleven, or ten to eleven or nine to ten on many issues that have come up. Half of us have almost agreed that the only way we can get anything out of Revenue, Finance and Taxation is to stop arguing in that particular committee and allow something to come to this floor, because when it does come to this floor, well then it will get a fair hearing. We'll have a hundred and thirty-two delegates that have their own impressions about what should and should not be. What does one do after he and should not be. What does one do after he goes to committee and does everything that he tot in committee. That's what you've done. But that doesn't bar once and forever that you have the right to come before the whole convention to express your views of what should or should not be connection with that particular article. So I say to you that if we set the precedent here and Solve to you can be an added to the proceeding when again when we come back to Revenue, Finance and Taxation. Many of us in Revenue, Finance and Taxation will have to take the stand that maybe we should not have soft-pedaled our beliefs in a hope to overcome the stalemate that was there. certainly have many different views than what's I certainly have many different views than what's coming out of Revenue. Finance and Taxation, and would not want you to believe that when you get that particular article, that we are ready to get it back. We've done everything that we could do. We have attended all the meetings that we could attend, we've had all of the speakers that we could have. There's nothing more that we can do in Revenue. Finance and Taxation, and I am sure that to enthermost in a done the some that when

that Local Government has done the same. I see this move as an aim by a group that objects to a theory that Local Government Committee has. And I can appreciate their objection to that theory. But to hold that we are going to sit here and argue twenty-eight pages, a day at a lime, and to send it back to committee, is ottering the information to send it back to committee. We'll probably still have the same number of pages, and if we don't still have the same number of pages, and if we don't still have the same number of rages, I don't view the opponents to this move as a group that's going to lay down and die. That couldn't possibly happen next week, next month or any time. You know, and I know, that the opponents that oppose this move are a stronger feeling about their...what should be in this article as Mr. formittee.

So when we get it back, we are going to argue and dellberate over the same things that we are going to argue and dellberate if we leave it before this group today. I say to you that this convention has been successful because we have a dellberative body that's willing to sit down and stick with it and delberate hour after hour and day after day. Why should we change our modus operandi right now? What would make us do an about-face that all of a sudden we have some issues that everyone doesn't agree with, so, since everyone does not agree with them, we want to send them back. I say to you that we are a deliberative body; we were sent here to delberate; the committee system has worked well; there is no reason for us to believe right now that the Committee on Local Government did not work well. I submit to you that since we are a deliberative body, let's deliberate.

## Further Discussion

Mr. Fontenot Mr. Chairman and fellow delegates, I would imagine before this discussion is over, probably half of this delegation is going to get up and speak, but I just wanted to throw in my to up and speak, but I just wanted to throw in my two bits at the same time. Somebody already said there's too much statutory material in this partic-ular committee proposal. Nell, as for as I'm concerned there's been too much statutory material in the first four proposals. The section on the Legislative, Judicial, Executive, and the Bill of Rights, as far as I'm concerned, had too much statutory material. But, whenever you get into a specific field as local and Parchial Government two specific field as Local and Parochial Government, 1 think it is justified to have some of the statu-I think it is justified to have some of the statu-tory material. if we don't have some of the statu-tory material in the constitution, then the legis-lature could run wild on the local governments. I think it's necessary that we need it. It's a shame they have twenty-reight pages, but it's a lot better than you have now in the present constitu-tion. Now, if we're going to start a precedent Detect the four power of the the present construc-tion. Now, if we're going to start a precedent offer because it's too longs just this be'rs up ing to happen when you get to Revenue. Finance, and Taxation. Just think what's going to happen when you get to Education and WelTare; and as far as Natural Resources and Agriculture, I'm not sure yet how long their proposal is. I would assume it is a little bit shorter than Revenue, Finance, and...well, Education and WelTare, but I think it's a bad precedent. These fields, I think, are just statutory material in the constitution to cover these areas. If you don't, what are you going to put in, general principles? What kind of general principles can you have on local and parochial government? Some one statement like "the legisla-ture shall provide for the governing of local government; some one statement into the legisla ture shall provide for the governing of local governing bodies," is that all you're going to put in? I don't think so; I think you need some of this material. I locked at the committee proposal. I think it conflicts in a lot of places with Revenue, Fianance and Taxation, but our comwittee has already suggested that we just defer some of these particular sections that conflict with our committee. I think that if Revenue, with our committee. I think that if Revenue, Finance, and Taxation could come up with their tax proposal before some of these particular sections in the Local and Parochial Government, I think it's going to work itself out. So we suggested that we just defer those sections in the Local and Parochial Article that conflict with Revenue, Finance, and Taxation. I think that's the answer-well, Friday we got through with the Bill of Rights; Saturday we worked on this Code of thics and I was satisfied with what happened. I'm very pleased to announce that the people in my area are very to announce that the people in my area are very to announce that the people in my area are very satisfied with what we have done so far. But, Saturday afternoon I picked up a rumor that some-one didn't like the Local and Parochial Proposal and that this committee would have to rewrite it. I'm really concerned about this person trying to, when he said he wouldn't get involved in this convention, I'm really concerned with this person now that time is getting short; he's going to get involved in this convention. I don't know how, but he's trying to get mixed up in this convention and trying to meet a deadline. I think he was con-cerned with the length of the article and the fact Cerried with the length of the article and the fact that we show the through low of the solu-tion to the problem is recommitting it, 1 think it's going to take us even longer than what we anticipate by getting through on January 4. If he's so concerned about getting through on time, 1 would suggest a special session to allow us a longer length of time to finish this constitution. think the first four sections we've come up with, it took us a long time to do it, but I think they

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Mr. Birshn Mr. Chair an, ladle and entieven of The purcerson, it's really a usin, to le that these people who are the sponiors of this overent to recould, because there is too uch statutory aterial in the local Governent Article and be-that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that is been reduied from two hundred and seven that the present two hundred seven that the present that the present that the two hundred seven that the present two hundred seven that the present the present that the present the present the present that the present the presen The set of the set of

they an ob to the meetings. They can voice their opposition or their ipon or hip of programs in person, someth mit they stindly cannot do in tate jovernment. The flow there is very lear, it's source the source of the source of the source of the number of the source of

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by considering it first I would move to delete it because it doesn't belong there, and if you delete it, you can't understand the rest according to menbers of the committee. Another place--Section 9 is out of place. Section 9, according to anybody on the committee that you talk to, is the crux of the whole proposal. If Section 9 is amended out of shape or it's changed to any significant degree. then the rest of the proposal has to be recommitted anyway. These are not my words; these are also some of the members of the committee. Now, I don't understand why section 9 wasn't first. Now, Mr. Perez has said before, that over one-third of the old constitution is considered in this article, and think to is so complex and so important to intelligently floor amend this section like yon floor amended the other four sections. I yield to any questions.

## Further Discussion

Mr. Chairman and fellow delegates, I Mr. Nunez certainly rise in opposition to Mr. Munson's pro-posal. Simply...when I asked him what's his alternative, what should we consider, he didn't have an alternative and he didn't know what we should con-sider. I think when we...for the past two months as we have been trying to get some order in the convention and trying to determine what article. what proposal, what proposition we should consider somewhere along the line we determined to next; somewhere along the line we determined to stage. Now, if we don't consider it novint should we consider? So that's one reason why I rise in opposition to it, and I rise in opposition to it knowing that after reading the Local Govern-ment Article, there are a lot of things in there that I personally oppose, and will vote against unless it is changed, but I don't think that is the issue. I think the issue here is whether we should consider Local Government at this time or should consider local Government at this time or not or whether we should give it to committee and let them completely revise it. If you've read Local Government you how it can't be completely philosophy. It's a philosophy that says that local government shall not operate under the permission of the legislature anymore. Let me just tell you why I think it's a good article in philosophy. Whether you want to change some particular sections or not, I think it's entirely up to you. I an Affairs---Local Parochial Affairs. We get propor-tionately as many bills through that committee Attains--Local refuon a hartains. We get propor as many of the major committees, such as finance and the Judiciary Committees, simply because every police juror or every police jury in this state--every municipality or every governing au-thority has to come to the legislature for such thority has to come to the legislature for such ridiculous things as cutting grass, thority to have ambulances, as authority to do this, au-thority to do that and authority to do the other. In 1970 you had four constitutional amendments on your ballot authorizing ambulance services in various parishes. Isn't that ridiculous? You have, with my collowing the ridiculous? know, when we voted---when the legislature oassed the legislation allowing us to set up this con-vention, one of the things, in the Senate espe-cially, one of the things that we were particu-material---gentlemen, that's saying there's too much statutory material--that we get out of the legislature the amount of material that was re-quired to allow local governments to function. We let those, there was a hundred and forty-two or a hundred file and thirty-nine members of the legis-these local issues we've been debating on, de-bating on, and debating on, and taking the majority these local issues we've been debating on, de-bating on, and debating on, and taking the majority of the time in the legislature that it absorbs. Le me just tell you, we voted a two billion dollar budget each year, pretty close to two billion dollars. Bo you know how much time the legisla-ture spends on that two billion dollars. You as delegates that are not legislators, think about the prime function of legislators; think about that we prime function of targyers; think about what we

should be doing and what we are doing. I've seen the budget go through that legislature in a period of three or four days. Three or four days. I'm going to get some disagreement in a minute from some people, but that's a fact. That's a fact! We've spent less in the past..in the time that I've been there, in some sessions less than one day on a billion dollar budget, and we spend four and five days arguing whether on some... four and five days arguing whether on some... whether some police jury should have an ordinance to allow truckers or allow loggers or allow some-ling of that sort. It's completely ridiculous. ticle doesn't add statutory material to the article. It takes away from the statutory material in the article, and it allows the legislature, it allows the local governing autorities to function with a lot less legislation than they wouldn't nor-mally have needed. It this if you agree that the local solution that the truck the legislators have and the legislature has, is to do something about the mass of state agencies do something about the mass of state agencies and to do something about the huge budget that and to do something abult the huge budget that Beliciana Police Jury can cut grass ger not, and not worry about whether Terrebonne Parish can have ambulance services and how they charge for that ambulance services and how they charge for that ambulance services and how they charge to be hundreds and hundreds and hundreds of thousands of small little details that local police jurors perform and not legislators, I think we're doing this state a service. You talk to your police jurors or those mayors in the back, or anybody else. We've given them an insight to something they've been looking for for years, and good. I think this one will also if we give convention an opportunity. The committee has Convention an opportunity. The committee may worked, I'd say as hard as any committee in this convention, and I would ask you to go along and let's hash it out here and not recommit it back to a committee. I'll answer any questions, Mr.

## Further Discussion

<u>Mr. Jenkins</u> Mr. Chairman, delegates, we've seen the specter raised here of centralized government. We've been told that if we don't go along with the philosophy of this article, that we're for centralizing in the hands of state government, a lot of power that doent' already exist. That is absurd. No one at this convention is suggesting local governments than it already does. What'se are concerned about is the philosophy of this article that would create and grant to government, local governments that are does, what'se are concerned about is the philosophy of this article that would create and grant to government, local governments that calle and anything that the legislature does not specifically prohibit. Look at this Section 9 where it says that 'local any function mecessary, regulsite, and proper for the management of its aftfairs, not denied to it, "including anything," to provide for the protection or specifically declare the state's exercise of any such power or performance to be exclusive ay that a power it is exercising is exclusive ay that a power is performance to the any such function any such power or performance to the any such function ary such power or performance to the any such function any such power or performance to the any such function any such power or performance to the any such function any such power or performance to the any such function any such power or performance to the any such function any such power or performance to the exclusive any that a power it is exercising is exclusive or else a local government can exercise it. Now what does that mean in practical terms? Let's take something like milk price-fixing, something that

we've discussed actions each order the vo-we've discussed actions each order the vo-vo around setting mile price and quality tension be could have differences from area to area each though the legislature had already lensiated in that area, unless the legislature specifically declared its powers excluive in that area. In the whole area of resultation, consider the tensi-The whole area of regulation, consider the pos-bilities, in it ways, for example, every nul-ipality and parsh could et u a different num-man ways cale. The possible the are ut ur-limited. It would be i possible to function in governments had this authority. The philos phy of this article can't be changed from the floor. Haphazard amendments trying to shoot down this philosophy wont succeed. It need to be sent back to the construction of the parishes and the down the section of the parishes. And thing out in down the section of the parishes, and shingdo sin all unicipalities. These local governing authority, but they are not the source of governing authoritles would have, in effect, law-aking authority, but they are not the source of governmental authority. Authority co.es from the people and it is granted under our form of govern-ment in this country to the states. The states created the federal government and the states by of our whole system in this mation. We need to preserve that philosophy; it has worked; it is tried and true. To create ingdom with law-

Mr. Dehotel Point of order, Mr. Chairman. He's not asking a question; he's taking the floor on personal privilege against Mr. Burson. I would like for the Chair to call him down on t.

<u>Mr. Munson</u> I said my question is this, if the gentleman in the far left corner had been listen-ing to what's going on; I also started off by saying 'd'd you innw!" My question is this: Did I not say in my opening statement that I have alway been a strong advocate of local government and home rule, but that in my opinion this proposal went far beyond home rule? Ild I not make that

Mr. Jenkins Yes, you did, Bob, and I think mint of us feel that exact same way

Mr le hotel Ladie and gentlemen of the ion-vention, Mr. Chairman, I rise to oppo e Mr. Mun-on' otion. Init this a heis of a way to start a Wednesday? We were uppused to tart in the Loal and Parotnal provilion or propolal ast 'alunday, we were all ready. I wonder when the decision wei sade that we mouldn't take it ast 'squiday, we were all ready. I wonder when the decision was made that we wouldn't take it up! You know, I was driving over thi mornin and I aw a rowboat acros. On lake, and I houe why it was there now. You know, usually three this is out from the fourth flower, it are i rowboat right a ro. The lake, and it link. We up I it's not a gut his un, it uner fere another part of the body. Gentlemen, last alunday 'has were, very diff uit de'i unt is we you read! that we were takin up the ide of ith take a there take us the lake is an another part of the body. Gentlemen, last alunday 'has were, very diff uit de'i unt is we you read! that we were takin up the ide of ith this that now if would apply the head and and are taked to a cot of the member of the invention A first I was opposed to it. I ended up woils this that would apply to all of the tate, man pare has government uffinals was a omend able, tremendou idea. I way diturbed about the taken. ad in the in the set. It is the set in the set is the s

Further 11 the M Jervigon Mr that as leasted, is to be peak in the state of the state of the state to the consister on everal states of the states to the consister of the peak of the states the worked together this you we heard as to about the states that do area will not the as off, about the ten-site vie in the states before, about the ten-site vie in the states informed about the ten-site vie in the states before, about the ten-site vie in the states informed about the ten-site vie in the states the acception there period we about the states the acception with may be add used and the states the on ideration if the article in the states what the energing we is the states and is and the states wild are with the states and is a state of and 9 and show what we re as the states the state wild area with the states are states wild area with the states are the the state of the states and the states the states wild area with the states are the states with the states are the states the states wild area with the states are the states with the states are the states are the states with the states are the states are the states with the states are the states are the states with the states are the states are the states the states are the states the riving that if it tight and 9 reaches is a try y it. The rober with it, they are enneuerally stip, the rober with it. The tight is the rober with the rober is the rober is a second structure of the second structure is the rober is the

have voted with a fair amount of unanimity for a six months period of time. I will yield to any questions, Mr. Chairman.

## Further Discussion

Mr. Kelly Mr. Chairman, ladies and gentlement the convention, there have been some statements made up here this morning concerning this group the source of monle I rise to Mr. Chairman, ladies and gentlemen of made up here this morning concerning this group of people, that group of people. I rise to remind you of one thing. Are we writing a consti-tution for the people of the State of Louisiana or are we writing constitutions for different and special interest groups? I know there was lots of opposition and there has been lots of kick concerning the Bill of Rights. But let's face it, cerning the Bill of Rights. But let's face it, other than the Bill of Rights what in this conven-tion have we dealt with for the people of the State of Louisiana? Everything else has concerned it-usive department? What is the power of the exec-uive department? What are they going to do? What is the powers of the legislature? Now, here we are, what are the powers of local government? I simply ask you, and I wish to remind you that it's my Inask you, and I wish to remind you that it's my in-terpretation that in that Preamble it says some-thing about "We the people of the State of Louisiana. Does it says anything about "We the governing body of the State of Louisiana" at this particular time. We've got this constitution. We are trying to get a good constitution. Let's get a constitution for the people of the State of Louisiana. I'm not in-terested in a constitution for the governor of the State of Louisiana. I'm not interested in one for the secretary of state of Louisiana. I'm of the state of Louisiana. I'm not inderested in one for the secretary of state of Louisiana. I'm of interested in ror the rormer. nor for the district attorneys. I might add that felt very strongly about the powers and duties of the district attorneys. I think the district attorneys of this convention and the assistant district attorneys will recognize the fact that district attorneys will recognize the fact that i lent as much support as I possibly could to their position in this regard. We've got to consider what is going to be the ultimate outcome of this document. Now, let's look at it. What are the people back home saying? They are either saying absolutely nothing... Who have you heard from? we have heard from nothing but special interest groups. I wish to remind you that there are many, many special interest groups in the State of Lousiana, but there are a lot more people, a lot more just plain John Doe people out on the streets. They are interested in their own particular rights. are interested in their own particular rights. They are interested in seeing government run correctly, rightly, ethically. That is what all of this is about. We've got to come together. We've got to come together. The main objection that I have heard over the past two or three weeks-and I know everybody says "Oh, what the people back home are saying." Well quite frankly, I haven't heard a lot about what the people back home are saying. I've heard all tabout monole that have direct interest about the the people back hone are saying. I've beard a lot about people that have direct interest in government, what they have been saying. I haven' beard too much from the person back home except one thing: What's going on down there, are you all still doing all of that fussing and fighting, taking you four and half weeks, three weeks to com-plete this article or that article? We've got to stop that. We've got to stop that. Everybody is concerned about this interest group or that interest group is going to fight the constitution. I'm not interested in what this particular group or that in what the people, the average person on the street-is he going to support this constitution? That's what it's all about and for that very reason I can foresee that of this twenty-eight page docu-ment, be it good or be it bad. I can foresee where I haven't I can foresee that of this twenty-eight page document, be it good or be it bad, I can foresee where we could be here for at least five to seven weeks on this particular document if twe follow the same amendment process and don't try and go back into committee and work out some of our differences there. We don't have the time for that. We have shown enough discord down here. We have flattered enough personalities down here in the past. I think we best leave all of that behind us. I

recommend to you that this article be recommitted. Let's iron this thing out in committee. Let's bring something onto the floor. If it takes five or six days in committee, that's fine. We may save three weeks by doing that. We don't have enough time left. Today is September 19, if 1 am correct...

## Further Discussion

<u>Mr. Heine</u> Mr. Chairman and fellow delegates, y know i've traveled this state over trying to be lieutenant governor. Maybe I didn't belong down Mr. Chairman and fellow delegates, you here with the big boys because I really hadn't realezed how naive I am until this morning. I can't understand why you wait till the last hour and then understand why you wait till the last nuo and the bring forth a motion such as this this morning. Now I'm not up here to debate the local and Parochial Proposal, but I am to debate the fact that you want to send this back to committee. Now, I can't under-stand for the life of me why some of these people Now. didn't come forward last week. You have had copies of this thing now for several days. We've invited all of the delegates to the committee meetings to bring forth just this kind of thing, but to let this arr or the deregates to the committee meetings to bring forth just this kind of thing, but to let this committee get to this point, be down here this morn-ing ready to come forward with our proposal just hern do something like this to us. I'm offended by it. I'm not offended that you might be opposed to some of the sections of this proposal because I'm opposed to some of them, but that's beside the point. The point is, we are ready to go. So, let's get after it. Again I say, you were how ite do our committee meeting. I wish you had come. I'm not would be changed because just like all of your committees, we had our differences, and we voiced them. We've come out with what we think is a good proposal. The majority thinks it's a good proposal. 'm sure all of you or many of you have been con-tacted by your mayors, by your councilmen and by your police juries bast home saying that they think that it's a goot basic prevent. your poince juries ack house so in his doesn't mean that it's a good basic proceal. This doesn't mean that they don't want you to be have done in our certainly the do. Bit 1 ask you, follow delegates, be so per offer this thing. You know somebody made the statement up here that if we proceeded with this proposal as it's written, that it could kill the entire constitution. Well, I feel just the opposite. I think that if we send this proposal back to committee and treat this committee different-ly from what we've done all the other committees, this could be the killing blow. So, let's get on about our business. Let's proceed. Let's amend this thing. Like somebody said at a meeting that I was attending the other night with some of the other delegates, "Let's perform surgery on it." But, let's move on and get after it.

## Further Discussion

Mr. Willis Mr. Chairman, fellow delegates, i rise to echo the words of the mayor. Words are things that make you think. Thus far, our product has been trained on a principle of the Netherlands, conducive to the pursuit of happines. In my contribution, I sought and seek to store my hone at times fail, but less often than the forebodings of the gloomy. I am not as displeased as I might have been. I am, therefore, sufficiently satisfied. To cuss a proposal without discussing it is misguided and misguiding. In the shades of generalities regarding kingdoms, I remind you that each of us would change our cross for a crown. Who will not change a raven for a dove? To those who label this proposal a raven, let him show me his dove, and we will have a trade. In the vernacular, put up or shut up. Talking in generalities dees not make one a general on the matter. What is or are the reason? there of deases. For is human, to formelther diveng duct is would be the fear of doing wrong and 'tis wrong to back up. What we put in this constitution is irrepealable law and applies to those who govern and those governed alike. If we

49th Days Proceedings—September 19, 1973 have legislative attends in the second sec

Mr. Chair an, Tadies and gentle en of Hr. crew Hr. Chairman, ladies and gentleter of the nonvention, I rise to oppose this otion. I'' tell you very briefly why. In the first place desson for recommitting this proposal, not one val di reason, except certain people have amendments to sections that they don't approve of the way they are written. Has there been out of the four pro-usals we have considered and adgred, has there een one proposal out of those four that hadn't add at least two hunder damend ent offered, or,

Mr. Munion Mr. Lairan, I would the to yield

We stress We choice an and fell writelegate, 1, of non-e, rise to increase the output for the rise of the doller favor (1, 1), and (1, 1)

existing law are recognized and ratified." The purpose of that sentence is that when we go to talking about how we are going to change boundary lines or dissolve or consolidate parishes, the committee thought it was appropriate to have a do sentence acknowledgement of the fact that we do the sentence acknowledgement of the fact that we do the sentence acknowledgement of the fact that we do the sentence acknowledgement of the present constitution with the following changes: It increases the number of persons that may be included within a new parish to fifty thousand, as opposed to seven thousand which was included in the original or in the 1921 Constitution. I would be glad to answer questions.

Questions

Mr. Winchester Mr. Perez, the first section says "All boundaries are established, recognized and ratified." We are having a boundary dispute with the parish of Iberia. What does this do to thot...

<u>Mr. Perez</u> It does absolutely nothing to it. Whatever the legal rights are under the existing law. that is what the courts would eventually determine. There is no attempt made in the first sentence to change any boundary lines or to settle any boundary disputes. All it does is to recognize that wherever that boundary may be leagally located, that's where it is. It would have no effect on any boundary dispute between parishes.

Mr. Winchester Thank you.

Mr. Dennery Mr. Perez, what is the number of inhabitants in the smallest parish in the state right now?

Mr. Perez I do not know offhand.

Mr. Dennery Where did you get the figure that you increase...

Mr. Perez The figure was determined by the committee. After discussion they felt that seven thousand was much too small a number to have within a new parish. It was a number which the committee came up with which they though twas a reasonable number for the creation of a new parish. There's no magic in the number fifty thousand.

Mr. <u>Dennery</u> Well, what was worrying me was that I don't know how small the smallest parish is. Does the staff have that information possibly?

Mr. Perez Sir?

Mr. Dennery Do you think the staff has the information with regard to the populations?

Mr. Perez I'm sure it can be furnished. I don't know that we have it readily available.

Mr. Dennery One other question, Mr. Perez, please, sir. I realize the language...

Mr. Perez If you don't mind, I'll determine from the staff whether they have the population figures of each parish.

Mr. Dennery I have one more question when he answers this one.

Mr. Perez We do not have those figures readily available at this time.

<u>Mr. Dennery</u> Mr. Perez, one other question. I realize the language is the same as the present constitution, but what happens if a parish reduces in population below the figure which you have there?

Mr. Perez This only deals with the creation of new parishes or the dissolution. It has nothing to do with existing parishes. <u>Mr. Arnette</u> Mr. rerez, is there any particular reason for having this last sentence in Paragraph (B)?

Mr. Perez Well, the particular reason would be a prohibition that no new parish could be created unless it had a significant number of people. It would seem to me that we should have some safeguard that we couldn't create a parish with one hundred or five hundred or two or three thousand people. I think it is a reasonable limitation placed upon the creation of a new parish.

<u>Mr. Brown</u> Mr. Perez, that concerns me too as to why you even need that last sentence. As l understand it, before there can be any consolidation or creation of a new parish, it takes a twohirds vote, doesn't it, of both parishes involved and it also has to pass the legislature as such?

Mr. Perez That's correct.

Mr. Brown. Do you realize that there are a number of particles? I represent ...every partial represent as a senator--and I represent six of them--there is not a partial that has a population of more than twenty-five thousand people. When you say fifty thousand...

Mr. Perez Well, neither does my parish have fifty thousand, but all we are talking about now is the creation of new parishes and would not have any effect whatsoever on existing parishes.

Mr. Brown Are you aware of the fact that up in Ouachita Parish right now there is a very hotly debated issue going on as to whether West Monroe should be part of a separate parish? There is a strong feeling from a lot of people up that way, so I understand, that they should be a separate parish. Under your provision Quachita Parish could never, if they so desired, split up into two parishes because...

Mr. Perez I have no strong feeling, and I don't believe the committee does, with respect to the fifty thousand number. But, it seems to me reasonable that we should have some minimum number in the consitution so that we would not have any ridiculously small number of people to create a new parish.

<u>Mr. Brown</u> But, wouldn't you think that the twothirds provision of having to vote plus the vote of the legislature would be a pretty good safequard?

Mr. Perez Yes.

<u>Mr. Brown</u> You think you've got to have a specific number?

Mr. Perez Yes, it would be.

Mr\_Muson Mr. Perez, along the same line perhaps... Treatize that this doesn't have anything to do with any present parish when you're talking about size or population; it only pertains to a creation of a new parish. Would you mind expanding a little bit on your remarks as to why six hundred and twentyfive square miles or less than fifty thousand inhabitants?

Mr. Perez First, under six hundred and twentyfive square miles, that's the provision in the present constitution. The fifty thousand is just again the number that the committee felt that before that such drastic action would be taken to divide parishes or consolidate parishes, there should be that number involved. I don't believe there is anything magic about the fifty thousand number, however.

Mr. Munson Do you know...one more question then. Do you know out of the present sixty-four parishes, how many parishes do we have that, we will say, are less than fifty thousand inhabitants?

[1305]

Mr Perez I do not have any statist s before me at this time I don t know, Mr. Munson, offhand.

Mr. Perez, notwithstandin Mr. Roy

Mr. Perez Pardon me, if I ay, ust to ive Mr Munson the information. The staff has provided me with the figures saying that forty-three parishes

<u>Mr. Roy</u> Notwithstanding that the six hundred and twenty-five square is provision is in the present constitution, it like your fifty thousand figure

Mr. Perez It's a carry-over from the present constitution. That's correct.

Nr. Roy, Well, don't you think we ought to let the local inhabitants and the legislature decide something of that statutorial material as to an arbitrary number like iffy thousand, especially when you point out forty-three parishes have less than forty thousand people?

The committee was strongly of the opinion that before such drastic action were taken Sum that before such anasits action were taken as to either divide parishes, that they should be under strict limitations. Again, the figures involved are a carry-over from the present consti-tution with respect to the square miles; the number of inhabitants was increased by the committee.

 $\frac{Mr.\ Roy}{1}$  . Well, is it...does the committee think that if three-fourths of a parish want to separate, that that's such drastic action that they should not be able to do so without a magic number of the...

Mr. Perez inless the three-fourths of the parish want what?

Mr. Roy Want to separate into two parishes. Shouldn't that be the determination of those local people and not us ensconcing in the constitution a number live fifty thousand, which would prevent forty-three parishes now from being what they are?

Mr. Poynter Amendment No 1 [Ly Nr. (um) Page 1, defete lines 14 through 32, both incluive, in their entirety, and on page 2 delete lines 1 through 13, both inclusive, in their entirety and linert in lieu thereof the following "Section 1. Greation, Discolution, and Merger of Parishes, change of Parish inel, Change of

section 1 (A) The legislature may establish and organize new parish boundaries. If a major par shes, and shange parish boundaries. If a major ty of the ele tors voting at an election held for the purpose in each parish affected insent therei 81 The governing authority of a parish, yon the written petition of at least twenty-five per-ent of the elector of the parish, shall call an election on the question of ham by the last state of the hanne privided by the energies of the matter of a parish each shall be hanned if the third of the tate, in far a applicable. The matter of a parish each shall be hanned if the third of the total vote ast at the election is in favor thereof

Mr. Perez Frint of oder, Mr. Chaircan It's y understand of that the rules of our that we

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Perez, be leve the alendient are infer Mr Ensiletimate has a totels fall taring ubstantially as totel, in far a totel in hts, which were deter indit to far a to the fhair. I don't be a lostant offeren e

Mr Puin Mr Lhair an, felum deletate, , , have an amend ent before you whith will take care of Sections', 2, 3 and 4 of the consistency sa it will do so in half the aguage. I will near the very sa ething as 1 in the right and anguage, except that is so not have the language relating to the number of people in the language the square is 1 the information that is the constitution of the anguage of the

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the four sections that Mr. Pugh seeks to delete. We're taking the cart before the norse here, it would seem to me. There is more language in here, in the original committee proposal, gernane to this subject matter which is omitted from Mr. Pugh's amendment. I would like to hear affirmatively from the committee, since they spent so long discussing this matter, why it's here before Mr. Pugh tells us to take it out.

## Ruling of the Chair

Mr. Henry Mr. Derbes, your point is well taken. The amendments are still in order and the members of the committee can, during their discussion on this amendment as to whether they will or will not accept it, can bring into play these other sections that you are speaking of, sir.

Ouestions

Mr. Duval Mr. Pugh, looking over your amendment, it appears from reading the language that a large parish could absorb a smaller parish by merely a majority vote. Now, do you mean that each parish would have to approve it by majority vote or the total number of the voters voting, a majority of the total number of voters voting?

Mr. Pugh I believe that it says "in each parish," which would require both of the parishes.

<u>Mr. Duval</u> In that case. J would agree with you, but the way I read it I don't think it says that, yoting at an election held for the electors yoting at an election held for the purpose in each parish affected consent thereto." The way it's phrased, it appears it could go either way; it could go where all it takes is a majority of the voters period.

<u>Mr. Pugh</u> When you say each, you are talking about more than one. You say each parish affected, and I don't know how you can more simply put the phrase.

<u>Mr. Duval</u> Well, I think it could be phrased differently because it merely requires each parish to vote but...the way I think it's read.

Mr. Champagne Mr. Pugh, I don't know if you are aware of it; I could go for your amendment providing, of course, the thing that worries me iss a two-third worte of the electors woting. I simply find that if a majority is all you need, we're going to have some changing of parishes; we're going to have some elections, every once in a while when this other end of the parish is unhappy with this end; we're going to have this voting around, and you may have the big ones eating up the little ones, and I'd rather see heis people may be happy with the situation as it exists.

<u>Mr. Pugh</u> I have no objections to that and would withdraw the amendment for that purpose, if you'd like. I'm talking about the number to call as distinguished from how you're going to actually do it.

## Recess

Quorum Call: 103 delegates present and a quorum. Amendment withdrawn and resubmitted with correction. Amendment reread.1

## Explanation

Mr. Pugn. Mr. Chairman, fellow delegates, the amendment you now have before you accomplishes the desired results of satisfying the questions from the floor, one being the requirement of two-thirds instead of a majority; the second being the elimination of the twenty-five percent by the people; the third for Mr. Perez--I put subparagraph (C) in relating to the existent parishes and boundaries. The technical change was brought about by the fact that, as I appreciate it, if you adopt this amendment, then by Amendments 2, 3, and 4. I will eliminate Sections 2, 3, and 4 because they will then have been totally covered by this section.

## Questions

<u>Mr. Casey</u> Mr. Pugh, according to my understanding, your amendment deletes line 14, and my question is, why do you delete "Part I, General Provisions," if you're deleting line 14?

<u>Mr. Pugh</u> Because I had some amendments coming right behind this one for other sections which will take care of that.

Mr. Casey Well, so therefore, there will be no "Part I. General Provisions," and then there will be no "Part II, Finance," is that correct under this paritcular proposal?

Mr. Pugh It comes out as a different section, and not being paragraphed by those names. We're eliminating those two more lines is what we're doing.

Mr. Abraham Mr. Pugh, I don't understand the need for Paragraph (C). I know what you're trying to say, that you're retrying or recogniting to say that you're retrying or recogniting to twenty years from now, it says, "All parishes and boundaries established under existing law recognized and ratified." So, does it really mean anything?

Mr. Pugh No, and I ordinarily would not have had it in there, did not put it in there. Mr. Perez asked me if I would, and I did.

Mr. Fulco Mr. Pugh, isn't it true that you're leaving out the part concerning a petition by twenty-five percent of the electors?

Mr. Pugh Senator Rayburn asked me to do so, and I did.

Mr. Fulco But, don't you feel that that would be a mistake, that we would be depriving the people of a right to call...to petition the governing authority to call an election for that purpose?

Mr. Pugh. No., I don't think they are being proibiled from doing that. I believe that anytime twenty-five percent of the people want anything, the governing body will give some consideration to their request. I don't think you're taking a thing away from them.

Mr. Fulco I know but, Mr. Pugh, we are not providing in your amendment for the people to have this right. In other words we are leaving it up to the governing authority of the parish to call or not to call an election, and they could very well call and they could very well not call an election, and the people who would want this change would have no right or no opportunity to require it.

Mr. Pugh That is correct, until the next election.

Mr. Fulco Don't you think that people should have this right? They are going to have to pay the cost for the new courthouse and furnisnings and provisions. Yet. in addition to that, this is a government of the people, for the people, and by the people, and I know how you feel. I know you want that in there because you had it in your original amendment, and I even think "Sixty" wants it it there, but I don't feel that "Sixty" realizes what he's doing, and I hope that "Sixty" realizes that a thought. I do, I really do. Do you realize it, as I'm sure he doesn't, and wouldn't you agree that is there?

Mr. Pugh Well, I had it in there initially. I'll reiterate that Senator Rayburn asked me to take it

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does not take care of that problem, and if you a-dopt this amendment, and it stands in place of Sec-tions 1, 2, 3, and 4, we leave open that question which, I think, seriously deserves consideration by this convention. Lastly, Nr. Fulco has pin-cept with respect to the change of a parish seat and the one advanced by Mr. Pugn. It that if whether the difference between the committee com-duction of the section of the seat and the one advanced by Mr. Pugn. It that if whether the section about the section about view of the majority of the committee that if ...there ought to be some means of bringing about consideration of the change of a parish seat and that it ought not to be left solely to the dis-cretion of the governing authority of the parish. For that reason we provided for petitions signed We reby twenty-five percent of the people. We re-tained the two-thirds vote requirement because we felt this was a significant enough change to be acted upon only if two-thirds of the persons who vote in that election are in favor of it. I say to you that if you read the committee proposal, you'll find that the language, with respect to the vote that's required, is much better language than in the Pugh proposal, and I think what Mr. Pugh is suggesting that we simply make changes for change's sake, and I would be in favor of that excent that we make significant substantive change by twenty-five percent of the people. except that we make significant substantive changes in the committee proposal through the adoption of the Pugh amendment, and I therefore ask that you reject it.

Perez Mr. Chairman and ladies and gentlemen Mr. Perez Mr. Challman and forces in purpose, of the convention, I only rise for this purpose, to try to caution all of the delegates that we in local Government Committee, as all the other committees did, went into these matters very carefully and carefully suggested the words that were used, and basically, as I would understand it, the attempt of Mr. Puph's amendment is to do the same things which are provided in the committee amendment with two exceptions. But the wording is rather clums, and I'd like to call it to your attention. It says, on line 3, 'if two-thirds of the inter committee a set of the same the for the currous in the committee proposel with respect to that particular issue, "the change shall take effect only if two-thirds of the total vote cast on the question in each affected parisin, is in favor thereof." It took us quite a good. in Local Government Committee, as all the other vote cast on the question in each affected parish, is in favor thereof." It took us quite a good while to be sure that the sentence meant exactly what it should mean. It think it's just a dan-gerous procedure on our part to helter-skelter change the work of a committee which has carefully considered the matter. Now, in my judgment, there are three issues apparently now which are arising, and I would hope that the convention would consider these issues separately. One is whether by general or special law the legislature ought to be able to channe houndary lines: two, whether or not the change boundary lines; two, whether or not the limitation should be in here with regard to the number of square miles and the number of inhabinumber of square miles and the number of inhabi-tants in a new parish, and the third would be way over in Section 4 with respect to the number of persons that would petition for change of the location of a parish seat. I would strongly urge that we should go about our business in a more orderly manner, and let's see if we can't approach the legates have on opportunity to understand ex-actly what it is they are voting on, and so that they can vote more intelligently than you would do under a combination of consolidating three or four sections at one time with a great deal of do under a combination of consolidating three or four sections at one time with a great deal of difference of subject matter. It's for that reason that I revuctantly "up you to defeat this amend-ment, but it basically is attempting to do other than this general law provision. The same thing that the committee proposal already has in it with the exception of the two other areas that I ve pointed out ot you. Therefore, I respectfully ask that you support the committee proposal.

Mr. Nov Mr. Ferez, I take what you are worried <u>mr. roy</u> mr. levez, I take what you are worried about and Mr. Kean, with respect to the words "general law" used on page 1 at line 19, is that you think the legislature could provide any special way for changing parish boundaries and what-have-you?

<u>Mr. Perez</u> Yes, I would think that the legislature without the words "by general law" could come in and say, "We decided that we ought to consolidate the parishes of Lafourche and Terrebonne and Jefferson, and it shall be done in this way."

in , wy wo, out isn't that fallacious in that the only way that the legislature may do it and is protected by Mr. Pugh's amendment, it still requires a two-thirds vote of the people in that parish? No, but isn't that fallacious in that

Mr. Perez It still requires that vote of the ple back home, but again the provision, in the It still requires that vote of the peojudgment of the committee, there should a general law applicable to all parishes for which the... procedure for which would be set out as to how parishes would be consolidated, merged or boundary

<u>Mr. Roy</u> Now, the other question I have is, how would under your Section 2, how would you ever get to change a parish line since you all don't provide for the special cull [call] how it'll come about.

I'm sorry; I didn't understand your Mr. Perez

Roy Who's going to bring the special election about provided for in line 29 at page 1? How

<u>Mr. Perez</u> I still don't understand your question. You mean the change shall take effect only if two-thirds of the total vote cast on the question in each affected parish in favor thereof?

Right. Rov thirds vote is provided, but this special election, who will call it? It doesn't say the legislature may call it?

Mr. <u>Perez</u> It would be provided under line 19, "The legislature shall provide by general law for these various changes," and in the act of the legis-lature it would set out under what conditions the election would be called, and so forth.

Mr. Roy That's where I find I have trouble because lines 19 and 20 say nothing with respect to changing a parish boundary line. It just says, "creation, consolidation, or dissolution." That does not say anything about changing parish boundary lines like Section 2 specifically states, you see? You specifically state on line 26 and 27 a way for changing parish boundary lines, but you don't provide for it to come about. So you all's sections leave out a very integral part of what you're trying to argue.

Mr. Perez Not in my judgment, Mr. Roy.

[Fre'1\_us Qu stin rd\_red. Rec rd te ordered. Amendment adopted: 64-46. Motion t re insider tabled.]

Amendment

Mr. Poynter

nr. roynter Delegate Abranam Senos up the forther ing amendment: Amendment No. 1, on page 1, between lines 14 and 24 as omitted by the floor amendment proposed by Delegate Pugh and adopted by the convention on September 9, 1973, delete in its entirety Paragraph (

Mr Abraha The reason I offer this amendment increase I abn t under land, or don't see or interpret the language of Section a what I thin they intended A1 understand It, what the ur of e of the Section C is to say that the parishe and boundaries as of the effective date of this constitution are raified and re ognized what this the use of each section C is a section of the section C is a section of the section C is the section arte, and chat then is the exiting law, so what are we really sayn, when we have this Paragraph in the contribution may think it extra language and the hit s superflowes, and to me it desent ay anything at all because existing awap. He to the particular time or period that you are asking about. It might be today; it is the exiting law then. Now, if the intent is to say that the parishes and the boundaries as eithlight as of the effective date of this collition are recognized and ratified, well, then I can understand that, but is do not see the language as it is presently written, and that is why I've offered an an end-ment to have it taken out.

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, the reason that the clause was put in the original proposal by the com-

Mr\_oravel Mr\_fere, would you aprie however. That entrono monodore rice at dit rice observer. That rentrone rice rice ay in that the however with rice units of a hiddler to prove

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Mr. Tobias B.t. aren tyu titta zi omething that not presents nine titt whereas in the uditary Arthe second tionalizin ethin tatwas alreay in term

Mr. Bounter entremt h Mr. On page 1, Jie Va, in Tor realists to impore by elegate to the set of the ten word to day, in the till be also writer the word of an before the word with or the entre the words two third and in it in the tener in the words a risk to be the set of the the words a risk to be the set of the words a risk to be the set of the words the set of the set of the the words the set of the set of the tene be the set of the set of the set of the set of the tene be the set of the se

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No. (2.1) We concrete the following the problem is a second structure of the second structure of th

of the people want something, let them have it. But, we all realize that with respect to most elec-tions, there's only the relatively small number of people who vote. We felt that in a matter of this great an importance, that definitely a two-thirds vote should be required instead of a bare majority because when you go to change parish lines, you are seriously affecting the very makeup of local government and the area which it affects. So, in my judgment, it would be ill-advised to allow a bare majority to change the parish lines or to consolidate parishes.

# Questions

Mr. Burns Mr. Perez, don't you feel that this two-thirds majority, is it really the only protection a smaller part of a parish would have or a smaller area would have against a heavy populated area, on the other hand?

Mr. Perez There is no question about that, si and this is a very, very dangerous thing if we do not retain the two-thirds vote. There is no question about that, sir,

Mr. A. Landry Mr. Perez, if we adopted this amenomenci, it would mean that just a simple majority of the people in...or the voters, not the people, but the voters who voted in an elec-tion could change the parish seat and, yet, not provide any funds to so move it. Is that correct?

Mr\_Perez Well, as I understand it, the Amend-ment No. 2 is rejected, so it no longer applies to the parish seat; it would only apply to the change of boundaries of parishes, consolidation of boundaries, etc., which is of even greater importance than a moving of a parish seat.

<u>Mr. A. Landry</u> (B) says: "Location of a parish seat shall be changed if two-thirds of the votes. I'm just wondering. I thought his amendment also changed that.

It's my understanding that he withdrew Amendment ND. 2, so that his two-thirds vote would apply to the change of parish boundaries, consolapply to the change of parish boundaries, consol-idation of parishes, and it would be a very, very dangerous thing to have a majority of a percentage of voters have the long-range effect of changing parish boundaries or of consolidating or merging parishes.

Mr. A. Landry In other words, you could have a light vote like we had on some bond issues of less than twelve percent of the people who are registered to vote, and seven percent of the reg-istered voters would be a majority.

Mr. Perez That's the reason this two-thirds pro-vision is in there, and the committee was over-whelmingly in favor of this particular provision.

Mr. Dennery As 1 understand this amendment, it two parishes are merged, that can be done by a majority vote. After the merger, however, a parish seat has to be changed, 1 would assume. Therefore, you would require a two-thirds vote for that.

No, sir. As I understand the amendment, it's just the opposite. It would take two-thirds to change a parish seat, but only a majority to merge parishes, which doesn't make any sense at all to me.

Mr. Pointer Amendment No. 1, sent up by Delegate Gravel. On page I, in Floor Amendment No. 1 pro-posed by Delegate Pugh and adopted by the convention on today, on line 6 of the text of the amendment after the words "two-thirds" insert the words "or

wore" and on line  $1\frac{1}{2}$  of the text of the amendment after the words "two-thirds" insert the words "or

After each vote requirement it would say "two-

Mr. Gravel Mr. Chairman, ladies and gentlemen of the convention, this amendment just is a technical amendment to make sure that we're not locked in with a specific vote of two-thirds and to require that the vote be two-thirds or more of those voting to accorplish the purpose of the amendment. I move its adoption.

<u>Mr. Perez</u> I might say we have no objection to the adoption of the amendment, but this is a perfect example of how you have taken a committee proposal which was very carefully worded and, quickly on the floor of the convention, have changed it up and there are still other defects in this par-ticular article, but I don't intend to move any further with amendments. But I just wanted to call the attention, hopefully for the future, that we will consider a little more carefully the committee proposals. committee proposals.

## Ouestions

Mr. Correy. Mr. Perez, are you aware that through-out most of the articles we have adopted, particu-larly the one on legislative powers, we frequently referred to a two-thirds vote of the members of each house of the legislature, and never said two-thirds or more of the members? Mr. Perez, are you aware that through-

Mr. Perez Yes, I understand that, but what... again, I'm just calling the attention... The original committee proposal was well drafted, and what we're doing here is trying to patch up some-thing which was ill-conceived and thrown into the amendment at the last minute, which really did the same thing as the committee amendment did. But again, in order to try to help it out and improve it a little bit. I'd say we have no objection to it.

more" m mith Mr. Perez, do you think "two-thirds or make any sense?

Mr. Perez No, sir, I don't think it makes too much sense, but what I'm...again, what I'm saying is that it's a little bit better, I believe, than it was before.

Mr. Smith Well, don't you think it's best just to leave it like it is?

Mr. Perez Well, I'm afraid that when you say "two-Thirds," it means exactly two-thirds, not one less than two-thirds or not one more than two-thirds.

Mr. Smith Well, isn't that the way the tax law reads in the constitution, "two-thirds of the

Mr. Perez It says "At least two-thirds of the elected membership of each house," which is a lot different than the verbiage that's here. If I may finish answering the previous question, you see, we very carefully in the committee pro-posal selected our words, "The change shall take effect only if two-thirds of the total vote cast thereof." This wording is very confused, in my

Mr. <u>Goldman</u> Delegate Perez, isn't that superfluous language? If it takes two-thirds to gain an ob-jective, if more than two-thirds voted, you wouldn't

Mr. Perez I'm not the author of this amendment, sir.

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I was wondering where the courts would get in on that because I would suppose it's a legislative guestion.

Mr. <u>Perez</u> Well, the courts, of course, would get in just as they would under any other provision in the constitution, is after the act of the legislature is passed, and if someone would decide to go to court and say that this particular parish which a new parts in which an even parts is the part of a parish in which an even parts is the part of the courts, then, to determine whether or not this constitutional provision had been followed-just as you would interpret any other provision in the constitution.

Mr. Tate I understand what you're saying, but I'm just trying to visualize, for instance, assets that are in the parts of the parts just instance assets that proportion is they get that courthouse. But, if the legislature determined otherwise, I wonder what the courts could do?

Mr\_<u>Berez</u> Justice Tate, you are a member of the Supreme Court, and 1 see you fellows interpreting this constitution of ours everyday, everyday, and I don't see there's anything different between an interpretation of this particular provision or any other provision in the constitution.

Mr. Poynter Amendment No. 1 [by Mr. Pogh]. On page 1, delete line 32 in its entirety and on page 2, delete lines 1 through 6, both inclusive in their entirety.

## Explanation

Mr. Bugh Mr. Chairman, fellow delegates, the confusion was that my original amendment had attempted to delete all of these sections. The Chair called to my attention the fact 1'd have to have separate amendments to delete them. There are two things that concern me about the existing provision submitted by the committee, and there's a reason lead sout the stating provision submitted by the committee, and there's a reason lead sout the system going to get what assets. Obviously, the people are not going to vote on changing part of the parish until they know what they are going to get or what they are going to lose. It's not a practical problem. But, more important than that, in my opinion, is the fact that this suggets that emen, it's inconceivable to me that a parish could provide for bonds that the whole parish would be liable for, then divide the parish into two parishes, and one of the two avoid the debt. Obviously, the debt affects the whole parish, so to talk of dividing assets and dividing debt is absurd. To me, if we left that in the cot her validity of the bonds. New, it may well be in the present constitution. All I'm saying is it has no reason to be in this constitution, and should be eliminated.

## Question

<u>Mr. Singletary</u> Mr. Pugh, I just want to get straight on what your original amendment did. Did it delete line 14, or did it begin with line 15?

Mr. Pugh Sir, I deleted the phrase "general provisions," if that's on line 14. I thought I discussed that with you at my chair. I did intend to delete "general provisions"...

Mr. Singletary I thought I heard Mr. Perez say line 15.

Mr. Pugh Well, he may have. I'm sorry. I reiterate I ask you to adopt the amendment on this section.

## Further Discussion

Mr. Kean Mr. Chairman, fellow delegates, 1 re-

warked on this question at the time Mr. Pugh', origilnal proposal was before you. This particular section hobeen in reat' Louisinee decided cases under this provision. Now, in answer to the question, I think, that Judge Tate raised, a question did occur in connection with a division of the property. In the case of Fontenct v. Young, the Louisiana Supreme Court said it had the authority to decide whether or not a Just proportion had been made in accordance with the constitution. I say to you that then it becomes simply a legislative matter without any recourse so decide that one half of the parish would get all of the assets, if it happened to be over in that side; and the other half, which is a newly formed part of the parish would get nothing. At least with this provision you'd have a right to circumstances, I think that this provision should be in the constitution. It has been in the constitution it has been litigated, and it has served a useful prope to assure a just division of the assets insofar as this...as a merger or consolidation, or a division of the parishs are concerned.

## Questions

Mr. Tate Mr. Kean, that's the very thing I was worrying with a minute ago. Nan't <u>Fontent v.Young</u> the case which held that Evangeline Parish was improperly created in about 1912. In other words, it created a judicial question out of what was essentially a political question.

<u>Mr. Kean</u> Well, it also got into the question of rights and coll gations as insolar as the new parish provision by which you got into that question. I think it's simply a legislative matter. Under the circumstances, there'd be no right of the count to inquire into the question of whether there was just proportion of the assets distributed between the parishes. I think insofar as Mr. Pugh's question about debu and in's impair the collision of that debt. But, again, you'd have the question of the debt. But, again, you'd have the question of this debt. But, again, you'd have the the interval thing, does it have to raise as much money as the rich side of the parish in order to retire their debt, or can the legislature adjust that between the two?

 $\frac{Mr. Tate}{2} \quad \text{Well, could you put the question another way? If the legislature saw fit to submit to the people this proposition and if the people wanted it, what business is it of the courts to upset it, if no debtors are concerned, etc.?$ 

<u>Mr. Kean</u> I'm not too certain that the legislature would have to get into that question insofar as submitting it to the people is concerned. I thought Mr. Leithman was sleeping. I couldn't believe he was asking me a question.

Mr. Henry Dh, he just rests like that, Mr. Kean.

<u>Mr. Drew</u> Mr. Kean, if this provision was deleted and a new parish was created, wouldn't it lead to the not only possibility or probability that parish would say "We owe no debts whatsoever"?

<u>Mr. Kean</u> I think that's the very reason for having this provision, Mr. Drew. It certainly does no harm in the constitution and apparently has been used in the past for the purpose of disposing of this kind of a question.

Mr. Tobias Mr. Kean, Jam reading line 3 of Sectim 3, and its ays. Lines 3 and 4, and it reads: the second second second second second second When it ays the word "property" does that mean the land area or does it mean the physical property such as automobiles.

Mr. Kean I think it' talking about phy i a second ent of the part h

Mr. Toolal Gor't othink that wird is a house

Mr. Yean well, if tis, it been amblig united 79, Mr. Toblas

Mr. rean well, I wont too sure I understood what wodge ate said, but if that was the point he was ainm, it sees it is there is no reason to reave this to chance. Now, the question of due proces would be involved, partirularly under cir-ulatances where the courts in this state have neld up till now that a unicipality or a parish is not a person within the eaning of the due pro-ces clause. I you looi at the case of Penny v Bowden, you II find that ho din by the court.

Mr. R.y No, we're talking about the individual citizen that would be harmed by it.

Mr. Kean we , talking about the ageny that being split, and the part h that related on the two divisions that relatin having a right to go

Mr. Ro. You are really worried about Mr. Drew s user ton! o you think that the leislature wou'r ever subrit to the people a proportion that if the new parish is formed, it won't owe any of the debts?

Mr. Yean Mr. Roy, I ve been watching the legi-lature ince 1936, and you'd be surprised at some if the things the legislature would do.

Mr. Roy — I understand, but don't you think then the other portion of the part h wou dn't give a two-thirds vote if it was in mit be add ed with

Mr. Yean It may not, but I see no reason not to afford the the protection

Mr. Kulari

Mr Pieler Mr Hean, et e try you on this string to the point of the second hear that explanation inst field, has this priviling in extend even men used before? I know it's been in the turn thus the second hear thear the second hear thear the second hear thear thear thea

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existing now. Is that correct?

Mr. Kean That's correct. The City of Houma, for example, has a special charter as I recall it, and this would permit, by a special law, the amendment of that charter.

Duval But it continues the prohibition against creating new legislative charters. Is that right?

That's correct, and would require a newly incorporated municipality to either go under the Lawrason Act or to vote to go under one of the other forms available.

Thank you. Mr. Duval

<u>Mr. Roy</u> Mr. Kean, what was the...what is wrong, or what was the committee's reasoning for not allow-ing cities or municipalities or political or associations to form under some special charter?

<u>Mr. Kean</u> Well, I think that new municipalities today can be better operated under the general Lawrason Act, and under the circumstances, con-tinuation of legislative charters just gets to be a problem. Since they have been prohibited since 1921, I think it was the feeling of the committee we ought to continue that.

Mr\_Abraham Gordon, what is the...please explain to me the significance of the last sentence in that it allows the...a special or local law where there is a charter in existence. Why does it... does it take a special law each time anyone...par-ticular one would want to amend his charter?

Mr. Kean If you have a special legislative char-ter which is really an act of the legislature, if you don't have the right to amend that by special law such as this would provide, you have a problem of far as future amendments to those special charters are concerned. There are about fifty of them, as I recall it.

Mr. Abraham A general law could not take care of

Mr. Kean No, it wouldn't solve that problem.

## Vice Chairman Casey in the Chair

## Amendment

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Pugh], on page 2, delete lines 14 through 23, both inclusive in their entirety and insert in lieu thereof the

Section....it's drawn as Section 2, Mr.

Section...it's drawn as Section 2, Mr. Pugh, and until later and we see how many sections are eliminated, we might just stick with the same sec-tion numbers. Style and Drafting, if not done before then, might be able to change them. "Section 6. Municipalities, Incorporation, Gov-ernment, Consolidation and Merger. "Section 5. The legislature shall provide by overment, consolidation, or merger of municipalities. It shall not create a municipal titles. It shall not create a municipal to a mend, modify or repeal the charter of any municipality by local or special law, except that a special by local or special law, except that a special legislative charter now in effect may be so amended, modified or repealed as long as it continues in effect."

<u>Mr. Pugh</u> Mr. Chairman and fellow delegates, this does not change the substance at all of the section as submitted by the committee. It does take two sentences and roll them into one. I think as ul-timately printed, it will cut off a couple of lines. It is my understanding that Mr. Kean would agree that there is no change in the substance, merely one of style and English construction.

## Duestions.

Mr. Deshotels Mr. Pugh, you stated that there were no substantive changes.

Mr. Pugh That's correct, sir.

Mr. Deshotels May I ask you, sir, when did you draft this particular amendment?

Mr. Pugh When did I draft it?

Mr. Deshotels Yes, sir.

<u>Mr. Pugh</u> Yes, I drafted this amendment, I believe it was last Friday. Then, at the request of Mr. Gordon Kean, I added the language, "create a munic-ipal corporation nor". I did that during the lunch

Mr. Deshotels Did the staff go over thie proposal, or amendment, Mr. Pugh? Did the staff go over any part of

Mr. Pugh I couldn't tell you.

Mr. Deshotels staff or eshotels You haven't submitted it to the or anybody for their opinions on whether there might, indeed, be substantive changes?

No, I have not. I did submit it to Mr. Mr. Pugh No Gordon Kean.

<u>Mr. Abraham</u> Mr. Pugh, if this does not do any-thing substantively and just simply changes the language the way it is written, can't Style and Drafting go ahead and do the same thing with the language as proposed in the proposal?

Mr. Pugh I assume so.

<u>Mr. Perez</u> Mr. Chairman, ladies and gentlemen of the convention, aren't we getting a little bit ri-diculous with these amendments? It's recognized that there is no significant change made here, and that there is no significant change make mere, and on this that the third of the second significant of the mere thim of saying, "There's no real change, but I consoli-dated two things into one sentence instead of two sentences." Aren't we getting a little ridiculous with these amendments?

Motion to remonsider tabled.]

## Reading of the Section

<u>Br. Poynter</u> Section 6. Classification. Except as provided in this constitution, the legislature may classify parishes or municipalities according to population or on any other reasonable basis related to the purpose of this classification, and legislation may be limited in its effect to any of such class or classes. However, no staute which is applicable to fewer than six parishes or municipalities, shall become operative in any such parish or municipality until approved by ordinance enacted by the governing authority of the affected parish or municipality.

## Explanation

Mrs. Zervigon Mr. Chairman and Delegates, the Intention of this is to fit in with Section 13 of the Legislative Article. If you remember, in Sec-tion 13 of the Legislative Article, we provided that a local or special law could be passes if it were advertised in the local area ahead of the time that it was introduced into the legislature. It has to be advertised twice, at least thirty days

before the session. If something should happen that would prevent a legislator from advertising a bill, he could then,

ice of doing it, we defined a character a two one which affects fewer than standard ties I yield to any questions

ue tion

Mr. that again Mr. Zervinn, i would be in eleent with your proposal e ent i wouldn't want it to be retroactive. There are off retirement systems in some instances, parishes i don't think it fair to just cut these people out. In there words, if it's cear that from here on out we are going to do it this way, but i would not like to go back and ut these people out, or ask the, in effect, to vote again this con titution because they themselves are bein cut ut of it. This the guestion have.

Mr. Duval Mary, the purpose of this section, why the agic number, six, first? Let me alk, why did you pick six in order for the second sentence to come into effect?

Mrs. <u>Zervigon</u> That isn't a holy number, Stan. What we are saying is, "if you are going to affect us, either tell us in advance, aik for our consent, ur give us allies.

Mr. Luval In other words, it's the purpose of this section to avoid, under the guise of a general law, a special law being effected that only affects one municipality, for inclance?

Mrs. Ze vison. Ab olutely, or you ould pass a veneral law that affe ted all loa tal parishes that begin with the letter,  $\mathsf{P}^n$ 

Mr. 'uva' Is there any way, perhap, do you think that this could hamstring the le is ature, though, in not being able to make proper class fications?

Mr Zervijn No, I really don't hey an ake wratever, lassifi,ations they want huuid he lassifiation be aller than thi, ou wold wither have to advertise in advance in et the adventatice of the II al governin body it ive the we ways at that I thinh they wold be freer than they are wike, a saiter of fat

Mr Luval D r

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Mrs. Zervien And that's the therm e

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Mr. Zervigon Yes, sir Alt at the present

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A laration

<u>Mr. Avant</u> Mr. Chairman, ladies and gentlemen of the convention, thank you for your attention. Let me preface my remarks by saying that no right-think-ing person would advocate any piece of arbitrary ing person would advocate any piece of arbitrary or discriminatory legislation that had as its ob-ject and purpose the punishing of any parish or any area in this state or municipality in this state. And I am certainly not advocating such proposition and I think that we have adopted, here-tofore, adequate provisions in this proposed con-stitution that will prohibit that. But this ef afother color. It or "the annici afore any classify" another color. It contains an illusion. It starts off and it says, that "the legislature may classify parishes or municipalities according to population or on any other reasonable basis related to the purpose of the classification, and legislation may be limited in its effect to any such class or classes." Then, in the very next sentence, it takes all that away because it says that "no statute which, as a result of its operation, nis statute which, as a result of its operation, nis opilities pull be operative in ny such classify or municipality until it has the blessing of the local colitician." local politician."

That's what it says. It doesn't say the people. It says the governing authority. Now, it doesn't take any great genius to think about five seconds and come up with at least a dozen categories in and come up with at least a dozen categories in which the legislature may reasonably adopt legis-lation which will, in its effect, be limited to log view our a few reamples that came to my wind just in a flash. Cities over two hundred and fifty thousend in population, parishes wherein a nuclear generating facility is located, parishes where there are deep water ports for oceangoing vessels, parishes where the pollution index might exceed a certain figure for a certain number of vessels, parishes where the pollution index might exceed a certain figure for a certain number of days of the year, parishes where automobile reg-istration exceeds a certain number, and to gethere Type spent all my life. What about the parish in which the state capitol is located? I can entirely conceive that in the interest of all of the people of the State of Louisiana, that the legislature may, someday, need to enact legislation which, in its effect, will apply only to the parish in which the state capitol is located because of the fact that it is the parish in which the sets of govern of the State of Louisiana, that it would be wise to give to the governing authorities of this parish veto power over that legislation. Now, I'm not saying that that's going to happen tomorrow, or next week, or within six months after this consti-tution is adopted if it is ever adopted. Buil say that you are tying the hands of the legislature. Say that you are trying the hands of the legislatum for a kingdoms. All four think we are talking about kingdoms here. We are talking about fief-doms...fiefdoms...sheikdoms...not nearly as big as kingdoms. I say that we are here to draft a proposed constiguion for the people of the State of Louisiana. If you put this provision in this constitution whereby, even though it is a reasonconstitution whereby, even though it is a reason-able classification, and bear in mind...bear in mind, that the legislature cannot classify by the expresses language of this section, except upn a reasonable basis; then, if they have so classified, and the basis is reasonable, by what stretch of the imagination you can suggest that if it's effect is to be applicable, initially, in only six or less parishes or municipalities, that each one of those parishes or municipalities that the governing authority should have the right to veto that legislation is beyond me. I say we are here, re resenting the citizens of the entire State of I say we are here, representing the citizens of the entire State of Louisiana. We should not forget "Lat. I don't intend to forget that. If there is any reasonable basis for classifying my parish or my city and maybe one or two others in the state, in order to protect and promote the interest of the entire state, then 1, personally, don't desire to have any veto power over that, because I think the legislature is the one to represent the people of the state and when they have acted on a reasonable the state and when they have acted on a reasonable

basis, that no segment of the state should have the right to veto what they have done.

<u>Hr. Tate</u> Mr. Awant, you raised some questions in my mind that I didnit realize were there. Do you interpret that ta mean, for instance, that these proceedural statutes that they pass all the time that say, for instance, that the venue in a suit against the receiver of an insurance company shall be in the state capital. Do you interpret that provision of the constitution to mean that after the legislature passes it, the East Baton Rouge City Council would have to approve that statewide venue provision?

<u>Mr. Avant</u> Justice Tate, I'm only reading what the statute says...what the provision says. It says, "No statute which is applicable to fewer than six parishes or municipalities shall become operative in any such parish or municipality until approved by ordinance enacted by the governing authorities of the affected parish or municipality." Now to me, that's plain language, and the answer to your question is, yes.

Mr. Roy Mr. Avant, under your interpretation, isn't it possible that the legislature, after months of hearing and stuff, could have some type of plan where six parishes, or even like a super-port would be involved, and if it was six parishes or less, that one police jury of one of the six parishes, after an overwhelming mandate all over, could by a simple majority vote, stop what the legislature and what five other parishes and all the people wanted?

<u>Mr. Avant</u> That's not a matter of interpretation, Mr. Roy. That's what it says. You don't have to interpret it to get that out of it. All you've got to do is read it.

<u>Mrs. Zervigon</u> If your amendment is adopted, what would happen in the case where a legislator cannot, or does not, for some reason, advertise his bill in advance, a local bill. Would he have to then wait until the next session of the legislature before he could introduce it and have it acted upon by the legislature?

Mr. Avant Mrs. Zervigon, I have not, in this amendment, considered the question of advertisement. I think we have taken care of that somewhere else thought about advertisement. I've addressed my-self to the sense of this section which is that the legislature may not pass any law, no matter how reasonable, or no matter upon what type of classification, that will be applicable to six or less parises or municipalities, except upon each of those areas having the veto right over that statute through its governing authority.

 $\frac{M_{\Gamma}-Blair}{1} \quad M_{\Gamma}-Avant, in 1970 I had a bill started off statewide, the annexation bill. It ended as one parish or a local bill. Now under this as it's written here with the six parishes, my bill would have been automatically dead, would it not?$ 

It would have been subject to the veto Mr. Avant power of the police jury or the other governing authority in any parish to which it was applicable, if it was applicable to six or less.

## Further Discussion

<u>Mr. Brown</u> Mr. Chairman, fellow delegates, I want to briefly echo what Mr. Avant said, and also the comments of Delegate Roy, and also Delegate Tate. I think this can cause us some very serious prob-lems. This comes to mind to me in the fact that representing a rural area in the legislature, I've had to deal with a number of local bills and look at a number of situations where, as we move towards the future, we're going to more and more have to deal with interparish relationships, municipalities

49th Days Proceedings—September 19, 1943 when use is frit, arrine ake of the to-indicate the end of the second to an tward even district of a the three to refive arrive here you had re-weight that we are not officially areas for not weight that we are in have to the here to refive a the arrive areas for not weight that we not officially areas for not be that we not be the top officially areas for not be that the not be top officially areas for the top officially areas for not be that the not be top officially areas for the top officially areas for not be that the not be top officially areas for the top officially areas for not be top officially areas for the top officially areas for top offi

Mr. \_\_\_\_\_action Mr Thair an, ladies and entle-men of the convention, I an a member of the oval and Parochal Govern ent, and I we so informed members of the climittee prior to the propolal coming to the floor, that there were certain sec-tions of oir artile that I have had a re poil bil-ley to get up and speak either for or al anst. And See floor went you to think I a up here without too that we oring to east that I had told the that we oring to react that I rise in support of Mr. Avant's ended and the vooted to our committee alender.

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much weight in something that is introduced from somebody from, let's say another parish, specifically designed for a leave?

Mr. Flory Well, my answer to that is, in my experience around the legislature I have only seen it done on very rare occasions where a member of the legislature from another area would introduce a measure of local and special nature. If they did, in the occasions that come to my mind, they were defeated by the legislature as meddling in local affairs and the legislature killed it.

# Further Discussion

Ms. Zervigon Mr. Chairman and delegates, in speaking in opposition to this amendment, I just want to clarify what it is the committee was about. We were not trying to give each area, each municipality, each parish, veto power over things that might benefit the parishes surrounding it. What this says is that 'local law will not take effect any moust on the committee for this or any moust on the committee for this for this reason. I've been told over and over again, and I've seen for myself at times how the city of New Orleans can be singled out by a general law, not a special or local law, affecting all municipalities over four hundred thousand. I'm trying to say that if this kind of general law affecting all cities over four hundred thousand is passed that the citizens of New Orleans should have a little bit to say about it, because we're uniquely vulnerable in this area. I wasn't trying to hamstring the legislature, and I think the committee forging the legislature could not, in a fit of peak, override the local legislative delegation and be punitive to any one area of the state. Thank you.

## Further Discussion

Mr. Kean Mr. Chairman, fellow delegates, this provision was included in the local government proposal, designed to avoid a situation where classification was used as a device to enact special pathogen of the second second second second classification was used as a device to enact special pathogen of the second second second second committee in dealing with this section, that if which dealt with local or special laws, and provided that these local or special laws could be enacted if they were advertised for some period of time before the legislative second. Joint toose circumstances the local governmental agony that an opportunity to apper before the legislature and perhaps work the matter out in the legislature discussion. This was designed to take care of the situation where no natice was given of any local or special law, and then through the device emact what would constitute purely special or local to this section which will make it abundantly clear that that is what the section is designed to do, and will provide for the ether/or method that thrs. Zervigon talked about earlier. If you gave the notice of the class the local or special law to entice of the site of the section wild we head that the section would not be applicable. In the other head if you did not be applicable. This section would be applicable. I say to you that this section would may may be applicable and lock at the history of the city of New Orleans, this section how you did not be applicable. That bis section would be applicable. I say to you that this section would may may the poller, this method whistory of the city of New Orleans, the other head if you did not five to five applicable. That bis section how you first the signification designed to apply to any municipality over four hundred thousand, you begin to see the need for -sme type of regulation of this kind in dealing with the classification procedure. I say to you that it would be in our best interest to reject the Avant amendment and then proceed to act on and approve the Pugh amendment which will follow.

### Questions

Mr. Roy Mr. Kean, what does the present constitution say about this new provision?

<u>Mr. Kean</u> The present constitution has a provision with respect to this relative to the city of New Orleans.

Mr. Roy So this is a new provision? Is this a new concept?

Mr. Kean This adopts the rationale of the New Orleans provision and makes it applicable generally.

Previous Question ordered.

### Closing

Mr. Avant I just want to say one thing. Mr. Pugh advises me that he is in favor of my amendment, that ment. Secondly, the sole purpose they say of this is to avoid punitive legislation directed at particular parises or municipalities. At the period of time of which they complained there was no equal protection clause in the constitution of this state, nor was there any provision which provides that their feers along that line are not justified. Sole their feers along that line are not justified Sol asks support of the amendment for the reasons 1 previously stated.

> [Record vote ordered. Amendmonts adopted:  $\delta l - 3$ ]. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 110-3. Notion to reconsider tabled.]

# Reading of the Section

<u>Mr. Poynter</u> "Section 7. Existing Home Rule Charters and Plans of Government of Parishes and Municipalities Ratified

Municipalities Ratified Section 7. (A) The plans of government and home rule charters of the parishes of fast Baton Rouge, Jefferson, and Plaquemines and of the cities of New Orleans, Baton Rouge, and Shreveport shall rerepealed as provided therein. Each of them shall retain the authority, powers, rights, privileges, and immunities granted by its charter. Each shall be subject to the duties imposed by the applicable constitutional provisions under which its plan or charter was adopted. Each of them also shall enjoy such additional powers and functions as are granted to a of outprion, including Sections B and 9 of this article, unless the exercise of Such powers and performance of such functions is prohibited by its charter.

(B) Every other home rule charter adopted or authorized when this constitution is adopted shall remain in effect and may be amended, modified, or repealed as provided in the charter."

## Chairman Henry in the Chair

### xplanation

Mr. Kean Mr. Chairman, fellow delegates, let me preface my remarks by explaining to you the purpose of the two paragraphs. At the present time, there are certain home rule charters, if we want to give them that name, or plans of government, which stem directly from a present constitutional provision. In the case of the East Baton Rouge Parish and the city of Baton Rouge for example, the plan of government for those political subdivisions comes directly from Article XIV. Section 3 (A) of the

### uestions

Mr Pueer Gordon, i it true, as I ander tand it, in your is ton 7 beginning with line 12, each shall be subject to the dutie inposed by the apmical is constitutional provisions under with it plan or sharter wa adopted That is by reference to prior constitution, i that rink?

Mr rean That Correct

Mr kee er Well, hat referen e would instude the in our new on tilution in effect, would t not I mean, on t yu have a privile there or ce a proble with that

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New Orleans, have plans of government which were authorized by that constitution and if you take away that base it raises a question, in my opinion, as to the validity and the status of those plans. Under the circumstances we felt it necessary to continue some reference to the base upon which they were founded.

<u>Mr. Duval</u> Mr. Kean, the constitution has certain specific provisions, does it not, in setting up the home rule charters of the specific cities mentioned---parishes mentioned here, is that right?

## Mr. Kean That's correct.

<u>Mr. Duval</u> These home rule charters will now be, as a result of this, not specified in the constitution, but sanctified by this provision, is that right?

Mr. Kean That's correct.

<u>Mr. Duval</u> Now, assuming this previously, let us say right now, in order to amend those home rules, can the legislature amend those specific provisions in the constitution on the home rule charters by constitutional amendment?

Mr. Kean The legislature, I suppose, could propose a constitutional amendment which would do away with the East Baton Rouge plan of government, but in my opinion it could not change details in that plan of government, because, and this is the very point I'm trying to get at. Under the existing constitutional provisions only the people of East Baton Rouge Parish can change those provisions.

Mr. Duval If this provision is not included in our proposed constitution, but let us say, placed in the schedule, do you think this would have any effect on the integrity of the home rule charter plan?

Mr. Kean I do, because transitional material is designed to make a transition from one constitution to a different situation, as for example, placing it in statutory material. It would leave open the question in my mind. First, what is the base for these particular plans of government? Secondly, by reason of being transitional material the legislature could thereafter do away with it.

Mr. Duval Do you think you could say all of this though, what you're saying in a simple sentence by saying "every home rule charter presently authorized, and which will come into effect before the adoption of the new constitution, shall only be changed as provided for in its charter?"

Mr. Kean Well, there are other substantive things that go beyond the change in the charter that has been developed by court decisions under the existing constitutional provision, and under the circumstances I would be concerned in what you proposed would not be broad enough to include that kind of substantive material.

Mr. Burns. Mr. Kean, you provide in Section 7, the plans of government of these different cities, or appealed as provided therein." Now, in view of that language and what you are seeking to do, is it necessary to have the rest of that section from beginning at "each of them shall," on page 8 down to 17?

Mr\_Kean I think so, Mr. Burns, because as I have endeavored to point out earlier, there are certain substantive rights which have been developed under the existing constitutional provisions applicable to these particular municipalities and parishes. I'm concerned that if you don't have references to duties imposed by those provisions and additional powers and functions, it might be granted in some other section of this particular constitution. They might be jeopardized insofar as those, additional authority is concerned. Mr. Roy Mr. Kean, by these substantive rights that have been developed, aren't you really trying to save some jurisprudential material and that you want to have ensconced in this constitution, jurisprudence that can never be changed?

Mr. Kean No, sir, I don't have...

Mr. Roy. Well, what substantive rights can you possibly not have if we would take for instance, Mr. Champagne's amendment which simply says "every home rule charter adopted, authorized when this constitution is adopted shall remain in effect"? Wouldn't that cover everything?

Mr. Kean No sir, because we're talking about two different things. One is the charter which is the governmental structure. The other is a substantive right that the government operates under. In the case of last Baton Rouge and Jefferson the courtonal have recognized at the upper and penjization of those peritcular plans of government, and that the legislature cannot deal with structure and organization relating to them. I don't think that would be covered by a simple reference to the retention of the home roule charter.

 $\frac{Mr.\ Roy}{prudential}$  Well, then you are talking about juris-prudential interpretation of those charters.

Mr. Kean I'm talking about what the existing constitutional provisions mean.

Mr. Guarisco Mr. Kean, do I understand correctly that the enumerations in this Section 7 of East Baton Rouge, Jefferson, etc. are the present constitutional home rule charters?

Mr. Kean Yes, sir, that's correct.

Mr. Guarisco Now, isn't it a fact that Plaquemines Parish is not presently a constitutional home rule charter?

Mr. Kean As I understand it, Plaquemines Parish has developed its plan of government specifically pursuant to Article XIV, Section 2 (B) or something like that.

Mr\_Guarisco My question is, you've got every constitutional home rule charter in this provision; there are other home rule charters that exist around the state, however. Why did you only choose Plaquemines to constitutionalize when it wasn't constitutionalized prior to this?

<u>Mr. Kean</u> It was constitutionalized prior to this. It comes from a constitutional provision which authorizes parishes to adopt directly a home rule charter, and that's what they did. The other home rule charters that you speak of are pursuant to the provisions of Title 33, and do not stem directly from the constitution, as in the case of the city of DeRider

Mr. Guarisco Why does your comment indicate something different about Plaquemines?

Mr. Kean I don't know. I didn't write it.

Mr. Goldman Mr. Kean, wouldn't the fears that you expressed regarding those home rule charters by constitution be allayed, and lines 3 through 17 be able to be deleted completely if Mr. Champagne's amendment read "every home rule charter or system of government, whether by constitution or otherwise, are hereby authorized to remain," etc?

Mr. Kean Well, I think that would take care of the reference to both kinds. The further question that I raise is that there is a difference between the structure of the government, whether it's going to be a council-mayor, type of government...that sort of thing, which is normally what you're talking when you're dealing with a home rule charter. My point is that in connection with certain of these

con titutions rollions, the ur' maxe interreted certain u tentive right, which in , and i int not be overed with what Mr in a agreena

### Alend ent

Every plan of government or hole rule charter sobsted or auth nized when this on titution is adopted shall reain in effect and ay be a ended, modified, or revealed as provided in the charter Ea not the shall also retain the authority, powers, rites, prividege, and humnities in effect when this constitution is adopted. Each hall be used to the decise inposed by the ch is plan or charter we adopted. Each of the shall also end y such additional powers and functions as are granted to local governmental subdivisions by provisions of this constitution, unles the exercise of such powers and performance of such functions is pointbied by its charter

### Explanation

Mr. Chapagne Mr. Chairian, adie and gentleien, the purpose of this amendment specifically is to incorporate the same aterial which is in the present proposal without repetition of some of the lime, plus the fact that in general agree ant a constitution is supposed to be general in nature, amendment by not meticoling the parishes and cities avolved, but viving the all the right which they now enjoy. I feel that this s what we all say we want and in working it over with members of the committee, we used language that was not objectionable to the. I cannot speak for the whole committee, but certain no bers of that on title told me they would not be in disagreement. I suggest that you adong the as mended, then in turn, suggest you offer amendments

### Question\_

Mr. \_ ack .n Mr hampagne. In orry Preently awrason Act municipalities \_ municipalities operating under the lwarson Act that their harter an be amended, repealed or modified by an at of legislate. The only thing I gues I a asking is that you have on .be inning on line 3 of your. of the text ay, ray be a euded, odified or repealed a provided in the charter. Does that reate any probe for a wars on Act unitipalities that may want to core to the legi ature to maybe get a harter amendent . ownemodifiation, ause I notied the omittee did make partiniar reference that the legi lature isould odify, repeal, or amend markan Act unitipalities

Mr hapagne 1 feel that they an do it bedue we went over sclually, even thing that is in hire in thil propolal, dee everything that the char one did earept it it does not inter the ind vidual marter by mane

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Mr orown well, the was read t

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Mr R  $_{\Delta}$  Mr hapagne, i in cereal area rt with your provision, but there are in the theory is a strict about y in the relation of the ayor and in a strict about y is the relation of the ayor and in any match are you and i but winder in i we later or are a general election area. A strict we later or a set of the strict is that strict and in a strict and the strict and strict and the strict and strict and strict and strict the strict and st

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Mr. Riy Maybe we coll and a hnine extent a them is provided in it it is a ferrior that every pan if invernent. My, e would you be agreeable to that

Mr. Chalagne I whild frails, Mill. have amended it two three tile , I while so to pall it all and the le balk a addition.

Mr Roy But you under tand what the

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of them shall also enjoy such additional powers and functions as are granted to local government subdivisions by provisions of this constitution unless the exercise of such powers and performance of such function is prohibited by its charter." Now, in our committee one of our heated 8-7 votes was the problem where you have unincorporated settleents under home rule charter not being allowed trahibits it. I would suggest to you that, and I... respect the comments, but I would say that I would have to oppose Mr. Champagne's amendment on that basis because in Section 11...Section 11 can be construed as in the grant of additional powers to a home rule charter not its Mr. Champagne's is that this is a it would woy to rein its lett would have no problem, but I i'would oit, then I would have no problem, but I'm...kind of leery about the fact that they are prohibiting things contained in some home rule charters ad you know... no...ad the home rule charter says that you should have these powers and we want to grant this to the citizes under home rule charter says well, no, you ment hey near to alread you know... no...ad the home rule charter says well, no, you mort if them, particularly if you want me to mention by name we are talking about the Scotlandville area, the central area of Baton Rouge. I understand that there have been a couple of areas up in Shreuport that no effor some incorporation. Now, you know some of the proponents of this say well, that's noneffective. I wish somebody would get up here and clearly say to me to really system the section 11.

## Question

Ms. Zervigon Mr. Jackson, I agree with you that I would rather fight that one issue as a single issue when we come to Section 11. So would it not be possible, in your judgment, for the pro... the person who is going to explain Section 11 on behalf of the committee to first introduce a... section...an amendment that would say "notwithstanding anything else in this constitution" and then gone on with Section 11, and then that way isolate that issue. Would that be possible and would that help...

Mr. J. Jackson That would somewhat help, Mary. As you know, Section 11 is going to be a very hotted...heated issue in this convention and let's say if you adopt the section and not allowing an amendment for notwithstanding, then we are in trouble. Then again, I'm not sure and...all I'm asking is that somebody come up here and explain to me the meaning of...of the ramifications other than Section 11 of that last parsgraph...l mean the last sensence to this, because 1'm not sure then explore that is going to require some charter revisions to say, you know---that, for instance, New Orleans couldn't probably take advantage of it if we got prohibitive language that was done...

## Further Discussion

Mr. Arnette Ladies and gentlemen, I was in favor of Mr. Champagne's amendment as he had originally proposed it, but now that he has added this additional language, it greatly worries me the same way the original committee proposal does. If you look at both sets of language, it has a sentence which contains "each shall be subject to the duties imposed by...the applicable constitutional provisions under which its plan or charter was adopted. Now, this language greatly greatly sentence we have incorporated about twenty pages of the 142 Constitution and this is a very very bad thing to do; because when we mo this, if any of these duties need to be changed at any time in the future, any of these duties listed in the 1921 Constitution, you have to provide an amendment to this constitution. This is a very bad situation to have, what this means is, is that what my pervoting on amendments affecting just Orleans or just Shreveport or just Baton Rouge or any of these other towns, and if we leave this sentence in there, we are creating a very big problem because you are going to have to vote on these same amendments just affecting constitution. Anytime you incorporate are asking for problems, but this puts back in this constitution. Anytime you fuctor and this constitution. Anytime you incorporate are asking for problems, but this puts back in this constitution, all this particular local matter and we need to take that out. So I urge you to defeat this particular way.

### Questions

Mr. Burson Greg, as a new lawyer, do you see the problem that caused the committee to put this language in there that if the only basis for a home rule charter is in the constitution and you eliminate any reference to that charter in the new constitution, that you may no longer have any legal basis therefor?

<u>Mr. Arnette</u> Well, wouldn't it be just as easy to say every home rule charter now in existence shall remain in existence? Isn't that an authority enough?

Mr. Burson Except that the difference, as I read the amenoment that Mr. Champagne adopted, is it existence which would go much further than the committee proposal which includes only constitutional home rule charters.

Mr\_Armette Well, if you look at the committee's probocal Paragraph B, it aays every other home rule charter adopted or authorized when this convention was adopted shall remain in effect, etc. etc. So his goet..the committee's proposal includes all these other home rule charters anyway, but the problem I see and the thing that I really worry about is having that language in there. You have incorporated about twenty pages of the 1921 Constitution and if you want to change any of those twenty pages in the old constitution you have to bed situation to have.

Mr. Burson Don't you think that that fear is covered by the fact that you say that these charters may be amended, modified, or repealed as provided therein in the charters?

Mr. Arrette Well, the charter may be amended, but not the duties as set forth in the constitution because you have said here "it shall be subject to those duties" and if something is set forth in the constitution, then it can't be charged by an amendment to the charter because the charter itself may be changed, but not what's in the constitution providing for those duties and etc., etc., that are in the oid constitution.

Mr. Burson But when you say that they shall be subject to duties imposed by the applicable constitutional provisions, don't you think that this is a transitional matter which refers to the factthat there are many duries increases you prove about, which may not be part of their present charters, and that they have still got to perform these duties until such time as they are made a part of the charter.

<u>Mr. Arnette</u> Well, Mr. Burson,...] think that ight be a fine idea which you have there except I don't think that's the way to do it because what we have done is incorporated all those duties in our new

Mr. Luron well, ou are awar that this s mittee has proceed the elements of service penal district and bland in hew mean and in other areas of the state than have on a m

Mr. Alnette

Mr Ducal I rie not in spio ition nor in uppolt of this amend ent. I frankly don't understand the action. I frankly would like to have so e expert in the area explain to e; one, what if a his e rove proposal revolve around a how enule charter i hast different types of hose rule inharter are there How dues one go about getting a hose rule charter a hose rule charter is adopted? What happens if a hose rule charter of hits with the constitu-uor, i the letilature maxou add, met here a hose nue charter is not envious getting a hose rule and us the there of hits with the constitu-uon i the letilature emaxou ated when there a hose nue charter in other words, gentleren and ladies, we ought to under tand that the ub-rect matter which we are deliberating upon is guite mutant. I show we need a with ore thomugh which anation from the consistent is the randing ar-when one is a how rule chatter that is in the precision of the ion is delited the efrom. An is the unitipality is of hanning it? What is there any other way of hanning it? What is remark for guider is what is the randing the show of the upon is the show of the show of the upon the show of the show of the show of the upon the show of the show of the show of the upon the show of the sho

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whether you turn it upside down or sideways it says very simply and plainly that "the provisions of this constitution shall be paramount and neither the legislature nor any political subdivision shall enact any laws or ordinances in conflict therewith. I just don't see how you can read that any other way than what it says and I have...had some jest directed my way about putting a supremacy clause in a local government article and I will admit you can probably find a better place for it, but it... the fact that it is there was occasioned by exact-The fact that it is there was pockasioned by exact-ly the problem that was raised by some of the earlier speakers. Now, the second point about all of the amendments that we have had to vote on regarding local matters: It seems to me that after months in committee hearings and sessions that it became rather obvious to me that most of the local became rather obvious to me that most or the local mendments that we'd had to consider in this state were generated by special boards <sup>1</sup>ike the Sewerage and Water Board, the Board of Liquidation of City Debtors, City of New Orleans, etc., much more so than any amendments that had to do with any char-ter. I don't ever recall voting on any amend-ments that had to do with the charter and these special boards we have recommended be taken out of the constitution. Frankly, I do not see the problem that some of the other speakers have seen problem that some of the other speakers have seen with regard to requiring an amendment to change charters. I don't believe that that's what that sentence says. It's imply says that 'these home done that 'these home by the constitutional provisions under which their plan or charter was adopted." I believe, as we say in lawyer language, this has to be read in "pari materia"...or together with the preceding sentence which says that 'any of these charters the charters and definitely if you need those two thinds together. I don't see how you can come to the charters and definitely if you read those two things together. I don't see how you can come to the conclusion that it would take a constitutional amendment to change it. This whole area of home rule charters is somewhat essteric and I think that in order to understand it, you've almost got to look if what's in the posent constitution, staff hat onvoided us with thou reader you to the and if you'll look under that digest that the staff has provided us with, they refer you to the articles: Article XIV, Section 3A, 3G, 22 and 37, which provide in detail for the establishment and operation of the plan of government for East Baton Rouge, Jefferson, cities of Baton Rouge, New Orleans Rouge, Jefferson, Citles of Baton Rouge, New Urleans and Sprevegont, and the present constitution Article adoption of a charter form of parish government which has been utilized in Plaquemines Parish. Now, this is one of the difficult problems in writing a new constitution. How do you move from a con-stitution which has these specifics in it. I sug-gest to you that we have done it the only way you

### Further Discussion

Mr. Pugh Mr. Chairman, and fellow delegates. I. Tike one of my predecessors here. Like the first sentence of this proposed amendment. I'm very much disturbed about the balance of it, however, and even more so. I'm disturbed about this reference to Section 30 yet to come up. Let's stop and think about it now. In Shreveport we have a home rule charter. The courts have already determined that in connection with that home rule charter, structure and organization is not applicable to it. Now if we think that when we get to Section 30 that we are going to rewrite every charter, every city charter in the State of Louisiana, we sho' better have some soul searching bonjut. Now, they stated that it's paramount; when you talk about it being paramount, you're talking about whying out all of term intended. I preview what we intended that thet them continue to operate under their existing charters in the fashion in which they have been operating and I'm afried that the least language that's contained in the scond and third sentence doubts about their ability to up to. Thisk, therefore, that you give serious consideration to defeating this amendment and that then we reconsider the subject in the light of the subsequent amendments that have and will be filed. Thank you.

### Questions

<u>Br. Avant</u> Mr. Pugh, Mr. Burson used a technical legal phrase awhile ago that interested me very materia" which means you've got to read them all together but I direct your attention to the sentence in this article...or this section which says, "each of them shall retain the authority, powers, "ights, privileges, and immunities granted by its charter." Then file over to Section 10 which reads "powers and functions of local governmental subsourd governmental subdivisions." Then file over to such governmental subdivisions." Then file over to no. 30 that Hr. Burson referred to and read that, and reading all that together, can you give me any idea what it means?

Mr. Pugh Yes, I can tell you that when you get to that word "paramount," you're in trouble. This "pari materia" sounds awful good, but when you get to the word "paramount," you done said what there is to be said about the subject. I like the first section saying that whatever is in the charters, whatever they have been provided for, they shall continue to have. From there we can't go down; at best we can go sideways. That's the point I was trying to make about monkeying with these charters.

Mr. J. Jackson Mr. Puph, if you look at the Champoone, Forcenot amendent and if you read it the way I'm reading it, just take away the home rule charter, let's talk about Lawrason Acts, municipalities operating under Lawrason Act-... "Every plan of government adopted or authorized when this constitution is adopted shall remain in effect and may be amended, modified or repealed as provided in the charter." Now, the Lawrason Act, as I undistand It, are established by acts of the legislature amends, modifies, or regislated the legislature amends, modifies, or results that I he legislature amends, modifies, or results and "system of you know, what kind of effect by using this "ass provided" in this charter, when we are talking about two plans of government, saying every plan of government plus nome rule charters, what kind of effect is that going to have on Lawrason Act cities and municipalities? I don't know.

Mr. Pugh Frankly, I don't find any quarrel with the first sentence. I really don't, but thereafter it leaves me cold for the reasons I mentioned a minute ago.

Mr.Kean Mr. Puoh, you...you made some comment about the city of Shreveport had a constitutional provision that authorized a home rule charter and that the courts had construed that as not giving to Shreveport the plenary right with respect to structure and organization, am I correct, sir?

 $\frac{Mr. \ Pugh}{case, \ happened \ to \ be \ my \ case...go \ ahead.}$ 

Mr.Kean Now if...if we only had the first sentence of the Charpage amendment, would that not put the parish of East Baton Rouge and Jefferson which do have the structure and organization provisions in their constitutional provisions now, would that not put those two parishes in the same position as Shreveport is in the Bradford case?

Mr. Pugh No. I think what he is saying in this sentence is, "every plan of government or home rule charter adopted or authorized shall remain in effect." I think what he is saying is that they stay like they are.

Mr. Kean But the structure and organization provision that we are talking about is not in the charter in the case of East Baton Rouge Parish and Jefferson; they...those provisions are in the con-

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Mr. asey ut, it to error to remning the first ender error and the start and the way it uid read i hat when the start in addited, too incers to create the government in home nuclear and incers and te or authorized at that the bind end by what the start is to bind

Thursday, September 20, 1973

ROLL CALL [91 delegates present and a guorum.]

Mr. Champagne Let us pray. Tord, make me an instrument of Your peace. Where there is hatred, let we sow love; where this is in-jury, pardon; where there is doubt, failth; where there is desplay, hope; where there is darkness; measure, grant that I may not so much seek to be consoled as to console; to be understood as to un-derstand; to be loved as to love, for it is in giving that we receive; it is in pardoning that we are pardoned; it is in dying that we are born to eternal life. And if it pleases You, dear Lord, for Lord, just a little smile makes all the dis-appointments disappear quietly into the night like a cool summer breeze on a summer night. We ask these things in Your name, Amen. these things in Your name, Amen.

## PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

# Personal Privilege

Mr. Goldman Thark you, Mr. Chairman, Fallow delegates, I am going to make this short, and I don't want you to misunderstand me, because what I am going to talk about, I don't want you to think that that, at all, labels me as being here representing radio and television or news. I am here representing the general public, the pub-ter and warv person in this state. But am here representing the general public, the pub-lic at large, and every person in this state. But the subject matter about which I am going to talk is one that we discussed here quite at length sev-eral weeks ago when we were discussing the Bill of Rights. That is on freedom of expression. Dur-ing that discussion when we were talking about that last sentence in there about everyone had the right to publish, print, speak, photograph, etc., what they wanted to without licensure, the discussion they wanted to without licensure, the discussion contered arrownt mass people who botty, and the as surprised to learn when I got back here Wednesday in talking to individual delegates, that not a one of them had found out, as yet, until I talked to them, that the State of Alabama, in its wisdom, the legislature of Alabama, just before it ad-journed about a week so, passed a law which was on another subject, but tacked on to it was an on another subject, but tacked on to it was an amendment which required, or which prohibited, any newsman in the State of Alabama from attending any public body meeting, including the legislature, without first getting a license from the State of Alabama.

of Alabama. Now Governor Wallace signed that into law, re-gretfully, and said he didn't want it in there, but he wanted the rest of the bill and this is the only way he could get it. Now he, and the others, even those who put the amendment in and had it passed, feel that it's not going to be constitu-tional. But that's beside the point. I don't know how long it will take the Alabama Supreme Court to rule on this. In the meantime, it's the law of the State of Alabama. The Alabama Legislature is not in session anymore, and it may have to go to the distion and the state of Alabama is going to be made to look like in the eyes of the public. So, it can happen, and I hope we have some way of getting this no licensing business in sometime. Thank you very much for your attention.

Mr. Brown Mr. Goldman, I read that Alabama stat-ute, too, because I was interested in it. It looked real appealing to me. And the question I want to ask you, I think you are wrong. Is it not

correct, they did not require the press to be li-censed? It said that all public officials had to file financial statements, but anybody covering the legislature or any public body, any reporter, also had to file a financial statement. Is that not in effect what was said?

Mr. Goldman He had to go a lot further than that. He had to file a financial statement...

Mr. Brown it? rown l've got a copy of it, you want to see It said they had to financial statement.

<u>Mr. Goldman</u> He had to go a lot further than that. He had to file a financial statement...Let me answer your question. He had to file a financial statement, he had to state what party he belonged to, he had to tell who he worked for, he had to tell how much money he made, he had to tell who he represented, and he had to get a permit

Mr. Brown That sounds pretty good. Why don't you offer that as an amendment to this constitution?

Mr. Goldman Well, if you like it, you can...you know...pass it in the legislature, because you are permitted to right now, if this constitution passes.

Tapper I'm just wondering, you know what you said is very interesting. I also read the report of that and I'm just wondering if you believe that on one one is just wongering if you believe that maybe the people who report the news, and sometimes they are accused of slanting the news one way or the other, don't you think they should be under some restrictions?

Mr. <u>Goldman</u> No, I don't think a newsman should be under any restriction to report the news. I think if he wants to make a comment, as long as it's la-enough sense to decide for themselves whether they arce with him or whether they disgree with him. Mr. Chairman, I dian't mean to get into this long discussion. I just wanted to give them some information I thought most of them didn't have, but know now..realize that since I mentioned it to some of them, see of them have gotten the informa-t. Thank you very much.

Thank you very much.

# REPORTS OF COMMITTEES

Mr. Poynter Mr. Aertker, Chairman on behalf of the Committee on Education and Welfare sends up the

Chairman, delegates of the convention, directed by your Committee on Education and Welfare to sub-mit the following report, Delegate Proposal No. 1 introduced by Delegate Asseff-reported unfavorably.

Delegate Proposal No. 22, Delegate Dennery-reported unfavorably

Delegate Proposal No. 28, by Delegate Dennery-

Commitee Proposal No. 9, introduced by Delegate Aertker, Chairman on behalf of the Committee on Education and Welfare-is reported with amendments. Committee Proposal No. 10, by Delegate Aertker, Chairman on behalf of the Committee-is reported with amendments.

with amendment, submitted, Robert Aertker, Chair-an of the Joanmittee Mr. Aertker sends up further report from Educa-tion and Welfare that Delegate Proposal No. 65, by Delegate Rey-is reported with amendments. Respectrully submitted, Robert Aertker, Chair-

man of that Committee.

Mr. Pointer Committee Proposal No. 17, introduced by Delegate Perze, Chairman on behalf of the Com-mittee on Local and Parochial Government and other delegates, members of the committee. A proposal making general provisions for local and parochial

Mr. hair on and fe low de elate . /e -Mr. Kean terday ... defined and the two definedes, he terday ... the end to take the to take because we had to take wately error and twennental operation that exit it unlara for a various type ared, and will have first and to take an unlara few induces, an outline of the various operation that exit is unlara for a variant operation...

# lice Chairman Caley in the Chair

Mr ignier I believe this a end ent is being puried out at the orient. There have been a nu-cer of Puria envinct sut. This one has three paragraphs in it, (A), (B), and (C). I think it the last one to be pased out. A rend with A. 1, on page 3 delete line 2 thrown (L, both in usive in their entirety and lineart is line thereof the following section". Line K. Kr. Pugh, fitt all right with your let'riers the numbers of 7 because we're this in 7. In one Rule Charter and Plan of hoverment.

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Mr. Lanler Mr. Puch, this arainst thinks that It appel to pur overheit structure ing at the tree of add block of the Destructure I that orner t

in favor of that.

<u>Mr. Burson</u> Mr. Pugh, I've got some technical problems with the language in (B) that says, "two or more local governmental subdivisions within the boundaries of a single parish may by a majority vote of the electors of the local governmental subdivision adopt's oo on...a home rule charter. Does that mean that Opelousas and Port Barre could get together in St. Landry Parish and create a home rule unit that would be separate and distinct from the perish and the municipalities?

<u>Mr. Pugh</u> If I understood, your question was whether or not two governmental bodies in two different parishes could do it? No.

Mr. Burson No, no. Within the same parish.

<u>Mr. Pugh</u> If they are in the same parish, and they want to have it, then I'd be the last one to prevent them from doing it. I put this in specifically for Mr. Sandoz who wanted that for his parish.

Mr. Burson You mean that two cities that might be separated by eight or ten miles, could get together and form a home rule unit within a parish?

<u>Mr. Pugh</u> If those two cities are dumb enough, or 'smart enough, as the case may be, to do that, why prevent them? Why should we tell them they couldn't do it?

<u>Mr. Brown</u> Mr. Pugh, will you tell me your intention on your amendment? You have in paragraph (B), you say, about the fourth line down in paragraph (B), "by a majority vote of the electors."

## Mr. Pugh That's right.

<u>Mr. Brown</u> "By the electors." As I interpret that, that means fifty percent of all registered voters. Did you mean that fifty percent of all registered voters, not voting in the election, but who are registered throughout the entire area concerned, did you mean to make it that stiff? Because you are really talking about, probably, seventy percent. You'd have to get a heck of a lot more than the majority because of the numbers there.

Mr. Pugh I see nothing wrong with the majority of the people who are going to be affected, bearing in mind that when you have a home rule election. You ain't talking about a simple election. You've got all kinds of people for or against, and don't worry, the people turn out. There's no reason why at least fifty percent of the electors don't want that chance.

<u>Mr. Brown</u> Well, why raise the question? I've seen Some figures, I think, by LSU or someone, that says that in an election such as this, home rule charters election probably would get sixty, sixty-five percent of the vote at the very most. That's probably too high in any election. That being the case, that would be a treemendous problem in getting fifty percent of the voters out of that sixty percent who go to vote, to vote for the thing. You would have to have eight-five, ninety percent of those voting, voting for your home rule charter. Do you think we'd ever get a home rule charter passed in the future?

Mr. Pugh If you feel that you have, with some certainty, a mathematical figure, I will be happy for you to amend this to supply that mathematical figure.

Mr. Brown You feel that it's not to be more than a majority of those voting, though, in terms of philosophy.

 $\underline{Mr. Pugh}$  Yes, that's my opinion. But that's just mine, you know. I'm certainly not saying I wouldn't support an amendment of yours if you could give

me ome satisfactory percentage. That fine. i might further answer, i think you aught to have a minimum percentage as well as this maximum there. In other words, I think you aught to have a certain percentage that are voting and then take a percentage of those.

Mr. Nunez Mr. Pugh, my interpretation of (B), Tet's take an example because I'm concerned with, let's take an area like...well, let's take Jefferson Parish where you have the city of Harahan on the east bank, and the city of Gretna on the west bank. Suppose they decided to form a home rule charter between the two and they vote accordingly, according to your...follow your (B) here, and they vote to do it.

Mr. Pugh Yes.

Mr. Nunez What would happen with the people in between?

Mr. Pugh You mean the people that didn't vote for it?

<u>Mr. Nunez</u> That's right. What would happen...how would you form it? Would you...should you have a continuous boundary or something to go ahead and form this?

Mr. Pugh Well, I'm going to reiterate that Mr. Sandoz has some problem he wants to resolve. He feels that this will do it. I will again state that if two cities within a parish elect to join together for the formation of a government, then I say you ought to be able to do it. That's up to them, not us.

Mr. Nunez But my point is, there are many parishes That have three or four citles within the parish boundaries that would not be contiguous with the citles, and according to this, they could call an election, and south, and of met are within the parish boundaries but are not contiguous. We're solwing, don't you believe we are solving one problem and might be creating a lot of other problems with this amendment?

Mr. Pugh Man, as I understand home rule, that means that, brother, you can do what you want to do at home.

<u>Mr. Roy</u> Mr. Pugh, in answer to Mr. Nunez's question, the first sentence starts out of (B), that "the legislature by general law" shall perform certain functions which will then permit the issue to be brought to the people. Isn't that correct?

Ir. Pugh That's correct.

Mr. Roy Well, don't you think that if the legislature has two cities ten miles apart, that it tries to allow to organize under a home rule charter, that if it doesn't allow the people in between to vote on it, that you are not going to have a contiguous home rule charter, will you not?

Mr. Pugh It's absolutely correct that the legislature.... Go ahead.

Mr. Roy But still, those two cities will be operating under one home rule charter.

Mr. Pugh That's correct.

Mr. Roy And the probability is that any sane legislature would provide that all the people who are going to be affected will have to vote on it, won't it?

Mr. Pugh Sure they will. I've got more faith in the legislature than a lot of people. I'll put it that way.

Mr. Arnette Mr. Pugh, just a quick question.

Y un first sentence here says that local home Furthers that are now in easily that loca home rule charters that are now in easilteme has have all the authority, powers, rights, writege, inities, obligations, and responsiblitte as there in provided for. Nould they it! have those rights even if they were against this onstitution in other words, if we have a constitutional pro-vision against one of the rights they presently have, would they continue to have that right?

Mr. Pugh Are you assing e if o e people in a city vote against this constitution, but it s passed, will they have those rights?

Mr. Arnette we put a provision in the constitution that you can't put out boids ore than so much in amount or something like this. But in their home rule charter, it says that they can. Would they still be able to do it?

Mr. Puth Yes. I am of the opinion that...

Mr. Arnette So, In other words, the e home rule Charters would not be subject to the new constitu-

Mr. Arnette Well, Mr. Pugh, we've already passed several things in this new constitution that tells people they can't do what they've been

Well, it depends on the author ty under

Mr. Jenims Bob, Mr. Arnette has raised the ques-tion has is really troubling me about both your a endment and the proposal itself. Joesn't this really mean that, for instance, cur Bill of Rights ear nothing if a home rule charter ha given a

Mr Pugh I believe that if we adopt this onst-tution, Orlean will be able to do what they have een duing. If you want to amend hi to provide, even pt as otherwie provided, then we li leave pen he legal que tion of whether or not we an

Mr are Are you realy for

Mr fug to use e You're not noting to notid the strices proble of whitd, you have when you have a lone rule thatter. It mere ne en te have got it You very to ave their when the are in for a their hartel or ernes. We can t newrite every haiter in invery ne of their ite in the contration.

Mr. Even Mr. halman, is in to oppose the amount off. Never size been a number of option as least which calls exclude the larger of the larger of maximum of the accurate the protocol of the larger of one that we are now below of the larger of a data reasons in one accurate below of the larger of the larger of the accurate of the larger of the accurate of the larger of the larger of the larger of the presentions in entry of the larger of the presentions in entry of the larger of the larger

The charter of an if very end and their rists

Under it Pugh has unred into this size provides have an horizon of Section 8, and which ought separately on dored and draated y this overhim. It exists that this uses a bad way to operate we ognt to take eit. 7 a d dispose of it and then we list to Section 8 and talk about the ethic dispute of the section 8 and talk about the teth dispute of the section 9 the create new home rule charters.

Mr. Pugh Mr. Yean, I believe you are on that the ittee that drafted the consistee proto al, are

Mr Dugh Would you be a derwigh, fire, to tell ing the difference between the steet language, "each of them shall retain the authirity, powers, right, prive ges, and is the ranted by firs charter. And what have said is set on 5 about the retention of all of is e, erce." I went one step further and said the d aist have the obligation and the responding to

Mr. Kean Mr. Pugh. I not taken it at, difference between what, is one only or 5 and the difference that is one were un Section 1.A. My point 1 that you have under 1...Section 1. and it is you were the what we be taking bott, and it is one of that we have and then well you are the under to tak about 5.A. that is name, it A that we have, and then well you on it the next uestion of hier rule farter in the fit re

Mr. Puge You then believe that we also elarate inte different lettinie a hof the elthinie re-lating to the lale ubject, hole ou el

Mr Kean M muint, Mr Punn, that with reves' to ection with the origitee as include a a means for amptin future here are include consistee had a intern init with a sector a proach in report to that e thin a with a like that are an interfault to explain it if we are now in taken in an are in or to deal with the init sector and it into deal with the init sector and it into deal with the init sector and it into the init sector and it in a sector in a sector and it is a a sector in a sector and it is a sector in a sector in a study with the sector and it is a sector in a sector in a study with the sector and it is a sector in a sector in the sector in a sector and it is a sector in a sector in a sector in a study with the sector and it is a sector in a sect

Me erroy Mi team, we like a setting of a setting of the setting of

this process, I think if you will compare the committee proposal's sections 7 and 8 with this amendment, you will see that some very cirtical and very important rights, which are given to the people, have been excluded. I think that this is the basis for you to justify a vote against this amendment.

One technical problem with this amendment, as I pointed out in my questioning of Mr. Pugh, is that at the time it was drawn it did not take into consideration what would happen to home rule charters that had been authorized but which would not be in existence at the time of the adoption of the new constitution. My home town, Thibodaux, happens to fall in this category. We have adopted a home rule charter, but it will not become effective until the end of 1974. And the way this thing is drafted, ours would not be ratified. Now, if you will go to Section 8 and review its provisions, you will see that what is being attempted there is to give a direct grant of home

Now 'if you will go to Section B and review its rovisions, you will go to Section B and review its rempted there is to give a direct grant of home rule chartermaking authofty from the constitution to the people. There is a provision for enmission as it is authorized to all a charter commission as it is authorized to all a charter commission as it is authorized to all a charter commission as it is authorized to all a charter commission as it is authorized to all a charter commission as it is authorized to all a charter commission as it is authorized to all a charter commission as it is authorized to all a charter commission as it is authorized to all a charter commission as it is authorized to all a charter comrule charter to get the second to the constitution. Now this is very critical across our state, that the people be given this right and power. If your government a fafinis, should you not have the right to all a commission to make a home rule charter to decide the manner in which you should be best governed on the local level? This is a very basic and a very sensitive right to the fore you. If you will look at some of the other provisions

If you will look at some of the other provisions, you will note, for example in Paragraph (6) of Section 8, it says that "the powers and functions of a parish or city school board, and the offices of sheriff, clerk of the district court, coroner, or assessor, shall not be affected by any provision of a home rule charter as plan of government." that is before you. Before you vote on this point. I really coursel you to think long and hard about this type of protection.

I really counsel you to think long and hard about this type of protection. You have a Section (D) which is a direct grant to the people to provide for the formation of multiunit home rule charters. In particular, right now in the State of Louisiana, you have such a charter in the it of Louisiana, you have such a charter all of the units, I think there are five municipalities, and the parish government. This could only be done by a constitutional amendment that everybody in the state had to yote on.

only be done by a constitutional amendment that werybody in the state had to vote on. Section (D) provides, in the constitution, the method that this can be done on the local level. Local the state of the state of the state of the state that the state of the state of the state of the state do this, or at least have a charter commission to do this, or at least have a charter commission to do this, or at least have a charter commission to do this, or at least have a charter commission to do this, or at least have a charter commission to do this, or at least have a charter commission to do this, or at least have a charter commission to lafourche Parish or Jefferson Parish or Bienville Parish have to vote on whether or not lafayette lafayette's business, and the mechanics should be set up in our constitution for lafayette, if they wish, to join their five municipalities and their parish government, to make such a charter. Why should this not be available to the people? The amendment before us does not provide the mechanics for doing this. It merely says that its shall be up to the legislature to do this at some

The amendment before us does not provide the mechanics for doing this. It merely says that it shall be up to the legislature to do this at some time in the future that is not prescribed. I suggest to you that this is a matter of such magnitude, that the basic procedure should be included in our constitution...It is a right of the people and I ask you to defeat this amendment and preserve this right, as drafted by the committee.

Thank you very much.

## Further Discussion

Mr. Chatelain Mr. Chairman and fellow delegates, Inware been sitting on this committee since January of this year, and we've gone through many, many ment in Louisiana, local government. As we went across the State of Louisiana in our area meetings, a composite committee and other committees, and the local meetings we've had in our area meetings. The local meetings we've had in our area of South Louisiana, the thing that came up the most often was the problem of local government. The your dements know, in the laconstitution were brought about because of the problems in local area. You are asked to vote upon problems all over this state, when in fact, you didn't have the time, nor perhaps the desire, to lock into the problems of those local people. This local Government Committee is attempting to give back to the people of Louisiana the government they fightly desrve. I ask you please to take your time; spend a few serious minutes here today and the d'st Chany any a seas of this state have problems. Our committee has attempted to solve some of these problems, and with your help and contribution. I know we can do a good job. We came here to write a new constitution, a constitution that will take care of the problems of today and a constitution that our people in the future could live by. I ask you to look is state hey'd be proud of. Let's look at them and look at them hard. As we goalong I think your hebp and present asovering to try to solve these problems of present something to the people of this state they'd be proud of. Let's look at them and look at them hard. As we goalong I think your before you be ake to hear the debate on ther, before you be able to hear the debate on them, before you doe able to hear the debate on them, before you doe able to hear the debate on them, before you doe able to hear the debate on them, before you doe able to hear the debate on them, before you doe able to hear the debate on them, before you doe able to hear the debate on them, before you doe able to hear the d

## Further Discussion

Mr. Jenkins Mr. Chairman, delegates, I'm concerned about this amendment, and I'm concerned about the committee proposal. I had to read it about five or six times before I really got the full impact of it, but the meaning of this section is that nothing in this constitution, none of the rights and privileges which have been granted to people, are applicable if a home rule charter gives a locality authority to infrite committee proposal. It says, "Rach of them shall retain the authority, powers, rights, privileges and immunities granted by its charter. Each shall be subject to the duties imposed by the applicable constitutional provisions under which its plan or charter was adopted." If its plan or charter was adopted under the 1921 Constitution, not by this one. Look a thr. Pugh's amendment. "The local governmentar provisions existing under thome of the adoption only by that constitution, not by this one. Look a thr. Pugh's amendment. The local governmentar provided." In other words, all the rest of this constitution desn't apply. Now you can contemplate the meaning of that, particularly if you go through the Bill of Rights, the other limitation a ther bill of Rights, the other limitation so the souties on the local life, base are explate the meaning of that, particularly if you go through the Bill of Rights, the other limitation so that are going to be in Revenue and Taxation and other provisions. We are saying that these are exlimited by this constitution in applicable to these limited by this constitution in applicable to these limited by the subdivisions, and that doesn't make

ence S any of the time we keed the anomaly we we at the same to an excement in the thread of the same to a second the same fine whether it sound to be in the same second monow the same and encode without we we go to ave that hand the sound to be wernengial charters have not to be up the time in the time, not to the constitution under which it was adouted.

### \_uestioni

Pr. anier Pr. envins, a 1 prect that artcheT, section i f the B1 of Rights provides that 'all of the right waranteed therein hall be preserved inalienable 0, the state and guaranteed inviolate by the state!

Mr. Jensins Yes, you are, but any provision of this constitution has to be read in connection with all the other provisions, and if you are in one point, saying that a local government has der under a previous constitution, you're in areffect negating that. You re making an exceptoto that.

Mr. Conino Delegate Jenkins, you just mentioned That the ... if these articles were adopted, that the local and parochial districts would have power supreme. Are you familiar with Section 30 of the committee's proposal?

Mr. Jenkins Yes, I am.

Mr. Conino Supremacy of the constitution?

Me. Jenkins No, that doesn't protect us except in the future. It ays, "The provision of this constitution shall be paramount, and neither the legislature nor any political lubivision shall enact any laws or ordinances in conflict herewith." New, consider what that leass. It says, the provisions of this constitution shall be paramount. be that local government charters are superior to any other part of this constitution. That's one part of it, and it's going to be paramount. And it says, "nor shall any political subdivision enact laws or ordinances in conflict herewith. Certainly in the future it rouldn't enact ard authority, but as long as it was operation under a previous charter. It could do anything that it wanted to because that's authorized under this provision. So, authority doesn't protect you. We need some language saying "except as provided in this constitution" or "subject to the provision.

Mr Burson Mr. Jenkins, I understand that a lot of people that haven t read Section 7 believe that it says what you say it does, but if you loof at the third sentence, doein t it say that each shall be subject to the duties imposed by the applicable constitutional provision under which its plan or charter was adopted?

Mr Jerkin hat's right,

Mr. Burson It doesn't say anything about any privilege or right in contravention to the constitution, but simply says that they have to serform the duties that they had to perform under the old constitution.

Mr left). That's correct, under the old forstitution. It doesn't say anything about being subject to this constitution. In fait, the are vlou sentence in effect says it's not subject to this constitution.

### Further Lis un lun

Mr. Perez. Mr. Chairman and ladies and gertleren

### \_ueitions

Mr. P., Mr. Perez, I have not did new it with the state ent that what Mr. entities a state of your really are sincere about air use that what we do here todal 1 nor subord hated 20 what was done in the 1921 Constitution, which are to coasthet on, which are to that you air have provided that the mission enter. That you air have provided that the mission enter. The subord hate the state of t

Mr. Perez Mr. : would sat t ,ou and t t etion is the place where we to the arreand wanted to be one that the start particular words, I would al where e et t that the, and t was the intent of the start when Section i was adopted to and the the start that the start are the start at the provisions of the construction e e are that the provisions of the construction e e are and the start and the start of the start the provisions of the construction e e are and the start and the start of the start of the the start and the start of the start of the the start of the start of the start of the the start of the start of the start of the the start of the start of the start of the the start of the start of the start of the the start of the start of the start of the the start of the start of the start of the start of the the start of the start of the start of the start of the the start of the start of the start of the start of the the start of the the start of th

Mr. Roy But one of the provide of the transformer transformer to the shall retain the authority range to the charter, isn't that orrect

Mr. Perez Bit what no non-tenning to the ten That toose are the providing for the ten operations of given mention and tail and have nothing to in with, nor is 1 km and to a visions in any charter with have any thi with the Bit of Rivet, or with will be with the Bit of Rivet, or with will be with the Bit of Rivet.

Mr. Roy I'm not talk to about the start of the TTM talking about hat that a risk of risk 1900 Constitution, is time t

Mr Roy I not go not set is set of Right say that ine a risk of 197 Constitution, to tot

Mr Perer We', event is a lite in it of that for titution, at twill a 'hise' i ton idend tigether.

Mr Roy hat itit, and ' ara '. t

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Mr , ae, dialee

No Ferry No real overcommut will have anything which would be in a transmission of the neutronautric for in visitation of the presence provides of the constitution. That communication on the transmission as

Nr. Luis is Nr. Lerez, would the absone it he statement that each if the chain retail the a-

[1332]

thority" and so on that it has under its present charter, lead necessarily to the implication that one wanted to diminish the powers of local govern-ment as they presently exist in East Baton Rouge, Lefferson. Plaquemines Parish and the cities of New Orleans and Shreveport?

<u>Mr. Perez</u> I would suspect that the real objection is that they are trying to take away from the peo-ple who have adopted charter forms of government some of the authority that those people wanted local government to have.

Mr. Roy Mr. Perez, I have one more question. Suppose the City Charter of New Orleans, the pres-ent charter, says that to be a member of the City council, you've got to be twenty-one years of age, and this constitution later in our General Govern-mental Article, we in 1973, say that any person who's eighteen years of age and an elector may be and seek the position on any deliberative body? Which would prevail?

Mr. Perez "There is no guestion but that the constitution will prevail." That's Hornbook on Constitution will prevall." That's Hornbook on Constitutional Law, and we have attempted to aspect to it in Section 30, and again I say if you have some problems with respect to that, let's straight-en them out when we get to Section 30. Let's take up this problem in an orderly manner.

Mr. Goldman Mr. Perez, I get back to my transi-tion article again. Wouldn't this whole thing be taken care of if it was put into the transition article under a schedule and the legislature could then take care of it properly, and it would be out of the constitution without the names in

Mr. Perez Which whole thing, Mr. Goldman?

Mr. Goldman This whole Section 7. I don't the amendment; I mean the original Section 7. I don't mean

Mr. Perez I'm not sure what this transitional business is all about. I'm a member of that par-ticular committee which is considering the socalled transitional measures, but the whole pur-pose and the whole reason that you have provisions pose and the whole reason that you have provision in your constitution with respect to home rule charters goes back to the many years of history that we had, where an unfriendly legislature and an unfriendly governor were taking it out, so to speak, on particular localities, and it was only after many, many years that this problem was taken care of in a constitutional provision.

Nr. Pugh Mr. Chairman, fellow delegates, as much as I know how, I drew upon what little knowledge I have to provide for an mendment that would do track as nearly as possible the committee's proposal that would do the three things I mentoned to you. Merely say, "If you've got a charter, you've stil or to say that they have all the authority, powers, rights, privileges, immunities, obligations, and responsibilities, and anybody that tries to draw a distinction between those two is kidding himself and kidding you. There ain't no difference be-tween saying "I ratify a charter," or "I ratify the second provision, there are areas someday that may want a home rule charter. All this does is says that the legislature snall provide the means of it. This Constitutional Convention in all of its wisdom could not; fit stayed here for years, of it. Inis Constitutional Convention in all of its wisdom could not, if it stayed here for years, lay down every conceivable acceptable provision relating to a home rule charter. There's no way. The third section merely says, and I agree with you that this is a departure from the committee. The third section merely says that the legislature cannot tell an individual city what form of government they are going to have. Now, you tell me what's wrong with that. Do you want the legisla-ture telling you you've got to have a different form of government than what you have? They can form of government than what you have? They can emasculate it if they want to, but I'm going to tell you something--as far as this amendment's con-conted, it does greet things. It gives you what way want; and it tells the legislature to leave you alone. Now, we can do this if you want to. We can put a provision in this constitution that says, "There ain't no charter anywhere," but when you do, you are violating rights of those citles because they ve got come. Don't tell me that 0leans suddenly awakes tomorrow and finds out they don't have a viable charter, don't tell me Shreve-port, Jefferson, whoever else has one wakes up tomorrow and says that we don't have a viable char-ter. Now either rewrite every word that's in their charter in this constitution or do what I'm asking you to do, is merely say, they can keep what they've got, because under the law they are going to anyway and to say there is a difference between "we ratify" or "we recognize they have these things, again I say, is a distinction without a difference.

Mr. O'Neill Mr. Pugh, the first two sections of your amendment are basically the same as the com-mittee report, Section 7.

Mr. Pugh Absolutely correct.

Mr. Perez To make it perfectly clear again, Mr. Pugh, so the delegates would understand, before a charter could be adopted, amended, or modified, it would require a majority of all of the electorate or all of the registered voters in the parish, not a majority of those voting in the election, is that correct?

Mr. Pugh Mr. Brown could not have expressed that more distinctly than what he did.

<u>Mr. Perez</u> Well, for the answer is, I assume "yes," that it would require in order to either adopt or amend a majority of all...

Mr. Pugh Absolutely. I told Mr. Brown that I had no quarrel with that, If he can give me the percentages, I'll be happy to support it.

24-88. Motion to

### Amendment

Mr. Poynter We'll ments at this time. We'll go with the Champagne amend-

Amendment No. 1--and there have been several

ments at this the. Aftender No. 1sed out. I believe you have the finits of this product to believe you have and the solight change in fit, the one you have Anendment No. 1, on page 3, line 4, immediately after the word and number "Section 7" delete the remainder of the line and delete lines 5 through 21, both inclusive in their entirety, and insert in lieu thereof the following: "Every plan of government or home rule charter in existence or authorized at the time" (now the words, if you have an earlier draft, the change is that the words, or authorized, "you may have the final draft)" at the time of the adoption of this constitution shall remain in effect but shall be subject to amend-ment, modification, repeal as provided therein".

## Chairman Henry in the Chair

<u>Mr. Champagne</u> This in essence is the original amendment that I proposed no yesterday before it was suggested that I add o ther material. I wartime to apologize to you for taking so much of your time in so doing. This amendment takes care Mr. Lanier's

Thi day, if the hope that appendent by 1919 Thi day, if the hope that appendent to the set of the s

Mr. Lanler Mr. have ne, when like is the two of or authorized in that the relist is the abundant y liear on that point, I all as minimum that you intend to in lude the lity of Tribudau-

Mr. Charane That abun antly clear, Mr. Lanier, and addition to that, I had it reprinted twile, and I rad to bi charged a antst your account.

Mr. Lanler Now, one other quest in a out your a enument. If we have other provisions in the local government charter that later on would be In conflict with presently eviling provision these hole rule charters, do you have any anguage in your a end ent that would rectify this differ-ence such as the language in the Toomy amendent that say, each of the shall also engoriuch additional powers and functions as are granted th local governiental undivisions by provisors of this constitution, unless the exercise if such powers and performance of uch function i ro-hibited by its charter. ?

Mr. Chapaine hat was proposed to e, Mr. anter, and rather than fall into the same pitfail fell in yesterday, I suggested that it be offered as an a ed ent to this a end ent.

Mr. anier Thank you

Mr. Changes in and for once, let's put greens up there instead of reds. Thank you.

Mr. Yean Mr. Chair an, fellow deletate . The in-tate to rise again n opposition to Mr. Chanagnet and end eit, but a stepfed to point out yreterday, and you have before you today that the parti u ar overm ent that we are talk ing about in this ac-struction of the steps of the steps of the step in created, and the other --have parti ular ion to created, and they have certain ubitant we right which have been interpreted in the as so f defer-ion and East and Rouge to te from thole in the totoroal acendence. If you ill to at the little East Baton Rouge and refferson that they have a right to create a charter ubect to the low to the wheel I gave you, you is set that in the call of bat Baton Rouge and efferson that they have a right to create a charter wheet to the constitu-tion and veneral laws of this state with resident of the create a charter wheet to the constitu-tion and veneral laws of this state with resident of the constitution of the state with resident of the constitution of the state with resident of the constitution of the state of the state of the constitution of the state of the state of the constitution of the state of the state of the constitution of the state of the state of the constitution of the state of the state of the constitution of the state of the that  $M_1$  arged well  $g_1$  ,  $f_2$  ,  $f_3$  ,  $f_4$  ,

Mr leikin Mr Fean with still a ellert roosed by Mr. has new words twe real of the charges of  $l_{\rm Deal}$  were noish ritle, as word uperior to the constitution

Mr. Yean din tiet this iter.retation it at a'l, Mr. enkin

Mr. le ki Wei, a t Bata jai a fe of the parishes, Mr. fean, we'd have t really in pect the crarters feach local meer is au-thirty and ee if in an recent the weit ee this constitution and then ake tait ee

Mr. Kean Mr. venkins, I ve teen try to evine for two ay new that a harter of a con-ment has nothing to with sublication of a government hey deal with refine a verse of There mythin in the at Bath we have the talk about roll or rivele of routine, anything less flags of the overheit, and, this plur feal a unfounded with reserved to this plur feal a

Mr. Kerr It kees the ordefer, Messel bot I tout, the score from the assumption they were found of

More teach form of the More Far along to the more made, but made to More analysis to the total of teach the search of the More and the total along a search of the search of the search of the fold as provided there is a more than which reach to other on the fail later of the analysis to the total the search of the formation of the there is the total the search of the formation of the there is the

particular home rule plans...

# Mr. Henry The gentleman has exceeded his time.

# Further Discussion

Mr. Arnette I speak in favor of this particular amendment for several reasons. First of all, I find two major faults in the committee's proposal. The first being in the sentence that begins on line 8 which states that "each of them shall retain the 8 which states that each of them shall retain the authority, powers, rights, privileges and immuni-ties granted by its charter." Whether it's against this new constitution or not, they will have the rights they presently have, and I don't think one municipality or two or six or ten or fifteen ought municipality or two or six or ten or fifteen ought to have powers that some other municipality or parish or any other political subdivision cannot have. We have several provisions in this consti-tution, in the Bill of Rights for example, con-cerning property rights and things of this sort that would be maybe against some home rule charter and therefore, would render it...that portion of it, unconstitutional. But under that provision those particular municipalities would be under the old constitution, not under the new constitution. I think all political subdivisions, all municipalithink all political subdivisions, all multicipali-ties ought to be under the same constitution. It is the only right, fair way to do it. The next objection lave to the committee proposal is the next sentence. It says "each of them shall also enjoy such additional powers and functions as are enjoy such additional powers and functions as are granted local governmental suddivisions by pro-the next sentence in line 10. It says, "each shall be subject to the duties imposed by the applicable constitutional provisions under which its plan or charter was adopted", which means that they would be subject to the 1921 Constitution as to their duties and functions. This would adopt by reference about twenty pages of the old constitution into the new constitution. So if they would want to So if they would want to the new constitution. So if they would want to share out in the old constitution to they would need a constitutional amendment to this particular sen-tence of this new constitution. My people, and I'm sure the people of many areas of the state, are tired of voting on local issues that affect only New Orleans or only Baton Rouge or only some other area of the state, and have no effect on my home-town or my home district. I don't think we ought to go into this business of adopting wholesale provisions of the old constitution so that if we want to change them, we must amend the new consti-tution. This is a bad practice. Now, let's read what Mr. Champagne's amendment says. It says that what Mr. Unampagne's amendment says. It says that every plan of government, every plan of government or home rule, home rule charter in existence or authorized at the time of the adoption of this constitution shall remain in effect. Now, what could be more clear than that? If you have a home rule charter, or if one is authorized, it shall remain in effect. This doesn't gut any home rule charter; this doesn't throw it out of the win-dow or do authons of this sort. It remains in dow or do anything of this sort. It remains i effect. Now, Mr. Kean said that this would be subject to a legislative act change. Well, th It remains in pject to a legislative act change. Well, that just simply not true under Mr. Champagne's is just simply not true under Mr. Champagne's amendment because it goes on to say, 'but shall be subject to amendment, modification, or appeal as provided therein." So if that charter does not provide for any amendment by the legislature or any change by the legislature, then it cannot be changed by the legislature. It's very simple; it's very, very clear in its language. I don't see how the legislature could get a power under of the legislature could get a power under of the legislature could get a power under if the very of the source of the source of the source that charter in the legislature cannot change that charter in the legislature cannot change that charter in the legislature cannot change. That charter in the future. It's very simple; it is there in black and white in Mr. Champagne's amendment. I think it's a good amendment. Whoever has a home rule charter, it shall remain in effect, only subject to the provisions of this constitution. only subject to the provisions of this constitution. I don't think we ought to have some home rule charters subject to an old constitution, and some sub-ject to a new one, and Mr. Champagne's amendment

olves this problem. I think it does it very, very well. It does not allow the legislature to come in wholesale and change anyone's charter unless they have that right already, which means there is no change whatsoever in the charters in that respect, and I don't see how anyone could get it out of that particular language.

## Questions

<u>Mr. Jenkins</u> If the State of Louisiana has a statute on the books which is constitutional under the 1921 Constitution, but this constitution is passed and it's contrary to this one, that law would be nullified, wouldn't it?

Mr. Arnette I assume that would be correct. It would be unconstitutional.

<u>Mr. Jenkins</u> So really what the committee proposal does, it puts home rule charters really above the general law of this state because whereas a general statute would be unconstitutional, a charter could not be, isn't that correct?

<u>Mr. Arnette</u> That's exactly right, if you adopt the committee's language or some of the other language that has been proposed in other amendments. Section 30, notwithstanding, when it says that "this language shall be supreme to any local or state law," it is very dovious that when you have a provision in this constitution saying "this constitution shall not apply to home rule charters," it shall not apply to home rule charters.

# Further Discussion

Mr. Roy Mr. Chairman and ladies and gentlemen of the convention. I rise in support of this amendment. Tive never heard so much legal mumbo-jumbo about what Section 7 is trying to do other than... and I want you to pay attention...that if you believe in the supremacy, you believe in the supremacy of a local government established under some home rule charter that none of us know about because 1 dot'ther way attention...that if you believe in the supremacy. you believe in the supremacy of a local government established under some home rule charter that none of us know about because 1 dot'ther way attent to the support of the support dot'ther way attent to the support of the support dot'ther way attent to the support of the support dot'ther way attent to the support of the support dot'ther way attent to the support of the support parts, whatever have you...then vote against this amendment, because that's the whole output in Section 7. Mr. Champagne's amendment is very, very simple. Greeg Arnette did a great job of explaining it. Well, let me show you what else the committee wasts with respect to those particular nome rule into 1974 with everything that it's had in the past the old proposition of having your cake and eating it, too. They don't want you to not only not touch them with respect to what they're had in the past we may decide to give local governments under Sections 8 and 9 of this particular article. It's the old proposition of this constitution them with respect to that they're had in the past we may decide to give local governments in the fuly that after the adoption of this constitution that the how more clearly you can say that they're going to come into the mean world or into the new constitutional eral you can say that they're going to come into the new world or into the new constitution all are also they presently are. I don't see all this Section malarkey about rights, privileges and immunities that these people want to come into 1974" Now if they want to define those, let them try t

### vestions

Mr. anier Mr. Roy, you said that if these people are naled in the constitution that the word be supreme?

Mr R\_y Very definitely, Mr Lanier; that', with thirs y all tried to do in Section (

Mr a ier well, et eask you, it of the w f is are in the constitution right now by you think that they are supre ein ouisiana right now

 $M^{\rm e}$  Eq. 60, be asse we can now deal with the through constitutions anendments, but Greg Arnette's point is well taken by your question, because if in 194 we want to deal with them, if we can, we've got to go and amed the 1921 Constitution in size way in 1976 or 1977.

Mr. Lanier Lett e asl you this, Mr. Roy In Section 9 it provides for powers of other local goverm ental subdivisions, and it has the residual grant of author ty which I believe you said today to me that you supported. Is that correct?

Mr Roy Yes, sir. I support a residual grant provided that the legislature may always restrict it.

Mr. Lanier Now, if Section 9 provides for these power, the residual power, for other units then that power would not go to these who would be ratified in Section 7; wouldn't that be correct?

Mr. Roy Run that by me again.

Mr. Lanier 0 K. If Section 9 sets up the residual grant of authority for other units, i.e., other than 7 and 8, which are those who are presently in the constitution and those who are coming in under the home rule charter in 8, that means the only people that would have the residual power would be the people who are not home rule under 8 and who do not have the present constitutional charter. Is that correct?

Mr. Roy You mean not home rule under 7.

Mr. Lanier – Well, let – e run it by you another way. 7 ratifies existing constitutional charters, right?

Mr. Roy Only with respect to home rule charters and doesn't deal with the other many cities that are incorporated otherwise.

Mr. Lanier 8 provides for future home rule charters, right?

Mr Roy That's right

Mr. Lanier. 9 provide for the power for other unit of invernment, right

Mr Roy Right

Mr. Lanier – u, that means those under 7 and would rist have the power granted in 9. Is that orrect

Mr Roy That right, but den't forget you're not giving those preently organized under commission plan, of government that are not home rule you'res nt giving thes the right you'res trying it give the under a third right you're taying it u're int sing that out

Hr arter bit, what really you're getting t right now the one, under the existing are urganized under [[]hos' fuln, aren't they

Mr. 1. y. Yes, but Mr. hanpa ne want to a that all a series of inverse entires the same

further officiation

[1336]

Mr as a etce f the ve tim, Mr harran, wuld let rieu iu, rt Mr ha re aer t A, e-al, veterday, lot u here a taliet to yu abuty ot of Mr ina aie aere ent at lest y reerval n a ut ni riina a end-int et et rieu inten yoa it e arr of this aven en eue at tec i to en inten yoa it e arr of this aven en eue arrow tec i to en inten yoa it e arr of this aven en eue ready been stated to yu that the reast in the enveration was, one because the initiation ee-chically enables and the state of the think Pagemine Parsh and the day, as wel-ter mentioned, wa his one to be enverse want to suggest even flyou on at the stee proposal, what we have do not to be enverse the state of the state of the state of the state ter mentioned wa his one to be enverse the state of the state of the state ter mentioned was his one to be enverse the state of the state of the state ter proposal. What we have do not to be state the state of the state of the state ter proposal to state the state of the state of the state of the state of the state ter state of the state of the state of the state suggest to you that Mr. The state of the state of the state, to suggest to you that for the urban areas , and in from the stay of the more and of the state, to suggest to state of the the state of the the state of boogey an say that or, effering the highly urban area and rieas and Sneevent and Plaquemine . that, y in a ster of ettin some additional votes. E would supert that effect on deviolence to your work a ster of ettin some additional votes. E would supert that effect other concerns that we have 1 in urban you to Mr. Lanier that we still haven t midde you to mittee proposal.. considered the still b daw There's no mention what ever ab ut Thi day 1 innik be voted his cincern in the constitue, ut 1 think as a matter of the vite' or something me don't get to the limit of the vite' and the still have a some fears in other deleate in a to the inter of our ommittee 1 end to the still all haves had the very fearly the there and 1 have still in areement with the still risks on the floor to ay the , and 1 think based on the floor to ay the , and 1 think risks on the floor to ay the , and 1 the very and 1 have still the very fearly that there the intent of the argument, and 1 think are and the wired very learly that the risks one the argument, and 1 think and amendment doe no violene what over the there is the note of the argument, and 1 think are amendment doe no violene what over the there is the note of the argument, and 1 the stiller is the note of the argument with the stiller is the note of the argument and the stiller is the note of the argument and the stiller is the note of the argument and the stiller of the argument over the stiller of the stiller over the stil anendment doe no vivien e what bevert either if the home rule narter. Now, un en tard whitme people will probably vite against it be a either the home rule nare that hem affected is the 'bor enan that' been this will be a the 'bor enan that' been this will be a the 'bor enant that 'bor enant that and even if we visit about enumerations'. In this work of the either that the either that the white the that the that white the there that the that white that 'bor enant that's either that 'bor enant that 'bor enant that's either that the address of the either that the that 'bor enant the that 'bor enant that 'bor enant that's either that 'bor enant tha

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Mr. Eugh Mr. half an init fellow defeated have the locative fritting in the locative fritting in the locative fitter of the locative fitter that have not what they is the locative fitter the word locative fitter the word locative grades in the located fitter the word locative grades in the located fitter the locative fitter the second grades to discuss the locative fitter that appendix the locative fitter that

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Rei e i i

[Quorum Call: 113 delegates present and a quorum.]

### Amendment

<u>Mr. Poynter</u> These are Toomy and Kean. Amendment No. 1, on page 3, line 4 after "Section 7" delete the remainder of the line and delete lines 5 through 21 both inclusive in their entirety and insert in lieu thereof the following: "Every plan of government or home rule charter existing or adopted when this constitution is adopted shall remain in effect and may be amended, modified or repealed as provided in its charter. Each local gomer rule charter rule and the adopted shallowing one rule charter rule and the adopted shallowing one rule charter rule and the adopted shallowing one rule charter rule and the adopted shallowing retain the authority, powers, rights, privileges, duties and immunities granted by its charter and by the constitutional or statutory authority therefor."

## Explanation

Hr. Kean Mr. Chairman and fellow delegates, we've had considerable discussion today surrounding among other things, the specific references in this proposed section to specific areas of local government which are affected by it. There has been other felt that the section as order of delay devention of the section as a provided out dhaves the effect of giving to Shreveport, for example, authority which it does not now have under the constitutional authorization by which the charter in Shreveport was adopted. Under those circumstances we have suggested this amendment to the committee proposal which who are delay and the section as a provided in that charter. Secondly, we have provided that these local government subdivisions would retain such rights and privileges as are contained in its charter and as are granted to it by the constitution and powers and functions of governament, but the distinction made in those particular anticles under which they...constitutional articles under which they were authorized under the constitutional or statuory authority under which they were authorized between structure and organization and powers and functions of governament would continue, and would grant the continuance Shreveport and the others involved under the constitutional or statuory authority, because as I have pointed out earlier, there are some municipalities which are nome rule charters under statutor authority in order to make it clear that they continue with that as the base for their particular section. It seems to me that it erersents a consensus. It does away with objections such as Ming and and and and and the application of the order to make it on a mendment.

## Questions

<u>Mr. Roy</u> Mr. Kean, we've been saying all along that y'all have been trying to make us fool back around with the Constitution of 1921 and now you specifically state it, don't you, with this?

Mr. Kean Mr. Roy, all I'm saying here, that in The case of Baton Rouge, for example, it has certain specific authority under Article XIV, Section 3 by which its plan of government was adopted and if you don't give some reference to that you take away the base of that charter, that's all.

Mr. Roy Well, I don't know if I can get a specific answer from you, but aren't we going to have to go back to the 1921 Constitution to determine this constitutional authority that you want us to interpret for Baton Rouge and every other home rule charter that is presently in existence?

Mr. Kean You've got to go to that as a point of reference, that's correct.

Mr. Roy I think this one is worse.

Mr. Roemer Mr. Kean, I notice that you amendment does not have the phrase that another amendment that I see on my desk does and that is "subject to the provisions of this constitution." Why don't you have that in your amendment?

 $\frac{Mr.\ Kean}{provisions\ of\ this\ constitution.}$ 

 $\frac{Mr.\ Roemer}{2}$  But, you don't clearly state that, do you? That's just your supposition. It certainly doens't read that to me.

<u>Mr. Kean</u> Mr. Roemer, I take the position that whatever these agencies have in the way of powers and functions is subject to the constitution.

Mr. Roemer Well....O.K. Thank you.

<u>Mr. Burson</u> Mr. Kean, there is a legal question which was discussed at some length in our committee sessions. It has not ever been reached today. Isn't there a real legal problem about abrogating the provisions of any existing charter form of government by constitutional action by this convention? Would you elaborate on that?

Mr. Kean Yes. The point is that if we don't continue the establishment of the base by which they were created, it raises a serious guestion as to their continued existence. Because you no longer have any point of reference by which to determing if you don't make some vefere the the theory which they were founded they're just kind of floating out in the air somewhere, and under the circumstances I think we'd do a distinct disservice to those existing charters in that kind of context.

Mr. Pugh Mr. Kean, I can see that you are a legal scholar in this field and I pose one question to you that concerns me. Do you think if this convention wanted to do so that it could, in fact, abolish all of the home rule charters in the state of Louisiana?

Mr. Kean In my opinion, Mr. Pugh, they could.

## Further Discussion

Mr. Avant Mr. Chairman, fellow delegates, if we adopt this amendment we might as well go home. It's just that simple. I'll tell you why. Because, we are saying that we're writing a partially new constitution. We're writing a constitution that is illusory. We're writing a constitution that will sillusory. We're writing a constitution that will apply to be a security that the security of the won't apply to local government at all. Nothing that we put in the articles that are to come up in the future on revenue, finance and taxation, nothing that we put anywhere in this constitution will change local government or bapplicable to local government one wit, because if you read the plain lanions which have a home rule charter stay in the status quo. They have the same authority; they have the same power; they have the same dist of the constitution destinated and cost in the status quo. They have the same authority is charter as interpreted and construed in the light of the constitution of 120. This constitution dest not apply to 1 period. Most that's what it says in place of a constitution, a partial constitution, a half of a constitution, go ahead and vote for this

Join Days Proceedings—September 20, 19/3 and ent, but i's tellin, you when you do, you int as well just pack up and to hole, because you're not doing a thin. None of the provision protecting the right of the individual citize that we have in this state and giving them ore rights with respect to govern ent which we incor-carated in the bill of rights after weeks and week of debate, got a thing to do with local govern ent why. The plain language of this set on a to you awyer, you don't have to be a udge; you don't ave to be a college graduate; all you have to do s to be able to read the English language. I streenuously urge you to reject this amendment, be-

Mr. Munson Mr. Avant, you're an attorney. I' not. In regards to what you just stated, if we adopt this amendment as proposed and the entire one constitution or are we going to have two con-stitutions or one and half?

Mr. Avant We're going to have two constitutions, Mr. Munson. We're going to have one for state Br. Avant. We re going to have two constitutions. Br. Munson. We're going to have one for start 31. We're going to have another one for local govern-ment which is going to be the Constitution of 1921, and you're going to have the people somewhere in between and they're not going to know where they

Mr. O'Nei 1 Mr. Avant, Mr. Kean has said that the 1921 Constitution will be the legal basis for the home rule charters, is that correct?

Mr. Avant The charter or the constitution or the laws that were existing at any time during the life of that charter, in fact, everything but this

Mr. O'Neill Kell, let me ask you, Mr. Avant, if this constitution is adopted, in your opinion, what is the legality of the old constitution?

Mr. Avant it Well, we're still going to have part You're going to have to be reading both

Mr. Chehard. Mr. Avant, as I read this proposal, It seems to say in effect that if before we pas this constitution and if a charter should provide by that time for the people of that particular "ummunity to ratify separately or to abide by. with or against the present constitution, it would in effect...this would prevail in other word,, we're taking all of these communities away from our constitution if their charter so provides

Mr Avant That Forrect

The Guart to Mr. Hairs at member of the or-vention. (If t of all 1 heat to say Im ertainly for hore rule and i there us to say Im ertainly gate here if for hore rule that's not to get in. When you leave at the word, us to to the privilor of this constitution' and you adopt this amendent, then if you believe that one in tills of nuwer, should exist to any novermental youd with that' above and heyond the 1914 in tiltution then there in us can for being have if we adopt the mes initiation, if don't he heat any interface and heyond the previous if the 194 on tiltution, and when a did they yet the ne-triever. They hat the previous the new attraction, hat deem't are any sense what even

Then, the event of a mean are as are free end of the feast of the feas

Mr. Arnette I ust want to state very sm., that this mendment is exactly the larethin an the committee proposal, only it's poorly drafter But, it's exactly the sare than It promoses ab lute?, no change whatsoever from what the constitute reposed. There is an a end ent on in later Mr. Conroy, Dennery, Stovall and Gravel is an it him, we can all agree to. It weep then him rule larters in existence. It does not channe them It merely object the to the constitute only right. merely adject the to the constitut with only right because ever person ever subdivision, every unicipality, every elit state should be subject to the new litt this don't think we ought to ale an exect in fir me person, une town, or one parish its subit every, body to the constitution equally if think this was our goal in co ing here ke warted a new simila-tion for all the people letts have a new simila-tion for all the people and lets adout the new a-endment coming and releat this present are net Thank you very unit

Nr. Ainette Well, a ordinit the way I i ad it, yes, it does say, ublest to that on titlinal privil in when it was ado tel, and that it e 192. Constitution

Mr. Roy And when it ay italitis authority, we ay be havin to be a with a status trat-setur a load pixenerit that was 19 which have to while and be was that talities to weath net the

Mr Annulle I use that use to see a point know about that, Mr R a

Mr. Gauthler will, iter foart sour o e.t., I's acvie in torrad it alat

Mi Arriette Hell Ni Gaunier, what is a there i that the initiation half te meeting it when our have a root in inithing of the

which says something else shall be superior then this constitution's statement that that other thing shall be superior, is superior, which means that the other is superior. If you can get my reasoning.

## [Previous Question ordered.]

<u>Mr. Kean</u> Mr. Chairman, fellow delegates, I have attempted to lay before you the problem that this particular section attempts to deal with, and if I understand the arguments of Mr. Arnette and Mr. Avant, they would want to take away from East Baton Rouge Parish, Jefferson, the other home rule on Rouge Parish, Jefferson, the other home rule charters and municipalities, certain rights which they have achieved up to this point by a vote of the people and by the vote of the local people. I didn't come here to take away things from local areas which had achieved them through the normal processes of governmental charge. The purpose of this amendment is to provide that those specifically listed municipalities and parishes without now specified mone would continue to have those " spelling them out would continue to have those rights which they now have and under which they have organized their own plans of government, and unless you provide for that in an amendment such as this, I repeat and I repeat again, that you take away from those particular governments the base upon which they are founded. Now, this busi-ness about creating something that's some kind of super government is in my opinion totally without merit. We've talked about the supremacy provisions of Section 30 and it's clear to me that the pro-viptos, the bill of rights, or whice be the particular authority in question, would always be paramount. We're talking about here, governmental structure, and under the circumstances I can't follow the logic or the reasoning behind the sugfollow the logic or the reasoning behind the sug-gestion that this would in some way give these particular municipalities and parishes and organiparticular municipalities and parishes and organi-zation that primes anything this constitution pro-vision, is necessary for one purpose only, and that is to provide for the orderly continuation of the political subdivisions to which it refers and without taking away from them substantive rights that they now enjoy under existing consti-tutional or statutory provisions. I ask your favorable consideration of the amendment.

> [Amendment reread. Record vote ordered. Amendment rejected: 31-85. Motion to reconsider tabled.]

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. Conroy]. On page 3, after the words "Section 7" delete the remainder of the line and delete lines 5 through

remainder of the line and delete innes 5 througn 21, both inclusive, in their entirety... All right, let's try this again. Amendment No. 1. On page 3, you'll need to in-sert line 4 after the word..and numeral and punc-tuation "Section 7." delete the remainder of the line and delete lines 5 through 21, both inclusive, on the interty and insert in lieu thereof the following:

following: "Every plan of government or home rule charter existing or adopted when this constitution is adopted shall remain in effect and may be amended, modified, or repealed as provided therein." Need to change the following words---the next sentence begins, as you have it, "Subject to the". It should read: "Except as inconsistent with the provisions of this constitution, each local gov-ernmental subdivision which has adopted such a home rule charter or plan of government shall re-tain the powers, functions and duties in effect when this constitution is adopted. Each of them, if its charter permits, shall also enjoy the right to any powers and functions granted to other local governmental subdivisions."

<u>Mr. Conroy</u> We have tried to meet the objections that have been raised on the floor. We have modi-fied language here and there for that purpose and objective. I think that this entire question has been thoroughly debated and discussed by this point. As I said, this is intended to meet the objections. I hope it does. I think the best thing to do is to yield to questions that may be asked.

## Questions

<u>Mr. Lanier</u> Mr. Conroy, I have two lines of ques-tioning. The first one is my standard one: that when you put in here 'those that are existing or adopted when this constitution is adopted, 'you are intending to include the situation of the city of Thibodaux where we have adopted a charter but it is not yet in existence. Is that correct?

That is specifically why it is so Mr. Conroy worded.

Mr. Lanier Fine, thank you. Now the second ques-tion is the one I was discussing with you a minute ago, about the effect of the last sentence in your amendment. Would it be true that if we adopt the residual grant of autority approach as is presently submitted to the convention in Section 9, that a unit of local government with a home rule charter would not have the residual grant of authority un-less they amended their charter to so include that authority?

Mr. Conroy As I would view it, Mr. Lanier, that would depend on what the home rule charter in gueswould depend on what the home rule charter in ques-tion said. As this amendment says, if the charter permits it, it can have additional powers. My problem, as I mentioned to you earlier and as one think that regardless of what we put in Shita. Think that regardless of what we put in Shita. That we will have problems with the wording of Section 7 until we determine exactly what goes go into Section 9. I would ask Mr. kean in that regard whether when Section 7 was passed the committee would resist the temptation to reconsider it and loss it on the table in order that any further dis could then be considered in conjunction with Seccould then be considered in conjunction with Sec-Could then be considered in conjunction with sec-tion 7 and the three sections together laid at rest at one time. That's the only way I can answer it; it doesn't matter what we say in this sentence; it's subject to the convention's will when we get to Section 9. At that point if what we have done here is not appropriate, then I think it should be considered at that point.

Lanier Well, in that regard, would you agree hat in acting on the last sentence here, since we have not yet passed on Section 9, that we're kind of in the position of having the cart before the horse?

Mr. Conroy I think that Section 7 is the cart before the horse, no matter what else you do, to cause the other deals with governments generally. This deals with only one specific area of local government: that is, home rule charter governments.

Mr. Anzalone Mr. Conroy, there are those of us who are not greatly familiar with the charter form of government and by way of explanation. I would like to ask you a few questions. Under the present charter form of governments, as I understand it, this is constitutionally authorized. Is that cor-rect?

Mr. Conroy. You may be in a position of the blind talking to the blind or seeing the blind. If you're expecting me to be a home rule charter expert, I'm not. I could give you my impressions, but if you want sound answers to some of these, you may best address them to somebody who can really answer them.

Mr. Anzalone All right, sir. Would you do so?

Mr. Conroy I'll try.

Mr\_Anzalone It || constitutional y authorized

Mr. Anzalone Kight nuw, there are consumption and functions and duties, and whatever have you, under these charters that the legislature by purely statutory aw cannot interfere with. Is that cor-

Mr. Conroy Avain, I really don't know. You may be right, I just don't know

Mr. Anzalone Now, in pursuing this, is that if we provide that subject to the provisions of this we provide that subject to the provisions of this constitution and somewhere down the line we slip in a little provision that says that the legisla-ture can pass statutory law, which is going to effect the home rule charter, then, in effect, what we're doing,if we should pass something like this further on down the line, is that we are making this a statutory home rule charter rather than a constitutional one. Do you agree?

Mr. Conroy No, I don't see that in this at all.

Mr. Anzalone If this constitution were to orant to the legislature the authority to interfere with the home rule charter, then you don't see where that would be a statutory charter?

Mr. Conroy Well, I think that if this constitution so provided, yes, but I don't think it's provided in this amend ent is what I'm saying.

Mr. Anzalone Well, I know that, Mr. Conroy, but

Mr. Conro, tion that was asked earlier, was whether this con-stitution could abolish home rule charters in ef-fect. The answer that Mr. Kean gave...

Mr. Henry The gentleman has...Mr. Conroy, you've exceeded your time.

Mr. Yean the Clerk

Mr. Anzalone kept talking about "subject to the norvisions of this constitution." As a under tood it, that was changed to read "Except as inconsis tent with the provisions. Is that orre t

# Mr. Poynter That's correct

Mr reguler section inme Rule charter Mr. syncer. Jertion J. Home Rule Charter Totion J. Ary local overmental uddivi-tion may dool , dopt, or amend on harter of nov-term may dool , dopt, or amend on harter of nov-and the overming aution of any synchronic sector and any sector of any in hard preven-ments uddivillen ay applied a unitation to prepare and prepare and harter in the site of the terring aution of the sector of any unit terring aution of the sector of the sector terring aution of the sector of the sector of the sector of the file terring aution of a sector of the sector of the file terring aution of a sector of the sector of the file terring aution of a sector of the sector of the file terring aution of the sector of the sector terring aution of the sector of terring aution of the sector of the file terring aution of the sector of the sector terring aution of the sector of terring aution of the sector of the sector of terring aution of the sector of terring aution of terr

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purpose 10 Two or relocal overnients is division its determined with the boundaries of nearly a avail the seven of the revious (this et ), provided that a sourty of the electric leash affected local governients and with a nearly thereof. The least are shall privide for the ethod of appoint ent or election of a to prepare and private such a charter ensistent to appoint ent or election of a to appoint ent or election of a to appoint ent or election of a to appoint and for the source entry of the ethod of which the eduction is a source to a subdivision. The least affected occil governe to subdivision. The least shall row de the method by which the electors of ore than one local governmental subdivision within the bou daris of one parish may petition for an elect on fir w

(E). A hole rule charter ado ted unuant t the provisions of this Section shall provide for the structure and organization, piwer, and fun-tions for the governient of the loial giver le ta

Mr. Kean Mr. Chair an, fell w delgate, this e-tion in keeping with the general phillion by if the committee by which powers will be raited from

Mr. Interne Mr. Fland, did a constant anantanti interneti did a constanti interneti in

legislative or constitutional action.

Mr. Roemer All right, I see that. I'm speaking in regard to line 12 there that says "The legislature shall provide for the method of appointment or election of a commission to prepare and propose such a charter consistent with Paragraph (A) of this Secion." Without that sentence do you think they could provide for the method of appointment or election of a commission inconsistent with Paragraph (A) of the constitution? I just don't see what that sentence...

Mr. Kean Well, I think it would be simpler if it sold that 'The legislature shall provide for the method of appointment or election of a commission period." I think under those circumstances they could do it differently than provided in Subsection (A), and that was the reason for the reference.

Mr. Roemer I see. They could go against the constitution in what they did?

<u>Mr. Kean</u> No, because you are dealing with an entirely different set-up in (D) from what you are talking about in (A); that's my point.

Mr. Roemer I fail to see it.

Mr. Bergeron Mr. Kean, I'm looking at Section (B) of this. We are talking about a petition signed by fifteen percent of the electors. Am I correct?

Mr. Kean Yes.

Mr. Bergeron That's fifteen percent of the electors of that particular parish?

Mr. Kean Of the area of the local governmental subdivisions....

Mr. Bergeron Which is to be affected?

Mr. Kean That's right.

 $\underline{\mathsf{Mr}}$  . Bergeron Just out of curiosity, is there any way...how did the committee arrive at fifteen percent-no special number,  $l'\mathsf{m}$  sure?

<u>Mr. Kean</u> No, as I recall in either the...under the other provisions it contains a percentage which would... I think in 33:1381 there is a percentage involved, I think about twenty-five percent. But we felt fifteen percent would be adequate for the purpose.

## Mr. Bergeron Thank you.

Mr. Avant. Mr. Kean, when we were discussing Section 7, you explained and I believe...and I know correctly so, that these two terms "powers and functions" as opposed to the other two words "structure and organization" which, as contained in the plan of government of the city of Baton Rouge, that under that language the courts had held that a general state law establishing minimum pay scales and longevity pay for firemen would not be applisce matter of structure and organization. The pay of personnel and the working conditions of personnel related to structure and organization rather than powers and functions. You remember making that...that was the La Fleur case.

# Mr. Kean That's correct.

Mr. Avanc Now, I note that in Subpart (E) here, It again refers to structure and organization as opposed to powers and functions. I'm particularly interested then in Subsection (G), which says that "The powers and functions of a school baard or the office of sheriff, clerk of the court, coroner, or sessor shall not be alected by any provision therefore, must infer from that, that structure and organization can be a'fected. Is that a necessary and required inference, do you not think? Mr. Kean Hell, you could infer that, Mr. Avant, but it was certainly not the intention of the committee in drafting this language. We had intended to make it clear that these particular officers could not be affected by any such plan of government.

Mr. Avant But, as it is written, and considering the explanation that we've engaged in so far, there is a very distinct possibility that under the jurisprudence the pay of the people in the office of the assessor would fall which in the real, on the people the realm of the police jury or the council under a plan of government or a home rule charter. Isn't that right?

<u>Mr. Kean</u> I wouldn't give it that interpretation, no. But if an amendment will help satisfy that point, we would have no objection to it.

Mr. <u>Duval</u> Mr. Kean, as I understand it, Subsection (E) of Section 8, starting with line 2B, basically is a La Fleur case, enunciates the rule of the La Fleur case?

Mr. Kean Starting on in (E) on line 28, page 4?

Mr. Duval Yes.

Mr. Kean Yes.

Mr. Duval Now, what effect does...let's see if we can understand what that means. Does that mean that the legislature can pass mo law which in any way contradicts, affects, modifies, or changes the powers and duties set forth in a home rule charter purely adopted by the local government, the citizens of the local government?

<u>Mr. Kean</u> No, the legislature would retain the authority to adopt laws which deal with powers and functions of local government. But, insofar as structure and organization is concerned, which would include the manner in which you set-up the government, the people that you employ in it, things of this kind, the legislature could not.

<u>Mr. Duval</u> Well, if that's all it does, l agree with it. But, it says "The legislature shall not pass...

Mr. Henry You've exceeded his time, Mr. Duval.

## Further Discussion

<u>Mr. Lanier</u> Mr. Chairman, fellow delegates, by way of additional explanation of Section 8, Section 8 and Section 9 have to be read in conjunction with each other. Duite frankly, they are the manner in which home rule units may be established and what powers shall be granted to home rule units and other units of local government. Section (A) extends the present procedure by which municipalities may adopt home rule units may be established and what powers shall be granted to home rule units and other units of local government. Section (A) extends the present procedure by which municipalities and the committee was that with our modern society where we are becoming more and more urbanized in the country areas, people who are governed by police juries or who live in the unincorporated areas requicipalities. They want their severage. They need the lighting. All of these services are the same. You might belongs to the municipality and that which belongs to the municipality and both sides of the street, they've got to give the same services. We fell that in this regard, rather than have to go through the very cumbersone procedure preschil wallable, or get a G a hise volue charter should be coepual between all units of local government: that is, parises and municipalities. With reference to (B), this gives a

Solin Days in Continues - in present - interway in which the verning authority will call it we think hat this is one of the critical parts of the hume rule provision. The right of the permine the seleves to initiate the home rule unit withwhich area of thouring in present in the seleves to initiate the home rule of the seleves in the electors who vote on the charter proposal at an election called for that purpose. Now, with reference to part 10, i would like to yield at this the for the epilanation of that to the an who is privarily responsible for it, E. Chatlain, and he will equation that exists in the marsh of stagette.

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Mr full. This die n't provide for in missions fod i if ther are two in core, doe it?

Ni hatelain No, sir it doe not orovide for infimmu nodes, but this is a questin left up to the individed access of north lini and, bu would't have a stuation where no unuld d this. I don't think

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Mr. Dennery in other worst, ettin and t contradict Section 7

Mr. Lenner, Now, this is derived in the Mr real said, and I want to held x . The Mr real said the home rule provides in the tree was that the home rule provides in the face of the model of the mode

Mr. Lanier 'e..

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Mr. Lanter here are to tre to violate the resent constitution it is the normal degree. Mr sentery, the over a to here to be a senter of the senter to be the senter of the

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that the legislature was not allowed to force the city of Aston Rouge to pay certain salaries and what have you to firemen and policemen because under the Baton Rouge charter, pursuant to the Constitution of 1921, that dealt with structure and organization. Is that right?

<u>Mr. Lanier</u> This is a very good point and I'm glad you brought it up, because I would like to explain this to the delegates as well as to you. There is a very significant distinction between organization a very significant orscinction between organization and structure and powers and functions. The pro-visions of 8 (£) deal with organization and struc-ture. This identical language or a similar lan-guage presently exists in the home rule charter of the parish of Jefferson and in the fast Baton Rouge city-parish charter.

### Amendments

Mr. Poynter Amendment No. 1. [by Mr. Pugh]. On page 3, delete lines 22 through 32, both inclusive in their entirety and insert in lieu thereof the

Section 8 Home Rule Charters; Adoption; Ratification of Existing Home Rule Charters Section 8. Any local governmental subdivision

Section 8. Any local governmental subdivision may draft, adopt, or amend a charter for its own government to be known as a home rule charter. The legislature by general law shall provide the method by which a home rule charter may be drafted and adopted. A proposal to adopt, amend, repeal, or replace a home rule charter may be made by the governing authority of the local governmental subdivision or by petition of at least fifteen percent of the electors of the local governmental subdivision filed with the official having charge of elections in the local novernmental subdivision of elections in the local governmental subdivision setting forth the proposed charter or amendments. The governing authority shall provide by ordinance that the charter or the amendments so proposed that the charter or the amendments so proposed shall be submitted to the electors at the next election held in the local governmental subdivision not less than sixty days after its passage, or if the petition requests it, at a special election held in the local governmental subdivision not less than sixty days nor more than ninety days af-ter its adoption. Any charter or amendment thereto so approved shall become effective at the time and under the state of the state of the state of the through 32, both inclusive in their entirety and on page 5, delete lines 1 through 13, both inclu-sive in their entirety. that

<u>Mr. Pugh</u> Ar. Chairman, fellow delegates, I first call your attention to the fact that the fourteenth line has the word "of" and it should be "or."

Mr. Poynter That word should be "or", shouldn't it. Mr. Pugh, "charter or the amendment so pro-posed"?

Mr. Pugh That's correct.

Mr. Poynter should read: "The governing authority shall provide by ordinance that the charter or the amendment so proposed shall be submitted.

Mr. Pugh This amendment would authorize, allow and direct the legislature to provide by general law for the adoption of a home rule charter or plan of government, but such areas as may not, at the time of the adoption of this constitution, have time of the adoption of this constitution, have already such charters or having had the same au-thorized or provided for, as Mr. Lanier has. It spells out in general terms a procedure to be followed by the legislature in connection with these specific provisions. It calls for a refer-endum, fifteen percent, as has previously been in some of the constitutional provisions. Once this is adopted, it would delete, or the next amendment would delete the rest of the provision.

## Questions

Mr. Duval Mr. Pugh, looking over your amendment. I see it leaves out Section (E) of the committee proposal which is the codification of the La Fleur case. What I'm wondering is this. Under your amend-ment, could the legislature by statute change a structural provision in a home rule charter?

Mr. Pugh Not an existent charter. This is for new ones. Let me tell you something. He said there are two cases, but there are three cases. The other case happens to be the Shreveport case.

Mr. Duval Now, so you believe that...in your amend-ment then, if a municipality would incorporate... would have a home rule charter in the future, then the structure of that home rule charter could be changed by a legislative act. Is that right?

Mr. Pugh No, I didn't say that.

Mr. Duval Oh, I thought you did.

Mr. Pugh I said that the legislature can provide by general law what would be in a charter. I never

1 understand that. Now, my question relates to how can structure be changed since the language in the committee proposal is left out of you r amendment? Do you think under your amendment, structure can be changed by legislative act?

Mr. Pugh 1 think when they create the general law to provide for this, they may provide structure and organization as well as powers and functions, in my opinion.

Mr. Duval But, can it be changed by a legislative act?

Mr. Pugh No, sir.

Mr. Duval Why?

Mr\_Puph Well, I'll say this. Once a charter has been adjoted on the basis of that, no. But, if someone doesn't have a charter under the basis of that and the legislature then creates or amends that law, then you'll have to comply with whatever the existing law is at the time.

<u>Mr. Duval</u> So, you feel once the charter is created under a specific act, then that charter cannot be changed structurally by a legislative act?

Mr. Pugh I sure do.

Mr. Duval What about powers and duties? Could it be changed by a legislative act, then?

If the legislative act, in accordance powers and duties, functions, anything it spells out, and you adopt a charter based upon what it spelled out and then subsequent to that they have a new legislative act, I tell you that new legislative act cannot affect that then existing charter.

Mr. Duval You don't thin giveth it can taketh away? You don't think what the legislature

Mr. Pugh No, sir. When they give you something on the basis of a constitutional provision, brother,

Nunez Mr. Pugh, in the present constitution 

[1343]

ir vi ion all wing any parish to up t a hie rule charter under the constitution out in ing the pro-visions which they can form structure and power, etc. You want to eli inate that and put i there by general legislative act ... is that. that's

Mr. Pugh 1' telling you that under the provision of the olitee. Shreveport does not have tru-tural organization, under the provisions of this committee it will have it. When Shreveport has onething, want the to vote on the is what 1

Mr. Nunez We 1, we...l think we are writing a con titution for the ent re state, not only Shreveport

Mr. Henry You've exceeded you ou ve exceeded your time, sir. You've exceeded your time, Mr. Pugh.

Mr. Perez Mr. Chairman and ladies and gentlem of the convention, I believe the issue which we have now before u is very clear. I said in my opening relarks concerning local government, we Mr. Chairman and ladies and gentlemen which if we could divide these ubject matters. In-fortunately, under the Puph amend ent we cannot do allow loal areas, when the people so de de, to be able to have a hore rule charter should be determined by this group, and that I the subject writed in the state of the rule charter should be determined by this group, and that I the subject writed in the state of the rule charter should be determined by this group, and that I the subject writed in the state of the rule of the state of the shore rule sharter, that use in a later the shore rule sharter to use in a later of you that the people I this tate. hould be given the opportunity directly from the onit tu-tion to be able to addpt a hore rule in harter is they desire. Must limitation you might want which limit with what us notice, the rower, the origination of the tate to find a farter is to you that the the people of the tate is a state in the rule of the tate to find a farter is to you that be the tate to find a farter is to you that be the tate to find a state the point subject is tated to a legiclative as the side of subject to tate to a legiclative as the side is subject to tate to a legiclative as the side of the subject to tate to a legiclative as the side of the side is tated to a legiclative as the side of the side is tated to a legiclative as the side of the side is the side of the side of the side of the side of the the legiclation of the what the legiclature is the legiclative of the side of a side of the side of the time the envention of you want to rive the origin and the side of the side of a side of the side of the side harder are side to the side of the side of a side of the side harder are side to the side of the side of a side of the side harder are side to the side of the side of the side of the side of the the side of the side of a side of the side harder are side of the side of the side of the side of the side harder are side to the side of the side of the side of the side harder are side to the side of the side of the side of the side

Mr. enkins Well, Mr. erez under Mr. un alendent, aret the people i edch ared ive the right to draft their win charters in rounly the same procedure that the initize main round ex-cept in a uch ore inplified fr

Mr. Perez ho, sir, subject to the whole of the legislature and a a n, what the legislature leth,

Mr. Jenkin. Are you referrin to set in when you make that co ent

Mr. Perez 1 referring to the Pull rootal which would cay that the lessatile yild it general laws with respect to the ad ito. If the a end ent of the harter.

Mr. Jensin In other word, the investigation are taking about being quarely before whether or not local government an or or of anything not specifically devied to we set e

Mr. Perez No. if you listened attintively. Ir. what I said was that we have several volved. First, i whether or not as uid ie local government, or whether we shoul twe the people of an area ther in this determ ne whether they want to have a particular firm is viewent to sever the several several several several constitution would jive the people to the use on that charter, and I ay that they are off it arately and not put toether a to do the Pugh and not put toether as to do the Pugh and not put toether as to do the Pugh and not put toether as to do

Mr. Jenkins well, by deletin firstif, a Mr. Fugh ha dine, wo ldn't that ear that a government would have whatever authinit is if delegated to the first he len ar restrictions stitutions.

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people of this state are going to be called on time and again to give the authority locally...or give the authority to adopt home rule charters through constitutional provisions.

## Further Discussion

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, I rise in support of the Pugh amendment. We are concerned in this convention in presenting to the people a concise constitution which will give to us basic structure. It seems to me that in this particular section that is before us presented by the committee, that we have too much tegislative material. Now, we have expressed in many ways our belief in home rule, and we will continue to do so. But in doing this, we must not at the same time express fear and distrust of the legislative. In fact, we might the tear of the legislature. I submit to you that we cannot write a constitution on the basis of fear. We must do it instead on the basis of trust amendment presented to us by Mr. Pugh does just this.

"I submit to you that our national constitution has prevailed because it is based on mutual respect and trust. It maintains a balance of powers, and I submit to you that the Pugh amendment is an effort in this direction. Now, we came to an important break in adopting Section 7. At that time, we the test of this proposal as such, but rather it is whether or not we're going to give to the people a meaningful constitution. Now, I submit to you that this section with which we are dealing should not be considered as being sacred, but instead we should try to take the substance of it and express it in fewer words, and this is what datical surgery. That is, a malignancy needs to be removed in order that the body may remain strong. Now, as we move through this section and through this article, we do come to a need of radical surgery and it seems to me again that the Pugh amendment does this. It reduces about two pages to possibly a half page, and I thin it tit he committee recommended. Therefore, I encourage its support and doption.

## Further Discussion

 $\underline{\mathsf{Mr}}$ . Alexander Mr. Chairman and delegates, I have been analyzing this section, Section 8, and comparing the amendment. I have listened to some of the speakers and lim afraid there have been one or two misrepresentations. The first, one speaker sid that the legislature could, under the provisions of this amendment eliminate or clange with a local political subdivision possibly could set up a home rule charter. Now, as the amendment situation with the resolution states is that the legislature is obliged-that is, it must provide. It hasn't the leeway, there is no elasticity here for the point of the major reasons with its convertion was called was to write any the more concise document. The document under which we are not going and event of the main of the major reasons why this convention was called was to write a short, concise, understand able continuity of the main of the major reasons. I think it must contain man says in this section alone, I think it must contain the reason of the major reasons why this convention was called was to write a short, concise, understand able constitution. When you give him two culd for the past in this section alone, I think it must contain material that should be statutory and could think there are definite safegaards which would prevent any future legislature for a going and every one is not main wait in mast contain material that should be statutory and could think there are definite safegaards which would prevent any future legislature for mencroaching on the preogatives of local government. I'll yield to questions.

## Questions

Mr. Nunez Reverend Alexander, do you realize that in the present constitution there are over...there are approximately ten pages that deal with this very same particular subject--that is, allowing local governing authorities to establish home for the two pages, and this new amendment cuts it for the two pages, and this when the the the the ing authorities to establish a home rule charter? In fact, it cuts it down hy one-fifth of the present wordage in the constitution.

Mr. Alexander If you are speaking about Article XIV. I think it's about ten and a half pages, and these accounts this group of the start of the speak that account this group of the start of the methods by which a local governing body could set up a home rule charter. That would be it; that's all that's necessary.

Mr. Lanier Reverend Alexander, would you agree that under this language that says "The legislature by general law shall provide the method by which a home rule charter may be drafted or adopted," that the legislature could provide that part of the method of adoption would be to acquire an enabling act or permission from the legislature? Nould you agree to that?

<u>Mr. Alexander</u> If you mean the legislature may stipulate that the local governing body must obtain information...I mean permission from the legislature, I would say that a good court would rule against that particular idea. I think a court would rule that the legislature may only provide the method and may not restrict the local governing body.

Mr. Lanier You don't think that the method could include an enabling act by the legislature?

# Mr. Alexander Possibly.

## Further Discussion

Mr. Duval. Wr. Chairman, fellow delegates, one, I think as should not by the shortness or length opposition to the Pugh mendment for the following reason. I think very desperately the people of cuisiana want home rule, a viable home rule concept. I think if you would go and ask the peoplewhoever...we talk about the people; if you go on the street and ask them about home rule. I think infety percent of them would want home rule. I think infety percent of them would want home rule. I think infety percent of them would want home rule. This whole home rule provision. This is how it does it; it allows the legislature to provide for the method. It said it shall provide for the method of how it's created, but it in no way prohibits the legislature from changing what the legislature granted to the municipality or a parchial government getting home rule. Therefore, it completely goviates the off the legislature entity and parish is going to try to get their legislators to put them back in our new constitution so they will be protected from constant legislative enters the nomic rule. The purpose of a home rule charter is primarily by the port be local howe and so the momit and they have gotten already under the home rule concept, you will vote against this amendment puts it right on the line; I'll say this, in my opinion. In my opinion, either you're for the home rule concept, you will vote against this amendment; if you're not for it, you're for the home rule concept, you will vote against this amendment; from the tor it rule you're for the home rule concept, you will vote against this amendment; from the tor it you're for the home rule concept, you will vote against this amendment; from the tor its you're for the home rule concept, you will you want to be when you vote.

Further Discussion

Join Days Proceedings—September 20, 12403 Hr, Nunez Hr, hairs and fellow delegate. think the metite has given this state and len-he local overning authoritie and the unit-paities of this state a vital tool, a vital tool by which they can go ahead init a hole rule harter if they so desire 1 think Hr. Push's arendment gives it to the legislature haw, if tails to and see whether they want to fur the one of the and see whether they want to fur the one of the and see whether they want to the the one of the and see whether they want to fur the one of the as pleat of the legislature. I think you re going to find that they don't. What this does, It takes from the present constitution about the or six Fortunately, the people were will enough to defeat ost of them. Several of them got through. Mine was one in the early years that got through before the people started to defeat them. Now, what the committee has done is given you this convention to olive to the people of this state, a general pro-sision under which our governing authorities can establish home rule. Now, if you don't like thout tests don't abolish the intent of the provision whereby someone can. . Some governing authority can form home rule under the constitution and not by a simple legislative act. I think we'd be doin) In the constitution where there lead of version authorities and units have rule there is a version of the second second

Mr. le\_Bliga

that we retain all the present root in the institution with reference to that

Mr. Niez enatrie e., (, heard e say that adviate we retain the prejent of stuff, then ourheard wron. I snoly said that the re-vision that the onlittee have said that the re-vision that the onlittee have said that the re-tution ageneral provision, y are avery modified to the said that the said that the said tution there are a number of page to at deal in the provision that a lows sectification arises life your parts of East Bain Rouge-. I already have at the partshes to go into the are provises that you now have. No, I don't adviate we retain every provision in the present intuit I ave ate that we adopt a sin lar row into twat the committee has proposed fes, I do

Mr The Bleux Well, and but in other rd., are willing to retain the preient provisions as the omnittee proposed without any than e-want to find out what your position is e-au e-yt said of you don't live it, all e thad, yet,

 $\frac{Mr}{m}$  Nunez I m talking about the Pu h a end ent and I'm against t. .

Mr. <u>Chatelain</u> Mr. Charran and fellw de eater. Listand in opposition to the Pugh a end ent e-cause we are dealing again with a ut 1, e whether or not you want hore rule. It sign an

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finest minds in front of me in the State of Louisinan--there's not a one of us or collectively can we provide everything in a constitution. Now, this merely says the legislature can do what it's done before--that is, provide for home rule. That's all from an work of the state of the second who justly deserve it. I suggest that you adopt this amendment so that we can go on to the remaining provisions of this article. This amendment gives us exactly what we should have; it provides that the legislature can lay the methods out by which this is to be done, subject, however, to then it and all of those things. I have faith in the legislature, and I'll tell you one thing. I'll bet my life as an attorney that if the legislature passes a general act providem them. I don't care lator can take it away from them. I don't care a layver, once the legislature has proken and the people elect to follow the provisions of the legislature, the you can't take it away.

### Questions

<u>Mr. Roemer</u> Mr. Pugh, there are those who have been to the same podium in which you stand now and have said that to vote for your amendment would be to emasculate home rule. Is that the case?

 $\frac{Mr.\ Pugh}{l} \quad \text{Well, I certainly don't think it will.} I don't know of anybody that's more interested in home rule than I am. We've got it at home and I like it. \\$ 

<u>Mr. Roemer</u> In other words, what you're saying, isn't it true, would you agree that a vote for your amendment is a vote for home rule in its constitutional form?

Mr. Pugh It gives everybody that doesn't presently have it an opportunity to have it, is what it does.

<u>Mr. Perez</u> Mr. Pugh, isn't it correct that the... where your home area is, 'Shreveport, that you have a constitutional home rule charter?

Mr. Pugh Yes, sir, we do.

<u>Mr. Perez</u> Why is it that you don't want to afford the people of the rest of the state the same protection as is afforded to your home parish?

<u>Mr. Pugh</u> Well, brother, what do you think I'm trying to do? I'm trying to let them have all of those benefits that we have up there in Shreveport.

Mr. Henry Would you yield to a question from Mr. Burson?

Mr. Burson Mr. Pugh, it's true, isn't it, under the present law that the legislature has been able to grant legislative charters?

Mr. Pugh Yes.

<u>Mr. Burson</u> Well, what would the difference be between the legislature's power to grant legislative charters under the present law and what your amendment would establish?

<u>Mr. Pugh</u> The wisdom of the people not to adopt a legislative law, that's what, a legislative provision of government. That's what is does.

[Record vote ordered. Amendments adopted: 60-59. Motion to table reconsideration rejected: 46-74.]

Mr. Henry Now, we have gone through this so many times and I'm not going to stand up here and explain it anymore 'cause I'm not going to have some of you jumping up and shooting at me. But if...if you don't know by now what we are doing when we vote to table a motion to reconsider, then you just haven't learned the basic procedure of this convention. Now, Mr. Puph, do you insist on reconsidering at this time? Well, now you have moved to reconsider the vote and also to table the motion, which motion was defeated. Now, we...you want to reconsider it now or let it go?

[Motion to reconsider.]

# Further Discussion

 $\underline{\mathsf{Mr}}$ . Arnette I must apologize to this Constitutional Convention bccuse I read the attitude of the convention wrong. I thought they would have defeated Mr. Pugh's amendment very easily, but he thing that Mr. Pugh's amendment obes and the reason why I don't wait it is it does not permit anyone who does not new have a home rule charter constitutionalized from having anything but a legislative home rule charter, and I don't think we that, a home rule charter that is not subjact having the. a home rule charter that is not subjact having that that, every home rule charter that is not subjact that that; every home rule charter from now on will be subject to the whim of the legislature, but probably the best thing to come out of the...of the Local and Parochial Committee is this section which the whim of the legislature. Mr. Pugh's amendment destroys this entire Idea, and that's why I urge you very, very strongly to reconsider that last vote and to defeat Mr. Pugh's amendment. I think vet ead to defeat Mr. Pugh's amendment. I the subject to the state that don't have them now. Please allow us to get them. Thank you.

## Vice Chairman Casey in the Chair

## Point of Information

Mr. Kean Point of information. What is the parliamentary situation on the floor at the moment?

Mr. Casey Ok, the Clerk will...being our parliamentarian, will state the parliamentary situation.

Mr. Poynter Mr. Kean, after the motion was made, following the adoption of the amendment by one vote, to reconsider the vote by which it failed to pass and lay the motion to reconsider on the table, the motion to table the motion to reconsider failed by a substantial vote. Mr. Burson has insisted on the motion to reconsider, so the question before the convention at this time is whether it will reconsider the vote by which it passed the Puch amendment. If fails decided by a single majority vote. Those opposed to reconsidering the amendment vote no.

## Further Discussion

Mr. Perez I would hope that you would listen carefully and attentively to what I would have to say at this time because of the fact that I do know that we are trying to write a constitution with a limited number of amendments. I can assure you that there is no purpose of putting this provision in the constitution in its present posture as passed by the Pugh amendment because of the fact that we do now have and have had for many years legislative authorization for charter forms of government. In spite of the fact that we have had that, time and time addin, parishes and municipalities have come to the legislature and direct constitutional authority for the adoption of a home rule charter. I predict to you without any fear of contradiction you will see more and more and more proposed constitutional interfaces to give authorize the and municipalities to adopt constitutional me rule charters. I, there-

fore, unge that you give this matter your seriou-lons delation and efficient five can't give local yern entits e true local, true right to govern

\*\*\* St val Mr Perez, accordin to this, it the elisature shall provide a method under gen

Mr Perez Accordig to what, Reverend 1 don't have the piece of paper in front of e

Mr Stovall Well, this is what it says. Now f that's done, that would not require a constitutional amendment, would it? I'm not an attorney like you

Mr\_Perez There's no way for me to answer your question; I don t...you have a yellow piece of paper in front of you and I thought it was a com-mittee proposal. I don't know what you are re-fering to. Are you refering to the Pugh amend-ment? Again, all that the Pugh amendment does is live the legislature the right to provide for char-ter forms of government. It already has that right and we have the Lawrason Act types of charters for

<u>Nr. Goldman</u> <u>Nr. Perez, Mr. Puph's amendent</u> reads as follows and then l'11 ask the question. "The legislature by general law shall provide the method." That desn't give them. Joes that give them just the opportunity to do it or does it tel them that they shall do it, they have to do it?

I don't question that the legislature would provide the method: I question the fact that from year to year they could amend the law to change or modify the authority of these local

there is no question with respect to that

Mr. Armette In other words, Mr. Perez, you are trying to say that the people who do not presently have home rule charters will either have to have a legislative home rule charter under the new law enarted under Mr. Pugh's amendment or have a

Mr

er for the management or it' affair not denied by general law or this constitution. Now, my gue tion is simply this does, will thi give the right to any municipality operating under a hime rule harter, the right to pass an legil latin it sees if not denied by general as a this on th

Mr. Perez: Well, Mr. Hernandez, let me ark you allwer you in this failion. First, an I tried to Tail to the attention of the delegates earlier,

this that i believe that husid be determined in whether we are in fait to ve the sele task hise the right with a client it to take

Mr Avant Mr hair an aro fel a deleates, Ar-tle JX, sector 4, of the relet in titt ays that the let ature ha in vide y e era law a ethod whereby ary unit alty a fale a The set of the set of

Mr. Nunez Mr. Avant, if I today adopted a legis-lative act to provide for a hime rule charter a d we are in a procedure of studying it, and not year we change the legislature and they change the act that set up my home rule charter, where do I

Mr. Avant Now, let's get two things stracht, Mr Nunez,---Senator Nunez. The legislature an chance the procedure by which a hole rule charter =:1

Mr Lanier would you a ree that under the lub amendment that we have adopted, that it is for the legislature fri sear to year it also it easier or harder by prei ribing the eth d fir it to adopt home rule charters?

Mr Avant I don't think is in view of the inst-tutional provision. I ean it this being the situation, that a proposal to addict one and e ade by the governing authority or a pelity of lifee percent of the electors. That is what we uit

Mr. anier. But doesn't this sees the that the legislature shall provide the etil of

Mr Avani well, that has to do with the election of ortain this , it has it is a arra with the met pelied nut in this set ion, there there is a trying to sale, with the train to what there pelie have made for the low. In that if you adopt the aberter under a level at the at is used to the aberter under a level at the at is used to the aberter under a level the at is used to the aberter under a level at the at the pelie have made for the forward law, that then the level aberter under a level at the at is used to the aberter under a level at the at the pelies at the aberter aberter about a set of the aberter and the to you there is a the set of the period of the aberter about the set of the set

legislature from saying that a unit may only adopt one form of government as a home rule form of government?

Mr. Avant I think that...l don't think the legis-lature can do that because the legislature's power is only to "provide a method by which a charter may be drafted or adopted." It doesn't say what can or cannot be in the charter.

Mr. Lanier Would you agree that unless the legi lature in this regard is prohibited from acting, Would you agree that unless the legisthat it may do so?

No, 1 wouldn't agree with that at all, Mr. Lanier. Avant

Mr. Lanier. I say...the reason I wouldn't do it, because I say...the reason I wouldn't do it, because then you don't have a home rule charter.

Mr. Roy Mr. Avant, when you got up you said that it was Article XIX, Section 40. What you really meant was Article XIV, Section 40. I don't want people...

Mr. Avant I'm sorry; it's XIV. I'm not good at reading Roman numerals.

Mr. Roy Right. Good.

<u>Mr. Arnette</u> Would it not be possible for the legislature to say it would take fifty percent or seventy-five or ninety-nine percent of the regis-tered voters in a municipality before they could even vote on having a home rule charter?

## Mr. Avant No.

Mr. Arnette Why could they not, Mr. Avant. They're providing the method.

Mr. Avant It says, "a proposal." It says right here, "the governing authority shall provide by ordinance" as to how...that when it shall be submitted.

## Further Discussion

Mr. Pugh Mr. Chairman, fellow delegates, we have finally provided for a provision for home rule for the areas that wanted to have it. Let's not now deprive them of that right. Thank you.

### Questions

Mr. Rayburn Mr. Pugh, I'm trying to get something clear in my mind. Under your language here, you say "the legislature shall provide the method by say "the legislature shall provide the method by which a home rule charter may be drafted and adopted." I'm of the opinion the word "adopted" means that you could say---it may or it shall take seventy-five percent of those voting to adopt it, it shall take forty-five, fifty-five or sixty-five, and then my only concern with your amendment is 1 think in Section 7 we have made it definitely clear that any provision that is in effect in this state which is Shreveport, New Drleans and Baton Rouge and several others, shall remain in baton Kouge and several others, shall remain in tow, shall remain as they are, and I am curious to know here where you use the words "shall pro-vide a method by which it may be drafted and adopted." I'm wondering if that wouldn't mean that the legislature would have the power to say to adopt this particular home rule you would have to have two-thirds or sixty percent of those voting.

Obviously, the legislature can put a e in there. You made reference to all of Mr. Pugh percentage in there. these cities. Of course, I assume that the last amendment that we had in connection with the last section took care of that phase of your question.

 $\frac{Mr.\ Rayburn}{do,\ Mr.\ Pugh,}$  Well, the only thing I'm trying to do, Mr. Pugh, is to be fair with these people in this state that at a later date might want to adopt a home rule charter. I want to give them the same protection as the ones that now have one, and

I'm a little curious as to whether or not your amendment will do that.

<u>Mr. Pugh</u> Well, you understand that people have adopted home rule charters under various provisions; they're not alike. Our problem may be less if they were alike; then we could say that you could pro-vide them like everybody has, but that's not the case.

<u>Mr. A. Landry</u> Mr. Pugh, under your amendment. contrary to the present constitution, then my par-ish could not...this would automatically void 3(D), which gives you a parish charter commission, is that correct?

Mr. Pugh I couldn't understand your question; I apologize.

<u>Mr. A. Landry</u> In other words, under the present constitution as I read Paragraph 3(D) of Section 14, upon a petition of fifteen percent of the electors of LaFourche Parish, we could have a parish charter commission; however, under your amendment this de-letes that part of the constitution. It doesn't provide for a constitutional method of getting a parish form of government---parish charter commission, is that correct?

Mr. Pugh It provides for a referendum and pro-vides also for the city fathers to call...

Mr. A. Landry In other words, your amendment has taken away the constitutional rights that we already have under this constitution?

Mr. Pugh If anything, I think my amendment gives them a lot more than what they got under the constitution

Is it not true, Mr. Pugh, that under Lanier your proposal the legislature could provide that the method for preparing or drafting of the home rule charter would be by one person?

Mr. Pugh Could be drafted by one person: res, but I seriously doubt if the people would adopt it if it was drafted by one person. Could be drafted by one person? Yes,

### Further Discussion

<u>Mr. De Blieux</u> Mr. Chairman and ladies and gentle-men of the convention, my remark is going to be very brief because I think that most of what is wanted to say was said by Mr. Avant. There's one thing I would like to point out to you; let's don't get the matter confused. There is a difference in the legislature changing the procedures and the legislature changing the charter after it's been adopted. When the charter has once been adopted. I don't care whether it is by constitu-tional amendment or by act of the legislature, that is a charter insofar as those people are con-cerned. That's home rule and there's nothing in the world the legislature can do about it. And let's get that straight. The legislature can change the procedure, yes; it can change the pro-cedure, but not the charter. Now, that's what we are talking about it was a straight on the straight writing a charter and then the legislature turning around and changing it. That legislature is com-posed of people just like you and l, and if we are the legislature changing the charter after it's writing a charter and then the registature turning around and changing it. That legislature is com-posed of people just like you and i, and if we are going to do what's right here, the legislature is going to do what's right, and that's as simple as that and just don't forget it.

Mr. Rayburn Senator De Bileux, I certainly agree with you that once it's adopted. My only concern is the method of adopting it in the future; It is left, the way I read this language, entirely up to the legislature to provide a method...it says "to provide a law...a general law shall provide the method of which a home rule charter may be drafted." Now, I think the word "drafted" means that the

Source Days Proceedings—Sciptember 20, 1973 less store a la ut that on it's any store and a store that the end of the outer sefore it's adouted that what located concerned of the less store adopted that is in opliane with the pope that now have now crule them the could, in sopining, ale it nore strenuous or even less strenuous to there it adout once the have to go through show they would, light have to go through with to get it.

Mr. <u>We Bliey</u>. Well, Senator Rayburn, you and both serve in the leni lature and I agree with you they ould nave one or less re thritten, but as you well know as a ember of the regislature, you're interested in iv ng a uch ho e rule as possible, ett g forth the guideTines to protect the people, so therefore, I think that you and agree the legislature is not going to put any un-due restrictions yon the adoption of home rule charters. We wouldn t be there very long if we did.

Mr. Anza one Senator De Blieux, when you set up by Teirslative act, a com ission to draw a charter for a articular to ality, you would draw it this year and you would give the certain powers, dutie and functions, is that correct?

Mr. De Blieux This is not for a certain locallty, thi would be a general www. Mr. Anzalone. That's what the, wenden tays, "it shall provide by general law, ont would apply to the whole state

Mr. De lieux Well, I feel white entain the legislature in its wisdom would be sure that every-one had equal opportunity. I...certainly fee

Mr. Arza one But there is n antee that that would happen

Mi, De Bireux There's none is this prejent way fits written, I don't think, as that We have already approved that is the previous provi on when we say that it is provided that they would have the lame authority as in other, in the amendment that was proposed and adopted before it's not room listent with the sharter, adopted by the local suverment.

Fr. Willis, Mr. hairman and felluw delai te , hiever de tre arything immedirately difusiti the eff. The prud, the gealau, the cyclus, the angry san never ret. The humble, the churr faile, the turn view dwell is pace. True pears, therefore, it achieves by entiting temptation or not to view leying it yield in the the faile are humble, must file and in the faile is the other physical system where the faile is the other physical system is the start of the system of the system is the system of the system of the system where the system of the system of the system is the system of the system of the system is the system of the system of the system is constructed by the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the other system of the system of the system of the oth

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doubtful, but in the name of fairness I think we owe it those areas that have not been able to adopt constitutional home rule charters prior to this time to leave open a way for them to do so in the future if they feel that the needs of their localities require It. Now, whether or not the mitted should be changed, of course, is always open to question, but I do ask you to reject this amendment which, in my view, would do nothing more nor less than leave localities dependent on a legislative charter because when you say that the legislative charter but the dominant group in the legislature can make it so hard to adopt one of these under that general law that you'll never have one adopted. So, I ask you, in making your vote on this issue, set aside for a moment the tugs on the coat sleeves that you have had since we started debating this article, the request for favors, the request for this dout one thing. Do your people at home, wherever you come from in this state, want the opportunity to enact a home rule charter and have it given constitutional status as the charters are in Shreveport, New Orleans and the other areas that have them now?

## Question

Mr. Kean Mr. Burson, you touched on the language "the legislature by general law shall provide." Suppose the legislature did not undertake to adopt a general law which would provide; would you have any means of recourse to enforce this provision?

## Further Discussion

Mr. E.J. Landry Mr. Chairman, ladies and gentlemen of the delegation, I want to represent for a moment, the people who do not have representation here. I want to read this as the layman reads it. I want to give you my interpretation it do not a listened. I'll repeat you've been very good to me; you've been kind. I've tried to be patient, tried to understand, I've watched. This is a crucial listue; it needs attention, serious attention, and I'm worried very often by the unserious attent of the twe give to some of the diffuoitto do sometimes. You did the right thing a moment ago when you postponed a decision. I want to pay tribute to the people who voted yes. Sixty, sixty people voted yes, and I want to pay tribute to the fifty-nine people who voted you. I voted no, but because of the discussion and the del berations med, and I'm going to do what I think is right at this moment. The good have the neenplity that, he legislature; I came here to explicit a good and want. Again, I do have tremendous faith in the legislature; I came here to explicit you and it gives me, and it gives the people that I represent what they need.

### Further Discussion

Mr. Wall Mr. Chairman, fellow delegates, I'm glad to be back with you, particularly happy to be here before this amendment is adopted. You know, I can't see how that you can vote for this amendment if you are for home rule or if you're against home rule, unless you are for different classes of home rule. Back in the last section we adopted, and really put the clincher on for the home rule in Mr. Pugh's home city of Shreveport, and a couple or three other big cities, but now they got their class of home rule; it's set in. Anyone else that has home rule; ay like west Monroe where I'm from, they are not set in. You've got two different classes of home rule index Rugh's amendment. Now, for these up here that are set for home rule then they retain all of their home rule, but the rest of the state, no. Now, how can you be for two classes of home rule? Now, of course, I'm amendment here, the legislature can set out whatever home rule charter they desire under his amendment. Now, of course, I don't think the legislature is that bad myself, but it's just a case--doesn't make any difference whether you're for home rule or against home rule, I don't see how you can be for the Fugh amendment. It goes on and says that when it's adopted by the electors, it doesn't spis it is adopted by the electors, it doesn't spis it is alog to the dow is not a gord amendment, if you're for home rule or if you're against home rule. I can't see how any of you could want to protect Shreveport, Baton Rouge, and New Orleans, and Jefferson, and get a different class, a different class of home rule for the other places in this state. I'm going to tell you, I hope that those people out of fain meass, from those areas, doesn't you're for he pain amendment. The areas, doesn't you're the plan amendment. The areas in those the places in this state; so I'm going to ask you to you're dow the pugh amendment.

### Questions

<u>Mr. E.J. Landry</u> Mr. Shady Wall, I want to ask you a very serious question, and in asking you this question I want the members of this convention to hear the answer. This very serious question pertains to the statement that you made a moment ago. The legislature in this article, by a general law, only provides for a method by which this charter may be drafted and adopted. Now, there's been a lot of confusion here, but that's all it provides for, a method, that's all. Now, there's been a lot of other things injected, but that's all it says. Is that not true? Is that not true that the legislature...

Mr. Wall Yes, it is a method. That is correct.

Mr. E.J. Landry That's all!

Mr. Wall No, that's not all it says.

Mr. E.J. Landry In that line, the legislature by general law shall provide the method, and that's all.

Mr. Wall Is that your question?

Mr. E.J. Landry Isn't that what that line...That's it.

Mr. Wall When you finish, then I'll answer, but I can't answer it when you continue to talk. Are you finished?

# Mr. E.J. Landry Finished.

Mr. Mall Mr. Landry, I can see that you've been around the legislature a long time, but you haven't learned all of the authority that the legislature may exercise. Anytime you give the legislature the authority to adopt a method for adopting a home rule charter, they can limit the authority the method as such, they can limit the authority adjuing. This not that I don't have faith in the legislature but it's not right to have two classes of home rule.

Mr. Roemer It is good to have you back. I woult like to ask you to tone down your comments, though, you knocked over a man right behind me with the force of your wisdom and logic.

Mr. Wall That's not the first one I've knocked over, Mr. Roemer.

[1351]

Roe er But n pite of that, 1 w. d 10.t. i, have you read the a end ent, the Puth a en\_-

Mr. Wall Mr. Roeler, for our enefit, ill read to the entire delegation live readit, ut i want to clear up any use tion in your and Mr. Wal. It to th

Mile Perkins ladie and gentlemen, let me firit thank you for giving the opportunity to speak to you. On the way up here, Mr. Derbes said that y. that it begins at here and not in the legislature. One thing that amazes me, la man attorney, and mediately said. "I'm not an attorney." Well, l'm going to tell you that I don't know that wich about the systems of local government. But I have take the aparisme of fast Baton Roure. Use for some give constitutional status to the home rule char-ters of the parishe: of fast Baton Rouge, Jefferson and Plaquenies, and the home rule charters of the Stites of New Orieans, Sheveport and Baton Rouge. It is all existing home rule charters. I cannot un-derstand why, if we have given these home rule Charters constitutional status, we refuse to give the same status to other future home rule charters. It takes a mandate of the people in order to es-tablish the home rule charter. If they mant their charter, then we should certainly give them the sharters is we have given the existing home rule charter we have should certain future the

charters. I do agree with what Mr. Perez stated earlier. It would seem to me that if we leave it to legis-lature, and legislature is petitioned, and they earl authority to establish a home rule charter, and this...the proponents of the home rule char-ter want constitutional status, then it would seem definite that we'd need a constitutional amendment to give them the same status of the existing home

Mrs. Warren Miss Perkins, I'r not asking you this question because I am for or against what's joing on right now. I'm just asking for informa

Miss Derivation Well, I gathered part of them are ratution (by established Now I don't show the for Sure, Mrs. Warren, but from insteams to the distustions, one of them were established and the tutionally; the remaining were established by legislature with legislative content which made the flatutory. But we have elevated them all to conflictional statu.

Mr. Warren Ye, but you til haven t an wered by metter Who et the method I think I heard from the public up there that this was the legis lature would of the ethic I think that what Mr. Warren

isture would let the rethind i think that what wal and from the pidout flink, who let the rethod from the beginning flink it, what is trying to find ut it has to be a beginning, so who let it? Was it the runninga-litie, the parties or who

Min. Perkins. I's afraid it wasn't the munit palities, but you will have to direct your question

well we to a will do e a 54.2 Mr warre well be a lwartt 3 t\*w

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Mr weaks Mr harran ad felw teet . had pretty well stred yielf three rat and try to expedite the working of the entry The second secon

don't know o' any city yet that 'e' u and ' for a charter for hoe rule that wild has an 't truit the left lature in don't have on and on with ti' 'n a charter of the second and with ti' 'n a charter of the second and the second second world wrom with left on the left lature essis and set up the provi and set up the provi one all charter. If you this they is a tite set up eighty, eighty five er ent, it is a the even ive you the right to add tit to en-erally been the attricted of the list is a set time i ve spent there has een that a and it hat to be, a kin for a thirt to thing locally, if the left of the set time upport it, has nith up to it is the time any coposition.

Mr. Pug. I I aya if the rai will be a re-th of operate lace or which it to re-depending un which way we want to apply re-

for asking the Chair to do it. But rather than speak five minutes, 1'm going to let you speak ten seconds.

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[Notion to reconsider adopted: 64-48.
Previous Question ordered. Record
vote ordered. Amendments rejected:
49-65. Notion to revert to other or-
ders adopted without objection.]
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REPORTS OF COMMITTEES [I Journal 508]

Announcements [I Journal 508-509]

[Adjournment to 1:00 o'clock p.m., Friday, September 21, 1973.]

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# REPORT OF MALE AND A STATE

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More than the set of the set of

tee and subsequently in the committee. Virtually every change or amendment was adopted or failed to be adopted by votes of 4-3 in the subcommittee, and subsequently, the chairman had to break ties in many occasions, 10-9, to bring the matter out. Now, I submit to you that if you want to hear the whole story and see the whole picture, you should vote in favor of the bennery substitute motion and let this matter be passed to its third reading. I urge your support of the proposal.

# Further Discussion

Mr. Hernandez Mr. Chairman, ladies and gentlemen of the Convention, I rise in opposition to Mr. Denery's proposal to pass his delegate proposal to third reading and final passage for the reason that Mr. Flory has so aptly pointed out. We have heard civil service on our subcommittee ever since we commenced our hearings last January. I, too, havecommittee and committee hearings, and nobody was ever denied the right to speak. Ne heard everybody in this country that wanted to speak and some, in fact, some came from New York to speak on this question. We have heard more than our share of civil service that are now in our present constitution and some that wen, that the majority wanted to see in the present constitution. So, for that reason l hope that you will defeat this motion by Hr. Dennery to pass this to the thod row and this be heat you will defeat this motion by Hr. Dennery to pass this to the the drow and this the seen amply aired out. Thank you so much.

## Further Discussion

<u>Mr. Sutherland</u> Mr. Chairman, fellow delegates, I rise in support of Mr. Dennery's motion or proposal to to submit this proposal to third reading. In our committee, we have had a lot of discussion on civil service, I agree with Mr. Hernandez. But, I'm not sure we had the type of discussion on the proposals that we should have. We're not discussing the police and firemen right now, but that one went through without any discussion. I would certally think that this the degate proposal. If you don't want it, vote it down at that time, but certainly you should have an opportunity to compare it to what the committee put out. I would urge its support. Thank you.

> [Previous Question rdered. Substitute motion adopted: 67-40. Motion to re-consider tabled.]

Mr. Poynter The next proposal is Delegate Proposal No. 28, introduced by Delegate Dennery. A proposal relative to transition for members

of the state civil service commission. Comes from the Committee on Education and Welfare reported unfavorably.

## Vice Chairman Roy in the Chair

## Motion

Mr. Poy Mr. Aertker moves that the proposal be withdrawn from the files of the convention. Is there any objection? Why do you rise, Mr. Dennery?

## Substitute Motion

Mr. Dennery Mr. Chairman, I offer as a substitute motion that it be engrossed and passed to the third reading.

## Point of Information

Mrs. Warren Does this mean that we are going to

have two proposals to denate mill

 $\frac{Mr.\ Roy}{1}$  It means,  $\frac{Mr.\ Warren,\ that we arrive ntly, <math display="inline">\Gamma$  wasn't here when it first began, but you will discuss all over again whether you want to pay this on for a third engrossment and submission to debate later just like this last one.

Mrs. Warren I understand that you'll pass it on, but that means you are going to have two proposals that you're going to be debating on at the same time.

Mr. Roy Well, apparently, that would be true. Are you ready for the question?

## Further Discussion

Mr. Dennery The second proposal, the proposal that is now before you, is really part of the first is to be being on the second proposal that is a second provide the second provides for transitional measures with regard to the changes in the various civil service commissions. Since you very precide your you have the same. We have the second precide your you for the same.

## Questions

Mr. Rayburn Mr. Dennery, was this proposal considered by the committee?

Mr. Dennery Senator, I suppose you'd have to say it was considered by the committee. They voted on it.

Mr. Rayburn Are you at liberty to give us the vote?

Mr. <u>Dernery</u> I'm not sure what the vote on this particular proposal was. Senator, because I was in another committee meeting and had left before it was voted on. I left after the first one was voted on. It was probably a rather large majority, though.

# Mr. Rayburn For or against?

Mr. Dennery Oh, well, it was a large majority to vote to report the proposal unfavorably.

<u>Mr. Flory</u> Are you aware. Mr. Dennery, that the vole in the committee, according to the minutes of the committee, on the proposal we voted on awhile ago was 9 yeas and 2 mays to report the bill unfavorably, and the vote was <u>9-2</u> on this one to report it unfavorabla?

Mr. Dennery I was aware of the first one, Mr. Flory. I wasn't aware of the second one. I wight point out, however, that that committee contained. I believe, twenty-one members, and the vote was by 2. S. so the const for e. I as further aware of the fact that when the matter was discussed, I came into the meeting at the invitation of the chaiman and was refused the opportunity to ask you a yuestion when you closed on your motion.

Mr. Flora Isn't it further true, Mr. Dennery, that I sent a man after you to get you out of another committee so you'd be present when your prion al was heard?

Mr. Dennery I don't know who sent for i.e. Mr. Flory. As I said, I thought the intain an hall ent for me. It quite pollibly was you.

Mr. Flory Do you know also, sir, that I told you at the meeting I would not hesitate to of wer no questions you had to a k me?

Mr. Dennery Yes, sir, Mr. Flory, that s why I will

very areful to say that the hair an refused the opportunity to a k the queltions

Mn learnes Mn ennery, I ust want to be wreithat you understand and every delegate on the filor unter reads, and I phrase this in the form of a curst in you hnow that there are txenty one members of the titee on Education and welfare, and only eleven voted, as previously outlined by Mr. Flory!

Mr. Deinery Yes, sir, am aware of that

## Further Discussion

Mr. Reanal I was saying I was going to rise to explain circly what Mr. Dennery oid, that this was ust a transitory means of...lf, in the event the proposal passed, this was a means of incorporating it into or getting it into action. So, I don't need the floor.

## Further Discussion

Mr. Chairman, fellow delegates, 1'11 Faultion when we get into considering delegate pro-posals and they come back voted unfavorably. A lot of people believe in the committee system, and there are certainly pros and cons. But, I would hate to see us get to the point to where six or seven delegates determine what all of us on this convention are going to hear. To say that we should just go right down the line with committee propos-als, I think, would be a mistake. Committee pro-favor of a particular point of view. In this case, we're talking about I x or seven percent of the delegates of this convention even vot ing on the We're talking about is or seven percent of the delegates of this convention even voting on the whole question. I not really here to defend what Mr. Dennery sproposal is trying to do. I think if you look at the record. I vote against Mr. Unenery most of the time. But, I do think he ought to have a right to be heard and I think that so one of the problems we have in this convention-the fact that we have to go by a committee proposal without word of warning. As we get like none complicated articles, up till now, things have been preity cut and dried on the Bill of Rights, on elected of-ficials versus appointed officials. These are pretty cut and dried que tions. It doesn't take a whole lot of deep thinking to determine in terms of complicated issues, how your regoing to vote. But, when we get into the areas of local and paro-chal government, revenue and taxation, il chair-man of a subcommittee, we've been studying this area for six, seven, eight months and is thi don't understand a lot of the things we're talking about It's going to get very, very complicated, and i hope we don't make the mistake of cutting off the charge to fully air a particular point of view ust cheice to fully air a particular point of view just because the com ittee proposal was passed and a delegate propo al was turned down. I uit wait to unge that a word of warning tike I agy Im not agying I disagree or agree with Mr. Dennery at all, but civil ervice is so ething that is the upmatin portane to the future of this state. I think we upht th nave every apportunity the hear every 'right of the I use on something that Therman Thur an agy, well, we can get bugged down of the state of the get of the state of the every 'right of the i to uged down we've down of the state areas i think we upt in the of e uph tated areas i think we up to the budged down of the feway to delegate proposal as we uve along Yet, Mr. Flury, I lanswer your question

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Mr. For y renature rown, are you supportion, enhaps, that we also the the solution of the are to the rist the innerent on in a Construct of the where

Mr. rown Mr. ry, I sym, that the tree systems are reached weaknesses. A lot of Niked up in ittees based our art up ar itter t yu take Reveue and arat we nave the Reveue and bast on tites at if ecple an have pattular interest it take art cut area, and thas ertain weighted veited interest All of us do. I this you dot the itter up train in his point interest itterest area in his point interest to me power to you in at the great ting if this onvention But I don't this you out to est to me manting to hear a des if an us to candidy. I think you and i is probally it the same when the thing coes out to this interest this we are point to be ading at this interest this we are point to be ading at the if and the coes of the probles we have in the same this one of the probles we have in the same the time tere points are to you the on perof Rights. Him any a end the up of the proper and paronal and some odd amend ents. The had and paronal and some odd amend ents in the same and a some odd amend ents in the same and a some odd amend ents in the same and a some odd amend ents in the same and a some odd amend ents in the same and a some odd amend ents in the same and a some odd amend ents in the same and a some odd amend ents in the same and a some odd amend ents in the same and a some odd amend ents in the same to put the proper and the committee proposals we ver as don'n the same a lot of us didn't have as have to put the proper and the one wat that committee add some odd amend ents in the a lot of us didn't have as india to be a same to put the proper and the one wat that committee add some odd amend ents in the a lot of us the and the add some odd amend ents in the same and a lot of us didn't have as india to be a don'n the same of the a lot of us didn't have as india to be a don'n the same of the system that we have right mas

<u>Mr. Flory</u> well, I apprec ate what you say, seator, but isn't it a so true along that a cline, that <u>Mr. Denery</u>, with his delegate prip along by the way of a nend ent, alone identically the lare thing we very been doing nere in a wing the cline gates to hear both sides. "here similar to a read deal of controversy that exit between the two is doing could have heard both sides by the way it a context route?

Mr. Brown He could, and we d three e ac det after another a endment after another a end ent, we're volleg on these thres by vote of 5 - 3 Only about seventy precent of the delegates are even here, and 1 th nk it a real three delegates we're doing business right now. I d'ur rather hear it in tern of a delegate or a', even the I may vote against hi, I went to see we have an overall hearing it the three.

Mr. Gold an enator is wn, yn ta'i d an ut b ging down is that we nave is an ere bogging down is that we nave is an ere aneuvers that waste so un the, that is we let to the point a little qui ier we ut is the point a little qui ier we ut get so thing accoplined with a little is da entary aneuvers we take up as uch the are as we wuld if we'd histen ta i the i

Mr Eriwn wels, Mr and mar, Jilias tir ro yru A de orracy i a hined Simi, i with rol ade Da and a it find i the theory theory of the ade D like yu ay have a sin i has the ade the filmenth in orrest of the market of D want to be in twill invise, i with the near every of the locing has a sin the near every of the locing has a sin the near

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chial Government, and other delegates and members of that committee.

A proposal making general provisions for local and parochial government, levee districts and ports. The financing thereof and necessary provisions with respect thereto.

The status of the proposal at this juncture is the committee has adopted as amended Sections 1, 3, 5, 6 and 7 of the proposal. Has voted to delete Sections 2 and 4 of the proposal. Presently has under consideration Section 8 of the proposal. Mr. Chairman, numerous amendments still pend to Section 8.

# Chairman Henry in the Chair

# Amendments

Amendments sent up by Delegates

Mr. Poynter Amenuments sent up of orteget Roemer, Kelly, Ginn and others. Amendment No. 1, on page 3 delete lines 22 through 32 both inclusive in their entirety, and insert in lieu thereof the following:

"Section 8. Home Rule Charters Section 8. Except as may be inconsistent with the provisions of this constitution, any local governmental subdivision or subdivisions may draft, governmental subdivision or subdivisions may draft, adopt, amend, or repeal a home rule charter. A proposal to adopt, amend, or repeal a home rule charter may be made by the governing authority or by petition of at least ten percent of the electors, or ten thousand electors, whichever is the lesser, of the governmental subdivision or suddivisions af-fected thereby. Such proposals shall be filed with the officials having full charge of elections, hav-ing charge of election and with the governing end authority. It shall fully set forth the proposed charter, amendment or other proposal. The govern The governing authorities shall provide by ordinance that the proposals shall be submitted to the electors at the next scheduled election held in the local governnext scheduled election held in the local govern-mental subdivision or subdivisions not less that the sixty days after its peace or informations that sixty days, nor more than ninety days after adoption of the ordinance." Now this sentence has a change in it. "Any such charter amendment or repeal shall become effective upon the approval of," and here's the change. " a majority of those electors voting the change, a majority of those electors working of the governmental subdivision or subdivisions af-fected thereby." It's not approval of the electors but a majority of the electors voting of the gov-ernmental subdivision or subdivisions affected thereby.

Mr. Roemer Mr. Chairman and fellow delegates, this amendment, of course, is related to a subject that we've been on for a number of hours now coverthat we've been on for a number of hours how cove ing into its second day. Purporting, trying to define a home rule charter, trying to make provi-sions, not only for those home rule charters that now exist, but for those that may exist in the now exist, but for those that may exist in the future. Points were made yesterday, and I think the points were well-taken in regard to the Pugh amend-ment, that when its provision that the legislature shall by general law provide for the method of drafting and adopting the consitution, that we left or conditions or boundaries on the adoptions of such charters, which would in effect prohibit future home rule charters in the state. My amendment, al-though it has been pointed out to me it's not per-fect in all and every manner, I think, eliminates that objection. It also has a couple of other due fitteen percent requirement of the electors on a petition basis to ten percent, and also insorted the fifteen percent requirement of the electors on a petition basis to ten percent, and also incertee-tors, whichever is the lesser." That, of course is directed to the city of New Orleans at least, and others perhaps, who have that requirement in their home rule charter. With the insertion of that lan-guage we would permit the city of New Orleans, as pointed out to me by Mr. Bergeron yesterday, to

continue to petition to amend their charter with continue to petition to amend their charter with just ten chousand signatures and not require ten er-ate of the city of New Orleans. Some have com-plained that we don't make home rule charters strong enough in the provision that I 've offered here to-day. I think quite different from that. I think we call for a home rule charter; we let any local political subdivision have the right to call chrough an ordinance for an election to have a home rule charter, and so do just that if they get a majority of the electorate in that local political subdivi-Now what more than that they want--what more than that can we give them? What more independence of the people of this state, which is represented of the people of this state, which is represented by our legislature, do we want to give them? think I've drawn the line here. I want you to un-derstand my amendment if you will. I think it does call for strong home rule. I think it does not do injustice to a fair constitution for all the people, whether they happen to live under a home rule char-ter at present or not. We're trying by this to not whether they happen to live under a nome rule char-ter at present or not. We're trying by this to not prohibit, or to state it in the positive, to allow those local political subdivisions, who in the future want to formulate and form under a home rule charter, that right. I will say as has often hap-pened in this convention after a day or two of thought and several hours of debate, we've had to work out a compromise. I don't think Section 8 is going to be any different. I think we could stay here for hour upon hour and day upon day, and yet some of us be quibbling with a word here or a sen-tence there. I would like to think that the local political suddisions, or which agree to all this constitution, allowing them the flexibility for home rule charter formulation. What more than that they want, I can only quess at but cannot supcharter, that right. I will say as has often hapthat they want, I can only guess at but cannot sup-port. I'll yield.

## Questions

Mr. Lanier Delegate Roemer, the first sentence here says, "Except as may be inconsistent with the provisions of this constitution." Then the second sentence which is intended in part to set forth the amendatory process and save the amendatory process in the city of New Orleans, is that correct?

Mr. Roemer That's correct

But by doing this, will you not be Mr. Lanier But by doing this, will you not be invalidating the amendatory processes that are in all of the other home rule charters in the State of Louisiana?

Mr. Roemer No, not necessarily. It depends on what their percentages are, Walt.

Mr. Lanier If their percentages would be greater than that set forth in this law, is it not true that they would be invalidated?

If there's, for example, fifteen per-Roemer cent which I guess is what you and I talked about might be in some home rule charters, under this provision that would be ten percent.

Mr. Lanier If the home rule charter, which is the will of the people in that unit, sets up an amendatory process that goes beyond the limits pre-scribed herein, then that is invalid, is that cor-

In regard to the electors, yes, the Mr. Roemer

Mr. Lanier So, really, you are saving New Orleans, but you're kind of sticking it to some of us. Would that be accurate?

Mr. Roemer No, that's not...do you know of all the home rule charters in the state, how many have ten percent or how many have fifteen percent?

Mr. Lanier I haven't had a chance..

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Let me point out to you that it doesn't have in it the first sentence any requirement that the local governmental subdivisions which draft such a charter, if it's more than one such as in the situation of Lafayette or some other place, there is no regomething that should be in there. When we get to the second part that is set up by the admission of thing, saving the provisions of the amendatory process of the city of New Orleans which we knocked out yesterday with the Section 7 that we adopted, why at least the provisions of the amendatory process of the city of New Orleans which we knocked out yesterday with the Section 7 that we adopted, why at least the provisions of the the section says 'or ten thousand electors, whichever is the lesser." "Whichever is the lesser." So, if there is an existing home rule charter in the State of Louisiana that has a provision that is inconsistent herewith, that provision, even though we're saving with on the sum of the provident this mendatory process shall only be applicable to those who do this in the future. Why do you want to snackle those who have done this in the past with this? Because they have already adorf of the first, what you are doing is substituting our judgment here on this. This is the way they want to do it. By putting this proposal in this article in effect, what you are doing is substituting our judgment here in this convention for that which has been excise instance in my judgment, this is not a wise practice. Therefore, fellow delegates, I would suggest to you that this amendment should not be accepted by you. I would further suggest to you that the committee proposal adequately and properly establishes valid home rule for the State of Louistand I would request that you cite this mand you, Wr. Chairman.

# Further Discussion

 $\underline{Mr}$ , Roy Mr. Chairman, ladies and gentlemen of the convention, the committee keeps failing to tell you that this is the old story of the "tail wagging the dog." That's all they are trying to put over on you. Let's look at what the committee proposal first of the start of the start over the start of the start over the start of the start over the

shout, and 1 have to get in the lawyer language, is to constitutionalize this La Flerr case which said that, "with respect to structure and organiza-tion, the legislature, even by general law may not deal with a home rule charter." But you see, they don't stop there; they go further, and they add at lines 30 and 31, "and/or the particular distribution and redistribution of powers and functions of any local government." Inat's because the Supreme Cour said in La Fleur that you can, the legislature can, by general law deal with powers and functions. Now if they say, "No, Mr. Roy, you're misreading that; that's not what it says." Well, then why have it in there at all? If it doesn't mean anything, why Now. that's not what it says. Well, then why have it in there at all? If it doesn't mean anything, why have it in there unless the object is to argue a case before the Supreme Court in the future, that we, the constitutional delegates, said that hence-forth, we will not even be able to too. How it is wide stard Mr. Lonier's argument. Yesterday. I hear him say all day long about "let's not deny to the pople the great benefits of home rule char-ters." So, we've come here today to accomodate Mr. Bergeron and others, and we say, "Well, if home rule charters are so good, durn it, in the future ten percent or ten thousand people ought to be able to modify or ask for a change..." And they'd get up today and say, "Oh, no, no. You may change some present home rule charter, that was written 1898." Do you think the people in that city under a home rule charter in 1898...mow presently have 1898. Boy you think the people in that city under a home rule charter in 1898. How presently have acquiesced in necessarily what they put in a home rule charter in 1898? I think we're smart enough to be able to say that ten percent or ten thousand people of a local subdivision want to change, have a right to petition for the change. Now, they say, this committee said, they don't use arbitrary this committee said, they don't use arbitrary lig-ures. The first thing we took up yesterday was the fifty thousand people necessary to form a new par-ish. That was taken out of the air. So, this business of saying that people in 1888 necessarily knew what they needed, just doesn't follow. Now, there is nothing, in my opinion, and let me point out one final thing to you. Yesterday in Section 7, we stated that any plan of government or home we have in the people with westerly in the point 7, we stated that any pian or government or nome rule existing or adopted which presently comes into existence at the time of this new constitution may not be changed by any general law. So you've got to read what we did yesterday with what we're trying to do today. My opinion is, my personal opinion is, that I'm tired of local groups who derive most of their irrend from the tate coming here and trying that I'm tired of local-groups who derive most of their income from the state coming here and trying "Look, let us run our own show; don't tell us what we can do, you the people of the state of Louisi-ana." I do not believe in the supremacy of the supremacy of the legislature which is the basic unit of all the people of this state, and I'm not going or an the people of this state, and i mind going to ever vote for any rule or constitutional amend-ment that protects and allows these people to run the show as they want, and at the same time make me pay takes to take of their problems. I'll yield

## Questions

<u>Mr. Jenkins</u> Mr. Roy, you noticed too under the committee proposal the people don't have a right to initiate any changes in the home rule charter. Under the committee proposal, fifteen percent of the people can partition, and then the local governing authority has to have a charter commission elected.

# Mr. Roy Right.

Mr\_\_lenking but then no one knows what that charter commission will come up with; whereas the amendment allows the people to initiate a specific amendment or a change in the charter. So this leaves it with the people, rather than with a lot of local government officials.

Mr. Roy I agree with you, Mr. Jenkins, my whole point is that this committee has come up with some-

with and the one they this to put the wood of a y eye, the willer is eye are ettin

Mr Gauthier hri, I ay have isunder to in you, but did I under tand you to ay that wherever the source that is including the tate are pr

Mr Ro, No. I the upporte, of the proof te said where the Federal institution is signified by where the baker granted to magnet, or the a-orne or our or the Elevative manified, they don't have the and that is the all there with respect to the all states the there with respect to a seem ents, but this so thee wants to re-

Mr with Mr. Ruy, in t it free that under the formal constitution that the national government of a lower expressly granted by the constitu-structure of the second second second second second intervention of the second second second second relative transformation of the second second second relative transformation of the second s

Mr. koy

Mr. urian rou don't want the people included in there. That's the point that I wanted to ake. Do you think that the people as stated in the federal constitution are, as a separate category now, mut included with the tate, are ore or les well rep-resented by their local governmental units

Mr. Roy M Mr. Ray Mr. urson, you renot going to finesse e no that rouknow full well that what 'aying that I don't want the cities and the local gov-ern ent to have whatever powers they want that the egal lature can't goostbly bother to write all the how to prohibit the from having. That's what our efficient to go the here and you're firving to

The result of the second set of the second s Mr. rean

4. fitnes, us and that we solve the second s f the courseand and that are when the don't won't the only parties and had given eith their own structure and organization, and to state their own structure and organization, and to state for the paying of the run energing and the state with the working condition and their right is a local emplore. The want to be an either with legislature and mave the legislature deal with that the more as the wonted at the are either of an assumption of rashed wonted at the are either of the area authority of the more right and the area of the area authority of the more right and the area of the area authority of the more right and the area of the area authority of the more right and the the tar as authority of the more right and the the tar as authority of the more right and the the absence of the address of the area of the tars, the been raised up in the out tarea agence of the all the bases, and in the raw area and the pays these in a lower informating agence of the give anythme in a two for the tarea. We any the give anythme in the tarea agence of the give anythme in the tarea agence of the given in the past, and in the tarea agence of the given in the past, and in the tarea agence of the given in the past, and in the tarea agence of the given in the past, and in the tarea agence of the given in the past, and in the tarea agence of the given in the past, and in the tarea agence of the given in the past, and in the tarea agence of the given in the tarea. The area is the the pays in the tarea is the tarea agence of the given in the tarea is the tarea of the the agence of the tarea of the t

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that in 1948, he decided he'd support his friend, Sam Jones, for governor, and you know what happened in that race. Governor Earl Long in the second primary of that race upset the apple cart, and he carried the city of New Orleans and with him on his coattail he carried many legislators that were suphew Orleans, and what happened after that? After the governor took over, and after legislators took their seats in power, they then began to do what l'm fearful can happen to many cities in this state. This is what happened, and you can check with the delegates from the New Orleans area who know this history. I was alive at that time. They took the yower they had, yes, that chair, after to f New Orleans entirely without one single vote of the sport. This is what happened of the people they changed the structure and power of the city of New Orleans. I don't want to see this happen in the years to viable, a constitution that will serve all the peopure set worling in urge you to defeat this amendment, and sick with the committee proposal. Thank you.

# Questions

Mrs. Warren Mr. Chatelain, l didn't...l wanted to asi Mr. Kean this question because he made me think about this. He said he didn't know what the word "inconsistent with the provisions of this constitution"...Now l'm under the opinion that once this constitution is finished... I want you to listen, Mr. Chatelain. Once this constitution is finished. won't all of us know the provisions in it. Then if we look in it and see what we have written in this constitution, won't we know whether anything that they do in our charters are inconsistent with this constitution?

Mr. Chatelain Mr. [Mrs.] Warren, the issue here, as we speak to this amendment...

Mrs. Warren Mr. Chatelain, 1'm not talking about the amendment; 1'm talking about this particular thing, because this is what concerns me. Mr. Kean said he didn't understand what 'inconsistent' meant now with this constitution. Now, what 1'm trying to find out is, won't we know what is in the constitution once it's written for 1973, what's in it. If we know what's in it, then won't we be able to look at our charters and compare it with the constitution, the finished product this year, as to know whether it's going to be inconsistent. This is all I went to know.

Mr. Chatelain Well, Mrs. Warren, I appreciate this question, and I think it's very well thought out. I say to you that we are a hundred and thirty-two delegates here assembled. This hundred and thirtytwo delegates is speaking to the voice of the people of Louisiana, but we have to refer our work, our labors, to 3.6 million people who sometime in the year 1974 will make that great decision as to whethand accept a new model, 1974. I think you'vegot a good point.

Mrs. Warren Well, this is what I'm saying. Once it is finished, and it has been accepted then, won't we be able to know what's in it?

Mr. Chatelain You certainly will, yes ma'am.

Mrs. Warren All right. Thank you.

<u>Mr. De Blieux</u> Mr. Chatelain, I'm kind of getting a little bit confused about this amendment, sir. I need for you to answer a few questions for men. Can you tell me what, in this particular amendment would directly affect the city of New Orleans? How you made reference to the city of New Orleans? How can the legislature change the charter of New Orleans as a result of this amendment?

Mr. Chatelain Well, Senator Rayburn, I think you know better than 1 do how the...

## Further Discussion

Hr. Duval. Mr. Chairman, follow delegates, hopeisuly not to be redundant, merely to set forth the issue to you, I would like to state the following: I think this is the issue. The Roemer amendment leaves out a very essential clause, that is, "the legislature shall not pass any law which will affect the structure and organization of the home rule unit." He said very candidly when I questioned hime that that means the legislature can then pass such a law affecting the structure and organization of the unit. This is the issue. Do you think the legislature should be able to qo chils ver the versi. It is stating the issue right directly. I would like to also quote from people who have studied this for many years, from people who have csudied this for the L. S. U. Law School who is a prety eminent legal schore, I think wall, somehow, have become selfappointed experts in fields without really giving it much thought. Now, Gean Herbert [Hebert], Dean of the L. S. U. Law School who is a prety eminent legal schore, but experts who have spent assically, as styled by the committee, is endyrsed by the experts in the field, not self-appointed, self-ordined experts, but experts who have spent a lifetime studying the matter, which I think you should give some consideration. Here's what Dean Herbert [Hebert] says after discussing the La Fleur case and after commenting favorably about the rule on the La Fleur case. Clearly then, the adoption of home rule charters should go a long way towards eligislature, bind to be paid by local government. Now, that's the issue. You make up your minds. Thank you.

## Further Discussion

<u>Mr. Avant</u> Mr. Chairman and fellow delegates, I rise and Jurge you to a sprove the amendment that is before you or a similar amendment or anything other than the committee proposal. I'll tell you why. Mr. Kean got up here and he told you what he conceived the issue to be, I don't agree with him. lieve it was yesterday. Do you want to write a constitution for the State of Louisiana and the people of Louisiana? Or do you want to write a constitution that will create and establish several thousand completely independent and autonomous states within the State of Louisian, because if well you back and repeal the article on the legislature. because there won't be any legislature. Now let me tell you exactly what the issue is. Do you realize that under this committee proposal, as it is drawn, that once a home rule charter is adopted, or with respect to one that is already in existence, this is no limic to the year's form the time the debt was incurred. They can't define and punish a felony, or they can't addines. In yous that they can't incur debts payable from ad valorum taxes that mature more than forty years from the time the debt was incurred. They can't define and punish a felony, or they can't define who who that they can't incur debts payable from ad valorum taxes that mature more than forty years from the time the debt was incurred. They can't define and punish a felony, or they can't addinates. I youss that this means-energing to you and they, or civil ordinances governing civil relationships-that means they can't type y an income tax on people, whether they live in that municipality or whether they come there and earns some income. They can levy sales taxes without limitation. They can levy an estate tax, an inheritance tax, a transaction

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Mr frin It ay reast the standard test an election not less than ty ays ther wirds, that be on er that if als, e t t, not within sixty dass

Wr te liei Wr terez, that was no fite qu't n' waited trais une qu'e that this tear canno fite an inn an innat the electric ut e a ter the liei an error, t tannt be tefore Loa to ve her de fo-tant e the eller v Wr te est that I what d to ally up about your minimum on we have a no show the liei to that the have a no show the liei to that the have a no show the liei to that the have a no show the liei to that the have a no show the liei to that the have a no show the liei to that the have a no show the liei to that the have a no show the liei to that the have a no show the liei to the the have a no show the liei to the the transform the liei to the form the show the termine to the liei to the show the show

put in enough work here and certainly have tried to come up with a good proposal. On page 4, lines 10 through 12, they say "The electors in each affected local governmental subdivision who vote in an election held for that purpose vote in favor thereof." That language were incorporated in this general in this general subscription in the seminent of you don't allow those people in those particular unicipalities, then I think we are doing the wrong thing here.

# Further Discussion

Mr. Jenkins Mr. Chairman, delegates, l'm dis-Mr. Jenkins Mr. Lhairman, Gelegates, im Dis-tressed at the criticism of this amendment because, I think it's one of the first real good amendments we have had. Let's start from the beginning: "Ex-cept as may be inconsistent with the provisions of this constitution." Now some of the people have come up here and criticized that. We just adopted that in the other article the one right before it, the other section. No one raised these dire pre-dictions then. These home rule charters should not dictions then. These home rule charters should not be inconsistent with this constitution, and 1 think that's pretty obvious. Then it's been said that this amendment changes the amendatory process in existing home rule charters. Well, that's not true In the previous section we provided that the amend-In the previous section as provide charters would be as provided in those charters. This isn't going to change that. I think we are talking about grab by local government. We are talking about from by local government. We are talking about from by local government. We are talking about from a legal standpoint, something much more serious and more permanent. We are talking about the creation of a third level of sovereighty in this country, a third level. We already have two, the federal gov-ernment, and we have the state government. But local governs are mere creatures of the state govern ernment, they are not sovereign now. Once a grant of sovereignty is made, it cannot be taken away. The states created the federal government, it gave The states created the federal government, it gave it sovereignty and they can't take that away. If we once yield sovereignty to the local governments we'll never be able to take that away. We are go to literally have thousands of little kingdoms or We are going to literally have thousands of little kinguoms or republics or dictatorships depending on how they take a course in these local areas. You know what we are talking about, too, we are talking about more control, more government, more regulation because even though the federal government is regulating and controling to a great extent and the state gov ernment is doing that, too. What we are talking about now is a duplication, an extension of gov-ernment control on the local level in every parish about now is a ouplication, an extension of gov-ennent control on the local level in every much pality in this subset. The set of the state of ficials that want it, on the one hand; it's not the local people on the other hand. I don't hear local people on the other hand. I don't hear local governent just doesn't have enough power. There's one group that wants it, the local government officials; that's the only group that wants it. Now, if you lock down on line 28 and it's been mentioned many times today, we are granting here to local governments of the constitution. That statement is observed that the solution of wages, terms of contracts -- on and on and on unless it specifically prohibits it. Local government could go into any retail business any manufacturing business, any industry because there is nothing now in the state or constitutional statutes to prohibit it --- just take it on and on and on, local government could do anything, it would have residual power unless it's specifically denied. l'll tell you what's happening in a parish like East Baton Rouge

where we have a home rule charter, probably the where we have a nuche for charter, provady the parsish has too much authority now. They are passing every manner of regulation involving people's private lives, that the people aren't interested in, the people don't want. It's more in the form of harassment legislation. With the authority they already have, they are passing these cat ordinances --you know if you're going to let your cat run loose you have to have him on a chain, bicycle licensure laws. They are regulating the child care licensure laws. They are regulating the child care centers throughout the community. They've put lim-its on the number of taxi cabs that can exist. Now, they are contemplating putting limits on the number of alcholic sales centers, bars, lounges. All of that within their present authority, but that's not enough. They want any authority not specifically denied to them. Well, I think they've got plenty of authority right now, probably too much right now. There is no need to extend this authority to every-this committee pronosal with repard to the fifteen this committee proposal, with regard to the fifteen percent requirement on signatures, notice what that says, if you have fifteen percent of the electhat says, if you have filteen pertent of the elec-tars who sign a petition the local governing author-ity has to appoint a commission to draw up the new charter and then that charter is submitted to the people. But, there is no means provided in the committee proposal for the local people to control committee proposal for the local people to control their own destiny. They cannot propose by fifteen percent a charter amendment. Like in 1948, I be-lieve it was, East Baton Rouge Parish had adopted its home rule charter by, I think, about a hundred vote majority and a very small turnout-for twenty five years we have been living under it. People it that circumstance need a way they can have a peti-tion to go forward and amend their home rule charter. That should be true not only here but in any locality and no charter should deny that right, I don't think. The good thing about this amendment it allows ten percent of the people to petition for a specific proposed amendment. That amendment goes to the polls and if the people want to make that change they will. Or, you can say "Oh, the people get to elect these local officials." That's true and sell them as a single issue before them when they elect somebody. Oh, they can dopt a new the proposal of what a new charter will be, a commission will make that proposal and they can't control it. If people want to make a particular change in their form of government, they ought to be allowed to That should be true not only here but in any form of government, they ought to be allowed to and this amendment gives them that right.

## Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, 1 really presume that the only people that these few remarks are addressed to would be those who have not yet quite made up their minds. There may not be many. What isn't being said from this microphone sophical questions. Under a constitution of any odiffering ways. A municipality (1) can as the government closest to the people do anything not specifically denied to that community by the state's constitution or (2) they can as Mr. Jenkins put it, hey are creatures of the legislature and they can have under the constitution just so much power as the legislature gives them to do. They are two opposing points of view. Now, Mr. Avant got up here on transactions and taxes on everything you can imagine. Well, by..., Mr. Avant, those people taxes that are not warranted, then their chances for success in reelection aren't very good. That's not the roblem. We are galking about in this section of to do for its people, not to them. What powers con it of its people, not to them. What powers con ity have as against, for instance, the legislature? I don't want to argue about a section that's on the don't specific aren't very good are thany to do not argree with, the legislature can pass of the don't want to argue about a section that's on the don't as against, for instance, the legislature? I don't want to argue about a section that's a pay increase for certain municipal employees and

the citie, usi y George, have got to do up the oney to pay it with, and that's not right. They pefia single set of exceptions which we li meed in eition 16 when we get there of the what we are taking about n wiss what is not of hore rule do yon wish the cities of this state to have? Its a imple question. Do you want the city, there i the government closest to the people to be able to what the people want the tido, charge the so id set of questions, you're either going to go this way. Now, you'll hear people talling about the Fordham plan. Fordham plan simply means the the Fordham plan. Fordham plan simply means the cities can do those things not denied to them. You are going to hear about the Dillon rule. The Dillon rule said you don't do a durn thing in your town unless the legislature says you can do it. The Recer amendment is Dilon. The con ittee proposal is fordham. What kind of city government do you want under home rule charters. The choice is that of the delegates, to this convention, you're at a crunch point, and you're going to have to deside

Mr. Roemer Mr. Chairman and fellow delegates, 1 rlse to close in support of my amendment. An amend-ment which provides for home rule charters for all local, political subdivions [subdivisions] who de-sire to have one. An amendment which 1 thin is aware of the realities of the life of Louisiana and of this nation. 1'l tell you what life is. Some city folks and some country folks all of us in the same boat hopefully medding the same place. We've had a parade to this podium from members of the Local and Parochla Committee. they either where chan a physice to it's puot an 'thomemory or have failed to read the amendment or obviously de-sire to misinterpret it. Point after point hav been so is interpret a. Example. One member of the committee got up here and tried to tell you about the sixty day rule and if there was no election the sixty day rule and if there was no election within sixty day, regularly scheduled then we wouldn't have a vote on an amendment. It was clearly misread, clearly isread this amendment It says not less than sixty days.' You have to wait sixty days for the infor ation of our people, the education of our people. Now, Lord we need that. Don't you thin io? There are those that got up here and said well the ten percent rule much affet some local charter is used. got up here and said well the ten percent rule might affet some local charter, it uan't do o, it says at least ten percent in it num, this and ment would not affect that Point after point has either been deliberately or either from mil norma-tion, been mil interpreted. Now the point is learly this, the lites want to be automous. They want to control everything within their boundaries then been the interpreted with a the relation of the south of the over the unity year within their territural bundary, giving the that into i but here is the over the utility site, within their territurial hundars, giving the that right Butherel. the prubled, the lites of thin nation and the lite of this take go to New Orlean or New York or Inlagu or LA. they want to be automously, they want to stand aine of the sections of the section of evitably they overrun with lites and with crises and lass of education and writy streets and durity air and where do they go to get the public port to correct those evits. I'll tell you where The first the second the second terms of terms of the second terms of terms of the second terms of t

Mr. Poynter: A end ent No. 1. Wr. and Mr. Schurt, In page 4. Inc., entately after the word than and before the writing incent delete the word fifteen and in ert in Le. the of the word ten.

Explanation Mr aight deter and get te en ine vertice has the fine to britte profession written has the file to britten to file determined the under land of the determined the second the determined to the second termined the determined the termined the second termined the determined termined termined the determined termined termined the determined termined termined the determined termined termined the determined termined termined the determined termined termined the determined termined termined te

talking about necessarily racial minority but a minority of the people has not at least posed the question. I think that the figure as represented by the committee is an arbitrary figure because we originally started off at twenty-five then we got down to fifteen. The only reason for fifteen is because basically it's arbitrary. I would ask for your support of this amendment.

# Further Discussion

<u>Mr. Perez</u> Mr. Chairman and ladies and gentlemen of the convention, the question of what percentage of votes was needed was discussed in the committee, there were suggestions anywhere from twenty-five percent down to ten percent. One of the problems that bothered the committee was the cost of calling these elections that there wasn't a fair chance that such a proposal may be passed if you only have say ten percent. However, we have no strong feeling ter percent. Indever, we have no strong tering on the matter one way or the other, we just leave it to the pleasure of the convention as to what you figure might be the right percentage in order to be able to call for such an election.

[Amendment withdrawn without objection.]

# Amendments

<u>Mr. Poynter</u> Amendment No 1 [by Mr. Bergeron and Mr. J. Jackson] is just like the amendment 1 just read: "Page 4, line 1, immediately after the word "than" and before the word "percent" delete the word "filten" and insert in lieu thereof "ten". Amendment No. 2. On page 4, line 2, immediately after the word "electors" and before the word "who" delete the comma "," and insert in lieu thereof the following: "or ten thousand electors, which ever is the lesser,".

# Explanation

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I thought when I originally got up here I was explaining the revised amendment. As I mentioned, New Orleans has presently ten thousand or it requires ten thousand voters, to initiate a petition to the city council to propose a charter. petition to the city council to propose a charter... a charter amendment and the only thing that we have attempted to do here as I previously mentioned is to: one, provide for a situation whereby our charter already says ten thousand and two for Shreveport which is that ten percent, and basically there's no different from the manner in which I first explained it to you. I'll stand up here in case there are any reservations or questions that expendent you many have about this amendment people you know may have about this amendment.

Zervigon Representative Jackson, in the areas where they have got a number in the charter like ten thousand have there been a whole flood of petitions to put amendments on the ballots and new charter on the ballot?

<u>Mr. J. Jackson</u> Now I only can recall of one I know, Mary, particularly in the city of New Orleans. Only one. There's no major flood...or contrary to the reservation I would think some delegates have about floods and people proposing amendments to the

Ms. Zervigon In that case that you speak of, if I remember correctly, wasn't that a charter that was circulated, got the ten thousand names on It in the end, but never was submitted to the council to put it on the ballot, and in the end the council went ahead and put something else on the ballot that was very similar, isn't that correct?

Mr. J. Jackson That's correct, particularly in the city of New Orleans, and even on the point that generally it's my...my basic feeling is that by posing an amendment doesn't necessarly [necessarly] means that that amendment is going to be --- you know

the final resolution. It just seems to me that we ought to offer people ingress into government by providing, but not putting such a high percentage.

Ms. Zervigon So this is in existence now, but has not been irresponsibly used, is that correct?

Mr. J. Jackson Right. If the committee proposal maintains---in fact it's going to jump from ten thousand in New Orleans to twenty-five thousand and from ten percent in Shreveport to twenty to... an additional five percent and I don't know what that means in terms of the amount of voters that they have there.

Mr. Perez As far as the committee is concerned, the remarks I made previously apply to this particular amendment.

[Previous Question ordered. Amendments adopted: 102-11. Motion to reconsider tabled.]

Mr. Poynter Have one amendment to Paragraph A offered by Delegate Gravel. Amendment No. 1. On page 3, line 23, after the punctuation and letter "(A)" delete the word "Any" and insert in lieu thereof the following: "Subject to and not inconsistent with the provisions of this constitution, any

# Explanation

Mr. Gravel Mr. Chairman, and ladies and gentlemen of the convention, as all of you know, Section 8 deals with home rule charters which in the main have to do with those charters that are going to be adopted in the future. We already have provided in Section 7 that the provisions of this constitution with respect to the control of the interval with respect to even existing charters are para-mount, and that there can't be anything done in those cities that presently have charters that are in..that is it would be in conflict with the pro-visions of this constitution. The purpose of this amendment, and it's extremely important, is to make sure that no home rule charter in the future will have any provision that has such efficacy that it can override any provision in the constitution that we are conflecting at this time. What the amendment subject to and not inconsistent with the provision of this constitution a local government charter can't emphasize too much how important 1 this it in the it. can't emphasize too much how important I think it is that we engraft upon any such concept with re-spect to future home rule charters the requirement that nothing in such charter, nothing in any future amendment to any existing charter, shall be in con-flict with any provision that's in this constitu-tion. Now, Mr. Chairman, 1 urge the adoption of this amendment.

Mr. <u>0'Neill</u> Mr. Gravel, isn't this amendment necessary to make sure that a home rule charter won't contradict, say any provision adopted in the Bill of Rights, for instance, the right to property?

Mr. Gravel Correct, or any other provision of the constitution that we either have adopted or that we may adopt. For example if you didn't have this kind of provision it might very well be argued that a home rule charter could provide, in the event this convention decides the people are going to have a homestead exemption under the constitution, that this will not be a homestead exemption accorded to the citizence is the peation lead it is discussed. the citizens in the particular locality affected by such future charter. That's correct, Mr. O'Neill.

Mr. Kean Mr. Gravel, do I understand your explana-tion correctly to mean that if there is some other affirmative prohibition or grant in the constitu-

t n, that the fulle sharter will wild sub-tist wild boar wild be in not tert with fr. wy must prevail

M such My a end ent can i thirk. Mr rean, wr, ser', that no provier if any hier rule riter refeafter an provier of first the nist of this on tighting has the tight of this on tighting has the tight of this on tighting has a series of the tight of the series of the series of the any micro charter with have to be onstrued a early that the priviers of the series of the approximation of the series of the seri

Notice we set the activity this further uses then Wr ravel, supple a million to hariter wa drafted and adopted if it was not nonsistent with the provision of the constitution and the legislature then adopted a law which would be in-finitient with what the charter provided, would the legislative law prevail ver the charter pro-vision?

Mr Grizel insofar as this particular ection and fis particular provision is contarned, there is withing said with regard to what the registature ay or asy not do by...nsofar as putting any re-trait on the charter. This has nothing to do. Mr. Fean, adles and gentleen of the survention. Mr. nean, ladies and gentle en of the invention, inthe to do with legis at/ve action what over and lets don't confuse it with that. This say inceley, uc insty and in py that you cannot rave in any future home rule charter any provision, that any valid provi ion, that conflict with a privision of this constitution. It has nothing to a with any legislative act. We regoing to get t that later on.

Mr fean I simply wanted to make that abundantly . Tear and that's the reason I asked the question.

Mr. Lennoy Mr. a avel, yelterday on our alensient we begin he restinn with the inple phrase except at ay be more tert with the provision of the Don truction. The prior alena ential ou ed that a ephrale boy, but your gue further and ay ubject, and not in on itent with the privisi of the constitution. Are you were end or do you to boroaden what we did your day, in this alenation

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M. Not Mr. Lannan, and ferum treater thin the articlar alexant transfer with eater fur to contine in transfer with eater fur to contine in transfer with a single stowhat should be constituting a single to where the set or defined and the towhere the set or used on the single the intrinent tat we earst the intrinent tat we earst the single set in grant set to the interess set ing that set to the single in the instruent and the save site in the aparticular given est car erat in the deliberation. This is the we are doing

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B) were a series of series as present the presence of the series of t

Sittle difficulty finding it. It's very simple. On line 28 it delets the word, "not denied" and inserts in lieu thereof the word, "authorized". There are, of course, in this constitution and in the statutes certain express grants of authority to local government; regarding their powers and their functions. That has always been the theory of local government, that local government can do anything that's authorized by general law or by the constitution of the state. The real significance of this section the way it's written is that it would change that whole theory, would change our theory of local government. I believe it would amount to an alienation of sovereignty from the State of Luss and the state law of the sovereignty. It would amount to san alienation of sovereignty from the State of put the state legislature in an impossible position. The legislature will be put in the position of having to scurry around the state at every session, putting out brush fires, trying to correct things which have happened in community after community.

Let me give some examples. If your read the words, "not denied", and you read Part (8) of Section 9, and that section says, "May local government subdivision may exercise. returning to its government and affairs to the extent that the legislature hay general law, does not specifically limit the concurrent exercise of any such power or the performance of any such duty." When you read those things together you see that it's clear that the legislature has to come along and specifically prohibit a certain thing in order to stop a local government from doing it. Now the example that was used before, and just because it's familiar 'll use it again because l think it shows the point very well, is milk price fixing. The legislature has setup the milk commission to rebut regulation is exclusive, not at all. It simply said that they were regulated. Under this theory, though, that the committee proposes, each municipality and each perish could set up its own standards, even higher in quality or lower in price, higher in price, than the state has done.

Take again the subject of minimum wages, working conditions, your OshGSH3-type standards. Every manner or regulation and control could be placed upon converce by these local governments. Now here's what would happen in practice. A municipality is going to enact this sort of regulation and in the next session of the legislature we are going to be up at the state capitol having a specific law to that sort of ordinance. I can imagine that every session we are going to have literally hundreds of bills introduced to try to undo the obnoxious, officious regulations that would be passed by local governments under this provision. Local governments instorically, it is a fact, exist only because they are authorized by the legislature. There are creatures of the state government. They have no independent existence. Just as the states created governments and their authorized authority under state law and under the constitution. What we are doing, if we adopt the committee proposal without this change. I fear we are really going to make this constitution unacceptable to a large, large number of people. Look at the limitations on local government, in this section 12. It says three thingslocal government can't do. It can't incur debt, payable from ad valorem tax receipts maturing more clivil ordinances governing clivil relationships. Coli ordinances governing clivil relationships. One of the important thing, of state government is that it allows for uniformity in the conduct of normal, personal activities within a state area. One of the inconveniences in our whole national system is that from state to state these regulations and laws var. But those differences in variant the state of the state grind to a halt. Now many people have said that the principle here is local government, home rule versus centralized authority. That's not the case at all. The issue we are talking about here is more government versus keeping imment already, and the me tell you those localities aren't going to be able to undo any federal regulations. They are not going to have to live with. As said before, this is not something the people are clamoring for at all. The main thingy don't want a lot of constitutional amendments on the ballot. Well, I don't think anyone's progonsing anything here that's going to cause them a lot of amendments on the ballot one way or the other. But that's the main extent of the people's interest with the adding on all these amendments. Well, the amendments on the ballot one way or the other. But that's the main extent of the people's interest with have to be voting on all these amendments. Well, the amendments on the ballot one way it to other. But that's the main extent of the people's interest with bave to a voting on all these amendments. Well, the amendments on the local power is conter, suct that's the main extent of the people's interest with bave to a voting on all these amendments. Well, the amendments on the local power

## Vice Chairman Casey in the Chair

# Questions

<u>Mr. Derbes</u> Mr. Jenkins, in a modern and in particular in an urban society, do you realize, or do you agree, that local governments as distinguished from state governments have a justifiable interest in regulating areas of transportation, sanitation, environmental quality, zoning and the like?

Mr. Jenkins To the extent that they do, Mr. Derbes, I think that the legislature has, and will continue to grant them, authority by general law. I don't think there needs to be any reversed presumption that they can do just anything whether or not it's specifically authorized. And I can tell on the specifically authorized and the second never authorize that this will allow unless we change this committee section. One example is price fixing, not only milk but of anything. The legislature is not going to allow these localities to do that. But if we pass this particular thing, we are going to make the legislature come back and interferences.

Mr. Derbes Are those laws on the books now?

Mr. Jenkins Laws to specifically grant them that authority are not on the book now.

Mr. Derbes Laws that specifically prohibit them that authority are on the books now?

Mr. Jenkins No, not to specifically prohibit them. They are not on the books now in most instances.

Mr. Roy Mr. Jenkins, the reason the laws....they don't do that now is because unless the legislature specifically authorized it, they can't price fix

# 51st Da - Proceeding - Septem er 21 1973

Mr. The low generation deals in the particular results which also all the transmission of the re-terior the terms of the results of the terms of ter

We may some international of the second states that the left of the second states in the second states and the second states are sta

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M ur on Mr. Jenkin, are you aware that the e-urie in this take at present are point in those thing authorized by law.

Well, I think that's good, Mr. ur of

Mr. or an logicule in favor, then, of the system of taulined inder nutriana Revised tatute is an high sources have had to come to the state inder nurres have had to come to the state inder nurres have had to come to the state inder nurres inder highway, and is to state inder the transfer to had have the to state inder the state of points the point is an inder the state of points the is an inder the state of the state of the is an inder the state of the state of the the state of the state of the is an inder the state of the is an inder the state of the is an inder the state of the state state of the state of the state state state st

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overlooks that flaw in the law. We don't have general law related to home rule municipalities and undar the circumstances, if you change this as he proposes, you've got a nothing again. I suggest, under the circumstances, that the amendment should be rejected.

## Questions

<u>Mr. Anzalone</u> Mr. Kean, is not this amendment a sequel to that little "merely" amendment that we adopted a few minutes ago that says "subject to and not inconsistent with the provisions of this constitution"?

Mr. Kean Well, this is not even a "merely" amendment.

Mr. Anzalone Mr. Kean, as we now have this article set up, do we not have the same relationship or proposing the same relationships between a municipality and a state that the state has with the federal government?

Mr. Kean That's the way I view it, yes, sir.

Mr. Anzalone Mr. Kean, do you think as a matter of philosophy that the State of Louisiana should be subjected in all cases to congressional will?

Mr. Kean No, sir.

Mr. Anzalone Do you think that in the State of Louisiana all municipalities should be subject to the legislative will?

Mr. Kean No, sir, and I thought I made that abundantly plain in the remarks I've made heretofore to this convention.

Mr. Roy Mr. Kean, don't you think that the legislature in its infinite wisdom would pass a general law allowing all these things that you are worried about and hasn't it done so in the past, dealt with you all properly?

<u>Mr. Kean</u> Mr. Roy, the legislature in its infinite wisdom might do it. All I'm pointing out is that there's presently nothing on the books which would provide for it.

Mr. Willis A sequence to Mr. Roy's question: Don't you think that if we put it into the constitution, we don't have to worry about wisdom?

Mr. Kean That's correct.

Mrs. Warren Mr. Willis just brought this to my mind. Don't you think if we put everything in the constitution, we don't have to worry about the will of the legislature?

Mr\_Kean No, I think that there are many areas in which the legislature retains full authority. Mrs. Warren. Mr. Willis' point is that if we leave it as the committee has proposed it, then the legislature doesn't have to deal with the minutia of local governmental operations.

Mrs. Warren Don't you think that citizens in a municipality have to be subject to their municipality government or parish government?

<u>Mr. Kean</u> Well, this provides for this home rule charter to occur only upon a vote of the people of that particular subdivision.

[Quorum Ca 1: 101 del gates present and a qu-rum.]

## Further Discussion

<u>Mrs. Zervigon</u> Thank you, Mr. Acting Chairman. Ladies and gentlemen, I think we ought to get straight from the outset what the subject matter is under consideration. The subject that we are ad-

dressing durables to is hower, and who another -ercise that power. The states have all of the powers which they have not delenged to the Federal Con-stitution. That's in the rederal Constitution With utility locks into a generative of the interest bolic we're here this year trying to decide how the powers, that are reserved to Louisiana will be used within Louisiana. In my opinion, we've done a very good job up to now. We've arranged for a more powerful executive department in the sense that the executive department will be better organized and, therefore, better able to supervise each of the departments and make certain that the policies of the governor are carried out throughout the departments. We've all owil for a siction of the session, and because a to f the statutory material that we are cutting out of the constitution, including specific agencies and the powers and functions of those agencies, will be left to the legislature because they will be just be left to the legislature because they will be just be left to the legislature because they will be just that-statutory. Since the legislature will be so powerful, it seems to me that there ought to be another countervailing force. In my mind, that force ought to be local government. We could put all of the statutes back into the constitution titu-tion has been amended, and leave the power with the people and let the people be the legislature. But the people have said time and time again that they don't particularly want to exercise that tower in the people have said time and time doain that they don't particularly want to exercise that power in that way. They don't want to be called upon to enact statutes. So, the other countervailing force, as l've said before, is going to be local govern-ment. Now, let's look at what the committee has done with regard to local governments. We have not said that local governments may counteract the legislature, may override the legislative, may last complete control over local government. They may not deny local government any power which local government should not use, which is really a power that should be used on a regional basis or which local government has abused. But, ladies and genlocal government has abused. But, ladies and gen-tlemen, what we have tried to do is to take an unused body of power that has never been taken advantage of by anybody, and give it to somebody--local tage of by anybody, and give it to somebody--local government. Let me give you an example of the ef-fect of Mr. Jenkins' amendment. It will continue the present situation under which Lafourche Parish passed an ordinance regulating fireworks in the middle of June of this year. That ordinance was thrown out by the courts on the grounds that La-fourche Parish dian't have the power to enact regu-lations of fireworks. The people of Lafourche Par-ish wanted fireworks regulated. If the legislature had passed a uniform statewide law regulating fire-works that would have heen kay with the neole of had passed a uniform statewide law regulating file-works, that would have been okay with the people of Lafourche Parish. But the legislature, busy with many other things, had never seen fit to do su. So, the people of Lafourche Parish would like the officials of whom many people have seemed so sus-picious are the officials who are closest to the picious are the officials who are closest to the people. The working person in Lafourche Parish can much more easily go to police jury meetings or call a police juror on the phone than he can his legis-lator. In Orleans Parish, for example, the city council meets every Thursday at [D a.m. in the council meets every Thursday at 10 a.m. in the Council Chambers. It's a rare citizen of the city that does not know that. You want something done ar not done by the council of the city of New or not done by the council of the City of ReW Orleans, you go, you appear, you are put on the agenda, you speak your mind. Believe me, they are elected officials, they listen. If you have some-thing that you want to require or demand of the legislature, you must wait until the legislated leg-comes into session; then side upper is in session, it's difficult to reach your representatives at Comes into session; then you appear derive the rep-tils difficult to reach your representatives at times because when you call him on the weekend, his phone is buy. Other folks are trying to reach him too. But, ladies and gentleme, let e ake it clear to you one more time, we are not taking any-thing away from the legislature. The legislature still has complete authority to control any abuses

Firther Yi usin A With Mr. Han and, Lucs there is a main of the third and the set of the set irrea to as - pecific permission of the legislature, rupper reasonable restraints and reasonable and to rulate the affairs of its inhabitants when to reasonable rule of this and reasonable and the second second second second second and the second second second second second and second second second second second second and second second second second second second to dy the legislators which may be con-ting the dy the local quere mental subdivision . So, under you to give this careful onsideration, to ever this tide that has an its down in the second second second second second second to the second second second second second to the second second second second second to second second second second second second to second second second second second second to second se

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there are going to be some general laws passed about many issues. But where Mr. Kean said there's no general laws, I explain to you it's because they got special by charter. But there's no general laws prohibiting, either. So, this is a good amendment and I ask you to support this amendment. Thank you.

# Further Discussion

Mr. Nunez Mr. Chairman and gentlemen of the convention, ladies and gentlemen of the convention, so you won't believe that all legislators are out for a power grab over local government, I'd like to say I rise in opposition to this amendment. Let me give you some reasons why because there's been a lot been said about the legislature: in performing their duty. I don't think this article has one thing to do with the legislature: I think very to the police jurrer, and I'm going to address myself to you gentlemen and ladies who represent police juries out there because enough has been said about the police juries who want to go into maningful how arule. I thought Mr. Roemer's close directed his pitch strictly to the cities. Let's talk about the police juries who want to go into maningful how arule. I's been said where the prohibiting them from doing certain things. I submit to you or suggest to you that it's exactly the opposite. Since 1921, since 1921 we have been passing each session, hundreds and hundreds of laws permitting them to doing certain things. I submit to you arise absolutely right in his analysis about how this all the have to pass all there laws prohibiting. This is the key word in the whole thing. Dern it or not suggest to you shave to come back to the leg-islature for every one of the little particulars that they need in the parish, for every one of the little things. Ith you wave talking about before, l me give you some reasons why because there's been lot been said about the legislature in performing little things that you were talking about before, for every constitutional amendment. Someone will question me on that and l'll be glad to take the challenge up. But, if you do past this amedment, you're taking awy meaningful home rule from these local governing authorities who want it. Bolleve me, when you look at the parishes that are growing today and the changing conditions that are accumutoday and the changing conditions that are accumu-lating in our various parishes and the amount of laws that they have to come to to this legislative body, to the legislature to get. I think that we are ten years behind in granting this power-in granting this authority. Let me tell you. let me tell you. It's going to be utilized, it's going to de utilized for an encretent local noverment you proper people who represent local government, you people who represent school boards, you people who represent various elements of government, when we adopted revenue-sharing, what happened? We cut it up in so revenue-sharing, what happened? We cut it up in so many different ways and then we said you have to come back to the legislature to spend it. Isn't that correct? I'm sure you people who know agree with that. That's very correct. But, what this amendment does, it puts us right back to the per-missive category of local government. As far as I'm concerned, it guts, it guts the home rule char-ter provision that has been given to you by the com-mittee, more so than any other amendment I've seen. more so than any other amendment, because the whole more so than any other amendment, because the whole thrust of the thing is to get us away from the per-missive type of local government that we now have. You don't have local government; you have local government by a legislative act. That's what you have, that's what you have. That's what a lot of people want. A lot of people want it, and I'm amazed...particularly amazed at the people who al-ready have their charters embedded in the constitu-tion, embedded in the constitution where we haven't are the ones who are coming up here, they are the ones who are coming up here and trying to deny the right of the other governing authorities, the other police juries, that might want to change. You're not talking about anybody who has those powers now. You're not talking about a governing authority

that's changed, that has gone into a none rule charter. They have most of these powers, some of them in various degrees. That's another thing you're going to do; you'll have the legislature granting particular powers to certain people that have their charter and those who, if this amendment have their charter and those who, if this amendment ditional powers or grant additional rules or pass additional laws prohibiting them or not prohibiting them. That's what tis all about. This what home to the local governing authorities that they now not have, or shall they have to come back here to the legislature and get those powers, whether it be grass cutting, ambulance service or what have you?

## urther Discussion

Mr. Burson Mr. Chairman, fellow delegates, since Section 9 was brought into the discussion by Mr. Jenkins of his amendment, I think it's important for you to realize that the units of government in this state right now that operate under his scheme this state right now that operate under his scheme, i.e., the police juries, get their power solely and only from Louisiana Revised Statutes 33:1236. I've got a copy of it here, and J'l make copies for any-what. If you look at this statute and don't tell me that it's the greatest monstrosity you ever saw in your life, then I'll be very surprised. I am the last one to get up here and say anything against the lagislature's concern for the problems of local haven't heard any other speaker make. Should the he somet no matters of statewide concern. fooling with statutory provisions about the regulation of Subsection 3/ of that statute J was tarking about: Should the legislature have to pass, as they have done again in the police jury statute, something which reads like this: "To regulate the collecting, pickup and transportation of garbage and trash within the parish, but outside incorporated municipali-ties, and to grant franchises, exclusive or nonex-clusive, to garbage and trash collectors provided that an exclusive franchise shall be granted onl after advertising, reception of bids and awarding of contracts in décordance with law. The provision of this paragraph shall not apply to the parishes of Acadia, Vermilion, St. Landry, St. Charles, St. John the Baptist, St. James, St. Tammany, Mashing-ton, Duachita, Ascension, East Feliciana, West Feliciana, Terrehonne, Evangeline, East Baton Rouge, Livingston," and about ten more. But when you get through reading that, you don't know who it does apply to. Nouldn't it make more sense to al-low the initialave on gordsge and the load govern-rement and for them to decide whether they want. gar-hane or track collection austide the city limits. of contracts in accordance with law. The provisions

## Questions

Mr. 0'Neill Mr. Burson, if this amendment doesn't pass and enter the committee's section, do you honestly believe that the legislature won't be here passing prohibitive laws all the time instead of what we have now, permissive laws? Don't you think that if this article is adopted as it is that the rest of this local government article will be

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And let me tell you what happened on that particular And let me tell you what happened on that particular piece of legislation. One particular legislator, at the prodding of his local governing authority, wanted firecrackers to be outlawed in his parish. Now what he..or he wanted the local governing authority to be able to outlaw them. We are talking there about common Class C fireworks which have been determined by the Federal Government to be complete-ly harmless. They are innocuous types of things. Now the legislature was willing to go along with this particular representative in his area to allow his local ouverning authority in the particular his local governing authority in the parish at large to make the use of Class C firecrackers illarge to make the use of Class C firecrackers il-legal. But it was not about to say to the people across the state that Class C harmless firecrackers were going to be illegal in every rural area of the state. It was not willing to do that. Now matters like this, even small matters, which, when we talk about all the matters, we have small matters, large mbe cinfits and civilings of the whole menda we fi matters, even a small matter like this deals with the rights and privileges of the whole people of this state, all the people. It has to apply to all the people. The legislature simply was not willing to say to all the people they couldn't use Class C fireworks. So, the general bill failed and the authorization to the individual parish passed. the authorization to the individual parish passed. I don't think there is anything so wrong with that, really. I think the people of the state because they thought that in that particular instance, fire-works were something that's part of the American way of life; it's something usually good and healthy for kids to have an opportunity to deal with and on. What we are talking here, about here, is not home rule. If we were going to have really home rule, and we would allow each locality to make its laws and repeal them, and they had emeral apolicarule, and we would allow each locality to make its laws and repeal them, and they had general applica-tion in all areas, that would be one thing. What we are taiking here about, though, is bigger govern-ment. All the localities under this can do is pass more controls, more regulations, more interference. They can't repeal anything that the state legisla-ture passes. They can only build on it and make government bigger and further interfere with the individual citizence their passroal normarity. The individual citizens, their personal property, the taxpayers of the state. So I urge the passage of this amendment.

Mr. Poynter Amenoment No. 1 [by Mr. Gravel], on page 4, line 28, after the word "or" and before the word "this", insert the words, "inconsistent with

<u>Ar. Gravel</u> Mr. Chairman, ladies and gentlemen of the convention, this carries into this section the same purpose of the amendment that was adopted that changed line 23, Section 8. Let we make it perfectly clear that this amendment does not in any way affect the provision that says that under a home rule charter, "the local government may exer-cise any powers or functions not denied to it by general law." But rather than to leave in here the words which in effect would read, "or denied by this constitution," which would mean that we would have to spell out the prohibitions in the constitu-tion. This mendment would say again that "there shall be no provision of this constitu-tion." This is to make sure that we continue the are concept that we have already adupted in the

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, I am not ure what that language

really years. But I'm not doing to seriously object

 $\frac{Mr.\ Henry}{Mr.\ Perez, is no serious objection the same a a little objection, so there is objection to the amendment?}$ 

Mr. Perez As chairman of the committee, I'm going to support the committee proposal, and I...

Mr. Henry The gentlemen offers amendments to which a little objection is urged.

78-22. Motion to recunsider

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Denn.s]. This one has just now, or is in the process of being

Amendment No. 1, page 5, at the end of the line, Amendment no. 1, page 5, at the end of the line, change the period to a comma and add the following: ...it ought to be line 1, huh? All right. Page 5, line 1, at the end of the line, change the period to a comma and add the following:

to a comme and add the following: "by" instead of "be", if sure general law applic-able throughout the state or based upon reasonable classifications of local governmental subdivisions, eract legislation modifying home rule charters if necessary to correct pross inequities or to prevent

# Explanation

Mr. Chairman, fellow delegates, this is an attempt to compromise the two schools of thought and also to express my feeling that we should have home rule, that the legislature should shouto have numer rute; that the regislature shouto not be able, when we do have a home rule charter, to engage in too much regulation of local affairs. Newever, I do think that there might be some in-stances in which gross inequities or unreasonable discrimination could exist and in which the legisdiscrimination could exist and in which the legis-lature should have the power to correct these types of situations. I do think, for example, there might be instances in which the wages of employees could be allowed to sink to such a low level that it would constitute a gross inequity, and that the legislature should be able to enact a general law. unusual situation in which a gross inequity, or an unreasonable discrimination would exist. So I see this as a compromise between the two schools of thought that seem to be emerging in the debate. For that reason, I ask your support so that we might agree upon a demarcation between complete home rule and complete regulation by the legislature, and pass this section and move on to something else.

Judge Dennis, did you know that I Mrs. Zervigon

Mr. Dennis Yes, I know that you are.

Mrs. Zervigon That's a background vote...my fur-Ther questions. If something is grossly inequitable and unreasonably discriminatory, why do you classify the parishes or cities in which this thing is hap-pening? If it's really gross and unreasonable, it seems to me it ought to be gross and unreasonable throughout the state. Is that not so?

Mr. Dennis Not necessarily, Mrs. Zervigon. I think that there are certain localities which can

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Mr comis hat screet, ut l'enit ure that it room tat hat would apply to an inequity or destination coured by a howe rule harter suelly the tru ture and organization of a hie sce hit r verner. This as it lear that fair nearmant uil renul from howe rule charter

Mr. errian naven't we stuck in a bunch of mrate to rou mit this article saying that it ust the mail overn misriust act in conforcante with this work to and ay not pass undinance that ar pred to this constitution!

Mr end Ye, but this designed to deal with the une entence which I think is the crux of all the debate. This one sentence which any that The legs ature hall not pass any law, the effect of which hange, ad fields or affects the structure and orientation and/or the particular distribution, et piwer I the local jovermental subdry soon. Now his a demendment qualifies that only, and in with engonature to enact uch legs station

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Mr. Definis () believe we did a finite function of the set of the

when I read this thing I nearly jumped six feet high. So I say, let's get rid of this and if this be a compromise, I sure don't want to see a thing that's not a compromise because I don't believe I could take it.

Let's vote it down.

# Further Discussion

<u>Mr. Perez</u> Mr. Chairman and ladies and gentlemen of the convention, I know we've been discussing this particular section long and hard, and as Mr. Jack sald, this is a bad, bad, bad amedment. I think we ought to realize it. So please, let's vote this amendment down and get on to the next one.

 $\underline{\mathsf{Mr. Dennis}}$  Mr. Chairman, fellow delegates, in the spirit of fair play and compromise, I ask you to read the amendment and consider the problem rather than the metoric you have just heard. Now we're at an impasse. We're either going to have complete home rule in which a local government can exercise discriminatory practices and the legislature can't do anything about it, or we are going to have no home rule in which everything is decided in Saton Rouge. Now I do think this is a viable compromise. It says that local governments which have a home

It says that local governments which have a home rule charter can run their government unless there is an unreasonable discriminatory practice or a gross inequity which arises out of that operation. Now we've used words like "unreasonable discrim-ination" and "gross inequity" throughout this con-stitution. As I said, in answer to Mr. Smith's guestion earlier, we didn't quibble when it came to "due process of law" and "equal protection of the law" horever what we are asymn is a some of fair-"cue process of law" and "equal protection of the law" because what we are saying is a sense of fair-ness. That's all this amendment does. It says that home rule charter governments can run the show as long as they do it fairly. I think this is a good compromise. It's something that we can get togeth-er on and allow home rule. But yet, give some check upon unreasonable home rule to the state legislature. So I ask that you adopt this amend-ment ment.

# Questions

Mr. Burson Judge, haven't we guaranteed in the constitutional provisions that we adopted under the Bill of Rights section, equal protection of the laws for all the citizens of this state?

Dennis Yes, sir. We have that language.

Mr. Burson With Mr. Gravel's amendments, haven't we made doubly sure in boiler-plate language that the provisions of the constitution would apply in

Mr. Dennis Well, you have, except you have this sentence in Section (E) which says that the legis-lature can't enact any laws changing the structure, organization of local governments. Now I think that needs to be qualified to make it clear that the legislature can, if an inequity or discrimina-

Mr. Abraham Judge Dennis, on what basis do you make your assumption that a local governing body would be any more discriminatory than the legisla-ture or any other governing body?

Mr. Dennis I don't. I don't presume that. That is why I think that the word should be qualified to Mr. Dennis is why I think that the word should be qualified to require "a gross inequity or an unreasonable dis-crimination." I think that we should presume that local governments are going to act fairly and that they shouldn't be overruled any time the legislature thinks they are wrong. I think they should be over-ruled only when the legislature sees a gross inequity in a local government operation. If there are not further questions, I ask for

your favorable vote on the amendment.

# [Amendment rejected: 18-87. Mot. yp

ing authority or by petition of at least ten percent of the electors or ten thousand electors, whichever is the lesser, of the governmental sub-division or subdivisions affected thereby."

## Explanation

Mr. J. Jackson Mr. Chairman, ladies and centlemen of the convention, you adopted, I guess about three or four amendments ago, allowing for ten percent or ten thousand of the people, registered voters, to make a proposal to cretta a charter commission

to make a proposal to create a charter commission Mr. Jenkins came over to me. He said he had to leave. I said, "I'll try, Mr. Jenkins." But Mr. Jenkins' concern is this: that what we did by the Jenkins' concern is this' that what we did by the adoption of the Bergeron-Jackson amendment is to not offer a proposal before the electorate that will go to the ballot and just offer a proposal to have a charter commission to draw up something. An his concern was that we ought to have the alterna-tive, that we ought to have the precent or ten thousand people to offer a proposition that will be placed on the ballot. And that is the gist of the Jonkins amendment as explained to me. If you read the committee proposal and the way we amended it, it just said ten thousand or ten percent to have a charter commission to do it. Now what if the people want to propose one directly to the ballot? We didn't provide for that kind of mechanism, and this attempts to correct the situa-

mechanism, and this attempts to correct the situation.

Mr. Kean Mr. Jackson, as I understand it, even though the people of a particular municipality or parish might want to put into their local charter five percent, this would mean you would have to have ten percent.

<u>Mr. J. Jackson</u> No, no, no, Mr...well, that holds true for the last amendment if we follow your ra-tionale. But the only thing it attempts to do is to allow ten percent or ten thousand, and we recognize that because of the problems that exist with nize that because of the problems that exist with present charters to allow the people to make a direct proposition to be placed on the ballot. We had some reservations on the right that we were putting in, we allowed for a charter commission to do it; his reservation was that he did not...whe basic concepts of what the people wanted? The summary right is in Shreveport, ten thousand people can petition the city council to place a thing on the ballot. It doesn't have to go through the process of having a charter commission to review it, to Dailot: It busin t may to go through it process of having a charter countission to review it; going to go on the ballot. As I have talked to Mr. Bergeron, we thought when we introduced our amendment that it was all-inclusive, but evidently there was that

Mr. Kean The thing that disturbs me, Mr. Jackson, is in terms of a smaller municipality, we will say, that has a population of five thousand. As I read this, five hundred people could call an amendment, call an election for, or require an election to be held. Don't you think that could lead to a number of successive efforts to amend, at considerable expense, unless you put some provision in here that you couldn't do it more often than a certain length

DIST Days Proceedings—September 21, 1943

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without necessarily going through the process of the city council having to print a charter revision commission. So, I don't see...based on objections that l've heard. I think that (1) say it's by the subdivision affected and (2) that this is not new Dreams that allows it and (3) that this the basic fundamental proposition of the people to place by petition any issue, whether it's the charter or rather it's some particular issue whether, you know, before the voters. I don't think that there is that serious objection as Mr. Perez says. I ask you for your favorable adoption of this amendment. without necessarily going through the process of the

[Amendment rejected: 40-67. Moti n to reconsider tabled.]

Mr. Poynter Mr. Chairman, Mr. Jenkins had sent uc an amendment to (C) as well. Amendments are as follows: Amendment No. 1. On page 4, line 4, after the word "adopted" and before the word "when" insert the following:

Amendment No. 2. On page 4, line 5, after the words "on the" and before the partial word "pro-" delete the word "charter."

Mr. J. Jackson I've just basically talked...ten-tatively talked with the chairman of the committee who has no objection. What it attempts to do is to insert the words "amended and repealed." The second amendment as I appreciate it, and I could be wrong, is to delete the word "charter." I'm kind of sorry that the last amendment failed, because I didn't want the convention to think that was a radical change from what's been done, because as I've said before, Mr. Dennery will attest to it, that right is already given, and I just wonder by the failure of the last amendment, do we take any-thing away from our existing charter? But on this amendment, I understand the committee has no serious objection. I ask for the favorable adoption.

Mr. Poynter Amendment No. 1 [by Mr. Arnette]. On page 5, line 6, immediately before the word "unless' delete the following.

# Explanation

Mr. Perez All it does if you read the few words right before that, it has a general reference to the fact that...1'll read the whole section to make it clear. "A local governmental subdivision adopt-ing a home rule charter under this Section shall also enjoy such additional powers and functions as are granted to local governmental subdivisions by other provisions of this constitution." All that the Arnette amendment would do would be to delete including Section 9 of this Article," because it showe that. I see no objection.

Mr. Poynter Amendments sent up by Delegates Gravel, Ambrois Landry, Martin, Edwards and Mire. On page 5, delete lines 9 through 1, both in-clusive, in their entirety and insert in lieu thereof the following: "GO No home rule charter shall contain any pro-visions affecting any of the following offices: judge or jultice of any district, appellate, or

Supreme Lucit. Tistrict attorney; parish or city schont board; sheriff; clerk of the district court; coroner; or assessor, which is inconsistent with the constitution or any law now or hereafter en-

<u>Mr. Gravel</u> Mr. Chairman, ladies and gentlemen of the convention, the provision suggested by the committee in its article on page 5, line 9, in the opinion of some of the delegates, was too restrictive because it dealt only with the question of the powers and functions of certain offices not being constitution. The proposed amendment simply says that no home rule charter shall contain any provi-sions which are contrary to this constitution or contrary to state law insofar as they purport to affect any district, appellate, or Supreme Court judge, any district attorney, any parish or city school board, any sheriff, clerk of the district court, coroner, or assessor. This proposed amend-ment is much broader in scope to make it absolutely clear that everthing leverything) more or less re-lating to the judges named, to the offices named, must be provided for either in this constitution or by a law adopted by the legislature. I think it's clear that we are trying to broaden the committee concept. I'll answer any questions.

<u>Mr. Abraham</u> Camille, is this language really necessary? Haven't we already provided for these things in the Judiciary Article and in various other articles, for the duties of the judge and so

Mr. <u>Gravel</u> I think it's absolutely necessary, Mr. <u>Abraham</u>, because of the provisions that we have in here with respect to the home rule charter. The only limitation on the home rule charter, as I understand it, as a consequence of what we have done, is whether or not there's a conflict with the constitution. I do think this is necessary; apparently the committee thought it was necessary to the extent of putting it in. The concept the committee had, I think, is still here. We're just making sure that this language goes beyond just the question of powers and functions. For example, no home rule charter could provide with respect to the compensation that would be paid to these particular offices.

Abraham You mean to tell me that if this constitution spells out the duties of a judge, that another piece of paper which is not in the constitution, a home rule charter which is not in the con-

<u>Mr. Gravel</u> I think the way the language is in this particular section, Mr. Abraham--and I want to answer your question--I think the language of this section as it presently exists clearly could

Mr. Stinson Mr. Gravel, in what way could they possibly have any control over a Supreme Court

Mr. Gravel I don't know of any way they could have any control over him.

Mr. Stinlon Well, don't you think you have left some out? You don't have the justice of the peace and constables and Lity court and city Harshals and ward marshals; they....

Mr t n on Constable and justice of the peace.

♥r Stinson Constable and justile of the peace, are they going to take care of the , too

Her Gravel well, they just aren to evered by the cravision. It is the possible that are provided if a howe rule charter, for example, a parish home rule charter or a home rule charter within a parish ight necessarily have to prescribe with respect to a justice of the peace and also with respect to

Mr. Stin. n Well, aybe we should add, don't you think, and all tizens of that district ?

Hr. Grael well, Mr. Stinson, this is not any laughing atter here, I don't think, sir. This per fically says that no home rule charter soft ave any provision in it with respect to the offices and, contrary to any provision of this constitu-tion, or contrary t any provision of fiste law. I don't think that this is a....offensive concept.

ent ennis Mr. Dennis Mr. Gravel, I wasn't aware your amend-ent wa co ing up. Did you know that Mr. Avant and I had a similar amendment but which is broader

Mr. Gravel I m aware of that provision, Judge Denmis, but I think this proposed amendment is broader in scope than that proposal. We discussed troader in scope, and I am familiar with that amend-

<u>Mr Dennis</u> milw can yiu ay yours is broader in incee when it does not... I doesn't exclude courts arow the district court level? Are you aware that I think Mr. Avant and my amendment is needed in inder to preserve what we adopted in the Judi Tary it is, which was a grant of ower to the levision over on weighen e the ourt below the district

Mr. Unnit. If you have the, would you a lept an servicent to include the other own if your alend

We could be as a set of estimate the state of the set of the set

arswered ut while y lett. ... e us are trying to infer that a be a nine rule charter will say nothing that the uprele lurt says hall a , are - u effe t on this harter r s ething t that elfe t

Mr Grave No. sir

Mr. Gravel Nr. has pagne, let e say till le two exbers if the on the suggested that til be inserted in there for the protect in if all ludges so that there would to be any usit! Liut in ight affect district judges in sie way with re-spect to their oppensation. Franky, it even mercessary to say appelate result.

Mr. Chapagne In other words, I read t as e-body trying to i press us that this hier use nam-ter business was pretty broad, but tie only tin, is, it left the governor out, that s what wirries

Mr. Gravel Imwiling t put in

Mr Conroy Mr. Gravel, I was come and about the last part of your a endent which refers t inconsistent with the onstitution is a similar or hereafter enaited which that each be for the legislature to increase the owner an functions, say. If the sheriff, t inclusion and for local off in all that have seen establined a of local off in all that have seen establined a

Hr. Gravel. That would ean that if the initiation prescribed the powers, duites and funct of the sheriff, that no provision in any numeric anter could adversely affect that provision of lat-That's exactly what that would ean, if not what it's intended to on, Mr innorpy

Mr Rayburn Mr Grave... Mikin the you're frif... to take care of the ud iar an a' t' thei people. To you think we gint you't a' te Tegislature in thire

I prefere transmission  $H_{1}$ , Avant to some the two anomalies of the first of the some two the two and the transmission of the transmission where the two transmissions are some to the transmission of the transmission of the transmission of the some transmission of the some transmission of the transmission of the some transmission of the some transmission of the some transmiss

fered and that Judge Dennis and I are coauthors of, which uses the language that is in this article about powers and functions, structure and organization and particular distribution and redistribution of powers and functions, because the law is, as interpreted by the court, that pay or personnel is not a matter of powers and functions, it has to do with structure and organization. Therefore, if the local government cannot be affected by legislation dealing with structure and organization or a particular distribution and redistribution of powers and functions, then the legislature cannot pass a statute on the subject.

[Amendment withdrawn.]

# Motion

<u>Mr. Perez</u> In order to give us the time to get this matter straightened out. It's quarter or ten minutes to seven in the evening and there is no shten this matter out to make it perfectly clear that form of government. I call your attention to the fact it says "for the government of the local governmental subdivisions." But be that as it may, I would like to move at this time we move to the regular order of business, and we will have this matter straightened out by tomorrow morning.

[Motion adopted without objection. Adjournment to 9:00 o'clock a.m., Saturday, September 22, 1973.]

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Mr. Avant Well, Mr. Champagne, the amendment was drawn in this particular fashion so that it would so that the sparticular fashion so that it would so that the sparticular fashion of the source and that is the reason that I want to set out specifically and in detail and in the same language that this article uses, when you refer to these terms, what offices shall not be affected. Those offices are the constitutional offices which we have set up.

Mr. Conino Delegate Avant, 1 notice you state in your amendment "personnel."

Mr. Avant I'm sorry, Mr. Conino; there must be something wrong with the microphone.

<u>Mr. Conino</u> ] said ] notice in your amendment, you state in here "any court or its clerks or other personnel." Supposing as in the city of New Orleans that you have personnel which are under the city court, what happens to that personnel? The city of New Orleans has no jurisdiction over that personnel?

<u>Mr. Avant</u> Well, that personnel is under the jurisdiction of the court now, I would assume, rather than the council.

Mr. Conino But, supposing they wanted to change that. Do you mean to tell me that the city of New Orleans would have no jurisdiction under its own... of its own employees and its own courts?

Mr. Avant. Well, that's the way I understand it is now, and if you want to change it, that is one of the things that I don't think you should just be able to just jump up and change, unless you want to put city of New Orleans excepted in this thing, which I wouldn't recommend.

Mr. Tobias Mr. Avant, I'm reading the amendment, and it says, "any court or its clerk or other personnel" and then it continues and says "the clerk of the district court." What's the difference between the two phrases?

<u>Mr. Awant</u> That language was changed. I had originally drawn it, "any court, its clerk or other personnel." It was changed...l had changed it from what the committee section report said. I put "the clerk of the district court" back in at the request of Mr. Ambroise Landry who says that the clerk of the district court is not the clerk of the court. Now, he's something other than the clerk of the district court who are the clerk of the district court is not the clerk of the district court is not the clerk of the district court. He may have a valid point. I'm not sure, but rather than take a chance on it, that's the reason I put that back in there.

Mr. Tobias A further question: You state, "the clerk of the district court." Would it not be better to say "the clerk of a district court" since Orleans has two district courts, and when you say "the district court"...

<u>Mr. Avant</u> I wouldn't object to that, Mr. Tobias. I'd withdraw the amendment and resubmit it with that technical change, if that's agreeable.

Mr. Avant That's right, and just bring it back and say, the clerk of a district court" and rather than "the clerk of the district court."

[Amendment withdrawn and resubmitted with - rre.ti ns.]

## Ouestions

<u>Mr. Casey</u> Mr. Avant, the question I have is directed also at the words "any court or its clerk," etc. Does this prohibit the formation or Moper is adopted, the formation of municipal courts for instance? For instance, in New Orlens we have traffic courts and municipal courts to try violations of city ordinances. How does this affect those topes of our or courts which are permissible under other areas of the constitution?

Mr. Avant Mr. Casey, that was intended to leave the situation with respect to the courts as it was when we adopted the Judiciary Article, and to leave it up to the legislature as to whether those types of courts would be discontinued, continued, changel, abolished, merged or otherwise altered in accordance with an overall comprehensive plan, statewide, for the operation of the judiciary insofar as the number and types of courts that we will have or concerned.

Mr. Casey Maybe there you're talking about existing courts under the Judiciary Article. I'm talking about new courts under a home rule charter which may be provided for under a plan of government, the home charter, municipal courts...

Mr. Avant It was the intent that such courts would not be created without legislative approval.

<u>Mr. Casey</u> Well, does this prohibit a home rule charter in providing for its own courts, municipal courts or traffic courts?

Mr. Avant I don't think it would prohibit it, no, sir.

Mr. Casey Well, there seems to be some disagreement on that, Mr. Avant.

<u>Mr. Rayburn</u> Mr. Avant, would this keep intact where you have a city court with a specific jurisdiction now as to what they can try? Would this keep that intact as it is, or without this could a home rule charter provide that a city court could have the same jurisdiction as a district court?

<u>Mr. Avant</u> The home rule charter would not be able to affect a city court. The city court would be affected by the legislature, which was the intent...

Mr. Rayburn But, without this provision or this language in this particular section, they could, could they not?

Mr. Avant Yes, sir. I think they could, under a home rule charter.

## Further Discussion

We. Abraham Ladies and gentlemen, when I read this Paragraph (G) in the proposal of the committee, I asked why did we need this Paragraph (G)? Why do we need to make these exceptions. I asked several members of the committee why. They felt that it actually was not necessary. Paragraph (G) was not needed, but it was put in because a few people thought that maybe we ought to have it in maybe it needed, but it was put in because a few people thought that maybe we ought to have it in maybe it for this type of thing at all because you have seen for this type of thing at all because you have seen few specific exceptions, simply to take care of a few people; then the question arcse, well, how about all these other offices that are not included, and so we've seen amendment after amendment to try to cover any new office that anyone may have thought of. Now, the Judiclary Article provides for the south rise the legislature to change them, provides for the juvenile courts, the mayor's courts, the sheriff, the clerk, the coroner. Well, if any provision or any article of this constitution has given constitution, shome rule charter that it cannot do anything inconsistent with other provisoins of this constitution, then why do we meed to clutter up or visual or fices in her which are already excluded? Now, we didn't go in the Legislative Article which areats...in the same way the legislature ents the laws, that it can mact laws, but it cannot do it where it conflicts with other sections of this constitution. That's taken for granted. The constitution is the basic law. Any law that the legislature

Sond Days Proceedings—September 22, 1973 ay era: which that, to there exists the constitution would be declared unmerstration per here, and it in that, to the exist is terminup this article by inertin is an etitation are if all these period exists of the are in the essay. The this initiation where period and information and the area is a set of the exist are in all these period exists and the exist are in all these period exists and the exist are in a set of the transformation and the exist are a simplify this initiation where period and information, any ne can associate that a meriod of the inagination, any ne can associate that a ever ide another provision of the onitiut in a veri de another provision of the onitiut in the term are done ther a end ents, 1 think that e-tho is can actually be taken but if here, and it won't hurt this set on one st.

Mr. 0:Ne 11 Mr. Abraha, you say that you know all these other things are taken care of. Let give you a hypothetical exaple and see if you win t agree that aybe we do need so thing 1 he this Take the jurisdiction of a district court. Avoidn't y'u agree that unless siething 'in here, a hole rule charter could estend the unisdiction of a

Mr. Asraha No, becaule the constitution fixes that, and it provides that the legislature shall handle...it specifically authorizes the legislature

Mr. LiNeill I disagree with you, Mr. Abraha .

Mr. Abraham well, 1 m sorry.

Mr Avant Mr. Abrahai, heard you ake the state-ent, in your mresentation there just then. It said something to this effect, a nome rule charter, which is in effect a statute." Would you be leve that if you think that, that you are, I respectfully ubmit, hir, just as wrong as you can be, because a hone rule charter under this article as it six itten is in effect a constitution?

Mr Abrama. I di agree, Mr. Avant, ecau e the hu e ru e charter is not written into the b dv of the unit that on.

Further all cussion

Explantion the second second

Mr. R.y. Mr. Abilla, Lave J., the state of t

Here, g , the set of the set o

Mr. Gravel was going to come up with with respect to (G)?

<u>Mr. Abraham</u> But, he is supporting it simply to put a stop to the argument in order to try to get the section passed.

<u>Mr. Roy</u> I take it you don't think, you're only one of the few who don't think something's necessary here?

Mr. Abraham Do what?

Mr. Roy You are one of the few who don't think there needs to be some explanation of (G) then.

Mr. Abraham It's very obvious, Mr. Roy, there is a lot of disagreement on this article.

[Previous Question ordered. Amendment rejected: 15-80. Motion to reconsider tabled.]

Amendment

<u>Mr. Poynter</u> The amendments [by Mr. Gravel] that are being passed out need to have several changes with respect to them. They were drawn by way of inserting a Paragraph (H) and have now been changed to delete the present Paragraph (G) and insert a new one, so it should read:

new one, so it should read: The page of the should read in the set of the se

# Explanation

Mr. <u>Gravel</u> Mr. Chairman and ladies and gentlemen of the convention, let me begin by making two very pertinent observations. First of all, this is the amendment that Mr. Perez said was better than the last amendment. Now, he hasn't told me yet he was going to support it but at least 1'm moving in the right direction. The second observation 1 want tou, mainth, of course, would pose some problems. Wy coauthors are Mr. Ambroise Landry, Clerk of Court, Sheriff Martin, Sheriff Edwards and Assessor Mire. I think that's necessary to let you know that this is not a particular or a special amendment that 1 have but one that is proposed to this convention on behalf of the delegates representing those who are clearly I think it can be said that this amendment insofar as it relates to the specific offices named is broader and more comprehensive than the recommended committee proposal, but I belive that both the committee and this amendment seek to do the same thing and that is to have it clear in this constituation that with respect to the offor of site ourt, corner, parish school board or city school board, that no provision in any local government charter can conflict with the provisions of this constitution or with any statute relating to those out the intention of the committee and leaves no out the intention of the committee and leaves no orm for doubt the board or city school board, that no provision in any local government charter can officit with the provisions of this constitution or with any statute relating to those out the intention of the committee and leaves no orm for doubt the board or city school board, provision or a statute relating to the settutional provision or a statute relating to the offices. I move the adoption of the amendment.

## Ouestions

Mr. Hayes Mr. Gravel, I had amendment that ended with the word "enacted" and I had decided to support the amendment and thought it was a good one, but looked like you have another that ended with "board". Which one are you going with?

Mr. Gravel The one that ends with "board", but I think it...

<u>Mr. Hayes</u> That's the one that 1 didn't...1 decided on the one that ended "enacted" when 1 thought you had made this agreement, and this was the one that 1 wanted to support, the one ended in "enacted" when 1 knew anything, another one was on the desk.

Mr. Gravel Mr. Hayes, let me just say this so you will understand it. I think that the second amendment says exactly the same thing with one difference. The first amendment also included, there was some concern about this, "Any other office created by the constitution." That's the only difference. That has been deleted because a number of the delegates didn't know the rainfications of that particulars. The import of the two amendment anyuegath. Hears effect would be the same.

Mr. Hayes Well, if the effects are the same, then I couldn't see any need for the change, Mr. Gravel. If they are the same. 1 like the first one.

Mr. Gravel Except for the fact that the first amendment encompassed not only the named offices, but every other office created by the constitution. And that's what was left out...and this particular proposal was restructured, but substitutably that was the only change that was made between the two.

Mr. Hayes Are any or..."or any law now or hereinafter marctad, was after "all other laws"...if exply generally to other...provisions of the constitotion, and when you mail it down and in your second one which made a difference to me altogether. Which means you changed the amendments in my opinion, Mr. Gravel.

Mr. Gravel 1 believe if you looked at them carefully now, Mr. Hayes, you'll see that all we've done is to leave out the general..catchall phrase that would have brought in other constitutional offices, besides those specifically named. Dther than that it was just a question of style and rearrangement. That's all 1 intended to do and frankly, sir, 1 think that's all 1 did.

Mr. <u>De Blieux</u> Mr. Gravel, I believe that you would agree that any effort to consolidate any of these affices would affect those offices under this provision, is that correct?

Mr. Gravel Yes. It certainly would...any such effort would of course affect these offices.

<u>Mr. De Blieux</u> Alright, now you know that there is a city and parish school board in the parish of Washington, that is in Bogalusa...in the parish of Washington. You also have a city and parish school board in the parish of Ouachita...

Mr. Gravel Yes, sir. l'm...

<u>Mr. De Blieux</u> And 1 believe you had... <u>I believe the same situation exists in the parish</u> of Calcasieu?

Mr. Gravel No. Calcasieu...city parish board is not in esitence anymers. In Washington, in Bogalusa, Bogalusa, the parish of Washington and the city of Bogalusa, the parish of Ouachita and the city of Monroe, the only two city parish school boards that I know of.

[1383]

Mr Grave: If it is so provided by statute, or by the constitution, it would...if is so provided by statute or by the constitution. I know definite ly that the ity-part in syster in Oue hits partsh is indirect / confirmed under the provisions of Article IV, Section 9 of the Louisiana Constitution In the read Exerption section, I know that In the read ...

Mr. De Biteux Now, another thing, suppose the parish of East Baton Rouge as we presently have here, whole want to consolidate their jaw enforcement activities under one office. It would prevent that fri happening, too, wouldn't it?

Mr. Gravel | If there was a statute or provision of the constitution to the contrary, it would...not... ro, I don't think it...Let e retract that. I don't think it would if that, you say that's the present situation?

Mr. De Blieux I say, if there was any effort to do that. You see then that...then there is no way they could amend, that we have a home rule charter her n East Baton Rouge parish. Then...

<u>Mr. Gravel</u> If in the future there was an attempt to do that, it was contrary to statute, then it could not be done under this particular provision.

Mr. De Blieux Yes

Mr. Gravel That's correct, Senator De Blieux. If in the future there was an attempt to do that ...a statute prohibited it, it couldn't be done.

Mr. Singletars Mr. Gravel, why do you enumerate the particular offices rather then using general language?

Mr. Gravel Because all of these are parish offices, or with a parish, except the office of district attorney that in many places is an office co-extensive with the parish. These are the same offices that are set forth in the committee proposal with the exception that I added district attorney, because in some instances the district that the district attorney operates in is co-extensive with the parish, such as Rapides parish, my own.

Mr Sin\_letary Well, aren't you generally aiming for offices that are covered by this constitution?

Mr. Gravel Not in thi section, no sir.

Mr. Lingletary You are not.

Mr. aravel what I am doing in this, Mr. Singletary, is to is to do what I think the committee intended in do, and that is to invulate the named offices from any provision of the home rule charter that we include the this constitution or hy statute

Mr\_Singletary I notice that you left out the mourt...

Mr Gravel Correct

Mr ingletary Why?

Mr Gravel think

Mr 'ingletaky why? Why did you di that!

<u>Mr Gravel</u> Be aule 1 think the curts are amply cared for in the Judi Lary Artille, and that would use under the provision. In this in istent with The provision of this constitution

Mr. Dennery: Mr. Gravel, ...din't know whether you heard Mr. Toblia ...ueition t. Mr. Avant. Would you agree to hange this to ...lerk of a district court", around there are two since overtoon presentations

 $Pr_{\rm c}$  energy ecody, siterear, reals tuse the on-uage parish ricity why addity a 1 tag and the state of the state of

Mr. Tave fes, there is in a d. why would ay city show b ard

Mr. Denner. Yes in ther words why the typu have just and or look board.

Mr. mavel I think Style and Draftin used delete those I hadn't thought it out but there there a reason for it, to this extent, Mr. Denner, I d adopt the language of the consister proposal I thin your probably correct Mr. G. dara, I thi's might have some objection, being from use hits and I don't know what it would be, but it is pis by a reason why this was put in that way I a to going to change it, let e say that

Mr. Arnette Mr. Grave, the way I read that amendment that you got, if the legislature wanted to, say, do way with the assessors or the sheriffs, under your amendment they could do so. If they wanted to severely restrict their powers and duties, they could do that also, couldn't they?

Mr. Gravel They could do that nom, yes, sir Except as limited by the const tution, absolutely.

Mr. Arnette So in other words if the loal per le wanted a sheriff and the legislature didn t as t them to have a sher iff, they could tell the cal people "No, you're not going to have a her iff lish't that true?

Mr. Grave: I'd like to be able to answer that I'll meet you at y des; Eause think you're if base.

[Am ni ent with iraw and rout to with the t

## Further 215 un 10h

Nr. Perez Mr. Chairman, addet and gentlemen of the convention, I just wanted to reiterate me ore time that we want to be syne that weire H ig what we intend to di, and ...t's y pinion that the Gravel amendment dies it a little better tha the uthers that have been offered to you bef re

## Juestions

Mr. Willis Mr Perez, in all hinesty in the name of saving time, which we will be beggin fir at the end of this year, does not, as a satter of fact that Section G according the everything that all the earnedworks we have been t1d are trying to  $\gamma$ 

Mr. Percy: Yet, and that swhy, that why again I ve been trying to aver time by detting the effect with everyph dy and vay, well, let get to other on the amend ent and a granelly thill, the ewhich which has the stateptance by st f the degagte and that why ready t g with it

Mi Idam Mi Peressanas funce y a series to a que fin the force sets of the "says", results though the present forces of the set of t

Mr Perel Nu, six All we re taking about now to the adoption of a future hor rule chartes of overn ment litor uld have nothing to do with the present

situation, with the present laws, or anything else. This is just a prohibition against the adoption of a charter or an amendment which would have these effects. It would not have anything to do with the present situation.

Mr. Goldman But, but if we should adopt one up there, that would then...say that, there would be one carish school board, it was a parish charter, would we be able to do that?

Mr. Perez That would be up to the legislature, assuming that they had the constitutional authority to do it.

<u>Mr. Goldman</u> But it would be, the legislature could provide for that to be done...they wouldn't be... they would't be locked out of providing for that?

Mr. Perez No, sir.

<u>Mr. Hayes</u> Mr. Perez, you agreed on the amendment ...on Mr. Perez' amendment, do you recall which one? The one ending in...

Mr. Perez It's the latest one that you would have before you...

Mr. Hayes ...ending in "board" or "enacted"...You had one ending in "school board" and the other in hereinafter enacted" which one did you agree on?

Mr. Perez This one right here.

Mr. Hayes Oh.

Mr. Perez That one.

Mr. Hayes Oh, good.

Mr. Perez The amendment ends in the words "or city school board".

Mr. Hayes Oh, yeah.

## Further Discussion

Rev. Alexander Mr. Chairman, and delegates. I atimpated to sak Mr. Gravel a few questions and at this time 1 wish to propose that question to Mr. Gravel, so in his closing remarks, he may answer them. First, in connection with the question raised by Mr. Dennery with reference to the City of New Orleans, Orleans parish, he inferred that we have both a criminal and civil district court clerk. In addition, we have a traffic court which has a clerk, a juvenile court, a first city court, and a second city court, all of whom have clerks and 1 would ... sion to that, 1'm concerned about other parcechial offices there. For example, the recorder of mortagges is not mentioned here, the recorder of conveyances is not mentioned here, the recorder of the language after the word "enacted" and just have a catchal is seigned, then why not delte all of the language after the word "enacted" and just have a catchal is there or plan of local government shall contain any provision inconsistent with this constithat would include everybody? It is my fear that some years in the future just may exclude some of those unmentioned positions - just add that in orleans parish. I'm source there's some of none of the graper shall be the some of a the some of the language after the sourd the some of a some of the language after the sourd the some of a some of those unmentioned positions - just add that in orleans parish. I'm source there's some of no some of the langer parishes like Caddo and East Baton Rouge.

[Previous Question ordered.]

## Closing

<u>Mr. Gravel</u> Mr. Chairman, I was going to waive the right to Close but in order to respond to Rev. Alexander's questions, I don't think that there is anything in this provision which adversely affects any of the offices named by Rev. Alexander, and mainly because of the fact that there has been, and is, an accommodation between the existing Grleans charter and the particular offices that are involved. Now, I think that if in the future there was some provision...there might be some problem with respect to other parts of the constitution. I don't think it's necessary really as much to protect what has been done, as to what may be done in the future by any plan or any home rule charter, and I look upon this particular section as beyond Section 7, where we have solidified and crystal lized the existings, and structures set forth, and I don't see any problem there at all and I imagine that's the reason why those particular offices were left out by the committee. If they want to come in with something later on to cover those offices we relation for the because as I envision this section we're talking in the main about future plans of government and future home rule charters, and that would exclude Orleans. I have no further statement to make.

[Amendment adopted: 92-9. Motion to reconsider tabled.]

## Amendment

Mr. Poynter Amendment No. 1 [by Nr. Downery], on page 5, between lines 13 and 14 add the following shall not apply to any local governmental subdivision covered by Section 7 of this Article unless its charter permits or unless its charter is repealed."

# Explanation

Mr. Dennery Mr. Chairman and delegates, this amendment was Circulated yesterday in case you're having trouble finding it, and the purpose of it was to establish beyond any doubt the question which was raised by Rev. Alexander and answered by Mr. Gravel, so that the provisions of the seventh Section, which has previously been adopted by the convention. The provisions of this section, Section 8 will not apply to any local governmental subdivision covered by Section 7, unless its charter permits or unless its charter is repealed. The purpose of it is to avoid any conflict between the two sections.

# Questions

Mr. Gravel Mr. Dennery, is it the purpose of your amendment, in effect, to make Section 7 apply to existing charters and local plans of government, and Section 8 would apply to future charters and plans of government?

Mr. Dennery That's correct, sir.

Mr. Gravel Thank you.

<u>Mr. Dennery</u> ...and I took this up with...l discussed it with Mr. Perez and l don't believe the committee has any objection.

Mr. Gravel Tell Mr. Perez 1 support this.

[Amendment withdrawn.]

## Amendment

Mr. Poynter Amendment No. 1 [by Mr. Chargaone], on page 5 deltate lines 0 through 13, (this has just ...both inclusive in their entirety (and you need to insert) and strike out Convention Floor Amendment No. 1 proposed by Delegate Gravel and just adopted, and insert in lieu thereof the following: "(6). No constitutional office or the powers and functions exercised by it shall be affected by the provisions of this section."

## Explanation

Mr. Champagne This is merely an attempt to say in concise words what Section (G) would attempt to say but I have no...but I have my reservations that

Dath Days Hoteetings—Leptennon Lept Any the yus start legislation in the constitution you have the possibility of a titing someone of they read in the constitution, I seriously question if they simbase of the seriously and the seriously the serious of a condition of the seriously distributed to condition the seriously distributed there are other people who feel that they must have it clear that they regetting this protection, and as proposed I say in very few word the same thing the other amendment and if there is some possibility that so eone be ell inated, then it's taken care of here and says the constitutional office. Incline clais, but office for the powers at the care of there sheriffs, the assessions, and all of the others are taken care of in very clear language, by general records.

## Suestions

Mr. Gravel Mr. Champagne, is the...are all of the offices that are named in the amendment that I proposed, it was adopted by the constitution, covered yet by the constitution, for example, the office of assessor?

<u>Mr. Champagne</u> Mr. Gravel, as many assessors as we have on this convention, there is no question in my ind but they will be in the const tution, and would have it no other way, sir.

Mr. Gravel What about city court...judges or parish court judges? Have they been specifically provided for in this constitution, Mr. Champagne?

Mr. Champagne If they are not, they should be.

<u>Mr. Gravel</u> Well I'm not, sir...not specifically ...they're authorized, but not provided for, isn't that correct?

Mr. <u>Champagne</u> Well, they're certainly authorized, but when you authorize them, I'm sure you provide for them.

Mr. Gravel Well, I'll just have to disagree with you on that.

Mr. Cha pagne - Well, 1 understand.

## Further Discussion

Mr. Anzalone Walt, before I talk a ainst your amendment, ) want to order two refrigerators. Ladies and gentlemen, the ...Sciton 15 of your Judiciary Article provides, that "district, parish, magistrate, city, family and juvenile courts, existing at the time of the adoption of this constitution are retained," so in effect what you are doing is giving constitutional status to your present city courts. Are Changene's a endment says "no constitutional offices...office or the powers and functions exercised by it, shall be alfected by the provisions of this section," which means basically if you have jum only have district courts, and you which; sarter to set up a city court you would necessarily be affecting a district court whin wild be en unconstitutional provision of affecting yu would shrit urt. Whin in effect means that you would not be an to set up another ity our in this tate. I be leve

## Further Min ussion

Indje Dennis. Hr\_ Chairman, fellow delegates i believe thi, ay have been brought out in the quetions, but i wanted to make it sublicute jy lear that I feel that this dees nut prevent a line of our ermont free setting up ourt, be sup ein the uddifers Arti is we did in t create in the one thut in ourst, that we a fund would be not in the field out is and a super the super sublicut. The field out is an another the super sublicut. It is our to the popel, and the dith it out. But she dither auch thrized the resting in our below the dither is our to the the the super sublicut. But he dither is our to the the the super her super the Rest ature to over L about one even to oversand there were L, about one even to the total district of even were to a tostructure to the district of the total over the total over the district of the total over the total over the total over total total over the total over total over the total total over the total over total over the total total over the total over total over the total total over the total over total over the total total over the total over total over the total total over the total over total over the total total over the total over total over the total total over total over total over the total over the total over total over the total over total total over total over total over the total over total over total over total over the total over total over total over total over the total over total over total over total over the total over total over total over total over the total over total over total over total over total over total total over total over total over total over total total over total over total over total over total total over total over total over total over total total over total over total over total over total total over total over total over total over total over total total over total over total over total over total over total total over total over total over total over total over total total over total over total over total over total over total total over total over total over total over total over total total over total over total over total over total over total over total total over total o

## Further C.ssion

Mr. unavel Mr. Lhair an, ladies and tent meen of the convention, 1 oppose this a end ent in part ecause its . Ins far as it affects 'he' a join n offices, it doesn't do the broad ob that 1 believe . The previous a nonlement did, because it 'is here...the question...the concept of sip), were this article to provisions on y of the signal of the structure of the signal of the signal of the signal this article to provisions on y of the signal of the the specific office named in the revise et al. by using the words, powers and functions is that there are a lot of other things that are in 'sed in and that relate to these specific office in the the specific office named in the revise et al. 'sed as privileges, such as Statut y set all revisions. Let e give you ust new 1 using the single curve as privileges, such as Statut y set all revisions. Let e give you ust new 1 ust that a circuit court of appea that held a see if 'nole, because of some nonfrictal act that was erfield by one of his deputes. The e istature we all not by claritying statut ergs that the sit at the perfor ance of an efficial duts in the istat of other thins be des was affitions. function general refer to ad itstat the perfor ance of an efficial duts istat of other thins be used in that the restructed. There are all if the rest is the are thing dust the did specific to return istat of other thins be des is an affitions. function general refer to ad itstate the provision is for the rest is the replaced by the provision is for the site is that the performance of an efficial duts is that the performent is the site is that the provision the governance of a site is that the theter is the did specific the site is that the site is the did specific the site is the are the site of the site is that the site is the site of the site is the site is the are the site of the site is the site is the theter of the site of the site is the site is the is the site of the site of the site is the is the site of the site of the site of the site is the reprive the t

Mr ve Bilen Me stavel, I diske to skits que tiot I i the ame dent tat we provints adopted it is in the fire efficient i tat trin equad a sus wellism with a boot i tat trin tattment are apprived by the lativershi boot. Now, if we had a merile starter at the inal version time i out that dat meshat affect the function of that diffie we this amendment therform at that

No is a well, that own to wait to an in processes without will be sense of the this accurate.

Mr. Gravel Absolutely, Senator.

Mr. De Blieux So...I'm afraid of that.

Mr. Gravel That's correct This is just not broad e This is just not broad enough in one resnect, and in another respect it's too delimiting because it relates only to the...Section B. I urge the defeat of this amendment.

[Previous Question Ordered.]

Mr. Champagne Mr. Chairman, fellow delegates, as I drove to this convention this morning L tried to reason with myself what was going wrong in this con-vention. As I sat through the deliberations yester-day, not necessarily today, I was reminded of an assertion made by a member of this convention. It ran something like this: A rose reminded of an smells as intie boat roses, but now much about work, I would suggest: "a spade and so the should be called." As I sit through this convention. I at the impression that this body is convention, I get the impression that this body is attempting to call a spade an instrument with a handle. On one hand we described it so as to imply it resembles a coffee spoon. On the other hand, we describe it so as to imply it is a steam shovel. They are both instruments with a handle. I suggest that we are grown men and women and that in the fature we attempt to call a spade a spade. I thank

....enament rejected: 21-76. Motion to reconsider tabled.]

## Amendment

<u>Mr. Poynter</u> Delegates Tate and Dennis send up amendments...Dennis and Tate, in that order. Amendment No. 1, on page 5, between lines 13 and 14, add the following: "(H). Notwithstanding any provision of this Article to the contrary, the courts and their officers may be established or affected only as provided in Article V of this constitution."

# Explanation

Mr. Dennis Mr. Chairman, fellow delegates, this is the amendent 1 mentioned earlier, and the rea-in offering this is as follows: First of all, power of the state in the Supreme Court, the court of appeal and the district courts and such other courts as are authorized by this constitution. Now, here in the Local Government Article we're authoriz-ing local government subdivisions. Now, the ques-tion is, does that include courts or not. The arti-cle doesn't say. I'm afraid that the popular concep-tion sis, does that include courts then a local gov-ernment charter could create any number of different kinds of courts other that twe envisioned in the Judiciary Article, because in the Judiciary Article we said you can have other courts authorized Mr. Chairman, fellow delegates, this in the Judiciary Article, because in the Judiciary Article we said you can have other courts anthorized by this constitution. So, in this amendment I am simply making it clear that the courts and their offices...officers may be established or affected only as provided in Article V of the Judiciary Arti-cle. Ladies and gentlemen, I ask you to vote for this because if we don't do this then I think we might be undoing the most significant reform that we arrived at in the Judiciary Article which was to empower the legislature to move toward a more consistent court system below the district court level sistemi court system below the district Court level throughout the state. If we don't have this, then the Local Government Article might be interpreted to say that regardless of what the Judiciary Article says, you can have any kind of court you want, wheth-er it's different, inconsistent or what, so l ask for you to adopt this amendment, please.

Mr. Perez We see no objection to the amendment. Again, we're just trying to make it clear that we're trying to provide a method for local government not intrude into these offices or other functions of government.

# Question

<u>Mr. Schmitt</u> Mr. Perez, do you see any necessity of putting all these various offices listed in there, and how far should we go? Should we list constables and...you know...to what extent should all of these offices be inside of the constitution?

Mr. Perez. Mr. Schmitt, what I'm basically trying to do because, of all of the discussion we've had for the last couple of days on this article. I wanted to be abundantly clear. First, as far as I am con-cerned, the article would not have intended to do that. But in order to satisfy any of the arguments or fears that any of these persons have had with re-sgird to these offices. I'm agreeable to go along with it for that reason.

[Previous Question ordered. Amendment adopted: 96-3. Motion to reconsider tabled.]

## Amendments

<u>Mr. Poynter</u> Before I get started reading, this is the Kelly amendment. There were two Kelly amend-ments that are rather comprehensive in their nature This is the one that has Paragraphs (A) through\_(F) on it. I want to make it clear at this time. The on it. I want to make it clear at this time. The second amendment needs to be changed in such a fashion that it only strikes out through line 1, on page 5. Therefore, the amendment would have the effect of not striking out present sections or Paragraps (F). (G), and (H) just added by the bennis amendment would have the interval of the section including all amendments to (A) the section of the section. Including all amendments to (A) the section of the section. Including all amendments to (A) through (E) of the section. Including all amendments to (A) therefore the section including all amendments to (A) through (E) of the section. Including all amendments to for the section, and the section of the section. Including all amendments to for the section, and its inclusive in their entirets, and inclusing in the section of the section. The interval of the section and insert in lieu thereof the following: "Section 8. Hore well for amendments the constitution, any local governmental subdivision or contiguous subdivision amendment, or second amendment needs to be changed in such a

guous subdivisions may draft, adopt, amend, or repeal a home rule charter. (8). A proposal to adopt, amend, or repeal a home

(o). A proposal to adopt, amend, or repeal a nom-rule charter may be made by the governing authority or by petition of at least ten percent of the elec-tors or ten thousand electors, whichever is the lesser, of the governmental subdivision or subdivi-sions affected thereby, except as otherwise provided in existing home rule charters.

(C). Two or more local governmental subdivisions situated within the boundaries of one parish may avail themselves of the provisions of this section, affected local governmental subdivision who vote in an election held for that purpose, vote in favor thereof.

thereof. (D). Such proposals shall be filled with offi-cials having charge of elections and with the govern-ing...shall be filed with officials having charge of elections and with the governing authority. It shall fully set forth the proposed charter, amend-ment or other proposal. The governing authority shall provide by ordinance that the proposal shall be submitted to the governmental subdivision or sub-divisions not less than sixty days after its passage or if requested in the petition, at a special elec-tion held not less than sixty days nor more than tion held not less than sixty days nor more than

inty days after the adopt on of the ordinance inty such charter, a end ent in repeal hall be end after the upon the approval of a adopt of the electors wing in the overn end a subdivision or ubdivisions after ted thereby E The legislature shall provide for the ethor E The legislature shall provide for the ethor ethor.

Mr. Kell, Mr. Chairman, ladies and gentlemen of the convention, it see like, as has been said up nere before, that welve reached an impasse. What There before, that we vereathed an imposet. And I have tried to do here is to try and come up with a reasonable solution. It may not be the best one ...for any one side of this particular argument. But I think this is an amendment which everyone can ive with.

and explain to you what, in effect, it does in rela-tion to the committee proposal, I will simply refer

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except, new this the key with size n, even as otherwise provide in the second size of the second the size of the second size of the size of the off doe not second size of the size of the pass any law same nor difying the trustme and ranization fail an eruse size of this way be therwise provides it his constitut Now, there are be some events on the second size of the size of the size of the second size of the

As was pointed but by the Clerk, this a end ent does no violen e to Section (F), or pale of the committee proposal. It does no violen e that It's my understanding that Mr. Demery s and emistic which has added a Subsection 6, it leave that instart, Dennis? Judge Lennis?, then I thirt thi Something that, as I say, Is in the furn of a reasonable approach to the situation. I most saying that it will cure nor all it forhoid socie issues which will have to be thim oughly disused aren we get to Section 9 and Section 6 mover, by a pring this amend ent, what we and dis where we get issues head-on and dispuse of the at that this is a distribute to the section that it will be a dispuse of the at that the sissues head-on and dispuse of the at that the sissues head-on and dispuse of the section to the sissue of the section to the section the section to the section to the section the section the section the section to section such as the section the section to the section the section to the section the section

Mr. 's Mr. kelly, I not less unhave the amount ments here loes this one take the late firm

Mr. Kelly No, sir, a sing with the ale deit which has subsections to to sted A through F

Mr. Burns ine other question. In yur ublection, F, was there any rea of f r leaving fun that and powers out of that ubsection. F

Mr, kelly Yes, in Behaviel tink that the function and placer, i thick the earlinered within the home rule charter, i think that we do guts of the whole thing, Mr, uning the works you are talk in about thu ture and indications

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No anier to free word with the state of the

Mr. Kelly Well, I think the power is inherent with-in the home rule, Mr. Lanier. I don't think that we have to spell out in Section 8 the specific pow-ers and duties. I think that what we're talking about, I think it's a normally known concept when we are talking about a home rule charter. It means just what It says. Mow tages, I mo hocal gow basic understanding of the situation.

<u>Ms. Zervigon</u> Mr. Kelly, would you explain again the purpose of your Section (E)? Let me clarify my question, perhaps. If the legislature shall provide the method of appointment and election of commission and how to prepare and propose such a charter or charters, why do you need the preceding three or four paragraphs?

Hr. Kelly Well, I think that by adding or inject-ing Saction (E) in there, we make the home rule charter concept salf-executing. In other words, as opposed to the legislature sitting back concern-ing a commission, as far as the preparation of the charter, etc., it would be a "may" situation, or it would be left entirely...the legislature wouldn't meessarily have to act. I think we have mondated them to act in this particular case. this is a safeguard to see that once the application, etc., is made for a charter, that the legislature will see, and provide the mechanism, that it will go on and be enacted.

<u>Ms. Zervigon</u> And you don't think that's already taken care of in (A), (B), (C) and (D), the mechanism of how that is going to be taken care of, when you say that you give the names to the people in charge of elections, and you've got to put an ordinance on the ballot and that sort of stuff?

Mr. Kelly Mrs. Zervigon, it may well be taken care of but I didn't want...that was a serious question by some of the local government people and I didn't by some of the local government people and I alan t want to leave that question unanswered. I wanted to make sure that that was in there and that the legislature couldn't sit back and not take any ac-tion and prevent someone from obtaining a home rule charter. That's the only reason it's in there. Now whether or not it might be extra verbiage, I don't know.

Ms. Zervigon No, it...the thing that worries me, did you know, is that it may contradict the preceding four paragraphs.

Well. I think when we are talking about  $\frac{n_{r}}{1}$ ,  $\frac{n_$ 

<u>Mr. Toomy</u> Mr. Kelly, in Subsection (C) in regards to two political subdivisions within one parish, your amendment requires the majority vote of each political subdivision. But as you know, it's the last sentence you have in Subsection (D), just says that 'a majority vote of the electors voting in the governmental subdivision or subdivisions. A feme understand it, two parishes could adopt the home rule charter by a majority vote of the two parishes together and not each parish?

Mr. Kelly Let me say this, Mr. Toomy, I think the Intent, when you are talking about what is concerned with two or more local governmental subdivisions applying for charters, etc., that would be covered by Section (C). You would have to read (C) in con-nection with Section (D).

Mr. Toomy As I read (C), it says "two or more local governmental subdivisions within the boundaries of one parish." I'm taking about outside of one parish. Suppose two parishes want to adopt a home rule charter, you only require a total majority vote and not a majority vote of each parish.

Mr. Kelly Well, I think that's...

Mr. Toomy If you'l section (D) again... If you'll read the last sentence of Sub-

<u>Mr. Kelly</u> Well, I think that could possibly be Cleared up. I'm not sure whether that's even taken ...that particular problem is even taken care of in the committee proposal.

# Further Discussion

Mr. Tate Mr. Chairman, fellow delegates, I rise with some hesitation to express views on a subject on which I acknowledge I have no expertise. I am atwhich I acknowledge I have no expertise. I am ac-tempting to express the concern of a substantial minority, at least, of us, with the basic philosophi-cal concept of the committee section as proposed and Anotic, at least, of us, with the basic philosophi-cal concept of the committee section as proposed and withbase how provides to say, first of all. I want to say first of all that I think the minority at least for whom I speak, believe in the concept of home rule as we see it. Home rule is like mother-hood. We want home rule. We do not want the legis-lature to interfere with the local structure of a charter adopted by the people of a certain area. I want to say further that I, for one, admire the work of the Committee on Local and Parcohial Government. I think they have presented to us a well-drafted and bilosophically synthesized concept. My reserva-tions, unfortunately, go to some sort of basic phil-want to acknowledge, also, that cerhaps you're lis-tening to a man who has been in state government for want to acknowledge, also, that derhaps you're lis-tening to a man who has been in state government for twenty years, and some of those others of us are worried about problems we see which you, looking to the future, may properly think are not the problems we feel, or based on our experiences in the past. Now I was particularly impressed, for instance, with the delgate from New Drleams who pointed out, and the delgate from Lafourche, who pointed out how ridiculous it is that they had to go to the legislature to get mosquito control provisions, and firmeworks convisions and obvinuely. that is a stron

fireworks provisions and obviously, that is a strong

But on the other hand, these, and we all think that within reasonable limits, local government should be able to act on matters of substance. But should be able to act on matters of substance. But there is the issue. Where are the reasonable limits? What protection do the citizens of this whole great state of ours have in the event, that in the event, that any particular local government exercises to the fullest the powers that we may vest in them by this constitution. I want to point out again, as a mat-ter of mechanics and preliminary, that by Sectionge. These existing home rule charters. And we are look-ing forward to the future in this present section. Section 7, this is Section 8. But we do not know that in the years to come there might not be thirty. Shell of , is the set of the base out we do not know to forty, situs/situation of the set of the set of the set of the with that...regard to that problem, I want to bring up certain questions. Incidentally, on the mechan-ics, I think we can work out the mechanics. The mechanics right now of home rule are provided by

Let me point out some problems. We are vesting in them complete discretion over criminal law except for felonies, and not inconsistent with general state cigar this morning, it occurred to me, tobacco does more harm than whiskey. Some good, clean-living community might very well want to make the possession of tobacco a misdemeanor, might want to say we can go the limit...two years in the parish prison. Who could say, incidentally, that that was wrong? If the legislature wanted to do it, who could bay incidentally wrong except the legislature, representing on balance, a great number of people, we know would balance out the incident to the state of the state of the state community with the state of the state of the state is a great number of people, we know would balance out the state is a syon go from place to place. ...one great state nighway has various little dif-ferent speed limits as you go from place to place. Admittedly, one by one, the legislature could cure these problems by general law saying. "No municipal-ity shall ponhibit the possession of tobacco." Perhaps...and it would take care of the totally. Let me point out some problems. Ne are vesting

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Mr. - la kin Tiryn in molag yn i molag Mr. Fordhan, mtrary 1, what ys all a y' tr legislature, ha advolated tren t'e legislaturei

Mr. \_\_h tt Well, think we have trig the the enclature, out at the time, is ave to e serve entain on ht he is a sorry and

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(F), which Wr. Kelly retains. refers to other powers granted in this constitution. Now if we delete the Committee Proposal (E), and retain only the Section (F), or Subsection (F), and Section 9 is emasculated or deleted, then I say to you that the home rule charter established under the provisions of Section 8 would have no authority, in my opinion, and it comes back to the same point that I argued against insofar as Mr. Roemer's amendment was concerned. I think that if we follow the thority for home rule charters if Section 9 is emasculated or deleted, and I think we must understand that significant change that his amendment would make in the committee proposal.

I'd like to address few remarks with respect to the comments that Judge Tate has made. Judge Tate has talked on the possibility of the second different municipalities throughout the state. I think Judge Tate well knows that the municipalities of this state presently enjoy the right to exercise police power, and that under those circumstances, they have enacted police power regulations which may differ as to the penalty which is provided for a violation of those police rogulations. And under those circumstances, there is no great difference of the police power new and the right to exercise the police power under the committee proposal. In both instances, as Judge Tate must well know, the test in the final analysis for a decision by the courts is whether or not the ordinance as enacted constitutes reasonable legislation. If it is held to be unreasonable, it is invalid, and I don't see that we have any great difference in that regard under the situation such as we have it now, and such as would be the case under the committee proposal. I emingines. I think that we ret taking about a concept here which would give to the municipalities the flexibility, the parishes the flexibility, to carry out their functions. I unge your defeat of the amendment.

## Further Discussion

Mr. Roy Ladies and gentlemen of the convention, and Mr. Acting Chairman, 1-rise in support of this pery wakes type of compromise that I see that has ever come about on this floor. About twenty-two years ago 1 attended Pelican Boy's State, I'm sure like many of you attended maybe in the past. I remember us getting to a position of not being able to compromise. There were kids from the various parts of the state, mostly the cities, who started reasong the troop Strivenort, and Mr. Jack, L.'s a member of your family--his name was Mitifield Jack. He got up one day, and he destroyed the whole notion that we couldn't compromise and that everything was fixed and rigged at Pelican Boy's State. I'm afraid that's the point that we've reached here. I'm afraid that's the point that we've reached here. I'm sick and tired of people making comments about the governor of the State of Louisiana who has a great Inwas the first man with enough guts in fifty-two years to dare to put a bunch of independent delegats in Baton Rouge for the purpose of trying to rectify the people. For one person to set himself up as somebody in authority to criticize the governor who has the input of everybody in this state, I think is ludisrous, and I m tired of it. I'm sure her states to be done, and to criticize the governor for getting involved to some extent in the various rights, I think is wrong. Now, what's wrong with Mr. Kelly's amendment? Mr. Kean keeps getting up and saying thing about, essentially. Well, I'l telly ou that in the case of <u>Lucombe v</u>. The City of Alexandrias, the langislike Judge Tate didn't know what he was talking about, essentially. Well, I'l telly ou that in the case of Lucombe v, the City of Alexandrias, the langislike udge Tate didn't know what he was talking about, essentially with a particular areas of the law, the municipalities may not give or deal anything in that area that is more stringent. That's the reason that Mr. Kelly has in here the particular provision that, with respect to powers and functions, that the legislature by general law may deal with its municipalities. 'Cause what Justice Tate said is true. But, let me give you a better example. Suppose the city of New Drleans under its home rule charter decides that everyone must register all firearms, all firearms, and that when you come into the city of New Drleans under its home rule charter decides that everyone must register all firearms, all firearms, and that when you come into the city of New Drleans if you have a shortgun in on a duck hunt somewhere and it's not registered. The first thing you know, you're in jail because it's a misdemeanor. I made it...the next year, the legislature says 'No, no boys, we don't want you all to do those things.' But the fact of the matter is you are already in jail. Now, let me tell you what the cities can do. They leep talking bout certain powers and have certain functions. If you'll come up here, Mr. Gene Tarver, 'Im sure, will be happy to show you Revised Statute 33:401 which deals with the general law called the Lawrson Act. There are one, two, three, four, five, six pages, six pages of powers onumerated and granted to municipalities that they may choose at any time including even the stabut. I've got a letter from Jefferson Fordham, he's they goy yeay is the expert. Dated September 10, 1973; it's addressed to Gene Tarver, Research Coordinator, who was the Research Coordinator for this particular committee. You how what he says on page 22. He review the committee and what is, my model provisions and in the model state constitution." His last paragraph says this: "I am embolden to say that the central problem in state constitutional revision, generally, is the strengthening of the basic institution of representative government., here today, according to this committee and what it wants? We are trying our durindes to do away with the State Legislature. My provision that I have up there, my amendment..

### Further Discussion

<u>Mr. Abraham</u> Ladies and gentlemen, when I first received this proposal, the first draft, I read it and studied it. We got the final proposal. I was undecided just what al tot of this would mean, particularly this Section B: how far we wanted to go with it, how far we wanted to go with home rule, what should be the rights of the local people, what should at the asyme'rule of the local people, what should at the asyme'rule of the local people. Wat should at the asyme'rule of the local people. Wat should at the asyme'rule of the local people. Wat should at the asyme'rule of the local people. Wat should at the asyme'rule of the local people. Wat should at the asyme'rule of the local people. Wat should at the asyme'rule of soul-searching. It wasn't until last night that I really became convinced in my own mind of what should be done. The real guestion here is whether we want home rule that will encompass all the authority needed that's not necessarily...that's not denied by the legislature, or whether we only wanthome rule where it is permitted by the legislature. During the discussion of the legislature; that we couldn't trust the legislature to do this; we couldn't trust the legislature to do this; he couldn't trust the legislature to do this; he couldn't trust the legislature to do this; he rights of the people. The people wanted to reserve to themselves as many rights as they could. They wanted to be...they wanted to determine their own fate. So, now we get down to jot the people, how strong downe want the legislature to be; how much do we want to restrict them. I berame convict in nyown mind that one of the best ways that the people can assert their rights is by doing so at home. We're talking about grass roots politics now. I think that the people can do more good; I can do more good in determing my fate by

being able to g to y i.a. ufficials and presenting y views such easier than 1 can core to Baton voye and have to present the and have to argue rouge and have to present the and have to argue with the legislature in order to get them to perify y local governent to do celtain things. Now, we uplained any, any times about her ghts of the state being infringed on by the federal govern-et we dont like it we want the federal gover-ernent to get out of the state's business. But, does not the same philosoby apply here, that when we stirt centart osing our individual rights? be some overriging checkrein, some overriging aue that averyody is not going out in left field. But, J became firmly convinced that we do more good when we keep our politics at home, and I am in favor of the provisions that are proposed by the Committee on Local and Parochial Affairs. I think Section 8 on Local and Parochial Affairs. I think Section b as it's written, while I may have some reservations about some of the language in t, I think it is basically good. We've put some amendments in there which I think (mprove it, and I think that our best Let s go aread and close the dedate on this issue: Let s vote on Section 8 and go nove on to the next section and try to get this thing out of the way be-cause we've got a long way to go. Ae've got a lot of work ahead of us. So, I urge the rejection of this a endment and any other amendments and the an adoption of Section 8 as proposed by the committee, and let's move on with our business.

Mr. Bollinger Mack, di with you wholehearted y? Mack, did you know that I agree

Mr. Abraha Thank you.

<u>Mr. Nunez</u> Mr. Acting Chairman and fellow delegates desides the fact that this amendment, in my opinion, is essentially the same as all the other amendments that deal with this subject that we've defeated for Mr. Acting Chairman and fellow delegates, discussion and subject to much debate, subject to mixen deliberation. It always leads to kone strong fee inny among to the various pari her. There are would like to ested their pari he boundarie. If you read this article very carefully, if you read it very carefully and fullow it, in sit ung to h through it, but it just say in Al and I'll quate. 'from continguous undivision, which ean parlime that adoin each other. No down the ec-form in 68, and age, at leas the persent test ten percentile either paris to down the mitted of the start of the start of the same hard test and the start of the same result is a start of the same same same is the same effective upon the approximate and but the same effective upon the approximate and the wy her read the same the test there and the wy her read the same the same the and the wy net read the same the same the and the wy net read the same the same the and the wy net read the same the same the same tarea, that you will be the test the view of the same tarea, that you will be the different will be the same same the same same the same test.

a while a "hink what , a rein, in the second H th a ni kel a., t mu d be this reviiin lt mu d be thi provision that middle me e arist absorb an ther with ust a simple mainty for a in that election l this title the start as the in that election l this title are the start as the instant election l this title are the start as a hope of don't, hope you will the start i want to bring this to your attention in the even that it does. I think what we altually differ pass this a endent as is, that we altually differ a mechanism whereby grups of per leaf fight "hi thing, yust fibb, so in not going t tell you that if you change that l' l be for it. I we git up here the and the again and tod you that li for a strong home rule charter. I are not the ting overment atters. This oes nit do that. It does not do it, and the nit privisi that if you want to asyone one and be are to do that. It does not do it, and the nit privisi that if you want to asyone or end becouse it seems like we are all saying we louid i you that the legislature has a threem do would tell you that the legislature has a threem do not do the and the legislature has a threem do a that do the pre-that be destarted to the sing the should the the power to the legislature has a should the that pre-that be destarted to the sing the should the should the the power to the legislature has a should the should the the power to the legislature has a should the should the should the the legislature has a threem of the should the should the the power to the legislature has a should the should the should the should the the power to the legislature has a should the shou 

Further Distances of the second secon

ly with the petition which is filed for a charter. Therein lies a fatal error with respect to this particular provision. But, going back again and remembering that it will...it is...will not only apply or cannot only apply to one local governmental subdivision, but to contiguous subdivisions, local governmental subdivisions, what this means is that ten thousand or ten percent of the voters of those two subdivisions could petition to consolidate through a home rule charter, the one large parish with one small parish. If you will look down at the end of Section (D), it says "Any such charter, amendment," etc., "shall become effective upon the big guy to gobble up and eat up the little fellow. I do not believe that that is what the people of this state want, and I do not believe that that is what the delegates to this convention want. I strongly suggest to you that this is the worst of all of the amendments that have been submitted. I'll yield to questions.

## Questions

<u>Mr. Vick</u> Mr. Perez, did your committee authorize The distribution of this letter from Jefferson B. Fordham of the University of Utah?

<u>Mr. Perez</u> No, sir. But, I understand it was distributed by Mr. Lanier.

Mr. Vick All right. The committee then does not endorse the comments made by...

Mr. Perez I really don't know exactly what's in the letter. I don't recall having read it or not read it recently.

Mr. Vick Did he appear before your committee?

Mr. Perez Yes.

Mr. Vick What I'm concerned with, Mr. Perez, is finds suggestion that the ideal article should be brief and concise. As he says, and I quote, "What I hope is that the committee will consider in the recasting of the draft in simple, brief, broad terms such has been attempted in my model provisions in the model state constitution." Do you believe that has been done in this article?

Mr. Perez Yes, sir. I think that we have done in this article what must be done in order to avoid a multiplicity of future amendments to the constitution just as we have had over the last many years, to authorize parishes or municipalities to have constitutional charter forms of government. If we do not adopt a provision like this, I predict to you without fear of contradiction that we will have constitutional amendments after constitutional amendarent to have constitutional charter froms of government.

<u>Mr. Flory</u> Mr. Perez, I understood you to say that under the amendment there was a possibility of two parishes merging under a home rule charter under this amendment. Is that correct?

Mr. Perez Yes

Mr. Flory Do you recall the language adopted by this convention in Section 1 that required if that happened, it takes a two-thirds vote of the electors in each parish to do that, you recall that?

Mr. Perez Yes, I recall it very well and there are two very distinct ways that it could be done. One provides that the legislature may consolidate, and it requires two-thirds vote of the people is one other method whereby it can be done; they are both exclusive one from the other.

### Further Discussion

Mr. Willis Mr. Chairman and fellow delegates, if we are to avoid deception, we must avoid deceiving or being deceived. The essence of deception may be gleamed from equivocations. Attaching a peculiar significance to a sentence or section which it does gleamed from equivacations. Attaching a peculiar significance to a sentence or section which it does it sincerely is ignorance. Knowingly deceiving is a form of tyranny over the minds of men. No con-science is lower than that which comforts itself for having deceived. A lie which is half a truth is the worst. Whoever utters those to you are what is known as fair wather friends. You'll find many of these in prosperity. In need or adversity, you'll for support. A friend to everybody and every cause is a friend to neither and only a source of incon-venience. Loyalty to that type of friend results in self reproach, and reproach from others also and a constant torment. A constitution is not an act of government. It is an act establishing government by its people. Our target is very obscure if we d constitution. Local government should have suffi-cient powers, not only to discharge its duries, but also to protect itself, and to protect its peo-le within the power to so so or to protect itself To direct local government to govern and serve, and to deny it the power to do so or to protect itself and its people within its proper sphere, is to ex-pect water from a rock. The only time this happened in the direct of the server of the server of the people so journeying to the Promised Land. To tell me that one man unnourished at noon and during that hour can better contain and outline local government, or that on the spur of the moment within another hour another may do likewise and better than the commit-ter which laid this proposal before us, is to offend qualifications and the sincerity of the members on qualifications and the sincerity of the members on that committee. Ladies and gentlemen, time marches on, and that is one thing that never returns. We on, and that is one thing that never returns. We will be begging for time in December. This amendment belabors all that which others did in substance or procedure. The results of which has compelled us to exercise in futility and waste the most important thing to us-rime. If I could inoffensively move the previous question on the entire subject matter, is to solicit your rejection of this amendment, and gill others which seek to destroy and gut home rule.

### Ouestions

Mr. Boy, Mr. Willis, I really enjoyed your comment about the deceit. I was just going to ask you that doesn't the first sentence of this amendment say "except as may be inconsistent with provisions of this constitution, any local government may do such and such?" Doesn't it say that?

Mr. Willis I give you an "A" in reading and understanding what you read.

Mr. Roy Isn't that pretty clear that that's what it says?

Mr. Willis That's a question that answers itself, Mr. Roy. Why don't you give me a question?

### Further Discussion

Mr. Armette Ladies and gentlemen, I'm not going to say one thing one way or the other about this particular amendment because I think everybody knows my feelings on it, but I just want to get the issue before you very, very clearly. The issue is: Do you want your local government to go to the legislature any time they want to pass a law? It's very, very simple; or do you want to go with the committee proposal which allows the local government to do anything not denied to them, which is the way it is in a model state constitution, which is the way many people think it should be; but I just want to get the issue before you very clearly. If you want local home rule, you would vote against Mr. Kelly's

Sant Dury Flyou don's want hose rule, and you want to ju to the en lature anythe you want to uss any laws in your local area, then yothe for Mr. Kelly a mendeent it's very shall of the are no other speaker, I would like to ove the previou yeather

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Tuesday, September 25, 1973

### ROLL CALL

[68 delegates present and a quorum.]

## PRAYER

Mr. Heine Our dear heavenly Father, we thank Thee for this beautiful day and for the blessings that Thou hast given us. Be with us now as we deliberate on the business of the convention and that the decisions that are made here will be for the best interest of the majority of the people of our state. Lead, guide and direct us now in everything that we do, and forgive us of our many sins. For Christ's sake, Amme.

## PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

### UNFINISHED BUSINESS

## PROPOSALS ON THIRD READING AND FINAL PASSAGE

<u>Mr. Poynter</u> Committee Proposal No. 17, introduced by Delegate Perez on behalf of the Committee on Local and Parochial Government and other delegates, members of that committee.

A proposal making general provisions for local and parochial government, levee districts and ports, financing thereof, and necessary provisions with respect thereto.

The status of Committee Proposal No. 17 is that the convention has adopted as amended Sections 1, 3, 5, and 6 through 8 of the proposal, has voted to delete Sections 2 through 4. Presently, the next section that should be under consideration would be Section 9 dealing with powers of other local governmental subdivisions.

### Reading of the Section

Mr. Poynter "Section 9. Powers of Other Local Governmental Subdivisions Section 9.(A) Any other local governmental subdivision may exercise..."

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

### Explanation

Mr. Lanier Mr. Chairman and fellow delegates, Section 9 of the proposal of the Committee on Local and Parochial Government is the heart of the local government provision. This deals with the powers and functions of other local governmental subdivisions other than those which were considered in Section 7 and 8. Now in order to properly evaluate this concept of the balance of powers between our states of the section of a section 1 and 1 and 1 and section 7 and 8. Now in order to a properly evaluate this concept of the balance of powers between our states of the section of a section of the section of the section of a section of the section of the section of the section of powers between our people, we should be considerate of certain goals and certain ideas of what we want to accomplish.

What we want to accomplish that an extremistive study was done in the State of Louisiana called <u>Goals for Louisiana</u>. It was chaired by Senator Michael O'Keefe of New Orleans. At the beginning, in the preface of <u>Goals</u>, we find the following language and I want to quote it to you because I think it is significant in doing the work dist at are face to do today. Senator for the future, but the future has arrived. It is now. Some aspects are welcome; we air-condition our homes against the summer heat, view events around the world via satel problems with lightning speed. Other aspects are alarming; our cities are festering with sluws; well discontent is mainfesting itself in violence. The future is a mixed blessing. Blinking an eye or turning a deaf ear will not make the problems go away. There is no substitute for courage, imagination and determination."

In our treatment of the local government proviin our treatment of shorts of a series of the series

art. style="list of the sequence of the people of govin this regard they say this, "Self-executing constitutional provisions are urged which would enable the citizens of each community to frame their own local government charters." Well, fellow delegates, we have taken care of that in Section 8 that we passed last Saturdy.

own local government charters." Well, fellow delegates, we have taken care of that in Section 8 that we passed last Saturday. The other thing that they recommended was the following: "Similarly, such provisions are urged as will allocate to local governments all those powers desired by its constituents which the dese test of each their local problems. In this regard, with reference to the general state goals as enunciated by the committee, we find the following under Section VI: "Local governments should be given genuine home rule status, including the responsibility, power and authority adequate to meet the increasing demands of modern society.

Number 1. Local government should have the right to initiate, adopt and amend the form of their government. Self-executing constitutional provisions to accomplish this purpose should be adopted. Number 2. Local governments should be constitutionally vested with all powers neceexecuting constitutional provisions to accomplish this purpose should be adopted. Any such constitutional provision should include admonition to the judiciary calling for a liberal construction.

for a liberal construction of home rule powers over local affairs." Now, if you agree with the conclusions of the Goals Committee, the next job at hand for us is to decide how best we can accomplish this purpose. I this regard, basically we have two alternatives,

acciae now best we can accomplish this regard, basically we have two alternatives in this regard, basically we have two alternatives in the provided and the source of the source of the source that is a policient of the source of the source of the mean years since 1868. Dillon's Rule basically says that "local units of government only have such powers as are specifically granted to them." If the power is not specifically granted to the source problem with Dillon's Rule is that, what authority you would need in say, 1900, to settle a local problem might not be the problem you would need in 1925 and back to the legislature to get additional authority to settle your problems on the local level. The other approach to solving local problems is

The other approach to solving local problems is what's called the Residual Grant of Autority, and this is in conjunction with the so called provides introle bit more than the Residual Grant of Authority. The concept of the Residual Grant of Authority. That the local units of government can exercise any power and function necessary and adjunct to the management of its affairs. Now this is not to mean that it is given state-wide power. It is given power for the management of its affairs, and it has this power unless limited by the constitution, by general state law, or by its own charter. This way. If some

th ng new crop up, the o al unit of overn ent wuld have the au hority to deal with the situation unless prohibited by tate law or it harter or

The eans the contain yian, for example inder the ion's Fue, you could have a constitutional grant where to a local unit. If you have this, this reates the a alled reals within the real, the inpertur in imperum; this is the so-called local were entainsland. This institutional grant of vermenta island This institutional grant of per fic authority means that the legislature can-mat affect in any way the activities of the local unit in that area. The other alternative under nillon's Ru e is a statutory grant of authority which is primarily what we are operating quider to-day in Lou iana. You have certain constitutional rule charters which are presently in the constitu-tion. The other authorities are by statute New with reference to the Residual Grant of Au-hority. This could be done by a straight consti-

As you will note in reading Section 9, we have adopted the Residual Grant of Authority approach. adoted the Residual Grant of Authority approacn. Section 9 is intended to apply to those other local jovernmental subdivisions who are not counted in Section 8 and Section 7. They are granted the power...the right to "exercise any power and perform charter, by this constitution, or by general law. Thereafter, we have a certain list of enumerated powers which this does not limit the grant, but enu erates certain powers that would be included within the grant. Section (8) of the proposal provides that these

"Section (a) of the proposal provides that these powers can be exercised concurrently with the state. A classic example of that would be the criminal law. You could have a parish or a municipal ordi-nance prescribing against a type of criminal conduct, as well as a state law, and giving authority to the legislature to preempt the field if it so wishes. In Section (C) we provide that this should not be construed to affect parish or city school boards, the offices of sheriff, clerk of a district court, coroner, or assessor. With reference to this 1 might suggest that we may want to consider doctoring this up a little bit to make it with the identical language that we used in Section 8. This approach to solving the local government auth rity question has been recommended here in Douisfana by the louisiana Constitutional Revision

Commission; the Chairman of the Committee on Local Supernment was Mr. Roy M Fish. There has been a very excellent discourse on this topic t can be

Now restriction, you use ad the units with estimation with his what In are tended to be nated up in the presence of the state and green etal studies of a not the state of the st

the limitations placed on ocal government finance is Sections 3 through 4. In closing, fellow delegates, I dilker pirt out to you that what we re taiking abut here the right of the people on the local evelt effi-ciently handle their win affairs. A fifter considerin all of the alternatives available to us, the the fit that this system, this combination of Sec-tion 8 and Sectin 9 together, was the lost effi-ent worlds. It combines the freed and fitting to movement perfection a hondly with the section. where we have mass transportation and assied a and everchanging concepts, with the idea i equsia-tive supervision and control or for an overall gale

plan on the state level. Under this proposal, the legislature retains the absolute right...inder this proposal, the le is at re-has the absolute right to regulate the powers and functions of a local unit. Theoretically, under this approach, and this is one if the citles if it, the legislature could pass a law saying that local government has no powers and functions ex-cept as hereinafter specifically provided, we fet the the initial structure on the most of the structure. We have felt that trust should be placed in the le-islature. For example, 1 live in a town with a leother hand, we are asking you to trust local invernment to be responsive to the needs of its pere and to govern them wisely and prudent y in this regard, I would like to point out that at the have a much ligger says in low to the new feel that this is a prudent and wise proch to the

At this time, Mr ha man, 1 would enter the welcome any questions on this topi

Mr Roy Mr Lanter, I am very which erned about one aspects of your eithin and wait to a source of the source of the

one apprised you entry and was the set of th

In the angular to retine deal that the second source that independent to the location out of that independent to the location out of the second average of the second source the second source the second source of the sec

My own personal months is, Mr. Roy, that these

things are included in the general grant of authority and that this list is merely illustrative. So if you'd like for me to state for the record what the intent of the committee was, it was not to grant uncontrollable powers to local governmental uni It was merely to illustrate certain powers that units. would be included in the general grant.

<u>Mr. Roy</u> 1 can appreciate that. But you know the courts would maybe decide in the future this thing, and the other problem that worries me is that on line 28, you do have "and except as otherwise pro-vided in this constitution", but it is restricted only to Number 7, which if I were arguing, I would say that doviously the Constitutional Convention meant that only Number 7 would be restricted by that language and not the whole number of noe, two, three, four, five, six, seven, and certainly that the legislature could not in any manner tamper with or modify those seven provisions.

<u>Mr. Lanier</u> When we first drew this thing up. I think we had had language something like "except as provided in this section" or something like that, because we do have provisions in our finance section that deals with this problem. My understanding of this language, when we put it in, was that it would be sort of a lead-in to the limitations that appear in the finance section.

Rov All right. One last question because I Mr. Roy All right. One last question because I know other people have questions. On line 32, you exempt, by general law, only those powers which the general law specifically limits, and I'm very much concerned that even a broad, general law passed by the legislature to deal with every type or category of conduct of all municipalities or local govern-ments, that lawyers would get in fights as to wheth-negate a particular course of action by some local which is in law of a wour in the say of a course of which is in the say of action by some local subdivision. I'm wondering why you need to say "specifically limit"?

Mr. Lanier The problem with this is a little dif-ferent that what you have posed, but l'd like to discuss both if it'd be alright because there is a little problem here.

You have the problem here, the concurrent exer-You have the problem here, the concurrent exer-cise and also the preemption. Language similar to this is found in the Illinois Constitution. If you will note, the language says, "any local government-al subdivision may exercise any power and perform any function concurrently with the state pertaining to its government and affairs." Now, of course, this is the point, that these powers have to be pertain-ing to its government and affairs. The same language is found in a little hit difference status un have ing to its government and attairs. The same langua is found in a little bit different status up above. On line 18 it says "for the management of its af-fairs, necessary, requisite, or proper for the man-agement of its affairs."

Mr. Roy But it goes further.

<u>Mr. Lanier</u> This means that with reference to these powers that are necessary for its affairs, or for the management of its affairs, that it would...we've got to decide the old issue, and you, I know, are aware of this problem we have in the Federal Jurisprudence about when the constitution is silently silent or when it's actively silent. We wanted to get around that problem here by setting out specifi-cally when the exercise would be concurrent and when there would be a preemption, 'cause you know how much litting ation the preemption problem has caused in the Federal Jurisprudence.

## Personal Privilege

Jenkins Mr. Acting Chairman and delegates,... had occasion this weekend to be in Washington, . C. to attend a conference of state legislators congressmen and something occurred that I thought and congressmen and something occurred that i chougn would be appropriate to relate to you at this point in our discussion, because it pertains to local gov-ernment, and it's not by way of debate, but it's by way of something I want to point out.

I met a state representative from 111inois, he's

a Republican representing the suburbs of Chicago. His name is Donald Trotten. I mentioned to him that we had a constitutional convention going on in we had a constitutional convention going on in Louisiana. I said, "You know many of us have looked at the lllinois Constitution and read it with some interest." Well, the first thing he said to me when I said we had looked at the lllinois Constitution was, he said, "Well, let me telly you this. When you get to local government in that constitution, your on the "He said, "The one provision that has caused more problems in the lllinois Constitution adopted two years ago. than any other, has been caused more problems in the Illinois Constitution adopted two years ago, then any other, has been their provision on local government." "Here's the problem that has been raised," he said, state legislature, there is a legal question raised as to whether or not that bill is going to have any effect, any validity, anywhere in the state." The question is raised whether or not it has been pre-empted by the local governments, whether or not, in effect, sovereignty of the State of Illinois has islature has given up something it can't even legi-slate in a qiven area. And then he starte the slate in a given area. And then he started the horror stories about what has happened in counties throughout the State of 111inois. He pointed out, for example, in one county they used this wonderful power to attempt to license physicians, and operate concurrently, of course, with the state under this provision, just as under ours. This locality was trying to set higher standards, different standards Another one was trying to set... to license standards estate brokers, already licensed by the state. The were going to license real estate brokers. He went on and on and on...talked about people waking up in the morning and finding out that they had had some They new assessment placed on them because of local im-provements, without any knowledge or vote on their provements, without any knowledge or vote of the again was that it wasn't working in 11linois...this won-derful plan of home rule, for one reason because it's not really home rule at all.

1C's not really home rule at all. No given subdivision or its people is given the right to govern themselves in their own way. Rather, the only thing that they are given the au-thority to do is to enact more and more controls and regulations. They can't take off anything put on them by the legislature, by congress, they can only put on more controls, more interference with the in-dividual lives of their citizens. So I just want to point out at this intrume the this wonderful to point out at this juncture that this wonderful plan, wonderful scheme, that has worked...that was put into effect in the State of Illinois, is conto be working. I think we ought to find out a lot more about it before we try to put it into our basic document in this state.

I can foresee a situation where business and labor, in particular, are facing an unmanageable political situation. Right now they know they can go to the legislature to try to get redress, to try to correct injustice... Thank you.

## Amendments

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Conroy]. On page 5, delete lines 17 through 28, both inclusive and insert in lieu thereof the following: "Shall have such powers as shall be provided by this con-stitution or by law". Amendment No. 2. On page 5, delete lines 29 through 32, both inclusive and on page 6, delete lines 1 through 4. Amendment No. 3. On page 6, delete lines 5 through 8, both inclusive in their entirety.

### Explanation

<u>Nr. Corroy</u>. As suggested by the committee in its proposal, this is one of the more important sections of the proposal of the Committee on Local and Paro-chiel Government. But, the proposal of the commit-tee radically changes the system of local government that we have in chis state today. Section 9 of the committee proposal, as proposed, would delegate all residual powers to local government whether they

ever a ked fir t t m t, whether they the ever first of the are propared first of m to m. The prove elemend of estification of the start of the start is to the start of start of the start of the start of the start of start of the start of the start of the start of start of the start of the start of the start of start of the start of start of the start of start of the start of the start of the start of the start of start of the start of the start of the start of the start of start of the start of the start of the start of the start of start of the start of the start of the start of the start of start of the start of the start of the start of the start of start of the start of the start of the start of the start of start of the start of the start of the start of the start of start of the start of the start of the start of the start of start of the start start of the start start of the start of start of the start start of the start of the start of the sta

### Questions

Mr. Boy Mr. Conroy, I want to compliment you on your presentation, first of all. My question  $\cdot$  . Couldn't we, if we wanted to deal with Section 9 as they have attempted to d, we jut should have made its part of Section 8 and have the same thing? I that right?

Mr Conrory, Wells, that's the effect of it is to say that whether you're adopted a herter ro nt, you hereby have a his rule charter but without d fining what that charter i or what the limitations are that norrally a moup wuld interd to put in a hose rule charter if is losal by adopted

 $Hr_{\rm e}$  y New, at onlerned with section II for this reason. The way I read (B), it can that with the reason. The way I read (B), it can that with the sector of the se

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Mr. Day My question ( ) you ( , we reado not to be dealering with special and general legislation and we have a loady had this har ha and not in the order of the function and not the special special special spectral sp

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Mr. Yean But, despite that desirant ty, the let effect of it would be to brinning and wir let substantially back to what it is right now wir respect to dele ation of tweet, would to t

Mr Conr $\chi$  No.1 diffee with the same think we gave local inversent a result of which self on a characteristic set of the same set of the same

Mr Kean ut, with it in to te te inder\_ection 8, they would e un tan'al, same polition they are riw. f, all et adopted tonight

Mr. C.nro. That' orret The ore w ore in the same pritin, with the perer w "" option to adopt a horrer fith h

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Mr. Lanier Mr. (nr), ar (wr) tal to places the perple like to prote constants on vr v te

Mr inno. I in that an will think that it would the any ext proto deired to initiane into the transto draw us a charter that wild in the transnumer of the volce ury on it is set to raph Al

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More then we take the set of the

in their local government because under Section 8, they can invest those sort of powers in local government, and the power is ultimately with the people. I think Section 9, as proposed by the committee, takes that power away from the people and instead invests it in local government, whether the people wanted it there or not.

Mr. Lanier Mr. Conroy, let me ask you this...

# Vice Chairman Casey in the Chair

# Further Discussion

Mrs. Zervigon Mr. Vice Chairman and delegates, I rise in opposition to the Conroy amendments for two reasons. In the first place, we've made a very clear distinction between home rule units of government and any other unit of local government. That is, that if you write up a home rule charter, the you may exercise, but not how to exercise them. In other words, it's like a football game. The rules are drawn out: how many players on each side and what's against the rules and what's not. But, within those rules, you set your strategy in order to try and win the game-that's home rule. For other units much to do and also how to do it, if they were of a mind to. But the reason we drew it so that they had any power not denied them is because we like the flexibility of it. The legislature could, with the enormous power that's bestowed upon them, take all powers and functions away from local government, if their legislature, and trust themselves to watch their legislature, and their local government all offlicials. So, the local government and of flicials. So, the local government and any function to a local government all offlicals is so the the flood of bills that reach he local gislature year saying. This parish may regulate fireworks. This parish may regulate livestock. This parish may regulates and say real corazy patchwork of statutes that apply to different parish ray regulate livestock. This parish may regulate so and so," and have a crazy patchwork of statutes that apply to different parish ray regulate fur on the legislature will not have to att and the legislature could turn its full sixty days, its full intelligence to solving problems of statewide issues. J urge your support of the committe proposal and the deteet of the Conrow amendment.

### Questions

Mr. Goldman Mrs. Zervigon, I don't really...I didn't hear you when you started whether you said you were for or against this amendment, but it makes no difference. My question is apropos either way.

Mrs. Zervigon I hope it makes a difference.

Mr. Goldman Well, I mean, as far as my question is...Wy question is, as Section 9 is written now, doesn't it virtually give all those subdivisions that have no home rule charters, doesn't it give the elected officials of those, either parishes or municipalities, the ability to..in effect, make a home rule charter themselves without going to the people first to see if that's what they want?

Mes. Zervigon Wr. Goldman, the answer to your question list totally with the legislature. It depends how many powers and functions the legislature wants to deny those local governments. Those local governments will operate subject to the constitution and to general law. It's totally up to the legislature. The legislature could say that they may not pave streets, that they may not employ a fire department. The legislature could decide all ty with the legislature on that, but leave a certain body of residual powers with local government until the legislature says otherwise. <u>Mr. Goldman</u> But, couldn't a local elected body do something, pass some law that the people didn't would he legislature is not in session, it would be in effect until the next legislature gets in session; then, somebody would have to go to complain to the legislature for them to say "No, you can't do this"?

Mrs. Zervigon Well, Mr. Goldman, your argument assumes, or your question assumes that elected local governmental officials who live in the area, don't leave the area, meet every week in the area, are essentially less responsive to the people who elected them than the legislature at large, the great majority of whom do not live in the area that you are talking about.

Mr. Goldman It's been known to be done, and I know I can give you some examples of some...

<u>Mrs. Zervigon</u> It's been known to be done by any elected body you can name. All virtue does not reside in the legislature nor does it all reside at local government. This is a counterbalancing effect.

## Further Discussion

it, to write a constitution, a proposed constitution for the people of the State of Louisiana. Now, as for the people of the State of Louisiana. Now, as you have been told, not once but dozens of times from this podium, and as you well know, power comes from the people, from the people of the State of Louisiana. Traditionally and historically, the memory of man runneth not to the contrary. The leg-islature of the state has been the general depository of thet nowner. Everything that is not northined the islature of the state has been the general depositor; of that power. Everything that is not prohibited to the legislature by the constitution, it has the re-siduum of power to accomplish in accordence and con-sistent with the provisions of the constitution. Local government, traditionally and historically a have performent and the provision of the state of the have performed to be and provide a method have which one thing in sit dowe and provide a method have which one thing to sit down and provide a method by which local governments on an individual basis may prepare a home rule charter through a procedure that is esta-blished for a commission or a committee or whatever you want to call it to draft such a charter. reduce that document to writing so that the people can look at it and study it, and discuss it and de-bate it, and get some idea what it means and then vote on it, that is one thing that is entirely different from what this section proposes. Now, this section simply means in words of one syllable and not too many, that every single municipality or police parish or governmental subdivision in this police parish or governmental subdivision in this state has unlinited power to do anything that it chooses to do unless that power has been specifical-ly denied to it by the legislature, or it is specifi-cally denied to it by the legislature, or it is specifi-has no charter. It would have no charter unless it's operating under some special legislative char-ter. New I executive with the it's operating under some special legislative char-ter. Now, I respectfully submit to you that that is unwise. That is not sound. That's an entirely different proposition, as I've said before, from a home rule charter. Now, Mr. Jenkins used a phrase the other day that I think was well taken. That is, that the legisting is possite to sail taken. That is, that the legisting is possite to sail over the state. Mr. Jenkins used is not the sail to wer the state. Mr. Jenkins to discussing this matter with process of putting out brush fires all over the state. Mr. Jenkins, in discussing this matter with you earlier this day, pointed out some of the prob-lems that you are bound to have, some of the problems that they've had in Illinois where they tried this system, because there's nothing in the world that would prohibit a municipality from licensing any perfection any trade would prohibit a municipality from licensing any profession, any trade, levying any tax, passing any kind of code, or doing anything under the world that its governing authority conceived that they should do unless and until the legislature passes some general law saying "No, local powerment, you con-law, under this type of a proposition. Local gov-ernment in this type has hand an ernhlem notion to ernment in this state has had no problem going to

the less ature and obtaining from the less atures marks of parts of the thing that are to all be resulted on a state of the state of the state new years of a problem of the state of the state that the wire university of the state of the state this extrum as its written

### Further Discussion

Mr. Stagg Mr Chair an, fellow delegates, you are nearing the same arguments on the amesubject, de-livered by the same people that you heard on the de-bate on the Romer amend ent last Friday afternoon, including me. If youw il i remember back to that argument, tried to describe to you the two ways y which unicipalities in this country govern them-selves. They either do it under the old Dillon s rule which says that multipalities and local govern ments can have the powers to do unless those powers are denied them in this constitution or by the leg-islature. Now, we have the Corroy amendment, and the trail your attention to the language in the Omnoy Amendment No. I which would read, if adopted, "Any other local government subdivision shall have the provertise. Any other local government subdivision shall have such powers as shall be provided by this constitu-tion or by law. That, ladies and gentlemen, is Dillon s rule. hat, ladies and gentlemen, is the system of local government of powers and authorities that this convention turned down on Friday. Now we are back on Tuesday to do the same thing. Mr. are back on Tuesday to do the same thing. Mr. Corroy, in his opening statement says, his amendment gives power to the people whether the people want that power or not. I say to Mr. Corroy, in reply, that power or not. I say to Mr. Corroy, in reply, that power of the say to Mr. Corroy, in reply, that power meant that government is power ple: the mayor, the city council, or the police jury that you reet on the street every day as you walk in your cities. In this context, Section 9 --we talked about Section 8 last week as being the heart of the Local and Parochal Governmental Arti-cle-well, if Section 8 is the heart of it, then thing that a heart needs in order to perform its cle-well, if Section 8 is the heart of it, then section 9 are the veins and the arteries and the thing that a heart needs in order to perform its life-giving function. If you are going to go with ection 8, then we ought to also for with it the both the continued in Section 9. We Avant says subtives the section 9, the section 9, the section 1, they can have taxes, and licenses, and codes, that local government, he says, has had no trouble going to the legislature to get additional grants of south the section 9, comes into play. They have no trouble going to the legislature, but, addle and gentlemen, he sets up a necessity that they do so to have a garbage collection ystem that with the want to do so firey thing that is not a pecific rant, then that municipalities offinals must the set of anguine to do things which they real lature for power to do things which they real tax of argument line or shall we free unitipalitie under line rule or shall we free unitipalitie under line nule or shall we the unit hat the ord argument line nule or shall we tree the left of the left of the section of the left of the section for the left of the left of the loging the line or the line or the ord the left lature for power to do things which they the left of the loging the line or shall we free the left of the loging the line or shall we the line of the lature or the left of the loging the line of the li for that nucles and total yovernment under the forthat nucles Arr. Corroy' Alwendment No. In purely and s ply Dillin's rule. The committee propusal is purely and simply fordham's rule. I urge you the Infeat Mr. Chervy's amendment and particularly, do urge you to defeat Mr. Corroy' Amendment No.

### further Dis ussion

Mr De Flow. Mr hair an and ladies and pentie are if the near to, I tight are reference to Mr a play suggest that I was not une of these when the last friday, the way to the three in the mend and we proposed I ald vie, and I have Jan er in the sendent as or pred and adopted I can see the danger in this. Is in there is do I can see the danger in this is not in the in the public order of the tate of the in the start of public. and the feel that the mart is ed the effect of the structure to be the effect of the structure to be the effect of the structure to be and under nee under with the first the rule and under nee under with the first the rule and under nee under with the first the rule and under nee under with the first the rule and under nee under with the first to the and under nee under with the first the structure of the rule and the rule the rule and the regulation as we have of the with the structure they will and hum they hund hit. If a structure they will and hum they hund hit. If a structure they will and hum they hund hit. If a structure they will and hum they hund hit. If a structure they and a durday if feel her her hit the the structure is given to be noting but a to for police entrying to also policies to the class of the various pit to all subdits ins of the tate. Too us the her her all subdits ins of the tate. Too us the her her all subdits ins of the set flooded with legislation, rather the set flooded to the set is to the strucset of structure is given to be noting but a to for tate. Too us the action what if a first we are no to be flooded with legislation, rather the less sound governe ent principles, et is vote for the sound governe ent principles, et is vote for the sound governe ent principles, et is vote for the sound governe ent principles is the source is the sound governe ent principles is the source is the sound governe ent principles is the source is the source is a source is the source is the

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Mr. Ro. Mr. De Bleux, notwith raiding Mr. Itacon lusions, wild y uitell eif y unave ann e rule charter, so eity nder an on rule charter that has all the powers that we nave it under ection 8, and the police ury, under ectim 9 of that parish, decides that it want it eier, se a power which is dialetrially pied commat as been done in that how rule Juarter, we in mig to prevail? Could you tell u

Mr. De Blieux I would sa the police ory wall do it under the provilions.

Mr. Roy How do we know that for entain

Mr. De Blieux We dan tin wit, ut at ear rinhave all the authrity and wer that the hier ruling could ear ise me under thin part usar rision fou ve got the rule. It ut is the set rule harter fou how what the an an imat they and d. There is the set for site that the set for site that is the set for site that is the set of the set o

Mr. Buy But, suppose the home rule marter histope-file grant of authority reveted the faith of a state of the power to do such and such as the reset to drainage. Let's day, in the city of A elastical and the Rainder Pairs here in the rule day and an order the authority that Mr. tag and disk to drive pile and the tag for the city of the tag and the tag by the power to the tag and tag

Mr. Defilieux I certain y think y world ... Mr. Roy, and thit what the clare world content to straighten out all the the

Me Roy That why fixe it as this terbudles, the Mission and, the mean to tertain thins by the distinct for reasonal to jet into the alt at it is that the find merelyes in a bit that the

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Mr. enkin Mr. harrait, deletain, unit red that we are reflective to this tera has that we are realized by one to reason the to out the are reacted on entity. Note:

9 we are dealing with parishes which were not under home rule charters. In the others, we've been talk-ing about parishes and municipalities that are under home rule charters. Now, in the previous sections when we granted all this tremendous power to parishes under home rule charters, we've done it with the understanding that that power would be granted to them only after a vote of the people. But, then here in Section 9 we come along under the committee's proposal, and under this concept, the same powers exactly would be granted to all the parishes and municipalities, but there is time without a vote of the people. The thing about Section 9 is, it's anti-The people. Inc thing about section 9 is, it's anti-homer rule; it's anti-homer rule because it would on say that the people of the parish don't have a right to decide how much authority these local governing authorities will have. They have them by virtue of this constitution. They can do all these enumerated this constitution. They can do all these enumerat things by virtue of this constitution even without a vote of the people. Now, what you are going to a vote of the people. Now, what you are going to see if we adopt Section 9 as it is, you won't have anymore home rule charters being passed under Sec-tion 8. There won't need to be. Why would anyone want to have a home rule charter? The governing authorities will already have all the power that authorities will already have all the power that they would have under a home rule charter by virtue of Section 9. Now, if we are going to have a dis-tinction between home rule parishes and those that don't have home rule, then we've got to adopt Mr. Cornoy's amendment. Otherwise, there will be ay distinction between the two. Now, you compare, say, sast Baton Rouge Parish to Livington: East Baton Rouge with a home rule charter, Livingston without. East Baton Rouge has a great deal of authority in its governing authority that the Livingston Parish Its governing authority that the Livingston reliant police jury doesn't. But, we have it here by virtue of a vote of the people. Now, under Section 9 as written by the committee, the people in Livingston parish are going to have their governing authority with all sorts of authority even though they have with all sorts of authority even though they have never voted to have it. Now, that's the distinction herc--it's a different question entirely. We're not debating the same thing over and over again. We're debating now, whether or not people are going to have a right to vote to have a home rule charter. or whether we're going to impose virtually a home rule charter on them by virtue of this constitution. So, let's adopt Mr. Conroy's amendment and give areas without home rule authority whatever authority may be granted to them by the legislature and this constitution, but not more extensive authority that they would have under a home rule charter.

### Questions

<u>Mr. Willis</u> Mr. Jenkins, pray tell me how you are going to have home rule that the rules are not made at home?

<u>Mr. Jenkins</u> Well, the only way you're going to have home rule is if you adopt a home rule charter, Mr. Willis. Now,...

Mr. Willis We're talking about Section 9, not Section 8.

<u>Mr. Jenkins</u> Well, you don't have home rule under Section 9. The theory of home rule is that you have home rule in an area if the people vote to have it. That's the theory of home rule.

Mr. Willis Well, now do the people have to vote for the legislature to legislate? Does the legislature go ask for a vote of the people to legislate?

Mr. Jenkins No, but if the ...

Mr. Willis Why do you require police jurors to do that?

Mr. Jenkins If the people of Livingston Parish, for example, want to have a home rule charter, which they don't have now, giving them all this wonderful authority, then right now under Section 8, they come along with fifteen percent petition for a commission to be elected; a commission will be elected and come up with a charter, and then the people will vote on it one way or the other. Now, that's if they want home rule. You know, it could..has it occurred to you maybe the people in some parishes don't want home rule. They could have had it in most parishes now, but they didn't want it. But, by Section 9, we're going to impose it on them whether they want it or not.

<u>Mr. Willis</u> Hasn't it occurred to you the reverse: that they don't have it because they can't get it; they've got to go genuflect to the legislature for it?

<u>Mr. Jenkins</u> Really, frankly, I don't know of any parish that ever has wanted home rule that hasn't gotten it. But, certainly under Section 8, all they have to do is petition and they vote on it and they can have home rule.

Mr. Willis You are telling me that the probable is improbable. Now,...

[Quorum Call: 92 delegates present and a quorum.]

### Further Discussion

Mr. Burson Mr. Vice Chairman, ladies and gentle-men of the convention, my voice is not as loud as usual today, but i have not spoken on any topic in this convention about which I feel more deeply than this section. I speak against the amendment because to eliminate the heart of the Local Government Article. Do not make a mistake. The effect of Section 9 is not to bestow upon non-The effect of section 9 is not to bestow upon hom-home rule charter area with some power as section 0. will see there a specific prohibition that "the legislature shall not pass any law, the effect of which changes, modifies or affects the structure and organization and/or the particular distribution and redistribution of the powers and functions of any local governmental subdivision which operates under a home rule charter." Now, if you will look at Section 9, you will see, in that case, that there is no such prohibition and that we have said there specifically that the non-home rule charter local spectrically that the non-nome rule charter local governments are subject to the general law of the state in that area. Of course, all local govern-mental units are subject to the general law. What we mean with Section 9 is quite clearly this: that the re-siduum of governmental power has to rest somewhere. Somewhere there has to rest the power to do the Somewhere there has to rest the power to uo the things that need to be done. What we are saying tion and conduct of local governmental afairs, that that residum of power shall be with the local gov-ernmental unit and now with the state legislature. The practical effect of this, as has been enumerated by many other speakers to this podium, is that when by many other speakers to this point is that when a police gury in the parishes of St. Landry, Arcadia, which I represent in part here, want to establish a garbage dump or to ban the shooting of 8 8 guns in their jurisdiction, that they will not have to come to Baton Rouge to get a special section of Louisiana Revised Statutes 33:1236, which I have here in my hand, which they have had to do in the past. Now, the objection has been raised: well, you are going to have different laws applying in different places. Let me point out to you that Section 1236 of the Revised Statutes, Title 33 replete with exceptions to each section, excepting ten, fifteen, twenty parishes from a particular section. This is a spurious argument for the rea-son that what is complained of is what exists at Solutional what is completing of is what lists de-more likely that you will have uniformity under the scheme that we propose in Section 9 because it is much easier and simpler for the logislature to pro-hibit things than it is for them to permit every little thing that a local governmental unit has to do. It would be quite easy, for instance, after the passage of Section 9 of this article, for the legislature to go into session and, at its very next session, set out in detail in one simple comprehensive statute those things which a police jury

and or a unicipality cuild or could rit d

### Further Dis ussion

Mr. Flory Mr. Chair an, delegates, to the onven-tion, the previous speaker said that at nu tie in the convention had he risen and spoken on an issue he felt more concerned with than the imposed se for by initial governmental subdivisions without supervision, uncloss the equilative has presented to be a supervision of the second supervision of the supervision you this, what does this section do? I challenge any lawyer, any city attorney, any assistant dis-trict attorney, or anybody else in this convention to tell what this section does in a full and to tell as what this section does in a full and complete sense. I say that this section a lone will cause a hundred years of litingation as to who does and who does not have the authority in this state to manage the affairs of the people of this state, whether it be on a state or local level. Let me I believe, that the exceptions here listed you the exc biton or the exceptions here listed to define the powers, duties and qualifications destinates that they can treat those employees any way they want to treat they can treat those employees any way they want to treat then, pay them anything they want to pay them, under any conditions that they want them to work, without any regulation hatsoever, none whatsoever. By the same token, it means they can regulate business that same way They can regulate business that same way they can regulate business that the licensed. They ever it is for any individual that works in that ua's would have to pay that work permit; it means uals would have to pay that work permit; it means that businesses have to pay the same permits in order to operate. Then when it says to "provide for the protection of the public health, safety, morals and welfare." Now, you tell he what that is the same that the same same same same same trict, whether it's economic welfare or general welfare or whatever? Does that mean that they can meter into the field of labor relation?? I suggest

### Further Dilcu Lion

Mr tapper Mr. Chair an and fellow delegate, 1 rise in support of the Curroy amendment mainly beause well of our c, a lot of the objection have already been tated here. But, my main objection is upparagraph 6 with deal with tate in, lays the tax under limitations initiation proyied in in initiations initiation are wided in in initiations of the second and the limitation of the second second second second limitation are by general aw and limitation are by general aw and limitation are by general aw and in a fraid that gives it carte bian he to lota meriment to tak the propile, without a vite of the people, unless it perifically printiced by thill on titudin the by the general law of the late lithing the second second

### UP & DN

Mr. 1. Net 1. Mr. Tapper, ut rainraph to that you refer to, taken in concumittion with art 1. e. [1402] dealing with revenue a limit at the end of the right al, that would all whice a given ents to assess the take , would thin t

Mr Taer hudyureeatthat uest nid vou 'ayithudor thou dit in a e that it would

Mr Dergt Mr Gener, are yu familiar in the fact that in the revence of the used lovevery type of a chait there be a vite of the face o that this or vitin to tay had to be read upt of the ther prusions a dite revelue of the tons, which require that there is a vote of the people in every case?

 $\frac{Mr}{r}$  Tapper what section are you referring the what's the number of the section?

Me. Pergz The sections--and 1 have to use for them as we point on 14 you want to to an user your question--but the sections have to do with sales tax, with ad valoru takes, it ey are fund in Part II under Finance. For instance, if you look in Section 31 illiage rate may be reased in any partsh when approved by a alority if the pose, and that same provision a sit you can realize, is contained in ever, ther set is whin provides for taxation under the finance it whin provides for taxation under the finance et in

Mr. Tarier Yes, I understand your reason there. Mr. Perez, but we haven t gotter that yet I don't know whether this convention in a adopt this part cular set age 5 ut, we are discussing Section 9 mow, and 1 thin it that ayb it hould be privided here that-and I ay not ave any objections to it if we provide in this artilar section, which is a eneral eris -- at n order for any overning body t evy a tay, they would have to have a vote of the pepte

Mr. Perez Noulán t you realize it is the local government' intention the scalar verse t Consistees Intention to rejure a le fishe en ple in every ase, belause you difit in er visions under the fishane section

Mr\_Tapper Yes, sir, I think , e ! see there. But alain, we are dealin with the art ular section, and I think maybe we hould ut it here.

Mr ensin Mr Tpier, have y let a the in this article or the Revenue and an all in A the that would primit a algovern at riser reating a new tax, a different ty take wolve added tax, for each e, and the tax or raising that tax. Are you aware fight to the pepter requird for this plust at t

Mr. Taples Ni, 1 of tiskere fit. Mr. 1 st., united of each point for the fits of the of the the transmission of the fits of the transmission to the transmission of transmission of the transmission of transmission o

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to incur debts are reviewed by the state legislature and approved or otherwise rejected by the state legislature?

### Mr. Tapper No, sir, Doctor, that's not correct.

Mr. Weiss I think that's true and...

### urther Discussion

Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, it seems to me that we need to make a basic decision here, a decision as to whether or not we want to be a state, for it seems to me that the basic issue in this article and in this particular section is really not a question of home rule; it is a question of seeession. I submit to you that love this state that we are representing here and of the particular section of see and the second of the

## Chairman Henry in the Chair

Questions

<u>Mr. Lanier</u> Reverend, is it not true that under Section 11 that local governments have no power whatsoever to enact private or civil ordinances governing civil relationships?

Mr. Stovall That's a part of the problem, I think, Mr. Lanier, to this article. It seems to give powers in one section and it takes them away in another. I think that this is the problem, that rather than having a simple straightforward document that we can deal with in a realistic way, it is self-contradictory and says different things in different sections.

<u>Mr. Lanier</u> Let me ask you this, Reverend. Isn't it true that in Section 9, that it says that "The legislature by general law may deny any of these powers and functions to local units of government"?

Mr.Stovall Mr. Lanier, if we are going to provide for the legislature to do certain things in these sections, it seems to me that we should trust the legislature to have an objective, comprehensive, rather than a fractured, approach to the different matters relating to home rule and the powers of municipalities and parochial governments.

<u>Mr. Lanier</u> With reference to this fracturing, if we had a specific designation of powers today, how do we know twenty-five years from now if those powers would be the ones that would be the necessary tools to solve our local problems?

<u>Mr. Stoval</u> The basic question is whether or not we are going to operate on the basis of fear and, therefore...or the basis of trust. I submit to you that this document was conceived in fear and nurtured in suspicion, and this is the reason that it has so many objectionable sections and features. It seems to me that we have got to come to an atmosphere of trust, and I believe that we do have a new atmosphere in Louisiana. I think we are developing a legislature that is worthy of our trust and our commitment. <u>Mr. Arnette</u> Reverend Stovall, just a quick question. You said this was a basis of trust and fear. Don't you think that the reason you are supporting this particular amendment is your fear of local government and not trusting local government?

Mr. Stovall Mr. Arnette, l've tried to make a point several times that our whole system of government is based on a system of checks and balances. I think we need to consider state's rights, as well as home rule. I think that the state has certain rights, not merely coming from the federal government, but also in terms of what goes on in the state.

Mr. Arnette Well, under the committee proposal, can't the legislature prevent the local government from passing any law? Doesn't it say that anything prohibited by the legislature, the local government can't do? Isn't that enough of a check?

Mr. Stoyall This section does more than...it gives the residual power, which I think is the real point at issue, Mr. Arnette.

### Further Discussion

<u>Mr. Anzalone</u> Mr. Chairman and ladies and gentlemen of the convention, you've heard a great deal of talk about government originating with the people. I would remind you that people are at home. So far, government has removed itself from the people to the extent that your local people don't actually heave betty each one is enveronment. One this people and the setter that your local people don't actually. know what's going on in government. One thing that we do know about government is that it's costing more and more and more, and I dare say one of the reasons that it's costing more is because we are spending more of it on different things that probaspending more of it on different things that proba-bly we should not be spending it on. Just to cite you one particular example, coming over to Baton Rouge I hear on the radio where the federal govern-ment has appropriated in excess of fifty-five thousand dollars to study the psychological effect of the newly created farm to market roads in Venezuela. Well, that might be nice, but I would say one thing, that if the Tangipahoa Parish police jury had hold of that fifty-five thousand dollars, that we would do something with it besides study some roads in do something with it besides study some roads in Venezuela. We've heard that we are going to have so many new taxes if you return government to the people. I dare say more taxes are passed on the people of this sigle by legislators who come to to see what the people back home would like for them to do, rather than taking a good strong look at what is actually needed. People have said that in this particular article you have no regulation. I wish to call your attention that the taxing author-ity is not only limited to the constitution but is a limited by the constitution but is a limited by the constitution to pro-vision in this particular article is going to give to the local governments not the authority to tax vision in this particular article is going to give to the local governments not the authority to tax their constituents out of business, not the authority to tax their people our of existence, but merely the authority to run local government as they see fit, which is as they should have in the first place. We have heard that they are never denied when they come to Baton Rouge. I submit to you that they need not come to Baton Rouge at all. We have heard end not run thind never in we local villang towands. of our unbridled power in my local village town of our unbridled power in my local village town meeting of two weeks ago, when we spent an hour and a half arguing whether we were going to buy a new battery for the police car. This is the unbridled power that they are talking about? I dare say that nothing could be further from the truth. Ladies and gentlemen, this is a constitution for the peo-ple; this is government for the people. Give it to

### Questions

Mr. Newton Mr. Anzalone, this government...that's closest to the people is best; is there anywhere in this Committee Proposal 17 that provides for election of police jurors and school board members from

Pr textin in C itee Propolal 7, there is v in fir that, is there? Are there any word in Tan pah a Parish that don't have a police unor

Mr

Mr. Newtrn Did you innw that ward die not have either a police luror or a shoul board member, no representation what oever?

Mr. A zalone Mr. Newton, if you will real, ward s represented on the policy jury, ost cer-tainly . It not ur fault, because that's some of that ne an one vote rule that came up.

Mr. Anzalone Dr. Weiss, it so specifically states exactly what you are asking.

have hor leiss Therefore, o e of the worries that been expressed by the people at the podium is

Mr. Alzalene I molt certainly do.

Mr. Chairman and ladies and gent even Mr. Hunez Mr. Chairnan and ladies and gent enn of the convention, in the Com itce Proposal 1, one in the convention, in the Com itce Proposal 1, one about home rule behaves. We had a lot of discussion about home rule. Lise tion 7, we ratified the exiting home rule charters: that's the parishes and the mun cipalities that are now operating under home rule charter; that s Orleans, East Jefferson. Laddu, Baton Rouge and Plaquehmen Parish Then the actions, we are giving home rule to five vari-the and the variou unicipalitie in this tate is warryou you peptewh reverent parties in the result of the various of the variable of the result of the variable of the variable of the result of the variable of the variable of the result of the variable of the result of the variable o for of noning the set of the set form of monline as mmb-stan days Themine the real

Mr. 10, Mr. Nairen, ladie and erstein f. the convention. Trise in a part of the senator Numez erst inti trie we ent thread from the trie trie the ent thread from the trie trie tries. The let you know there is a set street to the let you know there is a set street to the tries to the tries.

in a certain area. Well, in that particular statement, there is a self-imposed contradiction. You can't have a general law passed if you are going to have to deal with something that Avoyelles Parish. Song, you've going to problem there. But the for instance, Alexandria adopts a home rule charter and specifically vests in the city of Alexandria certain power, the right and the power to do such and such? Then after the adoption of this constitution the parish of Rapides, pursuant to Section 9, passes an ordinance diametrically opposed to int stance of the section of this constitution the parish of Rapides, pursuant to Section 9, passes an ordinance diametrically opposed to int is home rule charter; that's the big problem. Mat's going to happen in the future with respect to that? Now, my answer to that is very simple. If we leave this matter, as it should be, to the wisdom of the legislature, which does not connote no home rule and does not...is not the opposite of people governing their own affairs, then the legisto do something contradictory to the home rule charter of the city of Alexandria-assuming it's passed and adopted-would be able to say that we can't do that number one, and if we do it, if we grant it to the parish of Rapides, it will be invalid and 11 legal because the home rule charter of inbuilt conflicit between two local governments is subdivisions, which we have identified in the definitions as either municipal or parish. I'm telling you, you're going to be in some trouble in the future with respect to litigation.

### Questions

Mr. Lanier Mr. Roy, is it not true that Section 9 does not make every parish a home rule parish?

Mr. Roy I think it does.

Mr. Lanier Have you read Section 8, Mr. Roy?

Mr. Roy Yes, and that deals with cities and parishes, under your local governmental definition.

Mr. Avant Mr. Roy, you drive from Baton Rouge to Alexandria, you go through at least six incorporated municipalities: Port Allen, Erwinville, Livonia, Krotz Springs, Bunkie and Lecompte.

Mr. Roy Yes, sir, and Cheneyville.

Mr. Avant All right, that's seven. Under this committee proposal as it's drawn, and Title 33 of the revised statutes, the state has fixed speed limits on certain state highways and says specifically that the municipalities may increase but may not decrease those speed limits. Are you familiar with that?

Mr. Roy Yes, sir.

Mr. Avant The state has also regulated the type of equipment that you have to have on an automobile, but they do not have any such savings clause or restriction on municipalities. In't it a fact that under this committee proposal, as it's drawn, that if you drove from here to Alexandria, you could have seven different types of regulations as to what you had to have on your automobile, and it would be the law, and you would have to comply with every one of them until the legislature came back and affirmatively passed another statute saying. "Municipalities, you can't do that'?

Mr. Roy Just one thing to that, Jack, not just a general law saying, "Municipalities, you may not do that," but under Section 9 (8) they would have to pass a general law specifically dealing with each municipal ordinance or parish ordinance; it makes it work...

Mr. Avant Isn't it also a fact, Mr. Roy, that...

Further Discussion

Mr. Chairman and fellow delegates <u>Mr. Chatelain</u> Mr. Chairman and fellow delegates, I rise in strong opposition to the Conroy amendment We are here to write a 1973 Constitution to take care of the needs of the problems of the day and the needs of the years to come. At the call of this Constitutional Convention when Act 2 was called, at that time in history in this state, the present con-stitution was amended five hundred and thirty-two stitution was amended five hundred and thirty-two times. Of those five hundred and thirty-two times, eighty percent of the amendments had to do with the problems of local government. You know this as well as I know this. So, if we are here to write a new constitution. let's write a true new constitution, a constitution for the needs of the day, yes, and the needs for the future. You've heard from this poflum delegate get up here and advance all kinds pof the delegate get up here and advance all kinds to control the employees of the cities; they are going to control the businesses of the cities: such as permits, etc., etc., they are oning to have conto control the employees of the cities; they are going to control the businesses of the cities: such as permits, etc., etc.; they are going to have con-trol of the safety and welfare of those various political subdivisions--namely, parishes and munic-ipal those throughout this state. They advanced this ipal those throughout this state. They advanced this go through one city to another city, you would have these heinous problems that we speak about. You, in fact, have these problems today in a very few isolated sections of the state. That is the law today and we certainly live with those laws. They won't be worse; they will be better than what they are today. Let me ask you a simple question, as one delegate to another, "who are these people who of these people who live in these sity-four par-ishes of Louisiana? Who are the people who live in the cities and all the other political subdivi-sions?" They are you and I and the other 3.6 mil-lion people in this state, and they certainly have rights. They don't need to go to the legislature every time there is a little problem or local problem that arises. Let me they low the truth of this whole question in debate today. The truth of the make crits part (sec) is the comparison of the comparison whole question in debate today. The truth of the matter is that the political pressure groups and the other groups--and you know quite well the groups I speak of, the pressure groups -- instead of going to a hundred different cities and municipalities and political subdivisions throughout the sixty-four and political subdivisions throughout the sixty-four parishes of Louisiana. they don't want to go to a hundred of them. Instead of going to a hundred or so individual sections of this state, they want to come to Baton Rouge to the legislature and lobby them, because there seems to be-1 don't know exact-ly how; there seems to be a way it's easier done here in Baton Rouge under the influence of a legisla-ture in session. I don't know how the tricks are doay al Section 9. Lelow delegies, I would take you to please pause a moment and think the serious-ness of this. Do we want to give back...give to the people of the State of Louisiana their rightful gov-ernment, or do we want to continue the 1921 Constiernment, or do we want to continue the 1921 Consti-tution that has many problems in the area of local I ask you to vote down the Conroy amendgovernment? ment. Thank you.

### Questions

<u>Mr. Mire</u> Mr. Chatelain, have you ever known of any good, solid request from local government to the legislature--anything right and reasonable--to have been turned down?

Mr. Chatelain I'm not qualified to answer that. I don't know too many cases of...either way.

Mr. Mire Well, you were making some allusions about the legislature, 1 thought you knew what they had been doing.

Mr. Chatelain I don't follow you. I don't understand your question, sir.

[Motion for the Previous Questi-n rejected: 10-81.]

Further Discussion

Mr. Lotson Mr. Mair an, adie and entireer of the arentin, is in be very brief in y ents here. We still in down the e and hered ging to attept in y wn way to tro to ear the air cincer ing eith ng in a ree with Mr entins, when you say that when we give all meer all i cai gverne its thy ethat are not denied or printbited by their charter, in stilution, the enternal may, then you're really in effect taking want a him rule charter not. Secondly, and i want to the to bring this point how charter to set to be the print of the order to Mr main an, adie ald entrees want to try to bring thi point hole clearer to ou. The only reason why a magnet of the local point of the local sector of the local not operate under a home rule charter. There was not operate under a home rule charter. There was situation, it's my appreciation that there was there exists a constitutional provision under which thoosaws has presently applied for a home rule. those numerous boards and agencies that we had locked in the constitution and that o t of your onst tutional amendments ame from that sort of onst tutional protection, where the legi ature the long of the number of the set of the set

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Mr De 'iex Mr Annette, , der 'ne , , as written here, wud a (arish or or ) a 'ty not havin, a ho e rule sharter ve t e t te

Mr Arnette realizionitiki wiatouti coll-nance lireali, continuw, Mr elitati

Mr Le liux N , we ay rythin the transformed in the output of the transformed in the output of the transformed in the transforme

they are going to have in their local ordinances or what restrictions they have...

<u>Mr. Arnette</u> Senator De Blieux, under home rule charters or under a police jury or under whatever form of government you have, you have representatives that vote on those laws.

Mr. De Blieux But here...at least the people on the home rule charter basis have some...

Mr. Arnette They adopted the charter. Yes, Senator, that's true, but they did not adopt every law passed by their governing body.

Mr. De Blieux But, they don't have any choice of restrictions of what they wanted to limit their local governing body either; that's the difference in a home rule charter, isn't it?

Mr. Arnette Well, there is one difference, yes.

Mr. De Blieux Yes. And that's a big difference that's what this whole fight is about.

Mr. Arnette If they wish to be under a home rule charter, they may.

Mr. De Blieux Yes. Well, now that's the big difference...

Mr. Arnette If they want to have a home rule charter that limits certain things, they may do so.

Mr. De Blieux Now, isn't that the big difference between 8 and 9? In 9...in 8, the people have a chance to pass on it and 9 they don't?

Mr. Arnette They pass on...their representatives every time they come up for election. They pass on their...

 $\underline{Mr. \ De \ Blieux}$  But not the limitations that they want to place on the representatives, isn't that correct?

Mr. Arnette That is correct, in a way, yes.

Mr. Jenkins Greg. you know, not long ago 1 believe. I was... I believe it was 5t. Bernard Parish voted on whether or not to adopt a home rule charter, whether or not to have home rule, and the people there voted it down. They didn't want home rule, but really under Section 9--

Mr. Arnette They did not want that particular home rule charter.

Mr. Jenkins Well, that is not saying...We know they didn't want that home rule charter. It could have been-they just didn't want home rule per se, giving the governing authority that much power in that parish, but in Section 9 aren't you going to give them that power whether the people of that area want it or not?

Mr. Arnette I'm giving the power to any local municipality of parish or any local governmental subdivision that wants to pass a law and not have to go to the legislature to get permission to pass laws.

Mr. Jenkins But, isn't it...

Mr. Arnette That's the whole point of why I would like to see the committee proposal adopted as it is.

Mr. Jenkins Well, naturally if the people of an area want their governing authority to have more authority then they can...adopt a home rule charter under Section 8, but why do you want to give that to them under Section 9?

Further Discussion

Mr. Willis Mr. Chairman, and fellow delegates, I cannot prevent my expressing the hope that each of

us will doubt a little of our own infallibility. We must not, when a passage is easy to understand, continually try to misunderstand. This passage in person reading it in bad faith cannot misunderstand it. All one may do is pretent to misunderstand... misunderstand it, a pretense which is greatly to be regretted. I always tught and always thought that government of the people, for the people and by the person of government and not of a monarchy. The ltems of Section 9 are so classified and correthe proposal and emasculate local government. If we want home rule we must allow the rules to be made at home and under this Section 9 if the local rules are obnoxious we, the people of the home rule area, have two glorious remedies, the courts and the legislature under Section 9 (B), which will meet every year. I have much less fear of a responsibility by local government than lawe that the legislature and by the legislature is fear of a local government duties and no powers, but the poor privilege of beging the legislature for if During the argument on the legislature for if During the argument on the legislature for is during which are obsorous extick legislature. This mendment prepares another altar, in our legislathe legislature? Should we give local government duties and no powers, but the poor privilege of beging the legislature? For it During the argument on the legislature? Should we give local government duties and no powers, but the poor privilege of beging the disting the during the argument on the legislature? Should we give local government duties and no powers, but the poor privilege of beging the disting the during the argument on the legislature? Should we give local government duties and no powers another altar in our legislative halls for police jurves to gourflect and pray for the very meager powers to do their duties. Statistics may estimate the ducation of our people, but it may never estimate the ducation of our people, but it may never estimate the d

## Questions

Mrs. Warren Mr. Willis, I hope you won't quote Shakespeare 'cause I want to understand your answer.

Mr. Willis I promise you, madam.

Mrs. Warren. This was a question that 1 wonted to ask. Wr. Arreste, so now 1 m going to have to ask made the remark that the difference in the Conroy proposal or amendment and the Seventeen proposal was that the people had a chance under the Conroy amendment where they didn't have it in the committee proposal. Wr. Arreste answered that their elected representatives come before them every four years and they can ...in other words they can get them out of this of the don't like it. Now my question of these of the don't like it. Now my question juries enforce, if they are put out of ...defeated at the polls, what happens to this law just by them

Mr. Willis My dear lady, if a law...if you had listened to me attentively I said, that if a law, a home rule law, is obnoxious our very vigilant legislature can turn it about, in...at the next session.

Mrs. Warren I wish you could define that for me, but it might take a little bit too long. Thank you.

Mr. Willis I should be happy to consult with you at your desk.

Mc\_Elary Mr\_Willis, in helping me to understand Section 9, could you perhaps tell me what it says or what it means when it says 'to create special districts' and then over in Section-one of the other sections where it allows them to create historical preservations districts for economic reasons or architectural reasons and then in a further section it grants them authority to acquire this property

We all My dear  $\{r_1,\ldots,on\}_{j=0}^{j}$  orderes and the legislature ay establish in the number of the number of the second states and the second state of the second states and the second states are set as the second states are second states are set as the second states are set as the second states are second states are set as the second states are second states are set as the second states are second states are set as the second states are set as the second states are second states are set as the second states are second states are set as the second states are second states are set as the second states are second states are second states are second states are set as the second states are second states are set as the second states are second states are set as the second states are second

Mr For we'l, then ould you. .

Mr. Flory

Mr Flory di tricti

Mr. Willis what's wrong with that?

Mr. Flory I ust a ked you, ir, doe that are ean that they could expropriate private property

Are determined and a set of the s

Clearing Pr formagy the interface been detailed as ten th, particularly be use of one to rate on the motion particularly be use of one to rate one to the ten-particularly be use of one to rate one of the ten-the assessment that the way the one of the tent the tent of tent of the tent of the tent of the tent of tent of tent of the tent of the tent of the tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent of tent of tent of tent of tent of tent tent of tent tent of tent of

He was not inter the lon in. efurter fri the tutt, A a pare ertail ub ribet the tutt, A a pare have te ale fildren ure reigize te tiff have to append drem une reaching the fifth of the source to reach we fit for any new fit is uppered, new any artery to any new fit is uppered, new any artery that that the saver. The latting and the saver is the saver of any reaching and the saver fit is source to the saver of any reaching and the saver of any reaching truis fro the to the n this went in an 'ha' is, that those in piver want req wer 'ht the we are faced with that request or suger in 'n' the police jurors, fro the thers in 'a' and unicipal government that they wint re wer 'y arend with gover exactly were to the with the people. Hey ult later, would nave the right trichose a home rule charter under of t it and unless and until ther do to a 'n' of the herent in Section 9 as drafted by the unit tee Other people are trying to tat we will be faced with many a endents ver. We han a dual already have been passed but for the onsider. To take the second second by the second ender. We will be here a long time debalt to effect we will be here a long time debalt to effect unnecessary to get into those ame ent whill at lease in part deal with the roble entitled finds that the second that is sonly the be-which here is only the beginning. This is not yith be-which here is only the beginning. ginning of listing or atter ting to be to the which this onstitutional convention we attend to list, and then to the extent we used to it to legislature to lit further I as you--I use y to adopt this amendment and let s et on t t e

The transmission of the transmission of the second state of the se

pect to Section 9.

### Questions

<u>Mr.Lanier</u> Mr. Gravel,...l voted for your amendments like this and the other ones, but I don't see the necessity for it here since we do have a provision that if it is denied by the constitution that the local government would not have that power. Why do we need to rephyrase that?

Mr. Gravel Well, I think I've stated that previous-Jy. Mr. Lainer, this way. This language would suggest that there would have to be an affirmative specific denial in this constitution. The language that we've adopted previously in similar situations where similar language was used has been to make it Clear that we're talking about any provision that's not consistent with this constitution. Now, I think there is a difference between the two.

<u>Mr. Lanier</u> Well, let me ask you this. It is not your intention am I correct, to do anything that would prohibit the concurrent exercise of powers and functions relative to the management of local governmental units between the units themselves and the state legislature as provided for in Section (8) of Section 9?

<u>Mr. Gravel</u> It is not...it is not and it would not unless there is some other specific provision that would be inconsistent with Section (B) and I don't know of any.

Mr. Lanier Do you know of any provision in the Legislative Article which would be inconsistent with this?

Mr. Gravel You mean in the general law?

Mr. Lanier In the Legislative Article that we have adopted.

Mr. Gravel No, sir. I do not. And it's not my intention, really, I think this fits with this section without any difficulty and I don't know of any provisions that are inconsistent with Section 9, Par...Subparagraph or Paragraph (B) at this point and I don't think...you know that there will be any that I know of, but I think to make it clear that we're talking about two different concepts and one is: a concept of whether or not there is a denial, specifically and affirmatively, in the constitution or whether there is an inconsistent...

Mr. Kean I'm afraid this is...this may be a friendly question and it kind of bothers me...to be asking one of Mr. Gravel, but do l understand the point you make, Mr. Gravel, that if we say "not denied by this constitution" there has to be some affirmative denial. Whereas, if you take that out and... and use the words "subject to and not inconsistent" it then becomes the question of interpretation between the powers as...ad what's in the constitution?

Mr. Gravel That's right. That's correct, Mr. Kean, and as a matter of fact, this same language I'm...almost certain is the language that is used in the Baton Rouge charter. That's consistent I think with the thought.

Mr. Lowe Wouldn't you agree, Mr. Gravel, since you got such a friendly question from Mr. Kean, that we could almost vote on this amendment, right now?

Mr. Gravel Yes. 1 would. I think so. I move the previous question if there are no other questions or speakers.

Amendment adopted with ut [b] ection.]

### Amendment

Mr. Poynter Amendment No. 1. Bollinger. Amendment No. 1. On page 5, line 20, after the word "law" change the comma "," to a period "." and delete the remainder of the line and delete lines 21 through 28, both inclusive in their entirety.

### xplanation

Mr. Bollinger Mr. Chairman and fellow delegates, this is in the mature of a technical amendment I guess you could say because when you read this section Paragraph (A) the words deleted by the amendment do not change the effect whatsoever of the section. The section would read: "Section may exergraphical section of the section of the section of the section of the section for the management of its affairs not denied to it by its charter, by this constitution or by general law." The enumeration of these specifics could still be denied local governent by general law by this constitution or by its charter so there really is no reason to enumerate. I move the adoption of the amendment.

### Question

<u>Mr. Duval</u> Mr. Bollinger, wouldn't you say that the language you're deleting is completely superfluous and not necessary?

Mr. Bollinger Yes, sir.

[Amendment adopted without objection.]

### Amendment

Mr. Paynter Amendment No. 1 [by Mr. Arnette]. Page 5, line 19, immediately after the words "to it" and before the words "by this" delete the words and punctuation "by its charter,".

### Explanation

<u>Mr. Arnette</u> I think this is...a technical amendment of sorts. When we decided in Section 7 that Section 7 would apply to both legislative and constitutional home rule charters, that Section 9 will apply to everyone that does not have a charter and think it's in the nature of a technical change, but think it's in the nature of a technical change, but it just makes it abundantly clear that Section 9 applies to municipalities and parishes without home rule charters. I urge the adoption of it.

## Question

Mr\_lanier Mr. Arnotte, I agree with your statement that the legislative charters would presently be covered under Section 7 as we have adopted it, but I an wondering if that was really our intention at the time that we adopted it, to cover legislative charters?

Mr. Arnette I assume that's why we voted the way we did.

<u>Mr. Lanier</u> Perhaps we could get a question by a way of point of clarification from Mr. Conroy on that, if that was his intention. I'm not sure on that point and I'd like to know.

### Further Discussion

Mr. Perez I want to speak only to this point, that the reason that these words "by its charter" were of the present of the second of the the field that put in informat the way because of the ticle, Section 9, would cover legislative charters. Since the...we have amended Section 7 to include all charters including legislative charters the deletion of these words "by its charter" in this particular section would be appropriate; therefore, no objections.

### Questions

Mr. Tapper Mr. Perez, you say we...amended Section 7. I notice that it refers to existing home rule charters, did we take that out of Section 7?

Mr. arez I do thave the entited entities of the entits of the entities of the entits of the entities of the en

Mr. Type, Dia you know y concern if t di i t = th t fine \_ut y oncern if a pinish trit e nithale a arter would and t ne . I with are une that it would e inder tin

Mr. Ing. Mr. Perez, would . In I thous the negate Mr. Jraa, L. alend ent be asse it ees tu me it ees r. t. al and the asse it ees tu me it rituitims, which would een hat we wold have to rive an affiniatic denial rather than inclinion-ised, with any provisions. You understand, I ne' putting rich bai in what we ust tool out . Mr. Jraiel samindrent, isn't he?

Mr rele. Not that I can underitand it. What it again now it would read now, not denied to it by this control, we have left out by this constitution. It would now read, not denied to it.

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Mr Jenkin No, I din 'this i at with an tin en in this intert I think that time i ave type a tree energiest. Think that i time statute in order to really premite find ere ingle regilation or rule would not be sufficient.

Mr Duva found you tell of whit a list shid of refliming tatute you restalling to an wit d you ean when you ay incertiming

Mr Jenkin wer, what takin to 'the ' The the rate of the elimination is an 'f' the take ben atoms physically and the second second second physical takes the second second second second many at house the first many second the Treenvers we then period second second that another the

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nature of those laws, it's clear that it has pre-empted the field of regulation in that area.

<u>Mr. Lanier</u> Well, Mr. Jenkins, isn't this the exact concept that has fomented a great deal of litigation under the Federal Constitution and under the Acts of Congress as to when either Congress or the con-stitution are actively silent or silently silent? Are you familiar with that jurisprudence?

Mr. Jenkins Well, I am somewhat, Mr. Lanier, but you know I can hardly foresee how more litigation could be brought about than the committee proposal the way it stands now. So, I think probably this will lessen the litigation, if anything.

Mr. Lanier Were you aware of the fact that we had the question of how much litigation was caused by the language that we used, researched by the staff? Are you aware of that?

How much did you find, Mr. Lanier? Mr. Jenkins

ier Are you aware that we found that it generate litigation? In fact, there was Mr. Lanier did not ge more litigation under the specific grant than under the residual grant. Are you aware of that?

Mr. Jenkins Well, from what I hear about the State

Mr. Lanier Would you like to see the cases that I have from 111inois here at the desk?

Mr. Jenkins l'd be glad to.

vigon Mr. Jenkins, I'm also trying to exactly what constitutes "preemption" Mrs. your amendment. Since the state regulates the speed limit on state highways, does that mean that munici-palities and parishes would be out of the business of setting speed limits on streets?

Mr. Jenkins local stree No, I don't think so. As regards to local streets, certainly not, but, as regards to state highways, it probably would.

Well, how are we to tell whether Mrs. Zervigon not the state has preempted the field of regulating traffic speeds?

Jenkins Well, I think the same way that you'll Mr. Jenking well, I think the same way that you'll Tind out what it means if you're trying to figure our what is necessary, requisite, or proper for the You have to try to understand those concepts in the context in which they are written. I can't tell you any quick, ready guide; it's going to be court decision, just like under the language proposed by the committee.

Mrs Zervigon Mr. Jenkins, are you aware that I'm <u>mrs. Zervigon</u> mr. Jenkins, are you aware that i asking you about the amendment that you presently have before the convention, and not one you may subsequently offer to clear up other language you find confusing, and that i'm asking you to clarify your language, not our language?

Mr. Jenkins No, what !'m saying is, "I hope you won't hold my language to a higher standard than you hold your own," is all !'m asking. No, what I'm saying is, "I hope you

Mr. Perez Mr. Chairman and ladies and generemen of the convention, this is just a back door way of doing what the amendment which was offered, and hours, would have at-Mr. Chairman and ladies and gentlemen doing what the amendment which was offered, and which we argued for several hours, would have at-tempted to do because of the fact, if you add the words "are preempted by general law," we now have a general law which gives to police juries only certain specific, limited authority. So that the general law is already there, and if you adopt this particular amendment, you may as well delete the entire section because I say again that we do have a general law which specifically sets forth the power and authority of police juries, and, therefore, the area has been preempted by general law. I therefore suggest to you this is a bad amendment.

<u>Mr. Avant</u> Mr. Perez, I'm not so much concerned about laws that may be adopted in the future. It'd be a simple matter at that time for the legislature to say, "Local government, you cannot legislate in this area." But 1'm concerned about laws that have been adopted in the past. Now, we have a general state driver's license law. We have a general state motor vehicle inspection law. Now, let's just take those two laws. Is it not a fact that under this section, as it is written and proposed by the commit-tee, that any municipality in the state could enact a driver's license law or a motor vehicle inspection law and that that would be a valid enactment unless and until the legislature came back and amended the present state law, and said, "Municipality, you can't legislate in this particular area." Isn't that a this area. But I'm concerned about laws that fact?

Mr. Perez No, sir, there's already a prohibitory law which prohibits local governments from issuing Mr. Perez brake tags, licenses, and so forth. 1 can recall very well when that was done when we used to issue brake tags and licenses throughout the state, and the legislature passed a law which prohibited any local areas from issuing licenses or brake tags.

Mr. Avant Do you have the citation of that law?

<u>Mr. Perez</u> ] don't, offhand, but I'd be glad to supply it to you later because I recall it very vividly.

Mr. Avant I'd sure like to see it.

Mr. Jerkins Mr. Chairman, delegates, I think this amendment will clear up many of the problems with the section and still maintain the basic intent of it. There's really no reason for local governments to start legislating in areas where there already is a multitude of legislation and control. In re-gard to the specific problem, the question raised with regard to highway's, clearly a state highway's speed limit should by set by the state, whereas local highways and roads are going to have their speed limits set by the local governments. So, just consider the multitude of problems that will be created and brought about unless we have this limita-tion. Certainly these local areas should not be allowed to legislate in every area that's already controlled by the state. So, I urge the adoption of both of these amendments. of both of these amendments.

Mr. Jenkins, since January 5, ] don't Dennerv know how many times I've driven from New Orleans to Baton Rouge. There are a lot of speed limit signs Know how many times I've driven from new vrients co Baton Rouge. There are a lot of speed linit signs which say, "You have to slow up when you come through That's not in the state law. Your glib statement that state law only applied to highways obviously make such a statement. Where are the state highways in the paris of Orleans, and in the parish of Jefferson? The state highways are controlled by municipal ordinances once you get inside of a city. So, it's clear that your preemption would ruin this, and vou could do speeding through Baton Rouge, anyand you could go speeding through Baton Rouge, any-where in Baton Rouge on a state highway, at sixty miles an hour. I can't conceive how you would...

Mr. Well, Mr. Dennery, the state certain-Ty allows local governments to set speed limits according to certain limitations, and this retains that authority. If they were simply silent on the subject, certainly the state rules would apply. But, the state rules, if you have a limit of seventy miles an hour, applies only on the open road, not

Mr Lenner, Mr Jenson, L u et 1, J. that in the marin of ries" we real ate billion Now, are you suggesting L e about your mercual lin les that if the state hould result to old banks, we could not incer regulate them? (r that the purphe of your amedment, th

Mr Jeilins If the tate regulated blond and to the extent has it really pree pts the field, yes

Mr. Dennery Are you sugge ting then that we could not g beyond what the state does in regulat n

Mr. Jenkins well, it would depend on the circu-tarce of the law in question. If the field has been pree pted, ertainly that's true.

Mr. Dennery In other words, then, you do agree that this would create a number of legal que tions

Mr. Jenkins No. I think this will so we legal proble s by not allowing dup ication in regulation after regulation as Section B of Section 9 pro-

# Mr. Denners Thank you, sir.

Hr. Burson Mr. Jenkins, would you agree with me that the jurisprudence on preemption between tate law and federal law is one of the most highly liti-ated area in constitutional law?

Mr. Jenvins I thini it has been litigated in any instances. I don't know whether it would be the no't highly when you consider all the any as-pects of it.

<u>Nr. Burson</u> Well, would you agree with me as a fudent of constitutional law that when you look at the federal unisprudene on that question, it's prastically i possible to come up with a definition of what "preemption" is?

Hr Jeniins rai udies a Well, when you have hundreds of fede and userings well, when you have numbers of rede rel udges appointed by the prevident, this ertain-ly would be true, but, Mr. Burson, with our wonder-for late system wheneby we elect our own udge and have local control over them. I dun't thins it will be such a problem

Mr union to, in other word, you think that while proception has been a considerable proble in federal constitutional law, that it wouldn't be any propries at all in our state constitutional law

Rr Jenkin Uh, it may be some problem, but it won't be rearly the problem that this thing will be without this amendment, whereby in all government ian one along dupid ating, etting in higher indoradid, more regulation, more control in every upating and profession or field uf activity in this take 1 don't think it if have near the problem that that with

Mr. Lurinn Well, do you feel then that unce the statum ha legislated in an area, say for initiarie, health and can tativur, that a sity or part homous the all slute y crecluded for a doin asything in that

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Mr Gravel Mr Chairian, adies and enties of the onvention eccentral the onvention eccentral the onvention of Mr Gravel Mr Charnan, adres and renter it the onventin, essential halt that it and it is tradd the office for start attract to subjection 8.6, and therwise, fource, to de-mithing what over with respect to he article we're only dealth here with werring for the start of start attract the article other channes such as was adden the inverse other channes such as was adden the inverse other channes such as was adden the inverse other channes such as was adden the intert to the what we preas of a the start as of the anomed ent

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stance to improve their lot, and it is only through the police jury the power to deal with modern problems without having continually to come to seek legislative permission, that they will be able to meet the problems they face. I point out to you, parishes that I represent, that are not in any incorporated area, nor are they likely to be because they are separated by five or six miles of open space from the nearest town. The towns in such parishes as St. Landry, for instance, are not likely to be as concerned about a home rule charten becommented to a power with these problems is so that the power to cope with these problems is so drastically needed, and I urge you that if you do really care about that part of America that has been called with some justification the forgotten part of America, that is, the rural areas, that you remments the power to cope with these problems is no drastically needed, and I urge you that if you do really care about that part of America that has been called with some pustification the forgotten part of America, that is, the rural areas, that you part of America, that is, the rural areas, that you part of America, that is, the rural areas, that you part of America, that the lobby that labor or business or the teachers or any of the other organized interest groups have to come here to Baton Rouge to lobby that labor or business to rube the problem in the torgannized interest the rube of the to the toy can make mental level. I ask you in their mame to approve this section.

## Further Discussion

Mr. Chairman, fellow delegates, 1 urge Avant you to defeat this section. Now, 1 listened to what Mr. Burson said. Under the present law and what mr. buryout setup: Under one presents and and proposals that we have adopted so far, the sections that we've adopted so far, any parish or any munici-pality in this state can adopt a home rule charter, and if the citizens in that community or that parish wish to do so, they can be given local government and those areas can be given and an government and those areas can be given as much power as this section, gives to them. But bear in mind that this section, without any approval of the people, grants to every local governmental subdivision in this state the same complete absolute power that is vested, or was vested in the state legislature They can do virtually anything. Now, home rule charters have been proposed in this state and have been defeated because the people in those areas Deen dereated because the people in those areas did not wish to give to their local governmental officials the power that this section gives to then thing, and you can multiply this a thousand fold. The section in the Bill of Rights that had to do with the right to keep and bear arms, I pointed out to you that under the federal law, you could nosses: to you that under the federal law, you could possess to you that under the rederal law, you could posse a shotgum as long as the barrel length was over twenty inches, but under state law, you could only possess a shotgun if the barrel was longer than twenty-two inches. Now, i'm telling you this, and you can multiply this a thousand fold, not just you can multiply this a thousand fold, not just shotguns-automobiles, boats, anything under the world that you can think of that has been the subject of governmental regulation, but i'm going to refer just to shotguns-you won't know when you go into a given area of this state whether the general state law, which says "twenty-two inches," is applicable, or whether its "twenty-four inches" or "twenty-six inches," or what the regulations are. You won't have any way of knowing because you won't have any general state law. The point that I made with Mr. Perez-and I've got to disagree with Mr. Perez's Perez--and I've got to disagree with Mr. Perez's rerez-and i y egol to obagree with mr. rerez a answer to my question, and I know whereof I speak --there's nothing in this section that would prohi-bit any municipality in this state from enacting a driver's license law, a motor vehicle safety in-spection law, or any other kind of law, unless and until the legislature comes back and specifically wy another act. denies to those areas to local by another act, denies to those areas...to local government the right to legislate in those areas where the legislature has already acted. Now, I'm not concerned about things that the legislature may

do in the future because when they consider a law in the future, it'd be a simple matter to make a decision at that time whether they want to grant or deny that particular power to local government. But what about the innumerable statutes that you already have on the books? Unless or until the legislature comes back and denies that to local goving, inconsistent regulations on the same subject matter, and as 1 pointed out before, that's an entirely different proposition from a home rule charter where the people get to see the document, get to discuss it, debate it, and then vote on whether they want it or don't want it. You are in effect, if you adopt this section, creating a home rule charter in every parish and every municipality of this state, giving to local government unlimited power without or even think about it, even though several areas in this state have regicted home rule charters already, St. Bernard Parish being the most recent ad

## Further Discussion

Mr. Roy Mr. Chairman, ladies and gentlemen of the convention, not often am I going to get up here and ask you not to vote for a particular section. It's not my nature generally not...to operate that way, Not my nature generally not...to operate that way, convention has a good reason. It generally reans that you've got to have a little more than just a majority vot plus one of the people in an area when you're dealing with something that is as controver-sial as what we have attempted to do here today. Mr. Willis asked the question, this is a government of the people, by the people, and for the people, and makes the assertion that that's what we ought to do, allow home rule, because that's the most local or lowest form of government. All 1 say is 1 agree with that, but let's not constitutionalize upon the people of our state, the absolute inability to choose properties of our states, the absolute induiting to the You know some people in this state do not want police juries to have arbitrary and complete power, and that is the reason why they reject home rules and they have in the past, like in St. Bernard, and some cities don't want home rule charters and that is the reason why they keep those charters and that is the reason why they keep those charters under the Lawrason Lawrason Act so that they can go to the legislature when they have a problem, and all 1'm saying here today is we have under Section 8, which I was against because of a basic philosophical view; nevertheless, you in your wisdom have allowed that under Section 8 any municipality, any parish governing body may choose to select a home rule type charter and oper-ate, and give all these huge, unbridled almost, ate, and give all these huge, unbridled almost, powers to their police jury representatives. That's fine, but you're being asked at this time to say irrespective of what those people want, we're going to impose it on you. I really, sincerely believe that the only way you get compromise, in the end, that is meaningful is sometimes when you force it. Doviously, we haven't been able to force the comprorule are concerned about. I'm in favor of home rule, rule are concerned about. I'm in favor of home i but not the type home rule that imposes upon the people of a particular area an absolute duty to accept something that we put on them, and I urge you to vote against the adoption of the section.

# [Motion for the Previous Question rejected: 17-71.]

### Further Discussion

Mr. Arnette Just very briefly, 1'd like to point out to the delegates who come from an area who presently have a home rule charter: Section 9 does not affect you in any way. It does not change your charter; it gives you the powers you've given your local government--it doesn't change them a bit. All this does is affect those areas who do not have home rule charters, and I think those areas ought to have the right to home rule also, and I urge you to adopt this section.

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constitutional...". Fellow delegates, I urge you in the strongest manner that I can to please adopt this proposal.

[Quorum Call: 100 delegates present and a quorum. Previous Question ordered. Section failed to pass: 58-43. Motion to table reconsidera-tion rejected: 41-58. Motion to

## Reading of the Section

"Section 10. Powers of Local Gov-Mr. Poynter <u>ernmental</u> Subdivisions; Liberal Construction Section 10. Powers and functions of local gov-ernmental-subdivisions shall be construed liberally in favor of such local governmental subdivisions."

## Explanation

<u>Mr. Burson</u> Mr. Chairman, fellow delegates, I had passed out to you earlier today, by the staff, a copy of page forty-two of the constitution of the State of Illinois, one of the most recently adopted state constitutions. You will note in Subsection (M) of Section 6, powers of home rule units there, which I had underlined, the statement that powers and functions of home rule units shall be construed liberally. Similar statements are contained in Section 34 of the State Constitution of Michigan, which was adopted in 1962, and Section 1 of Article XI of the recently adopted State Constitution of XI of the recently adopted State Constitution of the State of Alaska. The purpose is simply this: The tradition in many cases, is that the powers of local government have been strictly construed a particular problem, when subjected to a law suit in a court of law, the court will look very care-fully at the language of the constitution or charter of the home rule unit, and will construct that lan-guage strictly, rather than liberally, in favor of the exercise of home rule powers. In its study, advertisition, one of the goals listed under local government is that any power constitutionally vested administration, one of the goals listed under local government is that any power constitutionally vested in local government should also contain an admoni-tion to the judiciary for a liberal construction of home rule powers over local affairs; and this is purely and simply what this section is. It is sim-ply an admonition to the judiciary that they should construe such powers liberally rather than strictly. It is a legal term of art; it has no other meaning of far as 1 am able to ascertain, and it certainly has no other intent in the minds of the committee. has no other intent in the minds of the committee. I'll answer any questions. It seems to me the deci-sion on this point is rather simple; you're either for a liberal construction of these governmental powers or you're for a strict construction, and I don't really see any middle ground or really any other subsidiary issue involved. I submit to you that the failure to adopt a provision similar to Section 9 would raise im my mind a substantial need for such a section. I'll answer any questions.

# Questions

<u>Mr. Roy</u> Mr. Burson, you don't mean to imply that that Section 10 is only a procedural and not a sub-stantive admonition to the courts, do you?

Burson No, sir, I didn't distinguish between procedural and substantive. I said it is an admoni-

Mr. Roy But why not just a fair construction, neither strict nor liberal? Why not fair?

<u>Mr. Burson</u> Well now, Mr. Roy, I think a lawyer as skillful as you are knows that the contrast made in any area of the law is between liberal versus strict. I've never heard of fair or anything in

Mr. Roy 1 meant, why not nothing solu, just with it should be, because you know yourself, don't you, that even if the legislature attempts to deal with

Something specifically and it is somewhat vague, no matter if one hundred five members of the House and thirty-nine members of the Senate meant for these cities not to be able to do a certain thing, if it's at all vague and you impose upon the court a liberal construction in favor of the city, auto-matically the legislature's intent will be vitiated? Isn't that true?

Mr. Burson No. 1 don't think that's true at all. I think that we have traditional liberal construc-tion for instance, in the area of workmen's compen-sation, and I don't believe that has vitiated the intent of the legislature.

Roy That's right, and doesn't that mean, Mr. Mr. Roy Burson, of evidence that the courts in compensation cases will even take in hearsay evidence because it's a compensation case when they can't take it in in any other type case?

Mr. Burson lar instance. That's done by statute in that particu-

Mr. Roy No, Mr. Burson, it's done, isn't it, be-cause the court says that you must give this a lib-eral construction since it's remedial legislation? Now tell the truth, isn't that right?

<u>Mr. Burson</u> The courts say--1 always try to tell The truth, Mr. Roy--the courts have said that the workmen's compensation statute is humanitarian leg-islation and is to be liberally construed, but the particular item that you referred to, the taking in of some forms--medical reports primarily--of hearsay evidence is specifically authorized by the statutes.

<u>Mr. Roy</u> No, no. Let me get a little more specific then, since obviously you're trying to make a dis-tinguishment without a difference. With respect to a person testifying on hearsay evidence, a wife about what her husband told her, is that not hearsay and isn't it admissible in compensation cases because the courts give it a liberal construction even as to evidentiary rules, irrespective of medical reports?

Mr. Burson Not in my experience. No.

Mr. Roy Do you want me to cite you a few cases? Would you change your mind?

Mr. Burson Mr. Roy, I'd be happy to change my mind...

## Amendment

<u>Mr. Poynter</u> Amendment No. 1 [*by Delegate Abraham*], on page 6, delete lines 9 through 13, both inclusive in their entirety.

<u>Mr. Abraham</u> Ladies and gentlemen, the purpose of this amendment is to delete this Section 10. I don't see the need or the purpose of such language. We've given in Section B and Section 9, we've given the local elements broad powers, and to put language in here which says "it shall be construed liberally in favor," is just to me confusing language, and in favor," is just to me confusing language, and will simply confuse the whole article just that much more. I don't see the significance of such language. L can't understand just what is meant by "construed liberally." How liberal is liberal? I think we're just burdening our constitution with some language that pays lip service and doesn't really do it any good, and see minere for it, and i urge the dele-

## Further Discussion

Mr. Jenking Mr. Chairman, delegates, I think this is a good example of what happens when people get carried away with their own ball of wax or interest. This section is not even statutory in nature, much less constitutional. You wouldn't even have à

statute that said this -- ight be a judicial inter-our government which ought to be given the benefit of the doubt; things ought to be read in their favor; we ought to biased toward them. It doesn't ake sense. What you can do if this thing is in-cluded in here, you can take every general statement in this constitution regarding local government, construe it as broacly as you choose, as strongly as you can against individual citizen, as strongly as you can against state government, and that's the way it's suscepti-ble of being interpreted under this provision. Let's don't have any bias in this constitution of government over another, or over individuals; let's adopt Mr. Abraham's amendment.

Mr. Welss Delegate Jenkins, would you say that the Constitution of the State of Illinois is

Mr. Jenkins I think in that provision it's not on y based, but utterly ridiculous.

Mr. Weiss In other words you are aware of the fact that Article VII, Section 6 (M) reads powers and functions of home rule units shall be construed

Yes, 1' familiar with that, and 1

Mr Guarico Mr. Jenkins, wouldn't you even be against this Section 10 if it said that the func-tions shall be construed strictly?

Mr Jenkins Ye, that wouldn't make any sense either There's no reason to have a bias against loal government. Let's have this language in this article interpreted a it is written without

Mr. Nunez Mr. Jenkin , wouldn't you be against the e-till regardles of what it said?

Mr. Jerkins I would be against it if it gave one entity of overnient a special favoritism or blas at this deal of the said state government, -powers of state givernment mall be construed liberally in favor of itate invernment, I'd be against that

Mr obtas Mr hair an, fellow delegates, 1 on tede that 1 know very little about the subject of Inal ouvernment inwaver, eithin 11 as written, 13 aboututely horrible: it put the In al wivern-ent Ahad of state governent, abead of Individualy.

ahad we may a set of a sendet to the low long of the set of the set of the not set of the set of the set of the not set of the set o he.

Ar Reves No doubt this is a contriversal set for resord. It was controversial for a number of resord. It was controversial for a number set of resord. It was controversial for a number of resord. It was controversial for a number set of the s Mr. Reeves No doubt this is a contrivers al set tion. First of all it's co triversial for a nu ber

Baton Rouge, and that was passed in 1949, was that there should be only three incorporated communities, being Baton Rouge, Zachary, and Baker. But, things have changed since 1949. Things have changed, and there may be times coming in the future that we will need changes. There should be a proviso giving the authority for people to incorporate themselves into villages. If you feel very strongly in human rights, then you must pass this section. If there are any questions, I'll be hapy to answer them.

Delegate Bollinger in the Chair

## Questions

<u>Mr. Abraham</u> Terry, just to be sure that I understand this correctly--if you have a parish that's operating under a home rule charter and a village became incorporated--now does it withdraw from under that home rule charter?

Mr. Reeves I would not envision it would. If it was a parish home rule charter, it most probably would not.

Mr. Abraham They would still...l have to operate under the provision of the parish home rule charter.

Mr. Reeves Of the parish, yes.

Mr. Abraham Suppose, now this would apply only to the electors of the particular village that might be involved, it's not the electors of the entire area which operates under the home rule charter, is that correct?

Mr. Reeves Yes, sir. This is true.

<u>Mr. Abraham</u> Why did not the committee feel that the entire area of the home rule charter should make this decision, since they all voted originally to go under the home rule charter?

<u>Mr. Reeves</u> We felt that this was a right, just as a right to vote, that the right to incorporate was a most sacred right, and it was just as valid as actually, the right to vote.

Mr. Abraham Well, did not these people, though, originally vote to go under the home rule charter?

Mr. Reeves Well, originally, probably the south chose to also have slavery, but I hope that we will never go back to that system.

<u>Mr. Abraham</u> Well, don't get me wrong. I'm just trying to find out the reasoning behind all this, is the purpose of this thing. I don't quite understand the section as to why we have singled out this particular thing.

Mr. Roemer Mr. Reeves, in the lines 23, 24 and 25 That have to do with industrial area or district. Now is that presently in the statutes, or is that in our old constitution, or whence cometh such language?

Mr. Reeves It cometh from the old constitution, I believe, Mr. Roemer, to the best of my knowledge.

Mr. Roemer It is in the old constitution?

Mr. Reeves I believe this is correct. I'd have to...

<u>Mr. Kean</u> Mr. Reeves, as a matter of fact, isn't this section directed primarily to a situation in East Baton Rouge Parish?

Mr. Reeves This situation is not directed to East Baton Rouge Parish. East Baton Rouge Parish is an example of the inequities in which this could possibly be true. It is an example of what a situation could happen and has happened. But this is not directed specifically to East Baton Rouge Parish, I think you are well aware, Mr. Kean. Mr. Kean Mr. Reeves, if...in answer to your...to Mr. Abraham a moment ago, I think you indicated to him that if you had a parish home rule charter, and some area wanted to incorporate under this Section 11, that they would come under...they would still remain under the parish home rule charter. Was that the understanding there?

Mr. Reeves I would envision that it would still, above and beyond this, we felt, and I think that you realize that we felt on the prevailing side. That the idea of incorporation was just a sacred right and it should not be tampered with by any home rule charter, whatsoever.

Mr. Kean I am trying to understand your answer to Mr. Abraham's question. He asked you, if 1 understood it, that if you had a parish home rule charter and some unincorporated area sought to use this, would they then come out from under that charter? I believe your answer was "no." Is that correct?

 $\underline{\mathsf{Mr. Reeves}}$  . This, to the best of my knowledge, and again 1'm not...

<u>Mr. Kean</u> So that if in East Baton Rouge we have a parish charter, then this would not have the effect that the proponents of it would want it to have, would it?

 $\frac{Mr.\ Reeves}{1}$  I think it would. I think, first of all, we are guaranteeing that this right shall not be abridged.

Mr. Kean Even though it might affect the existing home rule charter?

<u>Mr. Reeves</u> Yes, sir. In other words what I'm saying, Mr. Kean, if you had in the home rule charter of East Baton Rouge Parish that slavery was permitted above and beyond this particular provision, we guarantee the right that all men, everywhere, shall be forever more free. Above and beyond that right of freedom, and alongside that right, is the freedom to incorporate themselves in a village.

Mr. Kean I take it, then, that under your theory, if the people of East Baton Rouge Parish wanted to secede from the State of Louisiana, they'd have the liberty to do so.

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. Haynes], on page 6, line 16, after the word "when" and before the words "of the", delete the words, the word "twothirds" and insert in lieu thereof the words, "a majority".

## Explanation

Mr. Haynes Mr. Chairman and members of the delegation, I bei leve in the fundamental principle of is one of the largest sections of this city. I live in Scotlandville, Louislana, where Southern University is located and has been located since 1914, and where many, many, and of our industries are moving into the area, a community of some twentyfive to thirty thousand people who are citizens of this community. I was amazed when I moved to Baton Rouge about twenty...twenty-five years ago to find our that they...there were a lack of police protection. My own house, as meager has located since thas been broken into three times as the high be, has been broken into three times so those in other recently, without the kind of police protection that's characteristic of the city of our capital of the State of Louisian. Our garbage collection indeed. Then the general care of the community, to make it a city or a community of which all of us, as Baton Rouge people, could be proud. I believe

in the majority rule — I don't be ieve that we sught to set up restrictions whereby somebody is going t use some kind of extraneous factor to defeat what mont be a laudable purpose.

H. Chairman, and members of this delegation, l believe that we can make cotlandville, Luuisiana, and other communities like this in the State of Louisiana, more desirable places to live by granifi the the privilege of having the choice of the alority of the people to vote their wishes in this kind of election.

I shall be glad to an wer any questions that anybody wishes to ask at this tille

### uestions

Mr. Burson Mr. Haynes, did l understand you correctly when you said that you were in favor of ho e rule and garbage collections?

 $Mr.\ Ha\ nes$  1 simply mentioned, 1 mentioned your lack of adequate garbage collection in our own community because of the facts that exist in this community,  $Mr.\ Burson.$ 

Mr. Burson Do you know that in many of the rural areas that would have been empowered to act on a broad scheme under Section 9 that was just defeated with the assistance of your vote, also, lacks adequate garbage collection facilities?

<u>Mr. Haynes</u> I'm sure, I'm sure of that. But there were other compelling circumstances that persuaded y vote with respect to the section that you referred to, Mr. Burson.

Mr. Avant Just to set the record straight, you live in a home rule charter parish, don't you?

Mr. Haynes Yes, we do.

Mr. Avant And you don't have adequate garbage collection in the Scotlandville community, do you?

Me. Haynes we certainly don't. I mention these things because I think garbage collection is related to one's health, one's safety, and the safety and health of the people of the community. I mentioned police protection because I believe this is an important aspect. I mentioned library services, I mentioned the fact that we don't have the general care to make our part, and when I say "our," I mean anybody can live in the Scotland area, but I live there, to make the Scotland ville area a desiration part of the safe the scotland ville area a desiration part of the safe the Scotland ville area a desiration part of the safe the scotland ville area a desiration of the safe the scotland ville area a desiration of part of the safe the scotland ville we are a start of the ablack university, but the largest predom nantly black university, but the Scotlauday. I be live that the delegates coning to this Constitutional Convention would want to make this part of the garden spot of our capital city of Baton Rouge I would like to as a favorable vote, a favorable consideration for, the amedment.

Thank you, Mr. Chairman

### Further Discussion

Mr rean Mr Acting Chairman and fell w delegate , realize the hour is late and we are all a little groupy 1 how you we got to be wundering how in the wird this convention got into a diruction of isolandville, louisland, which is an area incated within the parts of Lat Baton Rouge we've pent we wanted i give louis in overment and fibelity with respect to their own plans of govern ent and how they ould work out their problem within the iowr likeling overmental subdivision. Now, we are talking about the whole tate of town in an bemin involved in a local matter that's directly related in the parts of the sub we howe

Let me see if an outline to you how we get into this proble — he parish of Last Batin Riuge, and the sity of baton Riuge have ne if the side t, one of the best consulidated form of given ent in There exists in a second of the second of the second and second an

Now, the plan of government provides for its warendert. It is entirely possible to a end te plan of government of East Baton Ruuge Parisn to provide eastly what Nr Naynes and the others that we do it within the confines. If East Baton Ruuge Parish where it ought to or note the provisions of Section 11.9 of the plan ig were reprovisions of Section 11.9 of the plan ig were reproved by ten percent of the east result. Corproposed by ten percent of the east result of the section of the plan of government. It ends the plan of government is the section of the se

comes part of the plan of guvernent What Mr. Haynes and the there we repet the amendment do not tell you is that just the car ago such an amend ent was propoled and acc the ballot in East Batom Rouge Parish and wieed down by a all ajority of the peile of the parish. What Mr. Haynes and the others we region the donie tell you is that there is, precetly, a local plan of govern ent study. It was not be serve, along with Delegate was a study of your only, and not the land of the land of govern ent, and ne of the atter effort for an detailed discussion of the porcess for a tell you it's there, and is an eakey using the to you but do tell you study that is the to you but do tell you we to the tell you ti's there, and is an takey using the to to make the study of the study is the tell you ti's there, and is an eakey using the tell you ti's there, and is an eakey using the tell you ti's there in far the tell you ti's there in far the tell you ti do tell you tig the tell you ties the tell you ties the tell you ties the tell you ties there in far the tell you ties there in far the tell you ties there in the tell you ties tell you ties the tell you ties tell you ties the tell you ties the tell tell

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Mr Duval Mi Actin namar an islesse elevation. I finis we noted actually this provide a structure of the second actual of the second ac

what rules govern them at all? So this is the problem that I get into and I don't think...1 don't think that the delegates are looking at these things from an analytical standpoint at all. I wish that we all would.

I would certainly entertain some explanation as to how you justify this type of autonomy and not allow a larger unit the same autonomy.

### Questions

<u>Mr. 0'Neill</u> Mr. Duval, if you can't justify the autonomy of this section, how do you justify the autonomy of Section 19 which sets up historic preservation districts?

Mr. Duval Well, I'm not trying to justify Section 19, Mr. O'Neill. If you really want me to answer your question, I would vote for this and for Section 9. I think that's philosophically consistent.

<u>Mr. Roemer</u> Mr. Duval, as I understand it, you have your mind made up on this section, that is you're in favor of it as presented by the committee. Is that correct?...surmise?

Mr. Duval Yes.

<u>Mr. Roemer</u> Then what you are really up there saying is that you know what you are going to do, but you are a little bit confused as to why the rest of us are doing what we are doing. Is that correct?

## Mr. Duval That's right.

Mrs. Marren Mr. Duval, I'm...in the city of New Driens, the whole New Driens...parish of Orleans is the city of New Orleans...now I see on this little pamphlet that the city of Baton Rouge and East Baton Rouge, then you have Bake and Zachary, and then you have prohibited the others...wait, I'd better read it. It says, "The city of Baton Rouge and parish of East Baton Rouge, which prohibits the incorporation of communities other than Baton Rouge, Baker and Zachary..." Now I'm wondering why that these other, East Baton Rouge, Zachary and Baker, decided that they did not want to be have the against the others that might want to join ti? Why was the prohibition? You see, I'm not asking this on a racial issue and I'm really sorry it came up. But I'm trying to find out here why the prohibition came about.

Mr. Duval 1 cannot answer your question. I don't know.

Mrs. Warren Thank you.

<u>Mr. Winchester</u> I'm in a dilemma. I'd like to grant home rule to St. Mary Parish, but I would, also, like to grant the right to any part of the parish to incorporate it. How do I vote?

Mr. Duval You vote "yes" to this, and you vote "yes" to nine when it comes up tomorrow, I would imagine.

## Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I rise in support of this amendment. I agree as Mr. Reeves says, this amendment is not specifically aimed at any particular parish form of government. We are presently constitutionalizing home rule charters. What we have offered is a home. .. is a provision, a constitutional provision allowing unincorporated settlements, under the home rule charter, to incorporate.

the home rule charter, to incorporate. Judge Dennis, about three days ago, introduced an amendment that pointed to the dangers of discrimination involved in certain charters. I suggest that there are home rule charters which you and I don't know about that had certain prohibitive language in it. I'm suggesting that this provision attempts to allow unincorporated settlements to incorporate. Now you can tie it up with being aimed at Baton Rouge Parish, or Plaquemines Parish, or something like that. It is not. As a member of the committee who voted it out, it is not. The reason why we bring up the issue of Scotlandville is because that is a ready example.

because that is a ready example. Presently, if the legis...presently, throughout the State of Louisiana, throughout the State of Louisiana, you can incorporate, unincorporated settlements can incorporate, unincorporated other parises, even some that exits presently under this matter of incorporation, that if one believes in the process, and 1 understand the dilemma, but if we are talking about home rule, isn't it kind of peculiar that folks who get the home rule don't want to extend it further than...where they...you know, from their own grabs, or from their lap of power's You some how may the can sit here and wage that proponents of this article have waged against the legis going toget up here and tell you about some of the problems. But not only do they not ge amond the throughout the State of Louisiana, unincorporated settlements can incorporate. Mr. Hayes is going toget up here and tell you about some of the problems. But not only do they not ge amond in that your support of the amendment as produced by Mr. Haynes. I think it is a good section, it's a good amendment. I think it we are interested in bringing home rule close, then I suggest that this is close as you can get in.

### Questions

<u>Mr. Juneau</u> It appears that the only thing that is consistent is the inconsistency. Let me see if I understand it.

Do you favor the concept of home rule?

Mr. J. Jackson 1 said that in the committee, Mr. Juneau. Yes, 1 do.

Mr. Juneau Then, when we voted on the previous section, you voted against the previous section?

Mr. J. Jackson Well, if you want to question my vote on there, it was because I decided that it was imposed. All I'm saying, we provide the mechanism if people so choose. They don't have to take advantage of it, and that was my reasons because it was being on imposed, and in the parish of St. Bernard, the people had defeated it.

<u>Mr. Juneau</u> I'm just trying to find out, Johnny, what you think is the consistent vote. You voted "no" against the previous section and then want us to vote "yes" on this section. I'm really confused.

Mr. J. Jackson Well, I'll answer it for him, but I thought I did, but, you know.

## Further Discussion

<u>Mr. Avant</u> Mr. Acting Chairman and fellow delegates, and Mr. Duval. Where is Mr. Duval? Mr. Duval said that voted spinsts some of the proposals of this committee would be for this section. Well, I'm going to tell you why. Because we happen to know all about home rule. Let me tell you a little bit about home rule. I made the statement the other day, and this is in answer to something Mr. Kean said, that this office that we have is one of the pools. Afor some people. Now ...we've been talking about home rule, thy and the statement the other the sing of the sing the proper right out here just over the Airling Highway from this city, go look at the blessings of home rule. Go see the sanitary sever system thus he fire protection they have, y dist outside the city, just as densely populated as any protection. You know what our fire protection was for the size nyears? I were? You here? I want Mree You work the protection was protection. You know what our fire protection was for the size nyears? I were? You three.

GATL Days froceedings - September 30, 1010 quarter-in A arden has. add the statement the other day that this charter wa enaled in 1949 t prite the then vested interests for all the to a construction of the statement of the statement this section? "Nowever, no uch newly incorporated area shall include any property previous of include in any industrial area or district. That the pritest the standord of the subscript of the vide their own fire and philes protection. But yo which the previous of the subscript of the subscript of the state of the subscript of

years, out you nove into the rural areas of this parish. You nove to the Pride Community, where low at the garbage disposal that we have the have great garbage disposal. I take to tevery day and bury it in a hole in the ground. The blessings of nome rule.

Mr denkin: Mr. Avant, really the que tion on this amend ent is whether or not we should lower the petition require ent from two-thirds of the v ters to one-half the voters long typu think that the two-thirds requirement

Mr. Avant Mr Jenvins, by what wild stretch or the ingination in uld it tal two-thirds of thie people to in wroprate, but you are go in to adopt a hole rule charter any where by a simple ajority vote. Can you explain the logit to me of that?

Hr Burner Fr Avant, you it got through main me of the most elouent arguments I have ver-heard in favor of erpanded powers ( r police uries in the state, although I know you were a ded ated soppnent of Section 9. May I ask you this question why i it that everage disposed fact itte for the specifie in the rural areas in 'f Landry and A adus Perios with thill have uthoute, are garbage

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## Further Discussion

Mr. Wall Mr. Chairman and fellow delegates, it's difficult for me to understand why the advocates of the second second second second second second alking about we should let people do what a major-ity wanted to do. If a majority in local govern-ment want to do one thing, we should let them do it. How these advocates can get up here and oppose this..let's just be very honest about it. Scot-landville has some unique problems. Scotlandville second unique problems as compared to the problem has some unique problems as compared to the problems of the rest of the parish. Now, they have all the problems and the issues of the rest of the parish, then they have some unique problems. And where you would want to make Scotlandville have a twoyou would want to make Scotlandville have a two-thirds vote and everyone else just a majority... you to expect the black people to work, you know, about twice as hard as we do...so it's no use in two-thirds more. So we may as well just put them on an equal basis and let's just let them have a simple majority out at Scotlandville like we have in the rest of the state.

So, let's vote for this amendment.

### Further Discussion

Mr. Jenkins Mr. Chairman and delegates, back in 1947-48 when this thing was considered, the fact was, you know, there weren't very many black people voting in East Baton Rouge Parish, certainly not in Scotlandville, and our home rule charter passed by maybe a hundred, two hundred votes. I don't know exactly what it was, in none of the smallest turnouts in the history of the parish. Now Mayor Heine says he'll be for Scotlandville having their own municipality whenever the people of Scotland-ville are for it. Well, on two separate occasions the people of Scotlandville have voted for being able to incorporate, but parishwide, it failed. But the people of Socilandville have been for it ...all for it...will continue to be for it. Now the only question here is whether or not it should be a two-thirds vote or a maj...a two-thirds of the electors on a petition or a majority of the electors on a petition. I took a survey in my own district when I ran for election to the legislature, and found that thirty-one percent of the people refict. The had daved...still voting there. Of course, some living in my own district were voting other places. A two-thirds vote is simply too high because registration rolls generally don't keep up with who lives in the district. Certainly a majority is preferably to two-thirds. able to incorporate, but parishwide, it failed. is preferably to two-thirds.

is preferably to two-thirds. But the section as a whole deals with a much broader guestion... not just with Scotlandville. Scotlandville is the particular instance under con-sideration. The real question is, when a parish has home rule, will individual groups within the nortish still maintain some autonomy? It's true in An Essistion Bouga Paris, it would be true in Plaquenics, it would be true in other parishes. Will groups within the parish who want to have a municipality, be able to have one or not? Certainly they should, whether it's two-thirds or a majority or whatever, they should be...have some means where they could incorporate even though most...a majori-ty of the rest of the people don't want them to. We've been...it's been said that the people who come up here in favor of this section are being in-consistent. I can't think of anything more incom-are for home rule who come up and oppose a provision like this giving individual groups within a parish the authority to have their own form of government. Now, i'll admit to you, I don't like the concept of home rule set forward by this group. I think it gives far too much power to local government. in East Baton Rouge Parish, it would be true in It gives far too much power to local government. But the point is, if we are sponding to give all that give people within the parish who want their own form of government, a richt to get out of it, to dissent, to have their own system? Now we've seen in Scotlandville as one example

a system of benign neglect. Those people have lived under our wonderful home rule charter here and have not had the basic things that they want to avail themselves of. Let's give them a chance. If a majority of the people want it, my Goodness, how can we object to it in that area? So, let's go along with this amendment and let's approve this section.

> [Previous Question ordered. Record vote ordered. Amendment adopted: Motion to reconsider tabled.]

## Amendment

Mr. Poynter Now these are the Abraham amendment which Mr. Abraham withdrew that Mr. Kean wants to offer in his name. Now these are the Abraham amendments

Amendment No. on page 6, delete lines 9 through 13, both inclusive in their entirety.

You're right. It should be 14 through 25. These are some old ones to go with it. 14 through 25, delete lines 14 through 25.

<u>Mr. Kean</u> Mr. Chairman, I offer this amendment in order to endeavor again to explain the benefit to the delegates of this convention, my position with respect to this matter

As I view the amendment, what we are being asked As 1 view the amenoment, what we are being asked to do here is in this convention, amend the plan there is anyle authority within that plan for its own amendment. Now its seems to me it's not a ques-tion of home rule, or ho...or individual liberty, and certainly there has been no question of race with respect to this matter on my part. Mr. Reeves was the one who injected that thought. I endeavored was the one who injected that thought. I endeavo to explain before, and I repeat. We have adopted in East Baton Rouge Parish pursuant to a constitutional provision the plan by which we have endeavored to carry out our governmental functions in that to carry out our governmental functions in that parish. Despite some of the comments that have been made about what a terrible job has been in effect, that over sixty percent of the urban area at the time it went into effect did not have sanitary severage. Through a centralization of effort, we have provided major sanitary severage throughout the parish, in-cluding Scotlandville. Scotlandville has garbage collection, it has street lights, it has the other amenities that go with an urban area. My whole molet with respect to this matter is that if there amenities that go with an urban area. My whole point with respect to this matter is that if there is a need for a chage with respect to the plan of

be decided by the people of that parish. It says to be decided by the people of that parish. I say to you to place this particular provision in the constitution, to provide that it shall occur in East Baton Rouge Parish without any consideration in East Baton Rouge Parish without any consideration of how it would fit into the plan of government, could have the effect of destroying the plan of government as we view it today. Now I don't believe you delegates out here want to do that. I don't believe that you want to inject yourselves in the affairs of East Baton Rouge Parish. I don't think you want to require something to be done in East you want to require something to be one in tast Baton Rouge Parish without having any consideration, or giving any consideration to the effect it would have upon the whole entirety of the government of that parish. I don't believe there's a single per-

have upon the whole entirely of the government over-that parsis. I don't be is be there is a that. I implore you not to undertake through this proposed section to bring about a situation which results in an amendment to the plan of government, in my humble opinion, its ultimate destruction. I don't know what the problem is with this mat-ter. Perhaps it's me. But there is an unusual group of people who now, all of a sudden seem to support this proposal. I ask you to lay aside your personal feelings insofar as I might be concerned... to lay aside your feeling with respect to any pos-matter as an important issue presented to this con-vention and the delegates which consist of it that had its continued existence as it now stands, and leave, for goodness sakes, the internal arrangement

53rd Days Proceedings—September 25, 1973 of flat everniert to the beau e of that part h have viet twice this privine to Barn of part h, and resumbly, very hortly will to a an out that where the viet event of that of voltake worthin a proposition of the prior of the very hortly and the prior of the part of the part of the prior of the part of the part of the prior of the part of the part the partsh, and the approved the part the partsh, and the part of the part the partsh, and the part of the part the partsh, and the part of the part of the prior of the part of the part of the partsh, and the part of the part the partsh, and the part of the part of the partsh, and the part of the part of the partsh, and the part of the part of the partsh, and the part of the part of the partsh part of the part of the part of the partsh part of the part of the part of the partsh part of the part of the part of the partsh part of the part of the partshift of the partshift of the part of the partshift of the the partshift of the part of the partshift of the partshift of the partshift of the parts of the partshift of the partshif

Mr. Sewton Mr. Kean, there any other parish in this tate that would leave a majority vote of the moople in that parish to allow an uninc riporated fown to in urpliate?

Mr. Kean. There is none and that is the reason I say, Mr. Newton, this section is directed directly against East Baton Pruge Parih.

Mr. Larner Mr. kean, from y question you and ather that I ar really a people person. Cuid you tell e why ast Baton Rouge Parish wou'd want a group of people 'o be in their par I and under the righter more that wanted their ov-entent of their why that they were hole rule.

 $Pr_{\star}$  read. Nr. Warren, a it we originally planned, we were attenting the void the lind of stuart in that they fund down in lade unity, a need for some bind of a government in meet the overall regulation entry and they deally the unitparties, and they is and they deal with their inclusion. The were trying the ways to the overall it ways to provide the overall stress which would apply the part it was the with their provident of the part it to deal with their provident on an overall bail.

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Mr. Kean That's correct.

Mr. Juneau If I do that, I, as a delegate from Lafayette Parish or Caddo Parish, don't have to determine what the people of your East Baton Rouge

Mr. Kean That's exactly my point, Mr. Juneau.

Mr. Juneau Thank you.

Ladies and gentlemen, I'm going ef. The effect of Mr. Kean's amend-e that whole section. When I first J. Jackson La ry to be brief. to try to be brief. The effect of mr. Kean & amend-ment is to delete that whole section. When I first got up here, I said that we did not, the proponents and the people on the committee that got this amend-ment out, was not necessarily trying to suggest ment out, was not necessarily trying to suggest that this was a racial issue. We were saying why should the whole parish of East Baton Rouge vote on whether Scotlandville, and that was an example we used, but I can point to Central, I could point to other home rule charters that do allow for them to incorporate...all we're saying...why must the whole parish vote on Scotlandville when in the rest of the state...in the rest of the state it doesn't require that kind of the whole parish voting on whether any other incorporated settlement wants to incorporate. On the matter of this constitution injecting itself into the home rule charter I said very clearly on my first remarks that this is a very clearly on my first remarks that this is a constitutional convention. We have constitution stitutionalize home rule charters, we ought to be able to make provisions for home rule... constitu-tional provisions to allow unincorporated settle-ments to do it. That's the only way you can do it. I would just like to hope you put some weight on those points that I've just made.

### Further Discussion

<u>Mr. Stovall</u> Mr. Chairman, ladies and gentlemen of the convention, during the past few days, the dele-gate who is presenting this amendment, which would delete this section, has been speaking to us a great deal about home rule. It seems to me now that his amendment seems to want to deny home rule. It reminds me of the Catholic girl who was very much in love with a Methodist boy. She insisted that he become a Catholic, and he was converted to Catholi-cism. He embraced the Catholic faith. He was carried away with it. He was fascinated by it. crisii, ne empraed the Cathorit faith. He was carried away with it. He was fascinated by it. So much so that he decided to enter the priesthood, and he left the girl. The point is she oversold her concern. I think Mr. Kean has oversold his

her concern. I think Mr. Kean has oversold his case for home rule. Thank you. Thank you, John. I think there's something very basic here that this convention does understand the issues that are before us. It is a question of whether or not we feel that people should have certain basic rights or whether we feel that a particular article of incorporation is the thing that is sacred. I sub-mit to you that this is an effort to give right to people, that we should reject this amendment, and

Mr. Lennox Reverend Stovall, do you know that I plan to go to the next annual conference of the Methodist Church in Shreveport and arrange your next duty station, which you can rest assured will be Braithwaite, Louisiana?

<u>Henry</u> Would you yield to a question... You're not going to yield... Reverend Stovall says that he's going to go in

Mr. Avant.

Mr. Avant Mr. Chairman and fellow delegates, I Just want to remind you of a few facts. Within the very shadows of this seat of government we have over here, this State Capitol, you've got thirty-

five thousand people who for a quarter of a century feel that they have not gotten a fair shake under this nome rule charter that we're talting about. In that community is a large state university. If by some exercise of mental gymmastics you can con-sider then that that is a matter that concerns only the people of East Batom Rouge Parish, so be it. Mr. Charman, I move the previous question.

[Motion for Previous Question withdrawn.]

Mr. Reeves Mr. Kean has said many times in the committee and before you today that it's not any of your business what goes on in East Baton Rouge Parish. It's not any of your business. You shouldn't care when thirty-five thousand people are demied the right to incorporate themselves into endo-rin the context of the participate in a great state rin the United States of America, which is the great-est nation earth. That is what Mr. Kean has told you, but the charter of East Baton Rouge Parish is so ereat, so mighty, and that it was conceived by so great, so mighty, and that it was conceived by men of immaculate taste and that they do no wrong men of immaculate taste and that they do no wrong. This is what he is saying, but I say to you that from the great parish of Winn somebody does care and representing three rural parishes in North Louisiana, I care. I feel that you care too...for thirty-five thousand, basically to a large extent black people, have been denied the right to inco-porte themseltis in a village do fixet the happen to be a city planner, and I'm very ashamed of my profession at this time, because they sit down with their little maps and their little pleces of paper and they say to you that you don't need anymore their little maps and their little pieces of paper and they say to you that you don't need anymore cities in East Baton Rouge Parish. We know what's best for the people of East Baton Rouge Parish. We may be the same thing. It desn't matter to me how many schools you went to or how many schools you didn't go to. The right to incorporate yourself within a village or a community, or a city is just as sacred a right as the right to vote. That right shall not be denied by this Constitutional Conven-tion. It cannot be denied, and it is your busis South louisian of which 1 love dearly. It is your South Louisiana of which I love dearly. It is your South Louisiana of which i love dearry, very much business. It is your business! Very, very much it's your business. It is your business to vote this amendment down. For no longer shall East Baton Rouge Parish discriminate. For no longer shall it h meld...the people held in bondage. 'Let wy peo-Rouge Parish discriminate. For no longer shall it Rouge Parish discriminate. For no longer shall it be held...the people held in bondage. "Let my peo-ple go!" Let them go and be free for evermore. These people have a right to incorporate themselves, These people have a right to incorporate themselves, and I think you think so too. You're going to say "no" in such a way that there'll be no more amend-ments to deleta this section, but only amendments right, a great right, to incorporate themselves. They have a right for sewer, fire protection, police protection, and besides that you have a right to gu out and protect Southern University because it's your money, see. My Mother in Winn Parish pays taxes just like your folks do. It's her tax money that goes into Southern University. That school that area where the firetruck don't have to come that area where the firetrucks don't have to come from the city of Baton Rouge out to protect it. This you must do. You must vote this amendment down. For evermore these people shall be free.

### Further Discussion

Mr. E. J. Landry Mr. Chairman and members of this delegation, really and truly this is a great occasion for me, a learning experience. I hope that those of you who know about all of these situations, I hope that you will bear with us, those of us who sit and listen and learn, because some of us do not know until we've heard your debate. I want you to reason with me just a minute because I meed your help now like I've never needed it to endorse the concern of Mr. Kean has proposed as a mem-

ber if the current of a fully sold on Mr rear propont to I know that what he doing in the original proposition, in the proposal, is correct I ve been convinced that its correct, even thum I have voted consistently against many sections be cause I due to this that they were conletely refined. Not because I was against the idea, but now you are beginning to that e where I hurts. I a within that area. I have been deluged with runications, with calls asking e for God sake pasthe bornistion some way, somehow, and rart to us the how rule that I have been hearing by the advocates of ho e rule yesterday, day before and today 1 am with you home rule people I need your hep, and Section I does exactly what we meed in St Gharles Parish, we meed it badly, and I hope that you wate against Mr. Kean's amendment, not because for his original proposal which is a very good one That is the one of the com tite as presently refined.

### Further Discussion

Mrs. warren Mr. Chairman and delegates, it is really surprising that we would have delegates in this audience that would say that they want home rule and then want to deny persons home rule. The thing that disturbs we cast is that you have got Zaviery, Bill of Less that is they and the Rouge and then you want to keep Zachary from having the same things. This is prejudice. I'm not going to stand here because the Chairman just gave me a few mutes. He gave me a break, I'll put it like that He said he wasn't going to get anybody e se peak, and he gave me the privilege. I couldn't help but come up here and say to you that if you want home rule, please give these people the same things that you want.

Thank you.

### Questions

Mr. Weiss Delegate Warren, is this the only hole rule parish in the State of Louisiana that i, being discussed here? Is there any other home rule parishes?

Mrs. Warren Dr. Weiss, I really didn t...fro the Leginning I didn't know. It did. the amendment didn't say that they were tail in abut Zachary. To be truthful with you, I'm sorry that that ame up. It ust said that these people would be abe to have it if they want it. Since the subject came up that they have been denied that right, if they are in bondage, let them come out That's all I's saying.

Mr. Hets Don't you think people have infu ed the hime rule of iunicipalities with the hime rule of one parih in this tate?

Mr. warren well, I don't huw if they re infu ed ur out, but when I look down here and see that they have four. Eat Baton Ruige Parin ha four eparate runi! Their Can Baton Ruige Parin ha four eparate erning their ownelves. I don tsee why you ant have another me Thills the only thing I's say ing

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### Arers ent

### Laplanatiun

Mr. Thulphin Nr. Falmar, fellow delegitet, tri

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### uestions

Mr Kean Mr Thompson, the project is deal with the reation of industinal area of distribervices, in effect, that they are an it the cluded in certain special districts or use it unic palannesation. There are any parshe throughout this state which have adopted rd1 a creating such districts or areas, and they we dustries that have could jur area mith reliance on those ordinances Mould jur and ended mit real dustries that have could the area with reliance and the rights that they have had under the ordinances heret fore?

Mr. Thingin a yiu this that they shi id rave polive and free protection that spaid for y a the rest of the peple of they haven the triutin towards paying their rightful is are that I don t. I think they should pay their share with like the rest of us

Mr Kean Mr Thu pson, under the pre-en-tatute, under the present aw, they re-ettted to the exemption, as you must hin m, only if they invide those services the elves ask yo all, the effect of your amendment wild then be t take awn from existing industries which have locate in eliance on ordinances creating industria area what they enjoy at the present time I than ent

Mr. The ponence is lots of these detries are realed just for that purpose, so they went get the electrations of the electrations of the electration of the electration of the electration of the electration of the electratic set of the electrat

Mr Jenk n R hard, the vari and indu tries in the , they dont , et t v in regard t whether or n t to inver, rate, they it get to sign petitions, they don't get 't assessed valuation when the vertice the et al nexed r in rprated any number of the don't is methich when they are getting in benefit and don't get to variable the pointing of the etc.

Mr. This is They are getting belefit filleling

Mr. eilin, Well, if they're i t i a unit a t ty, how ar they be utter i line and fire i tetion by i ht. They and the, an inc

Mi Thompson well, are out only these the area from growing ty exclude the forces of thoms this those would be done,  $W_{\rm c}(y)$ 

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Mr. Though that exactly right not subst. T've beer tasking about

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[1424]

care of that when we get to Revenue, Finance and Taxation's Proposal?

 $\frac{Mr.\ Thompson}{If\ there} \quad This is exactly correct.$  If there is no further question, I move for the adoption of the amendment.

## Further Discussion

Mr. Wall Mr. Chairman, fellow delegates, this is a real serious question. I'm particularly glad to see Mr. Slay's name on this amendment. He's a tax assessor, so he's well aware of how this situation assessor, so het well aware of how this situation heaving the source of a source of a source of a source of a words to say, and he'll answer your questions. But now let me just tell you something. You take all these big industries that we have; they want to avoid all the paying of taxes to the local communi-They want to avoid paying all the taxes to the local community where their employees live. You go look at the big industries around in this state, and you look around the big industries and you will and you look around the big industries and you will see the sluws in this state. There's exceptions to that, yes. Yet, they pay high federal taxes, high federal income taxes, but yet, because they're big and strong they keep it to where...the laws to where they don't pay anything in the local communi-ty where their employees live. The fact of it is they juggle their books...if they didn't juggle their books, in the locality where the industry is their books, in the locality where the industry is located, seventy-five percent or more of the tax they pay would only be what they're not paying to the federal government in federal taxes. But they juggle their books around the other way. Now, this is not putting any tax...this particular pro-vision deleting this part of this section...is not putting any tax on big industry, but it is making it possible. If we don't delete this, it will be it possible. If we don't delete this, it will be impossible unless you have a statewide vote...a statewide vote, and that's what this constitution is trying and should be doing is deleting provisions to where you'd have to have a statewide vote for some little something that involved a local communi-ty in a local situation. Yet, big industry, some of you home rule people, want to protect this big industry. They don't want the big industry to pay their part of their community taxes. The big busses, the big trucks, you just name it...not only...they provide employment but yet as pany burdens. the big trucks, you just name it...not only...they provide employment but yet as many burdens, and they should be paying their fair share. Most of they should be paying their fair share. Most of that they are paying in Massington in federal taxes. This is not putting any tax on them. It's just taking out the prohibition. So this is a good amendment, and just like it was mentioned earlier, you will get to the real issue whether they are taxed or not or permitted to be taxed in Revenue and tax Committee. So let's delete this particular provision. There will be an opportunity to clear up the slums around your big industry in this state, and if they're really for better working conditions of their employees, they will be willing to pay taxes. But this amendment does not tax them.

### Questions

Mr. Weiss Delegate Wall, this is the only home rule parish in the State of Louisiana, isn't it, that we're speaking of, East Baton Rouge?

Mr. Wall No, I don't believe it is, but...

Mr. Weiss What is the other one?

Mr. Wall But that's not relevant. What is your question?

<u>Mr. Weiss</u> But it is. I think it's important because...I think it is because it would be discriminating against the industries in East Baton Rouge Parish. Don't you think?

Mr. Wall No, it wouldn't.

 $\frac{Mr.\ Neiss}{such as Orleans}$  Why not do it to all the industries such as Orleans Parish and other areas?

<u>Mr. Wall</u> Dr. Weiss, this T5 just where they incorporate a village. So this is not discriminating against anyone. This is just a general law that's providing for the incorporation of a village, so it's not discriminating against anyone.

Mr. Weiss As a legislator, aren't you aware that this is the only home rule parish in the State of Louisiana?

Mr. Wall Well, that's not correct...

### Further Discussion

Mr. Slay Mr. Chairman, delegates, for those of you who might not know what we're talking about when you speak about an industrial exemption, I want to tell you just what this amendment means. Big industries have what's known as a ten-year exemption. We're not speaking about a ten-year exemption in this amendment. They also have the right to go to the police jury and ask the police jury to create an industrial park. That industrial park will just take in the properties that they own. It might be five acres, tec acres, or a hundred acres but it takes in only the property that that acres but it takes in only the property that that industry owns. Then they are exempt from special taxes that are levied by the police jury. These can be water districts, where they furnish their own water, or garbage districts and matters such as that. Now, the big industry, as you will recall, has a ten-year exemption. It would still be in effect; then this industrial exemption they are speaking about comes on top of that, gives them an additional exemption. Now water surjent in this additional exemption. Now we're saying in this proposal here that these people cannot be taken into proposal here that these people cannot be taken into the city limits of a town. Suppose you have an industry there, and suppose we're looking to Scot-landville, because we've talked about them so much, and I don't know anything about Scotlandville... but suppose there's a big industry located exactly in the middle of Scotlandville. We incorporate everything else, but we're saying that this industry cans there be into the so front the solution. One they're incorporated there's a symma tity. One they're incorporated there's a symma tity. One alimony tax that can be levied which goes to pay for police protection, for the protection, for the for police protection, for fire protection, for the cost of running City Hall, the major's salary, and all these things. All this amendment that Mr. the all these things. All this amendment that Mr. Thompson has just talked to you about says is that this industry can be taken in and be incorporated this industry can be taken in and be incorporated with the rest of the properties there and they will pay their just shares of the taxes of the incorpor-ated area. They will still enjoy the exemptions afforded them by the police jury in an industrial park. The law further calls for the assessor when he looks at the name of that company. If it's thin. It's stamped across there, industrial exemp-tion. They're exempt from certain parish taxes, but we are now saying that they can be brought into but we are now saying that they can be brought into that incorporated area, and they will pay their just share of the city taxes. That's all that this amendment says. I urge the adoption of this amendment.

### Questions

<u>Mr. Lanier</u> Mr. Slay, as this thing would be written if your amendment were to pass, would that mean that in a home rule parish, say, like Jefferson where they had a major industry like Avondale, that four or five hundred people could get together and incorporate around Avondale and start taxing Avondale?

Mr. Slay If the majority of the people in an area wants to incorporate, that would take in that industry too. Let me say this, if an industry wants to settle in Jefferson Parish, or Rapides, or Scotlandville or wherever they want to settle, they should be willing to pay their just share of the load.

Mr. Goldman Mr. Slay, just to allay Dr. Weiss's fears and all this talk about East Baton Rouge and [1495]

is tlandy ile, here's y que tion. For in tance, is n y ur area, up there near Alexandria where % & Dut up a bij plant there are a lit i holes, ind uite a opoulation around there if that parricular population voted to incorporate and that plant is right there in the menter of the , they would be then included with your a endment Right?

Mr. Slag. They ould be in luded in the in orporated srea.

Mr ... an o it doesn't juit bespeak itself for Ea t Baton Rouge Parish It bespeaks itself for the entire state. Right?

Mr. lay That's right. You named P & G and P & on uss a ten-year exe ption and it also enjoys an "duftrial exemption. It would not affect that whatsoever-

Miss Perkins Mr. Slay, you must forgive my ignorance but I understand the industrial exemption that you explained, but you said that industry could be taxed. You didn t say shall be taxed. So if they can be taxed, who determines whether they are going to be taxed or not? Legislature or local government or who?

Mr. Slay I'm sorry. I misstated wrong. They wund be taxed if they are brought into the incorporated area just like I would be taxed. You must re ember if this area is incorporated, these citizens will not enjoy a homestead exemption. They would be taxed, Mi's Perkins.

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Wednesday, September 26, 1973

### ROLL CALL

[96 delegates present and a quorum.]

# PRAYER

Mr. Dennery Lord cur God, and God of our Fathers, we give The this moment of reverence and acknow-ledgement of Thy constant blessing. We ask for strength of minds and know Thy will, and the cour-age to carry that wisely and bravely. Guide us in our efforts and delibergations to serve this our state and its people. Give us wisdom to accomplish our tasks and may the work of our hands find favor in Thy sight. Establish Thou the work of our hands for good and to the glory of Thy name. May J wish each and every one of you in the ancient Hebrew words "Lsehanah Tovah" which means Happy New Year, which is tomorrow. Thank you.

### PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

### RECONSIDERATION [I Journal 526]

Mr. Poynter Dn yesterday, Section 9 of Committee Proposal No. 17, introduced by Delegate Perez, on behalf of the Committee on Local and Parochia Government failed to pass. Said Section 9 provid-ing with powers of other local governmental sub-divisions. The guestion is whether the convention wishes to reconsider the vote by which that section failed to pass on yesterday.

[Motion to reconsider adopted: 72-25.]

### UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committe Proposal No. 17, introduced by Delogate Perez, who's Chairman on behalf of the Committee on Local and Parochial Government and other delegates, members of that committee. A proposal making general provisions for local and parochial government, levee districts, and ports financing thereof and necessary provisions with respect thereto. A status of the proposal at this date is the convention has adopted as amended, this date is the convention has adopted as amenaed, Sections 1, 3, 5, 6, 7, and 8 of the proposal has voted to delete Sections 2, 4 and 1D and, of course, Section 9 which failed to pass on yesterday, has just been reconsidered and is now open for sub-sequent action at whatever time by this convention.

[Motion to revert to Section 9 adopted

### Reading of the Section as Amended

Mr. Poynter as follows: As presently amended the section reads

"Section 9. (A). (---it's, of course, on page S your proposal--)Subject to and not inconsistent with any provision of this constitution(--that amendment being added by Delegate Gravel's amendment --)any other local governmental subdivision may exercise any power and perform any function necexercise any power and perform any function nec-essary, requisite, or proper for the management of its affairs not denied to it by its charter, or by general law, "--striking out "by this constitution" and strike-putting a period -," after "general law", deleting everything through line 28. (8) was not amended, still reads as printed: -(8) Any local governmental subdivision may

exercise any power or perform any function concur-rently with the state pertaining to its government and affairs to the extent that the legislature by general law does not specifically limit the concurrent exercise of any such power or performance of any such function or specifically declare the state's exercise of any such power or performance of any such function to be exclusive except as pro-

any such function to be exclusive exclusive or provided in this Article." (C) has been amended as follows: "(C) Nothing contained in this Section shall be construed to affect the powers and functions of a parish or city school board and the office of sher-iff"--insert--"district attorney, clerk of a district court, coroner, or assessor."

### Amendment

Mr. Poynter Amendment No. 1. On page S, delete lines 16 through 28, both inclusive in their en-tirety, and delete all floor amendments thereto and insert in lieu thereof the following: "Section 9. (A). Subject to end not inconsis-tent with any provision of this constitution, the

governing authority of any other local governmental subdivision may exercise any power and perform any subdivision may exercise any power and perform any function necessary, requisite, or proper for the management of the affairs of the local governmental subdivision not denied by its charter, or by general law, provided that a majority of the electors in the taw, provided that a majority of the electors in this affected local governmental subdivision who vote in an election held for that purpose vote in favor of the proposition that such governing authority may exercise such general powers. In the absence of such a favorable vote, such local governmental sub-division shall have such puers a shal, "e su-thorized by this constitution or by law."

### Explanation

Mr. Conroy After yesterday's debate and discussion, it became apparent that there was a sharp division within the convention as to how this section should be approached. It also appeared to be an area that be approached. It also appeared to be an area that was subject to compromise and adjustment of the differences and viewpoint. This amendment is de-signed to accomodate those differences and to strike what I think is an appropriate and desirable middle ground. What the amendment says, in effect, is that any local governmental subdivision-whether it has a home rule charter-even if it doesn't have a home rule charter, can elect to have the residual powers that we had talked about if that question is powers that we had talked about if that question is submitted to the voters and the voters decide they want their local governing authority to have those powers. All other entities, if they haven't sub-mitted this to the vote of the people and haven't received such a favorable vote, would have only those that are authorized...only those powers which are authorized by this constitution or by law. This takes care of what, I think, was the principal ob-ojection that the constitution or section as pro-posed, would have forced on certain people a form of government with additional authorities that tobhad never voted in favor of. This meets that ob-jection--which I said was the primary objection--also clarifies some of the language in the prior... in the committee proposal

I'll yield to any questions.

### Ouestions

Mr. Dennery Mr. Conroy, in your last sentence of the amendment you use the language "as shall be authorized." Would that not imply that future au-thorization is necessary? I take it...

I don't think so.

Mr. Dennery You don't think it should read, "such powers as authorized" rather than "as shall be au-thorized" or "as are authorized."

Mr. Conroy Well, frankly, Mr. Dennery, I don't see the difference in the phrases. I think that certainly the meaning is the same to me both ways.

<u>Mr. Jenkins</u> Mr. Conroy, I think your amendment is certainly superior to what we have. My only prob-lem is that you retain Section (B) in Section 9; you haven't taken that out.

Mr Liroy Mr. enkins, that would have the the subject of a separate amendment in discussion This doesn't preclude the possibility of solebody following with an amendment to delete Section B

Mr. Jenkins But, unless we delete Seltion B i we eep Section (B really, snit the effect f ubsection (A) somewhat minimal befause under Sec-tion B Any cal governmental subdivision may "xercise any power or perform any function which not denied to it?"

Mr. Fulco Mr. Conroy, you have provided for a majority of the electors in the affected local governmental area. You say "in the absence of such a favorable vote, such governmental subdivisions shall have such powers as shall be authorized by the constitution or by law. Is that making the

Mr. Conroy Well, it delineates the difference between having the election and not having the ejection. If you don't have the ejection, all you have are delegated powers to the police jury or municipality, whatever it is. The powers that have been delegated by this constitution or by statute, those are the only authorities that such a governmental unit would have. If they want more powers, they have to submit that question to the people and they can then get the residual powers which were the subject of so much discussion yes-terday.

<u>Mr. Champagne</u> My question was somewhat like Mr. Jenkins' question, in that you did not delete Section (8) and, of course, I get the assumption I can read, but even when I read these it doesn't tell me anything, that except what it does tell me worries me. So, possibly the answer would be to vote for (A) and then attack these. Is that what

Mr. Conroy Yes, I think that would be a separate issue, yes, Mr. Champagne. I think you and Mr. Jenkins might get together and decide what you want to do on that.

Mr. <u>De Blieux</u> Mr. Conroy, Mr. Fulco kind of touched on what I have a question about, that's in this last sentence. Now, is it...there's two possibilities as I see in this sentence--one is that the local government could come to the state legislature before they want to exercise a certain power and ask for that authority. Is that the purpose of this sentence?

Mr. Conroy Mr. De Blieux, I think the best way for me to explain the purpose of the last sentence is to say that when I originally prepared the draft and other governmental units not operating under home rule charter. It is intended simply to be a state ent that the existing situation with regard in thise governmental subdivisioni winld stay in effert, that's what it's intended to say

Mr. De Blieux Well, now you see that's one inter pretation. I also think that there's another in-

I think that would be the same, Mr

Me cui hiw, har war ewat -

this that would be first w

Wr w B e this contract at a the terster all entry talley a do that I wild ather this that "wild be

Mr. <u>Conro</u>, Well, all an ay, eat r e Blow. Is that the first draft was so reared. It so e people felt unco fortable w thout t a d. had strong objection to adding the last senterie

Mr. 5.1th Mr. Chain an, fell & dele ates, don the the convention uch by color phere, but in deeply interested in this particular attern account of local govern ent. I think faillar with local govern ent, and l'greatly faver faves for an attern account of this arendment, as in a cosuthor where served n local governent at the served of the served four terms and we have had sell towns a dere town it has the none and town and set and the served four terms and we have had sell towns and set to the served four terms and we have had set in hand and ask all this amend ent does. So if you truly believe in home rule as you say you do, think that yo will go along with this a end ent and let the t whi

Further Discussion Mr. Bollinger Grunderster Mr. Bollinger Mr.

vite, which means as it was exclained at the ristrum

that is they didn't get a favorable vote by the people they could still have this type of govern-ment whether the people wanted it or not.

Mr. Bollinger No, Na'am, if it did not get a favorable vote of the people then they would oper-ate in the same manner in which they operate today. The only reason for this last sentence was that we thought that if it wasn't provided for, that all the power spise july bis and other forms of local powerment not provided under home rule charters, they would lose the powers they have now.

Mrs. Warren But, this "or by law" seems to have been explained up there that they could go to the legislature and then override what the people wanted. Now this is what I'm trying to find out.

<u>Bollinger</u> Right now, they have to go to the islature to get a special authorization to have isdiction. This would just say that... jurisdiction.

Mrs. Narren This is what I'm saying, after the people have voted that they did not want it.-I means the people did not want it, and then the governing authorities could go to the legislature and have the legislature to override what the peo-ple wanted. Is this what it would mean?

Mr. Bollinger I think you misunderstand me, Mrs. Warren...

Mrs. Warren That's what I'm trying to understand now.

Mr. Bollinger The gist of Section 9 says that people will wote if they want their local govern-ment to have the broad grant of authority and then the last sentence says if they don't want the broad grant that the local government can still go to the legislature and get special laws adopted to allow them to have specific authority-not broad...mot cover everything. Does that answer your question?

Mrs. Warren I hope so. I'll hear somebody else and maybe I...

Mr. Henry Bollinger. Henry You've exceeded your time there, Mr.

### Further Discussion

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, I believe that this is a good compromise from the committee proposal because it does require the submission to the people if these police juries want to exercise this additional authority. Therefore, we have no objection and ap-prove the amendment and if there are no other speakers, I move the previous question.

[Coauthors added. Previous Question

### Closing

<u>Mr. Conroy</u> I really came back here only in the event there were any questions in light of the de-bate that had been offered. The committee has said they have no objection to this. I think it does represent a desirable compromise; it does put the issue in the hands of the people where, as i had argued yesterday, it belongs. I urge you to adopt the amendment.

Mr. Conroy Yes, but I think that before (B) can

be tackled we have to know what (A)'s going to say, and I hope that the amendment would pass so that then (B) could be properly adjusted.

Mr. Flory Mr. Conroy, isn't it true though the you haven't really corrected the problem, or at least erased the objections until you do solve the issue in (B) as it relates to the powers granted

Mr. Conroy Mr. Flory, I think that depends on a reading of Section (B). I read the last phrase in Section (B) to limit everything that preceded the last phrase, so that if (A) is passed the way 1 last phrase, so that if (A) is passed the way I have and my coauthors have recommeded. I think that (B) would be alright. But it think it's but put in accord with it. But that last phrase that says "to the extent permitted by this article" and so forth, I think limits all of the preceding lan-guage in (B). But, I think it's unclear and I think it's desirable to straighten it out.

Mr. Flory Isn't that particularly true in light of the language of your amendment as "being incon-sistent with other provisions of the constitution or general law"? Doesn't that mandate that you have to clean up (8)?

Mr. Conroy Virtually, yes.

[Amendment adopted: 105-3. Motion to reconsider tabled.]

### Personal Privilege

Mr. Chairman and fellow delegates, Mr. Rayburn us have been real concerned for the last few hours about the welfare of our Chairman. We had a little get together this morning and re-alizing that he's had a strenuous load for the last several months placed upon his shoulders, knowlast several months placed upon his shoulders, know-ing that he has handled it well and capably and, with a sincere hope that he could continue to carry on in the future like he's carried on in the past, we decided that we needed to offer him a little assistance. We tried to find a doctor and someone said they were a doctor, and we asked him to pre-pare a prescription. I cannot make the doctor's name out, but I do see right under it it says DVM. This prescription is to our Chairman, Mr. Henry: this is a container that contains a considerable amount of thought Dills. It says here "Please take amount of thought pills. It says here "Please take two before going to the mansion at least one hour before you plan to be there." At this time, Mr. Chairman, I would like to present you with this little token and let you know that your friends are deeply concerned about you. I hope this little bottle of pills will help you in the future.

<u>Nr. Henry</u> Is that to nerp meaning to think, Senator? Proceed, Mr. Clerk, with the next amendment. Is that to help me think or to remember

Mr. Poynter Amendments, there are several sets of De Birleux amendments, this set reads as follows: Amendment No. 1. On page 5, delete lines 29 through 32, both inclusive, in their entirety and on page 6, delete lines 1 through 4, both inclusive. in their entirety.

Mr. De Blieux Mr. Chairman, ladies and gentlemen of the Convention, we have already taken care of, you might say, what is contained in (B) by the amend-ment that we previously adopted, the Conroy amend-ment, and therefore, I don't think there's any necessity for Paragraph (B), and this amendment just eliminates that particular paragraph, which I believe the Local and Parochial Committee has agreed to, and I ask your favorable vote on it.

Perez We have no objection to the adoption Mr. Perez We not

Mr. Junter we have the next end is a set of the set of the set of a set of the set of

Explanation The selleware haddes and gentlemen, let me eship the set sentence of the Conrey amendment. As 1 reach the set sentence of the Conrey amendment, it say far provide the Government here people's volume the set sentence of the Conrey amendment. It say far provide the Government here people's volume the set sentence of the Conrey amendment, it say far provide the Government here people's volume the set of the Government here and the the set of th

Mr lanier enator De Blieux, is it not true that the way y ur amendment is drafted, that if there was an nection, and the perplerefued to grant the residual grant, that the unit will do then have no constitutionally based pixers.

Mere not get to the produced to early it is the transformation of the transformation of

Me satisfy But, wouldn't it be sour that as the provident in the period of the three between when the element was weld ord the three but you were which will be the the three stars as the the source were which well which prove

Mr. Dire. Mr. For manager and it is influence of the invention, the same is in the all are for by worked on the transformation to be

Mr. Levez T, ale in erfect, in , all t what you have the width this is the election, there y have been share to what position in the electric to such the as iney has the the time. The table deally lear that we share the they are entry in a state of the main they are given the

Mr\_Fulco Now, we re tails at if the rew

Mr Teret No. we're writin i'w i'r brifthau yw be'r yn 'r wi'r writin yw re writin yw rawn yw yw yw yw yw yw yw

Conroy's sentence it says that after you've had an election and the people have turned it down, you can come to the legislature and get the legislature to change it. My amendment just says that without an election you can get the lsgislature to grant the authority.

Mr. Anzalone Well, Senator, that's what we've been fighting on the floor of this convention for the past five days, and we haven't been able to convince you of it yet.

Mrs. Zervigon Senator, you've served in the legislature a long time. Is it the habit of that body to override the will of the people as expressed in local elections?

<u>Mr. De Blieux</u> I think you would have an awful hard time getting them to do that, Mrs. Zervigon, and for that particular reason, I don't see why we should tell the people that we are going to do it.

[Amendment rejected: 13-99. Motion to reconsider tabled.]

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [*yy Mr. Bollinger*], on page 5, bettern lines 16 and 28, within Flor others, and adopted by the convention on September 26, 1973, on line 13 of said Floor Amendment, immediately after the words "powers as" and before the word "authorized" strike out the words "shall be".

### Explanation

<u>Mr. Bollinger</u> Mr. Chairman, fellow delegates, this, I think, is actually a technical amendment. Mr. Dennery brought out the point, when Mr. Conroy was explaining the amendment to say change Section (A)... Paragraph (A) of Section 8, that the words shall be in the total section 1, the the words the section of the section 1 think this makes it eminently clear that it refers to any law by the constitution and by law. So, 1 move the adoption of the technical amendment.

### Further Discussion

 $\frac{\text{Mr. Perez}}{\text{amendment}}, \text{ No objection; I consider it a technical}$ 

[Amendment adopted without objection.]

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. Perez], on page 6, at the beginning of line 5, strike out the punctuation "(C)" and insert in lieu thereof "(B)".

### Explanation

<u>Mr. Perez</u> This is just to correct the letter in the next paragraph because we delineated (B); we would now make (C), (B).

### [Amendment adopted without objection.]

### Amendment

Mr. Poynter Amendment No. 1 [by gr. Donnis and gr. rate(), on Dage G. between lines 6 and 9, insert the following:--and Judge Dennis, we need to make that Paragraph (C) now-"(C) Notwithstanding any provision of this Article to the contrary, the courts and their officers may be established or affected only as provided in Article V of this constitution."

### Explanation

Mr. Dennis Mr. Chairman and fellow delegates, this

is the same amendment that was added to Section, the previous section. Section 8 to make it clear that we are not here authorizing any new court system, that the courts will be governed, ...the establishment and modification of courts will be governed by the provisions of the Judiciary Article.

### Questions

Mr. Dennery Judge Dennis, you use the word "article" here, and you used the word "article" in the previous amendment. The word "article" comprehends the entire article. Do we need this in each section?

<u>Mr. Dennis</u> Yes, sir. I thought about that. I think we do, because the fact that we added it in one section and didn't put it here may by implication cause someone to interpret it to mean that we were...intended to authorize a new court system.

<u>Mr. Dennery</u> Well, don't you think, then, it technically should be "section" in each one of those amendments?

Mr. <u>Dennis</u> Yes, sir, technically, 1 think so. Technically, I hope that it can be changed stylistically so that we can only say it one time perhaps, somewhere.

<u>Mr. Bollinger</u> Judge Dennis, to accomplish the same thing, wouldn't it be easier to make a section syrich the the contrastructure of the section syrich the the contrastructure would cover all of them, rather than trying to tack it on to each section? You'd only have one time you'd have this verbiage instead of having it two or three or four times?

<u>Mr. Dennis</u> I think you may be correct, Mr. Bollinger, but since we don't know how many sections we're going to adopt and what they are going to be in this article, I think we have to take them as they come. I wouldn't object to any stylistic changes in the future.

Mr. Jenkins Judge Dennis, my problem is that 1 fear that by enumerating this one thing that can't be touched by this article, that we're by implication saying that perhaps other things can be. Now, we already have in this section that in (A) that "subject to and not inconsistent with any provision of this constitution," and, obviously, all of these the sector that in (A) that the sector of the sector this constitution. Aren't we making a mistake by enumerating this particular one, and not say, the Bill of Rights Provision or any other thing?

<u>Mr. Dennis</u> No, sir, I don't think so, as I explained on the previous section when I offered this same exact anendment. The Judiciary Article says, "the judicial powers shall be vested in the Supreme Court, court of suprel, ide by this constitution." Now, we are here authorizing governmental powers, and we'ren our estricting them in any way so that you could conceivably set up a separate court system under this section for local government, inconsistent with that envisioned in the Judiciary Article. This is the same amendment that we adopted on home rule charters. I believe you have already... was not here yesterdy...you adopted one that made it clear that local government profisions mide it clear that local government profisions think that we should do the same thing for the courts, just like we did under the home rule char-

### Further Discussion

Mr. <u>Perez</u> I have no objection to the adoption of the amendment, except that I would hope in Style and Drafting we could make it clear that it applies either to the section or that we will have this recitation one time instead of having to have it repeated.

Further This using Mr Abraha Mr. Charman, fellow delegates, : fred to make this point the ther day I want to get into whenever you start making all of these exceptions. Now, we have provided for these war-ious fices in Section, Paragraph II, which was Paragraph C, and other artiles of the stitu-tion, We've already said in here that notwith-standing or subject to the there provision of this constitution or anything herein that's not-tuinn. Where do we are the on these excep-tions? I don't think this is necessary at all. I don't think that Paragraph II was necessary to begin with, but you see what happens when you start enumerating one, then somebody else says. "we'l, I want to be enumerated, also, and as a result we're going to kae of cluster for the state about legislators and other state elected officials about legislators and other state elected officials about legislators and other state elected officials and so forth? If you want to carry it to the ex-treme, you could say that a local governmental sub-drivision migh be able to pass a law or an ordi-nance under its home rule charter which might affect these people. I just don't set the addition of al those brings like this, and I urge the rejec-tion of this amendment.

Mr. Bollinger Mack, isn't that the Judicial Ar-ticle,...Does not the Judicial Article eminently cover what Judge Dennis is trying to do, as well as Section 8 is covered?

Mr. Abraham That's exactly right. If it did not, well, then that article is poorly written.

Mr. Dennis Mr. Chairman, fellow delegates, I apol-figize for going back over the same arguments that Inglize Tor going back over the same arguments that we went over in the previous section. I thought that we had debated that, at that time, and that the convention had agreed to add these exceptions. In all due respect to Mr. Bollinger and Mr. Abraham, do think that at this time, this amendment is necessary to make it clear that a local government cannot set up a court different from the courts au-thorized under the ludiciary Article. Now, perhaps, later on, we can restyle either the ludiciary Ar-ticle or this article to make it clear that all of the exception of the set of the set of the the reasons that I stated earlier. We said in the Ju-diciary Article that "The judicial power is vested in courts authorized by this constitution. Nuw, In clurts authorized by this constitution. Num, ments, query, dees that include constraint this that iomebody might may it does, so i'm anking you to make it clear that it does not Pleake adopt this amendment it i but life the other amend ment that we adopted last week pertaining to home

Me Fighter lectin II has been previously read, previously a context in part, His host, ar. You might note two aenoments were all pled in yet re-day. On line 16, after the word when the word

two maintenances of a survey setting the strength of the stre

Mr. outer A entrent ent of by delegates en kinn, re-Biteux and lean Arennent N., in page 6, i.e. 3, after the partial word and unctuation rates at the fi-lowing. No bit all sty corporated er this Section shall in use wroperty previously in used in an industrial area of it this.

Mr. Jenkins Mr. hair an, delegate, this eller-tially attempts to restire the incept

Mr. Henry wait just a minute, Mr. envire. Why do you rise, Mr. rean?

Mr. Kean Mr. Chair and wait to active to the delegates, but i'm sure Mr. envir and the set of the s amendment. My name appears on here, but : I d t

<u>Mrs. warren</u> Mr. Chai an, ust a fee day agt, had a amendment accepted the firmung trwas reworded. It was designed to dithe a thing that I had originally wanted to "ne co-vention ruled that it was out of order. Mr kins has said his amend ent is es ne : the same thing I think he's out if rder

Mr Henry Al right Mrs warren, he ther day think we let the convention de ide whether not they thught your a end et war was to order, and the hair nut be no ertal to stance, we'll et the help atter ere is whether or mit they be seve that the ensing are due to a worder.

Hr, lenkis hand f. Chail the diricte sets out free side the print ty to it this mendment was 1. Strik is in more the set of the set of the set of the set of the presence of the set of the set of the the set of the set of the set of the the set of the any set of the set of th

East Baton Rouge Parish could be included in the proposed incorporation which would extend as far south as almost to this State Capitol because virtually all of our industrial area, Gulf States Utilities, Exxon Company, Exxon Chemical, right on dustrial area for the most part. But it would be possible, because there is no population in that area, for the Scotlandville area to be incorporated beginning at Scotlandville area to solve, or whatever. The important point here is that the industrial munifacturers and other people have located in these areas have done so with the understanding that they would not be subject to inclusion in a munificipality. The East Baton Rouge city-parish munificipality. The East Baton Rouge city-parish concept. It said that we're going to keep faith with the industries that have located here, we have to continue that concept. The committee proposal, as originally introduced, did include that concept. It said that we're going to allow areas to continue in existence or to be able to be incorporated, but we're not going to allow industrial concept. It said that we're going to allow industrial concept. It said that we're going to allow industrial concept. So, really, they gain no benefit and have no desire to be included in a municeptime do there's anything that we need more of in this state, it's more investment, more findustrial development, and thus more employment for our people, and I certainly wouldn't went us to do anything that would discourage rulure in ant have invested here in the part faith with these hast have invested here in the part faith with the advition for our people, and I certainly wouldn't went us to do anything that would discourage rulure in have invested here in the

### Questions

Mr. Willis Mr. Jenkins, we have looked only at one side of the coin, I think, in this argument. Now, visualize this--an industrial area of about fifty acres that will be an unincorporated settlement--it takes forty people around that area and it names the town "Esso." Can it do that and shield itself from taxes? Can it do that; what's to prevent it if your amendment is not adopted?

Mr. Jenkins Well, it would take, I think, two hundred and fifty people, normaily, I believe that's the requirement now.

<u>Mr. Willis</u> Normally...it doesn't say that. The constitution adumbrates any law enacted under it, and if that thing says "unincorporated settlement," that can mean a settlement of five or ten people. There is no limit to no limit. Isn't that correct?

Mr. Jenkins Well, you may be right. We need to put some number in here.

Mr\_willis Well, sure. A factory on ten or fifteen acres can, in order to protect and shield itself, surround an area around it, and then they'll call it "Williswille" if you want. Isn't that correct? That's the other side of the coin.

Mr. Jenkins Yes, sir. So I think that's one reason we need the amendment.

Mr. Willis Precisely.

Mr. Roy Woody, this amendment does change or does modify the original committee proposal in that it deals with previously included industrial areas, right?

Mr. Jenkins That's correct. It has to be previously included. Mr. Roy Which means that if in the future, if the lightStature, since we wouldn't be dealing with it at all except in previously included dealing with it areas could be deal with by the legislature would not be breaking faith with any particular area, industrial area, that has already come in and set up according to what is thought we would agree to. Is that right?

Mr. Jenkins I believe that's correct.

<u>Mr. Rachal</u> Mr. Jenkins, I don't know if I'm looking at these right. Could you tell me how your amendment improves or changes what is in the article?

Wr. Jankins It changes in that, you'll remember yesterday we deleted lines 23, 24, 25, this restores that concept - not the same language because the opt. language is different bucktion to our preexisting obligations that we had with regard to industries that have located in industrial areas or industrial districts.

Mr. Arnette Noody. I voted so that you could present your mendment because I wanted a couple of questions answered. I'm a little confused because I don't know what an industrial area or district is, because we don't have any, I don't think, in my area. Is it a legal determination or an ordinance passed, or what is it?

<u>Mr. Jenkins</u> As I understand it, we are talking about a legal special district, in effect, which has been created pursuant to the constitutional laws of the state.

Mr. Arnette Well, in other words, if there has not been a district set up for a particular industry, or something like this, then they could incorporate that industry in a town?

Mr. Jenkins Well normally, they could incorporate anything which would be contiguous within certain defined limitations that the courts have laid down. Now, if it's not contiguous and things like that, it couldn't; but, no, we don't have any other protection for it, I don't think. Perhaps we need some.

Mr. Aractic The reason I was wondering, Woody, Decuise In some sections of the state they have say an oil refinery, or something like this that's sind of out in the country, and they've got a few little houses around it like that, but they don't have an industrial district. They could take in that oil refinery in their little village if they wonted to, is that correct?

<u>Mr. Jenkins</u> Well, this wouldn't grant anymore authority than they have now to do that, Greg. They already have that authority if they meet certain statutory requirements. This doesn't change that at all except in home rule parishes; it really puts home rule parishes on par with all of the other parishes.

Mr. Alexander Delegate Jenkins, under the terms of this amendment, do you mean that an industrial installation may be immune from the regular rules, regulations of a municipality that may be created under this section?

<u>Mr. Jenkins</u> Only to the extent that they are <u>authorized</u> to be immune, for example, under Section 21 of the committee's proposal, the legislature is given the authority to authorize parishes to create industrial areas. Now, if we're going to attract industry into the state, you see, we must, we've, at least we mee in the prostate they don't have to be included in municipalities such as this. We're as what we've had in East Baton Rouge Parish.

Mr. J. Jackson Mr. Jenkins, under the state stat-

ute for incorporations, are industrial district --I m just trying to get se if ration-are in-dustria districts exempt as your amend ent is pr posing? Maybe your response to that c i di ar 'y what's existing under the present statutes about incorporations of industrial dist its

Mr. Jenkins Johnny, frankly, l'minit sure abuut the existing statute on incorporation. I an ent tell you about the existing constitution which as I understand, it does not protect them But, in numerous home rule charters such as East Baton tions the selves.

<u>Mr. canning</u> Thenk you. Ludies and gentlemen of <u>The conventions</u>, it's not often 111 come to this <u>The conventions</u>, at's not often 111 come to this the Jenkins, De Blieux amendment. In doing this, 1 think things have been brought out already which shows to you some preferred treatment for industry to get them to locate, to give local people jobs, and to make them not subject to certain taxation. and to make them not subject to certain takaion such as municipal taxation-give them a tax break to give our people jobs. The point that I would like to make that I don't think people here fully realize. Think if you will of the closest heavy industry close to you. What if a municipality had to undertake the maintenance of those streets, the-cipal services which they would be entitled to were they in a municipality? Think very strongly on that. I think you would...I know that the city of Batom Rouge, or any other municipality who might would want to incorporate. Excon, Kaiser, Ethyl corporation, what have you, the major heavy indus-tries around here--I certainly don't feel that these municipalities would want to undertake these basis municipal services to this industry just for areas. Again, I would like to urge you to support the Jenkis' mendment. One other thought. Parshes which create industrial districts, if they're au-horized by the legislature to float certain tas free municipal services to mis the land and leases it to a private enterprise. In doing so its is inclustricts generally make payments in like of the service the arrangement that is made. I has the heat with the enterprise. In doing so its is inclustricts generally make payments in like of that is wand to keep with the entiting industry that has logisted in an area and provide jobs for people.

Mrs. Warren Mr. Cannin, I ve been hearing even since I've been here that we don't want to freeze things into the constitution Now, in the event the constitutional amendment, the have to do it by a constitutional amendment, the thing that we are trying to avoid? Why suidh't it be first so we could change it without a con-stitutional amendment if you wanted to change it

Mr. annon. This has to do with existing, as 1 nder tand, a property previously in luded in as industrial area or district this mean that there have been ertain omina tural obligations entered

Mr warren Lurderstand that But, Liean, indefinite frever and even one. In a what' trying to find out. It' existing now but dies t have to exist until the end of type.

Mr. ann n Int far as a run laity annexing this unfinal ted area it a run party

Mrs. - Warren

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Mr. alon te, a a "ney in have, t takes but, what I's have on the state and the state of the state of the state arrange entwich an in uit to the state of the even promotion that even that the trill where public born have even finise to the due an induity to be share the state the due and multy to are state the state of this state even due to all the state the the state even due or even the state the state state even due or even the state the state state even due or even the state the the state even due or even the state the state state

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you addressed yourself yesterday to fire protection, and certainly I'm sure that there are times that the fire department enswers calls inside of industial Baton Rouge fire truck over in my area, and I'm thankful for that. I've seen the West Baton Rouge fire truck going to East Baton Rouge, and vice versa in many parishes. Now, we can't address ourselves to that. I think that ninety percent of the time industry takes care of their own fire fighting. If there is a large fire, I think that all of the fire trucks around will answer, and lagree that they should. The only thing I can say to you is--just laster of the town of the takes that are assessed on a parishwide basis, and a far as I know in East Baton Rouge for instance, there are eleven mills for run the school bach, there's another eleven mills for maintenance and operation of the school back, five mills for building for capital inprovement, there's thirteen mills for debt retiredustry in this area is paying their millage I f it's on a parishwide basis, and I defy ayoner to syse of a valorem taxes on a parishwide basis. I see of a valorem taxes on a parishwide basis. I see of ad valorem taxes on a parishwide basis. I see in a municipal igy when they get no benefits from that municipal government.

### Questions

Mr. Slay Mr. Lowe, I believe we're confusing a Tittle bit, parishwide taxes and municipal taxes in your statement, haven't we? Would you say then that industry should not pay municipal taxes and that they don't get any benefits for running their trucks up and down the streets of that town, and their employees using the library? Is that what you're trying to tell us?

Mr.Lowe Well, Mr. Slay, I doubt seriously if they get anymore benefits for running their trucks up and down the street than does the fast Baton Rouge truck that would go to another parish. If we're talking about a West Baton Rouge industry we don't try to assess the trucks that come from outside the parish that run on those streets. It just doesn't make sense to try to put a tax at the incident of that particular occurrence.

<u>Mr. Slay</u> We're not speaking about a tax on the truck, we're speaking about supporting the municipality. Go ahead.

Mr. Lowe We're talking about using the streets, and I think that...

## Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen. I would like to reason with you for just a very few minutes on this particular amendment. I think that the vote that was indicated yesterday on the amendment by Mr. Hayes to reduce the requirements from two-thinds to a majority indicated that this convention was greatly in favor of the provision that areas such as Socilandville and located in East Baton Rouge Parish, because I speak about that even though it applies to other areas, should have some relief. We, most of us here in East Baton Rouge Parish, I believe, recognize that fact. Let me tell you this, the particular section, Section II, applies only to parishes who have how rene factores, II does not apply to any other nea. It howarters, II does not apply to any other nea. In addition to that, the particular time this area. In addition to that, the particular mendment applies only to industrial areas previously included in home rule charter provisions. It does not apply to any area not included. Now so, therefore, 1 put this to you, if we're going to have this particular section so that we can give some relief to people that

have been excluded from having proper municipal services and so forth because of being located outside of city limits such as the Scotlandville area, we must give standing to the industrial areas that have been excluded. Now, let me say this with reference to the question that was raised by Mr. Slay. The industrial areas in our parish pays the parish taxes, and they pay a pretty good hunk of parish taxes. I would say that the services as you well know of any municipality or area such as that, the great cost are for police, garbage collection, and fire protection. They maintain those services in those industrial areas and that is the reason when the me the deception from puricipal taxes. So therefore, it's proper that we keep our contract with them as long as they provide those services that the parish and the city of Baton Rouge will not need to provide those services for them. I don't believe we can pass this particular section without this amendment, and therefore, I ask you in all good conscience of contract, morality, and everything, let's adopt this amendment.

### Questions

Mr. E.J. Landry Mr. De Blieux, I wish the members of this convention would listen to Mr. DeBlieux's answer. I need to know this answer because I'm faced with future problems having to do with Section II, and members of this convention, you need to know this answer, please. Mr. De Blieux, Sections I, as the partish that we are talking about I'm moving into an area, or into a situation that will require your answer. Does this not apply to future parishes such as mime that will incorporate and need the substance of this paragraph? This does not only apply to Baton Rouge, is that right?

Pr. De Blieux Mr. Landry, if the parish in which gou live should adopt a home rule charter provision, and if it had industrial areas which were excluded from municipal areas then this particular provision would apply. If you had an area outside of a municipality that wanted to incorporate, and if they were adjacent to an industrial area, yes. But, at the present lime it does not apply to, that is the tigular amendment is adopted under the present is at tigular amendment is adopted under the present home rule charter.

Mr. E.J. Landry But haven't we made it sound as though it applied only to Baton Rouge? I mean, there are a lot of us who are looking forward to living under the provisions of this Section II.

<u>Nr. De Blieux</u> Well, that's what I say. For instance, it would apply to an area like the vondale that might be in an industrial area. It could apply to Jefferson Parish, it could apply to St. Bernard Parish, it could apply to Orleans Parish, it could apply to East Baton Rouge Parish, and any other parish that would adopt a home rule charter.

### Further Discussion

Mr. Boemer Mr. Chairman, and fellow delegates, I Tise to oppose this amendment. I felt the amendment was out of order giving the action yesterday directly contrary to this on the same idea, that is the rights and likes of a newly incorporated area as to what area it takes in, and to the taxing province therein. Nor sometime, that is the overall problem of industrial exemptions, industrial areas and districts. I have to oppose this particular amendment for several under the guise of protecting the presently existing diustrial exemptions, industrial areas. Well, it does a lot more than that; read the amendment. It says 'no municipality incorporated under this Section industrial area district.'' Property doesn't have to be in an industrial area new, just so long it was

54th Days Proceedings—September 20, 1973 reversions, and the an ensite area for ex-area ten version of have been in an insisted area ten version of six years, and fur year age tight as in the industrial area, is not increased in the industrial area of the uncer this aread-ent it will be in invariated uncer the version of the industrial area now. This the amendment is pury written from that standpoint. Second of all, what is an industrial area or district? It hanges from place to place and for the to time. I this this aread ent is far too broad when it upsthas industria area for this areaded and the third reasen i'm opposed to this areaded, they area that wanted to be in an entity of the third rease in the opposed to this areaded, they area that wanted to be incompared, they area that wanted to be this areduet, it has no the frame in it. for example, we ould have an area that wanted to be innormated, they are that, they begin to circu-late a petition and call for an election; an elec-tion to be sixty to ninety days, hence. In that mannies can de ide, heck we don't want to be included in the we we not in want to be include in a new area so we're going to go out and form an industrial area or industrial district so they can't incorporate us; and because there is no time fra e involved here they can do that in the sixty days on hever long it takes. They're not included in the election and all of a sudden they cereficity days on hever long it takes. They're not included in the election and all of a sudden they cerefic from any cases therein. I'm also is it's highly discriminatory. It gives protection to big bus ines and big industry-mo protect on what-soever to the homeowner. What about this guy that built this incorporate now, and all of a sudden he's incorporate of in a city, doesn't want to pay city takes, 0.K.? I hen her omes along and this area wants to incorporate now, and all of a sudden he's incorporate in a city, and hen as to pay city takes. This memsent doesn't help it as pair the heat of the heat of the heat of pair they can be the heat the heat of the sincer house the heat of heat of the sincer house the heat of heat of the sincer house the heat of heat of the sincer heat the heat of the heat of the heat of heat of the heat of heat of heat of heat of the sincer heat the heat of the heat of heat of heat of heat of the heat of heat of heat of heat of the heat of heat of heat of heat of the heat of heat of heat of heat of the heat of heat of heat of heat of the heat of heat of heat of heat of heat of the heat of heat of heat of heat of heat of the heat of heat of heat of heat of heat of heat of the heat of the heat of the heat of heat of heat of heat of heat of the heat of heat of heat of heat of heat adjust the status of a Lidy, and the has to all. Tou know who it heips? It helps by business, helps industry, doesn't help the ho eowner or any other industry, doesn't help the ho eowner or any other industry, doesn't help the ho eowner or any other industry, doesn't help the ho eowner or any has to take his chances. Well, what dees bi busin-ness do? Due it has the take it chances? No, it's totally exempt under this amendment. Now, it's totally exempt under this amendment. Now, net, that has P.8 firms, bug business that the source that has P.8 firms, bug business that the source industry and a source the second about the inst ten year industrial guarantees tax elempt in the inst ten year industrial guarantees tax elempt in the inst ten year industrial guarantees tax into this sec-fon big business. Favoritis that they don't med. This hout any mention whatsoever to favorit in big business. Favoritis that they don't med. who ight med a little help, or the prior yeaver who ight med a little help, or the prior party owner who ight med a the second source big business Bi business. Favoritis the business Bi business. Favoritis this weat in the towner who ight med a second source big business. Bi business. Favoritis the hor how the second of the doesn't even need it. this weat is the doesn't even need it.

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Amendment

Mr. Poynter Amendment No. 1 [by Mr. Chatelain], on page 6, delete lines 16 through 25, both inclu-sive in their entirety, and delete all amendments adopted thereto, and insert in lieu thereof the

abuption of the section of the secti charter or a home rule plan of government, may be incorporated when a majority of the electors of said settlement, as certified by the parish regis trar of voters, sign and present to the governor a petition and meet other necessary requirements as set forth under the necessary requirements as set forth under the general laws providing for the incorporation of cities, towns, and villages. However, no such neekly incorporated area shall in-clude any property previously included in any in-dustrial area or district.

### Explanation

Mr. Chatelain Mr. Chairman and fellow delegates, for two days now we have been discussing a problem that exists in one or two parishes that have home that exists in one or two parishes that have nome rule. There are only three parishes, to my know-ledge, that now enjoy the great privileges of home rule. One of them that has caused us many hours of agony, and many hours of problems, is East Baton Rouge Parish. For eight months, now, we have been wrestling on the committee with this problem. There is true, in fact, a problem here in East Baton Rouge Parish. It is a problem where certain sections of people

It is a problem where certain sections of people are out to themselves and have a complete...Right or wrong, I'm not here to discuss that, but there is a problem. My amendment simply does this. It requires that a minimum of five thousand people, in requires that a minimum of five thousand proper, in any one of the home rule parishes, that want to incorporate may do so, provided fifty percent of the electors in that minimum of five thousand people want to be incorporated. I think without this minimal number, you are going to have problems through-out this state. I think this will preclude a lot of little areas, little sections of this state, of little areas, little sections of this state, trying to incorporate around some industry or some area that could cause many problems. If you will read my amendment carefully, it states emphatically that only those sections, or those industries that were existing at a time of this attempted incorpora-

This count, not the ones provide U.Y. like was stated this morning, maybe five or ten or fifteen years earlier-only at the time of incorporation. Let me say one thing about industry. That's the reason why I feel that it's important to have this jest paragraph as was recommended by the committee. The governors of this state, the present and others, have gone throughout the world searching for indus-They have wooed the industries into our state. try. They have wooed the industries face so far A lot of small communities have even gone so far built to be the source of the s as to float bond issues to bring these...to build as to that bound issues to bring these...to build buildings for these industries to come into the various parishes of this state. I think it would be a disservice to those industries to leave the doors open where you could come in with less than five thousand people and incorporate them into an a, ea.

I think this is a fair amendment. I think it will solve the problems that exist here in this parish and other parishes for now and the future urge you to support this amendment, and I feel his is a fair way to compromise this problem. Thank you.

### Questions

Mr. Bogener. Mr. Chatelain, your provision in this amendment, the same one that we've discussed for a number of times now: that is, in regard...industrial areas and districts. Are you trying to have that affect only industrial areas existing at the time of the incorporation? Is that right?

### Mr. Chatelaín Right.

Mr. Roemer Well, it doesn't say that. It just

says "any previously so endowed land."

Mr. Chatelain Well, that was, Mr. Roemer, very well debated when Mr. Woody Jenkins' amendment was discussed this morning.

<u>Mr. Roemer</u> Well, what was the disposition of this convention toward that particular article when we debated it so long, Mr. Chatelain? Didn't we de-feat it overwhelmingly?

Mr. Chatelain Mr. Roemer, you have one of two op-tions available at this moment: Either vote for or against it, sir.

Mr. Duval Mr. Chatelain, I was wondering, are you familiar with the present statutes on the books which require a certain number of inhabitants?

Mr. Chatelain Yes, sir.

Mr. Duval And what do those statutes provide?

Mr. Chatelain A village can be incorporated with as minimal as one hundred and fifty souls.

Is that what the present statute pro-Mr. Du vides? Duva1

Mr. Chatelain That's the present statute, yes, sir--one hundred and fifty minimal.

Mr. Duval And is there any restrictions as to the amount of area required for incorporation?

No, sir. No area. That's one of Chatelain the fears that I have. Thank you. I urge the adoption of this amendment.

Mr. Stinson Mr. Chatelain, you have used the Trigure, five thousand, but you don't use any area. Don't you think you are really discriminating against those that might be compactly two thousand in a much smaller area than even five thousand would be under yours?

<u>Mr. Chatelain</u> Well, again, Mr. Stinson, this is what we came up with...we started off with twenty thousand. We discussed the possibility of areas, but you are creating a lot of other problems. In many ways, there are many delegates who believe this don't even belong in the constitution, and what we are trying to do is make a compromise. Yn have an option to vote for or against it, sir. You

Mr. Stinson Thank you. I'll vote against it.

### Amendment

Mr. Poynter Dr. Weiss sends up amendments. Amendment No. 1, on page 6, delete lines 14 through 25, both inclusive in their entirety, and delete all floor amendments thereto and insert in lieu threeof the following: "Section 11. Home Rule Parish: Incorporation of Cities, Towns and Villages; Alteration of Bound-

Section 11. When one-half the electors, as cer-Section 11. When one-half the electors, as cer-tified by the registrar of voters in any parish operating under a home rule charter or a home rule plan of government, sign and present to the governor a petition and meet other necessary requirements as set forth under the general laws providing for the incorporation of cities, towns, and villages, an unincorporated settlement may be incorporated, and unincorporated settlement may be incorporated, and unincorporated settlementres."

Mr. Weiss Fellow delegates. We are speaking here of one particular item, namely, home rule parishes.

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It is the state of the fact that we have all states in a revious so in , define the state of states in a revious so in , define the state of states and the ny a step to to clarify the states and the state state states and the state state state states and the state st

h eru e There are three factors in this areminent which are wirthy of note. The first is the fact that this nie erule parish and ert intend it have ne-naif if the electors, which would be the major-y, it at the ugh a arter, request that the harter be initiated for this hime rule parish or be changed. Now this is only fail if a parish nas a harter, it seems perfectly obvious that the aparity if the people shild with this. If the emitty of the people favor a change, then a hange would be ordered by a vote.

The set of the people favor a change, then a sharp would be ordered by a vote. The set of faitor is that there are apparently me inquities in fast Baton Rouge Parish which need ad ustment: namely, that there are unin or-binated areas which are not receiving their fair where, apparently. This would be, as the last incorporated, or the incorporated cities may alter their boundaries. This is a fully still amend ent this is an amendment for those home rule arishes that want L change their fin of given ent within reason am by a voting a rity. I thin this is are than a septonise, but a ensible aparach behaves they have been invited in some interesting atters concerning ergency med cal are. It is uite intere ting that in pite of all the proble that fast Baton Puge delegates and ther have related. I dud that fast Bata Mgel 1 in a nen-

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Mr Weiss it es. it at the set tat in the area of the set tat in the area of tat in the set tat is a set tat in the set tat in the set tat in the set tat in the set tat is a set tat in the set tat in the set tat in the set tat in the set tat is a set tat in the set tat in the set tat in the set tat is a set tat in the set tat in the set tat in the set tat is a set tat is a set tat in the set tat in the set tat in the set tat is a set tat is a set tat in the set tat in the set tat is a set tat is a set tat in the set tat in the set tat in the set tat is a set tat in the set tat in the set tat in the set tat in the set tat is a set tat in the set

about half of the electors of the parish. Under present states itaules, it only takes fifty percent, plus one of the affected areas. That is the distinction between this. I want to say this again about the constitution and this convention. We have constitutionalized certain charters. When we have that prerogative of constitutionalizing, we do have the right and responsibility for making we by the tright and responsibility for making the use in discussion are necessary. As been brought out in discussion are necessary. Is been brought and have the right and responsibility for making about and the same responsibility that are talking about any the people in that unincorporated settlement having the right to determine whether they want to be incorporated or not. The same right, the same responsibility that's given to every parish throughout this state with the and any right of the distate with the basically happening is what some of the proponents of home rule are saying. You are having a whole parish deciding on what people in an unincorporated area, whether they want to be nearboard area, whether and the one properts or not. That's the same argument about Lafayette voting on New Orleans and New Orleans voting on some placet in Gameron or

argument about Lafayette voting on New Orleans and New Orleans voting on some place in Cameron. If we are going to constitutionalize some of these charters, I think we ought to provide mechanism in this constitution that when charters become or ought o orfer citians of unincorporated area, whether it be Scotlandville, Central, Broks Greek up in Shreveport, that right to incorporate, I don't see where this amendment is any compromise. I think what it does, it just puts us back where we began. I think we've hassled this problem very heartily on yesterday, and I would sincerely ask that you vote against this amendment because there is a distinction. The distinction is that everywhere throughout the state, it only takes the people in the affected area to be concerned to offer the petition...not the whole parish. If we adopt this in swe have tried to everyens it to this convention. I would ask that you vote against this amendment and support what this convention, in its wisdom has, has gotten, you know as a result of the actions on

### Further Discussion

Mr. Hayes. Mr. Chairman, ladies and gentlemen of The convention, I rise in opposition to the proposed amendment simply because it does something different from the way that every city was incorporated in the State of Louisiana that required a majority of the people voting in the entire parish to incorporate. Why would we want to impose something different on the cities now than what we have had in all the statutes required in the State of a provide the state serve in the state of the state of incorporate. The volume was the same thing different on the cities now than what we have had in all the statutes required in the State of a ple who wanted to incorporate, to present a petition to the governor and then incorporate? Dr. Weiss's amendment simply says that all the people in the entire parish-you take a parish like East Baton Rouge, for example, with about ten districts in it, with thirty-five thousand people; you say you are going to have nine districts going to decide what one district is going to do; nine districts can say. Can't you see you almost have the entire state adainst you?

The people in the sixty-third district--1 have the record votes here with me today, voted to have a city. The people in Baton Rouge voted against it. (hey couldn't care less. The mayor of Baker here yesterday, who is in the city just above Scotlandville that you have mentioned here today, he votes while he runs his city in Baker. Can you understand that? Mr. Kean opposes the people in Scotland ville while he lives in the city of Baton Rouge. Can you understand that? understand these things, while they say, "Let everybody else stay in another city and vote whether the people out in the rural area pick up the garbage off the street," or what have you.

I rise in opposition to this amendment.

[Previous Question ordered.]

### Closing

Mr. Weiss Fellow delegates, in summary, 1'd like to point out that there are constitutional harters to point out that there are constitutional harters for balance of the second of the state of the entry, one of these, tast Baton Rouge, has a major problem of its own concern. Naturally, if there are any inequities, we would like in this constitution to provide some means to adjust these inequities. I might point out, however, that these inequities were created by the people of East Baton Rouge and the site legislature, not by dita cocept one of the amendments, and I imagine the 1940-someodd, that the people of the State of Louisiana voted on this as they did some other seven hundred amendments and accepted with the responsibility of the problems in East Baton Rouge Parish. However, as legislators have said at this podium, they do not deny these people within an area arything reasonable. Rouge Parish percented on the remaining people of East Baton Rouge Parish certain inequities, according to what has been presented to us here today. This problem, of course, we would like to adjust that. In other words, this amendment allows the parish with a call vote of one-laff of the afformorated areas that need to be adjusted. It's a futuristic amendment. I recommend is acceptance, and I do not think tha athere are inequities in a legislative act, people within Baton Rouge Hemselves, and then forced it upon the people of Lou-Isian in the form of some seven hundred amendment a legislative act, people within Baton Rouge themselves, and then forced it upon the people of Lou-Isian in the form of some seven hundred amendmental of court think that there are inequities in a legislative act, people within Baton Rouge themselves, and then forced it upon the people of Lou-Isiana in the form of some seven hundred amendmental of her very litte about. I suggest that this is a constitutional method of fairly creating home rule

### Questions

Mr. <u>Alexander</u> Dr. Weiss, are you aware of the fact that your amendment would negate the effects of Section 11 altogether, the aim and the objects of the section? Are you aware of that fact?

Mr. Weiss Negate which section, sir?

Mr. Alexander Section 11.

Mr. Weiss It's an amendment to Section 7, Reverend ...Delegate Alexander.

Mr. Alexander Yes. But do you realize that it would be impossible ever, under any condition, for a new city or town to be formed out of a parish or some other incorporated subdivision?

Mr. <u>Weiss</u> No. This amendment allows clearly for that...for those unincorporated settlements may be incorporated according to the last two lines of this amendment.

Mr. Alexander Dr. Weiss, are you aware of the fact that if you are asking, if you had to obtain my permission to sue me, that you would never get that permission, and you would never sue me? Are you aware of that fact?

Mr. Weiss I think I have the right to sue as the present Bill of Rights calls for. But people do not have the right to create municipalities without

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Mr. Perez well, l d ask y a all t lead y or amend enc, because l really diff t the t lead y or any sense at all

Mr. Gua-isc. Well, I would texactly to

Hr. Toing Mr. Guartsto, dues your an ent say anything different than what we all ted s which reads. The legislature shall not viety general law for the inner ration merger, and givern ent of unitivalitie!

Mr. Juariss It says a it different from the in the fact that to produce the same for given ent from prohibits in more that to a place who completes with the general law

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# 54th Days Proceedings-September 26, 1973 Further Discussion

Mr. J. Jackson I'll be very brief, ladies and gentlemen. We've talked it over with that segment of the East Baton Rouge delegation that has some problems with the industrial district. We believe that this amendment for those who are in favor of going to the industrial districts are those who opposed that. That would be a matter of decision by the legislature in terms of its enactment of an incorporation. We believe that this is the type of compromise that attempts to satisfy a majority of the convention, and we ask your support of it.

### Further Discussion

Mr. Perez Mr. Chairman, and ladies and gentlemen of the convention, one of the main and primary rea-sons for an area to go into a home rule form of government is to provide for more efficient home rule or local government. In most cases the aim is to attempt and try to consolidate all of these small areas, all of these various districts, sever-age districts, water districts, etc., and to put all of that under a more efficient and effective local home rule form of government. He would be making a big mistake rule shows in a position where after such home rule themselves in a position adopted, the major objective of consolidation would be destroyed through the fracturing or cuting-up of one home rule charter area into several smaller of one home rule charter area into several smaller areas. So, I say to you again, this is basically a bad provision and that you should not require people in their own interest when they have a deter-mination as to what they want to do in their own area..you should not require them to have such a provision which would make it possible for the fracturing or the dividing-up of home rule areas. I would, also, call your attention again, please read the ageneer "Mostrish plan of government or home rule charter shall prohibit the incorporation of cities, towns or villages as provided by general law." I really do not know what it means. I urge you to defeat the amendment. you to defeat the amendment.

### Ouestions

<u>Mr. J. Jackson</u> Mr. Perez, under Section 5, I think we use the same language when we talk about incor-poration, merger or consolidation. Now, how do you say that by general law we can do it under Section 5, but when we use similar language which has the same intent, we can't do it under 11?

Section 5 strictly deals with legislative charters, that is the authorization for the legislature to create legislative charters and has nothing to do with constitutionally created has moothing to do with constitutionary treated home rule charters. They are two different things altogether, and once the people of an area adopt a home rule charter under the constitution we should not tell them how they should run their business with respect to dividing that area into several smaller areas.

Mr. Winchester Mr. Perez, in the event that St. Mary Parish adopted a home rule charter and the five municipal towns in there..then later on, after five or ten years operating under home rule charter one of the localities wanted to incorporate, what would be the disadvantages of allowing that?

Mr. Perez Well, I don't say there would be any disadvantages but the...what should be done is when the home rule charter is adopted and voted upon by the people if that is a possibility in the future that home rule charter could so provide If the peo-ple wanted to provide that. In other words, there room having which would prohin two yhome rule charter from having the constitution prohibit the people on a local basis from doing what they would want to do, but if in St. Mary you want to provide for those

municipalities at a later time, you've got the per-fect right to do it if you adopt a home rule char-ter, through that home rule charter itself.

Mr. Hayes Mr. Chairman and delegates to the con-vention, I rise in support of the amendment as a compromise. We've tried all day to try to make everybody as happy as we could on Section 11, and it looks like the only amendment that we have come up with that looks like it cuts cross and helps wearbuddy use the prohement it have not be the werybody get the problems...it happens to be the one that Mr. Guarisco came up with and I fully en-dorse it. One of the things that we want here in East Baton Rouge Parish and I have found it in my area meeting and I put a copy of it on everybody's desk is that we did not want to be treated any different from anybody else in the state. So, I fully endorse the amendment Mr. Guarisco has.

### Further Discussion

Mr. Chairman and members of this dele-<u>Mr. Haynes</u> Mr. Chairman and members of this dele-gation, I remember quite many years ago the great Wendell Willkie wrote a book and gave this book the title One World. It was a few years after his pass-ing that I heard his son, Phillip Willkie, addressing that ] heard his son, Phillip Willkie, address-ing a distinguished delegation and he gave the title of his address. "One World or No World." I can feel us working here in this constitution in order that we might have one state, and I would one that the no state or no parish at all. I've seen Louisiana for a great many years and sometimes now. I think I see the dry bones of yesteryears enshrouding and walking around in this convention, and I resent any effort on the part of any delegate to this conven-tion to stifle the efforts of any proble the tity and that they might have the puryist of hapiness The base life and that they might have liberty and that they might have the pursit of happiness that are guarantees of this great nation of ours. We want this resolution passed and I rise to Support the resolution because we want self-determination and we believe people are entitled to ditermina-tion. I thought about a few years ago when we had a distinguished dignitary to come to Baton Rouge, the embarrassed and the parade had to rush through in order that they might not see the blights and blemishes of discrimination of past years. I be-lieve one of the main entrances. ..Highway 61...and when Ole Miss comes down here to play L.S.U. now and they have journeyed forth back to Dle Miss, roming into our city think about our city, and the first impression is usually a lasting impression. Somebody has been serving us from 16 to 20 years, and said that we didn't have the tax base. We are in your to nor acity thick about cambling. Louisi-ana being end and incorporated Grambling, Louisi-ana base ender you for grant for about 15. Northol that we didn't have the tax base. We are ing and as I understand it with our distinguished mayor who has been serving us from 16 to 20 years, and said that we didn't have the tax base. We are ing one has been forwood of Grambling, Louisi-ana home rule and incorporated Grambling, Louisi-na home rule and incorporated Grambling, Louisi-ana home rule and incorporated Grambling. Louisi-ana home and that they might have the pursuit of happiness of this generation, writing a constitution for the 20th century would revert to 1921 and even back beyond that date, and that we might dive to the people of this state, whether those people be black or white, the thinos that are justly due those people. I ask you to pass this amendment.

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- Intur lebt payable from ad valore tax receipts maturing more than 4 years from the time that it is in urred. To fine and provide for the purishment of

Mr. Lanier Mr. Chairman, fellow de egates, we sense since of these matters in the discussion of tions 7, 8 and 9, which we've previously adopted. Hese are general limitations to be lated on oral governmental subdivisions. The first one with the prohibition against the incur-ong debt payable from ad valorem tax receipts aturing more than 40 years is the present consti-ution. The prohibition against the deficience and aturing more than 40 years is the present consti-lution. The proh bition against the defining and rowiding for the punishment of a felony is stan-bard in this type of an approach, and the prohibi-tion against the enactment of private or civil or-lanaces governing civil relationships is intended to preempt from local government the power to pass on such things as might be contained in the civil ode, the voltants compensation law, the trust de, the corporation law and things of this type. Think this is a standard type of provision where are any suestion. I'll be happy to try and answer them.

Mr. Doynter Amend ent to 1, by Mr. 0 Netll, on rage 6, at the end of line 1, hange the period to or 1 es of private goad to rervise so there han the est of public util tims or clement carriers sub-ent to their regulations. A end ent No. 2, on page 5, at the end of line hange the period to a er cole and add the reliance of 5. Engage in who esale r retail rade or aufait the reterrise.

Mr. 0 Neill udir and geitle en of he inven-'..., have not wiken in any retiring this has a very entrifier in the state of the second second second second second second second second the second second second second second second second the second second second second second second second the second second second second second second second second the second second

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your question correctly, and would be proper under this section.

Mr. <u>De Blieux</u> Whether they only give their local government the right to..to organize those industrial plants, sites and a...through bond issues, that's a...I'm just wondering in view of that if they...if it could be considered that the local governing body is engaged in manufacturing enterprises.

Mr. <u>O'Neill</u> No, Senator De Blieux I don't think so...and that's not what it's intended to do.

Mr. Dennery Delegate O'Neill, I'm referring now to your second amendment. Is it not correct that there are in Louisiana a number of private organizations...private corporations engaged in water supply business?

Mr. O'Neill I'm not familiar with them, Mr. Dennery.

<u>Mr. Dennery</u> Is it not a fact that there are a number of private corporations in Louisiana engaged in the disposal and sale of products from garbage?

Mr. <u>O'Neill</u> I'm not familiar with those either, Mr. Dennery.

<u>Mr. Dennery</u> Is it not a fact that there are a number of private corporations in Louisiana engaged in the sale of electrical power?

Mr. O'Neill Mr. Dennery I think all of these that you refer to are public utilities, to be perfectly honest with you.

<u>Mr. Dennery</u> As 1 understand it however, sir, on your second amendment you do not refer to "public utilities". You merely prohibit a "municipality or parish from engaging in wholesale or retail trade on manufacturing enterprises". Is that not correct, sir?

Mr. <u>O'Neill</u> Yes, sir and 1 purposely excluded "public utilities", which I...

Mr. Dennery But you did not exclude "public utilities" Mr. O'Neill, that's the question I asked you. It does not exclude them, does it?

Mr. O'Neill Where does it include them?

<u>Mr. Dennery</u> 1t prohibits a "municipality or parish" as [understand your amendment, "from engaging in wholesale or retail trade or manicaturing enterprises". It says absolutely mothing about "public understand" of a semistic of a parish or the orby proable tigs" and the reside of any...any resources recovered from that garbage by a municipality or a parish, the purchase and resale of electricity, or even the manufacturing of electricity or a municipality or a parish". Now I don't know that you intended to do that, but do you not agree that your amendment would prohibit this?

Mr. D'Neill Mr. Dennery, it's not intended too, and I don't honestly think that it does.

<u>Mr. Casey</u> Mr. O'Neill, don't you think that we would be taking an awfully serious chance, and risk by including something like this in the constitution, that rightfully belongs and should be contained in statutes, because we don't know what the full affect of amendments of this type are going to be?

<u>Mr. O'Neill</u> Well, Mr. Casey we don't know what the full affect of the entire Local Government article will be, and so I don't think that it matters that we're going to put absolute prohibitions against them like these. And, it's my intention to put an absolute prohibition and to allow no flexibility in these areas.

<u>Mr. Casey</u> But, do you not agree that Mr. Dennery makes some very valid points, and that these particularly paragraph...subparagraph 5 could be affecting "public utilities" because "public utilities" are not specifically excluded from paragraph 5?

Mr. O'Neill Would it satisfy you to exclude "public utilities"?

<u>Mr. Casey</u> I would be against the amendment under any circumstances, Mr. D'Neill. It would be better than it is now, if you excluded "public utilities", however.

<u>Mr. Duval</u> Mr. O'Neill, would this prevent a municipality like the City of Houma from selling gas?

Mr. O'Neill Is that a public utility, Mr. Duval?

Mr. Duval Is what a public utility, "the City of Houma"?

Mr. D'Neill Gas.

Mr. Duval Gas, is not a "public utility". No.

Mr. O'Neill Is that a product...

Mr. Duval It is a substance composed of...

Mr. O'Neill ... "public utility"

<u>Mr. Duval</u> No, sir. It's something that comes from a <u>oil</u> company, drilling under the ground. And they sell it. To private individuals. Now would this prevent this...

### Further Discussion

Mr. Stovall Mr. Chairman, members of the delegation, it seems to me that in the Bill or Rights Article we had provision there dealing with Freedom of Commerce, that section was eliminated, and it seems to me this is an effort to bring back this issue before us, we have already dealt with it and, therefore, I move the previous question.

[Motion for Previous Question rejected: 35-67.]

### urther Discussion

Mr. Casey Mr. Chairman, and delegates I'll be very, very brief. This doesn't belong in the constitution. It's as simple as that. Why tie our hands in the constitution when we don't have to, when the legislature by general law, at a later date can come back and say the very same thing, and possible do it in a very eloquent manner, whereby proper study may be done incent this time if we adopt it what we're really locking into the constitution? We have to stay flexible. We have to give proper study us something like this and if the legislature wishes to take two years in deliberating on matters of this type, and then doit in a...in a...in a manner whereby we have given very much thought to it, and research, and then adopt in strenged this type, fine. But the legislature can do it, we don't have to do it in the constitution. I strenously urge you to reject both amendments, or even the first amendment if that's the only one that we vote on. I might point out, also, under the scontance does its own street repiring on many occasions that I understand had its plant...for blacktopping and asphalt, and that would be prohibited under this constitutional amendment. Just reject both of them. This doesn't

### Further Discussion

Mr. Cannon Again I rise in opposition because I've been on a committee studying ports, special districts

transformation, what have you. The whole we be the sty of New - can fr fix i error for the airport, and it is the what fage fees for the doch, etc. I would vight void rous you not set to be the start of the s

Mr. Neili mental subdivisions from fixing private good and services. They would have you believe we don't need any pry-hibitons against local government. I'm surprised we have the three that we have in here now. Sur-gest that we do have to begin limiting the power which we have given local governments. I also sur-gest to you the people who oppose this amendment favor price-fixing on the local level for private goods and services. We're in a battle right now the twe structure premiss. These are the types of things that I think the city should not be involved in. If prices are going to be set, the legislature should do it, and I think that s the proper place of being. Bon't confuse public uti-tities with private enterprises.

Mr. Soynter Amendment No. 1... Now, this i the lasy Amendment. The instruc-tives have been hanged so as to affeit the plaing of the language in a onewhat different spit. It shou diread 'On page 6, line 0, immediate'y after the number and punctuation 13 insert the follow or "except as ray be privided by law." Again that clave is to be added in finit f itemized lause No. 3, instead of after it as the a endment was originally drawn.

Eplantin

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Mr "ennis Mr aley, aren' you 's ening the filthe ad to filthe and die star relation aws, the lift is e which if sure all full agree of be to t throughout the state

Mr. Dennis Well, that as unle tar what une saying, if we adopt that in the legative sufficient of that would mean that the equative sufficient of a local and opecial distress to a transform but cruid this, if yur a en error as ter, be read as an exception to that the transmoment rule harter, la lovernet division fauthor thor red by the legislature, in each error thus twe?

Mr. isse indice end i i t un that i i i wild hope when this we can be a sub-with estimation of the end attern that is a mode that that would be annulated. It is a understand what i a try in t provide the sub-pacely in the areas of local networks in the sub-pacely in the areas of local networks in the sub-base of the problem that are not sub-tern of the sub-sub-tern of the sub-tern of the sub-sub-tern of the sub-tern of the sub-tern

Butther financial in An inter Nr instance at felles intertes, Different entry in the second second second that keep restrict a second second second second that keep restrict a second second second second that keep restrict a second second second second second that keep restrict a second second second second second that keep restrict a second second second second second that keep restrict a second second

Some commentaries on this point but very little litigation. I asked the staff to research this, and found very few cases on this particular point. We did find one <u>Law Review</u> article. For the sake of the record it is 448, <u>Minnesota Law Review</u>, Page 643. It deals in part with this particular prob-lem of which way you should go on this point. Should you leave it rigid or should you make it flexible? Of course the problem inherent in taking the flex-ibility approach is that articular here exersion you affect that civil relationship in order to have an orderly exercise of your power and function. The primary concern in the field here is that if you do allow this flexibility, that it be done so in a very definite fashion so that there is not ambiguity in Should the exercise. So that everybody knows specifically the limits within which the local unit of govern-ment can act. Specifically I'd like to quote from the limits within which the local unit or govern-ment can act. Specifically I'dlike to quote from this Law Review article that I gave you. It says this: "Nowever, even if the private I aw enacted by the municipality does not appar to have a serious-ly disruptive effect on legal relationships created by general law, it should not be given affect un-legs it is thom of a municipal policy or program. The prevailing assumption has been that home rule powers do not extend to the enactment of private law." Deviations from that understanding should be permitted casey's proposal, it would provide that the legislature could make that determination, and by specifics or special law provide for the activity of a local unit of government in a specified area. Another problem...l don't know if Represently this prohibition may well affect some existing ordinances in the city of New Orleans. Therefore, it is my feeling that this is a worthwile proordinances in the city of New Orleans. Therefore, it is my feeling that this is a worthwhile pro-vision because it plans for the future. Of course issue of whether or not the exercise of the activity, the regulation of the private relationship, is in-cidental to the power and function. will be the regulation of the private relationship, is in-cidental to the power and function, will be one that will ultimately have to be resolved by the courts. There's just no way around that problem that I can see, although the legislature can alle-viate a lot of that problem by the manner in which they frame the laws to allow the exception. In other words what this thing does is sort of a DII-lon's Rule under a prohibition that we have put against local governments. In other word case as authorized by the legislature, the local units of government can act in this area. I think that this would give more flexibility to the system. I think it would be worthwhile to consider by you, and I it would be worthwhile to consider by you, and I would ask its favorable passage. Thank you, Mr. Chairman. I'll be glad to yield to any questions.

[Amendment reread. Previous Question or-dered. Record vote ordered. Amendment adopted: 99-6. Motion to reconsider

### Amendments

Mr. Poynter These amendments are sent up by Delegates Avant, Newton, Jack, Goldman and many other

Amendment No. 1, on page 6, line 27, immediately after the numeral and punctuation "12." insert the letter "(A)".

Amendment No. 2, on page 6, between lines 31 and 32, insert the following: "(8) Notwithstanding any provision of any plan of local government or any home rule charter, or other provision of this article, the legislature. way by general law applicable throughout the state or based upon any reasonable classification exer-cise the police power of the state in the parishes, municipalities, and other local governmental sub-divisions of the state."

### Explanation

nr. avant Mr. Chairman and fellow delegates, I respectfully submit to you that this is an essential amendment. Now, there has been a provision corres-ponding to this in the Constitution of 1898, 1913, and 1921. There is a compensation of the second second second and 1921. There is a compensation of the second se and 1921. There is a corresponding provision in the charter of the city of New Orleans in its pres-ent home rule charter. Now, first I think 1 should make an explanation which would be obvious to most of you, i'm sure. But the police power...what is the police power? What are we talking about? The police power is that power of government which gives government the right by law to regulate the conduct of individuals in order to promote and ensure the health, safety, welfare and morals of the general public. Row that is what the police power is. Examples of the police power immediately pop into your mind, but every building code is an exerciser-of the police power, and words of prostitution is an everyise of the police nower. A toped limit is an make an explanation which would be obvious to most exercise of the police power. A speed limit is an exercise of the police power. Heretofore, as I've said there has been a provision in all of our pre-ceding constitutions which specifically recognized ceding constitutions which specifically recognized the fact that we are a state; that we are not a league of independent city-states. That the police power of the state, that is the power to legislate so as to ensure the protection of the health, and stafety, and welfare of all of the people of the state as the citizens of the state, is vested in the legislature of the state through thure row, legislature of the state through thur the articles that we have adopted so far in this...the sections that we have adopted so far in this articles that the police power of the state has been abridged that the police power of the state has been abridged. It has been abdicated, I am afraid, to a large ex-tent to local government. I am afraid that the legislature of this state if a municipal corporation legislature of this state if a municipal corporation had exercised the police power in a certain way could not come along and through the legislature exercise the police power in an inconsistent manner. I say that this is essential to make it clear, to make it abundantly clear that we are still a state, and that the representatives of the people through the legislature can exercise the police power of the state for the good of all of the citizens of the state for the good of all of the citizens of the state irrespective of where they may live. This is nothing novel, it's nothing unique; it's nothing unusual. It's in the present constitution; it's the state irrespective of where they may live. Inis is nothing novel. It's nothing unique, it's nothing unusual. It's in the present constitution; it's been in all of our prior constitutions, at least back to 1898. It is presently in the charter of the city of New Orleans, and I can see no valid objec-tions on the part of anyone to the adoption of this backets. amendment.

### Questions

<u>Mr. Lanier</u> Mr. Avant, is it your opinion that un-der the police power and that the legislature could provide for the minimum wages in retirement benefits of public employees, notwithtanding the provisions of Section 8 as we have adopted?

Certain public employees if it was nec-Mr. Avant essary in order to promote the safety and health of the people of the state as a whole.

Mr. Lanier this law \* Well, would it be your intention by this law to abrogate the provisions of protecting organization and structure of home rule units as it might affect firemen and policemen specifically?

<u>Mr. Avant</u> Mr. Lanier, I never subscribed to the theory and the judicial interpretation of that which said that the pay of firemen and the working conditions of firemen and policemen is a matter of conditions of firemen and policemen is a matter of structure and organization. I think that is an ex-ercise of the police power, because I believe that I, as a citizen of the State of Louisiana no matter where I may travel in this state...if I stay in a hotel or a motel, or I drive my automobiles in a particular city...I think that I am as a citizen entitled to certain minums standards of fire and police protection, and that if local government

Gui Days indecentings—september 27, 2000 See the set of the state, if in the set of the

Mr. anier Mr. Avani, in your teal to economic that will be under the tead by a tin, in the lang age norwight lang integer or will not in a plue focal government or an one erue anter or a rise the provision of this cost tead, include the second of this cost tead on the second of the second of government to be the second of government to be the plue to be plue to

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The state of the sta

Hr tags Mr Avant, by y ur amend ent then source cay on that should this amend ent be anopted that the state tegislature culd pa a bill railing polisent alarie to a thuyand dillars a moth, and that the cities would have to me up with the money out of their portet to pay it i that the effect of y ur amendment in that particular interes

Rr. Avant If the legivlature wa unwile en up: to do hat, perhaps they could, but it has to be realmable exercise of the pille piwer, Kr. tais. as you well in my.

Mr. tagg one rende ton, Mr. Avant, the a menor that exception is eiten 6 in former and rendered analysis

We can also the theorem is a set of the set

54th Days Proceedings—September 26, 1973 The power inherent in every sovereignty to govern men and things and thereunder the legislature may within constitutional limits the safety morals and coveral sectors of the state by the adoption of this amend-ment, and you would make it clear that, insofar as the general welfare is concerned, no limited, spe-tial provision can be enacted by way of ordinance phat would be inmited to the welfare of the pro-phat would be inmited to the welfare of the pro-phat would be inmited to the welfare of the state phat would be inmited to the welfare of the state phat would be inmited to the welfare of the state phat would be inmited to the welfare of the state phat would be inmited to the welfare of the phat would be inmited to the welfare of the phat would be inmited to the welfare of the phat safe this concerned. If we do not, if we phat safe this concerned, the do not, if yet phat safe the state. That is the one of the safe phat safe the state. That is the went of state this amendment, then the entire power of state phat would be state. That is they and elegate to the safe of the most phat. There is the safe the safe and the safe of the safe of the state safe and the safe of the safe of the safe of the state the safe of the safe of the safe of the safe of the most phat of the safe of the safe of the safe of the most phat of the safe of the safe of the safe of the most phat of the safe o

### Questions

Mr. Jenkins Mr. Gravel, Mr. Burson said that his amendment that he's going to come with later is the same as in the present constitution. Now, that's true, but in the present constitution isn't it also true that we did not grant all of the tremendous authority to local governments that we're granting in this one? I fwe're going to grant the authority here, don't we need to further protect the police power of the state? power of the state?

Mr. Gravel Absolutely. That's precisely why this amendment is in this particular article and refers to the other provisions of this article. That's Mr. Gravel precisely why the amendment is here placed.

Mr. <u>Duval</u> Camille, do you agree with Mr. Avant's interpretation of the language here that it allows the state to legislate as to firemen and policemen under this language? Do you agree with Mr. Avant's interpretive? interpretation?

Mr. Gravel I wasn't listening particularly to the interpretation that he placed on it. I heard the question, but I didn't remember exactly what he

Mr. Duval Well, I think he said, in fact I'm sure he saïd, that "this language would basically allow the state under the exercise of the police power to legislate as to the wages of firemen and policemen working for a parochial unit. Do you agree with that interpretation?

<u>Mr. Gravel</u> No necessarily, I think I agree with That provision...was permitted I think in a case, the Baton Rouge La Fleur case, based upon the pro-visions that were in the East Baton Rouge Parish charter. Let me make sure there's no misunder-standing about this I think that this provision could apply if the legislature wanted to pass own law applicable to all policemen and firemen through-out the entire state. I think that this provision could apply if the legislature did feel that it was necessary under the police power to legislate.

So it's actually not diversionary to say  $Mr.\ Duval$  So it's actually not diversionary to so that one of the issues raised in this amendment is certainly the issue presented in a portion of <code>^ec-</code>

Mr. Gravel It might be, yes.

Mr. Lanier Mr. Gravel, in the Judiciary Article I believe we said that the sheriff was the chief law enforcement officer in the parish. This provision provides "notwithstanding any provision of any plan of government or any home rule charter," et cetera..

Mr. Gravel Wait, read the et cetera and I think you'll answer your own question.

Mr. Lanier "Or any other provision of this ar-

ticle. What effect would this have on the sher-

Mr. Gravel It wouldn't have any reference to the JudicTary provisions of the constitution, because we've said "or any other provision of this article."

### Further Discussion

Further Discussion Mr. Arnette After having heard the definition of "police power" as given by Webster's Dictionary, or wherever the definition was gotten, I really definition, but a little more accurate definition is "that the state may do anything they want to unless it is prohibited." Anything: Because you can al-ways class Something under health, education, wel-fare, morals, safety. You can say anything is un-der one of these classifications. So unless you prevent the state from doing something, they we you what this amendment means is that they can do any-fication of say "Well, we'll just have this law apply to cities over four hundred thousand people, or over a yuarter of a million." This is a rea-sonable classification if they ment to thous and, or parishes of less than fifty thousand, they wanted to mes classification. They could completely destroy anything they wanted to in the way of home rule. The people of this conven-tion, this fought long and hard for home rule. They will the rule, Seiting who would completely destroy to a section coming move could completely destroy. nine of this article dealing with home rule. Good strong home rule provisions, and this one amendment to a section coming now could completely destroy all of those sections. This is the thing that really worries me. When you say 'no home rule charter withstanding, or plan of government notwithstanding," this could completely destroy the theory of home rule as we have adopted it in Sections 7, 8, and 9. If you want the legislature to have the power to do just about anything they with on a howd and nase this just about anything they want to in your local muni-cipality or your local parish, go ahead and pass this amendment. Mr. Dennery's got an amendment coming up later on that is precisely the same thing as the old constitution, as I understand it, which doesn't make this exception, or "plans of government not-withstanding". I think it's a much better provision. I think we ought to defeat this amendment and pos-stbr go with very work.

Thank you very much.

### Further Discussion

Mr. Stage Mr. Chairman and fellow delegates, when T got up here Friday, we explained that cities and municipalities could have maximum home rule, or they could have only what the legislature gave them. By a narrow vote, you gave the cities and municipalities in the home rule unit maximum authority over their own business

bwn business. On Tuesday afternoon, we came back and we foughts, and by a narrow vote you voted again to give cities and home rule units maximum ability to operate their won business. Now, Mr. Avant, here at the micro-phone earlier, in, I think, a rare burst of candor, answered the question asked him by Mr. Lanier about the effect of his amendment on the pay scales of firemen and policemen, and Mr. Avant very honestly answered that the effect of his amendment would perthe legislature to set the wages and working mit the legisisture to set the wages and working consistent of the wages and working consistent of the set of the wages of the set pay for it. I don't believe this speaks very loudly of home rule. In my municipality, the city fathers and the citizens pay their policemen very well, and their firemen, and their working conditions are ex-cellent. But every now and then, the legislature passes an act and says 'All right, Shreveport, mo matter what your budget says, oome up with the

ney ars ay , ... , ... e er and fire er what we

neg ars a, ris, mer ars fine e what we as you have to as them. I had here e if the tate of ce ameint your winn ar-bares the bind game, under the uncertaint the Avant amendent. I ask you here uncertaint the Avant amendent, i ask you here uncertaint the Avant amendent, i ask you here uncertaint fully weg the ment i, or last thereof, i the Avait a endreit and or de tank winn the your mind befine you winn the builder we way the ther he Avait alence till the the i the and fine energia the corver in ha affinded your part hes and you had the these uncertaints.

I ur e y u to vote no on the Avant amend ent wr e a op, o don't have to get back o, I ur, o u to vite les on the ennery alencent

Mr. Raburn Mr. tagg, I m only seeking infor a-tion. I have seen several occasions in this state where, In a little small will age, they not award is they don't have the thruty shook then down. If they didn't have the thrity-seven fine, they diake twenty-seven. We had to in the legislature, break up a few of those things. I wonder if we would get caught in those predicatent again? Of courie, I hope we never do under these good goverment days were something like that from happening in this state, because I know, and I think you know, it has

Mr. Stagg Senator Rayburn, the remedy does not I e in the Avant arend ent, I provise you that.

Mr. Roy Mr. Stagg, a little confused about your allusion to playing bingo at a charity. Sup-pose a particular area was a lowing real bad crie to take place and was not prosecuting, not doing anything about 1. I. it your urguint to this on-vention that violation of law, breaking of laws, is something that we should never address ourselves to<sup>0</sup>

Mr. Ro. 1 ult asked you do you advocate the breaking of Taws?

Turther discussion Purchase discussion The table Min chains ladie and gentle en, the been ning the lane disc been given to the set of purch the Akant amendent. If the the set of purch the Akant amendent disc been the set of the disc been and the head bar of New release refured to all the bar of New release the set of the bar of New release the bar of New release the set of the bar of New release the bar of New release to a bar bar of the bar head the bar of the set of the set of the head to all the bar head to all the bar

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Mr. eve Mr. hatean, an wert, or entry Tailide than you, from the variant terrer. I the third lotest avoin its while electric infre unity inger that or infression and

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[Rules Suspended to allow additional

# Further Discussion

Let me tell you this. When you walk Mr. Jack Mr. Jack Let me tell you this. When you walk down like J did, rather on the elevator, and you came out into that lobby and saw it all burned up, and you asked the clerk why you weren't notified, and he pointed to where the fire started over there

and you asked the Lifet whe for metantal over there eat the pelophone switchboard and the registration desk burned up. He said, "What you ought to do, Mister, instead of griping, you ought to be thank-ing the Lord they've got a good fire department out here that put it out." Now, I don't want to trade good police and fire-men. I say, and repeat, that this is not a ques-tion of home rule. It could make very little dif-ference to me what and who the employees were in Baton Rouge have to do with collecting this or col-lecting that, and those local matters. We police protection right here at this convention. I guess they still search people that come in. I'm glad the widd. I know at the beginning they searched the way to live is with good firemen and police. Firemen saved my house in the depression when I didn't have any insurance on it. Now I say, in closing, that this has nothing to do with violating But it makes ofon thave any insurance on it. Now I say, in closing, that this has nothing to do with violating home rule. I voted for all of those home rule pro-visions. I say to go along with this amendment, to go with Section 16.

### Further Discussion

Mr. Juneau Mr. Chairman and fellow delegates, you know, as I recollect, it wasn't but four days ago we voted on the section and the vote was relatively close for final passage, whether or not we wanted to make...or have home rule in this state. As I recall the vote, it was the will of this conven-tion that we would have home rule in this state.

The next thing that I remember, in the news-papers and on the radio and on the television, that we're bogging down and we can't finish and nobody understands why. Well, what I am telling you is, is what this amendment is going to do is, in essence, is what this amendment is going to do is, in essence abolish what we did a mere four days ago. This is simply nothing but a frame around the same picture that we had four days ago. I don't think that any-body in this convention was fooled by the fact that we didn't know this was coming. It was just a ques-tion of what place it was going to be inserted. I submit to you that tha iscense that the second of the substant of the substant of the second of the substant is substant of the subs

I submit to you that the issue that's concerned with a lot of people is in Section 16, and I'm will-ing to face that issue when we get to it. But whill they've created here is a monster which goes far and beyond what is contemplated in the issue of a fireman and policeman. I also submit to you that fireman and policeman. I also submit to you that we've got to get this convention rolling. I sub-mit to you that I have, during the course of this convention, abided by the decisions on final passage when it was adverse to what I had voted earlier on amendment. I submit to you that that's the same issue we face here. If you want to stand by the will of this convention and get this convention moving, and if you want to finish by January, let's defeat this kind of amendment and any other kind of amendment which will, inessence, defeat what we did a simple four days ago. a simple four days ago.

Thank you very much.

Mr. Dennery Mr. Chairman, delegates to the con-vention, Mr. Avant's amendment, which he has ex-plained to you, contains a total of fifty-six words. The amendment which I have introduced, and will shortly be before you, contains basically the same thing in a total of twelve words. But im addition in the total of twelve words. But im addition in the Avant amendment goes far beyond the language in the present constitution. I don't think anyone who is interested in home rule, and certainly I do not, believe that the exercise of the police power

of the state should ever be abridged. As a matter of fact, at the time that the charter of the city of New Dreans was adopted, it was adopted under an amendment to the '21 Constitution which says that "nothing in the amendment shall be construed as restricting the police power of the state." Now it seems to me that's all the language we really need in here. The language that Mr. Avant has put is bit memoment once far heyond in my nothing.

need in here. The language that havand are suit, in his mecessary in order to protect what all of the previous speakers have talked about. In Section 6, which we adopted in this article a few days ago, the legislature is given the au-thority to classify municipalities of parishes on a reasonable basis. So that portion of this is any more than "nothing in this article shall be...Shall restrict" instead of saying forth in the Avant amend-hent, I is seen to that there's been enough con-cern expressed by those who are...who yoted for warrant careful consideration of not adopting the Avant amendment, but of adopting a short phrase the nome rule provisions at sets fours individual the warrant carrely. Only of adopting a short phrase Anich, says that "the police power of the state is paramount." I believe everyone will agree that it should be paramount. But certainly, if the state only exercise its police power, and it can only exercise to police power, and it can be paramount. The police power, and it can only exercise the police power, and it can be paramount. The police power, and it can only exercise the police power, and it can only exercise the police power, and it can be paramount. The power, and it can be paramount of the state of the of

If there is any question, and there is question as expressed by some of the previous speakers, that the language in the Avant amendment might restrict the power of local government to exercise those police powers which by virtue of this constitution have been delegated to them, but can always be taken away by a general statute, then should taken away by a general statute, then should votmend it. I will be pleased to answer any questions.

### Questions

Mr. Deshotels Delegate Moise, in all candor...

Mr. Dennery Moise?

Nr. Deshotels We...we address people by their first name where I come from.

### Mr. Dennery 0ui...

Mr. Deshotels In all candor, we've been told this would destroy the provisions that we have for local government and home rule that we adopted earlier. government and nome rule that we adopted that it is now you talk in general, broad terms and you say that this is duplicitous, that we already have this being sinister and the back door approach. What does it do that you are afraid of?

Mr. Dennery Mr. Deshotels, I don't know. I said "If there is any doubt in your mind about it, then you should vote against it." But it doesn't, it certainly...it certainly is no more comprehensive than stating, "mothing in this article shall re-strict the police power of this state," which is the suggestion that I have made in my proposal. Mr. Deshotels, I don't know.

Mr. Deshotels Well, then you are saying that you don't know whether there really is any difference from yours and this one, other than that it's got a lot of verbiage.

Mr. Dennery That's right. It's got forty-four words more. I think it is too prolix to get into

Mr. Denner, I'm inclined to think that the ur-pose of Mr. Avant's amendment is very similar to the purpose of inc. We had discussed this severa

Mr. Tapper Yes, sir. Now, the meaning of y up -tion is this. Assuming that the local governing bodies decide to exercise the police power...the booles declode to exercise the pointe public running state police power, could they not then say that the state has no further power because the consti-tution has given us the right to exercise if " are are exercising it, therefore, the state legislature does not have the right to exercise any more

Mr. Dennery Not so long, Mr. Tapper, as you have Tanguage such as I have suggested, which says "no-thing in this article shall restrict the police power of the state."

Mr. Casey The Chairman said I am only entitled to brief remarks, so I'll say very briefly that I strongly urge that you vote against this amedment. Mr. Juneau eloquently indicated that what we have given to home "ule three or four days ago, we are now taking a great amount of that home rule dway. I ust refer you, however, to the first couple of fires of this particular, in Amendment No. 2, this soft this particular, in Amendment No. 2, this soft of a soft of the this of the first of this of this particular of that home rule dway. I have the soft of the soft of the first couple of fires of this particular, in Amendment No. 2, this tending any grow ision of any fland of local government or any home rule charter," I think that amendment does much farther than Mr. Dennery's amen

amendment goes much farther than Mr. Dennery's amend ment or than Mr. Burson's amendment. I think there

is much merit for the state retaining its police powers. However, we don't hnow what the overall effect of this particular amendment is on existing home rule charters. We know very well that many home rule charters at this time do now exist. We have previously recognized those home rule charters in preceding sections. We have talked very much about police power, which is a rather difficult term to define, to say the least. But under the poli e power authorities, ut, which afready arguing the merits or demerits of Section 16 and 1 think those arguments shoul be put off until we arrive at Section 16, s. that they can be argued in the light of that particular section as drafted. If we would carry Mr. Avant's explanation, as

section as drafted. If we would carry Mr. Avant's explanation, as understood it, to its fullest extent, we would do what the 'egislature has done on may other oc asions for instance, in passing police and fire legisla-tion affecting the city of lew Orlean. That leats-lation has been so detrimental that at this time it of New Orleans moust anononcitient as the time it of New Orleans moust anononcitient as the time. lation has been so detrimental that at this time it is my, on the information which I have, the city of tew or dams must appropriate as much as order to merely pay present retirement benefits for fire and pulle. Those type of restriction or responsibilities, financia responsibilities, have been placed upon the people if the city of New Orlean. If we had this there, it is my under-tower as my has mentioned and the source of the actuarially sound at this there, it is my under-tower as my has one hourded if illowed in daturn the should be awaily aution; and and willy arrivi-about what we are in inported in the first the isomether of Paragraph (B in Amendment H). I allow that we are and section in the isomether of the argon of the inport to the index during and section is the isomether of the argon of the inport to the of the argon (B). In Amendment H) is to the the advention are section (6, I don't this there are many delegates here that in any way would wait to inpude the right between filt that pulle and fire are entitled to be any experience in the legislation of the argon of the section of the pulle the section of the section (6, I added the section (6, I added the section of the section (6, I added the section of the section (6, I added the

my experience in the legilature, the legislature is very solving to grant thuse benefit to police and fire because of the hazard as type of or apation.

The e, t part ate Bur et "eave to ne e the future to take care if this that ne rise to a vertice to be arters where y wide if the e ee if activity l une y, very the jet of activity l une y, very the jet of activity l une of the e

Mr. (en) i Mr. asey, will y favor i f with a colplete lead definition fither teol, i lite power of the state

Mr. Angalone Mr. haired and idle and on the men of the conjection, one at the name we heat that we are here to write a leart, in ise, we -defined constitution that is ologit be really to present  $t^2$  i want to give nount the second station that I have May in a fight is the second several of my constituents and tally is a here to sell you the new most that have to sell you the new most that how erule?

They said, Well, i.e. we at's it there ab there end? I said, Well, I said, we gave it to the seven and eight and the, but e light have the it away from them in eleven r issib twelks: just be dammed if inw what we he says, what did you and about the sale end of the fire en and the pluce. "Well, I said, you what r is a end end in fire But 1 be even that three was the says, what did you any the sale end well, I said, you what r is a end end in effort 1, r etting, it we end authority to du what r is the end end authority to du what r is the end end if he fire any end to said the end authority to du what r is the end end authority to du what r is the end end authority to du what r is the end end if he was not the end if he will the end if he was not the en

row took what he's given by (e) we donned it will from a table at fire warm in table at the second secon

Ladies and gentlemen, please understand. This is not legislation. We're not trying here to play tricks on one another to see where we can hide it and where we can put it, and then later on we can find another little loophole to work out of. You've got to go back to the people with this thing. If they don't understand it, they're not going to world are we going to tell them what it is? You've got to reject amendments like this, not the sort or reject amendments like this, not the sort or reject amendments like this, not the sort or it is a deliberate attempt to hide some-thing. We're not here to hide. That's may we didn't put a curtain on the machine in the first place. place.

### Further Discussion

Mr. Willis Mr. Chairman, fellow delegates, I know the deep pleasure of serving and of hearing and seeing with eyes and ears connected to the mind, and not disconnected from the heart, in search of the truth. I know the pain of enduring untruths. Lots of harsh words ring loud in my ears, trouble my mind and burden my heart when they are interworen with untruths or half-truths. These, however, sond urtanois every scheme of Ido mot out the knots and untangle every scheme. I do not cut the knots, all snarled up with either wounded pride or bold prejudice. In testimony whereof, I pray you bear with me while I unrave! the untruth and lay bare and reveal the truth, the whole truth, and nothing

With ME while i unrave ine unruin and ray use and reveal the truth, the whole truth, and nothing but the truth by exposing and exploding this amend-ment; then carefully work at it with your heart. "verloaded and it tumbles with its own weight. Here is that sentence stripped of its rufiles and flour-ishes: The legislature may throughout the state exercise the police power. The legislature does not exercise. It makes laws. Those laws are ex-ecuted by the executives; locally, by sheriffs or chiefs of police, and statewide, by the state police. Authority is the oldest means of persuasion known to man. When it is used wrongfully, it overcomes, but does not corvince, and it overcomes only tren-sitorily, which means uselessly. All it does is cause unrest and injustice. This amendent sup-plants the sheriffs, the chiefs of police, by the state police if the legislature does exercise. May-be under this amendment the legislature could ex-ercise the police power through its own members. or other chis menoment the registature could ex-ercise the police power through its own members. Do you think...did you think of that? That's what the amendment allows. It does so in plain English. Would you have it...would we have the Republic guaranteed to us by the United States Constitution

guaranteed to us by the white takes care of what trou-in that case? Mr. Dennery's amendment takes care of what trou-bles this section. There is no trick to good faith. This amendment obliterates what we have done thus far and preempts what we are later to consider. I make bold to say it confuses to convince, it dif-fuses to divide, it suffuses for suicide. Give it the resounding repudiation, rejection, refusal, and recomment it so richly deserves. resentment it so richly deserves Thank you, Mr. Chairman.

Nerror Discussion Mr. E.J. Landry Mr. Chairman, Iadies and gentle-men of this convention. Everybody is singing, so in going to sing. "I got a robe, you got a robe, all God's children got a robe. When they get to Heaven gona put on the robe, gona walk all over God's Meaven...Heaven...everybody talk in the source of the source of the source of the the idea... The lit got to the source of the anybody will really sing for this convention. Than you and you should give it to me because anytime anybody will really sing for this convention, you should listen. Ladies and gentlemen, this conven-tion, regardless of what you say in your pessimisn, is a lovely and great experience. I tell you I with a form the hearing my god friend, gelegate with language, he has, but I'm here at this moment to speak to you about a concept of government. Now,

you have got to reason with me that this amendment really and truly is necessary. It protects local government against itself. That's exactly what it does. We need a broad concept of government. Most does. We need a broad concept of government. Most of you have been in management, in personnel, and you know as well as I do, ---and I have been in that area, that responsibility---state cannot delegate responsibility. It must never relinquish respon-sibility. It can delegate authority, but it cannot and must not delegate authority, but it cannot well about this thing. You have had all kinds of side issues develop, bringing in things that are not even present. The tille of this section is "timitation of Local Government." Now, reread it. It's limitation and memors of this convention, you not even present. The tille of this section is "Limitation of local Government." Now, reread it. It's limitation and members of this convention, you need to limit local government. Like it or not---make no special provisions for any special part of this state. Vote independently, regardless of what has happened in the past. You are trying to write a simple paragraph that will do just what I've taked to you obvois. If opinion. I will not in... try in any manner, shape or form to answer any legal questions coming from the lawyers because I have this convention to try and cope with any of their language. language.

[Previous Question ordered. Quorum Call: 106 delegates present and a quorum.]

Mr. Avant Mr. Chairman and fellow delegates, this is a moment of decision, a moment such as we haven't reached before. The issue is simple: Do you want to continue to live in a sovereign state,---one of Mr. Chairman and fellow delegates, this to commune to live in a sovereign state,---OR of fifty in this Union--or do you want to live and your grandchildren and children to live under a losse confederation and alliance of independent, autostion mous local governmental units? That's the question. Mr. Chairman, I ask for a record yote on this amendment.

61-48. Motion to reconsider tabled. Mo-tion to take up other orders adopted with-out objection.]

[Adjournment to 1:00 o'clock p.m., Thurs-

# Thursday, Septe ber 17, 1973

Mr. Leniox May Al ighty God shower His bless in the deliberations of this convention today. May Allighty God shower His blessings We ton' conse entrously putting devotion to duty before our own inclination. May we jabor with thankfurness and oy. May we work with order, peace, moderation, and patience. Above all, may for one's self, having always before our eyes the hour of death and the accounting which we must render of time 11-spent, of talents unemployed, of good undone, and of our empty pride and success, which is so fatal to the work of God.

# READING AND ADDPTION OF THE JOURNAL

Mr. Lennox Mr. Chair an, fellow delegates, on Septe ber 7, I mounted this podium to speak to you on personal privilege, as I felt at that time that on personal privilege, as i reit at that time that 1 had been severely aggrieved. Regretfully, and most unhappily, I an provoked to appear before you again to advise you that my prior oratory on the subject of came sugar was apparently not heard or digested in the proper quarters. We continue to suffer at this convention, as we are forced to use suffer at this convention, as we are forced to use beet sugar grown in the northwest and refined in 11 inois to sweeten coffee on the convention floor, while a much superior product is available to us right here at home. Because I failed to succeed in bringing to each of you one of the better things of infe available in Louisiana, I have arranged to place at the desix of each delegate a parcel contain-lage within structures for the other forugar Co pany division of Southern Industries Corporation, using Louisiana cane, capital, and labor, all of which contributes substantially to the gen-eral weifare of our state. This parcel is delivered to each deigate with the compliments of the employ-ees of outhern industries and Gid haux-Henderson Sumar Curpany. I am happy to report to you at this ownert that you no longer will find it necessary to sweeten your coffee with an inferior product, and that you now have available to you an abundant loppy of the delitactore lives of at least two of u on this convention floor, it ant sugar at all its bread and butter. New if you liper it e for a few roments to speak to you on a nore serious at-en, it's like to speak to you on a nore serious at-It is bread and butter. Now if you'll permit is for a few noments to speak to you on a nore serious mat-ter, i'd like to speak to you, however briefly, rel-ative to the ublic Affairs Research Council of ouslane. 'In August 7, PAR published a convention of the speak to you on the strength to the speak the noi regarding the poor attending to the terms of a test there is you have a strength to the relative to the series of the speak to the friend he restion of the convention allowing the publication of the convention allowing the publication of the convention allowing the speak the series of the series of the series of a test there is you look tand out valued friend he restion of the convention allowing the publication of the convention allowing to the ate in instance of all series at the original for the series of the original to series of the original series of the serie due that, then just better hers the influence pAR has had on stitute a second et over the pAR has had on stitute a second et over the taff are a ready on a speech in 1 thm shut toussian taising about the Constitute all ver-tion, its status and is probles. They have the about the only visit end directly asis and the to constitute only distinct the second status the about the only visit end directly asis and the pAR is the only visit end the second status the convention accord is end, and is, it is u-timately submitted to the avial inrel the acceptance or rejection of une wisher to such that be convention of une wisher to such that is consider in fully coope of defining himself. As regard to PAR documentary is nur-because left in inspeaks for iself i ave delayed maing those statemens until fins ent because if left in inspropriate contribute fur-ther to the emotionalis which existed on the fur-ther such as specification is were the a side of the there is the specific specific to the state of the fur-ther to the emotionalis which existed on the fur-ther to the emotionalis which existed on the fur-ther specific specification is specific as specifications and the specific specification is specifications and the fur-ther bothe emotionalis which existed on the fur-ther is the specification is specification is specification. attributed to the Apost e Jae's during the time of Christ. To hit that knoweth to do go da ad eth it not, to nim it is a sin. Then in the twe fit century Dante, the il ustrious Furentine et, said, 'The hottest places in hell are rese ved for those who, in a period of oral misls, alntain their neutrality. Six hundred years ater the great British states an and political writer. Ed und Burke, observed, "All that is ne ussary for the triump of eril is that good en do in thing in the middle of the last century, Abraha Lin oln said, 'To sin by silence when they him ther shul protest, akes cowards of us a a tru the and I' danned proud of it. 'nank yu from in the interminate the state of the state the and I' danned proud of it. 'nank yu from in the side of the publication of the state of the

Mr. Henry Thank you, Mr Lennox, for the sar-for the co. ents too, but sarticular, for the ug ar, We can tak with yu anytte, but y d n t always give us smething nie Reverend Alexander, on personal privile, and, Reverend, I applogite for not recognizing you ves-terday. This is the fort tile live mouth a dut

Mr Alexander Thanky u. Mr he ran : di alk for this privile eyelterday Aby ta tha as you heard read fir the public, i renied to the tire that an aren er knuld have t e ered. Niw, at the the i finise the state direction of the time of the unit be di-direction of the time of the unit be di-direction of the time of the unit be di-direction of the time of the unit be diered. Now, at the time is more that a medical persenticate of openational number of an infinum the distribution of the second se

need more money, or we're just going to fail and we're going to be up there. So, Mr. Chairman, what I ask for is what the status of that resolution now, and if possible, that that resolution can be called from the calendar by this convention and considered at this time?

Mr. Henry Reverend Alexander, we'll find out what the posture of that is. I don't know, but we'll find out and I'll report back to you.

### Mr. Alexander Tomorrow we'll...

<u>Mr. Henry</u> We can let you know by tomorrow. Cer-tainly, we need to move as rapidly as we can, and j think any rules we want to adopt, find, well, and good, but I think if we just use some individual restraint on ourselves and don't talk when it's not necessary, and sort of discourage those who do like to talk som uch. I think we'll speed up the progress of our work.

### UNFINISHED BUSINESS

### PROPOSALS ON THIRD READING AND FINAL PASSAGE

<u>Mr. Poynter</u> Committee Proposals No. 17, introduced by Delegate Perez, Chairman on behalf of the Commit-tee on Local and Parochial Government, and other delegates, members of that committee.

A proposal making for general provisions for lo-cal and parochial government, levee districts, and ports, the financing thereof, and necessary provis-

ports, the translong inproof, and necessary provis-tions in the solution of the this juncture, is that the convention has adopted, as amended. Sec-tions I through 11 of the proposal, with the excep-tions of the following sections 2, 4, and 10 respect-ively; presently has under consideration Section 12 of the proposal, which at this time has had two amendments adopted to it.

### Reading of the Section as amended

Mr. Poynter "Section 12. Limitations of Local Governmental Subdivisions Section 12. (A) Local governmental subdivisions shall not: (1) incur debt payable from ad valorem tax receipts maturing more than forty years from the time it is incurred; (2) define and provide for the punishment of a felony; or (3) "...insert the language "except as may be provided by law enact In gauge check as may be provided by law enact private or civil ordinances governing civil rela-tionships." Also added is a paragraph: "(8) Notwithstanding any provision of any plan

private or civil ordinances governing civil reia-tionships." Also added is a paragraph: "(8) Notwithstanding any provision of any plan of local government or any hone rule charter, or any other provision of this article, the legislature may by general law, applicable throughout the state or based upon any reasonable classification, exer-ica the onlice power of the state in the narisches cise the police power of the state in the parishes, municipalities, and other local governmental sub-

### Amendments

Mr. Poynter Amendments sent up by Delegates Lowe, Roemer, and Mire.

Recence, and Mire. Anendment No. 1, on page 6, line 27, immediately after the word and punctuation "not:" delete the remainder of the line and delete line 28 in its entirety and delete line 29 in its entirety and in-sert in licu thereof the following: "(1) the de-" It would reinsert as a (1) the de-so that it would pick up on line 30, "define and provide." Anendment No. 2, on page 6, line 30, immediately after the word "or" and before the word "enact" change the number "(3)" to the number "(2)".

### Explanation

Mr. Lowe Mr. Chairman and fellow delegates, the mendimont was handed out yesterday. I believe if you look on page 6 of CP No. 17, you can understand the amendment without ton much trouble. Under Sec-tion 12, there are three prohibitions and what this amendment loes is merely to delete prohibition num-

ber one. Prohibition number one says that a sub-division shall not incur debt payable from ad valor-em tax receipts maturing more than forty years from the time it is incurred. Now, according to the ex-planation that was given to us by Mr. Perez in this digest, there's no such provision in the 1921 Con-stitution. We talked about this some under revenue, finance, and taxation. Section 4D (A) of this same proposal places a limitation on bonded debt of ten percent of the total value of all property within such subdivision valued for assessment purposes, percent of the total value of all property within such subdivision valued for assessment purposes, and this ten percent limitation seems adequate to control the debt of municipalities and local sub-divisions. Often local government finds it neces-sary to refund bonds. You may have a bond running for thirty years and for some reason or another the call features in the bond may make it have less cost, interest-wise, to refund those bonds and in-clude it with another issue to run thirty years. I would doubt that that could be done under a proposal where there was a limit of an original debt of forty years. As you know, it's bad to put numbers in the constitution. When we were returning from the wars in 1946, it was not uncommon for a home... a residence to be purchased and paid of it at which you would pay off a home in those days. Today it's not uncommon for young people to go out and buy a home that's payable over thirty and thirty-five years, so what we'll have fifty years from now, I don't know, But, the point is that this parts limitation, I don't know, But, the point is that this control and place limits on local government. I would doubt that that could be done under a pro-

### Ouestion

Mr. Roemer Mr. Lowe, isn't really all you're try-ing to do is just eliminate some unneeded language in this constitution, since we have the ten percent limitation that's the real protection, not the length of the bond?

Lowe That's exactly it, Mr. Roemer, and this amendment does nothing more, and as we huddled up here, I understood from Mr. Perez that he didn't have any serious objections, or maybe has no objec-tions. I ask that you adopt the amendment. tions.

### Further Discussion

<u>Mr. Perez</u> Mr. Chairman and delegates, the reason this provision was put in the Local Government Arti-cle is because of the fact that many times in Arti-cle XIV, Section 14, when dealing with the specifics of the issuance of bonds, there was a limitation of fue assesses to be committee has no strong feeling offorty years. The committee has no strong feeling wind respection his to accorge the last the State bonds, and we have no strong objection to the dele-tion of it if that's the pleasure of the convention.

### [Amendments adopted without objection.]

### Amendments

Mr. Poynter as follows: Amendments sent up by Delegate Casey

Amendment No. 1. Delete in their entirety Amend-Amendament no. 1. Delete in their entirety Amenda ment No. 1 and Amendment No. 2 proposed by Wr. Avant, et al, and adopted by this convention on September 26, 1973. Amendment No. 2. On page 6, line 27, immediately after the numeral and punctuation "12." insert the

letter "(A)"

letter "(A)" Amendment No. 3. On page 6, between lines 31 and 32, insert the following: "(B) Notwithstanding any provision of this Constitution, the police power of the state shall never be abridged."

### Explanation

Mr. Casey Mr. Chairman, and delegates, as you know we yesterday adopted the Avant amendment which struck very seriously at the heart, the soul, and the guts of our argument on home rule, the very Mr. Chairman, and delegates, as you know

this we have been any in about and in back forth now for a whole weet. I don't pretend to that this a end end is the complete solution to the ansature to be for in the Mark for the two dones are the solution to the solution of the soluti

pract ally everythin, and there are state ents in corpus unit's Secundu that indivate that the power of unit's belowern ent entail mithin but of the comparison of the state of the state that here power of unit's secundu that have and ejective certain police powers of the tate, thoe powers being del-egated in them by our unstitution, have now in ta-certain anount of their autcomy be aule now indi-degated in them by our unstitution, have now in ta-egated in them by our unstitution, have now in ta-certain anount of their autcomy be aule now indi-tage of the state of the powers of the taken away from local overnment where they were irrevaily of the state of the state of the Avant of the state of the state of the Avant of the state on the powers of the Avant of the state on the state of the state of the state of the the off the state of the off the state of the state of the state of the off the state of the state

Ly the same of a solution over it is a solution of a solut

Mr. Newton Mr. Casey, I know what we replate deprove that we want at the large statement of the second statement of the second statement of the second statement of the second statement of Right, we are set of Right, we are set of the second statement of the second state

N Caley Mr Newlin, I ur thirth think to cardinate the second seco

tion of the police power, is it--rather an abroga-tion of sovereignty, isn't it?

Woody, I think that's a matter of intermr. casey woody, I think that s a matter of inte pretation. I think, personally, I think the state was still well protected under, I think, Section 8, Paragraph E, where it indicated that the legis-lature could deny really any of the police powers to local government that it wanted to. I find no problem at all.

Mr. Duval Mr. Chairman, fellow delegates, I think we ought to put the issue as clear as possible, and I think Mr. Casey has done an admirable, and excellent, and lucid job. The Avant amendment de-stroys what we did in Sections 7, 8, and 9. Some of the people who voted for the Avant amendment got caught up in the firemen and policemen problem. Some of the people who have been voting consistently for strong and viable home rule got caught up in that problem because it was intertwined and intermingled into the very ambiguous broad and dangerous language of the Avant amendment, and so they voted for it. That issue should be discussed when we get to section 16. That issue should be isolated and separated from the broad issue of home rule. It should not be meddled up in this bad amendment that we've adopted, and that's why I'm suggesting we should adopt the Casey agendment. If what everybody should adopt the Casey amenoment. It what everybouy is interested in is really the preservation of the police power, that's precisely what the Casey amend-ment says. It's very similar to the language in the '21 Constitution, and I think it's quite clear the '2] Constitution, and I think it's quite clear that everybody here dadgum well knows the legisla-ture can deny local government just about anything if it has a specific law denying it. But 7, 8, and 9 vests local government with certain powers, some of which would be police powers. Now we have given, and now we have taken away. It is totally ludi-crous, and totally evaive, and devious to do what we have done: to on the one hand give, and by a very good vote, give the home rule vested with cer-tain powers and then to say they really don't have anything now. They really don't have anything--and that's what it says if it's carefully read. It's not the fireman and policeman rissue. It is a total not the fireman and policeman issue. It is a total emasculation of what we've done, what we spent a week doing, and that's what it is. I think if evweek doing, and that's what it is. I think if ev-erybody is going to be candid about it, they can say that what it really does is to take it away-what we've given. It's a back door approach; it's not really what we're doing. Yes sir, that's what it is, because it takes away what we previously penacted, and i'll tell you this: who do we represent, or whom do we represent? I guarantee you this is an office of public trust. We're writing organic law. We're writing organic law for the people of Luisi-ana. Me've all used the euphemisms of people; I'm wonderion who the people are. The people of this wondering who the people are. The people of this state want home rule. The vested interests do not want home rule, and we're supposed to represent the people of this state, and what this amendment is, is to placate vested interests. The Avant amendment is to placate vested interests. The Avant amendmen placates it, not the people, not the man on the street who elects you, who elects the governor. That's the man who elects you. I think everybody ought to start thinking about that, and who elected you to come up here. Those people want home rule, and it's been taken away by this amendment. The Casey amendment preserves the police power and does not destroy what we have done. I suggest to you that this convention looks pretty ludircous when it and then by vaque, ambiquous, devious, evasive, and and then by vague, ambiguous, devious, evasive, and obfuscatory language takes away what we have already done. I ask you to adopt the Casey amendment--to not yield except to your own conscience. That's

Mr. Burson Mr. Chairman, fellow delegates to the convention, I know that very often in my manner of speaking to you. I have been in every sense of the

word, an advocate of one polar position of political philosophy in this convention, and that is the phil-osophy that believes first and foremost that gov-ernment closest to the people is the best, and that the best way to protect liberty is to decentralize government power. That philosophy is not as concerned with the designation of rights in the Bill of Rights as it is with the dispersal of government power. That philosophy sees the concentration government power as the greatest danger to liberty

erty. Now I recognize that certainly there is another philosophical position which holds upon the central constitutional rights of the people, but of the social and economic rights of the people. It do not say that this is an invalid position at all times and all places, although in this convention. I have spoken always on the other side. But I'm ask-ing you for a moment to divorce your thoughts. If you horse, and holds on the other side. But I'm ask-ing you for a moment to divorce your thoughts. If you horse, or any onlocable to be not poster side. The side houses on the other side. But I'm ask-ing you for a moment to divorce your thoughts. If you horse, or any onlocable to be not you horse, you you will, from whatever of these two political philosophies, or any philosophy in between, you might espouse. Look, if you will, to the practical effect of the amendment that we adopted yesterday in the language that we used. That language says that the legislature may by general law, applicable classification, exercise the police power of the state in the prices the police power of the state in the prices. In the parishes, and in the municipalities, and it may exercise it. I submit to you that that language is so broad sweeping, and so unlimited, that it clearly present I submit to you that that language is so broad sweeping, and so unlimited, that it clearly presents not only the possibilities raised by Mr. Casey, but the possibility that the state would not only set firemen's and policemen's salaries, but the salaries of the garbage man and the lan tor with the salaries of the garbage man and the lan tor with a salaries would permit the state legislature as I see it, if they so desired, the virtually take nower local if they so desired, to virtually take over local self-government.

self-government. Now you say the state legislature won't do that right now and the governor we have right now wouldn't do that. I would agree with you. But language that establishes pond, is a new for thill time to come and it is not there just for the present governor, it is not there just for the present legislature, but for whoever will come in the future. If we look to the political history of our state, we would be naive, indeed, to deny the fact that there have been incum-bents of the governor's office, and re incum-bents of the governor's office, and re int mes past, won would have used this power in exactly the way who would have used this power in exactly the way that we fear it could be used. I submit to you that that is too dangerous a possibility to leave in this

Mr. Casey's language is virtually the same language that was contained in my amendment which was taken verbatim from the present constitution. It has a well defined historical meaning. We know in the past in our political history which of the police powers have been delegated to the municipalpurse power's have been delegated to the multipal-ities and to the parishes, and which have been re-served by the states. It seems to me that we ought to be very careful, indeed, before we adopt new language, undefined, that is so broad sweeping that it would easily be open to the interpretation of an

Mr. Avant Mr. Chairman, fellow delegates, partic-ularly Mr. Casey. Mr. Casey, I don't take things personally and I know you well enough to know that you don't engage in personal debate. We're here to discuss principles. So have no fear. I don't think that the day will ever come when I will have to be afraid of you on that point. I do want to say this. I think Mr. Casey made point very coolities, maybe, which all have to be to be a the consister, maybe, which we have the point very coolities, maybe, which all here to be a support of the say that the interpretation on what the committee has turned the world up-side down insofar as this area is concerned. Now side down insofar as this area is concerned. Now

et e tel'you, let's ust get right down to it right down to the basic issue that is before us and that we have been debating

This provision as written by the collitee and as so far as adopted by this convention, this arti cle, literally does turn the world upside down in cle. Literally does turn the world upside down in this area. Every municipal corporation in this state, under this proposal, in the absence of thi, and ent, has until ted power. Now 11 tell you why, because 1 a sitting nere reading fro. the plan of overnent of the parish of East 1 aton Rouge, which is the ost liberal how ervie charter that 1 ever saw or heard of anywhere. Tet we have some limitations. I not going to read this whole ervo do no but in the world the theart to, ubject ordinances shall not directly conflict with the provisions of any state law. You don't even have that 1 i itation in this article, and 111 tell you why. Because this says that they can do anyhave that it itation in this article, and [1] tell you why. Because this says that they can do any-thing not expressly denied by general state law. It means that they can pass laws that are directly in conflict with general state law unless the legis-lature affirmatively cones back and says. 'We are preempting this field and you can't legislate in ther that arything ever conceived by the mind of man up to this date.

man up to this obsets terday, and the issue is still here and it's still simple. Mr. Duval asked, says we'll taik about in the Preamble, "We, the people." Who are we taiking about? We are taiking about the people of the State of Louisiana. It's my under-standing that's why we're here to write a constitu-ent of the state of standing that's why we're here to write a constitu-tion for the people of the State of Louisiana. That means the people in Terrebonne Parish, the people in Grant Parish, the pople excryphere Tiring to-reson to some sort of a confederation...not some raque of Nations, or whatever you might want to all it, but of a recognized, political entity, one of fifty states in these United States. That is what we came here to do. Unless we stick with what we've one yesterday, we are not going to do it. It he state of Louisiana and when I cross a river, idon t want to be a stranger in my own land.

don't want to be a stranger in my own land.

 $\begin{array}{cccc} Hr & Hr & Chairman, fellow delegatos, I avery such in favor of this amendment. As I said in the beginning, I' an independent. I didn't run on anybody's ticket down here, and I' not running maxybudy s nix. down here to try to write avery disstriction.$ y political career, but this what we had yesterday is certainly not home rule A. I told you yestersay. I have been in lotal givern ent for forty years in a small community, we have police powers to arry only work. This will a mendment we passed years when will take away all local police powers, take way how rules, we can be very when we want to raise our freeten in pitteren so, you Hows. I near when they, they is ming be used due here and get their raise and when they can be used by a police power of the solution of the police powers. The solution of th

Author 11 us in Mr. Abraham Mr. Gaman, filles delegate, se are still trying to decide at wat even is set the line on his erue. New what des is a rule can? Ose it can his erule the ty it mean in the parish. Does to can it testate Ur does it can in the curry , usi to to derstand how we can pass Section , e. E. . . . . real fir sor affin s ur sit of that is it is realine sor affin s ur sit of the curle 1 Section 5, we provided that we would had the test rule down to the lowest less fir the curle 1 Section 5, we provided that we would had the test rule, provided the pole test even at the test rule down that accepted it, dowe at the test the right to decide what they wat the we take about to in the lagsislative Art e an everywhere about to in the lagsislative Art e an everywhere about to in the lagsislative Art e an everywhere about to in the lagsislative Art e an everywhere about to in the lagsislative Art e an everywhere about to in the lagsislative Art e an everywhere about to in the lagsislative Art e an everywhere about to in the lagsislative Art e an everywhere about to in the solut to in the

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said the cities are creatures of the legislature, and the Fordham Rule was that the people of the cities are the master of their own fate?

Do you remember the debate and the vote on the Do you remember the debate and the vote on the Avant amendment yesterday, where by a vote of sixty-one to forty-eight, you voted to reverse all of the votes you cast on this subject last week? Today, by a change of seven votes, you can replace what we did last week. For that reason, l urge these delegates who voted all last week on the forbase type of city government, will now vote for the Casey amendment.

### Further Discussion

<u>Mr. Kilbourne</u> Mr. Chairman, fellow delegates, i hesitate to come up here on this debate because I really don't feel that I know hat I'm talking about. But after I've listened to everybody else talk, and I feel maybe they don't know any more than I do, so I have a little more confidence. I feel a little bit like I did several years ago

I feel a little bit like l did several years ago right in my own woods, near my own home, but it was on a cloudy, overcast day, l couldn't see the sun, and I got lost. I wandered and I wandered. Every time I'd think I was getting out, I'd find I'd go right back where I'd started. I was going in a circle. That's an easy thing to do. I feel like maybe that's what was red doing now. But I cold Mr. Avant yesterday that I couldn't votor for his amend-ment because I thought it this to be how the me there

ment because I thought It was too broad. Now I don't know what they talk about when they talk about police power. When they say, "reasona-ble, any reasonable classification, the exercise of police power in the state, in the parish, in the municipality is based on any reasonable classifica-tion." What's a reasonable classification? Well, guess it's just what the people who happen to be I guess it's just what the people who happen to be holding the reins of power at a particular time the judges star particular time rule is reasonable. That's the only thing I can make out of it. What is police power? I don't know what police power really means, and it's so broad..so, I just...I wish Will Rogers was here sometime, because he was a man that could take the complicated things and put them in simple language that 1 could understand.

What I think police power is, just to be real simplistic, is what the government, or the people who hold the reins of government at a particular time do to you, or for you, for your Own good, whether you like it or not. I think this, that what we adopted yesterday. I still think it went too far. I think it's far too broad. It's too vague, and nobody. I'd say nobody here can foresee what the outcome, or how that kind of language could be in-terpreted in the future. For that reason, well, I don't know what the answer is, and I don't say Mr. Casey's amendment is the answer, but I believe there's got to be a better answer than what we did yesterday. So, I hope for the time being, that we can vote for Mr. Casey's amendment and maybe, maybe, that. But I really believe that Mr. Avant's amend-ment goes too far. who hold the reins of government at a particular ment goes too far.

Anybody can ask me questions, but I've already told you I didn't know anything about what we are talking about, and I don't think I can answer them, but I'll try.

### Ouestion

Mr. Derbes Mr. Kilbourne, I agree with what you say, and I'd just like to ask you this question. Isn't it true that any legislative act, any act of the state legislature pursuant to the Avant amendment, under the established rule of law, would be presumed constitutional, and it would be up to anyone challenging that law to establish its lack of constitutionality? If that were not established by proper evidence, the presumption of constitution-ality would carry.

<u>Mr. Kilbourne</u> Well, Mr. Derbes, that's a very sim-ple rule, a <u>Horn Book</u> law, of which even I know. Every legislative act is presumed to be constitu-

### tional. You are absolutely correct.

### Further Discussion

<u>Mr. Kean</u> Mr. Chairman, fellow delegates, I rise in support of the Casey amendment, and I'd like to take a few minutes to tell you why. I know what the Avant amendment does to East Baton Rouge, I know what it does to Jefferson, I know what it does to Orleans and the other home rule charters that exist in this state.

in this state. In the case of East Baton Rouge following the enactment of Section 11, it completes the emascula-tion of the charter of East Baton Rouge Parish. What I don't know is how far-reaching this partic-ular section would be, if enacted with Mr. Avant's amendment in it, so far as other governmental of-fices and units are concerned. For example, and think this is a matter which ought to be of some importance, for example, to you elected assessors, you other elected local public officials who are you other elected local public officials who are sitting in this convention. The Local Government Committee put in Section 13 a provision which, in government is to have any viability in this state, and that is the electors of each government al sub-division shall have the exclusive right to elect the members of their governing authority, and to further provide that such officials shall not be subject to removal by the elector's governer which

Now as I appreciate Mr. Avant's amendment, which says "anything in this constitution notwithstand-ing,"...anything in this constitution notwithstand-ing that the legislature could decide whatever is ing that the legislature could decide whatever is necessary in the exercise of the police power to classify all municipalities over two hundred and fifty thousand, and to take the position that the elected public officials of that particular...those particular minicipalities shall be terminated. Is that what you want? Is that what this section means? Read Mr. Avant's amendment an then read-Section of and dev Mr. Avant wouldn't provide the means for which we rould strike down, destrow do means by which we could strike down, destroy, do away with local government in this state so that simple device of violating the election of local officers who have been elected by the people for

officers who have been elected by the people for whom they serve. I can't believe that the delegates of this convention want that to be the law of this state. I know the people of this state don't want it to be the law of this state. This provision in Sec tion 13 has been in the constitution for many years, put check propose, to keep the legislature from doing what was done back in the early forties, and that is to rake away from local government its own. precise purpose, to keep the registence from other what was done by from theig government its own elected local officials. I say to you, by all means take a local to the consideration to what it does striking across all of the provisions of this arti-cle to such an extent that nothing is left. As I said in the beginning, I know what it does to Baton Rouge. It emasculates the Baton Rouge plan of gov-ernment. It does it even more effectively than Section 11 ever could have hoped to have done. I mendment to fost that battle to now, for the first time, have to decide what this amendment by Mr. Avant does to the rest of the state and the rest of the local government; you'd better take a good, close look at it and vue in favor of Mr. Casey's amendment, which is a sensible and reasonable ap-proach to this problem.

proach to this problem.

### Further Discussion

Mr. Gravel Mr. Chairman and ladies and gentlemen of the convention, I'm utterly amazed that my good friend, Ton Casey, could suggest to you delegates who sat here yesterday and heard many hours of de-bate, who were politicked on the floor of this conbate, who were pointicked on the floor of this con-vention, hear him say that mobody knew what was hap-pening. I think that just as clearly as it could possibly be put, that there was presented to this convention on yesterday, there is being represented

: '' vent on t day, the opt the of whe her '' u are going to have the ruling power over where e repised within the lay r and pollie A use g g to have the run g pixer aver a crist state, or whether you are goin to the tast user. I all not predict in the egy acted run crist of the time of the egy acted run crist pressel, the you i will be tast of the time of the time acted run crist pressel, the you i will be fyou which a pressel, the you i will be fyou which a pressel, the you i will be fyou which a pressel, the you i will be fyou which a pressel, the you i will be fyou which a pressel, the you will be a fyou which a pressel with the set acted run crist which are we have a control on a pressel with the set will be the you which a set and the an-thing in the pression and the set of a graph of the press by the egy shature is used the origin a would be hitting the pice present of the entre tate of Louisiana You would be hitting the right if the people of this state, the there a led representatives, to provide the pressal which is of better of of the pressal which is the formation of the pice present of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of Louisiana You would the pice of the entre tate of the entre tate of the tate of the entre

Inat the full rights of all of the people throughout the state are protected. Survey and the people throughout the state are protected. The state are protected by a resolution value, then you are and to perit literally, literally han-dred of an governmental operations to coexist without any uniform ty throughout the length and briadth of tool i and. Addes and gentlemen of this souventian, that's the issue. Too, in Heaven's of the protect and the public power of the tate, even i ed a south rised by the a end ent. If he provides of their variate or the provision of the rise of them tarter or the provision of the rise of the rise of the rise of the rise of the first rais of the rise and ent would not a first that. Ine Avant a end ent would not

R1 is in the local and pertimines, there of you not a set of the perturbation of the area for when the set of the set

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to retain the right for these general laws, and for the general protection of people of this state. Another thing, you talk about the health condi-tions of this state. You can't permit, you can't permit a police jury, or even in the same parish next to a city, or even in another parish, create a subdivision and let them have the standards of an oxidation pond that's not functioning properly.... that's not functioning properly, and they would create a health hazard to the people in another local government. There has to be an overriding, IGGAI government. Incre has to be an overriding, and retained by the state, the right to protect the health of the people of this state. That's all this is. Now the thing is, we have a good amendment that was adopted yesterday, and I think we should retain it as it is. It states the police power in a posi-tive manner. To properly protect the people of this state, it meads to be stated in a positive manner.

So, I'm going to ask you to reject Mr. Casey's amendment.

Thank you.

### Further Discussion

<u>Mr. Nunez</u> Mr. Chairman and fellow delegates, it's very difficult to say what hasn't been said because t hink it's all been said. It hasn't all been said today. It's been said for the last two weeks, and if we don't adopt the Casey amendment, what's been said for the last two weeks, and what's been adopted for the last two weeks, and what's been cally nil

You know, there's been a lot of talk about slow-You know, there's been a lot of talk about slow-ing down the convention, and why the convention is slowed down. Well, certainly, when you keep coming back after you have adopted Section 7 which ratified existing charters, Section B which gave the consti-tutional vehicles to local governing authorities to adopt the home rule charter, and Section 9 which... which, by the way was, I thought, a real componise, and I came here yesterday morning as optimistic as I've been since we started this convention. that we and I came here yesterday morning as optimistic as I've been since we started this convention, that we have been doing a good job, and eventually, the ul-timate product of this convention was going to be a good product and the people of the state can vote

But after we adopted and made the compromise. and put the referendum to the people--that was the and put the referendum to the people--that was the big cry from a lot of people, you know, they wanted the people to vote for it-they came back in Section 12, which was "Imitations of powers," and in "lim-itations of powers" what they did is almost undo anything you had done for a week and a half. Let me say to the firemen and policemen who are here. I don't think you've all a hatter friend it the me say to the thremen and policemen who are here, I don't think you've had a better friend in the past ten years I've been in the legislature. I haven't missed a vote for you. I don't think this is a vote for you, by the way. I think it's a vote to torpedo what we've done over the past two years, or past two weeks.

Section 16 covers the firemen and policemen ade-Section 16 covers the firemen and policemen ade-quately. If you want to vote to protect the firemen and policemen of this state, which I will do, vote fooled by...it's in Section 12...like a lot of peo-ple, I believe, still believe that they are voting for firemen and policemen. It's completely untrue. You are not voting to protect firemen and policemen. Section 16 will do that. I say up here publicly, maybe it's a bad vote, but I'll vote for Section 16. I believe that we have in this Casey amendment, what oncole have gotten up here and told you they what people have gotten up here and told you they wanted...not to abridge the police powers of the state. That's exactly what it does, very simply. It prohibits the abridgement of the police powers of the state by anybody. Now haven't you heard that a hundred times up here...that they do not want to a hundred times up here...that they do not want to give the local governing authorities the police powers that are delegated to the state? Well, this does it. This does it. What does the Avant amend-ment do? Not to be repetitious, but I think it just guts the present home rule charters. It guts the present Provision 9, and I think it goes a lot further than that. It goes into any constitutional provision such as your ports and your levee districts and your other constitutional providious as long as it's reasonable...as long as it's reason-able. What is that? That's one sentence in there able: what is that? Indis one sentence in one that all parishes asis of the Mississippi River, is that areasonable? All parishes above five hundred thousand; all parishes on the coast of Louisiana; all parishes that have fifty percent pine trees; is that reasonable legistion? Certainly it's reasonable. I think Mr. Casey has come up with an excel-lent amendment. I think his arguments for it are certainly prudent. His research last night think, is outstanding and far outdoes anything any-body has done so far. I think this is another com-promise. I believe that if we adopt this amendment, promise. I believe that if we doopt this amenoment we are on our way back to having a same...same and sensible, and something that we can sell to the public of this state, and to the local governing authorities of the state.

So, I would ask you to adopt the Casey amendment. I would ask you to adopt it in the sense that it doesn't do violence to local government, and cer-tainly it keeps the police powers to the state. taining it keeps the poince powers to the state. It spells it out very simply. So, let's adopt the Casey amendment and move on with the convention be-cause, I would say, at this point, we have slowed down to a snail's pace, and I would say at this point that if we don't pick it up, we might get into some serious trouble.

r. <u>Casey</u> Mr. Chairman and delegates, I don't retend to hope to sway anybody at this late moment. merely wish to furnish some additional informa-

In reading the law books last night, I think it might be interesting to forward to you, some of the material which I read last night just by repeating this information. In speaking of the police powers of the state, Corpus Juris Secundum says that "it extends to all matters which concern the regulation and control of the internal affairs of the state", and control of the internal affairs of the state", and listen to this part, "and almost the whole of the great body of municipal law which establisher the great body of municipal law which establisher is enbraced within the police power." Police power affects everything. I have a list of about two hundred things, animals, slaughtering animals, breach of the peace, building and zoning law, ser-vice stations, bookmaking, brickyards, butchers, carpet cleaning, curfew, dairies, dancing, feces, fire regulations, lewdness, laundries, lifeguards, tate state.

State. Gentlemen and ladies, I think you should consider seriously what the Avant amendment has done to the future of home rule government. Now 1 told "Sixty" Rayburn this morning, 1 don't know if "Sixty" so the second of the second second second second always thinking about one of these days we hope we could have some of that clean, good, cool St. Tam-many and Washington Parish water. Now, if this, if the Avant amendment stays in effect, that would, in effect, permit the state legislature, by general law, to pass some type of law whereby the city of be able to take water from St. Tammany or Mashington Parish and use it to the benefit of the city of New Prison to the state to the the second to the perishes Orleans unless the right were given to the parishes of Washington and St. Tammany, by local ordinance, to prohibit the removal of water from their parishes

Also, the legislature, as you know, is becoming more urban-oriented. It's certainly possible, that through a large representation from urban represen tatives, that possibly legislation could be passed which might be detrimental to the urval areas of which might be detrimental to the rural areas of the State of Louisiana whereby, however, through police juries' ordinances, the local interest, agri-cultural interest, might be better protected through local ordinances. I would like to point out very

trongl, that be ause of the Avant arend ent, we have one farther, uch farther, in d inshing himrule than did the 1921 Constitution, we are worse off in nor mule with the Avait amend ent than we were under the value the Avait amend ent than we have under the coll time proposal. So we have three choices when you get down to it, this is what we really ought to seriously cuts der are these three choices. Do we want the conlities proposal with this one extreme, do we want the Avait amendent which is the other extreme; or is it possible, pernaps, apple, that during the debate in the state those things that are due rightfully for regulation by the state and give to multiplication by the state and give to multiplications which is one this it's the whole is-use. You can't do that with the existence of the Avant amendent.

> [ju rum Call: 14 d least s pres nt and a guorum, Record vote ordered. Amenuments adopte : e--. Not in t re-- ns.der tabled.]

### Amendment

Nr. Poynter A end ent No. 1 [by Nr. enk.ns]. On page 6, line 31, at the end of the line change the period". to a selection": and is ent the following: "or 3] levy any tax beyond the limits imposed by this constitution; or (4 levy any tax not speci-"ically authorized by this constitution unless authorized by the legislature and by a majority of the electors voting thereon in the political subdivision affected". end.

All right now, Mr. Jenkins has a further change. With respect in the amendment to item No. 4. the amendment as he wishes it introduced would read: or "(4) levy or increase any tax", insert the words "or increase." So, it would read "or (4) levy or increase any tax not specifically authorized by this and by a majority of the electors voting threon in the political subdivision affected."

### Explanation

Mr. Jenvins Mr. Chairman, delegates, the proposal of the Local Government Committee very carefully it ded the Laxing authority of local governmental winance, in this stict, they specifically put it attains on property taxes, specifically put it stains on property taxes, specifical strict ases, ents, sales taxes, etc. However, there is a loophole left in the whole taxation scheme, and that is the possibility that other taxes not specifically mentioned in this article could be thopsed by virtue of the fact that local governing authorfites have the powers not denied to them by general law. Lawples of this would be things like a valueeiscenter that would porthbit a local governing authornor percent all along the way on the...on the sale and resale of various goods. There's no prohibitir, hor example, again the imposition of an episyent tax, it might happen in flew Drieans where there would be a need tax on people enployed in the 10, whill would have to be paid by people in Jeff frou on cleahere. To way in the imposition of an enployent tax, it might happen in flew Drieans where there would be a need to use all by geople in the 10, whill would have to be paid by geople in the 10, whill would have to be the lad government ould have done way the his of the class under the itation provided this constitution or by general as Nowever, we deleted that with an amendment that the lad government culd divernment mit the went aling with you remember the ting that while rement aling with you remember the ting that while row may ality with an amendment that the loss of the your enclose the ting that while row may ality with you retain the an enclose that aling with you remember the ting that while row may ality with you retain the onstitution or cuid impone ment tax with in this onstitution or cuid impone ment the an an outhorized by this, would unpone ment tax and provided by this, would and the provided that a vote of the peek emist be taken in ...der to in reset takes auther zed in it's ...tit o, the purpose if this a endert is to tay with that thought, to ay that o cal gover e ta subdivisions shall not evy any tak beyind the tis of this constitution or may not evy in create any other tak emits not authorized by this constitution unless the legislature approxes the peet of the take authorized by this constitution unless the legislature approxes the subdivisions shall not a subdivision to the inpect of the take authorized by this constitution unless the legislature approxes the approxement of the subdivision of the take of the takes unless they are given the portunity it vite on those takes, so this gives the that in it also sure that the legislature can to pass a law imposing a tay on a local by without the approvation approvement of this a end end to can ty. So, T urge the adoption of this amendent

### Further Discussion

Mr. Perez Mr. Chairman and adjes and gentieren of Chis convention. I would have hoped that Mr. Johnins with designed because to boo adjust for the taking power. I suggest to you that this is not the time tu consider the question of the limitations upon local govern ent L tak. I there are any amendments which should be iffered, they should be offered to Section 35. Section 35. Specfically provides, "a political subject to such that they are for parish, municipal and local purposes, strictly public in them rature. They are the sections when lay constitutions upon a first section shall not apply to, nor affect, sill are sections of this constitution which are self-operative. I hould hope that Mr. ervine and be enso that we may take up the question if taking no so that we may take up the question if taketon in an orderly fashion.

### Juestion

Mr. Jenkins Mr. Perez, in Section 35, wild you agree to go along with the idea of provising that ...there must be a vote of the people effice a tak could be imposed or increased on the local vernment level?

Wer Perez Mr Jenkins, every provision in the constitution with regard to the right to tak local government has a specific provision reur a vote of the people 1 cannot say to use the the legislature in some years renew in the that the legislature in some years renew in the the the legislature in some years renew in the taken the legislature in some years were in the taken in most ging to an are year year in the legislature in some years were in directly because 1 believe that will addres inter to when we get to Section 1, and 1 believe we would move all the particular provision as we do have the amend ent ad then we will use fastever further 1 leatings in takating that the the section is the do at the time we will be a set we will the taken the taken the taket the taken the taken in the taken the taken the taket the taken the taken the inter 1 leatings in takating the taket the taken the inter 1 leatings in the section of the taken the taken the inter taken the taken the taken the taken the taken the inter taken taken the taken the taken the taken the inter taken taken the taken the taken the taken the taken taken the taken taken the taken taken the taken taken taken the taken t

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Mr Rgeer Mr naman and felme eater, it seen to no that it wou read et to state it early agy in the 23 and 25 subject to state it to well, it would be to subject to state well, it would the state and advection and the set from that we her taking advections early with this that the early and state at the best of infittent the early and state at the best of infittent on hous the advection the best of the regulatered to state by the early state the the regulatered to a web by the early state of the

new tax can be imposed, and I think that's all Mr. new tax can be imposed, and i think that's all Mr. Jenkins is trying to do. He does not tie the hands of the local political subdivisions in any way; he just says that if it's a new form of taxation, that they must have a vote of the people before they can they must have a vote or the people before they can be imposed. Now, it has been said to me that there are some home rule charters that allow for taxation without the vote of the people. That may or may not be the case. If there... if that is the case, it's--the idea is abhorrent to me. It seems to me It's-the use all abhorrent to me. It seems to me in a nation that's being taxed to death, the least we can expect is for our constitution to require a vote of the people, and that's all Mr. Jenkins is trying to do. I think the amendment is quite good, and I think it's certainly in order and apropos to the general concept of this constitution: that is. government for all, but with reasonable limitations.

## Ouestions

<u>Mr. Perez</u> Mr. Jenkins [*mr. Roemer*], did you say, but...don't you agree that if that is the pleasure of the convention, we can take care of that when we get to Section 35, instead of taking it up out of order now?

Mr. Roemer Well, perhaps we can, Mr. Perez, but I would submit to you that if you listened to my opening rearks, you seem to have given a not of Section 35 to the need to be aware of other provi-sions in this constitution. You say just that. It seems, in addition, to me, to be relevant in limita-tions on local political subdivisions to put this most basic limitation on those local political subdivisions.

Mr. of Mr. Roemer, aren't there certain types Lanier of taxes like special assessments, etc., that are imposed not with a vote of the people?

Is that a question or a statement? Mr. Roemer

I'm..did you know? Mr. Lanier

Mr. Roemer No.

### Further Discussion

Mr. Conroy On previous occasions when matters re-lating to finance and taxation have come before this convention. I have urged the convention to act upon them at that time, but to postpone them until such time as they can be considered infor-congst. The degat the Jonkins amendment at this imm so that the schole orchiem ace he nanced in time so that the whole problem can be placed in proper context and studied in Section 35 with regard to taxation by local governmental units. It may well be that there are certain kinds of taxes that a local governmental subdivision should be able to increase or to levy without a vote of the people. I'm not sure what is meant here by taxes, whether I'm not sure what is meant here by taxes, whether it includes a special assessment or not. This point was brought out by Mr. Lanier's question. I think we again get into the question of home rule. We don't have a limitation of this kind on the leg-islature of the state; we don't require the state to submit all taxes to a vote of the people through-out the state; and where you have a home rule char-ter in which the people of a governmental subdivi-sion have decided that they want their governmental unit to be able to exercise certain powers of taxa-tion. I don't see any reason for this constitution tion, I don't see any reason for this constitution to limit the possibility of such authority being exercised by the local governing unit. I yield to any questions.

### Ouestions

Mr. Willis Mr. Conroy, I commend you for what you said and in the interest of time the most invaluable ...the most valuable element we are about...isn't this the best way to drag anchor, is by proposing amendments to a section under the guise of amending it and then scratching away at a section beforehand and then something that refers to taxation?

<u>Mr. Conroy</u> Yes, in addition to dragging anchor, it also confuses the issues and I think...makes them very difficult for the delegates here to comprehend, the significance of what's going on.

### Mr. Willis Very good

Mr. Arnette I was going to speak, Mr. Conroy, but I think I can ask you a question that might clear up my problem. Section 4 of Mr. Jenkins' amendment says that you need a vote of the legislature and a majority of electors.

## Mr. Conroy That's correct.

<u>Mr. Arnette</u> Now, even if the people of a locality want the tax, they vote it themselves, you still have to go to the legislature under this provision. Do you think that's a good idea?

Mr. Conroy I certainly do not, Mr. Arnette, but as I said before, I hated to get into a discussion of too much of the merits here because I think it's subject to too many comments nere because 1 think it subject to too many comments and criticisms and minor changes. I think if this passed, we'd find a whole bunch of additional amendments then being promoted on the floor to properly define and place this in proper perspective.

I urge you to reject this amendment and I move the previous question.

[Previous Question ordered. Record vote ordered. Amendment rejected: 34-79. Motion to reconsider tabled.]

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Dennis]. On page 6, between lines 31 and 32, delete Floor Amend-ment No. 2 proposed by Delegate Avant, et al. and adopted by the convention on September 26th and insert in lieu thereof the following: "(8) This article shall not limit the power of the legislature to enact laws of statewide concern." Now, Mr. Dennis, we've already got that amendment deleted. So, all we need to do is add a new para-graph and we need to call it "(C) now. We've got The intert of the amendment-lim going to have to change the instructions--is to leave the Casey amendment and add this language as a Paragraph (C).

to change the instructions--is to leave the Casey amendment and add this language as a Paragraph (C). The instructions will read and i'll correct the instructions on the desk: On page 6, between lines 31 and 32, and following the language added by the Casey amendment, insert the following...So, this would be added as a third paragraph, Paragraph (C).

[Quorum Call: 93 delegates present and a quorum.]

### Explanation

<u>Mr. Dennis</u> Mr. Chairman and fellow delegates, I<sup>4</sup> offering this amendment as a separate section--sep arate paragraph to this section. The amendment si ply says that "this article shall not limit the Mr. Chairman and fellow delegates, I'm The amendment simpower of the legislature to enact laws of statewide concern." The reason I'm offering this amendment is, ladies and gentlemen, we have not resolved the issue we've been grappling with. In Sections 8 and 9, which we have previously adopted, we have granted y, which we have previously adopted, we have graftle certain powers to local governments and Mr. Casey's amendment, which was just adopted, simply says that "the police power of the state shall not be abridged." Now, Mr. Casey's amendment either is meaningless, or it does away with the powers we granted under Sections 8 and 9. If you read it literally that "the police power shall not be abridged," then 8 and 9 would be in conflict with this, because they do abridge the nolice nower of abridged," then B and 9 would be in conflict with this, because they do abridge the police power of the state. However, if you read it to override B and 9...if you don't read it to override B and 9, then it's meaningless; it doesn't limit the power of local government one whit. Now, I submit to you that there are some areas in our law which can, al-hough they may affect local government powers, can

e to be of statewide conterningsest 1 years inat in the coing years the area of ecology will be one of these areas we ay be forced to en-statewide laws to deal with prible sithat pricing be one of these areas we ay be formed to the statewide laws to deal with polos. That privile statewide laws to deal with polos. That privile statewide laws to deal with polos. The statewide laws to deal with polos the statewide laws to deal with polos the statewide laws to deal with the statewide laws. The statewide laws to deal with polos the statewide laws to deal with the statewide laws. The statewide laws to deal with the statewide laws the statewide l with regard to which we cannot the the state legis-lature's hands. This:..this amenent that I am proposing is taken verbatim from the settion of the Hawa ian Constitution and says in this article shall not in the power of the legislature to enact laws of statewide concern." Now, Mares and gen there, I sub it to you that well, we haven't Clear with the statewide yesterday-we don't know what the dam thing means. Now, we all keep saying that we want ocal hole rule to take are of lo al prob-lems, but we all recognize-even Mr. Casey said this -that there are so we statewide problems that med lems, but we all recognize--even Mr. Lasey Said this -that there are so is statewide problems that need to be dealt with by the state legislature, and that is all thus endment does. This amendment leaves purely local problems up to local government, but to the state state state state state states is all thus the proper to enact lass of stateside concern. Now, I believe this is what a large number of us want to do. We want strong ho erule, but yet

### Jue tions

Mr sonroy udge enis, I youthize with the problem which you entored about the cunfurin that intexit, but i not une that we do to have ne confusion here. This is under the e-O on entities intaction of load avernmenta uddi vious and your uggested language i, that 'fi art ie hall not in the power of the leginature to enalt awa of take wide ensern.' To you entitat there is enthing tak he bed due to here art ie hall so this point which are the power of the leginature is the next.

- Mr. Knolls, Yel., 11
- Mr Golley ut ...

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powers solely to local governments to take advantage of it. I'm saying that's fine and good, but if that gets in the way of the legislature dealing with a statemest must be paramount and the legislature must be given the right to enact a law. If we don't, I'll guarantee you we'll be amending this constitution to take care of such a problem.

<u>Mr. Toomy</u> But you don't say in your amendment that these laws will be unified...applicable throughout the state.

# Further Discussion

Hr. Puth Mr. Chairman, fellow delegates, l share Judge Dennis' concern about this problem. L, howunder Dennis' concern about this problem. L, howlappreciate it, he would propose, as an amendment to a section relating to the limitation insofar as local governments are concerned, a prohibitory type language insofar as those matters of statewide concern might address themselves. I look upon this as more an entire section. I do believe as he dees, that when we get through, if we ever do, with the article on local Government, that something comparable to this will be necessary. I do believe in this section of the article it's inapplicable and premature. I would join Judge Dennis in the preparation of a similar type amendment to provide for a section in a more applicable place, perhaps the end, to ont one the section is discuss its location and the manmer in which it's currently being presented, and I would suggest, therefore, that we vote against this amendment in its present posture.

### Vice Chairman Casey in the Chair

### Questions

Mr. Lanier Mr. Pugh, would you agree with me that if we put this language in this particular section, that it could be construed to mean that the legislature could by general law impair the organization and structure of home rule units?

<u>Nr. Pugh</u> I think it's a possible construction. The use of the word "article" here concerns me greatly. If. if he wanted to say "this section." then perhaps it might deal strictly with this, but I worry about a phrase referring to an article that's contained within a subsection of a specific section.

Mr. Dennis Mr. Pugh, do you realize that Mr. Casey's amendment refers to the article also?

Mr. Pugh Yes, sir, and I voted against Mr. Casey's amendment.

Mr. Dennis Well, Mr. Pugh, don't you agree that if we adopt this amendment here or anywhere else, it's going to mean the same thing and if you disagree with the placement, that might be a matter that could be considered by Style and Drafting.

Mr. Pugh I don't disagree with the concept at all, Judge Bennis; I'm with you one hundred percent. I am concerned about whether or not it would properly flow in this particular place in the constitution. I am not in disagreement with the concept. I think it's one absolutely needed.

Mr. Willis Mr. Pugh, don't you think that the very first independent clause of the Legislative Article supplants, replaces and indeed takes into consideration everything Judge Dennis wants to do and that there's no need for further words when it says "the legislative power of the state is vested in the legislature'?

Mr. Pugh Well, I don't think that resolves the issue that Judge Dennis has raised; however, unfortunately, I was not here at the time the Legislative Article was passed.

Mr. Willis Well, the legislative power is the power to legislate for statewide concern, isn't it?

Mr. Pugh Yes, it is, but we..we run into the problem of whether or not, in reference to these home rule charters, if it's preemisted the entire field relative to these matters. I think Judge Dennis has got an excellent point. I just am concerned about sticking it right here. I think it's too important to be a subsection.

Mr. Willis Well...doesn't this first independent clause of the legislative Article completely adumbrate the entire Local Government Article for the reason that the local government can only operate within its own sphere, a meager poor privilege it has indeed, for the people which are concerned in that sphere.

<u>Mr. Pugh</u> No, sir. I think that matters relating to statewide concern necessarily would be within the ambit of a local subdivision.

# Further Discussion

<u>Ms. Zervigon</u> Mr. Vice-Chairman and delegates, I rise in opposition to the amendment, not because I oppose the legislature passing general laws, but because I find the wording very fuzzy. In the research that we did in the preparation of our articlad was those that was passed in Colorido. The Colorado Constitution uses the words "statewide concern". The legislature may deal with those things of statewide concern. Local government may deal with those things of local concern. That constitution stayed in the courts for thirty-five years trying to decide...define and redefine what was of statewide concern as opposed to what was of worded now is clear. The words "police power" in the Gasey amendment are defined in the statutes and have been litigated over time. The words "not denied them," referring to the powers of local government, are as clear as they can be. The words "statewide concern" are unclear. If the state feels concerned about one particular local government problem, may they act upon it or not, is that of let's leave the legislature the power to act, but let's put it in words that are clear and that we know what they mean.

### Ouestions

<u>Mr. Tobias</u> Ms. Zervigon, do you think that women are more qualified to vote on this amendment because they know more about home rule?

<u>Ms. Zervigon</u> Mr. Tobias, 1 appreciate your warning me about that question five days ago, and that's why I haven't taken the mike much on this article.

Mr. Casey Ms. Zervigon, did you answer the question, though?

Ms. Zervigon Some women do and some women don't, but in Mr. Tobias' home, he's the king.

# Further Discussion

<u>Mr. Burson</u> Mr. Chairman, fellow delegates, in the vein that Mrs. Zervigon spoke on, we did a lot of research into this question of what is and what is end what is not here to be a specific to the spoke of the specific to the most legitimate argument that has been raised in debate here by the opponents of the strong home rule provisions that we have proposed and which have thus far been successful is the argument about the effect on legitimate general statewide laws. But, l oppose this amendment for a very particular reason. I would ask you, pless, if you would, to look

in page 1 of the committee processal at the errortin there of general aw 1 was the one who will that up to subiit to the coll thee and, of course, it was changed somewhat thereafter. It say , Ge city of Yee Drieans and not to the entire state, or not even to all political subdivisions within a class defined. If you will look at Section 6 of the Classification Article that we have adopted, we say there that the classes have to be related to the purpose of the classification. The example that is would be in the context of Louisiana that is would be reasonable to classify all coastal par-ishes, let is say, in a matter of ecology such as what ludge Dennis was talking about. But, if you just say a law of statewide concern, I fear that you have not nearly defined your terms as thoroughly as you need to define them. Believe me, if 1 have been sincere about any argument that 1 have made. 1 about the general applicability of law, statewide about the general applicability of law, statewide. But, I submit to you that this language does not do the job and I agree with Mr. Pugh, although he and I have disagreed on many things, that this would be appropriate work for a separate section of this ar-ticle or somewhere else in the constitution. Mrs. Zervigon is absolutely correct in pointing out that in colorado they litigate intervice concern dishot the courts over what was statewide concern and what was local concern. Other states have had the same was local concern. Other states have had the same experience by trying to use a similar definition. You simply have got to get into the question more explicitly than that. I would also point out that you here encounter the whole problem of the fact

Hr onry I think all of us share some concern an ut the eaning of what we ve done of far, and the relative pristion of tate government and local government I am uncerned a some others are about the puilton of thi in thi article, and I have me peific reason why a on erned about its positioning be assel don't understand the interre-ation of the particular provision and estim for this in this provision and estim privile this mittuition shall be para usin winner the leficiture nor any political sub.

Le of tatew de untern if this a mitation the can aver entri 10 v mit the transformer and the visit that the mit significance i can really stirbute to this means to really stirbute to the the second state de the vertex of the second state de the vertex of this medient to consider withdrawing it, and to place this betchick and unge the life that to achieve his objective, and unge that the convertex of the second betchick and betchick and betchick and the second betchick and unge that the convertex of the second betchick and unge the text to achieve his objective, and unge that the convertex of the fore the convertex of the second betchick and the s

<u>Mr Arnette</u> just have one very guilt point i make, and that is that possibly the ast part i his particular provision ight be all r ht, a-lowing the legislature to ake law of statewide concern. But, when you add the first part, it says "This art ile shall not linit tat wer, y-have just said that the egis ature ay enact any law, any law of statewide concern against a y lie rule charter, against any local govern ent inat what it does, ad es and gentle en it tily do concern, is of statewide to say a say statewide concern, is of statewide to say a say to have unice charter, a local laws. All they have to d is pass a law saying that, and that wu d destruy all home rule charters, all ocal plans of govern-ment, and they would just enact all your local way for you. I d just like to point this out before we vote on this particular a end ent "hak you

Mr. Dennis Mr. Chairman, fellow delegates, we ve been vac' lating to some extent because lining we're gropping for a fair solution Now, Mr. asey admitted ear ler that perhaps the contiteer sa was too strong in granting powers to local givern-ment. I think that was the reason yesterday we adopted Mr. Avant sa endment but then we got so adopted Mr. Avant sa endment but then we got so raken the police power away from the coll overn ments. But, I sub it to you Mr. asey a eddent didnit solve the problem of a fair bainne. I power between local govern onts and the state legisture besause all his alend ent said was, There shall be no abriegment of the police wer h w. That h w. that you've a ready abridged it in Sections and 9 what you ve done in citions and 9 in ave out an exclusive area of power to local givern eit how, there's only one way to ay fair y and early that if a statewide concern arise and necessitates the legit laure at ing in that area, that if a and si, and that is to say exactly what this a end et say. This aritule shall not int the were on to conclusion and that fair y and the second to conclusion and that fair y are so were so int to you its not nearly a fauly and in the legit and the period the hour and in hi-orops wirds second ty in the hour and in hi-orops wirds second ty in the hour and in hi-to you its not nearly a fauly and its power and the second ty and the hour and in hi-Minimal cases and the upper three hours as in information is securite try in this indication at a security in the security of the security is the security of the security is the security of the security of

# matter of statewide concern?

<u>Mr. Dennis</u> I would say that zoning is not a matter of statewide concern unless it interfered with an overriding statewide interest such as preserving a wholesome ecology.

# Mr. Duval So you think...

Mr. <u>Dennis</u> I think that we could come to a time in this state in which ecological problems could become so severe that it would require the state legislature to enact laws to protect the ecology. and I believe if that situation should arise, it should become a matter of great statewide concern, that the legislature should not be thwarted in its ability to act in this area.

Mr. Duval Sir, do you think the legislature...in answer to my question, zoning, then can be a matter of state concern. Is that right? In answer to...

<u>Mr. Dennis</u> No, not zoning itself would not be: The protection of the ecology would be a situation l could see that would arise in which the legisla-ture would need to act in an area that you may have carved off and preserved exclusively to a local government if you don't have this amendment.

Under this section as written, couldn't Mr. Duval Under this section as written, couldn' the legislature, by general law, prohibit or deny any type of that..any type of activity like that?

> [Record vote ordered. Amendment rejected: 52-68. Motion to reconsider tabled. Previous Question ordered on the Section. Quorum Call: 113 delegates present and a quorum. Section passed: 114-7. Motion to reconsider tabled.]

### Amendment

Mr. Poynter this time. The amendment is being passed out at

cn1s time: the state of the state cause a code to be prepared containing all of the ordinances of the political subdivision of general application which are appropriate for continuation as law. When the code shall have been prepared the governing authority of the political subdivision shall cause copies of the same to be prepared and made available for public distribution. All pro-posed ordinances of general application adopted after the approval of the code shall be adopted as amendments or additions to the code."

# Explanation

Singletary Mr. Chairman, ladies and gentlemen, this section would require local government to put this section wood a feda reader docki poweriment to git yavallable to the public. It is essentially saying that the people have a right to know. This section is intended to ease a gigantic problem-the problem of knowing what the local law is. It would require political subdivisions to put their ordinances of political subdivisions to put their ordinances of general application into a code. Let me illustrate. In my area, I must make a sixty mile round trip to the courthouse and look in the minute entries of the meetings of the police jury to find a police jury ordinance. If we are going to give local gov-ernment more lawmaking power, then local government should, also, have the additional obligation to put That law into a form that people can get their hands on and read so that they will know what law they are subject to. This section would not impose an unreasonable financial obligation. A fee could be Charged to any individual who wanted a copy of this code. Also, if this code were merely xeroxed, pages of the ordinances held together by a staple, 1 be-lieve this would be in compliance with the section.

This would be inexpensive, but still accomplish the purpose of making the law available to the public. J believe this matter is so basic and so important 1 believe this matter is so basic and so important that because...and because we are giving such im-portant new lawmaking authority to local government, that this section should be put in the new consti-tution. Shreveport, Baton Rouge and New Orleans have already put their ordinances into a code, and so have many other bodies, so this wouldn't affect them. We have put many safegurds and Ale the field in der to insure that the people will be informed about what the...about the law that the legislature makes. We have not done this in the constitution with regard to local government. So, I think it is makes, we have not done this in the constitution with regard to local government. So, I think it is reasonable to put a provision in this constitution to provide that the people know what the law is. I urge the adoption of this section, and I request I'll yield to any questions. a record vote.

### Questions

<u>Mr. De Blieux</u> Mr. Singletary, do you know anythi in this constitution that we have approved so far that's coming up that would prevent local subdivi-sions from doing that without this section? Mr. Singletary, do you know anything

Mr. Singletary No, sir, but I think we need to impose the obligation to do it.

Mr. De Blieux Do you know anything that would pro-hibit the legislature from requiring them to do that?

Mr. Singletary No, sir, I don't. But, I want to make sure that we do it.

Mr. De Blieux Well, don't you think that would be something that we ought to leave out of this consti-tution and let the legislature take care of?

<u>Mr. Singletary</u> No, sir, 1 don't. In the Legis-Tative Article we provide that local laws had to be advertised, we provided for style of law, pass-age of law, signing of bills, effective date of laws, general public hearings. We provided none of those with regard to local government, and I think that this is a basic safeguard that we have to pro-vide. I think it's extremely important that we do this.

Mrs. Warren Mr. Singletary, did you know that I think that's the nicest thing that has happened in this convention and I would love to be a coauthor, if you don't get but two votes, mine and yours?

Singletary Thank you, Mrs. Warren.

<u>Mr. Roy</u> Mr. Singletary, do you know that 1'm from a small town and that they don't do these things. 1 think this is great.

Mr. Singletary Thank you, Chris. It's a real problem to find the local law and this would make

Mr. Henry Well, that's just real wonderful.

Mr. Jenkins Mr. Singletary, of course, the leg-islature must meet certain requirements when it en-acts statutes. They have to be published so that the people can know about them. In this constitu-tion, we are giving local governing authorities a great additional power. Unless they also publish and make known these ordinances and resolutions that they pass, isn't it true that the people would really bave no means to know what had heen Dassed? have no means to know what had been passed?

Mr. Singletary Absolutely. 1 think you are right.

<u>Mr. Alexander</u> Mr. Singletary, throughout this convention we've been, possibly, most likely. I've been opposing anyway, any move on the part of the legislature to impose anything on a local governing agency that would cost money. Now, we are saying

that the local governing unit must do this within won't this be rather expensive.

No, sir, I don't think it will Mr. Singletary No, sir, J don't think it will, Reverend, because, as I said, I think if they just merely put their ordinances into so e type of form and xerox page the things and put a staple up in the corner and make these things available for purchase, ] think if someone wanted a copy they could chase, I think it someone wanted a copy they control be charged a reasonable fee for it. Arenox copies with a staple in the corner, I don't think, would be any proble. I wouldn't want to impose any unfair financial burden on local government. I don't

Hr. Fortenct Mr. Singletary, I., also, am in support of jour amendment, at the present time in Ville Platte we are doing this exact thing, propos-ing a code and it's not costing that much. Do you know...is it your interpretation that whenever they do adopt such an ordinance with a code that i, will It will be published in the newspapers as required by law?

<u>Mr. Singletary</u> ] left that up to local government. They can provide for those type of things. ] just merely want them to put this thing into a form that's available that the people can get their hands on.

Mr. J. Jackson. Mr. Shairman, ladies and year of the convention, I rise in support of Mr. Single-tarvis amendment. I think that particularly as we Mr. Thairman, ladies and gentlemen sive powers that we have given the local government that it's no more than right that the citizens of the ariseties areas have in at least one location or at least in one volume. Those ordinances that's going to can't very well see an argument against imposing fi mancial burdens. I think caule you may have an or-dinance supposing the financial burden on a particu-lar taxpayer, then that taxpayer ought to have the right and the city ought to have the responsibility of letting him how what the law is without thin having to be a research assistant to go through a l kinds of volumes of newspapers and various other kinds of volumes of newspapers and various other sorts of methods of informing the public where he can, and the way we do it in the city of New Orleans is that there is a volume that is in the public li-brary at City Hall. If you wanted one for your per-sonal cony, you can purchase one from the city it-self. So, I rise in spoport and ask that you favor-ably adnort Mr. Singletary's amendment ably adopt Mr. Singletary's amendment.

Further Discussion Provide the second secon

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Pr. Avant Senator e Élieux, tin t $\downarrow$ u real ze what we've been tallin ab ut here fr two days, that under the article as written, the lelis ature can't pass such a statute?

Mr. De Blieux well, i' just,... there were ust ruining it now by putting this wind if stuff in it because after while, the legislature win t be able to do anything.

Mr. Avant would you be eve that tiere sivery little they can do now, and that this is one thing

Mr. Avant Mr. Avant very m ch? o you, als , Mr. e lieux, let me ask you a question. Have you ever s inside legislation to this effect, in has a youd in the

Mr. De Blieux Mr Fintenot, there's lit of deas Mr. De Bligur Mr. Fintenot, there's it of deas that come up every note in a will be that 1 don't think of that 1 don't...that 1 haven't previous thought of to put nti an act...sa a cit of the legislature. This is a new one, and 1 this k t's a good one. I think it's one the reislatures wild take care of. But, let's...1 don't think it has its place in the const tutton, ke've got it situation now on this local givernment to were, we not need the legislature if we do all the thir is this--we won't need the at all

Mr, Fontenot Right. That's easily the int how, if we don't need the legislature 'te Mr. Avant thinks you don't need the any ore, don't you tink aybe the cople will the infield of what rol-nances do affect the?

Mr. Fonten t Well, don't you think the local and ern ents could take care if that believes y the

Mr. De lieux Are yu intereste in ab h the legislature? It see it e, with deas he

Mr. Filburne Mr. hali n, adie an elser. I ut 'ave a few wirds here. I et f have had is elltte exerter mich solt ie isaa

By Legender, either is a set of a set of the set of the

at elections held in accordance with the election laws of the state. Such officials shall not be subject to removal by the legislature".

# Explanation

Hr\_Lanier Mr. Chairman and fellow delegates, I think That this section is pretty well self-explanetory. I would like to point out a couple of little things. As you will notice, it says that "the electors shall have the exclusive right to elect the members of their governing authority." It doesn't say anything about chief executive of ficer. This is because in commission form of clif governments are in polec tives, ficer and that's why that particular distinction is made there. This particular provision was recommended by the Louisiana Law Institute, and it is, also, in the projet of the new Louisiana Constitution. It is presently in existence in our 1921 Constitution in Article XIV, Section 40, in a slightly different form. It's my understanding there is an amediant heart this there is anything particularly controversial about this. The question for you to decide, of course, is whether or not this should be in the constitution, that we give this protection to local governmental officials. The committee felt as a matter of policy and judgment that this type of protection should be given to the local governmental officials in the constippy to yield to any questions at this time, Mr. Chairman.

### Ouestions

<u>Mr. Tobias</u> Mr. Lanier, do you believe that any other group could elect a local official? What do you envisage by putting this in? I mean, to me it seems like an inherent right of a local governmental body to elect its...the electors...

Er. Lanier We are constitutionally stating that these people have the right to elect their officials.

Nr. Tobias But, don't they have that right anyway?

Nr. Lanier I'm not so sure. I don't think in the Bill of Rights we had such of a right. Perhaps Chairman Jackson could enlighten me on that, but I don't recall us giving that right specifically in the Bill of Rights.

Mr. Tobias Your last sentence reads: "Such officials shall not be subject to removal by the legislature." I assume you are referring to addressing an individual out of office.

Mr. Lanier I think that's what we were primarily thinking about at that time.

<u>Mr. Tobias</u> Okay. Since we have, in effect, deleted the addressing out of office provision out of the legislative proposal, do you think this sentence is necessary here?

Mr. Lanier I would say that there is less of a reason.

Mr. Champagne This has partially been answered. but don't you think that if we...if some rovernment...l don't know what it would be, maybe, the legislature says, "You cannot elect your officials any longer," don't you think that these people have a right under the constitution to question that?

 $\underline{\mathbb{M}r}$  . Lanier Well, this is specifically designed to prohibit that type of conduct by the governor.

<u>Nr. O'Neill</u> Walt, I generally like what you've done. I just have a question about it. Would this allow the people of the parish, say, to elect a city council and then for that city council to appoint executives to administrate the council, for example?

Mr. Lanier Yes. One of the reasons we made the distinction on the chief executive officer was because, as you know, in the commission form of government the council designates the commissioner who is not an elected official but is the chief executive officer. In the police jury system each juror is individually elected and then the jury itself elects their officers.

<u>Mr. O'Neill</u> Do you know if any parish or local municipality in Louisiana has the form of government which you would provide here? I'm not sure about it.

Mr. Lanier This doesn't provide a form of government...

<u>Mr. O'Neill</u> Well, does any local government, you know, appoint administrators right now, that you know of?

<u>Mr. Lanier</u> I think New Orleans has an administrative officer of some type, but I don't know what they call him.

Mr. Munson Mr. Lanier, is a waterworks district a governing authority?

Mr. Lanier It is not a local governmental subdivision. If you look in definitions, you'll see that a local...

<u>Mr. Munson</u> It says, "Each governmental subdivision shall have the...exclusive right to elect members of their governing authority." Now, is a waterworks district a governing authority?

<u>Mr. Lanier</u> If you will look in the definitions, Mr. Kunson, you will see under Section 51, item No. 1, "local governmental subdivision" means any parish or municipality.

Mr. Munson Where is that?

Mr. Lanier That's on page 27.

Amendment

Mr. Poynter Amendment sent up by Delegate Pugh as follows:

Amendment No. 1, on page 6, delete line 32 in its entirety and on page 7 delete lines 1 through 7, both inclusive, in their entirety.

### Explanation

<u>Hr. Pugh</u> Mr. Chairman, fellow delegates, I feel this is one section that we can clearly do without. There's nothing in this section that good common sense doesn't dictate, anyway; as the question raised over here, who's going elect them if those nopple don't? As to the suggestion that commission forms of government provide that the elected oftate of the suggestion that commission for the suggestion that commission for a start of the suggestion that commission for the suggestion that commission for the suggestion that commission forms of government provides that the people select the perior who will be elected as their mayor. Now, one thing that disturbs me about Section 13 in addition to the fact we obviously don't need it, is the fact that if you read Section 31, you cannot have single member elections in Louisiana. Jou don't have simile member elections in Louisiana, you don't have constitutional lections in Louisiana. This seal of the the set of their set of the hear start due that it needs to be by single member of them has to vote for all of them. Nothing is further that it will not stand federal constitutional read that it will not stand readers anything we need

to throw into chaos less, it's our entire structure of electing local ficials. I suggest that we sope the a endment and thereby delete the section, fur that st he only part of the section to add with erit at all, and I worry about whether or not had doesn t create an pae hent problem, is the last sentence, and the speaker for the section readily actionwiedged that that had little if any continuing benefit in the section. I reiterate, this is one instance where we can delete from the constitution language serving little or no purpose, and J asi you to delete it.

### Questions

Kr. Flory Mr. Pugh, as I read Section 13, on lines 3 and 4 particularly, this would allow for the appointment of the chief executive officer of the governing authority. Would it not?

Kr. Willis Nr. Pugh, if the election of rulers, local rulers, is an inalienable right, do you not think that it should be delineated with fastidious precision in this article that the people have that right?

Mr. Pugh You mean the people have the right to vote in elections?

Kr. Willis No, sir, to elect.

Kr. Pugh To elect the people?

Mr. Willis Yes, yes.

Mr. Pugh Who else is going to elect them?

Mr. Willis Thank you. My next question is, you say that co on sense says we hould have...using your own argument, isn't freedom of speech and freedo of press a malienable rout?

Mr. Push I believe then to be.

Er. Willis Then using your own argument, would you be willing to strike that out of the constitution because con on good sense dictates that we have that right anyway?

Mr. Pugh You mean the freedom of speech?

Kr. Willis Yes, and press.

Mr. Fugh Well...

Nr Willis Dun't you see how your argument doe,r't ha ance?

Mr. Pugh I believe that were it not for the Inited states constitution

Mr. Willis But we re writing a state institution

Mr fugh , we could in fact remove freedom f the freech and, for God , sake, don't think l'o summest no that as a possibility

Mr. Lan er. Mr. Luch, are you fall var with the

Mr. Pugh Yes, r

Pr. Lan er Aren t the ners e ected

Mr. Pugh i a fail ar with the sister from for vernient; I a fail tar it with sister anager form of overnient, because ( ) with for such for of governient.

Mr Lan er esn tileR dder have me

Mr. Pugh What?

Mr. Lanier DeRidder, Luisla a, do t t ey lave a commission manager?

Mr. Pugh That's a analer, ut it is r t a consission anager.

Mr. Lanier Isn't the anager the clief eventive officer appointed by the collission?

<u>Mr. Duch</u> No. sir. He is not let e tely un thit spent one year traveling to about eighteen including every state that had the consistion forof government, and I assure you there is no mission-amager for of vernment. There are three forms of government and that s not me if them.

Mr. Lan er Let me ask you this, on this in ie member district you ean to say under the esent law, you cannot have a single eber district in a local governmental unit?

Mr. Pugh No, sir. ] didn t say that. I' t un indful of the fact is what the present  $\epsilon$  is to this says. I', a iso, not un in if u' of the fact that we ust have similar member elections and with have the

Mr Lanier Are you aware that in the arth f Lafourche by federal ourt order we have uitiember districts (our local giverne ta units that's been approved by the ourt

Mr. Pugh 1'm aware of the fact that the federa courts first took the pult on that unless on reapportioned, you neves an up had to run at a rel'm, also, of the und and knowled e that the have retreated from that point in ever up of the second secon

### Further 1 c ss on

Mr. A. ackson Mr. chain an, lade an eithen endert to detet this set to be a chain uage as 1 understand it and appreciate it is very uage as 1 understand it and appreciate it is uage as 1 understand it and appreciate it is entered as it what the first entere erea cass. econdly, I a supresed it the test in unaure all interpret the used it the first entered, there is a standard rest is as a there is a standard rest is as a standard rest is and the enter is as a standard rest is and the enter is as a standard rest is as a standard rest interpret of the enter is a standard rest is as a standard rest is a standard rest as a standard rest is a standard rest is as a standard rest is a standard rest is a standard rest is a standard rest is the standard rest is a standard rest is a standard rest is a standard rest is the standard rest is a standard rest is the standard rest is a standard rest is a standard rest is a standard rest is a standard rest is the standard rest is a standard rest is the standard rest is a standard rest is a standard rest is the standard rest is a standard rest rest is the standard rest is a standard rest is a rest is the standard rest is a standard rest is a rest is the standard rest is a standard rest rest is the standard rest is a standard rest is a rest is the standard rest is a standard rest is a standard rest rest is a standard rest is a standard rest is a standard rest rest is a standard rest is a standard rest is a standard rest rest is a standard rest is a standard rest is a standard rest rest is a st

Mr. Perez has wanted to speak, Mr. Mr. Henry Jackson

# Mr. A. Jackson 1 withdraw my motion.

### Further Discussion

Perez Nr. Chairman and ladies and gentlemen of the convention, first let me clarify one point with respect to the last sentence which appears on lines 6 and 7. The reason that that sentence was put in that "such officials shall not be sub ct to removal by the legislature," was because the fact that there was a proposal and also in iect the present constitution there is a provision which the present constitution there is a provision which would authorize by direct action the legislature to address out of office a public official. We want to make it clear that they could not do so, but now that that provision has been knocked out of the proposed new constitution, I will have an amendment which will delete that last sentence so that we can set that particular situation at rest. The only purpose of Section 13 is to guarantee both with respect to any state action or local ac-tion that has the act has the sclusive right to allor the members of their onverning authority. elect the members of their governing authority It seems to me that this is a basic constitutional right that we are putting in here to be sure that there is no question that that can be done, I'm a little bit amazed that the Chairman of the Com-mittee on the Bill of Rights would be against this mittee on the Bill of Rights would be against this because this is an extension of the rights, to be sure that there would be no problem with respect to it. Now let me call your attention to the clause "if a plan or form of government or home rule charter so provides, their chief executive officer." The problem we have is in the police jury system, the police jury president is not a lefted by the prople as such; the so that is not a members elect their president. That's the same with respect to certain charter forms of govern-ent. so that it's only if the plan or form of with respect to certain charter forms of govern-ment, so that it's only if the plan or form of government or home rule charter provides that the people do not elect their chief executive of-ficer, they elect the members of the body, like the police jury, then the police jury members, elected members, then elect the chief executive officer. It's a partforthy promer position elected members, then elect the chief executive officer. It's a perfectly proper position,... provision. So I submit to you that this section was placed in here in order to be sure that there was no question that either the legislature or any plan or form of government or anything else would deprive the people of electing their local officials, and I submit to you it's a proper sec-tion to be included within a constitution. I, therefore, urge you to reject the Pugh amendment, and then I will offer an amendment which will take care of deletion lines 6 and 7. or most of line 6. care of deleting lines 6 and 7, or most of line 6 and line 7.

vote ordered. Amendment rejected: 27-87. Motion to reconsider tabled.]

# Amendment

Mr. Poynter We have identical amendments served by Delegates...as I appreciate them, identical amendmenis by Delegates Perez and Kelly, neither of the distribution copies are here. It would We have identical amendments sent up amenoments by delegates refez and keily, nether of which distribution copies are here. It would affect the deletion of the last sentence. On page 7, line 6, after the word and punctua-tion "state." delete the remainder of the line and delete line 7 in its entirety.

the legislature. Now that we have not...you can-

not hear me? Well, l'll start again. The purpose of deleting the sentence "such of-ficials shall not be subject to removal by the legislature" is because of the fact that we have deleted the provision which would authorize the legislature to directly address an official out of office, and since that has been deleted, this sen-tence should also be deleted. I move the adoption of Mr. Kelly's amendment.

# Ouestion

<u>Mr. Pugh</u> Mr. Perez, under this Section 13 where you say the electors have the exclusive right to elect the members of their governing authority, suppose something happens to one member of that governing authority, how is he going to be appointed?

Mr. Henry Mr. Pugh, I don't think that has any-thing to do with the amendment.

Mr. Pugh Oh, I'm sorry.

Mr. Perez We have a provision on filling of vacancies two sections down.

Mr. Henry I believe that pertain to the amendment. I believe that your question doesn't

[Amendment adopted without objection.]

# Amendment

This amendment is offered by Delegate

Nr. Poynter This amendment is offered by Delegat Perez...Velazquez, excuse me. There is a difference. On page 7, line 7, at the end of the line add the following: "Nothing herein shall be construed to prohibit the election of any official based on the delegation." apportionment by population.

apportuniter of population. Fr. Velazquez, with your permission since that last sentence has now been deleted, I'm going to make this read, "On page 7, line 6, immediately after the word and punctuation 'state.' add the following':

# Explanation

This is a relatively simple amend-Mr. Velazquez ment. It just prevents every member of every governing authority from being elected at large. The amendment allows those governmental subdiv sions where the governing authority is elected by single member districts to retain those districts. It won't have any effect on any district where there are court approved multiple member districts. It merely states if the population a local area want single member districts they may have single member districts. That's all it says. I don't think that anyone here wants to prevent anyone from having single member districts who wants to have single member districts. I urge its adoption.

Mr. Perez I've just seen the amendment, just in the last half minute. If you don't mind, we can stand at ease for just a moment. I hope we can go along with it, but I want to be sure that I know what it says.

a guorum. Amendment withdrawn. Motion

### Reading of the Section

Mr. Poynter pensation "Section 14. Local Officials; Com-

Section 14. The compensation or method or fixing the compensation of a local elected official of any local governmental subdivision which operates under a home rule charter or plan of govern-ment as provided in Sections 7 and 8 of this Article, shall be provided in its charter.

Mr. Perez Mr. Chaim an and ladies and gent even of the convention, this article was placed in the Local Government Article only be ause if the fact that there is a provision in the article on the that there adopted

blas Mr. Perez, suppose a government, a govern ent under a home rule charter, did Mr. Toblas local gove

<u>Mr. Perez</u> well, first it's inconceivable for me to believe that if they on to the trouble of de-veloping a he erule charter they would not want to fix the copensation of their me bers, and i would say that this would be a requirement that they do it. I don't think it's unreasonable. In fact, it's something that I'm sure that if you have a home rule charter that there's no question that frow is to provide that where you have these no erule charters they have the right to fix their copensation, and its inconceivalle to me that they would not want to.

Mr. Nunez Mr. Perez, should not you have on line 17 where you have ections 7 and 8 of this article, ihould not we also include Section 9 in the event that a police jury would operate, put a referendu to the people that would operate under 9, then

Mr has pagne in line by, would you to'll e what's the reason for agains as provided in 'co-tions 7 and is fits articles'

 $R_{\rm c}$  is pages into what the section service, because we've length latter that is the set of the section o

a, f - the eth , which that , er at .n

### A end et

Mr. Poynter Puch.

A end ent No. 1, on page 7, delete nes through 17, both inclusive, in the rentirety

Mr. Pugh Mr. Chair an, fellow dele ater, a an ar se hopefully with ore per uasin to ask y u

Brither through the second sec

<u>Mr. Perez</u> Yes, that's correct, and that's the reason that this first, it was not included in our draft, but when it was reported back to committee in order to take care of the problem that this was taken care of, and I chught that we had a unani-mous, or virtually unanimous attitude on the be half of the delegates that this provision should he in here.

Mrs. Zervigon And we've received no criticism from the Committee on the Executive Department on this, have we?

Mr. Perez Not that we know of.

Mrs. Zervigon Thank you.

Mr. Burns Mr. Perez, did 1 understand you, that if this section is not adopted that the legisla-ture, we'll say, could fix the salary of the Mayor

<u>Mr. Perez</u> Well, it depends upon--l'm not famili-ar with how Covington operates now, but--if it's a legislative charter, then it would follow that par-ticular legislative charter, but the problem is that where you have constitutionally created char-ter forms of government, and because of the re-striction which we have already placed which des the provide the service of the service of the service the service of the service of the service of the service the service of the service of the service of the service the service of the service o then it's necessary that we have an article to make an exception.

Mr. Pugh Mr. Perez, isn't it a fact that we can go back to the earlier article and use one word, statewide," and eliminate all ten of these lines, and do no harm to either a home rule charter or otherwise?

Mr. Perez Mr. Pugh, it takes sixty-seven votes to suspend the rules. There may be other reasons that they night not want to reopen the matter, and back to something else. I would say that if we get around to Style and Drafting, if they want to orty to make that change it's all right, but I do not believe that you should subject all of these various charter forms of government to the possibility that the provisions in that charter would be set aside and that the legislature would place do form the various charter forms elected officials from the various charter forms

Mr. Perez Into the question of districts, you get into the question of district officers and so forth, and I think we'd open up another can of worms there, and I believe at the time we discussed this pro-vision that it was determined that they wanted to make a blanket provision then come back with ex-ceptions, and that's my recollection of the dis-cussion at that time. So I think we might have a difficult time suspending the rules to go back to

Mr. Rayburn Mr. Perez, certainly I think they should have that right, but I'm just wondering at the end of Section 13 where you took out the last paragraph, if we couldn't just say "such officials that are elected under this section shall also have the right to fix their compensation," and that would do about the same I think, that 13 tells who will elect them and all that, and I was just thinking if you'd just...where you did, just say, "such officials elected under this section." say, "such officials elected under this section shall have the right to fix their compensation." I mean l'm just getting a little curious about the long drawn out sections. I'm for your amendmente, and I want it to pass, but l'm just wondering if we couldn't do it with a few smaller words?

<u>Mr. Perez</u> Well, Senator, we have two sentences in here if you will look at it. The first sen-tence talks about the local home rule charter plans of government where they fix the compensation or of government where compensation. The purpose of the second sentence is to maintain the status quo with regard to police juries and so forth, to make it clear that the legislature provides for their compensation, and the third sentence is that you can't be reduced during the term of office.

Rayburn Mr. Perez, I don't read that. Y er to Section 7 and 8 shall provide in this reter to section / and 8 shall provide in this charter, and then you say "compensations or methods of fixing compensation of local elected officials or any other local governmental subdivisions, shall be provided by law." Well, 1 think we've said that prior language, that same identical language. Maybe I'm wrong, but I just think...

Mr. Perez I don't recall anything on compensation.

# [Previous Question ordered. Amendment rejected: 19-82. Motion to reconsider tabled.]

Amendment

<u>Mr. Poynter</u> Amendments [by Mr. Duval and Mr. Bollinger] sent up as follows: Amendment No. 1. On page 7, line 16, after the word "reduced" and before the partial word "dur-" insert the words "or increased".

It's a quite simple amendment, merely Mr. Duval says that people in office during their term... says that people in office during their term... their salary or compensation cannot be raise amend-ment. A question of whether you think people, while in office serving a particular term, should be able to have their compensation raised while they are serving that specific term. I think it's a better measure to have the compensation come into effect after that term is served, that's all there is to it.

### Ouestions

Mr. Mire Suppose a man would run for an office, be elected, serve one term, choose not to run again and then a new man would run for that spe-cific office, be elected; he chooses not to run again. How long would it go before the man could get an increase?

<u>Mr. Duval</u> It merely provides-maybe i'm not making mysel clear-it merely provides that in order for a compensation increase to go into ef-fect, it could not be while...during the term that the specific official is in office, it would go into effect the next Lerm, in other words, after that four year term.

Mr. Mire No matter who's serving that particular next four years?

That's right, that's the attentive

Mr. Mire I follow you then.

Mr. Velazquez Don't you think it's unfair for somebody to run for election and then raise his own salary?

Mr. Duval Yes.

<u>Mr. Jenkins</u> Mr. Duval, under the section as written by the committee, isn't it true that a local police jury could have carte blanche to raise its own salary, if it were under some form of charter of 7 or 8--section 7 or 8--and that

would not be able to be vetoed by anyone else

Pr. Duva. Well, if it were a charter--a home rule charter--i don't know. I think that the cor-pensation would be fixed by law, i really don't know. It would allow the to have that done by

Mr Jenkins But, what l' saying is there would be circuistances under sole of these hole rule charters where some people would be setting their

Mr. Jenkins Now, isn't it also true that no one else in state govern ent can set his own salary--not even the legislature--because the governor

Mr. Duval 1 think that's right, yes sir.

Mr. Slay Mr. Duval, in the case of school board members who have overlapping term--and they're six years--that could make a man wait six years while everybody else is getting a raise, and he would have to wait six years and then run again

<u>Mr. Duval</u> I think that's...if they're serving overlapping terms, I think you are right, yes.

Mr. Slay If legislature or the charter provide. for so ebody to get an increase, do you think that they should have to wait until their term is up

Mr. Duval That's the purpose of this amendment,

Mr. Duval I have been told this amendment does not apply to school boards.

Mr. Dike 11 Mr. Duval, what exactly does the co-rittee define or what do they think co-pensation entails, is that any compensation?

Hr. Duval don't know, Mr. O'Nei 1, 1 wasn't on the coll ttee. I don't know what their intent was.

Mr. Duval, you know you have a real

Mr. Uuval

Mr. tin on Mr. Duval, the purpose of that it, you we never known any ne run for office and his platfor says "when it et in, it going to in rease

Mr uval

Mr. times. Rell, isn't it a fact that a great, reat a ority of the try to and think they are are important when they do get elected.

Mr Juv !!

Mr. to consider works, when he can and ann in edite way, satisfied with it and your a end-rent say that he round since for what he can for, that since t

That in de the new youder that at infinity, be use that in de the new thit termining, he use that the the the first on a file entry and it was then the thin light incode 1 is even in her if and your a sector, is that incode 1.

"r. Brown So, you don't in w who this applies to, is that correct

Mr Luva ho, sir, I don't show what the article applies to

<u>Mr. Poynter</u> Amend ent No. [ <u>Mr. Anzal. n.</u>]. On page 7, delete Ties 1 throut 6, both inclusive, in their entret and insert in lieu thereof the follow! "Section 13. The electris of each | call giv-ermental subdivision shall have the exclusive field to elect their nowergon with the bit of the sector their nowergon with the bit of the lieu their subdivision shall have the exclusive sector the sector their nowergon with the bit of the sector the sector their nowergon with the bit of the sector their nowergon with the bit of the sector sector the sector sector.

Hr\_lean Mr. Chair man, fellum dere ates, til amendment was drafted after or nåderation of the points that were raised previvusly in this set. It provides that the electors of each over ertal subdivision would have the elluwiser in til elect their governing authority, in allocrance with the point made by Mr. Velazuez, we have addet the lait sentence which would alle it lear that it hin this section would be construed to prime the ericle of the sector of the interior size stances. It covers the this is reperior established this section and la be used to be the interior size stances. It covers the weits another were raise in the discussion 1 think is since created this point addet the size size the sector.

[Amendment adopted without objection. Section reread as amended. Previous Question ordered on the Section.]

Point of Information

<u>Mr. Rayburn</u> Mr. Chairman, I would like to ask that the section be read again. Did they delete the part where it says that if a plan...or rater to a home rule charter, is that...all of it out now? What if a charter don't make any mention of it, they just elect them anyway they want to?

[Section reread as amended.]

Mr. Rayburn I wonder how they would get them if they don't elect them?

[Section passed: 106-0. Motion to reconsider tabled. Motion to waive reading of Section 15 adopted without objection.]

### Explanation

<u>Hr. Kean</u> Nr. Chairman, fellow delegates, this section deals with the filling of local governmental vacancies. It makes a slight change in the existing law, under the present law with respect to these vacancies the constitution provides the appointment and provides other provisions in the case of a tie. This would simply provide that if there is a vacancy in any local office, that then under those circumstances it would be filled by the remaining methers of the particular governing body on which that person is sitting; it excepts the shorif, assession, clerk of provide that if more than a year remained in the term of the office, then under those circumstances as special election would have to be called. It provides that in the case of the home rule charters which have a different method of filling the vacancy, then under the circumstances. We prepared and would not be applicable. We have prepared and would not be applicable. We have prepared and would not prime a method by the remained the salient points and at the same time reduce the verbiage considerably.

### Questions

<u>Mr. A. Jackson</u> Mr. Kean, did you not say that this section makes as light change, but isn't it true as I appreciate it and interpret the language taking away from the governor the right to fill vacancies as It relates to local governmental units? Secondly, you are providing for the chairman of true? In bodies to have two votes. Is that not true?

<u>Mr. Kean</u> We had...under the present law the vacancy is filled by the submission of three names to the governor...

Mr. A. Jackson That's right, but the vacancy is filled by the governor, isn't it?

<u>Kr. Kean</u> The vacancy is then filled by the designation of a successor by the governor from the three names who are submitted to him.

Mr. A. Jackson Yes, but under this provision you are stating and authorizing the local governmental unit to fill a vacancy itself.

Mr. Kean That's correct.

Mr. A. Jackson So, that's more than a slight change. Is it not?

<u>Mr. Kean</u> Well, as I view it, the local governmental authority is simply itself filling the vacancy rather than submitting a panel of three names that the governor can select from.

Mr. A. Jackson Yes, sir, but I was simply trying to point out that...did you know that this is more than a slight chance?

Mr. Kean Well, I guess it's a matter of how you look at it, Mr. Jackson.

<u>Mr. Pugh</u> Mr. Kean, I believe that there's a substantial number of cities in the State of Louisiana that are governed by three individuals, three elected individuals. Is that not true?

<u>Mr. Kean</u> There are several commission forms of government in Louisiana, I don't know how many, Nr. Pugh.

<u>Mr. Pugh</u> Well, I believe Monroe and some of the others, but let me ask you this basic question. Those that have three, in the event of one of those three dies, there is left two.

Mr. Kean That's correct.

Mr. Pugh Under the terms of this provision do I understand that the tie vote is broken by one person voting twice, so that one person can, in effect, place another person as an elected or in a capacity of an elected official of a city?

<u>Mr. Kean</u> We were trying to find a way, Mr. Pugh, to break the tie if that situation occurred and that was the manner in which we selected to do it.

Mr. Winchester Kean, how and who would determine that a vacancy existed?

<u>Mr. Kean</u> Well, the committee proposal provided that the vacancy occasioned by death, resignation or otherwise in the office.

<u>Mr. Winchester</u> Well, sometimes there's been questions when a person moves away and it's hard to determine whether it's a temporary removal to another part of the parish or another town or whether it's full-time moving away. We've had some problems in St. Nary Parish to determine whether a constable or a justice of the pace or someone of that sort was entitled to hold office and it was rather sticky as to who determined whether a vacancy existed.

<u>Hr. Kean</u> Well, I don't recall specific provisions, <u>Mr. Winchester</u>, but in many instances it provides that if they move out of a district in which they live, that under the circumstances, they vacate the office. Otherwise, it would simply be a question for the court to decide whether the vacate distort is the court will be decide whether the vacate distort is the second second second second absence. If my recollection in case of military absences, the court holds that is not a vacancy, but that would simply have to be a matter to be determined and otherwise as set forth in the section that was designed to relate to that kind of a vacancy occurring as distinguished from death or resignation.

Mr. Winchester Thank you.

<u>Mr. Burson</u> Mr. Kean, isn't it true that under the present constitutional provision for filling vacancies, the chairman votes twice with regard to the selection of the list of three names?

<u>Mr. Kean</u> That's correct. Under Article VII, <u>Section</u> 69, it provides "A bie vote on an appointment to be made by a municipal governing authority shall be broken by the mayor of the municipality

regardles of the fact that the may row already have the as a leber of the movemum body  $\ensuremath{\mathsf{harg}}$ 

 $^{10} c_{\rm c}$  urso, My sind question 11, there is no both that unver the present sets that the overnition  $y_{\rm c}$  beta is the initial transmission of the set of

Mr. Fornter There's one change in this, so you may want to follow with me; it's in the text of the a end ent itself.

<text>

Mr. Arrian water, : + w that tertet for the new overning authorities to fill tese scancies, but the eff. status (e) estature right provide--the unif m ethic that they i hat provide--the say that tering the ethic shall sub to list 'ten mest the over or and the ermin wise teap mission.

Mr Chargene The lat vernet specifiely says shall fill the verames. Now all for, you know, hilm that what it have raid all of that, it says they shall review uniform eth d b which local tweements hal filvectmies, that does it all withe overment t do that, n

Rr. Abraha well, this unif net could it not, Tight tate that they shall fill the vacan-cies in this anner and there up be te appoint-ments and then the versor will all the final selection, could it not

Nr. Denlieu. Wr Charane, in ticed that, up for the spartinular ection, muleft with office of sheriff clerk of courts, cin enr and fort, but you ade the eception ins far as assess rould you call me why run ade this excellent for the set of the form.

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We ever, We charmon and failes an estimated for a single of , as we we very to write the weight of the single of

and not on a state level. I know that there is a great deal of objection to the length of the par-ticular article on the filling of vacancies and the reason for that is not because of who fills the vacancy, but because of the fact that the comthe vacancy, but because or the fact that the com mittee thought it was appropriate that we set out the details as to when the elections should be conducted and so forth. Houver, in deference to the feeling of what appears to be the convention that they do not want such a lengthy provision, Mr. Kean will soon have an amendment which will provide for the filling of vacancies on a local provide for the filling of vacancies on a local level by the local governing authority, or in a case of school boards, by the school boards. If there is any question, for instance, with regard to Judge Dennis, the original provision which we have provides that the provisions of this section shall not apply to the office of judge of any state, court of record, or district attorney--to make that protectly cleft that the final Keen provision dees not adequately take care of it, I'm sure that Mr. Keen and I will be glad to offer a provision which would be sure that it does offer a provision which would be sure that it does not attempt to affect either the district attorney or any judgeship. I, therefore, urge that you reject this amendment and adopt the Kean amendment when it comes before you.

> [Previous Question ordered. Record vote ordered. Amendment rejected: 38-66. Motion to reconsider tabled.]

# Amendment

Mr. Poynter All right. Now there have been two versions of the Kean amendment passed out, and I'll try to guide you to the right one; it's the one in which Paragraph (A) simply has the two words "by law." The other one has about five or six words on the last line of Paragraph (A), but the last line of this one of Paragraph (A), but the last line of this one of Paragraph (A) of amendment No. 1. Dn page 7, delete lines 19 Anendment No. 1. Dn page 7, delete lines 19 Anonge 8, delete lines 1 through 32, both inclu-sive, in their entirety and on page 9, delete lines 1-rand note that correction--1 through 4, not 1 through 32. Never mind, we are going to make it 1

through 6... Never mind, we are going to make it 1 through 6.

### Explanation

<u>Mr. Kean</u> Mr. Chairman, fellow delegates, this proposed amendment carries out the concept of the committee proposal in that it provides for the filling of the vacancy by the local governing aufilling of the vacancy by the local governing au-thority of the local governmental subdivision in-volved, or the parish or city school district in the case of the school board. It would provide that that vacancy would be filled by the local governing authority, or the governing authority of the school district, until it is filled by an elec-tion as provided by law, which would mean that the vacancy would be filled by the local governmental unit or the agency, but it would be filled by an election which would have to be carried out in ac-prrdance with law adnoted by the localing the school of the school of the school of the lecislature. cordance with law adopted by the legislature.

The second part of it simply provides that this subdivisions unless otherwise provided by the home rule charter or home rule plan of government of the affected local governmental subdivision. There is a slight variation between the manner in which you do this, generally, in the case of East Baton Rouge, with respect to a plan of government. For that reason, this particular Section (B) was

left in. Under the circumstances, it's a much shorter version of what was presented by the committee. think it still carries out the initial concept of the committee giving the local governing authori-ties the right to fill the vacancy, but leaving the details so far as the election, etc., to the locialarum?

### Questions

<u>Mr. Avant</u> Gordon, believe me, this is a friendly question. I'm simply seeking information. But under your amendment here, if there was a vacancy, say, in the East Baton Rouge Parish School Board, who would fill it-t-the parish council or the school

Mr. Kean The school board.

Mr. Avant The school board would fill it.

Mr. Kean Right. The original, Jack, the original one that was drafted had an error in it in that it left out "school districts," and I want to make it clear that the school board did make that appointment.

Mr. Pugh What is the purpose for putting the language in, "except for the office of assessor"?

<u>Mr. Kean</u> Because the assessor has not yet been considered, insofar as the filling of that vacancy is concerned, and we wanted to leave it open for different treatment than what's provided here.

<u>Mr. Pugh</u> Well, how are we leaving it open if we say, "except as...except for the office of asses-sor"? That's not leaving it open, is it?

"except as otherwise pro-Mr. Kean We are saying, "except as otherwise pro-vided in this constitution, and except for the of-fice of assessor, a vacancy in any local office filed," etc. Under those circumstances, as I read it, it means that we are going to have to deal with the manner in which we filled the va-cancy in the assessor's office at some point in this constitution. We are saying, this constitution

I wholeheartedly agree with that. But we...excepting him here, why can't we just say, "except as otherwise provided in this constitution, a vacancy in any local office," because if we don't provide for him anywhere else, we sure ain't providing for him here either.

Mr. Kean Well, this was done out of respect for my dear friends, the assessors, who were not, up to this point, otherwise provided for in the con-stitution. I simply wanted to make it clear that we were not endeavoring, in this section, to deal with a vacancy in the office of the assessor.

Mr. Rayburn Mr. Kean, we plan in our committee to provide for vacancies for assessor, but in the event we do, then the constitution will tell how it should be provided. Do you think it's necessary to leave the language in here for assessor?

Mr. Kean I would think under those circumstances, Senator, that perhaps in Style and Drafting, we could simply take out this additional language. Ne were simply trying to do it out of an abundance of precaution. We didn't want the assessors mad

### Further Discussion

<u>Mr. Tobias</u> Mr. Chairman, fellow delegates, I rise, basically, to point up that this particular amendment fills a loophole in the Judiciary Com-mittee Proposal. New Drleans has a specific... special problem. The boundaries of the city of New Orleans are the same as the boundaries of the parish of Drleans. If you will read Mr. Kean's amendment, you will note that 'a vacancy in any local office filled by election wholly within the boundaries of a local governication of the the sean's amendment, you will note that 'a vacancy in any local office filled by election wholly within the boundaries of a local governication of the the sean's amendment, would be filled by the governing authority. Now, in our Judiciary Committee Pro-posal, we did not provide for a method of filling the offices in Drleans Parish, such as the recorder of mortgages, the recorder of conveyances. The register of conveyances, those specific offices.

the clerk of First City Court, Clerk of Second City Court, constables, etc. This provision wild, in effect, take care of that one loopnole. Anether we want to do that or not, I don't know, but it would take care of that me secific situation

Friday, September 28, 1973

# ROLL CALL

[87 delegates present and a quorum.]

# PRAYER

Mr. DeBlieux Our Heavenly Father, we thank Thee once again for this day, for the privilege of gathering here to be about Thy service. We ask You to guide us in our thoughts this day, that what we do may be to Your desires and wishes. We ask that You imbue each one of us with a sense of charity and responsibility so that we may be charitable in our words and our actions, thoughtful in our deliberations that they may redound to Thy service. We ask all this in Jesus' name.

# PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

# UNFINISHED BUSINESS

PROPOSALS ON THIRD READING AND FINAL PASSAGE

### Reading of the Section

Mr. Poynter "Section 16. Legislation Increasing Financial Burden of Political Subdivisions; Local Approval

Section 16. No law requiring an increase in expenditures or a deduction from the funds of a political subdivision for salaries of local public officials or for wages, hours, working conditions, pension and retirement benefits, vacation or sick or an increase and commissions of or for a political subdivision offices, except a law providing for civil service minimum wages, working conditions, and policement, shall have effect until approved by ordinance enacted by the governing authority of the political subdivision for that purpose and only to political subdivision for that purpose and only to political subdivision for that purpose and only to

# Explanation

Mr. D'Gerolamo Mr. Speaker, fellow delegates, this Section 16 was drafted by the committee with the intent of a better coordination between local and state officials whereby the legislature would be delegating and appropriating money to municipalities and to parishes for various services with regards to the expenditures and how this money is to be expended. The committee had guite a discussion, or discussions, I should say, on this particular several times in this intense of Section 16 commission that the intent of Section 16

came up several times in this proposal so far. We hope that the monies allocated to the various municipalities and parishes by the legislature, be given to them to spend the best way that they feel it should be spent with an exception. Now, we've had this exception, and we had testimony from the polic jurces, from municipalities, from firemen, firemen and policemen, exception says "except Our committee, in fairness to all of the commitce, after much debate on this particular section

Our committee, in fairness to all of the committee, after much debate on this particular section of it, voted, I should say was eight to seven in section the reison them, and policemen from there the crux of the matter is going to come from the objectors to this section, and we do have in all fairness to you, some members of our committee who strongly objected to the...not to the entire section, but to this exception. I, as a foster of this exception, believe, as a former mayor of a city, the sector of a making a mountain out of a one man, one unit rule form of government here in the State of Louisiana, I represent the same peole in my city as the mayor and board of aldermen do as a state Representative. I am a state Representative. And certainly, if the policemen or firemen, went to the mayor and board of aldermen in my city and said we need a raise, we want a raise, or we need better retirement System, and my mayor and council said "we just do not have the mome to the legislature, my maxi duty to the city and to the people, and to the firemen or policemen, is to go back to the governing authority and say. "Gentlemen, what is the matter?" If they cannot, if they do show me that they do not have enough money, certainly I. or no other legislator would voit to import. If they also have enough money, certainly I. or no other legislator would voit to import. If they do believe, though, that if our local governing authorities are spending this money and building moments for themselves to perpetuate themselves in office, and getting these policemen and firemen a three hundred do lar a be done. Certainly we say a policeman and a fireman shoul not strike beckbone of your community. Whenever a community is in trouble, wherever a city council is in trouble, the police

Whenever a community is in trouble, whenever a city council is in trouble, they call out the police department and the fire department. These men are specialized men and certainly, 1 do not want to discredit any other department of any city. They also should be equally reconsized. But I'll tell you this, that in a city, in a parish, if your truck drivers, three or four of your truck drivers don't come outenty on real there if your truck drivers don't come outenty on the there if your drainage department doesn't show up, you go to another department and get them. But let's let that fire department don't show up one day, and see where you are. These men, would you believe, these men, some of them, are working risking their lives and many of them are getting as low as three hundred and fifty and four hundred doilars a month.

This is why I have a passion for...compassion for policemen and firemen. These men are dedicated men. I venture to say there are not many parishes or cities in the State of Louisiana who could operate a fire department without an auxiliary. The Volunteer fire departments throughout the State of Louisiana are carrying the burden of fire fighting, assisting your paid drivers in many of the compunents that compute burden their service. Volunteer their lives, the danger to ao out.

nitles that Lanuo support a fur para the separatement. These men volunteer their services, volunteer their lives, the danger to go out. The policemen, likewise, we have police auxil-aries throughout the state. I don't know of an auxiliary garbage department, or an auxiliary garbage department, or an auxiliary garbage department, or an auxiliary life. This is the reason why 1, and some of the members of the committee has it in our Section...in our Article 17. Ladies and gentlemen, this is very, very important to the men and wome who take care of our community. Nould you believe that there are partment?

I had a lady come to my office, her husband was a paid fireman for twelve years, on a paid fire department. We came off from work one night. The next morning he died of a heart attack. Sollars is morning he died of a heart attack. Sollars is morning her of the solution of the solution the men there have been trying to get a retirement system or a persion plan, and they keep telling them, "We are working on it, we are working on it." Nothing has happened. This man died, the lady called the department to find out what financial relief they can give her. In the policy they had, they had a two thousand dollar burial policy, period. She gets nothing for the services that her husband has put in this fire department for twelve years. No child support, no widw benefits. Nothing.

These are the trains that i be eventhe lensibuld have some say so in help these people. They cannot strike, you tell the "No, yh. annot strike be ause it would en pletely wrenk om unity if they truk Grant it But certa-ly if these men are turned down by their local reverning authorities, where do they do I urge you to vote for this, and I'l an wer my juest ons, Mr. Chair an.

Mr Rayburn Eddie, in the event that the legis a-ture saw fit to aybe raise so eone's salary, ould they, under this language, if this parti ular muceiving revenue funds, revenue-sharing funds from the legislature, could, or could not the legisla-ture dedicate these fund to take care of the added cost that they might have incurred by passing a certain law?

Mr. D'Gerolamo Certainly, Senator. This is wha I'm afraid of, Senator. You'll have the legisla-ture earmarking funds to the parishes.

Mr. D Gerolamo I'm sure they could do tha ator. Probably this is what would be done.

"Nothing in this section shall be construed as applying to parish and municipal shool boards."

Mr. <u>Robinson</u> Mr. Chairman and delegates, l've leen infor ed that pe haps school boards are not covered by this particular section in any event. But if that's the case, i we that there .seeno reason why there should be objet ton to by proposed

for this but a mit and for what 1 believe to every indicate the very indicates in usual for what 1 believe to be very indicated to be the very for the very for

are for the estimate of the state of the sta

to be necessary in the minimum foundation program. The additional teachers are employed by the school systems, in most instances, out of their local funds. But these, too, must be paid a state minimum salary schedula. But these, too, must be proved and these these schedule. There isn't any tagging of teachers as to who is paid for by the state and who is not. The state should be added to be added to be the state and the state and local cases. Now this is an example of our system of shared state and local cost. Now let us suppose that the legislature should implement the cost-of-living salary be that the books, and that the governor lature should implement the cost-of-living salary law that's now on the books, and that the governor signs this situation...signs this implementation... happy day. As I read this provision, the local school board could negate the effect of this appro-priation at least in part for some teachers, in fact all in his parish, because the law requires that all teachers be paid according to a minimum schedule and their costs are increased for the com-paratively small number of teachers which the state does not pay for, and has no intention of paying for under the present plan for distributing aid to the schools.

Now take the question of retirement legislation. Now take the question of retirement legislation. For many years the legislature has appropriated state funds for employees' contributions to the retirement system, although the retirement law plainly stated that this is the responsibility of the local school boards couldn't do it, so the state did it. Now the legislature, a legislature, do it, so the state did it. Now the registrature, in 1964, authorized the school boards to levy sales taxes for salaries and other purposes. These sales taxes are not charged against the school board when the state computes the ability of that school sys-tem to pay for the minimum program. That's in the sales tax laws. Most of the school boards did levy the local school taxes and they used these funds to the local school taxes and they used these funds to supplement teachers salaries locally. At the same time, this raised the obligations of the state on the extra salaries for retirement purposes. So the legislature passed a law saying that the school boards would have to pay the cost of retirement on boards would have to pay the cost of retirement on the salary compensation above the state minimum, which I think they were entirely justified in doing. But under this particular provision, I don't think that the legislature could have enforced such a law because it would have had to have the approval of the local school boards. Sick leave and sabbatical leave are involved in

this. When you raise salaries, you raise slightly the cost of the school boards for every day of sick leave. Although the state puts up about forty million dollars for unspecified other costs, the school board could say, "Well, I didn't get any extra money. I don't get enough money to pay for the sick leave costs that are involved in this new the sick leave costs that are involved in this new schedule. Therefore, we are going to cut this new state schedule down to where we can pay it." Do we expect that a school board will be able to set aside a state minimum salary law on account of these in-cidental costs, quit the state plan of funding assigns to these school boards in the first place? The same kinds of problems are involved in all kinds of legislation. It's not certain, incidentally, in many cases, what the net cost will be of legis-lation that is proposed in certain of these fields. Now when the state puts up as much ver-Now when the state puts up as much as ninety per-cent or more of the money for local schools, Sec-Sec-Left of Hulf & was make which is the back states that thing that hinely heat only or have a back of the per-centage may be in a given parish, except in two ways; by increasing the percentage of state support, or by abandoning the policy of enacting uniform laws for wages and benefits. This thing creates a one-way money pipeline. I believe that it will freeze the mechanics of the minimum foundation school program if it applies to school boards, I think it could prevent the proper adjustment or perfection of the state minimum foundation school program. In consideration of the cost structure equitable application of weifare laws to school employees and effectively prevent the enactment of additional laws if these involve any indirect costs to school boards whatever, even as the state might be increasing its state support of the public tion 16 just means that nothing can be done to

school system in other areas. I hope you will adopt the amendment.

### Ouestions

Mr. Boomer Mr. Robinson, is it your interpreta-tion that the committee in this Section 16, wanted to include the school boards and you are trying to differentiate that point? Or is it your feeling they wanted to exclude school boards, and you are trying to make that specific.

<u>Mr. Robinson</u> Frankly, Mr. Roemer, I don't think the committee probably had school boards in mind at all. It's my feeling, however, that the def-initions that are provided in this particular proposal dealing with political subdivisions, may in-clude school boards. If it does include school boards, I think the inclusion will have the effects which are outlined.

<u>Mr. Roemer</u> All right. Do you know, could you tell us, is it your understanding that the com-mittee is going to oppose or propose your amendment, or take no position on it?

Mr. Robinson I have no idea. Mr. D'Gerolamo says he has no objection, in which case, unless the...it depends on the convention, then, whether they've got objections.

<u>Mr. Pugh</u> Mr. Robinson, I've noticed that you've voted substantially, which is fine, for home rule right along. Don't you think this is a departure from home rule to tell a school board that they can't make a determination about these teachers within their own local subdivision?

Robinson I'm not sure I voted for home rule, and I'm quite sure that I did not, generally speak-ing, vote for home rule as it has been adopted by this convention.

Mr. Pugh Oh, you did not? I apologize to suggi you had. I was just looking at your record from Oh, you did not? I apologize to suggest But I ask you, is this not a departure from home rule...your amendment?

<u>Mr. Robinson</u> Well, no, sir, as I said, I think that if you fully comprehend the shared cost struc-ture for school finance in Louisiana, what this does, far more than what is intended to be done, is to foul up any future changes in the state minimum foundation program, or the system of state school funding. That's what I think it does.

<u>Mr. Stinson</u> Mr. Robinson, if you would follow through on home rule that Mr. Pugh seemed to be intimating, then it would be each school district would have to have its own retirement system, its own pay schedule, and everything that the state, through the many years, have worked to better our school system. Isn't that correct?

Mr. Robinson Over a per...a long period of time, Mr. Stinson, 1 think that might occur. I don't think the immediate effect of this would be that great because I don't know of that many benefit laws that anybody's attempted to pask that increase the cost of school boards drastically. The only period of time, the way the would op-such, whay as to innibit the soft of the chang-ing in the form there and all, it would all work out to where the only thing that would happen would be increasing...increase the percentage of state

be increasing...increase the percentage of state support in every parish.

Mr. Stinson Now, Mr. Robinson, you didn't answer my question.

my question. When we talk about home rule, isn't it a fact that we can't have home rule in our parish school systems due to the fact that our retirement is statewide, and our pay schedule is statewide and everything. We can't have home rule as far as the

Mr. Robinson Well, so far as the funding of erucation, I would have to agree with when as much as ninety-five percent of the money comes from the

Mr. Stinson Not only the teachers, but all other employees and school bus operators.

Mr. Stinson the state. We've got to have it controlled by

Mrs. Co son has Mrs. Corne Mr. Chairman, I think that Mr. Rob son has clarified this point very, very well. do believe that all of the delegates understand Mr. Chairman, I think that Mr. Robin-Just exactly the position of the local school board and of the state in funding education and having equitable distribution of funds for public education. I would, therefore, at this time, move

Mr. Poynter Amendment proposed by Delegate Lennox Amendment No. 1, on page 9, line 14, immediately after the word "offices", delete the punctuation and partial word ",x-" and delete lines 15 and 16 in their entirety and at the beginning of line 17, delete the partial word and punctuation "men,".

 $\frac{Mr.\ Lennox}{1/d}$  Mr. Chairman, fellow delegates, first  $\frac{1/d}{1/d}$  like to address myself to the fact that there are a score or more coauthors to this particular amendment, and they are, briefly: Delegates Dennery, amenument, and they are, urierly: Deregates Dendery, Sandoz, Casey, Sutherland, Riecke, Thistlethwaite, Hernandez, Grier, Jasper Smith, Perkins, Heine, Drew, Zervison, McDaniel, Elkins, Schmitt, Kilbourne, Rean, Hiller, Arnette, Stagy, Bollinger, Juneau, Duval, Lamier, Mattigny, Burson, Gauthier and Chate-

Haine: Mr. Chairman, fellow delegates, Section 16 is really the gut section that has to do with the fact of whether or not home rule is going to prevail in the work of this convention. Section 16 is indeed an extremely good section wolf if gets to lines 15 an extremely good section until it gets to lines and 16. Thereafter, it is equally good. If you you simply haven't read your local newspaper or heard television or radio in your own home area. Now, I've had an opportunity to read newspapers from all over the state and to at least view the comments of editorial people and the electronic weds to bach Rouge and New Drieans. I can tell well be the hottest riskes to see the output four del borship of the second sec of ections in we, et in 16 in its erene wood stiply ay that the clature a. I ar-date a person a la verment entity to re-vide addit mal salaries or retire entities of to beyond that which that la verment body feel its apable of funding, without doing one fixe things. The first is to provide the energy and the second is to ive the oal verning dy the authority to vert that at line taken by the citis-lature itow, if ou're read the last feel ne if ection 16, you'l see the roal it of that set ion it's a hose rule set ion in every senergy sape and for until thet takes the very gut ut of the while thing.

prist to avoid over the state that is all and age prist to avoid over the state that is all and age record on yperfor ance in attendit it get better precord on yperfor ance in attendit it get better the past theory years speaks best for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for itself. I have been one of the original risk for the original have been one of the original risk for the original have been sold with the original have been by a to you that if me rule meet how any cord peak best for itself it have been defined. Any let e also entitle have been defined in a result if it he area or here exclude the original for any set the state here better wou have the away whether it his before and his set for itself it here exclude the original for the risk for the work better wou have the away whether it his before and how set or here whether wou have the away whether wou the legislature of this tate have the here away it is a defined here away is the before you at the atter here away is the set of this tate have the here away is the set of the set net the here away is the set of the set net the here away is the legislature of this tate have here away is the set of here awa

Mi since Mi ennis, there is ethil that interest is very ush, and it entainis, thick pertains to this use time what we like to

know is would your amendment affect the present equities that firemen have in their retirement system?

<u>Mr. Lennox</u> Mrs. Corne, I've heard very little of what you've said up to now. Let Reverend Stovall do what he does best--work on that microphone and we'll see...

Mrs. Corne My question is how would this amendment affect the present equity that firemen and policemen have in their retirement system?

<u>Mr.Lennox</u> It's my appreciation that it would have absolutely no effect on any benefits that accrue to firemen and policemen to this moment and to the very moment that this constitution would be adopted by the voters of this state. My opinion on that is backed up by some of the better legal minds on the floor.

Mrs. Corne Also, I have another question for you. Are firemen and policemen ever asked to go out of their own municipality into the parish system or into maybe another parish yto help out in fires or in police protection.

### Mrs. Corne Thank you, sir.

Mr. Weiss Delegate Lennox, it's my understanding that the state legislators provide rural areas that have difficulty in supplementing the teachers' pay, with sufficient funds to make education quality, within these poverty-striken parishes. Now, you had made the statement that urban areas cannot live with this amendment. Don't you think that our state legislators will recognize this, and if necessary supplement any firmen and police funds or moneys that are necessary in these urban areas, if they are really required to maintain quality fire and police protection?

Mr. Lennox Dr. Weiss, 1 can only answer that question based on what 1 know past performance to have been, and the city of New Orlen center to the induce of the second second second second before it induces the second second second second second that's estimated to be 9.2 million dollars, which resulted from an act of the legislature which mandated that the city of New Orleans give to fire personnel only, not the sanitation workers or police personnel only, to give to them a supplemental pay boost of two percent over and above all the raises the city gave its other employees, including fire personnel. Now, that's been the cost of that particular legislature. Incidentally, no funds were provided by the legislature to fund that increase. The cit is estimate from of the propenets of this exception to as high as 9.2 million which happens to be the estimate of the city administration.

<u>Mr. Weiss</u> Do you think we should look to the mistakes of the past, and therefore benefit by them, and pass this section since it is an improvement on that which has happened in the past?

<u>Mr. Lennox</u> Dr. Weiss, l've got to tell you I love the section, but I'll never vote for it with lines 15 and 16 in there. It's fiscal irresponsibility of the worst kind.

# Further Discussion

Mr. Smith Mr. Chairman, fellow delegates,...Gentlemen, I'm one of the coauthors of this amendment. Of course, I'm in favor of it. I thinks it's a fine amendment. I hope that you will vote for it today. I hope that when I get through the few remarks that I have that it maybe will in some way influence you. The reason that I take the floor influence you. The reason that 1 take the floor today to speak briefly is the fact that I'm a great believer in home rule...having had a deep feeling for this all during my political career for the last thirty years. I've served in the state legislature for four terms. During my time there 1 always mo-tions for home rule for local and parcohial govern-times; so I am very familiar with this phase on the state level. I've been a town attorney for over thirty-ning vears. I'm now in my fortleth year, in thirty-nine years; I'm now in my fortieth year, in a small community. There's other lawyers there. I used to be the best lawyer in this town, but now we have several more. So I feel that I am very we have several more. So I feel that I am very familiar with the phases of local government, and particularly home rule as far as the local govern-ment is concerned. During my terms in the legis-lature of sixteen years, I consistently voted for home rule for local and parochial government. I apposed and voted against bills that had for its purpose mandating cities and towns to raise wages purpose mandating cities and towns to raise wages of firmem and policemen without furnishing the funds to do so. I can assure you that this matter is not anything new to me. I've always been for home rule, and I hope today that you will be. an for this mendment one hundred percent, being if it is not passed, that no sester of allowing the lancitates in the future to force local nover Into the state constitution a matter of allowing the legislature in the future to force local govern-ment to raise wages of two segments of its employees without appropriating the money for that purpose. The proposal of the committee is not just nor is it equitable. The just can equitable nor reasonable for several reasons which I will point out. First, its concept is certainly not home rule hy any. its concept is certainly not home rule by any stretch of the imagination. If only the firemen and policemen in a local subdivision are forced to be raised, how about the numerous other employees of the town? The average cities and towns have people working in capacities of water and sewerage maintenance, garbage hauling, street work, electi-cal maintenance when the towns have their own utilities, and many other capacities too numerous to mention. Some of these particular jobs are hazard-ous...just as hazardous as firemen and policemen. I sincerely feel that all employees of a local subdivision should have equal treatment in matters Subdivision should have equal treatment in matters prefere and one another class. I want if thily un-derstood that I am for firmen and policemen. I have helped them on numerous occasions when I was in the legislature. Most of them are doing an excellent job. However, we have many other fine, and dedicated city employees who are also deserving of help, but who may not be as well organized and unionized as firemen and policemen. However, I say to you most sincerely and conscientiously that if you truly believe in home rule as you say you do, you'll vote for this amendment today. We should you if you's owners and the coupy of the constitution. ... it is not just; it is not equitable. I feel like if this is put in, that we're going to have a hard time passing this constitution. As I told you yesterday, on many occasions, I am only intersted yesterday, on many occasions, I am only interested in writing a good constitution. I'm not seeking r, but I hope that you all will go along with me and write a constitution that will be fair and just and equitable in all respects. Gentlemen, let's keep real hope rule in there, and give the towns and the communities a chance to raise their own employees. communities a chance to raise their own employees, take care of their own business, and not have to come to the legislature with their hat in hand and beg them for things. I don't feel like we should tell the towns and the cities to raise the firemen and policemen without furnishing the funds to do it. They never do that. In fact I don't think even if they furnish the funds, it should be done. I hope that you'll vote for this amendment.

Thank you.

[vu rum a 1: 94 de egates fresent and a qu rum.]

### urther Discussion

Mr. Derbes. Mr. Chairman and my fellow de egates. Td like to stress my support of this Lennox amendment with a little story from my past. I had a good friend in high school who had the privilege of writing checks on a checking account provided by his family for which he never had to make any deposits. He could spend money as he pleased, and he was very popular. He could take his friends so the could by clothes, all without necessarily having to be responsible for the source of the funds. I suggest to you that that is the essence of this amendment. It is not a mendment, and certainly not as far as I am concerned, an amendment which is opposed to adequate standards of living, adequate reifement benefits, and adequate pay for fire, police, and other public employees. But so ing to require local governmental subdivisions to raise the pay of their servants, then the state should also provide the funds. So I suggest to you that the essence of this amendment is fical integrity. It's something I think you all can reshou budgeted your money, either as persons you that the essence which exists on a cash basis. You have to provide the money for the payment of suggest to you that this is a sound amendment, and large your support of 1t.

hank you.

# Further Discussion

Mr. Jack Mr. Chairman and members, I rise against this amendment. I will not repeat the matters I've already talked on day before yesterday when we had a proposal concerning the same matter as the firemen and police. Now, I am for home rule, but true inflicted with this amendment of Wr. Lennox's. But I what you to remember, and remember well, that a fireman and a policeman is not just a city employee alone. We...take a policeman...enforces state laws and federal laws. They're not just a city employee alone. We...take a policeman...enforces state laws and federal laws. They're not just like a person, a street cleaner, the clerk's that collect city takes and hose things. Incidentally, the state noticy police and city firemens' salaries. So this is not like, when Kr. Lennox and the others say, of interfering with home rule. We're entilted under police protection, police power, to good firemen, good policemen In every parish where we may go. I'm telling you if you want to have good offre prorid of this amendment. Now I'm like the rest of you; I'm down here to write a good constitution, to do my best and to cue up with a good one i think if you pass this. Lennox and let's ill this the xify you pass this. Lennox and let's ill this floor, and it'm in line with this, I want to say that I than the New Orleans paper that had that good editorial the thread and thirtytwo people here are wayting hard. We're working day at night down here; and I'm glad that the und the go over this here here and this the round if's menting hard. We're working day an night down here; and I'm glad that the und the go over this here here day the when you'r in a car on a rounh vourty road, you get slowed up. If you don't here here day that the here are wayting hard, we're working day and night down here; and I'm glad that the und the go over this here there road, you get slowed up. If you don't here you'r here the not the known the shown there road, you get slowed up. If you don't here up do constitution is we an there we all want the yet

Thank you

# Further u. u.

Mr segme Mr. hain at, fellow delegates, un st prized places on is a freed, or i ve-mes, and our property. Without that there is t much to live for that's why I think this arend-ment, and thi part cular is use wire with on Mr\_ hair ar, fellow delegates, out right now, is so iportant are yere view on for instance we have a sayin a on st pillt that his career is hours and hours of bred with ust a few minutes of sheer terror. I thin that applies a few minutes of sheer terror. I think that apple to fire en probably one than pilot. To any times we think of a fire an as a far satisfied acound a fire station doing nothing, but when you call an that man, you need hi to be able to perion. You want to have fire ent to represent you, to prote t your property, who will be constitutions of their job and who will, when the chips are dow and you go the test. You what your political, and the many times we think of the political and sur-who likes the power of wearing the badge and wear-ing the dur. But on test you're had your priort. ing the gun. But unless you've had your pr erty, your home, or your loved ones lives threatened by fire and needed the fire departent, in u don't know what I'm saying. In ess you have been ged on what i'm saying. In less you have been ended or the street, unless you have been ended need, yur life, your faily's ife, or yonr p perty has been endangered from thieves, you don't in withe aue of a good police an. You have to pay these e enough money to encourage the to it this ro-fession. Industry is offering so with, thi reat United States offers so much opportunity, that i' we're going to have good en to le fire en and to be policemen, we need to pay the enough "here would be nothing better than the sal government themselves handling their probles. Pere wid deficials have other projects, other this that they so badly need that they tend to 'et the salar, of the firemen and the police enits it as the fremen or op ouwn below the tanoaro ne re Islature has to itep in on a over-all bai in o der to brini those stragler up I din t'hiis we'll ever don t this the e will ver be treated fair unles, we give the thi afe, and urge you gentleen, deteat this and et. In is the one ecception to the ho erule thirs should keep the way the on title put it efficient think way wise in utting this erect of it. I ask you to vote of and the erect

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Mr "ennery Mr e-ura, all inder to pure marks, you were referring pilitially t

Mr. (entry: Ale you aware, ir, that the vision also estuare fire en an proceen fr general toti ervie

Mr 'egora - don't really romitan what s = can

Ar lensery A I read the solitime signals of excludes a law provide the solitime signals of en and provide the solitime signals of the solitime takes the solitime takes as there is easily to solitime the end of the solitime solitime solitime solitime to the end of the end of the solitime takes the solitime vice as the solitime takes the solitime and the vice as the solitime takes the solitime and the add are you aware of that, and do your remarks invest that.

Mr. Segura There are many municipalities, unlike New Orleans, who probably are not covered by the civil service law, because that has not come before the constitution yet...

# Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, we have heard a great deal of rhetoric today, and I am sure we will hear more about the value of fire and police protection. This begs the question. and points protection. This begs the question. Certainly, I yield to no man in working for better police and fire protection on the local level. Bui all of the arguments made by the opponents of this amendment-and I support this amendment by the way, so let there be no mistake about that-all of the But arguments of the opponents of this amendment rest on the assumption that local officials will not do their duty. That assumption is not borne out in fact. It rests upon the belief that the central fact. It rests upon the belief that the central government in Baton Rouge can do a better job of running the municipalities of lota, Church Point, elected officials there. I don't know anything that will get an elected official beat any faster than the lack of good police and fire protection. So let's put that issue aside. It comes down to a question of how are we going to provide this? The proposers of this amendment, of whom I am one, believe that this is a matter of local priority. The money, after all, must come from somewhere. Now, i'm going to tell you about an actual experi-city of funice the last time the legislature man-dated this raise. We had to cut out the summer recreation program for the children of our city for one year in order to pay for that increase. We also had to raise the garbage and severage rates for every homeowner in the city. This is a form of indirect taxation, a tax that was levied on our city by the State legislature. I submit to you that every homeowner, every old lady who's getting a social security check and just getting by had a government in Baton Rouge can do a better job of a social security check and just getting by had a two or three percent increase in the cost of runtwo or three percent increase in the cost of run-ning their home per month to pay a salary increase mandated by the legislature. This is simply not the way to conduct business. Now, Mr. Jackson has an amendment to include santlation workers in here, and I want to tell you if you're going to let the legislature set the salaries of firemen and police-men, you'd just as well let them set the salaries of the garbage truck workers too. You can follow the same logic. I don't think that garbage collec tion is any less vital a city service than these other city services. If we're going to let the state legislature set the salaries of the garbage workers, well let's just abolish the cities and create a Louisiana Garbage Commission to run garcreate a Louisiana Garbage Commission to run gar-bage collection throughout the state. That is the ultimate, logical extension of this argument, and it makes just about that much sense. Now, finally 1 want to point out to you that the com-mittee proposal, if you eliminate exceptions for firemen and policemen, will not prevent the legis-lature from providing a raise for workers; but what it will call for is that either the municipality will have the approve the raise are the legislature. will have to approve the raise or the legislature will have to appropriate more to pay if. Put your money where your mouth is. It's easy to vote salary increases when you don't have to put up the money, but it's hard on the local level when you've got to put an increase in garbage and sewerage rates on every homeowner in the village or in the municipality, or when you have to cut out the sum-mer recreation program to pay the raise. From what i've seen of the ability of the policemen and what i've seen of the ability of the policemen and to bobying just as the mayors and the police jury people are lobbying, from what i've seen of their able to convince the legislature to appropriate money for a salary increase, if that salary inwill have to appropriate money to pay it. Put your money where your mouth is. It's easy to vote money for a salary increase, if that salary in-crease is that mecessary and if it can't be pro-vided locally. But it all boils down to the fact, doesn't it, that it's a lot easier to lobby a salary increase in one place here in Baton Rouge

than it is to have to go out into all the municipalities across the state and bargain in each one. So let's boil it down to the real issue, and that's what it is.

# Further Discussion

Stinson Mr. Chairman, fellow members of the <u>Hr. Stinson</u> Mr. Chairman, fellow members of the convention, this argument, as a number have said, has been going on for years and years and years and will continue going on for years in the future. I'm opposed to this amendment. When they get up here and say "Well, you're supposed to furnish money to help pay the salaries, and especially from New Orleans,"...if we gave Rew Orleans any more favors than we have in the past, then the legisla-ture would give them the whole state. We've given ture would give them the whole state. We've given them money for every purpose. We've given them ten million dollars to vote for a tax, extra. But 1 I usually vote don't want to get on New Orleans. I usually vote with them. But I want to tell you this is another feature that we cannot depend on home rule. We're reaury that we cannot uppend on nome rolls. We read in the city of Baton Rouge. Suppose you got robbed, and they say, "Well, you don't live in Baton Rouge" ...the police force. "We can't help you; we're only taking care of the Baton Rouge citizens. They are the only ones that pay the takes." Suppose your car caught on fire and the freene said we bure from Bossier rish. In the freene said we bure from Bossier rish. In the lass through twenty-free ut. The free sand cities. I'm an outsider. I'm a visitor, but I'm entitled to the protection. It's a statewide protection and security that the citizens of Lowisiana are entitled to. Now, they say that we ve got to help the cities, local gov-ernment. We help them. The issue's come up time after time. I know one time in particular we had a local bill in a city in my district. The mayor says we can't add those extra personnel. If we do, we'll have to fire thirteen, cut down on the sal-aries. He convinced me that he was telling the truth. The bill was defeated in the legislature. car caught on fire and the firemen said, "You're Three weeks later the mayor gave them more than they were asking for, and he said he couldn't do it they were asking for, and he said he couldn't do it, but he did it. He left me out on a limb and chopped the limb off. That's what's going to happen to you if you depend on home rule and say mayors are going to look out for 'em. Well, l've dealt with many a mayor through my lifetime, and they're not all as conscientious as you think they are. They think some other monument or she not by the others. salary, but as it's been brought out by the others, these policemen and firemen do not work just in the municipalities. They help outside in cases of rio emergencies, fires outside of the city limits. Th don't run up there and say "Oh, you're a block out They help outside in cases of riots, They of the city. We can't go out and help you. We can't do that." So, I say it is a matter statewide. We have got to have the best qualified. You might say, well, this doesn't assure the best qualified say, were, this doesn't assure the uest qualified that the inducement pay will be, and you can then through your civil service requirements get better qualified people. Now more than ever, first is our life and our health and our liberty, and these three are concerned with that. You know the three three are concerned with that. You know the three three are concerned with that. You know you've got to have some assurance of security. It's worse now than ever before. But isn't it a fine feeling to be in a city, and you hear the fire alarm at midnight and say. "Well, the fire department will take care of it, even though it might be my office or my business"; or else someone is trying to break into your house, and you can call for help, or into your business. That is security which now is needed more than ever, and it is going to get worse, I pre-dict, in the next few years in our disturbed facts of hife today. Sy, I'd here to add you be emproped proposal. It was debated by all the sides. I'm sure, before that committee, and they in their wisdom re-commended this. Let's leave it as it is. This is a concern of all the citizens of the state. From my parish, they're just as concerned as those in you've got to have some assurance of security. parish, they're just as concerned as those in Baton Rouge. The pool as concerned as those in Baton Rouge for matters of government, and football games and such. They want security and courtesy extended them by the police and firemen of this city, and

vare in ever, other ity. There's not a tile kindom you have to get a passport to go into. We have one state and we're entilled, and should get the protection, and this is the only way we're goin, in the set of the second ended by the confittee. I unge you, let's defeat this amendeent and leave if we pais this amendeent ende goilature, the returgment, etc., civil service that they have in the different cittes. We don those what's going to happen to it. So let's let these people be secure in their employment, which is the safety and security of our citizens statewide and not in a home rule area.

### Further Discussion

Mr. Stagy Mr. Chairman and fellow delegates, I the simple eloquence and with the great dignity of Mr. landry and Mr. Riccke, nor can l approach this podlum with the elegant verbiage and mellifluous phrases of our esteemed Mr. willis. But I can, I think, in the time allotted to me, give you some exceptionally good reasons to voite for the lennox an indent. Mr. D'Gerolamo, when he was at the microphone explaining this section, said that he had compassion for firemen and policemen, and so do I. The answer, I think, Iles In the work tou-nicipalities, by you delegates and other public-spirited citizens, as you have proved to be by your duties to this convention. When I was in the coal Junior Chamber of Commerce twenty years ago. your duties to this convention. When I was in the local Junior Chamber of Commerce twenty years ago. I found that the policemen of the city of Shreveport had to buy their own pistol, buy their own belt and holster, buy their own uniform, and their only training consilted of riding around in a police car with an older policeman and then he was considered to be trained. As a result of efforts to improve the lot of policemen and firemen, we took on the city council of the city of Intevport as a project this envention. Tou an resultive a special in-terms twhen you eeo rou din it have to be a ked in the teach by an editorial in the paper for him what i pectal interest cell actions and you know that this exception in section 6 in ex-actly that look in the tai if a envention of a minimum section in the tai if a envention of this exercition. Why if that the interest to the of this exercition. Why if that the interest in the of this exercition. Why if that the interest he to act when the analysis of the interest he result of the interest of the interest he result of the interest of the interest he result of the writer and you have the delevates to this interest of the solution in the interest he result of the writer and they built a firm under their interest of the solution is result of their here where the answer the interest of the interest of the solution is an envert of the interest of the solution is an envert of the interest of the solution is an envert the interest of the solution is an envert of the interest of the solution is an envert of the interest of the solution is an envert of the interest of the solution is an envert the interest of the solution is an envert of the interest of the solution is an envert of the interest of the solution is an envert the interest of the solution is an envert of the interest of the solution is an envert of the interest of the solution is an envert of the interest of the solution is an envert the solution is an envert of the solution is a solution is an envert of the solution is an envert of the solution is a solution is an envert of the solution is an envert of the solution is a solution is an envert of the solution is a solution is a solution is a solution is an envert of the solution is an envert of the solution is a solution is an envert of the solution is a solution is

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Mr Rayium Mr Thair an artifel widele ate rise in oppust in tit this endeent franz, any reasons. Ince i ave been nub office i ace endeavored to repriet a of the spice. Nave helped y ay rist and ity out e and ury ren far, far the than have helped the end and police en ust at see is ta a from a police en ust at see is ta a from a police end office of the see is the outine have no pile driver tate wert there with their crew and replaced in bride end y here were offic the less of treet in the se with their crew and replaced he bride cent, there were fity-file less if treet in their ty live in overlaid with a state rew and state equipment I can go an and on and in a del you and polite uries that you have it eards is this convention has been asseeded. All they say is ho erule. If the day ever is when they we got to rule the little hore and tile i do they are trying to rule, they are going to be in the biggest trouble they have ever been in a first or to rule the little hore and tile i do they are trying to rule, they are going to be in the biggest trouble they have ever been in a first owith the legislature that they will be in the or a policeman to cove to e, which they are a regu-lar working hour. They were with the seventy, eighty, ningth hours a week, and if they do the are poliens, and impoling the the sevent is the problems, and impoling the the seventy, eighty, ningth hours a week, and if they do the repear they govern end that ye as the there problems, and impoling to held the use and fire-men with the state, they are wing the instate week the local govern end thas at to have have in the the local govern end have the end a sit is out field. If the day ever we and a sit we do and subtry do the state, they are well with the local govern end have the one and the two rule all state and they we do the state about woring a light that on this they are the send part of those funds as the here that they end to be first by the state the state and they first of the state on the schare the we have the the state on the schare the shat the set part of those funds as the here that and they are the meand of the state about woring a light the state the state the about so the state funds here the state that also the weer were end a state about the state when we and the state the state when we 

Joint Days I fock like you can't pass it that way; just pass it and give us any little bit of it we can get. That's what happhend; it's you think they won't bargain a little, but they got some people here that wants to fix everything for themselves, but don't want nobody else to try to fix nothing-sure have-l'm not going to call their names; they're here, though. If you listen class, you will knn't min though else to try to fix nothing-sure have-l'm not going to call their names; they're here, though. If you listen class, you will knn't min this state when the local officials create an image with the legislature that I'm afraid they are about to create, besent all the people, whether he is a state employee, whether he is a city employee, whether he works for that this state, when Compess passed a forty hour work week, your policemen and your fireenew ere working seventy hours a week. Do you think that's right? They couldn't correct it. Do you know who corrected it for them.

# Further Discussion

Mr. <u>DeBlieux</u> Mr. Chairman, ladies and gentlemen, I'm going to be very brief in this, because Senator Rayburn has already made the remarks which I had intended to make on this. I want to tell you, as a legislator--particularly, Mr. Stagg, I would like for you to pay attention to this--the first fint legislator--up the caused by a mayor of the city of Shrevepart telling us in the Legislative Committee that he absolutely refused to discuss wages with his firemen, or working conditions with his firemen. He said he always discussed those with the chief, not with the firemen, and absolutely they had no recourse, anything of the sort: thought that was quite unfair. At least he should discuss it with them, whether hewanted to do anymittee that was guite unfair. At least he should discuss it with them, whether hewanted to do anymittee, he refused to discuss it with them. I want to say something about the remarks that Mr. Derbes made, and that's what makes up my mind in voting for this. I dislike having to tell a local governing authority to pay their firemen or their policemen, anybody else, any wages as much as I do of having to raise the money for these local subdivisions to dole out to their employees. They come to the legislature and want us to do their hey want the privilege of spending it as they plase. That's not right. Whenever you quit asking for supplemental pay for your local employees, when you you ta sking for extra cigarett etax, then possibly we won't need to have any control over any expenditures you make. But, as long as we are doling out the homey fram the legislature, a little bit more involved than just local government; that's when human rights, human lives and human property is involved. I don't know of any fireman or any policeman who has ever refused to go outside of his area to answer a call. I just want you to take that into consideration. I think the lives of the whole state, the property of the whole state is involved in his issue, and I t

### Questions

Mr. Alexander Senator DeBleiux, traditionally the problem has been in Louisiana--especially with the city of New Orleans and I'm sure other municipalitles in the state--is that the legislature has passed laws directing the city to raise firemen or policemen or some other municipal employee's wages. Now, as you know, a budget is developed months, sometimes a year, in advance. In addition, when that budget is increased, there are times when the city has to come to the legislature to get permission to raise certain taxes in order to adjust that budget properly. Now, how can you correct that inequity? For example, to raise the firemen and/or the policemen in New Orleans, say fifty dollars per month, it may amount to about two million dollars or more. Now, that would throw a seventy-five or eighty million dollar budget out of skelter. How do you correct that kind of thing?

Mr. <u>DeBlieux</u> Reverend Alexander, 1 don't know of any time that the legislature has refused to permit the city of New Orleans to raise its taxes. We have passed many a constitutional amendment, but sometimes the people have refused to acquiesce in those amendments. That's where the difference comes, because of the fact that our present constitution limited the operation of the city of New Drieans in its tax structure, and it's necessary to have a constitutional amendment to do that.

<u>Nr. Alexander</u> Wait, you're not answering my question. I'm speaking about whe...maybe taxes may not...it may not be necessary to raise taxes. All the legislature does is say "Pay the firemen and our policemen more money" and it automatically raises the budget a million dollars. Now, if the budget maybe has already been set, they have all the money that's available; what happens, what do they do?

Mr. DeBlieux I can't answer that question for you, but I don't think...

### Further Discussion

Mr. Chatelain Mr. Chairman and fellow delegates. I stand in support of the Lennox amendment for these good reasons, I think. This whole business of the firemen and policemen stem from problems of the past. In many cases there were certain injustices; they were caused by lack of finances or funds in the various communities and for certain other reasons. I ned the calle who may be listening to my voice today are certainly and sincerely in favor of the best conditions for their firemen and policemen, I know certainly I am. In fact, I am a fireman and have been for many years. I am a hobo fighter, volunteer fireman, in the city of Lafayette. I think that's where some of our prothere were many, many cities in this state had only volunteer firemen. As time grew on, they were neglected; they were the good fellows; they were the leading citizens of the corlisher by were the leading citizens of the corlisher by of the parish. I have a brother-in-law who is a fireman and has supported my siter and his six childrenther is six children-for over twenty years on a meager alary of firemen. I know my siter's problems and has supported my siter and his six childrentheir six children-for over twenty years on a meager alary of a fireman. I know my siter's problems very well. I am married to a fine lady, who has very well. I am married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has very well. I an married to a fine lady, who has

Join Days Proceedings—September 23, 19(3) streets, the person with the fine ladies in the tity halls and curt huses throughout the state who sit there day in and day out and beat a type-writer, and all the other problems that are found these peoples rights? I say type, y fellow delegates, let s not write a constitution that is discriminatory. I thin we have reached the day and the when we do want to guit or insting so let's twe everyone the sale rights. Let's not problem the subjects to the subject of the problem to the subject of the subject of the subject of problems the subject of the subject of the subject of problems that the subject of the subject of the problem to the subject of the subject of the subject of the problem the subject of the subject of the subject of the safe chance. Then you

Mrs. warren Mr Chatelain, I like one thing you aid, but I want to a k you a question. Do you think that fire en and policemen should have the

Mr. hatelain

Mrs. Warren To you think pollemen and firemen should have the right to strike

Mr. Chatelain Well, that's another area that Um

Mrs warren luit an wer, please lijust want you Tanswer the question, your belief, then, ligot one ore question liwould ike to ask.

Mr. Henry Well wait, he han t an wered that one. Mrs. Warren: et him answer this one, please.

Mr. Latelain You a ked the question, I think, wa whether or not I believed that firemen and pu-lice en hould have the right to trike

Mrs. Warren Ye , you heard e

Mr. hate ain in e the Miranja delition I have. ftenties I've felt that perhaps that they hold

Mr. Hairen: All right. Another queltion, or you think fireien and poli e en chiu d have the right to participate fully in the political project

Mri Waxreo Rinht

Mr. Chatelain I ertainly do.

Mr. shatelass let us say this to you, Mr. Marsen, that i feel that I shall fight from the second for the free second polynomial and all the size of pressing second field for the three second second

By  $2^{-1}$  is the transformed determinant of the first of the transformed determinant of transformed determinant of transformed determinant of the transf

and perial an Weerows a strength of the streng

time, or three weeks, and since I have a lot of figures here that deal with state appropriation, and before I announce which way I'm going to talk on this, I would like to ask the convention to grant me an additional five minutes time.

[Rules Suspended to allow additional time.]

# Further Discussion

Mr. Womack pmack Mr. Chairman, members of the conven-in the last election we had between a sixtyfive and seventy percent turnover in the Louisiana Tive and seventy percent turnover in the Louisiana House of Representatives. Old if tever dawn on you why that large a percentage was? Voting for taxes to dole out to local government. If you don't be-lieve it, go back; I know how much trouble it gave me, voting for taxes for local government. I'm going to talk in opposition to this amendment. It great to be a part of this nonpolitical organization that we have here today. It's great to know that no one should lobby, but the president of the police jury in my parish was called the other night at one quarter to one, or at one quarter to one in the morning, telling him to "get down here in a hurry and try to get on your delegate to the convention

He said, "For what?

ne salo, for what? "Well, to straighten him out." He sald, "Hell, he has been straight. He is representing us and he is doing a good job of it." Now, let me tell you about my local governing au-thorities. We'll start with the police jury. We' thorities. We'll start with the police jury. We Start off, in excess revenue this current year, giving them a hundred and twenty thousand dollars in Franklin Parish, forty-four thousand under another act, thirty thousand under another one, twenty under another one; and under yime I turn around 1<sup>th</sup> getting a resolution asking of any salvage-bridge, culvert material-and if we are Salvage-bridge, cuivert material-and it we are going to hard surface a road, go out there and scrape up the gravel off of it and haul it out there and put it on one of our roads. We are doing a very crippling, damaging job to local government. is not a school in Franklin Parish, or Tensas Inere is not a school in Frankin Parish, or lensas parish, or anywhere I know of in northeast Louisiana, major school, that hasn't had highway construction work done around it, trying to improve the drives, trying to help local government. In short, we dole out more to local government in Louisiana than all of the entire state appropriation of the State of Mistissinin Haw had we are reating than how or the entire state appropriation of the state of Mississippi. How bad we are treating them, how bad we are treating them. Last year, of all of the contacts 1 had, or year before last in the session of the legislature, I had more to raise a salary on a state level of the local assistant district attorneys, Mr. Burson, than every other contact had in the House of Representatives all put togethhad in the House of Representatives all put togeth-er. We want local government; we want local home rule. I don't believe in these people striking; no, they can't strike. We can't tolerate policemen striking; there's no way. I want to talk to you a little about what we are doling out, just a little bit: the district courts, willions of dollars in the local district court; supplemental police pay--this current year's appropriation, eleven million seven hundred thousand dollars; state money going back to the local municipalities to pay their poback to the local municipalities to pay their po-licemen; supplemental pay to the firmem in excess of five and a half million. Let's talk about the cause it's going to hurt my city. I want to tell you about my city. Our road gasoline tax, we had to pass a special act to give New Orleans six mil-hort of lake final cause the gasoline tax, we had the pass a special act to give New Orleans six mil-port of lake final cause the gasoline tax. The Port of Batom Rouge, we supplement, pretty heavy, trying to keep them in operation-the local schools, local municipalities...cigarette tax, division of gasoline tax, road tax, royalty tax, everythin Gasolian: Expression and a second state of the second sec New Orleans was about to close down. The mayor

came up and said "We can't operate, no way for us come up and said "we can't operate, no way for us to operate; please bow and scrape, give us." The other municipalities said, "We are going to lose a little if you don't pass an extra tobacco tax. We little if you don't pass an extra tobacco tax. We are willing to give kew Orleans six million, half of the entire state tax." I voted a tax onto the people to give to who? Municipal government. Iccal government. "Leave us alone, let us run our own business." I'm going to agree with Gordon Flory and others who feel that the retirement systems are in problems. We have retirement systems in Eat particle and the systems, and we are paying for it. I'm going or enter the net retere time I register in and out of the hotel; every time I buy anything. I'm going that extra percent for it. Departs in and out of the hotel; every time I buy anything. I'm paying that extra percent for it. By the same taken, the city of Alexandria has no funded system; the firemen and the policemen have mone. They've got a law; they pay into it, and at the end of the year if anyone retires, the money is there provided the city council appropriates it, and the day they quit appropriating, they've got nothing. It's not even as solid as the government of France. We hear, all the way through, about what we are doing to this local government. I'll be happy to answer any questions if someone has a question and forty-six million dollars.

would like to go into it if we just take about twenty minutes.

# Vice Chairman Alexander in the Chair

Mr. Burson Mr. Womack, what else do you propose to do with all this tax money raised from the pock-ets of the people, other than sending it back home --build some more monuments in Baton Rouge?

Mr. Womack Well, I think in answer to that, the best thing to do is to let local government go back best thing to do is to let local government go back on a local level and vote these taxes themselves. And to go a little further, you know why we are here today? Article XIV. If it wasn't for Article XIV, Mr. Burson, we wouldn't be here. What does Article XIV do? It proposes to give...that is, Article XIV do? It proposes to give...that is, Article XIV de? It ory to give local government more room to operate. You know when we proposed odd amendments, the majority of those amendments affected the city of New Orleans. It gave them broader authority for taxes. for running local affected the city of New Orleans. It gave them broader authority for taxes, for running local government, for expanding their authority. You know where it was killed? Not in my detyrhot, tily. You know where it was killed? By the local people in New Orleans, Wr. Burson, by the local people in New Orleans. Now, you talk about they don't trust the legislature; you go call an election on a local level and see how far they trust them. There's been more local taxes killed in the last there years ther there has been in the history of the state, percentage wise in any other decade.

Mr. Neiss Mr. Acting Chairman, fellow delegates, The flow of rhetoric and reason from this podium this morning has been outstanding. Why? Because the issue is vital. The heart and lungs of this article rest in this section. Why is it a viable part of the article? Because if this floor amend-ment...Wr. Chairman, could I have a little order, please, sir

I realize most of your minds are made up. 1 won't confuse you with facts. I would like to place a label on this floor amendment that might be more understandable to those of us that are confused by the differences of opinion at time. think that this article can be labeled "that meat of the whole home rule article" which concerns it-self, as I said, as the heart and lungs of this article. This is the portion that depends upon

the policemen and the firmmen, in any iven here role unicipality, to see that it functions as an orderly government. This orderly government with be maintained by the police and firmen. There has never been a question by any of the speakers here to that extent as to where and how they shoul? function, but what would this do if this floor a end ent was enacted. I think that it can be labeled as a home rule suicide amendment. This is If our local home rule authorities want to grow up, let the face the proble's at home. Turn it back to the home rule people. Allow them to face these problems with their local people as our legislators have fought this issue. This is a horrible amend-ment. It emasculates the whole home rule article. It is time we recognized it for what it is. It is suicide for this article. I urge you to vote against it, and all the reason and rhetor that has flowed

Thank you, Mr. Acting Chairman, and Mr. Heine finan. fellow delegates. fellow delegates. You know we ve all got probles we've heard Senator Rayburn with the problems of the state, and Representative Womack with the prob-lems of the state, but small local mayors have lems of the state, but small local mayors have problems, and maybe it would be good if Senator Rayburn were to run for ayor and just see what some of these problems really are. You know, he has to deal with the big budget of the state, and l respect hin for this and my sympathy goes out for him because I have met with them before and do understand the problems that he has, but he ought understand the problems that he has, but he cught to come sit in a little city hall and try to bal-ance the budget of a small city government where in the past we have not had the right and the privilege, if you want to call it that, to levy takes upon ourselves, our hands have been tied, and l hope under the new concept that we have adopted so far that local government will get their hands untied and if the people of different unicipal lies will not have to cale to the legislature and wit them to give all this money to local government that Representative wo ack has talked about. It's a difficult job being an elected offsi ial on any level, whether it be local or state or federal n level, whether it be local or state or federal in the days that we are living in\_\_\_\_\_\_t's difficult for me to get up here and be in favor of this amendfor me to get up here and be in favor of this amend-ment, but I can, as some others have said, stand on y record when it comes to supporting y firelet and my policiemen. I got a copy of the city of fice for many years. I've been mayor niw going on near y ten year, and I can no back and how you that when the state was so gracious, and I do want to refrech a few meiories about the tobac o tax, that happened to be a part of a tax package I at m the governor's office with sumbers from the some of the induct taken and low and to you there. It was mit nny un injai and low al opvernthere it was in tury universal and local govern-ment that gut a hare of the et a. ur, but happened to be the tobasi tar, but everybedy got a plete of that ple, and that was the deal that was node in the govern routline. If all the take parado, we algo that use the deal, to let a don't pain the luca governents the Dai's in that deal Ke were in real truble in the days. I an assure you, in the initial way was way and were the hard were but be the to be anyor bodgets and were having difficult deal to be anyor bodgets and were having difficult deal to the word oney to present the endarce.

when , , , , ha e is et , an e a sever e t en an that thin , or, with bewergaes ar fee for sublect to exp din, or this an int a ', we on a high pressure a le en a very har-ardou job, and its very difficult tell his employees that we ant give the a a '' e be-cause we have been tid by the 'e' a litre that we on a prove lite and ertie en a litre that we have the tilt we the a out te e a ... if e ployees that we and ertie en at '' a very difficult thin to do, and this to see for each and the prove litter to the end of the en when ... ha e lo et wn a ewer te t ean The second secon

that r Mr, Jobia, Mr Actin, hair an, win t be ele that there is anyone in this hall rist at the molent that has not ade us his ind in this We've debated it ad nauseal, and is eithe re

Further with the next in a the form of the set of the s

replied, "Ves, their jobs are hazardous; they are different." Maybe the question was misleading by not asking her whether they should have constitutional status or not over other municipal employees, but still the answer was there. Yes, my friends in this convention, I feel these people are different. They are different in many ways but I feel their forehears have fought long and hard to acquire this day and age of crime in the streets, it seems to me we should be thinking of giving these dedisated public servants much more, not less. It save be not set to take way, the rears. It save for make acceptions to anything at times is very problematic, but I feel in this case it is much more wrong than right to do away with this constitutional provision. With that, fellow delegates, I ask each and every one of you to show your compassion for these people who have given us much in behalf of us all. I only hope that you give a favorable vote on the committee proposal and vote down this amendment.

# Further Discussion

Jackson Mr. Chairman, ladies and gentle-the convention, I will rise and attempt to Mr. J. Jackson men of the conv give you a different perspective on the issue be-fore you. Let me first make it clear that I rice Let me first make it clear that I rise in opposition to the amendment as presented by Delegate Lennox. You know, 1 was sitting in my chair and I kind of cringed at all the comments made about being on somebody's blacklist, but I understood what people meant, but let me suggest to you that it doesn't concern me about whose list I be on when I feel that I do have the basis of exerting or exercising my right to vote in favor or against the proposition. I'm quite sure that before this convention is over as in the legisla ture, if you want to talk about people's particular lists, I have been on the city's bad list; I have been on labor's bad list; to some degree I have been on my colleague's bad list; there ain't no problem Ut my corregues about iss. there a no one proof as about being on somebody's bod list. Let me suggest, and I want to be very serious to give you the reasons as to why I rise in opposition to the Lennox motion. I raised in the committee when we were discussing this particular issue, in raised the question of revenue-sharing. I was the State Revenue-Sharing Committee, and I felt that there was certain considerations that I fe I was on felt that ought to be implied in the revenue-sharing formula that we were sending back to our cities. Not only was I in essence denied any particular as to say that if the legislature gave money back as to say that if the legislature gave money back to the municipalities, that it was not the munic-ipality's right or responsibility to even account guestions in my mind because most of you know, and I candidly say it, I've been having my problems, and I have told labor with the matter of not nec-essarily the police protection, but the kinds of police-community relationship, but off the surface l would suggest that you could say this is an op-rislate or I don't attempt to vote in a vindicitive manner. I want to suggest to you that I do have an amendent to include all the other workers. I think that we're involved in a fundamental printhink that we're involved in a fundamental principle. I think that we have given cities, and that's why we have a Local and Parochial Committee that's why we have a local and parochil committee the period of the second and the second second and funds. This, even in Section 16, they are talking again about having the city council to sign off on the Legislative Act. You know we fought that battle up in Section 5. I do not see the problems that people have raised concerning the legislature being punitive. I again want to reiterate that the legislature is not void of respective delegations from any municipality, parish government that exists within this state. Being on the Local and Parochial Government, I know the kinds of attitude that is given to us, our cities and our municipalities, and I think at some point, we're going to have to maintain some checks and balances, so I rise in opposition because I think that, although I would like to see all municipality employees included, I recognize the polities in this convention, and I suggest that I go with the hope that somebody one day, one day will be able to provide the kinds of justice, but if nobody's got any feet in the door then I can expect seriously what will happen back home. For those reasons I rise in opposition to the Lennox motion.

### Questions

Mr. <u>Heine</u> Representative Jackson, I don't know exactly how I'm going to put this into a question, but did I say when I was talking that I was on a blacklist?

Mr. J. Jackson You sho' did.

Mr. Heine I meant the unfavorable list, o.k.?

Mr. J. Jackson Thank you.

### Further Discussion

Mr. Chairman, ladies and gentlemen of the  $\frac{Mr.}{Roy}$  Mr. Chairman, ladies and gentlemen of the convention, you've all heard all the facts and figures, but I want to tell you the history of the abuse of the working man. It started back in the ures, but I want to tell you the history of the abuse of the working man. It started back in the Industrial Revolution, and from there it went for-ward and went forward until finally through legis-lation and what have you, the people were able to say that no longer will we tolerate children work-ing in term proves the diverse of day, and it finally cubing at the in the people rise of and it finally work of the people rise of and the finally culminated in the people rising up and saying that we won't allow this, but there was one bastion, one last bastion that they could never get to, and those were the local governmental subdivisions. It's were the local governmental subdivisions. It's strange to me that a local governmental subdivision inaugurated and authorized to protect the people, abused the people who should be protected first least firemen and policemen being protected, and certainly against this amendment. It lears the them the people do the made the cost of the series them all protected, because I can't tolerate the idea that people can be made to work for the priv-ilege of saying, "I work for a municipality," but not get the money to buy the bread to support their families. You've heard a lot of rhetoric, and not get the money to buy the bread to support their families. You've heard a lot of rhetoric, and you're hearing a little bit now, but that's the history of what has happened, and finally through some miraculous way we were able to say that when you deal with something on a statewide basis like for fire protection and police protection, all citizens of this state, all over that state are entitled to the protection, and therefore, we could constitutionally say that we will allow the legis-lature to address itself to those issues, and we lature to docress itself to those issues, and we have done it, and that's just another reason we should keep it that way. I would like to see it go further, and i'll tell you all about these lobbyists who are here. These police jurors make what have you are here. The police jurors make What have you are nere. In the pointer Jarons make freeting. That, in eyj judgment, if they meet two or five hours, it amounts to from twenty-five to ten dollars an hour. Let those be the first folks then to say that if we're going to pay a fireman for eighty hours of work a week, if we're going to pay a person of that callber and whor fisks in the call the say that callber and who risks his life and what have you, then we ourselves will his life and what have you, then we ourselves will cut down on what we're making. We city councilmen who meet once a month and get fifty dollars a month for two hours of meeting time should not get that amount. That still begs the question, because that's not the issue. The issue is whether a work-ing, laboring man, who risks his life at certain times and he never knows when, is going to be paid fairly. Presently, right now, there is a young fireman from the city of we nights ago while fight-ing a fire in an abandoned house, with nothing to

live. Now, you tell me, you tell me that in the past when these people were paid two hundred and fifty and three hundred dollars a month and worked all onth long at that, is fair, and that we have core all the way from the Industrial Revolution to go back to 1789 or 1801 when people were abused, and then ['ll vote for this amendment. But you can't show e that, and 11 against t.

Mr. Ca ey Mr. Chain an and delegates, unfortunate-ly in discussions on local government, a lot is always said about New Orleans, one way or the other, and I'd like to initially say that the gentlemen who have entioned New Orleans are youd to New Orleans. People like 'Sixty' Rayburn and Mr. Wo ack and Mun-on have been very helpful, and I how tr's unpop-olar sometime to be with the city of New Orleans in trying to cure sole of Its problems, and I how "Sixty Rayburn makes a lot of noise sometime and ays a lot of things, but sometime his bark is bigger than his bice, but when he dees bite, you'd thini you had an alligator or a crocodie taking hold of you, and I particularly think, gentlemen soch as those I named, and you can't name everybody hold of you, and I particularly think, gentlemen such as those I named, and you can't name everybody who helps us, but I think it's important to straight-en up and to clarify some of the facts and circum-stances which have been mentioned this morning; particularly when we voted for taxes in 1970. New Orleans wasn't afraid to vote for taxes, for the cigarette tax, Mr. Rayburn. At that time the city of New Orleans was imposing upon itself a one per-cent sales tax. Why? In order to pay its civil service employees and its policemen and its fire-men and to ouve them the hepefits that were rightmen and to give them the benefits that were right-fully due these employees, but those state taxes were imposed primarly to pay teachers, to pay merit increases to state civil service enployees, and we needed our share of the tobacco tax, and we agreed to pull down on the imposition of a sales tax on the city of New Orleans only, we agreed to pull down on that in order to get the necessary money from the tobacco tax to pay our employees locally, and that's my the deal wall adde Mri how that, but I think it's iportant to clarify that we were frying to help ourselves when we asked for that oney, and our present mayor has probably raised one taxes, has voted for more tax increases, than anybody else in the state, locally-approxi-ately ten to thirteen new taxe were imposed in the ity of Hew releans. Why? Just to help our-selves. We are willing to assume these respon-shilling to itc out our necks to raise taxes to help our elves. Over the part three years, the output of the part is the second second second second to be predived. Over the part three years, the output of the part is the second second second second provide the part of the part of the part of the provide second second second second second second second provide second second second second second second provide second second

of the winner tac function the second the second se

Mr. Chair an, fellow deleater, ..... the legislature l voted again t is that increasy the pay of firme mithout providin the cyl-the local ities, because y sity father told they didn't have the oney to pay it, but we re-not saying you can t pass those find of bl is in that the sites so in recent to the site any kind of a iniu wage law or iniu were condition law, no atter what the ir t as are in the fature of this constitution. Now this is something that does not belong in the or till be dealt with as a statutory political atter and call when you're telling the that they an t carly when you're telling the that they an t claip when you recelling them that they can t ever pass any kind of min. us wale law in t particularly happy with the language that's in here. I don't think it should usis appy to fire-men and policemen, I think it should app it all employees. I don't think we sould tell the legi-lature. You can't ever pass any law setting a minimum pay scale for anybody in this state in fact. I hope there is going to be an alend ent to take this whole section out, because I reall don't see what you need it for at all we've already given the strongest home rule provision that I could find in boting over twenty or thirty oniti tutions yesterday. I couldn't find one neerly as strong as we have written already in this artified, and you refused years to the state in ern that the legis aturn need to take tare if.

Mr arry returns, to to the tat

Mer centre there exercise that the term for the form of the second of the term of the second of the term for the second of the s

a minimum wage law that every city could pay. I think that we should not tell the legislature, "You can't do this," in the next fifty or one hundred years or as long as this constitution is going to last.

# Further Discussion

Mr. Wall Mr. Chairman, fellow delegates, you know fate has taken care of me being here today. I had a plane chartered to fly to Monroe to be a pallbearer in a funeral, and the pilot calls due a voting on this. The last time he called me, about li20 he said, "Mr. Wall, the tormado warnings are such that I'm not willing to fly up there to carry you, but if you want me to, I may be able to find a pilot that would carry you." Of course, I told him to forcet it.

"The Chairman...l've got to tell this for the benefit of the Chairman. The Chairman is getting to where he is a little warped in his thinking lately. He thought I was going up there just to miss this vote, and that's not the case. So, I'm not going; I'm here, Mr. Chairman. Fellow delegates, this issue is something really I had some reservations about, until I really Studied and thought about it and without pressure.

reliable delegates, this issue is something really liad delegates, this issue is something really liad delegates, this issue is something really that delegates, this issue is something really that delegates, the solution of the something how i was going to vote, and I said. "Well, I haven't completely made up my mind yet." This morning, I have two telephones and both of them were hopping off, and I wouldn't even answer them because I figured it may be somebody calling me, and whoever called wasn't poing to influence my vote, bit I was going to vote up ny own mid. But iffst, I've just been turned in to the Federal Wage and Hour division twice in the last three months and I had to pay up to them. It wasn't that I wasn't paying minimum wages, but I got in a little trouble on some overtime of some employees. When I fired them, they came then and wanted on overtime. I paid them; I swiled, but I firmly believe in minimum wages. I firmly believe that the legislatour present constitution, I'm informed that it's prohibitive to have a minimum wage in the state, a state law for men, but it's not for women. I think Louisians needs their own minimum wage in the state, stude the right to protect with minimum wage state. Now we have such a strong home rule charter this is not. I think that they should state, Now we have such a strong home rule charter the sing and many businesses that the federal government doesn't hover that we need to cover. I believe that the right down they state. Now we have such a strong home rule charter this is not. this doesn't have to do with the home rule. They'll tell you that. It really gets down to whether you believe, whether you believe that the legislature should have the right to set a minimum wage for people in this state, whether they be firmem or whatnot. I think that they should set a minimum wage for people in this state, whether they be firmem or whatnot. I think that they should set a minimum wage for people in this state, whether they be firmem or whatnot. I think that they sho

### Further Discussion

<u>Mrs. Warren</u> Mr. Chairman and delegates, you are honorable men and women, and I don't come here to tell you what to do or to even try to help you to make up your mind. I think you can do that for yourself. I have been toiling with the situation, and usually I go to the microphone because I'm a little bit ignorant ton things and I want to get

some information before I vote on things. Each in-dividual could be placed with a picture in front of you and each one of you would see it in a dif-ferent light; one would see it one way and one ferent light; one would see it one way and one would see it another. One...some of you are going to vote for this amendment for one reason or another, and some of you are going to vote for...against this amendment for one reason or another. I heard something up here about special interest groups and that was one of the things that I was really looking out for when I came to this convention. Something came into my mind that I heard when I was a little girl. It read like this: "Little drops of water and lit-tle grains of sand; little drops of water and many the grains of sand; inthe drops of water and many grains of sand; makes the mighty occan in this ours and many little people who help to make up this great state of Louisiana. I have heard from this platform, people speak and say, and one young man was asked, how much movey did the legislature appor-tion for his salary in a municipality? He said, "Ten thousand dollars." This is just one person. I'm wondering how much of that ten thousand dollars would he be willing to say to the legislature, "Pro-vide this to pay for protection of firemen and po-licemen." That's just one. When your city officials make up their charter, the first thing they do, they decide how much money that they are going to get all the way down the line. So, they help their plates and whatever's left, you can have it, boys. See how the privilege of doing this, they can set their salary, you just passed it, one time you couldn't set a salary when you were going in you can all the may down the same they we go they are the same they are go couldn't set a salary when you were go ing in the same the same they are go more rule. I'm thinking of something now where a person said to me one day, and I wondered what I'm wondering how much of that ten thousand dollars person said to me one day, and I wondered what they were talking about. He said to me, he said, "You know, it's a poor rat ain't got but one hole to run in." It really is. l've heard many people to run in." It really is. I've heard many people at this poddium say, I wondered when it came up, the Home Rule Article, "I want to be exception. Don't include mei just take me out." We just took the teachers and things out with their mendment. hommer so long as that hammer ain't going to hit my head. Now, the real thing that bothers me was the questions that I asked this moring, that really helps me to make up my mind. I believe that... out provided to them... I don't to participate in the ,..fully in the political process. This is not provided to them... I don't have much when the tree not provided to them. I don't have much time. If I did, I could go on and on and on. I have, after the charter...and I could talk to you about it, but I knew I didn't have but one minute. So, they don't have the right to participate in the fuller process, political process, as others. You say exceptions; I'm against exceptions, but if you're gonna have exceptions, why exclude me? Thank you.

# Further Discussion

Mr. Willis Mr. Chairman and fellow delegates, i am heir to the definite disposition of supporting this amendment, and I am fortified more and more in the righteousness of my position by the arguments on both sides of the issue. I hope those opposing the amendment will tolerate my position with the same respect and latitude which they claim for themselves. Perhaps I should heed the saying it has all been said. Much has been said but the present mis en scene of the argument compels me to urge overshadowing constitutional principles which are so fundamental and so applicable. The exception of firemen and policemen and no other municipal currency, nor does it have sufficient of structurant displace equality or insert ineguality by exception. The local government which has duties imposed on it must be allowed the means to perform them with "union, justice and confidence," the words on our state Seal. To those of you who sulte it, our firemen and policemen at this podium or in your thoughts.

56th Days Proceedings—September 28, 1973 and dediatin t duiy is n less tha yours. Lask ad institut is nutrient and incentive and its wry the arguest is on the arguest is on the arguest is on the arguest is one of the arguest and its is and the arguest is a set of the arguest of the arguest is a set of the arguest of the arguest of the arguest is a set of the arguest of good for the gander. I do not believe that the exceptions sought to be struck can constitutionally survive in the shade of our B\ll of Rights. Recall the arguments for equality when that bill was un-der discussion, and who raised the big hues and cries for equality for all, and contemplate their arguments and positions on equality now. I am for this amendment. I am prout to be because I am for equal protection of the law. I make an impreg-nable fortress of this constitution with equal pro-tection of the law. This amendment helps it out. There you we chairere Thank you, Mr. Chairman.

Hr. J. Jackson Mr. Willis, on that very point that you made aboot exceptions, do you not know that in the committee I did propose that all unic-ipal employees be treated, and that was defeated by the proponents of the committee saying that No, no, that won't even work ?

Mr. Willis I didn't know that is to your g ory, sir.

Mr. Lennox Mr. Chairian, fellow delegates, al-Though 1 do not waive the right to close, 1 will attempt to be as brief as possible, but there are some points 1 find it necessary to reply on. In the beginning, 1'd like to suggest the absence of

Mr. Lennox Mr. Chairman, fellow delegates, in my reply and in y su ation 1'd 1'ke to address y-self to some of the comments made by so e of my colleagues who represent the other inde of this particular controvery Mr. Flory hai nade some mention of special interest. I have never a used Mr. Flory or anyone else here of representing an special interest, and submit to you as I have to be the special source of the second source of the representation of the special source of the special of the special interest of the special source of the special interest, and submit to you as I have the special interest of the special source of the representation of the special source of the special of the special source of the special source of the this first is not source of the special source induction when the governor appointed me to represent induction the series of th is an er eer it is painte, is it is you ar ned met en en erne the state is it i

ndy... The new Orleans fire period benefits are --stantially the sale So, Mr. hady wall, si f that I'm not only for in u wale, overtie as well. I was not one of the e who wall ringing his phone this ornin. In a cluty you feel that you or your part in a cluth of the sli is insume from the effect of the sli all is now written, let e refect, fire all, all is now written, let e refect, fire all, all is now written, let e refect of the sli char of the tree all, an death of interfect char of the tree all, an death of interfect never send to know for who the bell the sli your support and adoption of this end et, all all alk fir a refer vote

Mr toval Mr hair ar, laite at inflere of the onventing during the part the same at frank the Crimulage are readed to the re-nance to freehand to expecte invision auger that an are from the fer an define real time that be the number of the are even, our of that the Rule is the readed her tanks to present the Rule is the read-her tanks to present the Area to the read-brane the same of the readed to the read-her tanks to the readed of the readed to the We are at a tay when we need to be the here the model of the answer to be needed by the target of the state of the state

violating our basic democratic procedures. We have made good progress, and 1 think the answer at this time is not in a specific rule change, but rather it is with you and with me. I congratulate you on your decorum, your restraint, your helpful debate. But, may I respectfully suggest that we vote more often and as quickly as we can on the different sections and hopefully we will accomplish our purpose. Thank you.

### Amendment

Mr. Poynter The amendment is sent up by Delegates Lowe and Pugh. All right, just Lowe. Amendment No. 1. On page 9, delete lines 7 through 21, both inclusive, in their entirety.

### Explanation

Mr. Lowe Mr. Chairman, fellow delegates, the first thing I want to make perfectly clear right from the beginning, that the outcome of the previus amendment that we discussed has had no re-lation at all to my amendment to delete this en-tire section. That's exactly what my amendment does. I informed the proponents of the amendment that we discussed before lunch and the opponents of that amendment before lunch that regardless of the outcome that I was opposed to Section 16. Now, I want to tell you that I've had some difficulty with this particular article. I don't consider myself a strong home rule advocte and I don't con-sider myself one that wants to take all of the 10<sup>°</sup> the amenents that I've had come before us, I've tried to maintain a middle of the road posi-tion to try to give municipalities as much power as I thought they needed to operate with. At the same time, maintaining in the legislature that devious amendment that we discussed has had no reas I thought they needed to operate with. At the gree of control that's necessary over these munic-ipalities. Now, you know what's going to happen and I know what's going to happen with this par-ticular section. What's going to happen is going to prove to you that this section and what we did earlier today is not something that belongs in this constitution. If my amendment fails, you're going to gei a fload of amendments that's going to exempt every municipal and parochial employee, that 's going to exempt all of the elected officials. We already have one that exempts the school teach-ers, and I would say that this constitution is no place to discriminate. If we're going to deal with policeme and firmem separately, this constitution is no place for it. Are you going to sit here and say that we're once and for all going to shut the door on all other municipal employees to be dealt with in the same fashion that firemen and policemen can be dealt with? Not just for today, not just for next week, bui for all incer lies that you want to go home and tell your parchial employees that that's what you're done. Now, I said from the beginning I knew that this was an issue. I informed everyone months ago that I was not going We already have one that exempts the school teachthe beginning 1 knew that this was an issue. I informed everyone months ago that I was not going to take this constitution and fight the fight of the firemen and the policemen in the constitution. When I was in the legislature from '64 to '68, I voted continuously not to approve the raises of the firemen and the policemen without furnishing funds to local government. I was sensitive with their cause; I still am sensitive with their cause. But, when we go back home, there are many, many other employees that deserve recognition. We many other employees that deserve recognition. We cannot, in this constitution, deny them that recog-nition. Now, we have a sophisticated, complicated form of government as far as fiscal affairs are form of government as far as fiscal affairs are concerned. I'm not ready to sit here with Section 16 and say once and for all that I'm going to deny the legislature the right to deal with local munic-ipal and parochial government as far as fiscal affairs are concerned. We're entwined in a web that I don't know what would happen if we did that. We've come a long way, and where we are, I don't know. I have no idea what Section 16 would do. The only thing that I believe, and I've talked to attorneys, I believe that if we take out Section 16, we're going to be where we are today. I don't believe that where we are today is bad. It gives the legislature the right to look at individual situations. If the firemen and policemen should be dealt with individually, I say, let the legislature do it. I heard New Orleans complain about their dilemma with this particular situation of dealing with firemen and policemen. As I statuton of dealing with firemen and policemen. As I statuton of dealing with firemen and policemen. As I statuton of dealing with of the statuton of the statuton of dealing matters. I mouse the record would show that as many New Orleans legislators voted for raises as those that voted against them. I don't come to this mike of the feeling strongly about particular matters. I stit back and listen and vote on mendments, but when I see us get ready to do something, that in my estimations. That as this constitution is concerned, and I hasten to repeat, as far as this constitution is concerned. Because if I were in the legislature, I would talk night and day and stand up and vote on the particular issue, because I think it is missue store, they slave. I we shat the stores stores, they pay the same stang utility bills, and they do some the door on these opencies. I and they do some the door on these said that I stood up and tried to take discrimination out of the constitution of 1973. So, I appeal to you that you join me in taking out section 16. I think it's what the vast majority of our people would want us to do. I think it's the ational thing to do, and I ask that you join me.

### Questions

Mr. 0'Neill "Monday", I'm real troubled about what the exact effects would be if it were gone, and what exactly would happen. I'm sincere and asking you if you could explain a little more, what do you think would happen without this section?

do you think would happen without this section: <u>wr. love</u> Well, Gary, Mr. O'Kelll, I doubt serigoing to satisfy everyone. I spoke to a number of gatorneys and got some different answers. But, the ones that I spoke to that gave me the answers that I thought were right have said that if we take Section IG out, we're right back where we were before. That means that the legislature can deal with these matters independently, one by one with firemen; one by one with policemen, with sanitation workers, with maintennce people, with dog catchers. You name it. Now, I'm not an attorney and the only thing I can tell you is that I've listened to our deliberations. I've tried to get out of our deliberations something concrete that I could hang general law. I've home or list are limited by general law. In home missitution is adouted will be limited by general law that's in existence at that time. Now, I can say that New Orleans, they tell me, that the voice not hear you be the firemen, policemen problem.

Mr. Roy "Monday", I know you're in good faith in what you believe, but do you know that the charter for the city of Baton Rouge, for Baton Rouge city government makes it that you cannot deal with firemen and policemen because of the Lafleur case?

<u>Mr. Lowe</u> Well, as I've mentioned before, Chris, if you tell me that...<u>LaFleur</u>, case, I'd have to believe it, and I'll aiso tell you that I'm extremely sincere about what I'm doing...

Mr. Roy 1 know that.

Mr. Lowe If we've locked the door and one home

rule harter has thing, used out, I would say that's better than looking it on 99 other units

Mr Ro. Yes, but, Monday, do you realize ù you realize though, that you see on paie 4 under E of Se tion B, if, when we have adopted a ready the state ent. The legicature shall not pais any

Mr. Lowe well, Chris, I know you are in good faith in asking your questions, but on page 4, 1 read, "That a home rule charter adopted pursuant to the provisions of this section shall provide functions for the government of the local govern-mental subda vision, which may include the exercise of any power and performance of any function nec-essary, requisite and proper for the management of its affairs that are not denied," or | don't show whether it was a ended, "authorized by general law or this constitution." As | appreciate it, general law can take care of things.

Mr. Roll we have the problem with the next sen-tence, though. You see, when they reform under this other section, other sentence, rather.

<u>Mr. Champagne</u> As 1 understand, Mr. Lowe, you are saying that these are legislative atters and this constitution is far too mportant to place it on the line at the discretion of this faction saying

Mr Lowe That's exactly what l' saying, and we're going to find out that if this propola' fail , you'll ,we the flood of amendments if the people that are oncerned about the other par hial e don't care how we live it, thi is no place to deal with thise things. I apprenate your addition of this cent in

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of the City Council of Crowley. That should be decided and the priorities should be set on a local basis. I voted against the exception for fire and police, but we have it in here. So it was the will of the majority; let's go with it. But, let us mot compound the felony by taking this section out altogether, so that these mandates can be it of the majority; let's go with it. But, let the local priorities out of local funds through the elected local representatives. Let's let the state government set state priorities from state funds. There's plenty of work to be done in each area. Let's say to our legislators, "decide...If you'd rather be on the city council, run for the ce if the the isoit, it would be as ridiculous as the tips out, the volume to so the sociation set the salaries of state policemen. Let us not give in to this folly. Thank you.

# Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, being on the Local and Parochial Committee, I understand what's going on at this point. I want to suggest to you that some of the amendments, that I told you originally about the firemen and policemen, that I introduced, and some some of these amendments to be exclusive of everybody on that committee took staunch opposition. You see, there's no weight in the exception theory as being presented to you here because I know, I've been through this and I guess...we're going to go through this and I guess...we're going to go through it here for another hour, but I've...I've introduced that in the committee and what I hearsay well, no, we can't do it for everybody. So... and neven let it be sid, because I don't believe in deceiving people. I know...I know that the attempt, and I don't believe in discrimination and neven let it be sid, because I don't believe in introduced and this anticle and that even if I passed an amendment saying...Even if I pass or introduce and run with my amendment for sanitation workers it is going to have the same kind of on introduce and run with my amendment for sanitation workers is the screption, hen we're going to go back to good government practice. I'm saying to go back to good government practice. I'm saying to go back to good government practice. I'm saying to go back to good government practice. I'm saying to go back to good government practice. I'm saying to go back to good preventer, sanitation workers and what the prime effect of it is. I believe, as Mat's going on and be very conscious of who is coming up here introducing these amendment and what the prime effect of it is. I believe, as Mat's going to fool myself and not...or neither try to deceive people who I represented, but I know tion will do. I believe as I sald this morning somebody else is going to get in at some point, and i ust barries going to get in at some point, and i ust barries going to get in at some point, and i ust barries going to

# Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise in opposition to this amendment. I have searched my conscience and my ability to try to understand the effort being made at this point to delete this entire set toin, and I have come to the conclusion f, the the second second second second second the the second second second second second that the second second second second second second that the second second second second second second the second second second second second second second the second second second second second second second the second second second second second second they thought that they needed that protection from the very beginning, that to come back now and suggest to you that they ought to delete the entire section, at least raises a doubt in my mind as to whether or not they were after spite to begin with. I would suggest to you that we reject this amendment and go forward with the discussions on the section.

# Further Discussion

Mr. <u>Duval</u> Mr. Chairman, fellow delegates, 1 think sometimes we engage in harmonics and platitudes too much and don't really hit the issue as what will be the legal situation if this amendment is adopted and ... if the saction is deleted, the legislature will have the right to set the wages for firmen and policemen, for all non-home rule parchial entities. It will also have the right to enact similar legis-lation for those home rule parchial entities. It will also have the right to enact similar legistature will and those home rule antities which do not have the LaFleur language in their charter. To my understanding, Baton Rouge and Jefferson both have effect would be that, other than Baton Rouge and Jefferson the limit effecting the wages of municipal employees, and afferson, but I just wanted to put what I think is a legal situation before the group.

# Questions

Mr. Flory Mr. Duval, that's not exactly correct, 15 1t? When you read the definition of structure and organization in the committee's proposal, because what they did was take the language and apply to all home rule charters insofar as structure and organization is concerned?

<u>Mr. Duval</u> Is...Mr. Flory, if I may ask you a question. I think those...those home rule...you might be right...all those entities under home rule charters after...if this constitution is adopted may well,...legislation may well not be able to apply to it. You might be right.

 $\frac{Mr.\ Flory}{that\ are\ adopted,\ isn't\ that\ correct?}$ 

Mr. Duval Yes, sir.

### Further Discussion

 $\underline{Mr}$ ,  $\underline{Bugh}$  Mr. Chairman, fellow delegates, sometime ago, I suggested to you that we could delete Scction 16, at that time it was earlier--it was more sections than that through 30,--and not do any violence to home rule charters of the lack of them; that I thought that the committee had prepared and submitted to you a substantial amount of legislative material. I attempted yesterday, to elimitate this section is concerned, I joined with Mr. Lowe in preparing an amendment to delete it. I did so until 1 found the other amendments laying on the table in reference to the other city employees. I share the enthusiasm of protection of city employees. I feel rather strongly about the policemen, and I want to tell you why 1 feel that way. First of all, I think the policemen do something that no one else employed, other than perhaps the judges and the district attorneys, in connection with local governer. They are called upon to exercise on In Street the that her responsibility in my opinion is greater than the average city employee. In Shreveport, we don't have structure and organization in our charter, but I tell you, some punitive measures we do have: In Shreveport, if a policeman is hired, he must put six percent of his wages each month into a retirement program. If his services are terminated rather voluntarily, or involuntarily, eloses all of that meny. That doesn't happen to

both Days Proceedings—Schember 25, 1910 any other (ity employee, but the policeman i think the firemen also, but none of these other sity employee. If a policeman is called upon as has been the case to work twelve hours a day, it s only the legislative protection that allowed him to be paid time and half for those additional four hours that he worked. He was not to be paid that-rase for the purpose of taking care of that situa-tion. Additionally, if a policema in Shreveport has his wages garnisheed or if he files bankruptoy, he's immediately fired. That does not happen to anyone else that's a city employee. I tell you these things so that you will recognize there is a distinction between the benefits of other tity em-Shreveport, to thelve hours a day, and I rise for the purpose of advising you as to those distinc-tions insofar as employees are concerned. I regret, that there's a feeling among at least open you that there's a feeling among at least one of you have submitted to the convention so far.

<u>Mr. Chatelain</u> Mr. Chairman, and fellow delegates, I feel that this is a good amendment. I feel that originally a good number of the delegates, particbetter not to have any exceptions in the...in this article...in this section, but now that the tide has turned the other way, I feel that this will eliminate the problem that we have for the immedi-ate future. I feel that this amendment will bring all cities in this state and all employees to the same level. Those citles who now enjoy home rule or will enjoy home rule in the future will certain-ly, most of them, will have civil service and unions involved in their employees which in itself will be a big protection to those employees. I feel that this amendment will do the job that needs to be done. I think it puts everybody in the same position: the firemen, the policemen, and all the city employees who are so vital to the health and welfare of our various communities. I urge that better not to have any exceptions in the...in this welfare of our various communities. I urge that you support this amendment.

# Closing

Mr. Lowe This will be so quick you will think that I have waived. First of all in the Bill of Rights we said that no person shall be denied the equal protection of law, and it seems that in this basic document we're doing something other than basic document we're doing something other than glving equal protection to everyone. Now, I want it well understood that I am in favor of a forum for parochial employees and I feel that parochial employees should be able to go before the legisla-ture to present their grievances and for that legislature to act as a forum to hear those griev-ances. We're not just dealing with citles of 5,000 Sandoe need the legislation (first of a 1,000, 5,000 and the need the legislation (first of b the that the eli ination of Section 16 will keep the legislature involved for everyone and I ask your adoption of the amendment.

Mr fighter Next set of amendments are ullered by a group of authors - lead author is Delegate Mre. The name on the tup is Delegate (dwards' 1) Amendment Ko. J. The page 1 of top end of line 9, delet the word and puntustion , or Amendment No. J. In page 9, delete line to in

ts entirely Amendent No. 3 un page 4, at the beyinning of line 11 dete the following heirs follow public officies or Amendment No. 4. On page 9, at the end of line

Amenoment no. 4. Or page 9, at the end of in 13, delete the following or an increase Arendment No. 5 in page 9, at the beginning of 1 ne 14, delete the following in issins of or for local political subdivision iffies

Mr. Pire Mr. Chairman, fellow delemates, all this does is except the sheriff the sheriffs, the assessors, the clerior (courts, possily some of the other constitutional officers who ust, in some case get some of their compensation or all of their compensation from the local governing authority. We have been excepted all along in all of the local through the legislature, we would like to, of course be excepted here too. We find here that we would be excepted here too. We find here that we would have to get an ordinance passed by the local govern-ing authority responsible for allowing us to re-ceive our compensation, and we find that this we be quite cumbersome on the statewide basis we feel that we don't have a lot of opposition to this amendment from the committee, and 1 would like for you to favorably vote for the amendent if there are any questions, I'd be happy to answer

Mr. Weiss Suppose these offices would request a raise of some type, how would they go about getting

Mr. Mire We present...we presently request our increase in raise in salary or in compensation .

Mr. Weiss Through the legislature?

Mr. Mire Through the legislature, yes, sir,

Weiss But suppose the local government has to put up some of those funds?

Mr. Mire per se'. taxes are collected

Mr Weiss Would would this be narrowed down to certain exclusive part he , or would it be a general

Mr. Mire No, this would be a general law,

Mr Weiss At the present time it's not general Taw, however, i n't it--applies t

Mr Mire Yes, it is

Mr Weiss

Mr. Mire. No, it' the general aw as far the sheriffs, asse ors, and erks, et , are ...

Mr. Dennis. Mr. Mire, I d like to direct or attention specifically to the first a encent the like to ask is us why is it nece any to delete that in order to accorplish what you have duit

Mr Mine udge, it you would go to the set to where they ugo Gi definition, the infine life solution of they say that it can arithen which, of urise, we are officials of a partin and we're just afraid that it uid puties into an us TE arrot, but it ar well and this it why we want to delete that puriton

Mr. Deniil o you re really you re a ling at getting out of there the words pl tical subdivi-

sion and public...local public officials," which you think might include assessors, and clerks, etc.?

### Mr. Mire Correct.

Mr. Dennis I see, thank you.

[Previous Question ordered. Amendment adopted: 106-3. Motion to reconsider tabled.]

### Amendment

Poynter The corrected amendment first of all

<u>Mr. Poynter</u> The corrected amendment first of all adds two coathors, in addition to Mr. Rachal, Mr. Chatelain and Mr. Johnny Jackson. Amendment No. 1. On page 9, line 15, after the word "service" and before the comma "," add the following: "and when not included under--and this is the change "city or parish civil service" in-stead of, "local civil service". Should read "city or parish civil service".

### Explanation

Rachal Mr. Chairman, ladies and gentlemen of the convertion, this morning they...you defeated the Lennox amendment. I think it is important for me to explain the impact of my proposed amendment. This did not allow for exception for the smaller cities and the municipalities which chose to be covered and the municipalities which chose to be covered as the section now provides. The present constitu-tion mandates that municipalities exceeding a mini-mum number will have a, what I recall, a general civil service, which civil service includes both fire and police. It excludes...the present consti-tution also excludes from the state municipal fire ed police these ciries and forces under 12, 000 and and police those cities and towns under 13,000 and over 250,000 people. Now, I voted against the Lennox amendment this morning. I did not want to attempt to deny those smaller cities and any other cities which obviously had a desire that they be covered as the section now contains by the Committee on Local Government. Now, I am asking you to support a provision to allow communities which are large enough, able and are desirous to... of providing its enough, able and are destrous (G...d) providing its own comprehensive governmental services, the right to do so under the principle of self government. The committee's proposal states: "except a law pro-viding for civil service." I agree with that: "ex-cept a law providing for civil service" under the conditions that those communities over 250,000 must have a civil service and there are provisions which have a civil service and there are provisions which govern the supervision thereof. However, to...the committee's section goes on to say "minimum wages, working conditions and so forth" and I say that this working conditions and so forth and i say that th should not be made to apply to communities with their own comprehensive civil service program. Nod day before yesterday when the convention voted in the Avant amendment, the headlines screamed "Police Power Voted to State." It was alleged that strong Nome rule had been undermined. The language that I'm trying to insert in Section 16--or without in-I'm trying to insert in Section 16--or without in-serting it in 16--does what is tantamount to the same things in regards to regulating pay, working conditions and so forth for firemen and policemen. While I do not wish to force communities which de-sire the provisions of this section, as it is now written, to be denied their wish. I more strongly do not desire to force those communities which do not want that condition to be forced to live under The most disruptive kind of personnel practice is one in which employees have two bosses: one which pays, or has the power to say how they are to be paid, while they work for the other one who supervises. The effect of my amendment then, is to per-mit those municipalities with what I call comprehere's visce municipalities with what I call compre-hensive civil service programs not to be placed under the mandate of the Section 16 as it is now required. I urge you to support this amendment. Mr. Chairman, 1'll yield to any questions.

### Ouestions

Mr. Duval Mr. Rachal, to make sure I understand

your amendment, let me ask you, in the event a your amenument, let me as you, in the event a compre-hensive civil service plan, under your amendment does that mean that the legislature would not be able to pass laws affecting the salaries and compensation of these people?

<u>Mr. Rachal</u> That's right, it would exist the same as the legislature does not now pass laws affecting state of city civil service employees.

Thank you, I understand it completely. Mr. Duval

I just want to make sure that we under-Avant Mr. Avant I just want to make sure that we under-stand each other, sir. You realize that the prient service system, mandates one for every city from 13,000 to 250,000 population, and that the legisla-ture has mandated it down to 7,500. So you have a fire and police sivil service, system in every city from 7,500 to 250,000 population. Are you aware that, sir?

### Mr. Rachal Right.

Mr. Avant You are then aware of what adoption of your amendment would do to this section?

Mr. Rachal Well, I don't know how to answer your question except to say that my amendment doesn't question except to say that my amenoment obesh t have anything to do with the persons now covered solely under state fire and municipal civil service. My amendment is concerned only with municipalities with comprehensive civil service programs which include fire and police, of which there is only one.

<u>Mr. Lanier</u> Mr. Rachal, I don't know too much about civil service, but my municipality of Thibodaux has just started civil service. What effect would your amendment have on the civil service in the city of Thibodaux; we're a little bit over 15,000 people? civil ser

Mr. Rachal If your community voted to establish wr. kachai if your community votes to establish a municipal... I mean a civil service...what I call comprehensive is one that includes all of the em-ployees included under a local civil service; is that the kind that it is establishing?

<u>Mr. Lanier</u> My understanding of it,---Mr. Landry might know a little better, but I think we've got an act of the legislature that authorized us to an act of the registature that authorized us to adopt civil service and the three commissioners all agreed for the employees of all three, the com-missioners under the commission form of government that we presently have, to put all of their city employees under civil service.

Mr. Rachal A civil service which includes all <u>rr. scing</u> A Civil service which includes all city employees, including fire and police, would then fit under the amendment as I have it described here, that they would...they would govern themselves through their local civil service arrangement.

That means that if I were to vote for Lanier your amendment, that in the city of Thibodaux the civil service board, or whatever it is, would fix the salaries, etc., for the employees of the city of Thibodaux and would not be subject to legislative interference?

It would not be subject to legislative Rachal m. Acting the world had be subject to legislative interference; they would be---it would be subject to the approval of the governor, however, before it would be instituted, but it would be the will of the Thibodaux civil service.

Stovall Mr. Rachal, might not we better deal Mr. Stovall mr. Kachal, might not we better dea with this issue under the civil service provision which will be presented later to this convention. Could not we deal with it in a more comprehensive and objective way at that time?

Mr Rachal Well, I'm afraid, Mr. Stovall, if we wait until that time we may have gotten ourselves locked into something under this section in this article and my...I'm not certain what will remain

by the time we finish it. It could well be that this a mend ent would have no effect, but I don't see that the ...I, and those who support y concept, can wait until that time if we be. .if what I am trying to get done is precluded by this section. Think we need to establish the protection at thh point. I urge your support of the arend ent.

### Further Discussion

Hr. Florg. Mr. Chairman, and delegates, I rise to oppose the amendment and let me call to your attention what the...as I understand the object of the amend mn is, of course, to exclude the city of New Orleans. But, I think you have to understand that the uncipal fire and police civil service amendment when not included under city or parish (vi) service, 'then you've got eleven municipal fities that have civil service in this state. You've got a number of municipal fire for 12,000 to 250,000 that come under municipal fire and police civil service, under one system of civil service; then you have another towe under one in the city of the Orleans. So, what you are doing, actually, by the amendment is reversing everything that we discussed this morning. I suggest to you that this is not a proper amendment, in no way, to do what I believe that the author really intended to do, and I would ask that you reject this amendment and let's of the Section 16. I'd be happy to answer any question, Mr. Chairman.

### Questions

<u>Mr. Lanier</u> Mr. Flory, did you hear the questions that 1 asked Mr. Rachal, concerning the city of Thibodaux?

<u>Mr. Flory</u> I... I heard the question, I believe, Mr. Lanier, and I... first you have to remember you don't have any paid firmen in the city of Initodaux, so that part don't boller you at al. I derstand one of the largest in the country---the derstand one of the largest in the country---the system that you have there. So that the... I would have to read the civil service provisions, under which the legislature granted civil service, as to the coverage granted in the civil service, system established by the legislature for Inibodaux to give you an intelligent answer on that.

<u>Mr. Lanier</u> Well, would...did you know that we do have policemen in the city of Thibodaux?

Mr. Flory Oh, yes, and I understand further that the city council of the city of Thibodaux sets their salary.

Hr. Lanier Hell, ... are you saying that you cannot tell me now whether or not under Mr. Rachal's amend ment if the civil service board of "hibodaw would fix the salaries for the city employees, or whether or not the legislature could?

Mr flory All I know is that the city count of In Judaus sets the salaries for fire and for the policeren in Houdous. Hey have in the pat, they mill in the future - if under the same proline mentions and the salaries of the same proprovided with the authority of the civil service own is ion in the city of Thibudaux, I do not beleve that you could abroaste the car itutional provided with in the same the same truthing provided in fyou fall within the population has the that I mentioned earlier as coing under constitutional. municipal, fire and police tivil service

Mr. Lanter what I'm getting at

Mr. flory of your sity has more than 1-,000 pupulation

Mr. anier luite frankly, 1 kniw vers little

abut ... erv e, bit what . w., ke. know is what effet would the alerd eit have in the unicipal e playees of the lity of T b daux, n your opinion.

Mr. Flory the unic paller piece not in uding fire en or police en

# Mr \_anier Yeah

Wr. Flori I think that I would are refet on them if you retain the first staff of a field to the exception so that the first staff the sentence refers to the uit pade of the staff daux and we donot disturb that ever by the are do ment. I might add in Cloving, Mr. Mairman, the give you a real answer, Mr. San er, delends do with this to staff ear that i have in the are do the staff ear that i have in the are do the paraish or state will service, unit paraid of re versus the two.

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### Closinm

Mr. Rachel tadies and gette en, as the estimated of the second structure structure of the second structure second structure

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### Explanation

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### over tior i

Mr. useal. Mr. rennus, would this lear that, row, It is no gave a caller of two old have to use it to everybidy.

That's correct. Proportionately. Mr. Lennox

Mr. Pugh this mean Under the terms of this amendment, does this mean that everybody has to ride around in police cars since they have to working conditions...

Mr. Lennox I don't believe it does, Mr. Pugh, and I don't believe you think it means that either..

Mr. Pugh 1 wouldn't ask the question i think so; I told the same man here that. ] wouldn't ask the question if I didn't

Well, I don't believe it means that, Mr. Lennox well, if that answers your question.

Mr. Goldman I'm getting a little confused about this. Would this...Mr. Lennox, would this amend-ment make it mandatory to pay the mayor and the city councilmen overtime if they worked more than eight hours a day?

Mr. Lennox I do not believe it would.

I've been told it would; now, I don't Mr. Goldman know who to believe.

<u>Mr. Lennox</u> Well, believe me and you'll be in good shape. I urge the adoption of the amendment and I ask for a record vote.

[Previous Question ordered. Amendment rejected: 36-76. Motion to reconsider

## Amendments

Mr. Poynter as follows: Amendments sent up by Delegate Casey

Amendment No. 1. On page 9, line 15, after the word "a and before the word "law" insert the word "general"

Amendment No. 2. On page 9, line 16, after the word "benefits" and before the word "firemen" stri out the word "for" and insert in lieu thereof the strike following: "which uniformly applies, both in terms and effect, to all."

# Explanation

Mr. Casey Mr. Chairman, and delegates, I think a Tot of the discussion brought out. . has brought out some very good points and information about problems in local government. In certainly know that some of the problems that local government has experienced in some areas has been either the incapability, or the lack of responsibility, to properly accept its responsibilities in dealing with this employees and the lack of responsibility, to properly accept its responsibilities in dealing with its employees and paying to them the proper compensation to which the second of the proper compensation to which the second of the proper compensation to which the second of the second of the second the exception contained in Section 16. But my point is that if, we should treat everybody equally: What is good for the goose is also good for the gander. I know you have heard that overused phrase many times. So, my recommendation in my amendment is that...f you are going to have an exception for a law, as shown on lines 15, 16, and 17, the excep-tion should be for a general law having uniform effect as applying to everybody. To every munic-ficate of Louisiana. So, I would submit to you, if we are going to establish minimum wages and minimum benefits in the city of New Orleans, last Baton Rouge Parish, Caddo Parish, Mr. Chairman, Jonesboro, Is's do it and have uniform application throughout the state. There is no reason to have one pay scale in New Orleans and a much lower pay scale in Jonesboro--and maybe Jonesboro has a higher pay scale on fur Covington, Senator Rayburn. Let's treat scale or in Covington, Senator Rayburn. Let's treat everybody equally.

Henry Just talk about the amendment and let's leave the smaller municipalities alone, Mr. Casey,

Mr. Casey I beg your pardon.

Mr. Henry Just go ahead and discuss your amend-ment and leave the smaller northern Louisiana mu-nicipalities alone.

<u>Mr. Casey</u> Thank you, Mr. Chairman, J appreciate your encouragement and assistance on this amendment. My only point is: let's treat everybody the same.

If we're going to have great retirement benefits in the city of New Orleans, let's give the same bene-fits to Alexandria, to Caddo, Lafayette, Lake Charles, Jonesboro. 1'll yield to any questions.

## Questions

Mr. Rayburn Mr. Casey, are the requirements the same statewide to secure employment?

Mr. Casey Senator, I would assume they are not, but I would think the responsibilities are the same, and possibly we might address ourselves to those problems also.

For all municipal employees, the re-Mr. Rayburn For all munic sponsibility is the same...

<u>Mr. Casey</u> We're talking about police and firemen only, on lines 15, 16 and 17, and this exception would require a general law for minfmum wages, working conditions, retirement benefits, uniformly applied in terms and effect to all firemen and po-licemen. We're not talking about other employees, we're talking about fire and nolice. we're talking about fire and police.

Mr. Rayburn Mr. Casey, do you think their duties would be equal or are they the same throughout the state. I've been to Orleans when one fellow had to take a little whistle and toot-toot for eight hours-go or stop. Another one might be..drink coffee every thirty mintes or ride around and patrol. Do you really believe that their duties are equal in all municipalities or all villages in this state?

Mr. Casey Senator Rayburn, I can't imagine that the knowledge and experience of an attorney in New Orleans should be any less than the knowledge or experience of an attorney in any other town or city in Louisiana. The responsibilities of a policeman or a fireman or just as great as any attorney. A fireman in Lafayette has to know as much about put-ting out a fire as in New Orleans, and a policeman must know as much about law enforcement in Union Parish or Webster Parish as in New Orleans.

<u>Mr. Rayburn</u> Mr. Casey, don't you agree that they have got sergeants, they have got chiefs, they have got assistant chiefs, and as far as attorneys, they've got attorneys that practice criminal law, they've got attorneys that practice all kinds of law, and they've got other attorneys who are just known as "fixers"?

Mr. Casey That's certainly correct. What point are you making, though?

Mr. Rayburn Excuse it is not all equal. Excuse me, I'm making the point that

But the requirements to get a law li-<u>Mr. Casey</u> But the requirements to get a law li-cense certainly is; you have to pass the same bar exam, no matter where you are from.

Mr. Tate Mr. Casey, under the present statutory scheme, do they classify the municipalities accord-ing to size: for instance, from 0 to 13,000, they don't provide for any salary regulations; from 13,000 to 250,000, they provide a certain scale, and above 250,000, another scale? Is that how it works? Or could you inform us how the present scheme works that this would change?

I would...first of all I'm not sure what the present scheme is. I would assume the pay scale is...is pretty much up to the local governing authorities. However, if we are going to let police and firemen come in with special

legislation that might affect Pointe Coupee or some other city, I think if the lobby is strong. see, the problem is, we have had police and firesee, the problem is, we have had police and fire-men aybe come in from Lafayette and they may be successful in talking to Tom Casey to obtain his assistance on passing some legislation which may affect only Lafayette or Lafayette Parish. Cer-tainly, I'very generous, aybe, with the budget and with the money belonging to Lafayette, so. It's very easy form to to say, "yes, I'll certainly help you," but with a matter of general application it is going to mean a lot more when a legislater. asked to vote for benefits of this type which af-

<u>Pr. Tate</u> well, ... I had a general idea that the Tegislature regulated smaller municipalities which have, naturally, a smaller tax space etc., differ-ently than larger municipalities. How do they presently classify them and would you abolish that

Mr. Casey 1 don't have that information available [don't know, and I don't think attorneys in small towns get paid less than an attorney in a city between 25,000 and 100,000. 1 just don't think

# Further Discussion

Mr. Avant Mr. Chairman, fellow delegates, I'm not going to take but just a moment or two of your

This amendment is another amendment which, eithere by design or by accident, would undo what we've been doing here this morning. Now, uniformly, and treat everybody alike...that sounds good, but the facts of the matter is, and are, that there are numerous differences and distinctions that prohibit that. In the first place, the retirement systems, as now established, differ increating particulars. You can see the chaos that would result immediately if Are. (asey): amendment west adopted. Another thing, the benefit way not be time. In there words, the legislature may, at a given period of time, feel and find that certain physics have to be done in the area of police protection where they are not re-This amendment is another amendment which, either and find that certain things have to be done in the area of police protection where they are not re-quired at that particular moment of time in the area of fire protection. Within the same class in the city of New Orleans with its numerous, extremely high-rise buildings is certainly different from that of the problems of a firefighter where you don't have that type of building and "mostruction. To carry it to its ultimate, I think, absurdity, would be if the legislature, in its wisdom, decided that the "for, and thy be failed in the different the weapons that they must carry in the discharge

the weapons that they must carry in the discharge if their dutes and a certain number of rounds of amunition, and require them to expend that ammu-nition on a filing range. How, are you going, and buy every fireman in the tate a 38 police special, and tell him to go out on the firing range every week? That's the ind of thing that you get into it, as I aid, either by design or unwittingly-and I don't know and don't particularly are which -it under what we been trying to do. In give priett innuerable praitiel problem. I trongly urge you to re et H\*

Mr Hall Mr, hairman, fellow delegates, you felw it is pushle for u to rait a perfect setton ra perfection trument I guess it's i poisible for an to a way be perfect, but I we alwar index at on ackey, served with hi, um ritteek with hi, as sheary being sin are at every thing het ever done but I jost thing that he and gave you that the he gave you, et al. He's and gave you that the he gave you, et al. He's (rieans is different New Griean different

New Orleans is different here, we have the here proble s of all the pe ple from a over the state we ve got to treat New r eans different we ve ot to give them re fints mey, and re f that money. I agree with him I one of the proponents that says that we what's god for he we areas, really, I most instance as far as he p-ing New Orleans, is good for the stad. But we uniformly apple both in terms and effect, n we know.oh, I would be willing. I would be will had so not what he's trying to do here. He s try-ing to rus to be able to a cetalle prices But that's not what he's trying to do here. He s try-ing to put a stratic accet, uniformly apple both in terms and effect. It ares it an able of the bare and we discret on in this instance. ot to give them are if this ney, and are if

possibility for the equilature to properly eqls-late and use discretion in this instance. This is not duing what W- Casey muld have you-where you could treat everybody alle. It makes it impossible to properly freat the people in this state with equilation. So, I'm going that you to vote against this arendment. Now if there was an amendment there to have everyone, then I would be for it, but not to this extent, unifor Iy applies in effect and terms." It makes it possible So, I'm going to as you to vote down this amend-ment.

Mrs. Zervigon Mr. Wall, I was very interested by your remarks. Does that ean that unave we mitted yourself to vote to let New Teleans we our peculiar Civi Service System, which is ifferent from anyone else's throughout the state!

. Wall Pardon me, ask that again

Hrs. Jervison I say I apprecise your reserves about the lack of uniformity arous the state is a that mean that you have committed yourself to vote with New Orleans when New Orleans tries to keep our peculiar invil Service System, which is differ-ent from anybody else's across the state"

Mr. Wall. That's not the question at i sue. Mrs. ervigon. I will face that issue when the esup

Mrs. Zervison The question at i sue it unifically I was just wondering where unifor ity applies in your find and where it fails to apply

 $\frac{Mr_{+}}{Mr_{+}}$  , while 1 is doesn trapply here in this are doesn  $\frac{Mr_{+}}{Mr_{+}}$ , ervision. If you have no other question than that, well, if you does not be previous used in  $0,\kappa$  if yield.

Mr andrum Mr Wall, the previou peaker is the about chaos should this arend ent pass. We see about chaos hou dithis arend ent pass is you fear that all t tands now, that we will d have chaos in New rieans

Mr Wall I don't believe u ed the wire was, Reverend andrus, and if yn have a gestion. I d be glad for you t alw t

Mr Wall If you want to ase a peeh, I is yeld the floor to you.

hao ,

Mr\_Wall didn t use the word a l

Mr. Hall frumart take a rect, in view The flir to yu livield to the rection

No, I'm asking you a question, Mr. Mr. Landrum

Mr. Wall All right. Well, come on with the question; I've...

If you'll just be quiet, or if you Mr. Landrum If you'll just be quiet, or if just don't want to answer my question and tal your time out...

Mr. Wall I want to answer your question, if you'll

Mr. Landrum All I'm asking you, Mr. Wall, is that the city of New Orleans, we get a lot of money from revenue...from the French Quarters. The state receives a lot of money from taxes...

[Previous Ouestion ordered.]

# Closing

Mr. Casey. Thank you, Mr. Chairman. Mr. Chairman and delegates. I wish to inform Shady Wall, who is my very good friend--we've served a long time in the legislature together; I hope he doesn't think I'm starting to grow horns at this time-But, Shady, I'm quite sincere in this amendment. I certainly do appreciate your assist-ance on New Orleans's problems in the past, and you certainly are one of our supporters, no question about that.

But, here, we are talking about minimum wages, minimum working conditions, pension, retirement benefits; and I can't, for the life of me, understand why we have to have one rule in Lafayette and a different rule in Caddo Parish, Mr. Roemer. It doesn't make good sense to me.

When the federal government passes minimum wage laws, Mr. Roy, they don't say it's different in Louisiana than from Michigan, or from Maine, or I can't understand why, for the life California. of me, when the federal government, and I know we have some strong supporters of the federal governand I do myself. I think we have to establish minimum working conditions, and wages for our employees. There is no reason under the sun why it should be different in New Orleans than it is in

should be different in New Orleast than it is in any other part of the state. I urge you, if we are going to adopt laws which affect police and firemen, which should have the very same qualifications in New Orleans-just be-cause we have a few high-rise buildings in New Or-are going to practice law in another parish of the state, I don't care where it is, Beauregard Parish, you ought to know something about admiralty law. If you are going to go to law school, you learn something about admiralty law and administrative law and successions. I don't care where you prac-tice law. By golly, if you're going to practice, or if you're going to become educated to be a fire-man or policeman, you ought to possess all of the volta you. Thank you.

> [Record vote ordered. Amendments rejected: 51-64. Motion to reconsider tabled.]

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Edwards, al.]. On page 9, line 16, after the word "and" and before the word "police-", insert the word "municipal".

### Explanation

<u>Mr. Martin</u> Mr. Chairman and delegates, I think this is more in the nature of a technical amendment. I'm just wondering if they may classify one of my why I put this in there. I have no further explanation. If there are

any questions, I will be glad to try to answer them.

# Questions

Mr. Champagne Sheriff, I was just wondering, would you say this is a special interest amendment?

Mr. Martin Yes, I do.

adopted: 89-22. Motion to reconsider tabled. Previous Question ordered on the entire subject marter. Section passed: 85-30. Motion to reconsider tabled. Motion to waive reading of Section 17 adopted without objection.]

# Explanation

<u>Mr. Lanier</u> Mr. Chairman and fellow delegates, Section 17 deals with the authority of local gov-ernmental subdivisions over the subordinate dis-tricts that are created or exist under these dis-tricts. What we have done here is to provide the same authority to control subordinate districts au present constitution. This provision was adopted in 1966 in what is called the "Sam Jones Amendment." The problem here is that what was happening in many of our parishes and municipalities, there is authority by general law to create many different types of districts, drainage districts, road dis-tricts, lighting districts, nead distypes of districts, drainage districts, road dis-tricts, lighting districts, hospital service dis-tricts. You are familiar, I am sure, with all of the different types of districts that were created. Very often, after these districts were created, they were really creatures of the local governmental subdivision, but they had a certain degree of in-dependence. The people on the boards of these dit-tricts are appointed. They are not elected, and not directly responsible to the people. This such-tricts did not function as they should, and yet the governing authority of the municipality or parish was restricted in its ability to cure this type of a situation. type of a situation.

In order to make these districts more responsible, and, of course, to give the elected officials on the local level direct responsibility for the action of these districts which they are supposed action of these districts which they are supposed to have, this constitutional amendment was passed. It is, of course, necessary to allow for the var-ious types of controls described therein over these districts, so that if one of these districts does not function properly, and you as a citizen have a complaint, you can go to your duly elected offi-cial and he can't tell you that he deen't have authority to do something about it, because under this amendment, he does. This is designed to make this amendment, he does. This is designed to make the duly elected people more responsive because they have the tools available to them to do this. It is also designed to provide for consolidation of districts where necessary. In other words--and I'll give you an example; my parish is a classic example of it-we have many, many many drainage districts that are not necessarily coordinated in their efforts. The drainage districts on the upper end of the parish dump their water on the drainage districts in the lower end of the parish, and they don't coordinate their efforts. It may well be, years in the future, we may wish to combine all of these drainage districts into a department of drain-

These drainage districts into a department of drain-age under our police jury. Some parishes are mov-ing in this direction right now. This provision facilitates this type of action and brings about more efficienty in the operation of your government. Now, if you will review this proposal, you will note that in Item I on line 27, it provides that the members of the governing body of the agency will be appointed or removed at the pleasure of this is in addition to the present law, although many of the laws authorizing these districts have such a provision. Some do not. The remaining con-trols are the present Sam Jones Amendment in Article XIV, Section 46: in other words, the authority to

exercise budgetary and final instruit over the energy with aithority to od fyror ver its operat-im budget or line items, the authority to abolish the governing authority and absorb its powers and functions. If course, this can only be done with the local governmental subdivision absorb ing the

The (C) part provides that if the district is created by two or more governmental subdivisions, that the concurrence of all of the subdivisions who joined in the forming of this proposal would have to concur in the action taken. A little later on, we'll be getting into intergovernmental cooperation, and this is a part of an intergovern ental coopera-

I'd be g ad to yield to any questions at this time, Mr. Chairman.

Mr. Jenkins Mr Lanier, you kept talking about special districts, but districts, as such, are not mentioned in here, only agencies. What is the meaning of the word "agancy" in this context? I

Mr. Lanier The term 'agency," or district, u ed here, are the special di trict that are

What I'm trying to understand-I an

Mr - inter flatt The next set tin deal with ditress that are not seated by the local next certain authority Thi provision intended to the establisher try Thi provision intended to the establisher in the local or ern entation it. Not if your next laws dealing with this used are dated to the least status authorizing the creation of all of the bits of the local second establisher to the entre of the local of the local second establisher to are he there estimates and the tit.

not the not district of the second distribution of the second district of the second distribution of t

Mr. lenking how, our enting a construction of the entipmeets that the verning an ority of the local overniental subdiviling a construction agencies. But you don't entit that to verni-authority would have the power to recent the de-cision ade by any such agency and to the authority be granted, also?

Mr. anier 1 think if it an untrute the f for the agency, though entail in a right

Mr. enkins Well, certainly a common autors ight not want to ale a drait on a common and as to substitute iself for the another into erely want to reverie a art of ar de

Mr. Lanier Mr. Jenkins

Mr. ienkins The other usition, free change Section 35 to remire a sector wile before any tax not autorized t, thi construction be put into effect, word we need to be an chan e in Section (All

Mr. Lanier 1 don't this to be autor to sense Taw IS-and this fits in which the present law /re-fore you got 1 av tes, su ver t t' the a-proval of the overner mountly. They as to take any attinum the resent as micro time getting the approval of the sense as it to under which concerned they cold under which of the the sense as the take any attinue to the sense as the sense the getting the sense as the these them is not the the sense as the which the a twitty take as a

Mr. Boy Mr. anter, 1 ave to a lar arrive the the need for this to a lar arrive this strength for the second strength of the second have the following doubted by the second strength of reade, they will be a strength of the second reade, they will be a strength of the second reade, they will be a strength of the second reade, they will be a strength of the second reade of the second strength of the second reade of the second strength of the second second second strength of the second strength of the best of the second strength of the second second strength best of the second second strength of the second strength of the best of the second second second second second second second best of the second second second second second second second best of the second second second second second second second best of the second second

Mr. Larier More far and the other of the set of the set

both inclusive in their entirety. Delete the whole

Madam Chairman and ladies and gentle-Mr. Grave: Madam Chairman and iadies and gentle-men of the convention. I believe that at this point it can fairly be said, without too much question, that the prinicipal concepts relating to home rule, relating to local government, have been acted upon by this convention. I ask you to be particularly attentive to the provisions, not only of this sec-tion. Section 17, but of all of the remaining sec tions that are encompassed...

# [Quorum Call: 99 delegates present and a quorum.]

# Explanation continued

<u>Mr. Gravel</u> I request respectfully that we give very, very careful attention, specifically to Sec-tion 17, and generally to the other sections of this article as we proceed with our deliberations. As I stated previously, I don't think there is much question but that we've fought some real hard question but that we've fought some real hard battles in order to crystalijze the concepts that have now been approved in this article up to the present line. I think that we can fairly agore the losing side, that there has been an accommoda-tion of views to the extent that, for all practical purposes, we have put together ninety percent of what should be put together ninet percent of with local and parchial government. I think it would be well for us to realize that the or sing side, then there has been an iticle dealing with local and parchial government. I think it would be well for us to realize that there yingle section from now on out, where such distillation can be accomplished, and eliminate

distillation can be accomplished, and eliminate those provisions that are unnecessary to a new con-

stitution. We're on page 9 of an article that runs a total of twenty-eight pages, and if we are going to give consideration, which I suggest to you we are going to do, to purely statutory material from now on out, we are going to be on the local and Parochial Article well through the month of October, because we are going to go through the same painful process of changing sentence by sentence, part by part, and eventually getting nowhere.

eventually getting nowhere. Section 17, ladies and gentlemen of the conven-tion, begins by saying "in addition to any other powers granted by the legislature" and then pro-ceeds to delineate additional discretionary au-thority that local government shall possess. That I suggest to you, is not what belongs in the docu-ment that we are preparing. Dh. I know that it could be said that we need this kind of language somewhere and sometlime in order to achieve the That, somewhere and sometime in order to achieve the objects and purposes suggested by the language. But I recommend to you that that be left to the charter, or to the ordinance, or to the statutes that may necessarily be involved, passed, enacted for that particular purpose. The time has come when we must come to a halt and reexamine this work and make sure that we are not engaging in prolif-erating considerations that really are not of con-

stitutional stature. I said to a number of delegates today that we have come this far without there being-and this is mazing to me-a single situation that anybody can point to where any two delegates in this body are angry with each other, where there have been any, there has been any flaring up of tempers, where dislike or distrust has persisted to any degree. dislike or distrust has persisted to any degree. I think that the people of this state are going to realize, when they talk more and more to the deleg-ates who represent a cross section, fairly, of Louisiana, that there is general agreement in this particular body of the definable segments of the State of Louisiana represented in this body, that there is agreement that at this point we have an-dhusiant that we can all support actoriy visions that we expecially may not particularly like. I think we've got the right atmosphere, and I think we now have some to the point, now that we have written the article on the legislative depart-ment, the executive department, the judiciary de-partment, the Bill of Rights, and the real import-ant part of the constitution insofar as it will deal with local and parochial government. Now that we...ow we have come to the point where we have got to constitutionalize ourselves and make sure we don't wander into the byways of statutory language and material that shouldn't be in the document. document.

document. Therefore, ladies and gentlemen of the conven-tion, I urge you now to start the process of elim-ination, and let's leave out of this proposed docu-ment Section 17 and any others that don't belong in it, and you will read it carefully and you will see that there's no necessity for this provision in the constitution of Louisiana.

# Further Discussion

Mr. Burns Madam Chairman and fellow delegates, they are being devoted and diverted to trying to beat the other side, rather than trying, to bring out the best we can in this constitution. So, I say to you in all sincerity, and I'm certainly try-ing to do my part of it, is from now on to expedite things, let's cut out this business of what side can prevail and what side can do this and what side can do that, and all of us work together to bring out a good document in the shortest possible length of time.

Fellow delegates, 1 simply want to <u>Mr. Stovall</u> reflow delegates, i simply more to encourage your support of this amendment. The legislature is acting in a very responsible way, and I feel that this matter will be considered by them and I encourage your adoption of the amend-

# Further Discussion

Mr. Lanier Madam Chairman and fellow delegates, I want to really urge you to consider what you are doing here before you delete from this constitution what I, in my opinion, consider to be a very, very necessary provision, just for the sake of brevity. The people of the State of Louisiana spoke on this ories in 166 when this provision, was put into our point in 1966 when this provision was put into our point in 1966 when this provision was put into our law. Now, you have two situations. As you...if you will recall, in Sections 7, 8 and 9 we have three categories of local governmental units. We've got the existing home rule charters in 7. They only get the residual grant of authority if they amend their charter to so do. Under 8, the new home rule charters will only have the residual grant of authority, if they choose in their charter.

Under 9, the existing units of government that are not ho e rule will only have the residual grant of authority if their people vote to have it. what happens in say a Lawrason Act municipality? This is a statute that authorizes the creation of a city Most of these districts are set up by statute of equal dignity and magnitude. The legislature, by creating all of these districts, can completely shatter the powers and functions of that unit of local government. The people who are elected to control this district will not have these controls unless they are constitutionally granted. You have this same problem with police unres. Police guries exist by statute right now. In the areas residual grant of authority, you're going to have a terrible situation just like we have in my par-ish right now. Under this amendment, as it pres-ently exist, we can make this thing work. But, ently exists, we can make this thing work. But, if this authority is not in our constitutional law, I don't know how many drainage districts we But. We've got all sorts of other districts Each one is a single purpose power and function of existing government. If the unit of local govern-ment that has control over all of this area does takistuine low enroyer prover all occult power of the second base of the second over all of this area does not have this authority somewhere to do this, then what kind of a situation have we got? Well, right now we are trying to emerge in this state from the ward concept of local government on the parishes basis. If you will notice, the more urban parishes the state from the state from the ward concept of local government on the parish basis. If you will notice, the more urban parishes the state from the state

> [Ire, vs. y, e, t. h. rdere, ke : te rderel: Amordment e e tel - e, M. tiji t. ree n. der tal ee.]

### Amendment

Mr. Foynter: Amendments sent by Delejatel Duval, Kean and Fugh

Amend ent No 1 in page 9, delete lines .4 through in their entirety and on page 10 delete lines 1 through 16 in their entirety, and in lieu thereof in ert the following

Section 17. The governing authority of a local governmental ubdivision shall have general power user any agony hereifore un hereafter inaled bollshing, uch genome in ministron, the pueer to all of any charge or tar levied, or bond issued by Su/h ageny.

### Luplanation

Mr. Fean - Mada - Ait nullhairman, feiltw delegates, when Mr. Gravel first disus ed the deletir - f Chis set tiun with - e, I was in lined to a ree with The approach that he is getted in his aread ert, However, fy us if recas that the stores and us ipplites which reals under the present geters law until such the as they ght vets is take the addition powers that are granted by set is 9 inder this clouistares, jou ould have an usnicipal files and any of the polie of the stores of the polies of the stores of the store of the stores of the constitution to deal with agencies which are realed by these, port currents in the stores of a stores of the provision of this lind is needed in der the area of statistic stores of the store of the store of the store tage of the additional powers under the store of the stores of this stores on the real of the store tage of the additional powers under the store of tale stores of the store of the store of the store store of the store of the store of the stores of the store store of the store of the store of the stores of the store of the store of the store of the stores of the stores of the store of the store of the stores of the stores of the store of the store of the stores of the stores of the store of the store of the stores of the stores of the store of the store of the stores of the stores of the store of the store of the stores of the stores of the store of the store of the stores of the stores of the stores of the store of the stores of the stores of the store of the stores of the stores of the stores of the store of the stores of

### Ouestions.

Mr. Thompson Gordon, on next to the lait ine, says, "prior approval of any harge or tax evide. Do you mean by this, the people vite on this, or are the bonds levied? Is this what your intentions are?

<u>Mr. Kean</u> well, in connect! ... th whatever harge or tax would be levied, there wuld be either nstitutional or statutory authorization for that charge or levy the reason we used the wird harge is be ause a service harge, for evanle, in it considered to be a tax. We simply wanted the giverning authority, the eited bod, no have ther in t to give prior approval to that harge r tax, or the issue of bond in the even th a een, had the authority to carry that wird and the evy such a charge or tax.

Mr. The ison. This prior aprival, eithat it mean the governing body or doe it ean he periet

Mr. team well, whatever wild be required by the constitution and latitute for the levy of the name of anillage, the example, a well get to when we get to the finance retions of this warth war means you'll find that it has the exist. I we do require both the vite of the regie and price appriv all of the governing authority.

Mr Hernaldez Mr Final, di yo-thini that we leed in there the nist to size thi governing a thirlt the right to reise effects of any board (1) ion that it i reates (1)

No yean. Mr. Hernandez, it was ur view that by ising the bried laneage, general wwer with at 11 station, in luding without it sation the risk to to abilish, that that is luded the leaver pixer to result over the second.

Mr. Hernandez - you think that work income the right time vertically a citer fir any real that they derine enary

Mr Fran Tel, i hat ire t

Ne lerrande. Ne rest great in the right t energy endertain and final thrush und in t

mention that, and it's my opinion that the govern-ing body should definitely control that. What is your opinion on that, sin?

Mr. Kean I agree, and it was our view that the broad power would include the right to have budget-ary control if they desired to exercise it.

Hernandez No doubt in your mind about that?

Mr. Kean No, sir. It was our view that by the use of the language we've used that we have covered the right to appoint and remove members, to exer-cise budgetary control, and to substitute a differ-ent budget and so forth, as is now presently con-tained in the proposal by the committee.

### Mr. Hernandez Thank you, sir.

<u>Mr. Champagne</u> Mr. Kean, do you know that I think this is a beautiful amendment, and that it is with pleasure that I join back with you folks in your venture with a shorter version 'cause I knew you all could do it all the time?

Mr. Kean Thank you very much, Mr. Champagne.

Mr. Berry Mr. Kean, I certainly am in accord with this amendment, but was it the thinking of the committee that the right to appoint wouldn't necessarily carry with it the right to abolish, and therefore, you want to mandate this power in the constitution? The right to a cui wouldn't necessarily entail ...

Mr. Kean Heretofore, the jurisprudence has been in instances where the legislature, for example, authorized the establishment of a hospital district and a board or commission. The question then ity which created that district had a right to remove those particular members of the authority; move, snose particular members of the authority; as a result of that, the language which now ap-pears in the committee proposal, was inserted in the 1921 Constitution by amendment in 1966, I think it was. We simply wanted to avoid any pos-sibility that they did not have this power by in-cluding it in this constitution.

<u>Mr. Dennery</u> Mr. Kean, am I correct in assuming that if the ordinance creating an agency provides for overlapping terms, that the right to remove could be restricted in that ordinance?

Mr. Kean Well, I would...it would be a question in my mind that if you have a right to abolish the agency that, of course, that would include the right to remove members of that agency. Whether or not they would...it would have to be within the framework of the ordinance, I really don't know, Moise.

Mr. Dennery Well, no, I was speaking...assuming the agency continues, you stated previously that it would include the right to remove since they had the right to abolish.

# Mr. Kean That's correct.

Mr. Dennery But, if in creating the agency, over-lapping terms were provided for the purpose of a continuing proper governing of the agency, do you agree that the governing authority would not have the right to arbitrarily remove during the term for which an individual was appointed? The reason 1 ask that, Mr. Kean, is that we do have such a pro-vision in the executive section, which we have pre-viously adopted, that states that the governor has the right to remove all except those who are ap-pointed for a term under the constitution or under pointed for a term under the constitution or under the creating statute. I should think the same rule would apply here.

Mr. Kean I think that if you wanted to have that rule made clear, Moise, we ought to have an amend-ment to this provision.

[Previous Question ordered. Amendment adopted without objection. Motion to

## Amendment

Mr. Poynter [Amendment by Mr. Jenkins]. In Con-vention Floor Amendment No. 1 proposed by Delegate Duval, et al., and adopted by the Convention on to-day, on line 5 of said amendment, immediately after the words "such agency" and before the words "and to" insert the following: \_\_\_\_\_\_, to reverse or modify any decision of the

agency

Don't have the period there, so it will fit in sequence, "to reverse or modify any decision of the

<u>Mr. Jenkins</u> Madam Chairman, delegates, this is really just a technical amendment to make sure that this concept is included within the general power granted over the agency by the governing authority. It simply says on the fifth line of Mr. Duval's and Mr. Kean's amendment, after the word "agency" the words "to reverse or modify any decision of the agency." It may well be that the power to abolish an agency is the power to appoint members to it an agency is the power to appoint members to it and have other supervisory authority. I'm not so sure of that, though. The legislature can abolish state agencies. Yet they can't appoint members to or modify their decisions. I just want to make sure that these local government agencies don't get so autonomous that they're not subject to being reversed or modified in their decisions by the lo-cal governing authority. So, I urge the adoption of this amendment.

### Questions

Mr. De Bligux Mr. Jerkins, wouldn't the provision that you are trying to add by your amendment be included in the clause, "have such general power over any agency created by it?" "Shall have general power..." if it has power over it, one way or the other, it would include the power to reverse or. other, it would include the power to reverse of the power to modify any agency, any decision made by the agency, wouldn't it, if it had power over it? You can't have power over something without controlling it.

Mr. Jenking The...you see, the ordinance creating The agency may well neglect to say that or may say something contrary to the fact that the power to reverse or modify is granted to the agency. The agency might, in the ordinance, be granted sole authority to make a final decision on...

<u>Mr. De Blieux</u> Well, is there anything to keep the governing authority from revising the ordinance, changing the ordinance that it...

No, but it wouldn't apply to the par-Mr. Jenkins ticular case at hand. You see, the case at hand, the decision at hand that would want to be reversed could not be reversed.

De Blieux If they have power over it, they Mr. can certainly change it.

Well, perhaps it is included and Jenkins Mr. Jenkins well, permaps it is included also perhaps it's redundant, Senator, but 1 just want to make sure that this power is included. I think it's really in the nature of a technical amendment, and I'd ask you to go along with it if you would.

Woody, certain agencies have the power Mr. Avant Woody, certain agencies nave the pume-to contract. Now, you couldn't contract safely with such an agency even though they had the authority to contract if this amendment is put on, could you, herause wou never would know where you stood? You'd Avant because you never would know where you stood? You go make a deal with an agency, lawful and public, and then bam, somebody comes along and says "Oh, no, that's a bad deal. We ain't going to go along

with it. Wouldn't that be the effect of your a end ent?

Hr. Jenkins ho, not anymore than it is at present, Hr. Avant. This is true, and virtually every agen-sy has the right to have an appeal to the local soverning authority, but that hasn't presented a

Mr. Avant Not to just set aside contracts on a political basis which is what I think your amend-

Mr. Jenkins Well, this isn't going to change the present system in that regard.

Mr. Flag. Mr. Janking, your amendment disturbs a to the extent...take the example of an audito-rium commission or a civic center commission who is charged with the responsibilities of operating that commission under a governing authority like we have here, the home rule charter. Let's suppose, for the sale of argument, we contract with Ring-ling Brothers to come in and hold a circus. We guarantee the three hundred thousand dollar gate on certain dates. All right, the commission sets that up, then the city council cores back because they want to hold some sort of function there and then changes the dates that w've guaranteed. Then we've broken a contract with Ringling Brothers and hung with a three hundred thousand dollar debt, under your amendment, as I understand it. Is that

Hr. Jenkins No. I don't think that's correct. Wr. Florgy, I certainly don't. This only makes the decisions of an administrative agency appealable to the governing authority, just as the decisions of officers of departments and agencies right now are finally determined by the governing authority

Mr. Flory But, don't you say "to reverse," and if we've contracted with those dates, then they have the right to reverse that decis on of the

Mr. Jenkins Well, of course, they could reverse decisions of the agency, but in the first place, I don't think that a decision to... I mean that a contract made by an agency is a delision of the agency anyway. We're talking here about rouings, administrative rulings, decision making, like the define by a coning or planning commission to re-critually every place that I am aware of, and cer-rinny should be appealable to the governing au-thority of that juridiction. That's what we're raiking about here.

Mr. Perez Delegates, the reason that the amendment was offered by Mr. Rean was to try to inside this of tion as using a specified. If the menkins along it is a construction of the second of the second sec

Mr. Zervijon Majs A ting dalman and delevates, Incorrely when to point on to you the dotter to not referent this will not do provide the to to its anopted. The previous extinuinal to do with con-

trol over agers estere by a la serning authority estimal applest alenies not reated by a la subjective serning authority is ar a local governing authority on lidate agers esto-tally within its border, if it were not reated by the ? This stly to take are fithe rob-lems which reside priarly in effers rand reat of thing They will be able the ere effective your a favorable vote of a alority of the et its on voting on the auestion we first and that an voting on the question we firured that with an

Mr. Poynter Districts

<section-header><text>

Mr. Ray Terry, I have about three questions. First of all, in line 17, when you say that this body, "acting through a commission or otherwise," I take it it could act through one person designated to go around determining what has interest or importance of a local nature that they would like to, or this person thinks should be preserved. Is that right?

Mr. Reeves Chris, it wasn't maintain...we didn't intend it hat way, but you could, if the local government set that individual up as the individual in charge of historical preservation, you wouldn't need a commission. Yes, in answer to your question.

<u>Mr. Roy</u> Now, the other thing that really bothers me is that in line 18, it then says that apparently this person or this commission would have "the power and authority to establish, operate and maintaim" these historic areas and districts "by the adoption of ordinances and laws which is declared to be a public purpose." So, it appears to me that what you are constitutionalizing is that if they decide that I have a big oak tree in my pasture this one calc could to around and not even oxyropriate my tree or my pasture, but by ordinance, they people on it and not even have to buy it from me or expropriate it. Isn't that what it does?

Mr. Reeves I don't agree with that at all, Chris.

<u>Mr. Roy</u> Well, where does it provide for the expropriation of one's property if they are going to ...if they can maintain, operate and establish your property, that certainly takes into consideration that they control it. Where have they paid you for that right, or where do they have to pay you?

Mr. <u>Reeves</u> I think back in the Bill of Rights we've taken care of the expropriation and the payment of property by local governmental officials or local government. I think that's taken care of; I don't think that's a problem.

<u>Mr. Jenkins</u> Does this mean, Terry, that if someone had an old antebellum home, that one of these commissions could declare that home part of a historic district and then could operate and maintain that home contrary to that person's will?

# Mr. Reeves No.

Mr. Jenkins Well, what does it mean, if it doesn't mean that? I don't understand.

Mr. Reaves Still back in...what you are doing and I agree with...I mean, what you are saying is the same thing basically as Chris was saying. But, again, you are protected in the Bill of Rights from having your property seized, so you are covered, Woody.

Mr. Jenkins Well, let me ask you another question. Tou say on line 21, that such...the establishment and operation of such districts and areas is "declared a public purpose." How can you here, in this constitution, declare an area or district to be a public purpose? Isn't that a question of fact to be determined in the particular case as to whether a particular sight, under particular circumstances constitutes a public purpose?

<u>Mr. Reeves</u> I feel not. I think that a state... that your commission, your historical preservation commission should have that authority to determine if it was a...

Mr. Jenkins In other words, anytime any such commission declares anything to be a historic sight, then it's a public purpose. Is that correct?

Mr. Reeves Still, Woody, what you are...You're still going to be able to protect your own personal property, though. [Quorum Call: 93 delegates present and a quorum. Motion to adjourn rejected: 36-71.]

### Amendment

<u>Mr. Poynter</u> The first set of amendments are offered by Delegates O'Neill, Lennox, Lowe, Kisham, Alphonse Jackson, and others. Amendment No. 1, on page 11, delete lines 11 through 25, both inclusive in their entirety.

## Explanation

Mr. 0:Weill Ladics and gentlemen of the convention, in the early committee proposal, my understanding is that they had what was called something in there for the Vieux Carre Commission. My understanding of what took place in the committee proposal was that this section, Section 13, was didn't have to be mentioned. I submit to you that this is the same cat but different stripes, and I submit to you that in drawing the broad proposal have gone way beyond anything which would have constituted a Vieux Carree Commission. This, I submit to you, is not of constitutional stature. I submit to you, is not of constitutional stature. I submit to you, is not of constitutional stature. Instorical and aesthetic purposes in expropriating property. Had they been so interested in this, they wouldn't have voted against that. I submit to you also that someone has an amedment which would put the entire...put a new section in which includes both Section 19 and Section 20, and that the amendment and de Section 20, and that the atmend ment and de Section 20, and that the atmendment and de Section 20, and that the atmendment and de Section 20, and that the atmendment and the section 20, and that the section 20, and 1 historic home, to pass an ordinance to set your home, take if from you and use if for a public purpose as a historical nonument, so that people can pay to come and set your old home. Don't sortis and the section 20. and 1 do know that this was designed expressly to cover one thing in

# Questions

Mr. <u>Casey</u> You indicated that apparently property is taken by a public hody of historical value, and is expropriated. I don't know of any instance where that's done. There are historic preservation districts established, such as the Vieux Carre area, but property is not expropriated; it's merely zoned and there are land use classifications, and the commassion-lieux Carre areaing historic value, and therefore, you cannot demoilsh the building, but is the property actually expropriated by the state?

<u>Mr. 0'Neill</u> <u>Mr. Casey</u>, this provision does not prohibit expropriation, and I think you can see that. I said what I said because I think it's true. If you'll read the language further down in this section, it says "shall have the power and authority to establish, operate, and maintain historic preservation areas and districts by the

adoption of appropriate ordinances and laws. To establish such distri ts could we'l mean to expropriate property

Hr. Casey I think Section 4 of the Bill of Right provision, and its certainly quite clear, that if you're going to expropriate that there must be ust compensation paid to the owner, and that something of historical value is certainly going to be ore waluable than something of ordinary use on the open market, so I can't envision the state expropriating anyway. That's usually the hue and cry that's thrown up just under emotional situations, but f it does have historic value, they are going to pay a lot ore for it. L can't imagine the state doing that, can you?

Mr. O'Neill Mr. Casey, I can imagine that a comission established by an ordinance to protect one historical site would do that, and I think you'll acree with that.

<sup>2</sup> I would like to say that in the legal opinion of many of the lawyers that I've talked with at this convention that this section is paramount to the section adopted on "right to property" in the Bill of Rights.

### Further Discussion

Mer. Alexander To the Chairperson, delegates, Tadies and gentlemen, I have the distinct privilege of coming to this microphone at this time to talk about something that does not allogether involve the cly of New Orleans. No, it does not involve the cly of New Orleans. No, it does not involve the cly of New Orleans. No, it does not involve the cly of New Orleans. No, it does not involve about something that does not allogether involve the cly of New Orleans. No, it does not involve the cly of New Orleans. No, it does not involve the contrary. Matchicotes is the oldest cly. On the contrary, Matchicotes is the oldest cly of Nistorical sites, and only time is set of Nistorical sites, and in fact the whole clip of Natchitoches, should be a historical site, and that's why we have forts there. Indt's why NatChia still is not New Orleans, but was little Rapidestitle Rapides, not even Alexandria-Pineville now. Both of these trading posts, Natchitoches was a trading post between French Louisana and Spanish Texas and Mexico. Now, why say it is peculiar to New Orleans? I would say here in Baton Rouge where the Old State Capitol stands is a big oal tree Hown as the Med Solis, all on the vist the Trench Quarter. What about the oil ante bellum homes, Qua Ally welly at least, on buyes; so I say to you ladies and gentlemen that you're trying to acstroid ally, welly at least, on buyes; so I say to you ladies and gentlemen that you're trying to acstroid in the French Quarter and spends hil money, onjy three pennies come to Baton Rouge, and only two if thos pennies on to the qovernment of the clip of Mew Orleans, belaws one gont to the indo Street in the French Quarter and spends hil money, onjy three pennies come to Baton Rouge, and only two if thes pennies on to the qovernment of the clip of Mew Orlean, belaws one gont to the indo loard this section. This and gentlemen, please defeat this section I'll yield to question, if have

### Further Discussion

Mr Bur on \_\_\_\_\_\_\_nut n ted for reitraint as a peaker, Madam hairman, but i simply wonted to state, fellow delegates, that i was the only member of the um mittem that oppised final passage of this section, because simply and purely. I thin it doesn't belong in the unstitution \_\_\_\_\_\_ thin it doesn't belong in the unstitution \_\_\_\_\_\_ thin it doesn't belong of the unstitution \_\_\_\_\_\_ thin the legis lative body, or the low algovernmental unit, or the state legislature an act to create historis preservation distrits within the boundarles of exists 201 aw, and an enterest they need to. The ply active a far a tawn in the inted tale we real to the tawn arre, we real for the reservation distr 1. but you don t need to put that in the intel tar to have it in the itsulf pepe azy, while to have it in the itsulf pepe azy, while to have it in the itsulf pepe azy, while to have it in the itsulf pepe azy, while the constitutional book other in itsulf a body, then the constitutional book other in that a body, then the constitutional book as to prevail. A we that arguent simply, as a legal attra, body as a rate sense out of it. I wand erbort you that if we re going to cut this a diverment Artil down, and it does need to be it diver and it him that the delegates have atted wisely in dia pareliminate about half a page

### Luestion

<u>Pr. Boy</u> Jack, doesn't Section L., which is three Sections path that, do exactly what you're trying necessary, to create whatever counting in thinks necessary, to create whatever counting in throughout the state is ne essary, and can have un form standards and everything else.

Mr. Burson I think that I true Yes, Fir

### Further Discuision

Mr. Stovall Ladies and gentle en of the convention, lurge you to reject the amendment which is prevently before us, in order that we get mediately adopt the Derbes amendment. Certainly, we want to take whatever steps are ne estary this constitution to preserve our histori sites, and lencourage you to real this amender is endered, sented by Jm.

# Saturday, September 29, 1973

# Vice Chairman Miller in the Chair

# ROLL CALL

### [89 delegates present and a quorum.]

# PRAYER

Mr. Landrum Our Father, in the name of Jesus, we thank Thee this morning for all Thy blessings. We thank Thee that Thou has permitted us, once again, to be able to assemble here in this hall, to try to do the things that are pleasing in Thy sight. to do the things that are pleasing in iny sight. Gracious Master, we pray that Thou will give us the will and the courage to do those things which are pleasing in Thy sight. Bless each delegate here, newsmen, bless our leaders, bless the young people. bless the officers....everyone connected with this Convention. Our Father, look upon our families and keep our homes safe. These blessings we pray and ask in the name of Thy Son, Jesus, and for His sake. Amen.

## PLEDGE OF ALLEGIANCE

### READING AND ADOPTION OF THE JOURNAL

# UNFINISHED BUSINESS

## PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Regular Order No. 1. Unfinished business

Committee Proposal No. 17, introduced by Delegate Perez, Chairman on behalf of the Committee on Local and Parochial Government and other delegates, members of that committee.

A proposal making general provisions for local and parochial government, levee districts and ports, the financing thereof, and necessary provisions with respect thereto.

The status of the proposal this date is that the The status of the proposal this date is that the convention has adopted the first eighteen sections of the proposal as amended with the following ex-ceptions being Sections 2, 4, and 10, which were deleted. Presently, it has under consideration "Section 19, Historic Preservation Districts." Madam Chairman, the other amendments still pend to this section at this time.

[Motion to pass over Sections 19 and 20 adopted without objection.]

# Reading of the Section

<u>Mr. Poynter</u> "Section 21. Industrial Areas Section 21. The legislature may authorize par-ishes to create industrial areas within their bound-aries. In accordance with such procedures and sub-ject to such regulations as the legislature shall determine. Industrial areas shall not be subdivis-sions of the state." sions of the state.

### Explanation

Mr. Kean Madam Acting Chairman and fellow delegates, this particular section is presently in the Louisiana Constitution and was placed in the constitution, as I recall it, about 1966 as part of Gov-ernor McKeithen's "right to profit laws" designed to attract industry to this state. It simply proto attract industry to this state. It simply pro-vides that the legislature may authorize parishes to create industrial areas within their boundaries in accordance with such procedures, and subject to such regulations as the legislature may adopted As a matter of fact, the legislature has adopted a general law, which is in Title 33, under which industrial areas are authorized to be created by the police juries of this state, outlines the re-quirements that the industry must meet in order to quirements that the industry must meet in order to establish an industrial area, and provides a pro-cedure by which the police jury may, at...in the event that there is any violation of the agreement between the industry and the police jury, may then

terminate the status.

The statute, in my opinion, has worked well and to the best interest of this state. It is...this section is necessary as I view it, because on of the purposes of the industrial area is to provide the purposes of the industrial area is to provide that if the industry provides its own, what you might call, municipal services...the street lights street repair, garbage and sanitation...that then, under those circumstances, that industry cannot be included in a special district which might be created to provide the same service. The obvious purpose of the legislation and the original constitutional provision was to prevent a situation where a rather small area night be in

a situation where a rainer small area might be and include in that district an industry, and in effect the industry pays the whole cost of services that it does not, itself, need, and provides for itself. In my opinion, the section is necessary because of that phase of the operation of industrial areas. Under the circumstances, and in light of the past experience, and in light of the fact that there are many such industrial areas created throughout the state in which industry is now located, with the understanding that they would have these pro-tections, it seems to me that the proposed section's not only needed, but ought to be included in this constitution.

# Questions

Mr. Grave. T thought Gravel Mr. Kean, at Tirst Understary. Mr. Kean, at first blush, as you know, Do I chought that this section was unnecessary. Do you consider Section 21, however, as being something of a limitation on a plan of government, or a home rule charter that might contain some provisions that would be contrary to Section 21?...some spill-off or spin-off provision?

Mr\_Kean I don't...let me put it this way, Mr. Gravel. Perhaps we can generate your thought. In East Baton Rouge Parish, in their plan of govern-ment, they have had industrial areas ever since the plan was developed. As a matter of fact, this sec-tion added in the present Constitution in 1956, and the legislation which followed was taken from the East Baton Rouge Parish concept. Now, I would not consider that this section would permit the legislature, for example, to pass legislation which would take away from East Baton Rouge Parish that provision which is contained in its charter.

Mr. Gravel My second question, and I think, per-haps, my most important question is, "Does not this cause some real serious problem when we really don't have any constitutional definition, which I don't think we should have, incidentally, about what we're talking about when we say "industrial areas.

Mr. Kean Well, I think that's been detin Title 33 statutory provisions, Mr. Gravel. Well, I think that's been defined in the

Mr. Gravel I agree with you, and that's why I would continue to believe that in all likelihood, it might be better to delete this and leave the entire matter up to the legislature, because the legislature could change the definition of industrial areas which would the, in effect, change the constitution. Would it not?

Mr. Kean Well, I don't think it would have that effect because of the language that's used here that Well, I don't think it would have that the boundaries be in accordance with such procedures Inc Doundaries be in accurations with such protectors shall determine. As I view it, the only reason for the inclusion of this section in the constitution is that when you say that if you create an indus-trial area, it cannot be included in any special districts established for the purpose of providing services that the industry provides. Under those circumstances, that could be construed as an exemption. Therefore, if we are going to continue with the constitutional concept of exemptions being a constitutional matter, then this section is necessary.

If we are juin, thandle exection in ... other anner, ther this set in would not be receisary.

Mr ug Mr. Kean, want here understand. nowever, that the Legislative Artic e interded as 3 did provide op biete authority in the legislative relating to unvers and the granting of plue ercept as ay be restriced by this unititution is that in errori

Mr lean That is denerally the context of the article, yes, sir.

Mr. rugi well, niw, a u in that is in the Leis ative Artile, why would you need this section here, if you've already aid in the egis at ve Article that they could do these kinds of things

Mr. rean well, as I appreciate it, we have not orten to revenue and finance dealing with taxtive The general concept in relation to exemplons from taxation, in this state, up to this point, has been that you would get that exemption only from the construction. I would be concerned that if we deleted this, relying upon the legislative grant that you over in revenue and taxation, that the jurisordence would bring us back to where we are now, and, therefore, no autority for the industrial areas.

Mr. ugh Thank you.

Mr. Cha pagne Mr. Yean, is this not another industrial exemption, but on a local level

<u>Mr. Yean</u> It is a local level exemption fro certain types of taxes for the purpose of providing services that the industry itself provide.

Mr. Chapagne Yes, sir, are you aware that we have propered in revenue and finance, that industrial exemptions be granted, but subject to local review, in other words, by the governing body.

Mr. Keai This i the same type of appruach, Mr. Champagne. It requires a resolution of the police ury, requires approva of the planning use islon if you have one in the parish, it requires an agreement, a contract between the police jury and the parish... I mean the industry; and provides a mean by which the area can be ten insted if the industry randow the between the dui try and the police jury.

Mr Flory Mr Fean, cluid you tell early you leave the language out of the present constitution which was put in there in 1966 by referred in the revel, and for a state of the present include all entrances to the put in reads to wirk and all entrances to the put in reads and every plant in such area where the collyges, and all for indecement outrator. In this you in w the rea in that was put in there in 1964

Mr isan We didn't put it in here, Mr. Finry, be au e it wai in the len lative pruviour our dealny with the samer in which rule (ablic), the three areas do have monblection to putting it list in the grow and feel increase of bortage with

Mer Finsy well, f think it in order you apply to firing out to the univertient the necks to first theorem of the fat, where you had be an industrial area and a ferre an set to with indy set and made, if you put a prinet line on theme, they shull the while thing them rather than rouming the area to the ach indiving in rediting.

Ar rean res, in the point Ar Flory akes is, that in the preferst constitutional process dealing with industrial areas, there is a process that there has to be a construction applied on a obvious proprior of that was to remain e, no a short dispute to have each of problems the art The matrix to be a set of the set

Mr hean I nave r. s. t., Mr ..., ar . assure you want ef twita ....g

Mr e lieu Mr Jan, the f beginning fith art uiter , Jay te eginature ay authors Num . Show y kink that if yu nit tell te tellatare tey ant diritatirel

Mr c e del a referencia da tana a una de puerente arreferencia esta referencia tana esta da seconda da tana de la constancia da seconda da developant fithe da tana da seconda da enclata da seconda da seconda da seconda da enclata da seconda da seconda da seconda da enclata da seconda da seconda da seconda da seconda da enclata da seconda da enclata da seconda da enclata da seconda d

Mr h/an wells is 'we related a " orn's and his and in 're constr''r '' '' e of the center of c''' or, Mr

Repetted what is really and a to to put the white with the end of the sthat where one in ry is only if the art le rather that

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constitution.

constitution. Now I heard Mr. Kean's reference to why they put this in here. But if you want to extend the exemp-tions insofar as that's concerned, you ought to put that where you place the exemptions, not here in this particular place. It is strictly out of In this particular place. It is strictly out of place here regardless of what the intent was meant for. So I ask you to let's go ahead and delete this and shorten this particular proposal like it should be, and put into it only those words which are absolutely necessary.

# Questions

Mr. Riecke Senator, I understood Mr. Kean to say that this was put in the constitution in 1966. If Mr. it was, then it obviously must have been voted on by the people of the state. Now, if all of the people voted for this, don't you think we ought to keep it in?

Mr. De Blieux Mr. Riecke, it wasn't put in in this particular proposal in 1966....it was put in

Mr. Riecke It was put in the former constitution.

Mr. De Blieux .... in connection with something else to give them that authority. Now, it's not necessary in this particular proposal. It may be necessary someplace else. But I'm saying right here, it isn't. I believe all the constitutional lawyers in this legislature will agree with me on

# Mr. Riecke D.K.

Mr. Slay Senator De Blieux, I had really intended to direct my question to Mr. Kean, but I didn't have time.

He stated that one of the purposes was to keep a small district from taking in a large industrial plant. Wasn't it also intended to keep a large industrial plant, such as these oil plants up here, and the aluminum plant, from coming into a large district, such as the city of Baton Rouge when this thing was passed?

It'd

Mr. Slay That's right. So my question then is, it would be better if it was left to the legislature in order that this thing may be changed later, not that it needs to be changed at this time, but the people would have a chance, if the time comes that it has to be changed. Right?

 $\frac{Mr.\ De\ Blieux}{of\ the\ constitution,\ the\ legislature\ could\ still do\ anything\ in\ the\ world\ they\ wanted\ with\ it.$ 

<u>Mr. Hernandez</u> Senator De Blieux, don't you agree that this Section 21 was placed in this proposal by the committee in order to aid these areas such as the committee in order to ald these areas such as Vernon Parish, in an attempt to bring industry into those parishes that is direly needed for the econ-omy? Won't you agree that that's the reason they put this in here?

Hr. De Blieux Mr. Hernandez, I don't know why they reason except that's the explanation as given by Mr. Kean. But I say that they could still do any-thing in the world with this, in or out. This doesn't make any restrictions on the legislature; it doesn't mandate them to do anything. It doesn't tell them they can't do anything. So, therefore, it's just needless verbiage in the constitution and we don't need it.

Mr. Hernandez Senator De Blieux, do you see any injury that this might do to any section of the State of Louisiana? Do you see of any possibility of any injury that this might do to any section? Mr. De Blieux Mr. Hernandez, no injury--no good, either.

<u>Mr. Hernandez</u> Well, if...if the areas that need these industrial areas, feel that this is...you might say a foundation from which to make a plea to the legislature to create an industrial district ...create an industrial district...do you see why that would hurt anybody?

Mr De Blieux I don't see where it would do any

good, either. No hurt, no good. It's just cluttering up the constitution with extra verbiage. That's all it does.

Mr. Hernandez You can't blame us for feeling like it would help, though, could you?

No, I don't blame you for that. Mr. De Blieux

# Further Discussion

Madam Acting Chairman, fellow dele-1ennox gates, I rise in opposition to the De Blieux amend-ment. We've just passed over two sections of this ment. We've just passed over two sections of this particular proposal dealing with the preservation of historic buildings, monuments, structures and so forth.

I submit to you, we should be thinking about preserving meaningful employment and creating prosper-ity in the State of Louisiana. This particular proposal does no violence to that. I would ask that you defeat this amendment

# Ouestions

Mr. Abraham But Ed, couldn't this one paragraph we are trying to rework dealing with the historical areas and everything, could also include industrial areas? Handle it all in one section?

I would assume that would be...that could be the case. But let me submit to you that in 1966, or whenever this was made a constitutional matter, that there had been industries brought into the state based on some understanding that there when some use to some biner standing that there development of that industry in the state. If you go to making severe changes, however innocuous they might seem, and as Senator De Blieux may have in-dicated to you, you may be doing some violence to the industrial development of the state in the years to come.

<u>Champagne</u> Mr. Lennox, assume we do leave it here. Do you see any need for the sentence, in here. "industrial areas shall not be subdivisions of the state"? Do you....do you see by any stretch of the imagination that anyone would assume they would be when they are in a parish?

<u>Mr. Lennox</u> l'm....to be entirely candid, l don't see any reason why that sentence should be in there. But I am sure that the committee must have had some reason for it.

<u>Mr. Lanier</u> Mr. Lennox, if that sentence were not in here, would it not be possible for the legisla-ture to make these areas subdivisions of the state?

Mr. Lennox It would, indeed, and I yield to your good judgment on the subject matter.

<u>Mr. Lanier</u> Have you noticed that in the course of our debates that, generally, when our delegates are for something, they feel it's constitutional, and when they are against something, they feel it's Have you noticed that in the course statutorva

Lennox That is correct. If there're no further questions, I ask you to defeat this amendment.

Further Discussion

Mr. Pugh Madam Chairman, fellow delegates, 1 rise in favor of this alend ent During the night, 1 wrote what I've now had distributed to each of you I conscientiously went through each one of these sections, satisfied myself as to those that were legislative in nature, and advised you in a two-page and the line where such language appeared. Since then one it to neglish have come up to me with a Madam Chair an, fellow delegates,

and the line where such language appeared. Since then, one or two people have come up to me with al-tive to any suggestion | might make to you as a group. My sole thought was so that we could ove forward in an orderly fash on and complete the work that's been assigned to us within the reasonable period of time allotted to us. Now, a question was asked of the last man, "Couldn't the legislature provide that those would be and the committee proposal says that they can do it and the committee proposal says that they can do the committee proposal, you can do what he says, that ell inating it can do. There's no difference. We have now, suddenly, come into an area that's purely legislative in fashion, regardless of whether you are for against home rule, that's all behind us, the unated of the solution of the solution of the parts; we have an executive, we have a legislative, and we have a judicial. At some point... at some point we most recognize that the legislature are men of responsibility, adies or responsibility. nothing but basic law that they can pass anything not prohib ted by the constitution insofar as these 1 wasn't here when you

powers are concerned. I wain't here when you drafted the Legislative Article. But I don t even have to read it. I know it's in there. It's in-conceivable to me that the article would have been passed otherwise. Therefore, they had the authority to do this. Just as they do in the other sections. What worries me is, we keep coming to the micro-phone and we say, well, we're going to put this in because takation may not have done it. Genelleeen, she people. They've goid a part to play. Let them play their own part. Let's don't get into each one of these articles and try to do what someeach one of these articles and try to do what somebody else has the primary responsibility of doing. That's just what these sections relate to that... are coming up now, matters that can and properly should be addressed either to the legislative, or to a different article other than these. I have no notive, whatsoever, other than getting the job done, and doing so with the least amount of language recessary and applicable to establish the point that should be in the constitution

Mr. Willis Mr. Pugh, I think that you and I can agree on this much of the premise to my next ques-

Mr Pogh I certainly do

Mr Hillin. Now, isn't also true that where the legislature, which we focus upon in this section, need to be harm sed or to be given a pattern of that plan, and the permission necessary that that in o d be printed, so that there in no deviation

Ar Pugh Ye. Mr\_willis, and this settion rays, the

Mr. wills. I know what it says. Your answer yes suffices. My next question is, why is it that you untin-ually want to rewrite every lection with an erater.

Mr. Pugh Because, unfortunately, this is legisla tive, and that's all it is. I'm not trying to destroy somebody else swirk. Any one person an go through here and make change. The difficulty

that these thing have been drawn by abilit nime-

Mr wills is that ne per in you tak about the one that the press says, le has a clostitut in in

Mr Pugh N., sir I assure you that the governor of this state has not said one word to eab ut

Mr. willis I did t rent in the givernor

Mr. Pugh we , you said the h p po ket can all read the paper

Mr. Kean Mada hair an, as I alle previous in cate in my opening remarks, this section was in-Mada hair an, as I atte pted to indicluded in the proposal because we d d n t kn w what the jurisprudence of this state, there is no exemp-tion except those which are placed in the constitu-tion. Since these particular areas ay not be included in certain special taking districts, thuse who originated the dea in 1964, and the collite in its treatment of it here, fet that it ight en-necessary to have constitutional treatment if you were going to provide that they cuid in the in-cluded in certain special taking districts. For that means we carried it over

Section cones up min see and of a near tradi-tionally followed in this state. It as be that is to be the exemption proble that has been tradi-tionally followed in this state. It as be that is boln it, then it can be taken out. But it sees is me, without knowing what will be done with respect to the atter of tax exemptions due the road, that it would be preferable to eave this in at this the constitution now. There are areas which have been created pursuant to the legital a doted in furtherance of it. It seems to e that the take it out now, and then have so let nog hap ewith the tax exemption questin later on due the mad, leaves these particular areas hanging in the wind Under the circuistances, loppose Yr, e Bleus anendment think we should leave it nhere if we find a different treatent if tax exemition further down the road, which ales it unne e sary, then we take it out. For that real n, t was in-

I unge you to reject Senator De liteus - a end

Mr Roy Mr tean, whild you leare est and me how Saying merely that the legislature as authorize omething the dole, when we ve that every unit alits and ever pulse lurs ha power that in it prohibited, mail the wrid are you talking about this particular provision grant-ing a tax exception it say nothin about it

Mr rean what this, what the less at that was ematted in furtheran e f this either due, Mr Roy, is thay that if the pile ury and an in dustry enter into an agreement under which as indu-the induity say, we are ging up as a grave service and an father, and street lights and street indictement, etc., then under the preint [aluel ry piver in , that induitria area wid mit be in Cluded in a teet lighting district, it will not be in luded in a road in velent district, and is en-tible in luded in a grave entitie, and is ex-in that that indu tria area wid mit be in Cluded in a freet lighting district, and is ex-in that that indu the entities and a street in of that that indu the entities and evention in de that that indu the instruction and evention in the time time street in the street in the street in the street in used in a street in the street in the street in the street in used in a street in the street is the street in the street in the street in the street is the street in the street in the street in the street is the street in the street is street in the street in the street is street in the street in the street is street in the street is street in the street in the street is street in the street is street in the street in the street is street in the stre

there is no....are no exemptions, unless they are from the constitution.

Mr. Roy Well, why don't you spell it out, then, instead of...I don't...I don't agree with you. I can't possibly see how this indirect language is what you are referring to... But how can you, why can't you spell it out, if that's what you all want to do, and say that indus-trial areas shall be exempt from taxation.

Mr. Kean It's because they are not exempt from all taxes. They are only exempt from those which the legislature has prescribed in the legislation enacted in pursuant to this section.

<u>Mr. Willis</u> Mr. Kean, the....reason....is not the reason for this to be in the constitution so that it will be irrepealable law with the view of assuring and underwriting the bonds that are necessary for this subdivision to be created?

<u>Mr. Kean</u> No, sir, Mr. Willis, this doesn't have anything to do with bonds. This industrial area does not have any taxing authority; it can't issue any bonds. It's simply to insure an industry....

Willis 1'm talking about the bonds, these of either police jury borrowing the money to....that's what I'm talking about.

Kean Oh, yes.

<u>Mr. Willis</u> So that it will give substance and ir-repealable law with respect to bonds, so that the violations of those contracts may not be impaired, and the bonds are readily sold.

Mr. Kean I would think that's good.

## Eurther Discussion

Mr. Roy Madam Chairman, ladies and gentlemen of the convention. I rise in support of the amendment. I think we are getting a little paranoid or some people are making comments all the time that any-or to eliminate language that is just verblage, that some committee proposal has been attacked. At the same time, Mr. Kean asys this in meded--which l don't see; l don't see how in the world, authorizing he legislature to do something it may do, that we are creating any constitutionally tax exempted areas --he turns right around and says that if we handle it down the road like it should be, then we can come back and eliminate it, which means to me that it's not meeded at this particular time. But, I want to that 1 don't think anybody has addressed himself to and that's the last sentence: "Industrial areas shall be not subdivisions of the state." Now, we have gone along and we are saying that we are not clairvoyant, we are not sure about everything that happens in the future, what will be...what this state will be like teventy years form now with re-spect to different types of subdivisions, different types of agencies, different types of units and sud-denly we constitutionalize--right here in this con-stra a simplifying the state. Mr. Roy Madam Chairman, ladies and gentlemen of stitution---that you shall never make an industrial area a subdivision of the state. It may be fifteen years from now that some industrial area, some selfyears from now that some industrial area, some self-contained city within itself, will want to be a sub-division of this particular state, and will be able to petition the legislature for it, to incorporate and do what it wants. Yet, we are constitutional-izing that this is impossible unless you get a con-slituitonal amendment. Now to say that we are not supposed to take language out of this constitution that is innocuous because it was in the past consti-tution, I think is redundant. To think that we have already cut down the present constitution by some eighty percent and to have someone argue, "Let's leave this in here because, well, it doesn't do any good and it doesn't do any bad, and it's in the present constitution, so we may not get hurt by it," I just don't follow that logic. I'm for the amendment.

<u>Mr. Lanier</u> Mr. Roy, am I correct that when we were on the Bill of Rights, you also said we were para-noid about law and order?

<u>Mr. Roy</u> Yes, I certainly did, Mr. Lanier. It hasn't changed except for those people who were against a Code of Ethics for local officials, but that's not the issue. A Bill of Rights is to protect the individual from the state, and we didn't put anything in there that said that the legislature may do certain things; it was..."you cannot"; there a different.

<u>Mr. Abraham</u> Chris, isn't it true that if this section were deleted, and we would get to the Rev-enue and Taxation Article, and if we need some lan-guage in there, it could be added, then?

<u>Mr. Roy</u> Well, if it's needed that's the place to add it, not to put a bunch of words here that we later say we will come back and take out because we don't really need it.

Mr. Goldman Mr. Roy, in this language that is in there now, exempting an industrial area from being a subdivision of the state or the parish, wouldn't it be possible for an industry to come in, establish the...the parish establish an industrial area, the industry build homes for its employees, and all the homes in that area then would be exempted and ev-ervthinn else? Goldman Mr. Roy, in this language that is in erything else?

Mr. Roy That's exactly right. If you look at un future of this country you are going to see that in many cases industry will build separate cities. The may never he a political subdivi-That's exactly right. If you look at the If you say they may never be a political subdivi-sion, that's absurd to put that in this constitution

Mr. Stovall Mr. Roy, have you seen Mr. Flory's amendment?

Mr. Roy Yes, I saw it and I think that if we get rid of this, we certainly don't need that. Yes, I saw it and I think that if we can

Yes. In other words, if we do not Stovall Wr. stovall les. In other works, it we do not delete this section, then we have to come in with a great deal of additional material to make it acceptable, and certainly Mr. Flory's amendment is legislative material.

Mr. Roy There is no question about that, Reverend.

# Eurther Discussion

Mr. Womack Madam Chairman and members of the <u>mr. womack</u> Madam chairman and members or the convention, in 1966 Lwas on the Judiciary Committee in the House that handled this legislation. I remember very distinctly, at that time, industry, the attorneys, the legal coursel for industry, the Department of Commerce and Industry officials came before that committee....

Mrs. Miller Mr. Womack, just a minute. Let's get a little order; it's awfully noisy in the back.

<u>Mr. Womack</u> Madam Chairman, I guess I'm as guilty as anybody else of carrying on a lot of conversa-tion-and a lot of times, a lot of useless conversa-tion--but we are dealing now with the possible industrial growth of the State of Louisiana and noth-ing could be much more serious. 1'11 go back and ing could be much more serious. I'll go back and start over. In 1966, when we started out with this legislation, I was on the Judiciary Committee that handled this in the House. The testimony before that committee I remember very, very well. It was by the industrial attorneys that was there and by the Department of Commerce and Industry offi-cials. Their testimony was that this was needed and was beneficial in the eyes of industry. Now, I take the position today that I'm against the De Blieux amendment. I'm against it because if

there is one drop of good in this to help create a feeling of confidence and satisfaction to Industry to come to the State of Louisiana, then it's worth being in here. I in not going to take the chance on some industrial organization saying that we feel the memory of the same people have said, well, it doesn't make any difference about the shorthens; we've got to have all this verbiage and all this garbage in here, because we think it's necessary to protect the individual rights. But, then you get a little further down the line, and that same individual say: it, we've gots'n mat side you are on. Those who have been up here opposing the position that I take, and saying that we should pass this amendment, now want to shorten the constitution. They say, 'I can't see that it does any good.'' I don't knew yet, and I don't believe a single one of the legal brains that's been up here bass this amendment, now and to shorten the constitution. They say, 'I can't see that it does any goad.'' I don't knew yet, and I don't believe a single one of the legal brains that's been up here bass to mittee that I know of, representing industry, representing commerce and industry, or proresenting and on the industrial growth of the State of Louisiana. Now, if it's in the wrong place, the business and responsibility of Style and Drafting is to take this and the article on Revenue and Takation and put them in the proper the this state. Go back and the take are the the should nite that once that we are not breaking faith with industry somewhere down the line, we should nite the best that could be used as a move that would be detrimental to the future develpand and the bord on a dise of bords and as a faith bending and sale of bords and so if it's growth this state has ever had and one that, I hopey, we will be able to meet again, Thank you.

### Questions

<u>Mr. Weiss</u> Delegate Womack, we who understand lit-The about these intricaties of constitutional law are conceed about mising actions. Jrs or more that we have to placate the industrial attorneys. By what authority do they have to say that we must constitutionalize certain issues? Aren't they more concerned about the financial obligations that the state must meet rather than whether it's constitutionalized?

Mr. How ack well, I would say, Doctor, that probably the only authority that that industrial attorney would have, that he is on the payroll of the corporation that expects to expend the funds of developing a plant in Louisiana. If he is on their may be a factor in whether they expend the funds or not; other than that, I really don't think it akes any difference.

Mr. Keiss. Have our state attorneys made any recommendation other than the industrial attorneys, or were you listen ing to only one side uf the story?

Mr\_womac> Well, I would say this, the attorney. that have come up here supporting this resolution have said We don't find that it's going to do any harm or any good either

Hr weiss. That's the problem with these attorneys, they don't seen to come up with any one answer in concerned whether we have an offilial answer through the induitrial concerns. Who hall we believe! is the question that i present to you

Mr. Wime's You would have to keep in mind, Do tor, that in all case half the atturneys are wrong

### further Discussion

Mr Plan hard Made hairman, fellum delegate .

in the first place. I again the sellew areadent i can by reiterate the same things that other puble have said, but here we are taining about five ines. It is the rest if this whole article. Ins. A fraid, it is possible to corrected and as far as the later gradient of definite purpose and the purpose was very public exemptions could be granted except those that were agreement was a de between indust, and later say agreement was a de between indust, and later and they decided that this was a melessary provision have was twe are saying ind fifted. A first and they decided that this was a melessary provision have mat we are saying ind fifted, by the say of the same say the present of the say that the say for that we are going to take is not going to be the same as the present constitution. The posture in hat we are not going to say that these tain be granted. The posture right new is to say to the same and we have the saying that these tain be present on others are the only ones that can be presented. The posture right new is to say to the same as one others are the only ones that can be presented. The posture right new is to say to the post the thirds out and your stat so going to happen; we don't how. It is you that these tais this convention, that this is that so going to happen; we don't how. It is you that these to not by a two-thirds out and, in effect, say that these tais they don't how. It is you that the set the so the constitution and, in effect, say that these tais they don't how. It is you that these tais they don't how is to say, we go to put this porvision in the constitution. The pody the constitution the constitution is a say they do in 1960, the sound the and thin a conselved. The sound the sad state, and us the against this a mendment.

### Furthe 1 .....

Mr. Gamon Thank you, Mada Charman, morer of the convention, I think there is one point that has not been clarified, that is, beginning men Mr Wills relised this guestion so events difference between an industrial area area are in a services are rendered to that partial area area, versus an industrial distric to rain industrial in ducement district, which is pitarily a eth difinancing. This has to do and is ing in eth 24 and this is one point. My is types in the cult in Baton Rouge we sold fifty illing diarea in Baton Rouge we sold nine dullars worth of industrial revenue bid in any the pollation facilities for ion here in Baton Rouge we cold nine dullars worth of industrial revenue bid if it the corgis Pacific corporation. All is way it volves the fact of treating that waste in the entre industrial area how, the alterimente elestict and thas entities for a set in the entre industrial area how, the alterimente elestict on Area factor that are the in the entit reveneet ervice are rendered to that artigovernmental ervice are rendered to that artictar area think tho point needs to be are

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We be bitus 1 which take to observe of the construction to the second and the second second

the executive what they can do or they can't do and have an orderly organized judiciary. As this par-ticular section is worded, the only thing it says is that "The legislature may authorize industrial districts"; other than that, it has nothing to do with industrial districts. There is no tax exempdistricts"; other than that, it has nothing to do with industrial districts. There is no tax exemp-tion provided in this section, regardless of what has been argued here. This doesn't have a thing in the world to do with tax exemption; it just says that aggislature to create industrial districts." Now they can do that. You don't have to tell the legislature they may do it; they can do it. I tell you they can do it. So, why do you have to put it in the constitution? It's just plain and simple as that. I'm just asking you so...if we are going to leave everything, as stated, to Skyle and Draft-draft us a constitution because that is what we are saving, every time we come to one of these providraft us a constitution because that is what we are saying, every time we come to one of these provi-sions that we want to make some change that we think is unnecessary or shouldn't be in the constitution or should be someplace else, they say "let Style and Drafting take care of it." If it belongs in the Exemption Article, when we get to exemptions let's take care of it there. It has no place in the constitution in this particular spot, this particular proposal. So, I ask you to let's exempt it and get it out and proceed orderly like we should.

### Question

Mr. Womack Senator De Blieux, isn't the responsi bility of Style and Drafting's job to place these things where they belong, and if this is the wrong Senator De Blieux, isn't the responsiplace---which you said earlier it was in the wrong place, if we were going to pass it---isn't Style and Drafting's responsibility to put it over in the place it belongs and to tie it in with the rest of

Well, why not..when we get to the De Blieux particular exemptions, Mr. Womack, we should take it up there; it shouldn't be taken up here. This is not the place for it, whether Style and Drafting can shift it or not; it makes no difference. We are putting too much burden upon Style and Drafting to correct all of our errors and mistakes.

[Record vote ordered. Amendment rejected: 25-86. Motion to reconsider tabled.]

# Amendment

Next set of amendments sent up by

Ar. roynter wert set of amendments sent up by Delegate Gravel: Amendment No. 1. On page 12, line 6, after the word "create" and before the word "industrial" in-sert the words "and define"

<u>Mr. Gravel</u> Madam Chairman, ladies and gentlemen of the convention, I simply had one concern in the event that this particular section would remain in the constitution and that is that there was no definition of what constituted an industrial arga. Mr. Kean tells me he has no objection to our adding into the committee language, the committee proposal, not only the concept that the legislature can create not only the concept that the legislature can create the industrial area, but that the legislature may define it. It's really in the nature of a technical amendment and to make sure that there's no question but that we will have a legislative definition of what constitutes an industrial area. Mr. Kean tells me he has no objection to it, and I would urge the adoption of the amendment unless there is objection by someone else.

# [Amendment adopted without objection.]

### Amendment

Mr. Poynter A Delegate Flory: Amendments sent up at this time by Amendment No. 1. On page 12, line 8, after the word and punctuation "determine." and before the word "industrial" insert the following: "All in-dustrial areas so created hereafter shall include provisions for access by public road to any and all entrances to the premises of each and every plant in such area which entrances are provided for use by employees of such company, or for use by employ-ies, or for delivery of materials or supplies, other than by rail or water transportation, to such premises. Where individual plants provide police protection this protection shall be confined to the premises of each individual plant located in the area.

## Explanation

Madam Chairman, and delegates to the Mr. Flory convention, this is precisely the language in the existing constitution providing for the creation of industrial districts. This was a part of the of industrial districts. This was a part of the constitutional amendment adopted in 1964 in the creation of these districts, sponsored at that time by both labor and management, with the wisdom of the legislature working out the details as now before you in the existing constitution. I suggest to you that this is a matter of constitutional authto you that this is a matter of constitutional auth-ority really mandaling industrial peace where there management and their employees. I have ... wy under-standing is there is no objection to it. Wr. Lennox, I believe, and both agree on this, that it ought to be and remain in the constitution. I would ask for the adoption of the amendment.

> [Previous Question ordered. Record vote ordered. Amendment adopted: 84-23. Motion to reconsider tabled. Section. Section passed: 97-13. Motion to reconsider tabled.

## Reading of the Section

Mr. Poynter "Section 22. Creation of Special Districts by the Legislature; Authority Exection 22. Subject to the limitations imposed in this constitution, the legislature by general law or by local or special law may create or authorize the creation of special districts, boards, agencies, commissions, and authorities of every type, define their powers, and grant to the special Cyperited inclusion, powerise of an since and states of a con-portion of created such rights, powers, and author-ities as it deems proper, including, but not limited to, the power of taxation, the power to incur debt and issue bonds, and the power to reclaim property from the beds of lakes and streams."

# Explanation

<u>Mr. Kean</u> Madam Acting Chairman and fellow dele-gates, one of the major problems with the 1921 Con-stitution, as it developed over the years, was the inclusion in the constitution of special districts, special agencies, boards and commissions which then, as time went on, required additional amendment until we reached the breaking point in the 1960's, when the number of amendments that had to be offered were just too many for people to take. One of the principal efforts that the Local and Parochial Governmental Committee attempted to carry out was to provide a vehicle which would take out of this con-stitution all of these special boards and commissions and agencies and districts, and provide a simple vehicle by which they could be established by the legislature in the future, and that is what this section does. We have deleted from this par-ticular proposal all of the special districts, agencies, boards and commissions that were included in Article XIV of the 1921 Constitution. It was our view, supported by bond attorneys of some note who appeared before the committee, that while it could be argued that the legislature would have all of the authority not prohibited to it by the con-

stitution, that it was desirable and perhaps even necessary to have a general provision which would spel out, without any doubt or ambiguity, the right of the legislature to enact laws---general, oca Les and districts could be created and established and to give to those boards. Lommissions and so forth, the right to tax, the right to issue bonds, the right to incur debt and, thus, through this method avoid, hopefully, any further amendments to the constitution by way of the creation of such special boards, districts and so forth. We believe that this is necessary in order to make certain that there is absolutely no doubt in the mind of any per-son that the legislature has this authority and son that the legislature has this authority and that it can be accomplished by a simple legislative act, and under the circumstances. J urge the adop-tion of Section 22 designed, as J say, to make certain that we eliminate the necessity for anyone putting any special districts, boards, or commis-sions in the Constitution in the future. I'll yield for any questions.

Mr. <u>Duval</u> Mr. Kean, if there were one source in the constitution saying that "The legislature shall have all powers not specifically limited in shall have all power would that take care of this

Mr. Yean Mr. Duval, in my opinion, it probably would. But, we are taking out of the constitution by this action of the committee twenty-eight special were concerned. districts, boards and agencies. We were concerned that without having some specific language that related to boards and commissions, someone was going reface to buards and commissions, someone was going to take the position that we needed a constitutional provision to authorize some district in the future. We were simply trying to provide the frosting on the cake to avoid that possibility.

Mr. Kean Yes, I will be glad to, Senator. There were several instances in the past---and I'm cer-tain you are aware of them--whereas in the case of some part of the Lake Charles over there for that civic center development. In order to accomplish Jefferson Parish, that particular situation was also dealt with by constitutional amendment. We were simply trying to cover areas to avoid further pos-

bert Mr. Yean, then you would not obje t Avant's anendment which would delete that Mr a=bert to Mr, Avan

Mr Yean No, sir I told Mr Avant I would not

Mr is bert. The reason for that is be able we have had estensive hearings on this area, and we are going to uver that

take Mr rean. The only reason it was included was to take rare of the polible 'isuation where you wild have additional onstitutional amendments. If your mittee is dealing with the problem, why it perfectly agreeable with me to take it out

Mr. urn. Mr. Kean, I understand that bund at furney are interested in this particular section, be ause it is their opinion and think that the base

# of these distances

Hr. Kean hat ain : necessary in their as ear-ances before the collitee, they urged the tiee to have such a broad general section out if an abunwe were triving t av d a accomplish t, we felt it was desirable to det

Mr. Lennox. Mr. Kean, what effect, if any, dies this have on levee district that now eact

# Mr.

Mr. Labert Mr. Kean, n line ..., the piwer to incur debt and issue bonds, and this piwer, a cording to the language prior to that suid be ferred by legislative act; it would be left up to special district could issue bonds, as to whether or not the people would have to vote on it. In other words, they could do it without a vote of the people if the legislature so desired, this wild strictly be left up to the legislature

Wr. Kean it strictly leaves it is the leavesture and I mould agains that the legislature would also any case, authorize it without a vite I ight say. Senator Lambert, that nost of the districts, garbage districts, street lighting districts, road a inten-ance districts, are already in statutory aterial They all require an election in order to issue bonds or to levy tases by those particular districts. We haven't changed that in any way

<u>Mr. Leigh</u> Mr. Kean, is there any privilian in your article or is it necessary to recognize the ion-tinued existence of districts that are n w in exis-tence at the present tile?

Mr. Kean . We anticipated that would be taken same of in the transitional material, T. y

Mr. Leigh ognizing and maintaining existing

Mr. Kean We've got a list of twenty-eight of the and it was our view that these would be taken care We've got a list of twenty-eight of the

Mr. Leigh 0.K

Mr. Pointer Amendment No 1 b wr. A a t . un page 12. The surafter the wirds wird, bund . change the co a to a period and delete the rear der of the line, and delete line i in it entrety

Mr. Avant Mada hair an and reine dereyster, as the individual who was appointed dereyster, this convention to represent the intere till fer and conservation, I also pelled to ffer this

and conservation, I a suppried to the termination of the server of the s

a lake, or a portion of it, should not be reclaimed. I am not saying that. I'm just saying that it is a matter of great importance and significance to the proper of all of the state, and that this is not the proper method or time or place to consider it. But that it should be considered in connection with the article on natural resources. It should be considered in considerable detail. Perhaps, I suggest to you at this time, at that time we can come up with some reasonable and proper safeguards and protection for all of the people of the state, when we consider the exercise of this power which, I say, is a very significant power and definitely should not be dispensed on just a "blank check" basis by a simple act of the legislature to some local agency.

# Questions

Mr. Lambert Mr. Avant, is it not true that Mr. Perez and Mr. Kean have no objection to your amendment?

Avant This is correct. I am informed by Mr. n and Mr. Perez that they do not object to this Kean and amendment

<u>Mr. Lennox</u> Mr. Avant, if your amendment passes and you delete line 21 and that portion of line 20 that you suggest, and you do not deal with specific pro-hibitions elsewhere in the reclamation of property from beds or streams, would not the legislature then have that authority?

<u>Mr. Avant</u> I think they would, Mr. Lennox, but let me tell you something, we are going to deal with some specific prohibitions. Have no fear of that.

Mr. Lennox I just wanted to suggest that maybe that's what you did want to do.

Mr. Avant That is exactly what we're going to do. Thank you for your attention.

We have no objection to the adoption Perez of the amendment.

[Amendment adopted without objection. Motion to reconsider tabled.]

### Amendment

Mr. Poynter The next set of amendments sent up by

Delegate Gravel. On page 12, line 12, after the word "to" and before the word "this", delete the words "the li tations imposed in" and insert in lieu thereof. "the limi-

tations imposed in and insert in lieu thereor, "and not inconsistent with the provisions of." This one deletes the words on line 12, "the limitations imposed in", and inserts in lieu there-of, "and not inconsistent with the provisions of".

### Explanation

Mr. Gravel of the con Madam Chairman, ladies and gentlemen convention, this amendment is consistent of the convention, this amendment is consistent with similar amendments that have been adopted by this convention to make sure that we are talking here, in Section 22, about provisions that are not inconsistent with other provisions of this consti-tution, rather than with provisions that are speci-fically referred to, and that constitute limitations in the constitution in the constitution.

Mr. Perez and Mr. Kean both agree that there is no....should be no objection to this amendment and are willing to accept it.

Therefore, Madam Chairman, I move the adoption of the amendment.

Mr. Perez No objection to the adoption of the

> [Previous Question ordered. Amendment 99-4. Motion to reconsider tabled.]

# Amendment

<u>Mr. Poynter</u> Sends up amendments as follows: Amendment No. 1 [by Mr. De Blieux], on page 12, delete lines 10 through 21, both inclusive in their

I suppose for clarity, Senator De Blieux, it would be well to add, "including all floor amend-ments thereto."

# Explanation

<u>Mr. De Blieux</u> Madam Chairman and ladies and gentle men of the convention, I'm not going to labor the point, because the argument on this is the same as on the other amendment that I previously proposed to Madam Chairman and ladies and gentlethe preceding section.

The precading section. I might say this. I know that there's been some statements with reference to the requirements of the bonding attorneys on this particular provision in the constitution. Be that as it may, I don't believe there is a single layyer who is a member of this delegation, or any place else, would say that the legislature would not have the authority to do any-thing that's provided in this particular section, whether this...we adouted this section or not. It's just as simple as that. To me, I think it's just ex-cess verbiage that we don't need. But that's the any argument that I want to make, and that was the argument that I made on a previous section. I just think it's entirely unnecessary, so it's up to you. I hope you won't vote against the amendment just because I oroposed it.

## Further Discussion

Mr. <u>Perez</u> Delegates, as was stated earlier by Mr. Kean, we've taken twenty-seven different agencies out of the constitution. We want to make it perfectly clear, so we will not have to have an abundance of amendments in the future, that these special dis-tricts of the legislature could grant this authority. . , therefore, oppose the De Blieux amendment and ask you to adopt the section at the proper time.

### Ouestion

<u>Mr. Womack</u> Mr. Perez, doesn't this get back to where we were while ago, that the bond attorneys say that we've got to have this in order to get the best rate on our bonds and in order to sell them?

Mr. Perez Yes, sir, that's correct.

[Previous Question ordered. Amendment rejected: 14-91. Motion to reconsider

# Amendment

<u>Mr. Boynter</u> Delegate Champagne sends up the fol-lowing amendment....champagne after the word "proper", change the comma to a period and delete the remainder of the line and delete lines 20 and 21 in their entirety.

<u>Mr. Champagne</u> would say, "powers and authorities as it deems proper." The rest of the sentence simply says, "such as" but not necessarily so. I would assume that most of the delegates in this convention hall that most of the delegates in this convention hall have..., have been, or at one time the majority, did get married, for instance. You went through the procedure; it was rather a short to the, or or yoth. They didn't tell you in that explanation that part of the marriage caremony was that you might have children, that you might have to cook, that you might have to change diapers and a lot of other things.... both men and women. They didn't go through all these things, and probably lit's a good thing they didn't, because when I changed a few diapers. I might have re-

considered. But it sinply was general statements, and that's what we need in this constitution For one brief moment yesterday I thought this convention, C.C. '73, might be referred as y gran pa once desir bed, greased 1 ghtning." I think pa once described, greased Ightning," I think its tie for us to be recoon zed somewhat in those terms as "greased Ightning," I would suggest, and I implore you, not necessarily in under to prove that none of my a endments ight pass, but I would ask you that this says, and I would ask that you give the Revenue, finance and Taxation Committee the same courtesy you yous afforded hatural Resure you that when the Line comes that this com attee the same courtesy rou you that when the time comes that this committee should include the bonding provisions as some of you fear, we, i think are, and I would hope, capable of taking care of all of those instances. I would as you to remember the time you did or might get mar-ried, and that sall this does. I ask once and for all... I don't know if Mr. Perez will or will not agree that maybe his comittee might agree to this statement, this amendment, but I hope he would. I aik, simply, let's get to it. Let's refer to this statement and urge the adoption of this amendment.

Mr. Anzalone Mr. Champagne, are you aware, because of that short, short ceremony that you were talking about a few minutes ago, that the law books of this state are filled with divorce laws?

Mr. Cham agne Yes, sir, but I bet they wouldn't have been arried so uch if they'd had a long one

Mr. Anzalone Now, Mr. Champagne, do you further realize that what we're talking about here is not industry so that Mr. Lennox can represent them, and Mr. Flory can fight them

Mr. hambaine Mr. Anzalone, I think what we re trying to do is give the lawyers something to do.

Mr. Anzalone Do you realize that if we give them something to do and make it just a little bit eas-ier, it ight not cost as much?

Mr. Champaine Yes, sir. Anything you say, Mr. Anzalone.

Mr. Yean – Madam Chairman, fellow delejates, I hate to throw cold water on the h-pellof my friend, Walter Champagne, but I rise in opposition to his

stitution a conside prevention supering the authors to of the legislature with respect to these pecial districts in all of it aspect, and particulary with respect to the question of taxation and the erist to in or debt and it we bond. I an en-orened, that we are task where we started, name to be store that we are task where we started, name to be store that we are task where we started, name to be store the store of the store to be store to account the particular do entry in order to and a half is in order to be entain that we have the entire where a later for that reason, i on that is an alter in that reason, i on to to the an entail to an wer any que tion

Fontenel Mr. Lear, if the legillature warte

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Mr. Yean That Fre t

Mr rean Mr. Fintenut, we were in the at a vehicle to all eritant that we had a it tutl a provision under with the leg attree lear r, without any question, without any all guit, had the authority to real these it r t and author ize them to levy taxes and 5 ue were the stiply trying to use the second structure that a proof here we are not going to get bas. If the amount of the second structure the real structure the second structure the second structure that the second structure and second structure that the second structure and second structure that second structure are second structure and second structure that second structure the second structure that second

Mr. Fontenot is K ut then the diator-neys that were succenterned, us on the evillation doesn't grant the over that from they reads helped out at all a ready, this provide the helping the at all

Mr. Kean. The levis ature ine mit grant the autority then that is as it should be. They include it have the authority.

Mr\_

Mr Anzaline Mr kean, if we hall to return the on-t-tutin a ready, y would are twill be repetition, right

He arey He Feen, whith He are a statistic in to define, that is the statistic the part load to statist the statist have unider the transition data in put in three, as that is the arket in they are

Mr cas in minino, Mr area 21 to rear and the stile of the second

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 $N_{1}$  , each L and L some what they is in the L of L ,  $M_{2}$  , L ,  $M_{2}$  , L ,  $M_{3}$  ,  $M_{3}$  , L ,  $M_{3}$  , M

<u>Mr. Roy</u> That's to protect a few bond attorneys who don't want to risk saying that the legislature may have been wrong. And you constitutionalize it so that, even if it's wrong, it's 0.K. Isn't that true?

<u>Mr. Kean</u> Mr. Roy, I could care less about what the bond attorneys want. We've got political subdivi-sions that'd have to issue bonds. We've got from time to time districts that have to be created to take care of special situations. We are simply try-ing to get something in here that would avoid the necessity of additional constitutional amendments. That's the whole purpose of the ...

# Further Discussion

Mr. Gravel Madam Chairman, ladies and gentlemen of the convention, l'm...l'm really surprised at Mr. Champane with his proposed amendment. Here we are dealing with some banker's language, and he wants to delte it. Now, all of the lawyers here have been listening to Mr. Champagne. He has rated our prime interest, and we think that his prime interest rates consideration, not only by him but all bankers, for the necessity of including in this constitution, a provision that's going to satisfy the bonding attorneys who honestly believe that think that it is important that we do maintain the concept in Section 22, so that under no circumconcept in Section 22, so that under no circum-stances can there ever be any question that our Stantes can increaver be any duts informed use to be benefit of local government and local subdivi-sions, can be adversely affected. I urge you to reject the Champagne amendment. That we adopt Section 22, and that we continue to grease this lightning and move on.

# Motion

Champagne In fear that we may have to go to a lengthy discussion of how and why you got married, I would like at this time, if at all possible in view of Mr. Gravel's grievances, to withdraw my

[Motion to suspend the rules to withdraw the amendment adopted without objection. Previous Question ordered on the Sec-tion. Section passed: 106-8. Motion

# Reading of the Section

Mr. Poynter eration "Section 23. Intergovernmental Coop-

Section 23, Paragraph (A) Any political subdivision may exercise and perform any of its auth-orized powers and functions..."

[Motion to walve reading of the Section adopted without objection.]

### Explanation

Mr. Reeves Section 23 is a new section, pastern from the 1921 Constitution for this simple reason. Section 23 is a new section, basically, From the 1921 Constitution for this simple reason. We've had a tremendous amount of federal and state assistance to the local and parochial governments throughout the last fifty years. Of course, any of you that are aware of the problems that local and parochial government have, will realize that it is absolutely a necessity for the local governments to have the assistance of the federal as well as the

This particular provision authorizes intergovern-mental cooperation between political subdivisions, legislature from requiring intergovernmental cooperation between political subdivisions, but it does allow the legislature to authorize intergovernmental cooperation between political subdivisions subject to voter approval. This is not, I emphasize this very strongly, it is not regional government.... absolutely, unequivocably, no contest, it is not regional government.

So, for those individuals that are afraid of a new concept that is coming out in the planning field So, for those individuals that are arraid of a mathematical set of the set of the planning in a which local governments are basically delineated to substandard organizations, and that regional govern-ments or quasi-governmental organizations are established over these local governmental subdivi-sions, do not be afraid. This is not regionalism. It is not regional autonomous government, and it ments. All we are trying to do in this particular section is to authorize the local governmental sub-divisions to cooperate and to have intergovernmental cooperation between themselves. First of all we realized, and we are realizing, that throughouts the State of Louisiana we do have between a number of parishes. In my particular area, we do belong to the Kisatchie Delta Economic Development Districts or it is eight parish now eight parish regional organization. It is not the eight parish regional autonomes.

regional government concept. It only authorizes, in this particular section, only authorizes cooperation between consenting governments. This par-ticular provision also prohibits the Louisiana Legislature from mandsting that these governmental subdivisions will cooperate with one another. In other words, if they will...it requires, it does not require intergovernmental cooperation, but it simply allows the legislature to authorize inter-governmental cooperation between the political subgovernmental cooperation between the political sub-divisions. If you have amendments to this section to delete some of the wordage out, and cut it down somewhat, I think we can all, including the Local Government Committee can possibly live with that. But it is necessary in the 1973 Constitution, or '14 Constitution, that this particular provision, or at least the concent remain

or at least the concept, remain

Mr. Boemer. Mr. Reeves, you said some seven times in your four minute remark that this is not regional government. Perhaps you protest too loudly and longly. It raises some suspicions as far as i'm concerned, when I read it, that it's exactly that. My question is ji it's not regional government,

what is it? What does this language mean...."any what is it what does this language mean...any provide the second second second second second second financing, jointly or in cooperation with one or more political subdivisions, either within or with out the state." Well, if that's not an authoriza-tion for regional government, what is it Terry?

Mr. Reeves. All we're trying to do, Buddy, is to ...what I'm saying is it's not the concept of nec-essary regional government, in other words, when you've got mandated regional government. If you want to have cooperation between political suddwant to nave cooperation between political subur-vision, within or without the state, then this par-ticular provision is permissive. In other words, what we are saying is, a number of local governments cannot handle their own particular problems as well as a combination of local governments.

as a combination of local governments. For instance, in our parishes in North Louisiana, possibly, for instance on the garbage collection, we found it...as a planner, we found that two or three, or maybe four parishes can get together and have a sanitary landfill. Of course, we do not thave any of these as of yet, and more economically than we would if we could do it by just one parish.

Mr. Roemer Well....would you not agree that all Paragraph (B) does is prohibit the legislature from requiring regional government? But (A) gives them all the framework they need to enact regional gov-

Mr. Reeves Correct, and again in (B), we just

simply do not want to mandate.

Mr. 0 Net11 Hr Reeves, why in the world would any local governmental subdivision want to jointy, or in cooperation with one or more political sub-divisions within or without the state, the inited States or the agencies thereof? Does that mean that a local governmental subdivision could get into cooperation with some foreign mation on something?

Mr. Reeves Absolutely not. Gary, you know better than that.

Neill All right. But I think Mr. Roemer s are well taken that this does look like the Mr. O Neill points are a concept of regional government. I really think that, you know, you have protested too loudly and too longly that it's not.

Mr. Reeves All we're trying to do, Gary, is to make it permissive. For instance, the parish of Caddo, which is in the northern section of this state, it is close, very close to the great state of Texas. If a county, I believe it s adjoining Shelby County, if it wanted to cooperate in a ven-ture with Shelby County--or whatever county that is that is adjoining Caddo Parish in Texas--then this would permit it to do so. This is all that we're

Hr\_larier Mr. Reeves, isn't it true under the present law of the State of Louisiana that in many instances, say if the school board needed some blacktop or shells on the driveways of the schools, that the police jury does not have authority, under the law, to do that?

# Mr. Reeves Correct.

Mr. Lanier together, say, in an area to handle drainage or levees or other matters, that there are great in-hibitions in our present law to prohibit this type of activity, even though it would be in the best interest of the people?

Mr. Reeves Yes, this is correct.

Mr. Lanier Is it not true that a similar provision to this has been suggested in the model state con-

Mr. Reeves It is. Absolutely.

Mr. Lanter Is it not true that a provision similar to thi that was recommended by the Louisiana Con-stitutional Revision Commission?

Mr Casey Mr. Reeves, is it not correct that this would permit, for instance, that parish of Orleans and t. Tammany Parish to enter into a joint oper-ation for usualto control, to usually use each other's equipment by iontrait, and in the intere to of e ono y and aving manpower that this got be the cost efficient way of a complishing that I in that the very purpose of this section?

Mr a ey id you kniw that I handled legi,latin in the legislature in past years in order to peci fislip per It thi, and that if it were enaited, would have been on unstitutional and it in the prohibited by the present onstitution?

Mr. Reeve I didn t realize you handled that leg-i. attin But I du realize that the local dat leg-

Mr. ("Nell Mr. feeves, Mr. Lanter asked you if we also be shown in the same from the odel state mostitution i at going to ask you if you when that Lidnit one where it are from first they at it out tad.

Mr. Reeve wud have pr.bab, hav dea, Gary wed ffer n a t f tr

Mr. Rocer Mr Reeves, wild ty a int was adde about the de Linstitution wouldn tyou agree that that sin ewnatinite a ideal and are sorething you play with and joily bu'y wild it want to fly in?

Reeves Not necessarily. Mr Roe er

Mr. Reeves Absolutely, yes, sir I do insit that this is an iportant issue As Mr Casey a C, u der the present constitution many areas do not have the authority to cooperate, virtually, with one an ther This is not a plot against the itizens of the tate of Louisiana. It is simply an econo cal, feast idea to help local governents in the r art. ar

Mr. Poynter Amendments are offered by Dele ate Burson.

Burson. Amendment No. 1, on page 12, i ne .5, after the word subdivision and before the word ay inject the following: or school board You've got the identical amendent then maage 12, line 26; page 12, i ne 31, and page 1, i'ne 22, in aach case inserting after the words i ti-cal subdivisions inserting or shi buards'

Mr. Burson Madam hair an, fels, deleates, the rationale behind this arendient our definition of political subdivisions specifical, in lues parishes or unicipalities, and does it is use school boards. In Iffer a number of arene ets to insert school boards. In appropriate root ins. because there are some provisions, such as the res-entone, where this is required he read why its required in this partial ar set in there are some school districts through at the tate It's required in this partitular set in there are some school districts throughout thin tate where there are some support we near the some of the some school incent Bastle, four tange is mere fithe , where Acadia Parish and Evangeline are some of the , where Acadia Parish and Evangeline are some of the , by one parish with the onsent of the there they both nontrobute to the dist it, and is ruby one parish with the onsent of the there. For your and the were this will nee to be an ity, for you at nall equals in purple is in the tate of in the future, probable with non-and the analy, for you at nall equals in purple is in the data the unity of these parises to some the some is the interference of the parises the source of the there interference of the parises the source of the enter first eventually need to and the the source of the transform the source of the source of the source of the parises the source of the the ty in the area, that is went to write the words in the based here is a went and the time. If any me has any

Mr. Densery Mr. uning, a president of the definition of port all orders in moving the phrase that is in this article are to the association of the definition of the set of the

Mr. Burson Yes, Mr. Dennery, for this reason. There are too many instances where we use the general term that did not apply to school boards, so we'd either have to do one of two things, either exclude school boards where we don't want them to have the power, or include them where we want to make it plain they should have the power, and we ne to be a better way to approach it. Just to include school boards specifically where we want them to share in a particular power.

<u>Mr. Pugh</u> The thrust of mine was somewhat the same as his as to whether or not, as a matter of fact, a school board wasn't a political subdivision. If we start distinguishing all the way through this constitution between political subdivisions or school boards, we're going to have to go back and amend something we've already done, much less these. I think it's a danger trying to assume that a school board is not a political subdivision, when in fact, it is.

Mr. Burson Mr. Pugh, there are cases on the books in Louisiana, with which I happen to be familar, that has said that school boards do not share, for instance, immunity of political subdivisions of the state that have said that school boards were not immune from prescription. You will note in the Prescription Article in local government, I specifically included school boards there. The reason behind that is that I knew there are lawsuits -cases on the books--that have said that the immunity from prescription of the state and its political subdivisions did not extend to school boards.

<u>Mr. Pugh</u> I am aware of the fact that there has been some watering down. I say, is it not a fact that a school board is a political subdivision? Either it is or it isn't!

Mr. Burson Mr. Pugh, I just don't want to leave any possible ambiguity. With the cases on the books saying that it's not, i don't want to leave any doubt, in the area where we want them to have the power, that they are included. Now, if we come up not any the same and the same and the same and that would include them, then fine. But, I think if we do that, then we're going to have to turn around and exclude school boards from a lot of the powers that we've given local governmental subdivisions. For instance, in Articles 7, 8, and 9, 1 don't think we want school boards to be exercising that broad scope of power. They are a limited purpose operation, just for public education.

Mr. Pugh Well, what was the thinking of the committee when they put the section in like it is without "or school boards" in there?

Mr. Burson I don't know.

Mr. Sandoz Jack, wouldn't it be more simple instead of inserting these amendments at different places in this proposal to merely make an amendment to 51(2) to define a political subdivision as including school boards?

<u>Mr. Burson</u> The problem we get into there is there are many, many articles that give powers or define the powers of local governmental subdivisions that have nothing to do with school boards, and that we would not want school boards to be involved in it.

<u>Mr. Sandoz</u> But, the definition section as being a part of this article--wouldn't that specifically clear that up?

Mr. Burson I'm afraid then we'd have to go back and exclude school boards from those areas where we didn't want them to exercise the power such as Sections 7, 8, and 9...or in order of the finance provision, for instance, where we say that local governmental subdivisions have certain powers to tax, and so on.

# Further Discussion

Mr. Perez There is no objection to the adoption of the amendment, and I'd like to just clarify the fadd which the sector of the sector of the sector badd which the sector of the sector of the cluded as political subdivisions, and there are others where they should not; and it is the intention of the committee at a later time, when we get to the definition section, to exclude school boards under the definition of a political subdivision, and then include them in each case where the specific authority should be given to school boards to do certain things. This amendment would make it consistent with the overall plan of the article, therefore, I urge you to adopt the amendment.

### [Previous Question ordered. Amendments adopted: 92-13. Motion to reconsider tabled.]

## Amendment

<u>Mr. Poynter</u> Amendment No. 1. On page 12...this is offered by Delegate Pugh. On page 12, delete lines 23 through 32, both inclusive, in their entirety and on page 13 delete lines 1 through 8, both inclusive, in their entirety and insert in lieu thereof the following: "Section 23. Except as otherwise provided by

"Section 23. Except as otherwise provided by law, any political subdivision may, but shall not be required to, exercise any of its authorized by in competition with near or primoling, loubdivisions, either with the state, the United States, or agencies thereof."

## Explanation

<u>Mr. Puph</u> Mr. Chairman, fellow delegates, 1 think inis expresses the intentions of the committee. It does delete the objection that was raised as to whether or not one of the political subdivisions could do business with Cuba or Russia or some other country, and it limits their rights to do business with other political subdivisions, either within this state or within the United States, or any agencies either within this state or within the United States. Other than that it does not change any of what the committee was attempting to accomplish in its many lines of language. I yield to questions.

### Ouestions

Ms. Zervigon Mr. Pugh, I understand your intention, but I'm worried about the words that are being used. You say "any political subdivision may, but may not be required to exercise any of its authorized powers or functions." Required by whom?

<u>Mr. Pugh</u> Well, by the legislature. There was your section in the committee--perhaps you're not on the committee, I don't know-but the committee wanted that language in that you couldn't make them do it. You wanted to allow them to do it but you couldn't make them do it, and that's the purpose of the language "but shall not be required to."

Ms. Zervigon Mr. Pugh, isn't it a fact that sometimes the federal government requires regional cooperation before federal funds can be applied for?

<u>Mr. Pugh</u> Lady, if they don't want to cooperate to the extent of getting the funds, then that's perfectly all right.

<u>Ms. Zervigon</u> But they may...you're saying that they may not be required to by the federal government.

<u>Mr. Pugh</u> No, ma'am. There's nothing we could put in this constitution that can in any way bind the United States government through its own constitution.

Ms. Zervigon Well, my problem with it is--it seems to me that in order to be allowed that regional co-

operation, e pecially of one parish dissents, you would have to go to the legislature and get a law prividing otherwise. Wouldn't that require waiting a year in order to receive those funds?

Mr. Pugh Quite frank y, I do not think it does

Mr. Too. Mr. Pugh, wouldn t you think that the constitute proposal also it clearer, as Mrs. Zervigon was asking, that we were just saying that the legislators and not rive this copertion even the governing authority of a parish could not require two political subdivisions within the parisn to coperate.

Mr. ug | d n't find a distinction or difference between the two. I'm erely saying we re saying the sale thing in about six lines, that's all, in-"tead of what amounts to a half a page.

Mr. Tooly Well, it's your intent on that they inall not be required by the legislature?

Mr. Pugh That is correct.

Mr. Roe er Mr. Pugh, would you agree with my personal observation that your amendment, and if passed, thereby the section as you wrote it, suffers fro the same statutory concept as the section is previously written low.

Mr. Pugh here is no doubt in ind that this is purely legislative, if that is what you're trying to say. I'd rather do without the whole section, but apparently no one, or not enough people, feel that way about it.

Mr. De Bieuz Mr. Pugh, there is only one question that I have with reference to your amendment. think it's much, much better than the proposal, but that word require—as you well know, there are very any judicial districts that overlap parishes, and in which the legislature has required the parish it does and the click of the parishes. So that the legislature has required the particle it does and the click of the parishes and assistance district attorneys, in those respective districts. Weld that particular provision in your a endment here nullify those laws insofar as the local political parishes are concerned in making those contributions, because it says "it shall not require the to". I'm just wondering, it is ht put those in jeopardy.

Mr. Pugh If you're concerned about the word require<sup>11</sup> you can use the word 'obligated' if you wish, and I think the sense and the essence is the are

Mr De Blieux. That the only thing that I find that ight be questionable in your amendment a you have it pripoled.

Mr high - have nu objection to the word of ingated instead of required. I think in this frictione they both have the are meaning

Me surver Mi logh, I kniw what you're try in to Jo knir, but I in it surve that you we done to know you are that this would read, if we take out in of the louie here, that this would say even as thereite privided by law, any publicial solidivision chall not be required to even the any yf it authent led power, etc.

Mr. Figh You don't have the permissive. You don't have the "may" in there

P. Net well what I getting at , I thins the energy of therewise privide by law, in differ the ay a well as the hall not, emit that is from then except a, otherwise provided by law mean that the legit atoms wild per an art t require the law in that would be an exception to the hilling. I that more the Nr. Pugh think the while sell dependent on the will rithe egl ature that's the reason think the whole section is leistative in nature, that if the legislature doein t wait y ut d anything, all it's gott d is say so, but we see to want to have these artilles in here, and this, think, expresses what you want.

### Further Dislu 1

Mr. Perer Ladies and gentleen if the monition, mould inte to sugget to you that the sprobably one of the best articles awearing in the ocabovermment Article beause of the fact that it provides voluntary cooperation between pittal ubdivisions, but does not require texcept under certain conditions provided in aragran. Delives that you can see from the texcept under certain conditions provided in aragran. Delives that you can see from the texcept under certain conditions provided in aragran. The text of the set of the text of the provides of the set of the text of the provides of the set of the set of the which must be said in a few ore write. That this really means. I have a question even that says but shall not be required to, that the voters sight even vote that something should be dine and the local government could come alling and say mon, we're not going to do it, you can't require uit do the text of the set of the set of the text sol suggest to you that this is a we'l renered article. It has as a basic concept a voluntary cooperation without forced cooperat m, exist under certain conditions, and I be text that we tay tay good article here, and I don the leve it saying to serve any useful purpose to cut out four if we lines and end pwith something that are really don t level that the sist so is interfire. unce uit so is upper the set of the set of the section to serve any useful purpose to cut out four if we lines and end pwith something that are really don t level that the sist so is interfire. Unce uit so propared by the coulting.

### uestions

Mr. Drew Mr. Perez, as Mr. Pugh s a enument is drawn, isn't he, in fact, insertin a coult tutional provision that can be completely overrimen by statute?

Mr. Perez Yes, that s correct-

Mr. Kean Mr. Perez, as under tan Mr. Tugh arend ent, he would delete entirely. Second and would he not

Mr Perez Yes, he would, and that what it er ne because of the fact that the ection hibit the legilature fro, by a notice rule, really in liaiting partine whet we have a re vision earlier in the onstit the win receive two-third of the vice of each of the armerin order to hange arm in line it the armerin partine, and if we get vil fith, the we int be in a poilting where the your the bas were the Could one in any order the sine bas were the could one in any order the sine is you ee act of the eight atweet

Mr Jugh Hr erez, in a we't Hr rew, said the legil ature ou d'in affect, airride this, did you not what way your arwee

By force Wy answer to that was yes because of the fact that you would have a shift of a sysvector which would as greater to transition to the base and a thread regime of the base at the unday medified, and was that you with out it in where we're tyrn to sive period the automotive to go formal with which as some as a set of the challenge is done as a system as, set to the automotive for your, you and that.

No ogle in not type, te this tat the Terlah e and the very are his er the exite of the content of the e, are out

Mr. e.e. N. ir nertheet stin, if you hat either Al, that any t

cal subdivision may exercise," and so forth, "except as the legislature shall provide otherwise by law," which means that they've got to come and take it away from them.

<u>Mr. Pugh</u> That's right. In other words, there's no difference insofar as the legislature is concerned, between my amendment and the original proposal by the committee.

<u>Mr. Perez</u> Except that it would have to be a prohibitory situation under the way the committee prepared them.

[Previous Question ordered.]

### Closing

Nr. Pugh I don't wish to labor the issue. I merely wish to add the words "or school board", at the request of the gentleman to my left, after the words "political subdivision." I withdraw the amendment for that purpose. I reoffer the amendment with "or school board" added to it.

<u>Mr. Poynter</u> The previous question has already been ordered, Mr. Pugh. I think Mr. Burson's got some amendments prepared that are up here that that effect...just let it go as it is.

[Amendment rejected: 22-77. Motion to reconsider tabled.]

# Amendment

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Florg]. On page 12, Tine 26, after the word "within" and before the word "the" delete the words "or without".

# Explanation

<u>Mr. Flory</u> Nadam Chairman, and delegates to the convention, what the amendment does, as read, was on line twenty-six, delete the words 'or without." Now, the reason for the amendment, of course, is to prohibit a political subdivision, or one or more, not necessarily from forming joint agreements with either the other states, but particularly, I don't believe that we ought to allow a political subdivision, or the state or anybody else, to contract or enter into an agreement with any foreign power or agency thereof. That's what this amendent our political subdivisions might form some agreement with a foreign power or a subdivision or agency thereof.

### Ouestions

<u>Mr. Dennery</u> Mr. Flory, as I understand your amendment, it would prohibit an agency of this state from entering into a contract with an agency of another state within the United States. Now, I don't think you intended that, did you?

<u>Mr. Flory</u> It would do that, Mr. Dennery, as I said. My objections don't necessarily lie in that direction, but in the way that the section is worded, it allows interstate compacts which the legislature has rejected on represented occasions--the state, with other states, in forming compacts. It also applies to foreign power. My main objection is to the foreign power, while I am still opposed to the regional government concept.

Mr. Dennery Well, I agree with the second part of your reasoning, but what bothers me is that, for example, the Educational Television Authority might well want to contract with the Mississippi Educational Television Authority to get some programs from it, or to sell some programs to it, and would this prevent that?

Mr. Flory Possibly it could, yes. I'll be honest with you.

Mr. <u>Perez</u> Gordon, there was no intention, of course, that this amendment would apply to any foreign power, and so forth, and l'm sure if anybody the strend beyond the state of Louisian into an adjoining state, and I was hopeing that-we do have a provision on levee districts which battor-I was hopeing we could knock it out of the levee district section if we had it in here, and I'm respect to some of the border parishes not being able to cooperate with adjoining state.

<u>Mr. Flory</u> Madam Chairman, could we have about a one minute recess? I think we could resolve it then, if that's the issue, without any problem whatsoever.

Mrs. Miller We'll stand at ease for about three minutes.

# Recess

[Quorum Call: 86 delegates present and a guorum.]

# Motion

<u>Mr. Flory</u> Madam Chairman, and delegates, I would Tike to now withdraw the amendment, and suggest to the convention that we pass over this section because we have, In our discussion here which J thought was extremely fruitful, brought up some very serious problems that we face on this section insofar as the ports of this site and all art thought by the ports of this site and all art thought here, of course, do we want to interfere with that. So I would suggest, and I believe that a comromise can be reached on this fssue, and ask that you would pass it over to give us an opportunity to do that, so that we will not do violence to the international trade aspect of our state's economy.

[Motion to pass over Section 23 adopted without objection.]

Reading of the Section

Mr. Poynter "Section 24. Assistance to Local Industry by Political Subdivisions Section 24. (A). Subject...

[Motion to warve reading of the Section adopted without objection.]

### Explanation

Mr. Cannon Ladies and gentlemen of the convention, the committee worked long and hard on this, and I think it bears your serious consideration. What we have tried to do is distinguish the difference between industrial areas and industrial inducement districts, core as commonly known, industrial districts which are primarily methods of in authorizethis is not any takeoff from what presently exists-to authorize political subdivisions to induce industry to come into our state and locate by providing a financing wenicle with it. The departure is to extend the authority to deep-water port commissions, and deep-water port, harbor, and terminal districts. In doing this they are also State book commission. I think that there are several things we need to look at. Whenever the Superport is built, and wherever it is built, it will have serious economic effects on our deep-water ports, particularly those which handle buik liquid cargo. I think that we should provide them additional revenue raising powers and functions. Again, this is simply part is today will over the State of Louisian have the power of industrial districts, with the

exception of of the Greater Baton Rouge Port Comission — If we adopt Section 50, which I would hope that we would, which Provides that all existing deep-water ports, these ports that are engaing in foreign commerce that can acco ddate veSsels of twenty-five feet of draft or are, would blanket in the fact that the Greater Baton Rouge Port Commission could not have the power of industrial induce ent such as the Lake Charles Port, Harbor, and Temnnan District in South Louisiana, and the Port of New Orleans. I've tried to move around the convention, and explain this particular section and answer any questions before getting up here in the interest of saving time. If any of you have any questions, I de be flad to answer them.

### Questions

<u>Mr. Alexander</u> I notice one section here which has reference to agreements between, or by the parish, either with the state or any other political subdivision, and the language here could mean even outside of the United States.

<u>Mr. Cannon</u> Reverend Alexander, we are now on Section 24. This was Section 23 which was withdrawn because a serious problem...a serious concern that Mr. Flory had raised, and I think the committee ano several other members of this convention will be looking seriously at...that has been passed over. That was Section 23; we are now on Section 24, which is industrial inducement districts--the power of the legislature to authorize them to their various political subdivisions.

Mr. 0 Ne 11 Harvey, you gave us an example, I think, here in Baton Rouge that you were talking to us about earlier, where I understand the local governmental subdivision passed something like a fifty million dollar bond issue to install pollution equipment in local industries here Could you give us that example?

Mr. Cannon Yes, sir. This was part of Environmental Protection Agency's requisites. Mr. Kean was the attorney handling the bond Sale, I believe, for Exxon--where they were mandated by the federal government to clean up all the rain water and all of leans and recisite so doing this for Exxon, but industrial revenue books were used. It was not an obligation upon taxpayers of this state. These bonds were used through the public industrial bond vehicle based on the financial statement of Exxon, which is prestry good, and this is not an obligation on the taxpayers of East Baton Rouge Parish. I think in the...who is the better inducer of industry? I think ports, because they are right there with their hand on the puise of industry.

Mr Pugh Sir, does not the second line of this section provide, the egislature may authorize? I t not true, we've already, in the legislative ention, authorized them to do what you all contemplate doin here?

Mr Cannon fes, sir, it does, and I thini that that's a good point because it's also, in saying 'the legislature my authorize, it implies a prohibition for every political subdivision of this state, without the legislature s author [s, from going off selling bonds and plaining the financial integrity of this state in jeupergy I think that the language is such that it implies that they can't do I's without this authority.

Mr Pugh I understand that The point I was raiing is whether in not this wasn't purely legisla tive in nature

Mr. annin say it appears to we to be a prohibition against pulltical subdivisions from doing this on their (which a limitation on the power of political subdivisions) Mr. The Marvey, n lear what we id a the ubtor title, don't you feet, is by right n =, we should have a definite definition of what a deel water port is if we're git ratify elf these other port autorites through ut the state that we took out if the constitution, think to more than priper at this te to have a definite definition of deep-water pirt. In these is the a guise that we should not get in the right n w

Mer. Gamman That is correct 1 suggested in the committee that we real y take p definitions first if the convention will loss on pare 28, the 'ai t page of this proposal. A first on pare 28, the 'ai t page of this proposal, definition will be the deep-water part, harborn easist fact. It is a suggest that the part, harborn easist fact. It is a page of this part, harborn easist fact. It is a page of deep-water part, harborn easist fact. It is a page of deep-water part, harborn easist fact. It is a page of deep-water part, harborn easist fact. It is a page of deep-water part, harborn easist fact. It is a page of deep-water part, harborn easist fact. It is a page of deep-water part harborn easist fact. It is a page of the State of Loss in the fact. It is the part of Saton Rouge, the bort of hem Orleans, the Greater Baton Rouge the Bort of hem Orleans, the Greater Baton Rouge the bort of hem or least on the state part and as the water parts presently exiting in our constitution. The question was raised as to whether or not the Port of mere reast, which is a nagery of the State of Louislama, and the Greater Baton Rouge for the sufficient of the state of Louislama, and the deep-water parts page in the fact. The angeoger is in here, gentlemen, to are the part of a state.

Mr. Ulio Don't you feel that we incuid have further clarification until we air out everythin; before this convention as far as pirts are concerned?

Mr. Cannon No. Dr. 110, 1 gc n to nave t d'sagree with you i don't think to be a rewhat we're taiking about is a general i eot of deepwater ports. I he, wherever they are and wherever they happen to be, and 1 liked Mr. Guart so statement the other day about, you know, a four stagoging actively in foreign coursers and at the sogging actively in foreign coursers and at the think that they would qualify at deep-water rt, as the legislature has privided that they be created

Mr Roy Mr ammin, in i you ave it in neby found and declared that the pure dense to see accomplished herein are out, actions are releas purpores and its will be a ull emerit to the point (all underson and the second are and did in action in the second are to see and the the equilation of the second are to see and the the equilation of the second are to see and the fire equilation of the second are to see and the fire equilation of the second are to see and the fire equilation of the second are to see and the fire equilation of the second are to second and the fire equilation of the second are to second movem be it sated

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He annon wel, this tay all wat suite a induce ent sister to resent provide

A end ents

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Jenkins], on page 13, line 22, after the word "acquire" and before the word "and" insert the following: "by purchase, donation, or exchange" Amendment No. 2, on page 13, line 24, after the

Amendment No. 2, on page 13, line 24, after the word "acquire" delete the remainder of the line and at the beginning of line 25 delete the words and punctuation "or otherwise," and insert in lieu thereof the following: "by purchase, donation, or exchange"

Amendment No. 3, on page 13 delete lines 29 through 32, both inclusive, in their entirety and on page 14 delete line 1 in its entirety.

# Explanation

Mr. Jenkins Mr. Chairman, delegates, let me call your attention to Section 27, which is entitled "Acquisition of Property". You'll notice in there that acquisition of property is granted to any political subdivision and defined as "acquisition by itcal suddivision and derined as "acquisition by purchase, domation, expropriation of the sub-purchase, domation, expropriation, obsivision the authority to acquire property, you are giving it the power to expropriate property. Now, the effect of the first two amendments is to make sure that these industrial districts cannot acquire property by expropriation to give industrial plant sites to people or industrial plant buildings. If you'll look at Amendment No. 1, it affects line 22, and it says that "when industrial plant sites are acit says that "when industrial plant sites are ac-quired, they can be acquired by purchase, donation or exchange." But, you shouldn't allow private companies to have the authority via the state to go out and seize people's sites and then build industrial plants on them. That doesn't make sense; there's too much industrial land available to allow that authority. The second amendment is on line 24 where it says, 'to acquire through putche's purchase, domation or exchange. "Now here we're talking about the acquisition of industrial plant buildings or industrial plant compent. Surely buildings or industrial plant equipment. Surely we don't want these districts to be able to acquire industrial plant buildings or industrial plant equipment, machinery or furnishing, by expropria-tion. That would to favor one aspect or one group tion. That would to favor one aspect or one group of our population at the expense of another. The third amendment takes out Section (B). Now, Sec-tion (B) has no place in this constitution. Here's what it says; it says "it is hereby found and de-clared that the purposes designed to be accomplished herein are public and proper legal purposes, and will be of public benefit to the political subdi-vision, Deep-Water Port Commission," or so forth. It is imposible for us to say here that any given deep-water port to industrial district or political subdivision will de rhines that are of a nublic. subdivision will do things that are of a public benefit in the future. That is a question of fact Subdivision will do things that is a question of fa-benefit in the future. That is a question of fa-to be determined under the citcumstances at that time. The question of public purpose, of course is plays into this expropriation question because it plays into this expropriation question details in a series of the series public purpose. That depends on what they're tak ing. It depends on why they're taking it, and it just doesn't make sense to say that here in the constitution. So, I urge the adoption of these three amendments: to limit acquisition of industrial sites to purchase, donation or exchange, not expropriation; acquisition of industrial plant buildings and machinery and equipment to purchase, donation, and exchange, not expropriation; and to leave it to the facts of the case, in the case of Section (B), to determine whether or not it is a public purpose, in a given circumstance, as to what an industrial district does. So, I urge the adop-tion of these amendments. It doesn't really in any way affect the merit or the vitality of this section.

### Further Discussion

Kean Madam Acting Chairman, fellow delegates, Treal Turn strengthin to the main state proves the sector 24(A), which says, "subject to such restrictions as it may impose." It seems to me that that gives the protection that Mr. Jenkins would desire to build into the constitution, which at the same time, if built it not the constitution, could well the hands of the use of this section in some tie The use of the use of this section in Some instances. I can foresee, for example, particularly with respect to (A)(2), which talks about providing for the establishment and furnishing of inviding for the establishment and furnishing of in-dustrial plants for the conversion or processing of raw farm or agricultural products. One of the earliest uses of this particular type of govern-mental financing for industry purposes occurred in the parish of Washington, where there was a great surplus of milk at that time and a need for some means by processing of converting that milk. Under the circumstances, through the use of industrial processing of which was the part entirely be pos-sible in order to carry out a program such as that, purpose of building that processing plant, that you might have to expropriate. On the other hand, most might have to expropriate. On the other hand, most of the financing that's done pursuant to this secor the rinancing that's done pursuant to this sec-tion, is respect to industrial revenue financing where there's no need to utilize expropriation. You work it out with the industry and there's no problem involved. You don't take anybody's proper-ty. You simply have the industry which already has the property or itself acquires it. It seems to me we need to have the flexibility that's built into this section to acquire the property or the sites, and so forth, through purchase or otherwise and leave it to the legislature to impose such and leave it to the legislature to impose such restrictions with respect to the use of that author-ity as it may see fit. I don't think Mr. Jenkins' amendments would necessarily kill the section, but it would certainly cripple it, and it would certain-ly reduce or prevent its use in areas in which there might be some need for the right of expropriation to carry out a particular program. As long as the might be some need for the right of expropriation to carry out a particular program. As long as the legislature has the right to impose such restric-tions as they might wish to impose. I think we've got to have the...we've got to have confidence in the legislature to properly protect the property rights of the citizens of this state, and that gives them the ample authority to do it in the instances where it's necessary for that purpose. So, I sug-gest to you that we reject the amedment and adopt the committee proposal as presented.

### Questions

<u>Mrs. Zervigon</u> Mr. Kean, I'm looking for some Clarification on this point of declaration of a public purpose. If you declare that industrial inducement in general is a public purpose, do you necessarily ratify every act that anyone may take claiming that he is acting under that general authorization?

Mr. Kean The design of the second part would just simply be a recognition that this type of financing constituted a public purpose. It would obviously be a question for the courts to resolve, in light of the language that was used in the prior section, as to whether or not it, in fact, was a public purpose.

Mrs. Zervigon But it wouldn't prohibit the courts from speaking on every single case that came up?

### Mr. Kean No.

Mrs. Zervigon The question would be if it were indeed implementing the public purpose of industrial inducement.

Mr. Kean That's correct.

Mrs. Zervigon Thank you.

Mr. Roy Mr. Kean, I appreciate your candor, and you do admit that this whole section, then, implies

Mr Ros hat's the out of it, snit it?

Mr. lean The authority not, the purpose of the to provide a leans ly which you could constitution-ally carry out industrial induse ent programs through financing

Mr. Ruy No, but you do ad it that Mr. Jeniins , amendients, insofar as if pelle want to pay atten-tion and listen to what's going on about it, do prevent expropriation of private property for in-dustrial site develop ents by ind strial sts who come in is that right?

Mr. Yean This relates to act on by any political subdivision or by the deep-water ports. It's got nothing to do with any individual who comes in.

<u>Mr. Roy</u> Whatever they do, if the industrial port decides that it...it thinks that it ought to expro-priate property, under you all s provision, it may do so. Is that right?

Mr. Kean If you had a situation where the Port of New Orleans wanted to bring in a particular indus-try which it hough twas desirable for port pur-poses, and was goin to do it through revenue fi-nancing, it would have the right under this to ac-quire a site by expropriation. If necessary, in order to do it.

Mr. Yean 1 think you've covered that over in the Bill of Rights, Mr. Roy.

Mr. Yean well, I dun t think that gives the broad authority of the legis ature to ay you ould take

Further Distuision Mr. Rower 1 just want to take a misent, Made hairman and fell welfe ate, to rouppint Mr genting' amendment, and i know it's mowhat com-tusing, vent the day if the day given the of the day and given the nature of the hour we of the day and given the nature of the hour we of the day and given the nature of the hour we of the day and given the nature of the hour we of the day and given the nature of the hour we perform the test of the day of the day of the test of the day and given the nature of the hour we can be the day and given the nature of the hour we can be the day and given the set of the set of the test of the day and the day of the day of the test of the day and the day of the day of the test of the day and the day of the day of the test of the day of the day of the day of the test of the day of the day of the day of the test of the day of the day of the day of the test of the day of the day of the day of the test of the day of the day of the day of the test of the day of the day of the day of the test of the day of the day of the day of the test of the day of the day of the day of the test of the day of the day of the day of the test of the day of th

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Mr. U Neill Mr. Roeler, does t this neil of r re to the right to property, which this coven tion adopted in previous setting, and els in telt

Mr. Rooter well there no setting finat and think sould have setting this this se-vention of disting out for prints, set a vita r int to it, and all the points an, Mr. Skell, he slouked out for ur right this area without har ing the deer water ports. I

Mr. u'Neil well, another uelt n, an aveitt facetious, whild you say that the articlaric articlaric vision is the lear, oncise an use that we all

Nr Roy Buddy, you rele ber our foul on an all the fight we had the left of with relect to contributing out it es (in the benefit of the public). Do ou relecter that

Mr Roe er Yes, 1 do, hr

Mr.R.e.er. Lagree tout ettri, att don't think the interintend for to t that far, guite frankly lithey di, titk were staken lithey dian t, tertain yw sy Language toarn it u

My Velayuez The way (1) is white, is a wouldn't it be purified in the reserve is te combid' and, out he ray, and the right of a a site to by eise, but a they was the have inproved the property!

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<u>Mr. Roy</u> Thank you, Madam Chairman. Ladies and gentlemen of the convention, I know the hour is late and we may want to get out of here, but we're just really getting into a problem here. We fought for three or four days on Section 4. We went over the idea of property rights. There are very few people in here, I think, who are as liberal as I am about the rights of government to do what it can for the mass of government to do what it can for the invest of government to do what it can for the the rights of government to do what it can for the mass concerned in Section 4, and I thought we had fought that battle, and here, all of a sudden we have coming right back at us the right of a legislatively created body of some sort of another to come in and start expropriating people's property for what they think may be a good purpose. I'm not against that thought at all, about good purpose and helping out...helping industry, but if this thing goes too far, we a sud of model everything we have the people aren't really paying attention to what's happening here. Then we go to Section (B) and irrespective of what the other gentlemen feel, when you constitutionalize and say, 'it is hereby found and declared that the purposed seigned to be accomplished are public and proper legal purposes and will be of public benefit to the political subdivision,' it's hard for me to see some district court sublic public and proper legal purposes and will be of public and proper legal purposes and will be of public and proper legal purposes and will be of public and proper legal purposes and will be of public and proper legal purposes and will be of public and proper legal purposes and that and eta zies ow, when the same committee tried to say that the provisions of this local governmental article would be liberally construct in favor of the political subdivision, you remember what a hassle that raised. Everybody knew better that mat, and we took that out, and here we're going right back again and we're constitutionalizing, sayin

### Questions

Mr. Cannon Mr. Roy, did you know that every deepwater port in the State of Louisiana right now has power of expropriation?

<u>Mr. Roy</u> 1 know that, and 1 wouldn't mind you spelling it out, but not saying "subject to such restrictions as it may impose, the legislature may," because the legislature may say that all they have to pay is the assessed value of the property front henceforth.

Mr. Cannon Did you also know that the only deepwater port in the state of Louisiana which does not have industrial inducement district authority in the existing constitution is the Greater Baton Rouge Port Commission? This was an inequity; we tried to take the language and make it troad ano general to apply to all deep-water ports. Did you know that?

<u>Mr. Roy</u> As a matter of fact, I wasn't aware of that, but that doesn't change my opinion about what trouble we are getting into on this particular section.

Mr. Derbes Mr. Roy, isn't the committee proposal subject to Section 4 of the Bill of Rights Article?

Mr. Roy I don't think it is.

Mr. Derbes You don't think it is?

Mr. Roy I don't think it is because it says, "only subject to the restrictions imposed by the legislature," if you read the first sentence. This is a special spection dealing with a special problem, and I would think that they could argue they are not subject to the provisions of the court.

Mr. Derbes No, what I'm suggesting to you is it

would seem that anything other than a purchase, donation, or ordinary acquisition would have to be an expropriation, and that would ipso facto make it subject to the provisions of Article IV of the Bill of Rights, wouldn't it?

Mr. Roy Well, it could, but to the extent that would...when you talk about the right to the jury trial to determine the compensation, the legislature could say, "You're not entitled to that," when they expropriate under 24. Read the first sentence.

<u>Mr. Derbes</u> All right. Let me take it a step further. You don't think that the legislature's authority in this area could be trusted? Is that essentially what you're saying?

Mr. Roy Well, we're talking about...'im not talking about trusting individuals; I'm talking about a principle. Presently, the idea of taking land for levees, I don't agree with, that you shouldn't be paid what you're owed, but you can. No, my answer to that is, "No, I would not trust the legislature here with respect to that issue."

<u>Mr. Derbes</u> I wouldn't mind spelling out the provisions of expropriation in this area, or changing the language of the opening clause of the sentence, like "subject to the provisions of Article IV of of expropriation, when it's subject to legislative authorization, seems to me to be a real hamstring.

<u>Mr. Roy</u> Well, that's the difference in our philosophy, Mr. Derbes. I just don't believe that people can go around expropriating other people's property without real good reason.

# Further Discussion

<u>Mr. 0'Neill</u> Ladies and gentlemen, I really wish we hadn't gotten into this today. I think we're all tired and we're about ready to go home, and rule to property rights. It's a shame that such factionalism has gotten into this convention that it's the same people arguing against the same people, and some of them don't even care what they're arguing about. I think that that's a bad thing to start; it's a bad thing to foster, and I think that maybe we should forget that right now, and think property rights in Section 4 of the Bill of & Aphts property rights in Section 4 of the Bill of & Aphts property rights in Section 4 of the Bill of & Aphts property rights in Section 4 of the Bill of & Aphts property rights in Section 4 of the Bill of a Aphts property rights in Section 4 of the Bill of a Aphts property rights in Section 4 of the Bill of a Aphts property rights in Section 4 of the Bill of a Aphts property rights in Section 4 of the Bill of a Aphts property rights in Section 4 of the Bill of a Aphts property rights in Section 4 of the Bill of a Aphts property rights in Section 4 of the Bill of a Aphts propriate. I think this is a very carefully drawn amendment, and I know very well thought out, and I we'r citize pickling up this constitution and reading this section couldn't make heads or tails, or anything, out of what the section means and what it actually says, and what ti actually does. I hope that you all pay attention to the debate very carefully. I know you're treed, and I want to go to the football game tonight and everything, but let's bake people's property. I weally don't eign to inho the people who are against this amendment actually realize the extent to which the right to property would be violated by the adoption of this section as ti is.

### Questions

 $\underline{Mr},\underline{Pugh}$  Quite frankly, I'm perhaps more concerned about the authorization to the political subdivision than I am the deep-water ports, insofar as expropriations are concerned. Is it not a principle of condemnation law that the person's property as condemned, just compensation paid to him, is that based upon the uses of the land then occurring and not its potential uses?

Mr. O'Neill Yes, sir. Exactly.

[1527]

Mr Duch Then, is it not a matter of fact that a pointical subdivision could exporpriate at mans raw and, paying him on the basis of that being raw and, turn right around and create a industrial subdivision and sell that poor fellows land as industrial property and pocket the difference?

Mr. O'Neill Mr. Pugh. Im thinking the exact same thing you are, that the sugar cane land down real close to the river, the local political subdivision could come in, expropriate that, pay its price as agricultural land, and then turn around and resell it as industrial land, and I think that is the point you're attempting to make.

# Mr. Pugh hat's right.

<u>Mr. Burson</u> Mr. O'Nelll, do you know that it is so well established as to be beyond question that the standard of compensation in expropriation cases is the highest and best use of the land?

Mr. O'Neill Well, under this, Mr. Burson, the legislature could say 'assessed value,' as provided by law, Mr. Burson.

Mr. Burson The courts...the question that 1'm directing to you is, do you know that the courts have consistently held, as far as I know, in the many cases that 1've handled in that area...Mr. Willis and others who ve handled cases in this area, 1 don't know of any case where a court has not held that a landowner in an expropriation case was entitled to anything other than the highest and best use of the land, whether it be...

Mr. <u>0"Neill</u> Well, Mr. Burson, you know that if the legislature provides otherwise, that it's going to be otherwise, and that's how the courts are going to interpret it.

# Mr. Burson I disagree.

Mr. Stagg Mr. O'Neil, I don't know whether you're famillar with the case of City of Sneeveport v. the Reyer Corporation which, in 1953, established as precedent in this state that the judge must receive testimony on the value of a piece of ground as its highest and best use would indicate and that that evidence would be available to anybody in any expropriation case in Louisiana and has been so for the last twenty years.

Mr O'Neill well, Mr. Stagg, don't you agree that if we provide otherwise in this constitution and by law that that's what the courts are going to say?

Mr tagg don't be leve so. The precedent is already established about what a man's land value must be based on when you take it.

Mr . Neill well, then, if it is based on agricultural use, that' what he'l get for it

Mr willis. Mr O'Heil, put a question mark to this une. Frugerty shall not be Gisen or dawayed by the state ur its pulitical subdivisions except for public purposes and with just impensation paid to the uwner or into court for his benefit, and so on, entiling a private property owner to a trial by jury which is far beyond what we have in yestergere as proposed in this ionstitution

Mr. Neill Well, Mr. Willis, the authors of this section have already admitted that this probably won't apply to Section 4, the property article in the Bill of Rights.

Mr willi: well, we as individuals have differ eness of opinion send we as lawyers have more dif ference of opinion. Inis bill of Nynts – pot a que tion mars to this this bill of Nynts dombrates thi entre solition, and the legislature can never, rannit take private property or any political odd wi now without this fill of Nynts can ting a

# shadow on it and iving that light

Mr. Nell well, Mr. willi, would yill be willing to say that this section shall be subject to the const totion?

Mr. will is . don't need to say that every section is subject to the onstitution because to s

Mr. O Neil well, we ve had so in here that they said they weren t, and they intended that they weren t

[Notin t revit t ther idia adpted without beti

# [I Jo na.

Tuesday, October 2, 1973

# ROLL CALL

[81 delegates present and a guorum.]

# PRAYER

Mr. Abraham Our Heavenly Father, we thank Thee for this day. We ask that You watch over us in our deliberations. We ask that You give us the wisdom and the courage to do what is good for the people of this state. Direct us in all our ef-forts and may our lives be for Thine end. Amen.

# PLEDGE OF ALLEGIANCE

# READING AND ADOPTION OF THE JOURNAL

# UNFINISHED BUSINESS

# PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Poynter Committee Proposal No. 17, introduced by Delegate Perez, Chairman on behalf of the Com-mittee on Local and Parochial Government, and other delegates, members of that committee: A proposal making general provisions for local and parochial government, levee districts, and ports, the financing thereof, and necessary pro-visions with respect thereto. The status of the composal is the committee by

The status of the proposal is the committee has In a status of the proposal is the committee has adopted as amended, Sections 1 through 23 of the committee proposal with the following exceptions: Sections 2, 4 and 10 have been deleted by action of the convention floor. Also the convention floor has passed over and has not completed consideration of sections 1 y ander a file convention further sistance to jural moder to the convention further sistance to jural industry by Policical Schutzer. sistance to Local Industry by Political Subdivi-sions, and in particular, had under consideration, at the time of adjournment on Saturday, proposed amendments by Delegate Jenkins to said Section 24, which have been previously read. To make sure that copies are available, new copies of these amendments are being distributed at the present time.

# Amendments

Mr. Poynter Amendment No. 1 [by Mr. Jenkins]. On page 13, line 22, after the word "acquire" and before the word "and" insert the following: "by

Defore the word "and" insert the following: "by purchase, donation or exchange". Amendment No. 2. On page 13, line 24, after the word "acquire" delete the remainder of the line. At the beginning of line 25, delete the words and punctuation "or otherwise," and insert in lieu thereof the following: "by purchase, donation, or exchange"

Amendment No. 3. On page 13, delete lines 29 through 32, both inclusive, in their entirety and on page 14, delete line 1 in its entirety.

# Further Discussion

Mr. Cannon Ladies and gentlemen of the convention, myself and other members of the committee have pre-pared an amendment which will alter the committee proposal somewhat, and, I think, clean it up to the satisfaction of a majority of the people here. Basically, we are deleting the Paragraph (b) and we're coming..and we're asking to insert, somewhere around line 6, "the necessary public purpose." You will have it shortly. Then we are going to take the...Wr. Jenkins' language...let's see on page... 13, line (b) where there seemed to be some question 13. Time (b) where there seemed to be some question about acquiring property through purchase or other-wise, we've inserted the words "to acquire through purchase, donation and exchange" as Mr. Jeankins would prefer and "subject to Article 1, Section 4, South and the section of the section would not such as this. I think this should satisfy anyone when as environment that this section would not who has any reservations that this section would not be applicable to...under the Bill of Rights. I think it certainly would. I think we found one other flaw.

other riaw. Then, we also found something else that we felt needed to be cleaned up. If you will, notice on line 27 of page 13, right behind (c), it says "to lease, sell or otherwise dispose of," which would reas, sell or otherwise dispose of, which would mean that you could possibly give the property away. We have added the words "to sell, lease, lease-purchase or demolish, which, in some cases, you may need to demolish or tear down a portion of the improvements on the property to make the property improvements on the property to make the property more valuable. We have added those words "lease-purchase," which is what is done in New Drleans, I think. It is done in. I know it is done in Lake Charles; they use lease purchase arrangements, and then I tried to think of all kinds of possibilities where a port or an industrial district might be accomdated under the "otherwise dispose of" clause then i tried to think of all kinds of possibilities where a port or an industrial district might be an undeted under the "otherwise dispose of" clause an endment is being prepared at present and I would urge you...I feel like that this accomodates the people who had amendments. It's broad enough to do the job, yet restrictive enough that we are not going to have...what is going to ...what can't...it can't happen in louisiana, what happened in our neighboring State of Mississippi, where every little county, political subdivision, went out with their balanced industry...wit hagriculture with industry prought in little, you know, "mill thoustry prought in little, you know, "mill thoustry prought in little, ges know, "mill thoust of do ically in the garment. textile-related field. I just think that..and then they were...of course the overnight. I think we've got the safe restrictions and in that the legislature can impose restrictions and that they may authorize and that local..that polititail subdy wissions and fort, hards, luand that py districts, which they would grant this authonity to, would not go running off with some fly-by-night operation. I think we have cleaned the language up sufficiently in our amendment, which is forthcoming, and I'd hope that you would defeat this amendment and consider the amendment which is coming.

# Questions

Mr. 0'Nei11 Harvey, 1 haven't been able to read your whole amendment yet, but what is the basic difference between adopting these amendments and the new section that you are coming back with?

Cannon Well, I think what I'm saying is that in this language I have included the entire Last in this language I have included the entire substance of what you are saying, of what Mr. Jenkins' proposal was, as well as allowing expro-priation subject to the Bill of Rights. I think we have done this. I've also...we've also cleaned up 1 think we some language which would require the necessity of the section to deal exclusively, I think you will read under (2): "furnishing plants for raw agricultural products---" we've removed that where that it would be broad and general enough that it would apply to anything which would have economic impact upon the area and thereby the state. These words we have added; we've tracked the language of....

# Further Discussion

<u>Mr. Tobias</u> Mr. Chairman, fellow delegates, this amendment has been passed upon by this convention after somewhat heated debate. We passed upon the issue in Section 4 of the Bill of Rights proposal. It is an attempt to, in effect, destroy free enter-prise in the state. It is an attempt to reopen all of the issues which we have heretofore closed. I admit that my concepts of what I proposed, my amendment, failed. I consider it a moot point before this convention, but let me say this, the compromise that this convention eventually wound up with is far superior to what this amendment would try to do. This amendment would, in effect, destroy all of those provisions that we enacted in Section 4. It is an attempt, purely and simply, at anarchv.

[Previous Question ordered.]

Mr. enkins Mr. Chair an, delegates, et e refer to so e things that were said last aturday to try to put our whole discussion and context i review, where we stand in this section deals with assistance to local industry by pullitical subdivi-sions. It says that port co issions, or any foc overmental subdivision, can establish industrial governetal subdivision, can establish industrial experiences in this rections with the authority of it dealing in this section with the authority of port comissions to expropriate property to e pand industrial plants. Now, if local political sub-divisions are going to have industrial districts, they should not be able to expropriate the land for those districts. They should certainly not be equip ent, industrial machinery in order to have in those districts. The first amendment that i propose, Amendment No. 1, says that industrial districts can acquire property for industrial sites by any eans except expropriate on the second amendment says that 'industrial districts can ac-quire industrial plants, industrial districts can ac-quire industrial plants, industrial districts can ac-quire industrial plants, industrial expresent that's the second amendment. The third arend ent deletes Section (B). Section (B) of the committee proposal says that' that these industrial districts ...the purposes for which this section is estab-inshed, for industrial districts -----is a public pur-pose. The point of saying that it's a public pur-pose is to allow expropriation. Duy you see these this is not a public purpose in est cases. In rost cases, it would be taking from one private individual to give to another private individual, and the courts, in many instances, will not hold that to be a public purpose. The point of Se troub B though, is to get around facts and to get around awaids agy that it is a public purpose, whether on question of fact, the decided by a court in the circumstances in question. It is not a decision for a const tution to dae in advance. It would be ilogical, for example, to say that highways are a public purpose in every case. If we have four throughfares connecting two ities, and the gov-ern ent were to build a firth right in between the courd gravibly say it's not a gualic purpose, and certainly expropriation. For industrial district a question of fact to be deter med with the fact, a thand The three amendment then the firt of purpose in every case, a public purpose in every case, and here and say propriation for industrial district one prohibits eproperiation for industrial district one positi

a question of fait to be deter ind with the faits one prohibits expropriation for industrial Site. by industrial district, the ech do ne prohibit expropriation for industrial plant equipment, industrial plant, for actinery and thing, lite that, the third one takes out bettinn BL, de laring that out trial plants, for actinery and thing, lite that, the third one takes out bettinn BL, de laring that fount into third alended by points and on out the standard of third, lite that, the third one takes out bettinn BL, de laring that your can be the standard of third, lite that, the third one takes out bettinn by the standard of the third and be really a travesty. I with you would read be then BL is a plant were y instance the pulpuler of thir section are due to prove the bettinn are built action of fast, we and a y is constitution, in ad-tanter, it's a public purpus. In distinct, we this standard the section is a sufficient of stars, et all expressions to be the section of act is a constituation in a sufficient of stars of the section is a sufficient of the stars of the section is a sufficient of the stars of the section is a sufficient of the stars of the section is a sufficient of the stars of the section is a sufficient of the stars of the section is a sufficient of the stars of the section is a sufficient of the stars of the section is a sufficient of the stars of the section is a sufficient of the stars of the section is a sufficient of the section is a sufficient of the section is a sufficient stars of the section is a sufficient of the section is a section of the section is a section is a sufficient of the section is a sufficient of the section is a section of the section is a section is a section of the section is a section of the section of the section of the section is a section is a section of the section of the section is a section is a section of the section of the section is a section is a section of the section of the section of the section of section of the section of the section of the section of the

and fine and the second and second second and second s anon those who is a new of have a me t to Property Section ertainly the split of 1 was that we werent solving to all which is the sector to be expropriated we weren then to all with dustrial plants to be errorprated to the time that the of reasoning by adoption these are ents. There sing reason any dustrial at the time able to expropriate industrial at the time able to expropriate industrial at the time or equip net, as in A red ert N to we away with solid time the adoption of the time are a erg are different issues and lask a solid to use

And ents
Private and entry for a standard of the sta

was taken from Hebert v. The Vest Baton Rouge Parish Police Jury. I think it should satisfy the objection of anyone who had questions as to what public purpose was..or that whether or not this was a questionable public purpose. About five lines from the bottom, we have added the words behind (b): "to acquire, through purchase, donation, exchange," at them, specifically, subject to Arttoite 1, secfor anyone who added the words behind (b): "to acquire, through purchase, donation, exchange," at them, specifically, subject to Arttoite 1, secfor the subject to the Bill of Rights Section on Right of Property. Although no one had raised the question before, we did find some language out of the old Constitution which was included in here, that we (fill notified to erclew it up are said. to cell, this would allow them to give it away. We're thisking that...it was our thinking that this was possibly unvise to leave it in here and add the words "lease-purchase, or demolish"---to improve there will be...the land and its improvements will revert to private ownership rather than remain in public ownership. Of course, I think this, ...this is more flexible--the declaring of this public purpose, for the economic impact on the area. This products, which is rather specific. I think this, takes care of Mr. Burns' proposed amendment which would specifically state the inclusion of the timber industry and forest products. You can also thimk of the shrimp fishing industry and all this, and I don't think we want to see our constitution... our new constitution, our new document, to include a whole for years to come, as well as having enough safeguards in it, through the restrictions which the solid some time, futuristic and having the ability to satisfy the needs of political subdivisions and deep-water ports and our state as a whole for years to come, as well as having enough safeguards in it, through the restrictions which the legislature may mosone, as well as having enough safeguard

# Questions

Mr. Tobias Mr. Cannon, are you aware that this amendment again reopens the question that we passed on in Section 4 of the Bill of Rights proposal, because it opens up the question of whether this taking would be necessary and for a public purpose. Go back and read Section 4 of the Bill of Rights proposal.

<u>Mr. Cannon</u> I'm reading right here, Mr. Tobias, where it says "to acquire, through purchase, donation, exchange and subject to Article I, Section 4, Expropriation."

Mr. Tobias Right. As you read Article 1, Section 4, it makes two classifications of expropriation: those done by the public for public purposes which are not...you do not have to establish necessity and those that would be acquired by private. Now, your amendment, as it is presently drafted, would in effect make it a...it would being it out of the public sector and would make it...you have to establish necessity.

Mr. Cannon Again, that's an attorney; I'm not an attorney; I have consulted with attorneys, particularly those which have to sell bonds, and they say that this language is satisfactory and is not...and I think we have tried, or we have done our best to satisfy this one particular thing which...you're talking about the smallest imaginable fraction of the acquisition of property for industrial site purposes would fall under the expropriation category. As those of you who are attorneys know, there are certain tax advantages to the person whose property is taken. He has a longer period of time for which to reinvest his income gain from expropriated land. It may be...he may be very well satisfied with the price willing to be paid, but would prefer the expropriation route because of its advantage to him, tax-wise. Any other questions?

<u>Mr. Lennox</u> Mr. Cannon, is it possible that there could be some amendment drafted that would require fore Paragraph or Subparagraph 3 (b) and (c) would be invoked? I think what's concerned some people, that...local government would to out willy-nilly and tear down existing plants simply to recover the land and use the land for other purposes. Now, if there is some way that you could write into that... trovision which wood require that no reasonale alternatives exist. I think you might eliminate some opposition.

Mr. Gennon I would have no personal objection to it. If yow wish to draw the amendent, i'm...like I say, we have shortened the language considerably; and, I don't know, I feel that it satisfies these objections and these fears that people have. But, again, to spell it out even more, if you wish to add an amendment to this, should this pass, then I think that's a reasonable...

Mr. Lennox In any case, you would have no objection to such an amendment?

Mr. Cannon 1 personally wouldn't. No.

# Further Discussion

<u>Mr. LeBleu</u> Mr. Chairman and fellow delegates, l just want to invite your attention to the portion of this amendment that has to do with exportiation. In the past, l created two port districts in Cameron Parish. The bill authorized exporpiation under bills, i thought it was a good eroposition. However, if you stop and consider that when a lot of the land, especially along the Mississippi River here, was surveyed originally, it was surveyed with the aspect in mind of giving each landowner a certain amount of river frontage. A that time, that was certainly important because much of the comefor Another thing to consider that person has a strip of land that, say, that has a hundred foot frontage on a river that might be a quarter of a mille deep, 1,320 feet deep, but if, say, some dock board comes along and wants to exporpriate this property, they can expropriate his frontage, which possibly could leave that landowner with less valuable property to the back for which he would have no use. It would also take away the landowner's privilege of negotiating with some industry for that river fronteqe. This is a real serious problem to me, especially in our area where we have a lot of waterwhat you waites to exprove that would be satisfactory to everyone.

### Questions

Mr. Roy Conway, I...of course, I've been concerned about this whole section, but don't you agree that even though Mr. Cannon's proposal has some bugs in it, it's better than the committee proposal which, on line 25...24, simply says "to acquire through purchase or otherwise"? That...l take it, I was interested in what you were saying, and I take it, am I right, that you are for the amendment, perhaps, over the section proposed by the committee but would like to see the amendment dressed up better?

<u>Mr. LeBleu</u> That's correct, Mr. Roy. The only objection I have to it is that portion of it that deals with expropriation.

Mr. Ros of course, you realize that under time 25 of the constitute proposal that for otherwise cer-tanity means by expropriation. The only thing is, we don't lock in Article I, Section 4, provision of the Bill of Rights. That's why I m for Mr. Lannon's amendment, but I'd like to see it dressed up like Mr. Lennos suggested.

Mr LeBleu Well, I feel the same way, Mr. Roy.

Mr. o nter All right, the first set of amend-ents is offered by Delegate Avant. The amendment reads as follows:

Page 14, between lines | and 2, add the follow-

No property expropr ated under the authority No property expropriated under the authority of this article shall ever directly or indirectly be transferred to or leased to any foreign power, any alien, or any corporation in which the majority of the stock is controlled by any foreign power, a ien corporation, or a lien". Mr. Avant, "I've had..aburdance of clarity to the Enrolling Room. I fit's all right with you,

On page 14, between lines 1 and 2, and following

This...Mr. Chair an and fellow dele-Mr. Awant This...Mr. Chairman and fellow dele-gates. T think this is a very obvious amendment--what I'm driving at. Under this section, as it's been adopted so far, property may be expropriated for the purpose of resale to another private enti-ty. All my amendment does is to make sure that that private entity or person is not a foreign power, an alien, or a corporation that is controlled by aliens. In other words, if you are going to expropriate the property of a citizen of this country or this state, turn around and sell it to somehody wels for private use. I thigh the least

Mr. Laner Mr. Avant, I don't know too much about ports, but was wondering, do any of the ports in Luuisiana presently lease any property to foreign Jountries or foreign persons to use port facilities?

Mr. Avant I understand that some of them may, Mr. lanier; 1 don't inow. But, 1 do inow this, from what I read in the paper, that there is a treemendous usement on in the last everal month, on the part of foreign capital, to invest in uour industry in this tate and in thi, nation. Now, I didn't put any itrings on land that was a quired by volun-tary means. I didn't put any irring on that, but a y if you are guing to ue the power of govern-ent to expript aterrivate priverty for the pur use of reading it, then we mula citinate inep . Iblity that It on the resuld to a forein ower, an alter, mran alter incorristion. That's very siple, as far as I'm un erned

Mr. anter well, fiwe with tip ohtbit the e prope frotuing this property, why would it ale any inference of the property wall expressioned of a juice by viluntary mean.

Mr. Avan tright nut make a bit of difference tright, Mr. as ter, but it all a hell of a t of difference of

Mr Janter dhyl

Mr. Avant cause you are use the power of governments take y ropert, away from e against y wishes, and you are going to propile to traisfer it in some fashion to either a foreign power, a foreign corporation, or an allen. You ust and ram that down my throads; don't care nuw often

Mr. Lanier well, what I getting at, t ugh, if you wish to prohib t the alien fro doing these

Mr. Avant No, sir, no, sir I saw a very strong distinction there. If you want to e y ur prop-erty to a port com sis on or to only by else, and then they want to turn a ound and set it an alien, that comes under the head ng if their busi-ness, as far as I' cincerned But, when you us the power of government to take, ur or perty with out your permission, and then turn around a disel it to an alien, that's a nirse of another color

Mr. Conroy I said your a end ent, i ust releved a copy of it, and one of the question — was going to clarify was that it does perpetually print

 $\underline{\mathsf{Mr}}$  . Conroy All right, how, is there any reasing that you feel that the legislature  $\neg$  of t i pisse these kind of restrictions? It does note the auth-

Mr. Avant suppose that the legislature wild, Mr. Conroy. Whether they will, i don't know the I said, it just happens to be a satter that feel very strongly about, as a matter of prin ple, and I'd like to see it in the constitution

Mr. De Blieux Mr Avant, the que tim that the previously asked is along the line what is wirried and concerned abut I mover ed abot the word 'lease' in this amend ent you have becaute as you well hink, on the other side of the river at the port, we had a lit faution biles over there that were received -- those loyotal, i be leve they were, or Datsums-there were funt acres into each of least to the manufacturer in to subody in Louishana, but certainly wild prevent the tree the set of the set

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Mr velleus we, utwindere twe watt ut ur any frein fran pitator ritad iports e aue we or thave a are where ey an learent tor velle

Mr Avan t it to to that, 4+ e leu t n t in, t d that

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you if you don't think it might prohibit some of the foreign products from coming through. They'd just be passing through our port?

<u>Mr. Avant</u> Nr. De Blieux, if it prohibits a foreign corporation from leasing property that has been expropriated by that port over there, then that's exactly what I want it to do.

Mr. Flory Are you aware, Mr. Avant, in the question that Mr. De Blieux poses to you on the local port, that deal was between the port authority and R.N. Gonzales Company, which is a Louisiana based corporation?

Mr. Avant If you say so, Mr. Flory, I'm sure it's correct. I personally don't know.

# Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemn, I don't want to do anything here which is going to probably defeat our having some jobs for some of had previously been expropriated for the built had previously been expropriated for the built diale that. We've got three very important ports in this state that deal in, you might say, foreign goods that comes into this state: the Port of New Dreans, the Port of Stan Rouge, and the Port of lake Charles. I just think that having a provision in here that this property could not be leased to a foreign government is bad. I agree, we shouldn't built to far, is just stretching it a little bit too far. Tork that particular angle. If they could amendment on that particular angle. If they could with the word "lease" in it. I just think the sing bad amendment on that particular angle. If they could stretching it, but not say it is abd

# Questions

Mr. Lanier Senator De Blieux, would you agree with me that the way this thing is written, it says, "No property expropriated under the authority of this article shall ever directly or indirectly be transferred to or leased," that you couldn't even sublease to a foreign outfit that needed a warehouse or something like that?

Mr. De Blieux No way, under the provision of this amendment, there's no way you could do that.

<u>Mr. Lanier</u> In your opinion, what effect do you think that would have on future foreign trade with ports domiciled in the State of Louisiana?

<u>Mr. De Blieux</u> I think it would have a very serious effect upon our ports, Mr. Lanier; that's the reason I oppose that word "lease" in here.

Mr. Jenkins Senator De Blieux, the property across the river in West Baton Rouge where the Datsuns used to be, was it expropriated?

<u>Mr. De Blieux</u> I do not know, but I know that it was...in my opinion, there was a lot of foreign goods stored on it. That's the only thing I say. Now, as Mr. Flory said, it was leased by Mr. Gonzales, who is a local resident. Now,...but I can understand the situation where it could be leased to somebody that's importing goods like that, and I think that it could be very serious to our port.

<u>Mr. Jenkins</u> But, isn't it true that this amendment doesn't in any way discourage foreign investment or foreign use of property here unless that any structure of the second structure of the second zens? Isn't that the only instance where it could ever encumber any foreign trade, is if land is first taken from an American and then given to a foreigner? Mr. <u>De Blieux</u> Mr. Jenkins, don't you well know that a lot of our property that's used for public purposes has been taken from citizens through expropriation? That's what i'm worried about. It would seriously hamper the use of that property.

Mr. 0'Neill Senator De Blieux, I'm a little concerned that we're getting off point here. Doesn't this only concern land that has been taken by the government, exoropriated by the government? People here think that we're just talking about, you know, any corporation coming in here, period.

Mr. <u>De Blieux</u> Mr. O'Neill, if you will just look at the overall picture of this property, we are taking about not only property which has bee taken by expropriation, but property which may be taken by expropriation. I'm thinking that it will seriously hamper the operation of our ports. That's what I'm concerned about and worried about.

<u>Mr. Kean</u> Mr. De Blieux, following up that point, don't you recall that the property where the Greater Baton Rouge Port Commission is now located was expropriated? If you look at the case of <u>Miller v.</u> <u>The Greater Baton Rouge Port Commission</u>, you will find the expropriation suit.

Mr. De Blieux That's correct, Mr. Kean; that's why I'm concerned about this amendment.

# Further Discussion

<u>Mr. Casey</u> Mr. Chairman and delegates, this may look like a very innocent amendment that would not do a great amount of damage to anybody operating a port in the State of Louisiana, but I must warn you of this, that I have just spoken to the director you of this, that I have just spoken to the director of the Port of New Orleans to determine just how much damage this does. I must forewarn you, first of all, that occasionally they do have to exprop-priate property. The method of expropriation is used, particularly, where they can't find all the heirs for property. Secondly, they do have under negotiation, at this time, expropriated property for a possible contract with a foreign alien corpor-fie a possible contract with a foreign alien corporfor a possible contract with a foreign allen corpor-ation to bring all of their heavy equipment into the State of Louisiana, to assemble that heavy equipment in Louisiana, using Louisiana labor, and here we want to prevent a possibility or a potential of an industry or future income to the State of Louisiana, and prohibit that through an amendment of this type. Now, I could easily understand that or this type. Now, I could easily understand that you might want to prohibit sale to a foreign or alien power, but why prohibit a lease? That's how the port authorities operate-on a lease basis. I've also spoken to the director of the Port of New Orleans, and he has indicated that at the request of the U.S. State Department, he negotiates many contracts with foreign powers. He is called in in advisory capacities to advise other ports in foreign advisory capacities to advise other points in rotery countries by which we are able to stimulate our own trade, and sell some of our soybeans to foreign powers, or some other products that are grown or produced in Louisiana. Now, this is absolutely ridiculous. I can't understand why we've become so ridiculous. I can't understand why we've become so frightened. But I can't understand why we've become syse. I can readily see that we want to avoid foreign powers or alien corporations coming in and taking advantage of our citizens. But, we're cut-ting off our nose to spite our face, is all we are doing. All we are doing is preventing and retarding the future possibilities or developing our trade in the State of Louisiana, with our products or im-porting other products, and utilizing Louisiana labor. Now, if that's what you want to do, and Tabor. Now, it that's what you want to do, and you're really not exactly sure what this amedment does, go ahead and vote for it. But, if you want to be real sure that you're not affecting the future development of the State of Louisiana and its port authorities and its departments of industry and commerce, and you well know that the department of commerce. industry and commerce has worked hard on developing trade with foreign powers, alien corporations. That's the very thing that our governor and many of

Mr. Jenkins pick up the ther is a those countries. Bo you really think there' another country on the fact of the globe that, in its own country, would expropriate its own unple's property and then turn around and sell it

Mr. arg. woody, I don't...I not...I don't how wat other powers would do. and I'm not too wret, can't say I don t care; I certainly care, but the point is, we re dealing with Louisiana property. Louisiana Industry, Louisiana potential. Europortain sometime may be the only way of ac-

Mr. Avant Mr. Chair an, I request permission to withdraw the amendment and to resubilit it so that it will read:

No property expropriated under the authority of this article shall ever directly or indirectly to sold or donated to..." would in ply withdraw the word lease."

- Lint suggest that you what get you con-termine and fold and read Artiste (if you to not, therein. I was going to read a to you. I also suggest for the who ary be concerned about emotion, and who are if demouth there more, to reflect on the year. 1941 to 945, Mr. Casey.

Mr Phynter a ffilhal

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Mr. ue Blieux Mr. all aut atte en, Lask you to lease next the annual atter here's nothing in it what we ent to the to nothing and be the matching of the to a end ent that Mr. aut on in a a subject to possibility of any. The to the to being involved in the art use entry of the and ent to ask you to the ast of the and ent.

Mr. Jenkins enator De leur, f., ... kat Mr. Cannon' aren ent, nimes, it i fe legislature ay authinize any sitter status sion, and then tighe Sn.

Hr. De lines: Intis as the Mr. Intit the fosest you can prissibly get that intit and the rough and the set of the set

Mr. Jenkins when it says an on it called in the owner, due it ear even a jury, every city control, every it, and in an it.

Amendment

Poynter instructions have got to be changed to make

The instructions have got to be changed to make it work into the Burson amendment...I mean, into the Cannon amendment. It would now read as follows: (this is the 0'Neill amendment) In Convention Floor Amendment proposed by Mr. Cannon and adopted by the Convention on today, on lifer the the "Subge acted thereby, immediately "may" delete the words "such restructions as it" and insert in lieu thereof the following: "Article I, Section 4, and such restrictions as "Article I, Section 4, and such restrictions as

<u>Mr. O'Neill</u> Ladies and gentlemen of the conven-tion, I wish you would listen to this very closely because there's a very subtle difference in what is being done in this committee proposal. Let me firs read to you. If you have the copy of Mr. Cannon's areadiment as let they the Convention, it would areadiment as been tookis harme ave jumps and soch Let me first read: Subject to Article I, Section 4, and Sun restrictions as the legislature may impose," and it goes on. Now, let me tell you why we are trying to make it applicable to Article I, Section 4, at this point. Read down to the (b). It says, "to 10 Make it applicable to initiate it pection 4, at this point. Read down to the (b). It says, 'to acquire, through purchase, donation, exchange, and subject to Article 1, Section 4, expropriation, to plant equipment." How, hock hongs and industrial plant equipment." How, hock bonds, subject to the approval of the State Bond Commission, or any successor thereto, and to use the funds derived from the sale thereof to acquire and to improve industrial plant improvements and plant buildings. Under the Canoon amendment, as adopted, it does not apply to industrial plant sites. "Only Section 0, bit subject to Article 1, Section 4, the way this is drawn. It's plant improvements and plant buildings. Under the Canoon amendment, as adopted, it does not apply to industrial plant sites. There is a very subble difference-very subble. I think you must be very careful and read it in. We simply want to make the entire proposal subject to Article 1, Section 4, which is there work the to moment, and 1 really more in line of a technical amendment, and 1 really hope that there work to the to moment objections to the subject to a the subject to a the subject to a there work to make the entire proposal subject to the subject to a there work to be non apply to inclust there work to be to many objections to the subject to a there work to make the subject to advect the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to a there work to be advect to the subject to advect the subject to advect to the subject to advect the subject to a hope that there won't be too many objections to

Mrs. Zervigon Mr. O'Neill, what you are doing disturbs me greatly. Are you trying to imply that none of the things that we are writing at this moment, nor have written in the past about legisla-tive, executive, and judiciary, are subject to the Bill of Rights unless we specifically say so?

Mrs. Zervigon, your committee proposal <u>Mr. O'Neill</u> Mrs. Zervigon, your committee proposa had many things that would not have been subject to the Bill of Rights had we not straightened it up. I'ms imply trying to make absolutely sure that Section (b), as it applies, will do the same thing and have Section (a) apply in the same way. The language which qualifies Section (b) should be the same way in Section (a). My amendment simply does

Mr. O'Neill I would expect so, Mrs. Zervigon.

Mrs. Zervigon We didn't say so.

Mr. <u>O'Neill</u> Well, Mrs. Zervigon, your committee report said that the home rule charters as provided in the old constitution would be the same as they are. They didn't even imply to the new constitu-tion, period.

Mrs. Zervigue Mr. O'Neill, are we talking about Section 7, 8, and 9 at the present moment?

Mr. O'Neill No, ma'am, we're talking about this section, and I think you should have no objection to this proposal

Mrs. Jervigon Mr. O'Neill, isn't it the fact That if you don't say that some portion of the con-stitution, which we are now writing or have written, is not subject to the Sill of Rights, then it is subject to the Sill of Rights because the powers reserved to the people are paramount?

Mr. Tobias Mr. O'Neill, are you aware that your amendment, in effect--the subtle distinction that you claim to have arrived at--in effect, you are arguing against your own philosophy?

Mr. O'Neill Mr. Tobias, you wouldn't know what my philosophy is, sir.

<u>Mr. O'Neill</u> That's exactly why I'm offering my amendment, Mr. Arnette; that's the way I think most people in here would interpret it. I think you grasp the point very well.

## Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention. I think we are amending and re-amending and attempting to reamend this section to the point of almost trying to kill it. The provi-sion making this article subject to Article I. Section 4 is in the proper place where you talk about the acquisition of property. I submit to you, that it is not germane to the remainder of this section. I ask that we move along and let's reject this amendment, so we can try to get something accomnlished

<u>Mr. 0'Neill</u> I very strongly disagree with the distinguished Committee Chairman. I think if you will simply read Section (A) and then read Section (B), that you will see that there is a difference. In Section (A) provides "to acquire and to improve industrial plant sites," to me that means lands, to me that means property. Under Section (B) which more industrial plant buildings and sys-improve industrial plant buildings and sys-plant equipment." I think that anybody would know the difference between land and equipment. I think the intent of the committee was very subtle. I think this amendment will help straighten it up and will help make it subject to the Bill of Rights. In effect, what has been done, they said "Yes, buildings and equipment will be subject to the Bill of Rights on the right to property," but, industrial property will not be. I think it is up to us to clear up this distinction and not be swayed by argu-ments that it is not germane.

Mr. Jenkins Mr. Chairman, delegates, I wish you would take one more look at this section before you

i wou o lee for you to read what t says it say, any political subdivision under Sectiue A car a more industrial plant sites Acquire means by donation, exchange or expropriation, book under the definition of 'acquisition of property. - on any political subdivisions are there in this lister the definition of 'acquisition of property. - on any political subdivisions are there in this lister the definition of 'acquisition of property. - on any political subdivisions are there in this lister the definition of 'acquisition of property. - on any political subdivisions are there in this lister the definition of the property of the section districts and on and on and on. under this section districts and on and on and on under this section for equire industrial plant buildings, equipment, activery. Does this belong in our state constitution; by virtue of what? Is it constitutional indignity? Is it even statutory in the more constitution; by virtue of what? Is it constitutional indignity? Is it even that the right to do business and engage in enterprise than 1 do. But his is a means for giving specia favors, special privileges to favored few at the expense of the expoperiating the property of one citizen to sel or done this state. There is no reason to be expropristing the property of one citizen to sel expropristing the property of one citizen to sel expropristing the property of one citizen to sel evences his this. It doesn't have to have evences the this, certainly not in our state constitution. There is no reason for it, no rationale or to lurge the defact of this section.

### uestions

Mr. Numez Mr. Jenkins, you indicated that any pointical subdivision-meaning that or indicating that-that just onle we adopted this any political subdivision can do these things.

Mr. Jenkins No. I didn t say that. I said that the legislature could authorize any...

Mr. Nunez You left the legislature out pecifically. You said "any political subdivision." Desn't it say subject to the will of the legislature or "such restrictions that may be imposed by the legislature??

Mr. Jenkins That s right; it doe n't say subject to this constitution. When we said in B that it's subject to Article I, section 4, that inplies that the rest of it is not subject to that same article and section.

### Further Discussion

Me Pergy Mr. Chairman, ladies and gentlemen of the convention. I think we have discussed this ratter long enough. I only want to point out to you that this is an authorization to the legislature to do these thing. It is necessary to have this authorization be ause this is not a normal novernimenta function. Therefore, Mr. Chairman, I there are more anend ent. Move the previous nuestion on the entire e tion.

### A red ert

Hr. synter: A construction of the page of deletations is through a both on usive, in their entrety, and invert in free there is the following.

second vice, Zoning and Hi turi. Preservation

ertion () to all overn inital subdivi i n hall have a thority () to adopt regulation, for land use, z nin or ) hit is preservation, with auth rity () declared to be a public purpose. reate and other preet , are, 3 to review designs for nontons, 4 and to adout standards for i.e. trun, de to and of at faree and structures Existin onstitut nal autority for "storic preservation direct i retailed

### Explanat r

Mr. Derbes ladie and gentle en,  $1\times d$  resetfully request your attention for a lower while  $\ell$  explain this arend ent and hoper  $l_{y}$  attry  $q_{y}$  questions that you ay have regarding l. It is the intention of this arend ent  $r_{y}$  ent date and explantions are not all all once in y all y dy questions that you as have negating all y dist the intention of this endern to all data and been intention of this endern to all data and proposal have... I take great y decision of the proposal have... I take great y decision of the intention of the coasthors while are entioned on the amendient which is on your desk. the fill ar-sing individuals have given the terr per in the identify them as coasthors. Tony yes in, 'eds'r is Brown, Representative inny latistan and is find in the decision of this sender is to anounce the lear public pity with reard to the ability of local governmental under station in the yes is a land port of the sender is for the to the ability of and governmental under station i through our local governmental under station of ourse, subject to any change which they ay fro the cultural heritage fils great state of Louisiana. There is nothing in this aced ent or in the existing constitue years the Bil of Rights as we have already adopted it All co-visions of this decision, if wiss is that we been discussed in Article 10 of the station and lear right, for regulation of the architection heritage and this amend ent does further, is it off which what this amend ent does further, is it off which what this and the the verwhel and which the verwhel as tand the arright. The station when the does further to a the station-singh add which the verwhel are and if the leres the bilt of the station-tingh add which the verwhel as tand the arright.

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Mr. Abraham Jim, please explain the intent and the purpose of the words "which authority is declared to be a public purpose."

Mr. Derbes Mr. Abraham, until a decision of the Supreme Court in 1954, coning was not necessarily considered a public purpose. All we are doing is saying that when local governmental authorities act in these three areas: in the area of land use, the area of zoning and the area of historic preservation, they are acting in the public interest, they are acting to promote the general safety, health and welfare of all the people. That's all we are doing. We are not necessarily creating any superior authority which would not be subject to the Bill of Rights, nor are we subordinating this authority, nor are we sub-

Mr. Roemer Jim, I, too, an impressed with the section; I think I can support it. I just have a friendly question about that last sentence-question of information-"Existing constitutional authority for historic preservation districts is retained." Will you hit that a lick?

Mr. Derbes There is only one historic preservation district in this state, Mr. Roener; it exists in my district and it is the district known to all of you, I hope, as the French Quarter or the Vieux Carre. All we are doing is confirming the authority of the Vieux Carre to continue in this vein; to continue that regulation, which they have had for the last thirty-six years.

<u>Mr. Roemer</u> In other words, this language "Existing constitutional authority" refers to the old constitution, not the one we are writing now?

Mr. Derbes That's correct.

Mr. Lanier My concern is the same as Mr. Roemer's about this last sentence. Does this mean that the existing constitutional authority would go to newly created districts under the new constitution?

Mr. Derbes No, sir, it does not mean that at all.

Mr. Lanier The only purpose of this is to ratify the existing one district in the state?

Mr. Derbes Absolutely; it has all the authority for new districts that would be created would be subject to the first sentence of the amendment, completely subject to the first sentence of the amendment. I might add and direct your attention to Subsentence...Subparagraph 3, which reserves to local governmental subdivisions the right of review. So that any regulations, any districts, any historic preservation or land use or zoning regulations created pursuant to this authority would be always and permanently subject to review by that local governing authority. So, no such regulations could be created which could not, thereafter, be amended for the benefit of all people.

<u>Mr. Lanier</u> One further question. To your knowledge would there be any difference between the present powers and authority of the existing district and these that are set forth in this section?

Mr. Derbes No, except it would preserve the right of review.

<u>Mr. O'Neill</u> Mr. Derbes, I have two questions. Is the power for local governments to zone and to provide for land use and zoning in the present constitution?

Mr. Derbes I don't believe it is, Wr. O'Neill. I think it should be and that's why I saw fit to incorporate it in this particular amendment. It's also provided for in the committee proposal, I might add.

Mr. O'Neill Would you distinguish in your mind or

in the mind of the committee the difference between land use regulations and zoning? I've asked several people that question, and I haven't gotten very good answers.

 $\frac{Mr.\ Derbes}{1}$  They are really essentially the same thing. "Land use" as I understand it, is essentially a new term of art which is a further expatiation on the old term "coning."

Mr. De Blieux Mr. Derbes, I'm always so concerned about that last sentence. What provisions exist in the present constitution right now?

Mr. Derbes All that exists...the present constitational provisions, Scenator De Blieux, provide that there is a Vieux Carre Commission which is appointed by the mayor of the city of New Orleans, which has the authority to regulate the architecture and character of historic buildings and sites-the exteriors of historic buildings and sites in the French Quarter of New Orleans.

Mr. De Blieux Now, don't you realize....

Mr. <u>Henry</u> The gentleman has exceeded his time, Senator. I'm sorry.

### Further Discussion

<u>Mr. Chehardy</u> Mr. Chairman, fellow delegates, in all seriousness, I cannot understand anyone hesitating to help preserve the French Quarters, whether or not they are the Vieux Carre, really, whether or not they deleted in New Orleans, in Inaipanea Parish, or in Shreveport. This is definitely an asset to the whole State of Louisiana; it is arly, bringing millions of dollars into our state and next to the Porto f New Orleans, is probably the main attraction and the main source of income that we have in the whole metropolitan area. So, l just wanted to go on record as wholeheartedly favoring this amendment. I believe we should take a little more interest in the historic values of our state. There is many an area I pass and see an old plantation going into decay or something that sould be preserved. Last Sunday, we happened to be out in Lake Borne, and I saw this old...what is today referred to as a castle, Martello's castle, sort of going down into decay. At that moment, I "Why isn't something onto the should by preserved something this historic." I think we have a chance here to do something that is right and do it fast. If there are no other speakers, I would like to call for the question, Mr. Speaker.

### Question

Mr. Chehardy Try not to be prejudiced now, Mr. Conroy.

Mr. Conroy Mr. Chehardy, did you know that I fully agree with everything you said about this...

Mr. Chehardy I was sure of that, Mr. Conroy.

### Further Discussion

Mr. Arrette Ladies and gentlemen of the convention, I would like to point out one thing in this part of the sentence which says "which authority is declared to be a public purpose." The reason it greatly disturbs me is because we are automatically declaring that any time a police jury or a city council or any other subdivision says. "This is a historic district." we have precluded the courts from saying that it is a public purpose or a public district, or something of this sort. We are preclising they were yimportant because it brings up several issues.--the main one being if any police jury would decide that this is a historic district, it is a historic district and nobody ever has a

Solid Days Proceedings—O(clober 2, 1943) Theme that is that we let that solve in the mean of the solution of the solution of the infinite of the solution of the solution of the we wand there and unly alst the oll rigs be even and the solution of the solution of the we wand there and unly alst the oll rigs be even and the solution of the solution of the we wand the solution of the solution of the we wand the solution of the solution of the we wand the solution of the solution of the we wand the solution of the solution of the we solution of the solution of the solution of the we solution of the solution of the solution of the we then any that would be browned by the the solution of the solution of the solution of the we then any that would be browned by the the solution of the the solution of the solution of the solution of the we solution of the solution of the we then the solution of the solution of the we then the solution of the solution of the we then the solution of the solution of the we the solution of the solution of the we the solution of the solution of the we the solution of the solution of the solution of the we then the solution of the solution of the we then the solution of the solution of the we then the solution of the solution of the solution of the the solution of the solution of the solution of the the solution of the solution of the solution of the the solution of the solution of the solution of the solution of the the solution of the solution of the solution of the solution of the the solution of the solutis the solutis and solutis the solution of the solution of

Mr - y Gary, 1' worried...Greg, I ean, 1' wirried abuit what you and, but 1' just wondering if that adding public purpose cans anything! fow an authority be public purpose. The result of what they would declare to be...you know for the find use would be...they could any would never be oversinnes, but 1 just wondering what the heck is reas in any seet. The corrend it if ean what you all.

Mr. Annette Well, the language i. a little fuzzy, be as in don't this it is partiularly clear. Sut proc. It morecal a proble that if the poir e ary and that thi barti lu area of the paris would ally be fir uper inc far inn and occhdy wa arrie far er there, then it's auto athal that way, without anyhody wel having a say about it--whether it b far a put - purpace or not, be-um at used and ly as widing the tate ent the is sutbout on that it is a put - pur-mer.

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<u>Mrs. Zervigon</u> Rr. Lennox, when we are encouraging industry, don't you think it's a good idea for the benefit of our citizens, to set aside some residen-tial areas, as well, in which industry may not come--to set aside industrial areas as well as residential areas?

<u>Mr. Lennox</u> Well, Mary, I can't fault you on rea-sonable zoning if that's the question you've asked me. I don't fault that situation at all.

Mrs. Zervigon Don't all of these decisions have to be reviewed by the governing authority in the Derbes amendment

<u>Mr. Lennox</u> Not necessarily. The governing au-thority reviews the creation of the commission; thereafter, the commission may declare any section thereafter, the commission may declate any section of St. James Parish where there's an oak tree that's two hundred years old as an historic preservation district; well, you say that, but I have fears about that and 1....

### Further Discussion

<u>Mr. J. Jackson</u> Mr. Chairman, ladies and gentlemen of the convention, as Chairman of the Subcommittee on Affairs of the city of New Orleans, the problem of trying to provide constitutional language to preserve existing constitutional status of the French Quarter was so drafted as presented by our committee. I would like to suggest to you that the Derbes amendment provides, in my estimation, pro-vides better language in attempting to condense the lengthy wordage that we have and attempt to clarify The amendment says contrary to what Mr. Lennox it. The amendment says contrary to what Mr. Lenox says, that the governing authority does have the right to review the decisions of the commission, rather than just having the sole right to review the creation of the commission. If you look at line 3, they say "to review the decisions of any such committee." We think that by vesting this power as existing in New Orleans, it does provide us with the protection. Most of the delegates from New Orleans have the creation scales ons i have Botten up back home and raised some conterns about how we attempt to use zoning and historic preserva-tion to offset the growth or stymie the growth of particular minority communities. In fact, I have used the phrases that there are two kinds of pres-ervations going on in New Dreams--historic preser-vations and preservations of the slum. However, I do not believe as the Derbes amendent is being presented that it offers the possibility of commun-ities and property being expropriated on the whim of the local governing authority. It does provide time, I recognize that we have adopted Section 4 of the Bill of Rights, and I do not see this in conflict with that. It does provide or porty owners who have certain vested and inherent interest in their property to be protected under Section 4 of gotten up back home and raised some concerns about their property to be protected under Section 4 of the Bill of Rights. So, Mr. Chairman, if there are no more speakers, I move the previous question on

[Previous Question ordered. Record

### Amendment

Mr. Poynter Alright. This is the Pugh amendment. I've got to change the instructions. It should read: On page II, in Convention Floor Amendment No. 1, proposed by Delegate Derbes, and adopted by the convention on the day. On line 9 of the language added by said amendment, immediately following the word and punctuation "structure." insert the following: "Private property, however, may not be expropriated for such public purpose as herein

Mr. Lennox Mr. Bhairman, feilow delegates, Mr. Pugh, being unavoidably detained from the conven-tion, has asked that this particular amendment be brought to the attention of the convention. It simply adds to the Derbes amendment, Just passed, which consolidated Sections 19 and 20. The sertence "private property, however, may not be expropriated for such public purposes as herein declared, and herein te as though I can explain that any better.

## Ouestions

<u>Mr. Tobias</u> Mr. Lennox, do you not believe that when we say, in Mr. Derbes' amendment, "land use" that your amendment would in effect prohibit expro-priation for the purpose of constructing streets.

Mr. Lennox Mr. Pugh's amendment may well do that. I have no amendment before you, Mr. Tobias.

Mr. Conroy Mr. Lennox, are you aware that Article XIV, Section 23 of the constitution presently says that "the preservation of buildings in the Vieux Carre section of New Orleans having architectural and historical value is hereby declared to be a public purpose, and the city of New Orleans hereby authorized to acquire by purchase, or expropriation or otherwise. Such buildings and other structures in that section of the city as the Vieux Carre Com-mission may recommend to the commission council.

<u>Mr. Lennox</u> I wasn't aware that that language existed in the present constitution, but if you say it's so, I'll certainly accept your ...

Well, is your amendment intented to ... Mr. Conrov

<u>Mr. Lennox</u> Again, I tell you if Mr. Pugh's amend-ment is adopted, then I would assume it would re-verse that particular provision.

## Further Discussion

<u>Mr. Perez</u> Mr. Chairman, ladies and gentlemen of the convention, i'm sorry Mr. Pugh is not here to explain his amendment, but i fail to see where it has any bearing whatsoever with respect to zoning, with respect to land use regulations, and really not in connection with the preservation districts. So, I therefore urge you to reject the amendment, and if there are no other speakers, I move the previous question.

Mr. Poynter The next set is sent up by Delegate Jenkins.

Jenkins. Amendment No. 1. On page 11, line 11, in Floor Amendment No. 1 proposed by Delegate Derbes, et al, and adopted by the convention on today, on line 2, the convention on today, on line 2. and adopted by the convention on today, on line 2, immediately after the number and punctuation "19." and before the word "governmental" delete the word "local" and insert in lieu thereof the following: "Subject to and except as may be inconsistent with this constitution, general law or the local charter, local".

Amendment No. 2. On page 11, line 11, in Floor Amendment No. 1 proposed by Delegate Derbes, etc. On line 3 of the amendment, immediately after the word "adopt" and before the word "regulations" in

word "adopt" and before the word "regulations" in-sert the word "reasonable". Amendment No. 3. On page 11, in the Derbes amendment, on line 4 of the amendment, immediately after the word and punctuation "preservation," de-lete the words "which authority" and on line 5, im-mediately before the numeral "(2)" delete the words and punctuation "is declared to be a public pur-pose;" and insert in lieu thereof the following: "for any unblic nurnose within the scope of their "for any public purpose within the scope of their authority;"

Amendment No. 4. On page 11, etc. in the Derbes

lowing when any regulation or ordinance rejult in a takin of propelty, ust opensation shal se paid in accord with ther provisions of this

Laplanation Mr. Jostins Mr. Chairman, de egates, Mr. Derbes amendment. I think, is an iprove ent over the ou-litee proposa, but it does need some refine ent. and some odification in some ways. So La pro-posing four separate amendments, each of one deals with a different aspect, and each of which stands on its on [own]. The first a mendment says that this session shall be subject to this constitu-tion, to general law, and to a local charter. You see, up until the present time, many localities, many parises-their police jurys [Juries] have not many areas of our state, and in some such areas zoning may not be desired by the people, but by the term. of Mr. Derbes' amendment, all local govern-mental subdivisions, both parishes and municipal-ities, will have land use zoning and historic preservation authority. The purpose of the first or restrict that authority or deny it completely, if the people in those localities so choose in their local charters. Also, that this authority can be limited by general law, and that this provision should not conflict with the other provisions of this Constitution. The second mendment is really a technical amendment. It would insert the word reasonable" on line three of Hr. Derbes amendment. It would read then as follows: To adopt reason-able regulations for land use; zoning, and historis this section would do, he inserted the word reason-able in there. I this everyone wants these regu-lations to be reasonable. At present, aggrieved parties can go to court and challenge zoning matters When they are not resonance, and so it a reson-main they are not resonance, and so it a resonance his the that we include the word "reasonable ie language in the Derbes amendment which says which authority is declared to be a public purpose. That clause really doesn't make sense. An authority is not a purpose. The fact that local governmental subdivisions have an authority says nothing about the public nature of the purpose for which they exercise that authority. Clearly, some cases of zoning or land use may be in the public interest; may have a public benefit, may have some attribute the third mendement simply says that if us so that they do have land use, zoning, and historic preser-ation authority of that local government-al subdivision. The fourth amendent conforms with case law also. It would include at the end of the berber, amendent, since provision that when any able then that we include the word "reasonable" Lase law also is worth include at the end of the berbes mendment, the provision that when any regulation or ordinance results in a taking of property, just compensation shall be paid in a lond with other provision of thi constitution. Here's an example of what that mean. Suppose an airport with other provision of thi constitution mere-an example of what that means Suppose an airport Zone were created near a city airport, and in that Zone it was haid that there fould be no construction whatsoever. No undivision that was planned in that area louid be built, no builness, no industrial plant fould be constructed in such ase, that zon ng ordinan e would amount the ataing of prop-ing the support of the support of the support fail, we had a similar are right here any part fail, we had a similar are right here any found where when a zoning ordinance, in effect, told him that he ould do in thing with his property. The purpher of zoning and land use regulations are be regulate. It to defir a property right. It's to tell the means in which right and be endly even have held in state after state, define after have held in state after state, define after have held in state after state, define after were in a tell streng is very empair medica at the takeng if printerty right, then us defined at the support is constitutional ze-wit this lower hand and use constitutional ze-wit this lower has a solution to be been have held in state after state, defined as the have held in state after state, defined her defined at the late has a for the solution to be any definition of the constitution of the prints of this lower here is a celly severe impair medica at the takeng if printerty right, then us to constitution of the here any and the constitution of the out this lower here any and the constitution of the constitution of the out the state of the solution of the constitution of the constitution of the solution of the solution of the constitution of the out the solution of the solution that f is in at an one ere verse the fulls, that is not a sta-reverse the fulls, that is not a sta-reverse days of the ere full and the state is a sta-reverse again the ere full and end state is is in the separate degenerate dendents attest is is refine the eress of the citizent, the ere although ubjects is the citizent, the ere the eress of the citizent, the ere the original states of the citizent is the ere the citizent of the citizent is the ere the citizent of the citizent is the ere the citizent of the citizent of the ere the citizent of the citizent of the ere to be reased and the the citizent of the ere the states are the too the anges the a wage of the Derbest amend end and the the state and the the citizent of the provides that is the ere the citizent of the provides that is the ere taking of property under one of these ordinance, just compression would be paids. I urge the adopt in of these and ents

Mr. Jenkins, 1 on erned about this sistent with this constitution A is rect, but hasn't this language been tacked in t a ut three or four other provisions in the Lural Gevennent Article?

Mr. Jenklis Yes, it has, Mr. Lan er whenever de egates have thought that somen w provision here might override other sections of the closed tation. The purpose, of course, here is to provide that this section on land use, at ning, and historic preservation would not be hed ouper or L ther provisions of the constitution, but wid be read

Mr. Lanter Well, doesn't this is ean that we going to have to be wathin even, ther privi-that comes up from now until the end of the inner-tion to make sure that there is not u ethic that takes away that which was given in this privi-

Mr. enkins I think we do have to be areful be-cause of many case delisions whilh have held that when there is an apparent of the tween two arts

Further liscuistin Mr. Herbes, Ladie and entineen, I thans, i in r your favorable on erather ry your has a re-ment, and I muld une was to areful to see a the second of the second of the second of the second summarily second ent for the second of the second police power of the state of use as the second police power of the state of use as the second of the police power of the state of use as the second of the police power of the state of use as the second of the police power of the state of use as the second of the police power of the state of use as the second of the police power of the state of use as the second of the police power of the state of use as the second of the police power of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the police of the second of the second of the second of the police of the second of the second of the second of the police of the second of the second of the second of the second of the police of the second of the second of the second of the second of the police of the second of

escape valves whereby the authority of local governmental subdivisions could continue to be questioned. So I urge you to carefully rule over these amendments. The powers that we have provided ...the rights that we have provided for individuals in the Bill of Rights, the rights that we have to cal devformental subdivisions, seemed to me to be preserved in tact. None of these amendments do anything but for the authority of local governmental subdivisions, as we have so clearly enuncited that authority by adopting the amendment that you just favorably considered.

## Further Discussion

Mr. <u>Perez</u> Mr. Chairman, and ladies and gentlemen of the convention, I have to rise, unfortunately to object to these amendments. If you will read, particularly the way Amendment No. 3 reads, it would add to the following words "to adopt regulations for land use, zoning, and historic preservation, for any public purpose within the scope of their authority." Well, the very purpose of this particular section is to give the authority for land use. Joning, and historic preservations of the scope of their authority by which you are allowing these local governmental subdivisions to go into zoning; so I submit to you the words "for any public purpose within the scope of their authority would, in fact, take away with the other because this is the very authority by which you are allowing these local governmental subdivisions to go into zoning; so I submit to you the words "for any public purpose within the scope of their authority" would, in fact, take away that authority is stored by our rewision which give to local government all authority not prohibited by state law, it's strictly for the mangement of governmental functions and unless you put and give to local government the right for zoning, it is not one of those authorities included in the general powers granted to local government otherwise. I'd also like to call your attention to amendment No. 4 which says "when any regulation" compensation shall be paid." Well, again when you go into the de cannot put you barrown in the middle of a subdivision, it could be considered to be a partial taking of his property from a stand point that he might have been able to get ten thousand dollars for the lot it he were to sell it for settial purposes then he might only be able to get is very, very dangerous and might, in fact, actually kill all zoning because whenever you regulate the use of a piece of property and tell a man that he can't put up a barroom in the middle of a residential area. There is to acretin externt a taking of hat property, so the s

## Questions

<u>Mr. Roy</u> Mr. Perez, if the legislature in its wisdom saw fit to preclude local subdivisions from engaging in certain types of regulatory conduct, under your argument there is nothing to stop it because Mr. Derbes' amendment allows the local subdivision constitutional powers that can never be modified by the legislature, is that right?

 $\frac{\text{Mr. Perez}}{\text{didn't quite understand your question.}} I \text{ don't understand your question.}$ 

Mr. Roy Well, Mr. Derbes amendment--doesn't it give, by way of the constitution, to local governmental subdivisions certain authority and powers which may never be modified, even by its own charter, as well as the legislature passing a general law prohibiting the local subdivision from engaging in that conduct?

Mr. Perez Well, anytime you have the authority to do something, you have the authority to amend or modify it, so 1 don't understand by its own charter why it could not amend anything that it did.

Mr. Roy My point is, aren't we stopping the legislature by Mr. Derbes' amendment, without some other statement that all this will be subject to general state law? Aren't we precluding the legislature from ever telling local governmental subdivisions how they may regulate land use?

Mr. Perez I did not object to the general law provision if...my remarks were directed against amendments number three and four.

Mr. Roy Dh, O.K. Well, you do admit...

Mr. Henry You've exceeded your time.

[Previous Question ordered. Division of the Question ordered. Record vote ordered. Amendment No. 1 reread and rejected: 39-66. Motion to reconsider tabled. Amendment No. 2 reread and rejected: 43-62. Motion to reconsider tabled. Sharpo. Motion to reconsider rejected. 55-70. Motion to reconsider tabled.

### Amendment

Mr. Dounter Amendments such up by Delegate Arnette as follows, and there has been in the text Arnette as follows, and such are as been in Amendment No. 1 proposed by Delegate Derbes and others and adopted by the convention on today, on line 3, after the word and punctuation "preservation," delete the remainder of the line and on line 4 at the beginning of the line delete the words and punctuation "is declared to be a public purpose," and insert in lice the rollowing: "if for a public purpose," and here's the change, put a comma ", and subject to due process of law;"

### Explanation

Mr. Armette Ladies and gentlemen of the convention, this just clears up the language that was in the proposed amendment. The main thing that it does change, and solves my problem, however, it makes sure that this zoning, this regulation of land use, and its historic preservation district is made for a public purpose. It's not automatically a public purpose. It's not automatically and use, and its history and the solves of the courts whether it was a public purpose. I don't want somebody telling me that your land, or this land you've got over here, you've got of a you've got to have a barroom on it. If they regulate my land use that way, I want to make sure that it's subject to review in the courts plus that there are hearings that is subject to due process of law, and this is all it does. Before they tell you what you can do with your land, it is subject to due process of law, which means notic and hearing, very simply. It doesn't tell the municipality they may not do it, doesn't tell the bud of it. Jul its for it, and it has to be with notical if for is keep it in line with what I think the people of this is constitutional Convertion want in their constitution, somebody not having their property rights taken awy from them without an otic or a hearing, and that's all this amendment does, and Lurge the adoption of it. Thank you.

### Questions

Mr. Roemer Mr. Arnette, as I understand it, all

Mr. Arrecte fratti nreit Liustwantit ave sure that we rei to ade on any ditrictor any land use ne ullation tractit is subject to rectenity

Mr Anza me Mr Arnette, use saying that the unity thin that you want to do is to give the courr is e type of review over this atter if fast type unit tual in, but, in truth, is that all that you

Mr\_Arnette well, that's one thing I' doing. Se und thiny doin 1. I' aking it subject to due process of law, which means that before they can even enact such a regulation or an ordinance

Mr. Anzalone Mr. Arnette, are you aware that Art.le XIV to the constitution of this United States says "property shall not be deprived with ut due process of law ?

Mr. Annette fouring exactly right, Mr. Anzalone, but there is a subtle difference between the taking of property and regulation of property, and I want to ale use that before even property as be regu-lated you can have a hearing, as is now, before zon ng is enacted on land use regulation...

Mr. Auzalon - Mr. Arnette, y u re ta kin about due proce's because that's what you have written

Mr. Annele ust a second, let e answer y ur questin first. 1.7. what the difference between repulation and taking . that they ay regulate was property without due wrole of law as ording to the ... Constitutin, and thi is the difference ? want t ake ure that we have a due prole law, a hearing, and multice before they ay even regulate your proverty as to zoning and thing? it is nature---land use regulation, histori preser

Mr Anzalone Mr. Arnette, u.t. ne ore u.l.  $\lambda$  que tinn what l want to i press on you in that, d you real ze that you are initing the bunder if pool from the unitingal ty to the other side of

Mr. Aniette, No, i ort maining it from an animitate right on the part of the running it from an about the treate these district. From an about terright, a fast on to the having metric and hearing in yery pi

Mr / 5 Mr Arr t, you ust passed the ar,

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He Alla He Annalts, you what have to prove the

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Mr. Beanstell - Housen word, f the next, you and it tell what first i the index processing and next next is before they to how what word if drywor and next in the constraints

Me annett when the set is interested in the formation of the set is the set

a commission or a committee, or somebody, came up with what was called a "flood-plain zoning ordin-ance," and this is the type of thing that disturbs me. Under the provisions of that ordinance, if it was adopted-it's still in the mill-for a farmer to be able to change his land from pasture land to row crop land, he would have had to go and get a permit from the local building inspector, who was given charge of the administration of this ordin-ance, before he could change his land from one ancientural uses to another apricultural use. I'm great the great in the duministration of this of difference before the could change his land from one it me agricultural use to another agricultural use. I'me afraid that if this section is adopted as it's amended, that ordinan't have anything that you can to about it, you'll just have to live with it. And I, for the life of me, can never see or understand how, if a man had land in pasture and he decided he wanted to grow corn on it that it's in the public interest to compel him to go down thirty or forty miles to the parish seat and get a permit from some cation to that land, you can put grazing cattle on that land, you can plant it in soy beans, you've got our blessings. So I ask you, and implore you to please adopt this amendment to put an end to that type of operation.

## Further Discussion

Mr. Derbes I guess I'm wearing out my welcome, but just want to say a couple of things in urging you I just want to say a couple of things in urging you to reject these two amendments proposed by Delegate Arnette. What we are doing here is, we are declar-ing that the concepts of zoning and land use regu-nose. Whenever the local governmental subdivision exercises its authority pursuant to this grant, whenever such authority constitutes a taking, the authority is still subject to the provisions of the Bill of Rights as we have adopted them. I think that it is implicit that any zoning regula-tions have to accord due process of law to any persons adversely affected. It's implicit! If we adopt a philosophical premise of this amendment... then we are going to have to ...then it seems to we section of this local and Parochial Government Arricle, or any other section of this constitution which may, in one way or another, affect a person's sation. I see no reason for the inclusion of this language in this section. The language is indeed implicit in the law, it's implicit in the constitutional law of the United States of America and of the State of Louisland. We have the outer. reject these two amendments proposed by Delegate and of the State of Louisiana. We have announced these principles clearly elsewhere in this constitution. It's superfluous in this section, and I urge your rejection of these amendments.

Mr. Duval Jim, I'm just trying to get some clar-ification. I thought one of the purposes of the Arnette mendment was to clarify language in your amendment, that language being "which authority is declared to be a public purpose, 'that specific clause. My question is: I read to you Section of your amendment, 'to adopt regulations for land use, zoning, and historic preservation, which au-thority is declared to be a public purpose.' Now, if the authority is a public purpose, that doesn't the eact of the soft the use of the necessarily mean, does it, that the use of the

Mr. Derbes No. I think that's a very important consideration, Mr. Duval. In challenging the right of local governmental subdivisions to use this authority, the same principles and the same rights of individuals can be advanced in order to challenge that authority.

Mr. Duval Alright. I'm just trying to get the Mr. Juval Arright. In just trying to get the intent of your amendment so I can decide on the Arnette amendment. Now, let me ask you, what is the intent of that clause "which authority is declared to be a public purpose"? What is your

## specific intent for inserting that clause?

Mr. Derbes My specific intent is simply to say when local governmental subdivisions enact such ordinances or regulations, or create such districts that they are acting in order to promote the health, safety, and welfare of the people. That's the intent of my amendment as it's drawn.

Mr. Duva1 You don't mean by that then, that the public purpose could not be attacked in court?

No, I definitely do not mean that.

<u>Mr. De Blieux</u> Mr. Derbes, wouldn't the Arnette amendment have the effect of requiring, you might say, a judicial decision everytime a zoning ordin-ance is passed to determine whether or not it is for a public purpose?

Mr. Derbes Yes, sir, and that's what I'm afraid

### Further Discussion

Mr. Tapper Mr. Chairman, and fellow delegates, I've tried to stay away from the microphone for as long as I could, but I just don't understand the opposition to this amendment, and I rise in support of it. I think we're going from the sublime to the ridiculous. Anyone who does not want to afford people who are going to lost their property dotter section of this constitution or that the federal constitution provides for due process, to me is putting your head in the sand like an ostrich. We are writing a state constitution, and the safeguards to the people of this state should be here in this constitution. We should not rely on the United States Constitution because that can be amended by serving the Vieux Carre, but not to the expense of the general public and the well being and welfare of hey one like amendent. If it does exactly what is done in other sections of this constitution, then we do no harm. On the other head, if we don't have we do no harm. On the other hand, if we don't have this safeguard in the other sections of this consti-tution, we will do harm for a long, long, long time to come.

### Questions

Mr. Tapper, you were talking about Zervigon property being taken.

Mr. Tapper Or zoned for a particular purpose.

Mrs. Zervigon Do you....do you consider that property being taken?

Mr. Tapper Yes. I think you are taking the right of the people to use that property as they see fit when you zone it and tell then that they cannot use it for a particular purpose. Yes. I think they should have the right to due pro-cess. If it takes a court action, if they do not agree with the decision of that complexion that they Tapper Yes. I think you are taking the right

court. Yes

on Haven't they got that right under amendment, "if the power is unreasonably Mrs. Zervigon Mr. Derbes' am

Mr. Tapper No, ma'am. I don't think so.

Mrs. Zervigon Haven't you always got the right to challenge the power of government if that power

We are writing a constitution, Mrs. Mr. Tapper Zervigon, and we are placing in here what rights we have as citizens. I think that this should be here

to spell out that we do have that right to challenge

Mrs. Zervinon Don't we have due process in the Bill of Rights already in this constitution

Mr. apper Yes. But I be neve the Bill of Rights with have to be read in, as we call it parimateria, with this particular section, Mrs. Zervigon.

Mrs. Zervi on Are you try ng to terrify me with those long words because I'm not an attorney?

Mr. Tapper well, I think we have to give this section equal billing with the Bill of Rights.

Mrs. Zervigon So you are going to introduce this a end ent to every section we consider hence for-

Mr. Tapper If be there. Yes.

How are you going to tell? Mrs. Zervicon

<u>Mr. Tapper</u> Either that or a general amendment providing, or rather, affecting all sections of this constitution.

Mrs. Zervigon well, the first section of the Bill of Rights, where it says these rights are inalien-able and shall be held invio ate doesn't do that?

Mr. Tapper I'm not going to be the judge sitting on it, I don't think, Mrs. Zervigon. But I' afraid it ight not. I can't see any harm in

 $M_{T}$  , Kean Mr. Chairman, fellow delegates, I rise in opposition to the amendment because it seems to me that if we adopt it, we have simply gutted zoning and land use authority in this state. I don't have any objection at all to providing, either by a further amend ent or otherwise, that in the exercise of this authority that there would be an opportunity for a hearing. Such opportunities could be provided by general law as far as I in concerned. But when would be an opport of the provided by amena that in any exercise of zoning or and use authority. That you have to have a lawsuit in order to determine, in the ind of the court, whether it was for a public purpose, and we re Mr. Chairran, fellow delegates, I rise

order to determine, in the find of the court, whether it was for a public purpose, and we re really not tailing about public purpose and the use of zoning and land use regulations in the first place. Zoning and land use regulation is an ever ise of the police power The question which i raised in connection with the evente of the police power is whether it is reasonably used. If that exercise, either generally frary action, under those circuitenes, it would we tail about public purpus primarily in the sense of the tail of of property and a deter mation being

that y at 10h, onber those through an explosion, it would be the table in of providy and a determination being and as the whether or not a public purpose existed which required that taking. In this instance, where we say we and uit if fir a public purpose, and as read the anedment, you would never have string in land use regulation authority until after thad been determined in ear and every use if that authority, that it was for a public purpose how. I don't know what happen in other places, but in the parish of last Bation Rough, for earlier, we have a forming ord a have a fundred area between the to that ordinane. As happen, in other places, but in the parish of last Bation Rough, for earlier, we have a forming ord have a fundred area between the to that ordinane. As have a fundred area between the to that ordinane and would simpl, have moring until after that thet had been mighted is a to yo that there is a better way ty get at the proble of due proves which tail a plant mittle and hearing, through the

ple delle print graed ett tri. that you are e ther entried those and hearin. r that the legislature are stablin procedue by which i can be done But if you eave here, you ight as well take the set time at and forget it, in y our

Mr. Availt Mr. lean, ou taked that z nin and Tand use regulations had nothing to  $\omega$  th the public purpose but instead were an exercise if the publice power

Mr. Avant It's an exercise of that power that allows govern ent to legislate in order to project the health, welfare, morals and safety of the gen-

Kean

Mr. Avant

 $\frac{Mr}{Kean}$  My point is the very one that Mr used was making a white ago. You talk abut zering bein purpose. There's no further discussified to be adon it, what you are mittailing about its whether or not the specific use of that authority is reasonable or unreasonable.

Mr. Avant Now, f it is used and its not fir a public purpose, you say putting and purpose in there, and due process of law there, guts the amendment of Mr. Deebes well, if you can be it for other than a public purpose, or use it without due process of law, as im afraid you ight be able to do as it's now written, don't you think it best be gutted?

Mr. Kean No, my point, Mr. Avant, is that if yu leave in the language of for a public roote, if has the result of making this part u ar r viso

Hr. Ro. I would like t have gone further with Mr. Avant, but, in any event, how can you ustify that the public purpose ... that you would all withe zoning of property without it being for a ustif purpose? Zoning thi for a private purpole?

Mr. Avant Zoning, Mr. Roy, bein an ever le f police power, is fir a public purpose. The questi in a zoning situation is whether in it the log fo ule of that authority is reasinable in mean nable.

Mr Roy lin tit nly for a public survice fit is for the public purp se and n t t help e individual ut

ant ... n ng i an exercic of the e.e. Mr Riy, and it starts ff e.e. a Mr Avant

Ry ut that dent ake the rest of the informa put is urprice, desit, Mr. Sea

Mr kean he to t thereafter i whether or i t the specific or e it the zon n auth oit, real

Mr oy hat's right. It remed that the real name inter a stitzen take it the unit and show that it was fir a bunin for isate into usan that it was trying to be smed to be the

Mr Fean i being gored well, i depende a whilfee sill a la

For the simple reason, Mr. Roy, that Mr Kean you'd have to make a specific determination on every specific use of the authority before it became valid.

 $\underline{\mathsf{Mr. Arnette}}$  I just have a very few short things to say, the first one being if due process is implicit in the Derbes amendment, then why are the opponents of it fighting it so hard? That's the first question.

first question. The second thing J'd like to point out, I don't know if Mr. Vick is aware of it, the Supreme Court of the United States has pointed out that regula-tion is not taking, in certain instances, it is not taking when it...unless it is actually taking the property, when it prevents the profitable use of the land so as to greatly decrease its worthfulnes. Now, or when affects a very small number of people. Now this is when regulation is a taking in more the result.

or when iffects a very small number of people. Now, this is when regulation is a taking; in no other case is it a taking. Regulation is not subject to the due process clause of the Fourteenth Amendment of the United States. It simply is not, unless one of these three requirements are met. Now the next thing, Mr. Derbes said the public purpose of this coning, or historical preservation ditacked under his amendment, then let's make it yery clear that it may be attacked because this is what my language does. It makes it very clear that this ordinance may be attacked as to whether it is a public purpose or not. The next thing, dy dicial interpretation is only required when a citizen who is affected files a suit attacking the ordinance. You don't thave to go to court and say. 'to with the to the ay it works is, you pass the wordinance at somebody who doesn't like it files suit. I want every person who is affected to have that right to file suit. The next thing that Mr. Derbes' amendments per lew have prohibitions in a home rule charter from zoning of from creating historical at the tots rower looks, just a slight omission, it permits people who have prohibitions in a home rule charter things, which is against their own home rule charter things in this, it automatically permits their things, which is against their own home rule charter things own to bave the vert this the vert way from the people. We are telling those people "this is what your governing authority can do, and we are going to show it down your throat whether your is what your governing authority can do, and we are going to shove it down your throat whether your home rule charter says otherwise or not."

I'd like to close with a very short statement, that I don't want any property of mine ever reguthat I don't want any property of mine ever regu-lated or taken unless one. I have notice that it's taken; two, that I have had an opportunity for a hearing before the authority who is taking or regu-lating my property; third, judicial review that what the people who are in the governing authority, what they are doing is right and for a public purpose and not just to hurt me. I think every citizen who owns any property in this state should have those three simple protections; notice, hearing and judicial review. That's all 1'm asking for in my amendment.

### Questions

Mr. Lennox Mr. Arnette, there is one matter that troubles me deeply. I am wondering that had you given the bar examination to Mr. Vick, if you'd care to speculate on the outcome?

<u>Mr. 0'Neill</u> Mr. Arnette, have you yet found out what the term "land use" means? Don't you think that perhaps we should provide same protection under here for such comprehensive zoning as land use might entail?

<u>Mr. Arnette</u> You are perhaps right, Mr. O'Neill. Land use is kind of a vague term. But I think the main thing is that we need this...we need the... the three things that anybody needs before their

property is taken, is notice, hearing and judicial review. That's all my amendment asks for. I ask you to vote for my amendment. Thank you, very much

<u>Mr. Lanier</u> Mr. Arnette, is it not true that primarily your objection is to the procedures in which this is done rather than the basic law? Isn't it also true that if your amendment passes, it will do substantial violence to the concept of zoning as we know it today?

<u>Mr. Arnette</u> Well, Mr. Lanier, you asked me two questions. First of all, is my objection merely procedural? No, not actually because my one primary objection is that this gives an absolute right to the political subdivision who is enacting these particular ordinances, it gives them an absolute right to do that ....

[Record vote ordered. Amendment rejected: 51-56. Motion to reconsider tabled.]

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. De Blieux]. On page 1], line 11 in Floor Amendment No. 1, pro-posed by Delegate Derbes and others, and adopted by the convention on today, on line 9, immediately after the word and punctuation "structures", dejett delete the remainder of the line and delete line 10 in its entirety.

### Explanation

Mr. De Blieux Mr. Chairman and ladies and gentle-men, I think each one of you have a copy of the men, i think each one of you have a copy of the constitution as it presently exists on your desk. I'd like for you to turn to page 406. If you do not have it available, if you'll pick up the amend-ment, floor amendment which Mr. D'Neill had, it contains practically the same identical language. Now my purpose in this amendment is that what we are doing by the Derbes, the last sentence of the Derbes amendment, we are putting all of that however, the the present constitution which we

language into the present constitution which we are adopting. What I mean is, we are just transfer-

are adopting. What I mean is, we are just transfer-ring that language into our present constitution. I don't know of anything, anything that the city of New Orleans, in which I am very much inter-ested, and I hope... I know we are not doing any violence to it, could not do with reference to the Vieux Carré Commission without that sentence. But what you are doing is yuting into the constitution the Vieux Carré Commission as it's presently in the constitution because you are adopting all of out that by reference and it makes every bit of it just as much a part of this constitution as if you had written it in. I say, if you want it to be a part written it in. I say, if you want it to be a part of this constitution, you should write it in. Don'i adopt it by reference. I ask you to strike from that particular amendment of Mr. Derbes the last sentence and let it go, so that they'd still be able to do everything they are doing except that we will not have all of this language. Just look at it...all of this language and two pages in the new constitution because that's what you are doing. Don't

### Ouestions

Mr. Roemer Senator, I understand that by the deletion of that sentence which is what your amend-ment purports to do, we don't reference the old constitution. Is that correct?

Mr. De Blieux That's correct.

Then what effect does that have on Mr. Roemer Then what effer the Vieux Carré Commission?

De Blieux Not a bit because they still have the same authority, they still have the right to establish any districts or any commission or anything they want to do.

Mr. Roemer But is such authority and delegation constitutional from this point on as a result of the elimination of the last sentence?

Mr. De Blieux What you mean is, to the present constitution...present commission?

Mr. Roemer Well, if we don't refer to the old constitution which has the language, and we don't put the language in the new constitution...then... in the new constitution, is the authority for the Vieux Carré constitutional law?

Mr. De Blieux Yes, sir, if the city council readopts that particular provision. That's all they d have to do. They have the authority to adopt it and to set up districts. That's the main purpose of this provision in the constitution, is to give them the authority to set up special districts, and they would have that authority.

<u>Mr. Casey</u> Senator De Blieux, I think Mr. Roemer asked a very pertinent question. I really don't think it was answered. I think his question was, if you delete that sentence, then is...after the adoption of the new constitution with the deletion of that sentence, is the authority of the Vieux Carré Commission constitutional? I would think, is it not correct, that if you delete this sentence, then the authority is not constitutional. It would become statutory, would it not?

<u>Mr. De Blieux</u> That's correct, Mr. Casey. It would not be. They would...they have...would have the constitutional authority to create the Vieux Carre Commission, but it would not be in the constitution if we delete that sentence.

Mr. Casey So then, what you are doing in effect, is completely eliminating the constitutional authority of the Vieux Carré Commission.

<u>Hr. De Blieus</u> That's correct. In eliminating this particular language which we want...we should either put in this constitution or leave out that sentence, because that's what you are doing. You are adopting by reference all of this language. J say you should not do that.

Mr. Velazquez Senator, are you familiar with the ...with the differences of opinion between the state fire marshal's office and the Vieux Carré Commission through the years?

Mr. De Blieux No, I don't know what you have reference to, Mr. Velazquez.

Mr. Velazquez Well, it's been a long struggle between the state fire marshal's office and the Vieux Carré Commission over who has jurisdiction over various issues. The courts have repeatedly stated that the Vieux Carré Commission has authority over the fire marshal's office in the Vieux Carré itself because the Vieux Carré Commission has constitutional status.

Now, wouldn't support of voting for your amendment destroy the constitutional status of the Vleux Carré Commission, which is the only thing that is allowing the Vleux Carré Commission to continue to do the good job it's done in the past?

Hr. be Blieuz well, Mr. Velazquez, what I say, If you want it in the constitution, you should put this language in the constitution. Don't do it by reference That's what I'm talking about. We are adopting this language by reference, and I think you should spel it out in the constitution rather than doing it by reference. Because, when you get through, if you adopt all of these provisions, particular provisions by reference. You are guing to un will really have two constitutions. You will have to go back to the 1921 Lonstitution to find out what you've got in the 1974 Cunstitution.

Mr. O'Neill. Senator De Blieux, do you remember-

when the title till out the hild is charters of the five different areas by reference isn't this the ale situation? Didn't we take wit that reference about hole rule inarters earlier?

# Mr De Blieux I believe we did, Mr. heil

### Further scussion

Mr. Derbes I hope for y ur sakes this is the ast time ITT speak to you today. Just want to ention a couple of things to you that are very portant.

We are dealing with an area of the State of ouisians which is eblematic and assin in its significance to the state as a whole; the reputation of the state, and the prestige of the state throw out the world. There is no district or area in this state which has gained so uch recognition wild de as the View Carré, or the French Quarter of the city of New Orleans. I say that will all due respect to wild relenants from elsewhere in the state.

The ability of the Vieux are Comission to regulate the modification and denois ton and construction of buildings in that area has been the only, and i trepeat, only device available to the people of the state of this state. The vieux carre constraints of the state of the state

So I urge you to relect thil a error ent Thank you.

### Uuestions

Mr. Gravel Mr Derbes, as you in w, we discuss this proposed proposal with y when we as the huddle a few orents ag is uild y, et it opinion, in view of your it the entire it the last sentence, that it as i le whit is the Yieux Larré Consystent, that that and intel e could be relegated to the heist fany structure of your stations.

Mr. Derbel I wild have noted to the relegation to the penals hedule, ..., ...

Mr v Nertl well, Mr sertes if it releated to the fatuter, ouldn't t east recerbing now

Mr verbe well, what is survert with you, Mr "Neill, of it wells ne ended it the statute, undention at that the would be that it would be to be relevated to all with a velocities that the whatever this statutes, was withing the the third statutes, was withing the first

Hi wills Mi sertes, dui't yu Thirk that wi Ungol restall be trat entered i the rik ton enthat the ill has not to final activity then the vhidule of kinnate with raithing pretiin which wi car't y that

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all of the second states and the

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Mr. De Blieux Mr. Chairman and ladies and gentle-men, my only purpose in offering this amendment is to have an orderly procedure to the constitution which we are adopting. We are going to need, if we use this technique of adopting a section of the which we are adopting. We are going to need. If we use this technique of adopting a section of to need two constitutions to know what the law is, the Constitution of 1974 and the Constitution of 1921. You are going to make this '74 Constitution maybe even longer than the '21 because you will have to contain all the provisions of the 1921 in the '74 Constitution. What is any to you now, is fet's orleans, they have authority, this is constitution authority in the Derbes mendment, try for that sentence to have the constitutional authority for a Vieux Carré district. That's all they need. You don't need to put the very language in as to who's going to be on the commission, how it's going to be of the constitution this what's what's contained in this language. That's what's what's in the language. the ...amendment right now. That will be a part of the constitution if you don't take that one sentence out. Now I'm asking today to let's get a good constitution and con't clutter to let's get a good constitution and don't clutter it up with a lot of statutory language. I ask you to approve the amendment.

## Ouestion

<u>Mr. Nunez</u> Senator De Blieux, wouldn't you say it was true if the mad man of World War II, Adolph Hitler, and his generals thought enough to preserve the great cultural and historical monuments of France and Lundon and England, and several northern ....Western European towns that we, in Louisiana, should think enough of our cultural history to put one line in the constitution?

Mr. De Blieux Senator Nunez, you're not putting one line. You are putting all of this language in the constitution is what I am trying to tell you. That's what I'm talking about. Not one line. I wish it was all in one line. I certainly would not object to one line in the constitution. I'm for it. I want to preserve those historical places, but let's don't clutter up the constitution with who's onion to be on the commission, when there's but let's don't clutter up the constitution with who's going to be on the commission, when there's a vacancy occurs, who's going to fill it, how they are going to go about their business, and all of that kind of stuff. I just don't think that belongs in the constitution.

> [Record vote ordered. Amendment rejected: 25-77. Motion to reconsider tabled.]

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. Deshotels]. Page 11, line 11, in Floor Amendment No. 1, pro-posed by Delegate Derbes and others and adopted today, on line 2, immediately after the number and punctuation "19." and before the word "government-al", delete the word "local" and insert in lieu thereof the following "subject to uniform, legisla-tively established procedures local".

<u>Mr. Deshotels</u> Mr. Chairman, ladies and gentlemen of the convention, this goes to the issue that we spoke of earlier concerning notice and hearing. I think that if you think about it a little bit, that you will want to know how each parish, each municipality goes about zoning. This doesn't have anything to do with the historical preservation that anything to do with the historical preservation that, Jim Dennis spike of. We got us involved in that, I the legislature can pass a tabute saying that you have to have so many hearings, you have to have so many advertisements, and these things have to be public before you can zone, or before you can restrict land use. It's a simple amendment. I think that we would

be derelict in our duties and in an orderly....in the search of an orderly government, not to have some uniformity in our zoning and land use restrictions.

I respectfully request that you adopt the amendment.

Any question?

## Questions

Mrs. Zervigon Mr. Deshotels, in the event that the legislature doesn't pass the general law out-lining these procedures, we could continue to oper-ate under the procedures we now have. Isn't that the case?

Mr. Deshotels Yes, because you've just voted to retain that last sentence on your Vieux Carré, so I assume that you would continue to operate that way. Mrs. Zervigon, without getting into the issue, I think it would be inconceivable that the legisla-I think it would be inconceivable that the legisla-ture of the State of Louisiana, assuming that the answer was in the negative, would refuse to estab-lish procedures and thereby, restrict and curtail the....all of the zoning and land use activities of all the....of all of the subdivisions of the State of Louisiana.

Mrs. Zerwigon It's not your intention to bar the city of New Orleans, for example, should we want to establish even more restrictive and detailed pro-visions. It's only your intention to set up minimum procedures to say, for people's rights. Is that correct?

Mr. Deshotels Other than going to New Orleans and having a meal now and then, I don't want to do any-thing in New Orleans.

Mrs. Zervigon Thank you.

<u>Mr. Roemer</u> Mr. Deshotels, don't you think we have the obligation in this constitutional convention to protect the citizens of New Orleans as we do the citizens of any other part of this state?

Mr. Deshotels Mr. Roemer, I assume that you want a serious answer to, maybe, a frivolous question. Of course we do.

## Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, I see no objection to the adop-tion of this amendment. I believe that it takes case of some of the problems with respect to the method by which zoning and land use regulations would be adopted. This affords the legislature the the set of the procedures. opportunity to set up those procedures.

## Questions

<u>Mr. Jenkins</u> Mr. Perez, would you object to lan-guage which would insert after the word "procedures" in Mr. Deshotel's amendment, the words "of the in mr. uesnotel's amendment, the words "of the local government charter". because, you know, we may have provisions in some local government charters which restrict or prohib-it land use or zoning or functions like this. We want to make sure that these charters will be superior to this provision. Would you have objections to that?

Do you have such language? I'd be Mr. Perez Do you have such language? I'd be glad to...can you suggest the language at this time?

<u>Mr. Jenkins</u> Yes, sir, I would say after the words "procedures and the local charter". That's what I would suggest. I don't have an amendment to Mr. Jenkins that effect

[Previous Question ordered. Record vote ordered. Amendment adopted: 96-4. Notion to reconsider tabled. Motion for the Previous Question on the entire

Mr. Poynter The next set of amendment sent up by Delegate Arnette reads as follows: Amendment No. 1. Page 11, line 11 in the floor amendment proposed by Delegate Derbes and adopted

today: On line 3, after the word and punctuation "pres-ervation," de ete the remainder of the line. Of line 4, at the beginning of the line, delete the words and punctuation "is declared to be a public purpose;" and insert in lieu thereof the following, subject to due process of law .

Mr. Kean l ask a ruling of the chair as to whether or not this is not the same proposed amend-ment which was just debated and voted down a few

Mr. Kean, looking at the amendments, I'm going to use the same procedure that we've used on a couple of sets lately when it...the Chair

Mr. Paynter The next amendment sent up by Delegate Jenkins.

On page 11, line 11....and this one's a little Un page 11, 11ne 11....and this one's a little different...in Floor Amendment No. 1 proposed by ...Delegate Deshotels, to the Floor Amendment pro-posed by Delegate Derbes and adopted by the conven-tion on today, at the end of line 1 of the Deshotels amendment, after the word "procedures", and before the comma "," insert the following: "and the local

Explanation Fr. Jeti'ns Mr. Chairman, delegates, again this is in response to the objection raised by Mr. Arnette who said that even though a local home rule charter might forbid the local governing authority from engaging in zoning or land use regulations, this constitutional provision would give them that authority, despite that charter. This amendment simply says that ubject to uniform legislatively established procedures and the local charter, local governmental subdivisions shall have authority, and governing authority. Of course, because of this ianguage, the authority of the local governing authority. Of course, because of this ianguage, the authority of the local governing authority. The delense of this ianguage, the dependent on their charter. Their charter mould only restrict it So, urge the adoption of this a medment.

Mr Tapper woody, when you ay inneral law and the lucal charter, don't you mean in that that if there is no lucal harter, that there an be no

My Jonkins Nu. It simply say that ubject to their thin, the local powerment subdivision have such authority. This is no way are it dependent on it. It only asy if you have these things, then it's ubject to their but if you due't have the individual say, ubject to unifier legiblicity estable procedures and the litel charter, is all you were their to power in the power is the power of her authority provided herein

Mr. Jenkins Mr. Gravel, thu die in tit the word uniform does in the oddy of a clarter. It says now, let eread you the way that it read It will say. Subject to uniform equivatively established for educes and the la charter,

Mr. Gravel well, then, y second question would be: suppose that there was a unif reprivedure established by the legislature, and there was a conflict with the procedure estallished by the lical charter; which would prevail?

<u>Nr. Jenkins</u> The language and the oual charter does not regard procedures at all by this arend-ment we're making the authority of lola g.e.en-mental subdivisions subject to the timps (inst, uniform legislatively established procedures and

Jenkins That's all there can t be an, en-

Mr. Kean Mr. Chairman, fellew delegates, i din t have any objection to the concept that Mr. Jenkins is suggesting except l' concerned about the anner in which this would read if his a end et t 

Mr. Tobias – Gernin, durity of a nee that till amendient, if ado tel, we would have a – f because it would in effectivear, on firly enfab

Mr kear hat the unit of Mr rasel was to ting into

# Mr. obta kniw

Mr Sear what as we talk alour here, and think this particular in e.t., forming tal what Mr ensing want to out briese his see seate model and till is in this we f Mr Fear this par

## Reading of the Section

Mr. Paynter "Section 20. Zoning. Section 20. Local governmental subdivisions may enact land use regulations and zoning ordinances and create and classify therein residential, com-mercial, industrial, and other districts, and may regulate the preservation of the character of build-ings, monuments, ...

Mr. Perez I just wanted to call to the attention of the delegates, we have taken care of zoning and land use measures in Section 19, and that we should delete Section 20.

Mr. Henry We have an amendment for that purpose.

## Amendment

Mr. Poynter Mr. Derbes offers the amendment. On page 11, delete lines 26 through 32, both inclusive, in their entirety and on page 12, delete lines 1 through 3, both inclusive, in their entirety.

Mr. Henry Mr. Derbes, do you want to speak on your amendment?

Mr. Derbes Absolutely not. Thank you.

[Previous Question ordered. Record vote ordered. Amendment adopted: 102-1. Motion to reconsider tabled. Motion to consider Section 23 previously passed over adopted without objec-

# Reading of the Section as amended

Mr. Poynter "Section 23. Intergovernmental Cooperation.

Cooperation. Section 23. (A) Any political subdivision"---and the language "or school board" was amended in; that same amendment comes in four different places -- "may exercise and perform any of its authorized powers and functions, including financing, jointly or in cooperation with one or more political sub-divisions or school boards, either within or with-out the state, the United States or agencies thereof, except as otherwise provided in this con-

(B) Except as otherwise provided in this constitution, the legislature shall not require political subdivisions or school boards to exercise powers or perform functions jointily or in cooperation with any other political subdivision, or school boards, nor school begislature require consolidation of governmental functions of local governmental subdivisions. Nowever, the legislature political subdivisions or the joint exercise of the electors in each of the political subdivisions affected thereby, who vate in an election called for that purpose." (B) Except as otherwise provided in this con

 $\frac{Mr.\ Poynter}{12-\cdot this} \quad Amendment No. 1 [by Nr. Flory]. On page 12-- this is the Flory amendment--line 27, at the beginning of the line, before the words "the United" add the word "with".$ 

## Explanation

Kr.\_Flory. Mr. Chairman and delegates, if you recall a discussion that we had Saturday as it re-lates to political subdivisions entering into agreements with the United States, agencies thereof, or with political subdivisions within or without

this state, there was a problem that possibly reading it, it could be determined that a political subdivision in Louisland could enter into an agreement with a foreign power. Adding the word "with" on line 27 before "the United States," I think, clarifies it to the extent that there cannot be any agreement entered into between a political subdivision, the state, or agency thereof, with any foreign power, and I know of no objection to the amendment.

## Questions

<u>Mr. Casey</u> Mr. Flory, I admit that the amendment has been on the desk for a while, and I'm concerned about the extent and effect of it. My concern is, for instance, with the Port of New Orleans or any dee-water port in any contract that may be exe-prohibited; if...depending on if a port authority is considered as a government; would this now that it is. Is it, first of all?

<u>Mr. Flory</u> Well, all I know is under the existing constitution--and I don't know what's going to happen when we get into some of the other areas as far as the Port of New Orleans--I know at the pres-ent time the Port of New Orleans is considered an agency of the State of Louisiana. I've had this discussed with some of the authoritles of the Port of Baton Rouge, and they suggested that with the word "with" here would not interfere with any oper-ation of the Port of Baton Rouge, and consequently, 1'm of the opinion it would not interfere with any of the functions of the Port of New Orleans. Their contracts, etc., here deal with leases, etc., with corporations in Louisiana; they do not have any contracts or dealing with a foreign power as such. with

Mr. Casey Now, the other question I have is: in the case, for instance, of the city of New Orleans, it is my understanding that at this time the city of New Orleans is negotiating with the Spanish government for the construction of a Spanish plaza, or maybe it's the French government for the conor maybe it's the reach government for the con-struction of a French plaza, would something of that type then be prohibited under Section 23--for the construction by a foreign government for and on behalf of the city of New Orleans for the construction of plazas?

Mr. Flory Not to my knowledge and understanding, Mr. Casey, particularly based upon actions of the past. If I'm correct, I believe that those are acts of donation by foreign countries to the city of New Orleans that you referred to in the past.

Mr. Casey Well, what concerns me is that we, in effect, are talking about the exercise and perform-ance of authorized powers and functions including ance of authorized powers and functions including financing, jointly or in cooperation. My under-standing is that one of the functions or authorities of any political subdivision is to accept a doma-tion. It is my understanding, under the interpre-tation that we are giving this section right now, that any political subdivision would not even be ble to accept a domation. able to accept a donation.

Mr. Flory I don't agree, Mr. Casey. If you'll read the first sentence, it said, "Any political subdivision may exercise," etc.

Mr. Casey Well, that's correct. I agree with you that it reads that way.

Mr. Flory But the word...inserting the word "with" before "the United States" does not prohibit what you're talking about, in my judgment.

Mr. Casey Well, you are limiting this to the action of any political subdivision in Louisiana.

Mr. Flory I'm not granting specific authority, but at the same time, it's not prohibiting it, if you read the whole Section 23, the first paragraph between lines 23 and 28.

Mr. ey wel, then, : ues, i'd have to se the oue tion are you intracting by your ent that we leed lection is at a l

Wr i ry i din t elive that you do need en-ton c, at all be an entity permit we in nature, but if you regoing to have it, and I thin that the children is the state of the state is sonal do not ee aly need for the state of the state the state day, but has enter int an agree ent with Mis issipp for educational television; this is that they gave as a best of entering an agree ent with the state of the state of the state of the state enter if the levi lature agrit to recall - that on a numer if casims the issue has been before a numer of accastons the itsue has been before the legislature to man authority for various point a subdivisions, or the state itself, to enter into regional conpact. So, I presue a based upon the past mistory of atters that have been before the tegislature, they had the authority then, and the constitution, as my understanding, we silent on the "sue.

Mr. Gase 1' not sure, Mr. Flory, that we do need it or son't need it. If i had by druthers, y preference wuld be that we have it, but my con ern is that pissibly with your amend ent we are 11 sting a power and function winch a local political sub-division may have at this ti e. If we enact your ared ent, and do you inow a' o that really this is regulated by the u.S. Constitution, rather than being state constitution, state shell end, into any agreement or umpact with another state or with a foreing nower without being authorized by Con-rre i Are you aware of that:

M. Tirry e., sir, and that all this a indicent does, is in keeping with the Federal Constitution.

Mr. Coldian Mr. Fivry, are you aware of the fas-that the queition by Mr. Dennery, and a to by myself, altough it won't lone firm this is co-prime, regarding edu attenditelevition, was belau fyour revious a condiment with hip prohius ted an Subdivition deal with hip is not start and an Guiatin at televitim, did you know that there are exchange with Canada. Frante and so forth Would this prohibit that

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that school boards be able to consolidate with a majority vote. Now, I don't know whether this convention will want to go that route or not, but not wishing to in any way preclude a decision on that topic until we get to the Education Committee report, it seemed wise to put in here "except as otherwise provided in this constlution" to the two-thirds requirement for consolidation of func-tions.

### Questions

<u>Mr. Dennis</u> Mr. Burson, as I understand this section, as it has been amended by your amendments and others and also with this one you are proposing, although you've added "or school board" in some places, the total effect will be that consolidation of school boards will not be governed by this section, but will be governed by something else in the constitution or somewhere else. Is that right?

Mr. Burson Yes, sir, by the appropriate section. Judge Bennis. I think you were one of them that brought to my attention that probably the Education Committee, nor the present law, would require twothirds vote to consolidate school districts. I don't think that was the intent...

Mr. Dennis So, even if we pass this section, it will not mean you have to get a two-thirds vote to consolidate school systems.

Mr. Burson That's the purpose of the Second Amendment, is to make this plain.

<u>Mr. Singletary</u> Jack, is it your intent to, when we get to the definitions at the end of the committee proposal, to redefine "political subdivisions" ...to exclude school boards?

Mr. Burson No, to include school boards in it, but only to exclude them in sections where the sections are not applicable in the article. You've got to do it one way or the other.

Mr. Singletary Do you have some suggested language to accomplish that purpose? -

<u>Mr. Burson</u> We'll have to cross that bridge when we get to it, Alvin, but. in other words, I started off on the other premise, but after the problems inherent in it were pointed out to me by a number of people, I decided it was unvise and went back, and that's what I'm doing now, is to try and rectify an earlier mistake in that regard.

Mr. Singletary I agree with your purpose. I'm just wondering how we are going to accomplish that.

<u>Mr. Burson</u> Well, I think just including "school boards" in the definition of "political subdivisions," if we've excepted them everywhere they should be excepted, should present no problem.

Mr. 0'Neill Mr. Burson, I was on the Committee on Legislative Powers and Functions, and I thought that we had put all the limitations we were going to put on the legislature in that article, but Section (8) of this proposal is a very strict prohibition against the legislature. I wish you'd first spoursel somewhat to that, since you're the first spoursel somewhat to that's been up speaking on this. The committee that's been up speak-

Mr. Burson Mr. O'Neill, I think quite clearly that that Section (E) emanates from a great fear that constrain policial suddivisions have, or people from consolidation at some future date. That's the only explanation that I have, but I think if you'll just think of Jefferson and Orleans, right off the bat you get the message.

Recess

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Mr. Henry Read the Burson amendments, Mr. Clerk, Give the Clerk your attention, please, so this can be properly read. You're going to have to make a correction 'cause it's still not drawn right. Read it, Mr. Clerk.

### Amendments

Mr. Poynter Now, you wanted all four of those previous amendments out, right, Mr. Burson? All right. On page 12, delete Floor Amendments No. 1 through No. 4 to Section 23 proposed by Delegate Burson and adopted Saturday.

Amendment No. 2. On page 13, between lines 8 and 9, insert the following: "The provisions of this paragraph shall not

"The provisions of this paragraph shall not apply to school boards".

## Explanation

<u>Mr. Burson</u> The explanation is still the same. You want paragraph (A) to apply to school boards because you want them to have the power to consolidate or exercise functions jointly. You do not want paragraph (B) to, because the Education Committee has got a different set-up. It's as simple as that. We're deleting the amendments because we want to include school boards as they traditionally have been, as a political subdivision except where it doesn't fit.

Mr. Perez I see no objection to the amendment.

Previous Question ordered.]

### Questions

<u>Mr. Gravel</u> Mr. Burson, I notice that the new amendment, as prepared, doesn't have the provision in line 5, on page 13 after the word "but"..."except as otherwise provided in this constitution". Was there some reason why that is not needed now?

Mr. Burson Yes, sir, the reason is that the intent I had with the motion was simply to say that it shall not apply to school baards, and they said, "Why don't you just go ahead and say it that way because it really fouled up the language of the other sentence?" It didn't come out very well, to say the least.

Mr. <u>Gravel</u> Do you think that the provision on Time 29, page 12 is applicable then to the entire Section (B) and modifies the entire section "except as otherwise provided in this constitution?"

<u>Mr. Burson</u> Yes, sir, that was the...that's what was Mr. Kean's point. He said if you don't want paragraph (B) to apply to school boards, just say that, and that's why we added the sentence.

Mr. Gravel Well, would you have any objection to Teaving in that particular part of the amendment that provided to make it clear, on line 5, page 13, after the word "but"..."except as otherwise provided in this constitution?"

<u>Mr. Burson</u> No, I really don't have any objection or desire one way or the other on it. The opinion of most people was the..saying "except" one time provide the second of the second of the second provide the second of the second of the second would not be infringed upon with the education article provision of a majority rather than a twothirds yote.

Mr. Nunez Mr. Burson, rather to insert school board in every paragraph or sentence that you think this should apply to, would you find any objections to putting it in the back under political subdivisions, the definitions you have here? "Use parishes, municipalities and any other unit of local government including special districts or provided

by law to perfor governmental function. Why son't we just put school board in here? whenever they say political subdivisions, I think school boards would be covered, rather than just keep saying school boards...

Mr. Bur on The proble is, Senator Nunez, there are so e articles in here where you give powers to political subdivfsions that you would not want to go to school boards. That s where you have to put the exceptions in.

Mr. Newton Mr. Burson. I don't know if this question is necessarily pertinent to your amendments, but in reading Section 23, paragraph (A about these political subdivisions exercising these powers orintly, on what authority would they do this? Just a vote of the police jury, the two police juries, or would the people have anything to say about that?

Mr. Burson Well, of course, I think there you would get into Section (B) that the consolidation or joint exercise of powers would not become effective until two-thirds of the electors had approved it.

Mr. Newton | don't read it that way.

Mr. <u>De Blieux</u> Mr. Burson, as I read this part(cular provision, without your previous anendrent or this one, there could be no consolidation of the city and parish school boards in the parish of Quachita or the parish of Washington except by vote of the people. Now, if we insert your particular amendment here, couldn't that be interpreted that the legislature could consolidate those school boards without a vote of the people?

Mr. Burson No, sir, not...

# Mr. De Blieux Why?

Mr. Burson Not since the Education Committee has got a specific article on that point — ee, the problem that you're raising in your quest on is the exact reason why I offered the econd a end ent because somebody else phinted that out to me Saturday. I know that the Education Committee has an article on that point, so, it's no use to encounter that problem at this time. We d really be...

Mr. De Blieux well, wouldn't there be a conflict between these two articles. Now, look at the words and the language very carefully, now, and then insert that language there and see if that wouldn t exempt innon boards from the particular legislative authority.

Mr. Burjon well, again, Senator, it dight if we didn't know that the Edu ation Con Ittee has get yomething oning on it, just like a lot of question, in revenue and taxation we don't uver becaue we know the Revenue and Taxation for ittee has overed

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e exists of g have to a take it, eets, for instance, we use exects to the lowe districts. I use all krist for is i over the VI effatte ty unit with eff ring. I use the Marus unit to the Affing love the Jeffert arish a wetweeg Parish, build would we to how for sure, for use that this ean that we and to the VI effatte take agencies of given ent that i ger erin their function. That usi, perham serve to visit of the sure of entry to the agencies or by a mail datin by the sal given ent, any any gou wait to say it elects that ean single little evee distrit, each it te raw by drainage direct has to ye te with rest the electors in favor of to id we te with esta directs the test of the all entry.

### uestins

Mr. Flory Judge ate, I had but raised that see question, but I oing to ask you specifically in lines 3, where, at the end if the related that line where it says in the littlerer is if y wers and performance if northins by put is a look sions, on page 13 ks i understaic that would prohibit the legislater if no activity would prohibit the legislater if no activity the second second second second second second second second a regional arrort unless they gut the inter of the votes in each respective district that i

Mr. Tate It sees to e that t eans that, and it seems to me that it is bject t a great deal of question and a great deal of debate I velust raised the question. If there are n a endments and if there are n question, I wull verthat when we vote on this, Mr. hair au, entitled to ask a division between Al and I. N. how do I do that A menu ent to delete we.

Mr. <u>U.Net11</u> well, Judge Tate, the your of agree that this is a rather severe is tating the legislature within the size of each of article where is don't think we should be in the time the legislature from dirit anythis.

Mr Tate I d'agree petey, Mr . hell

Mr C'Neill Thank y u

Mr Rayburn udve ate, wordt h. t.e language l reading here, what effet wordt hat anguage have on prejently leated a lift hat are now in vieration

Mr Tate twold eet to c, eat tarart, under the definition of a strategy of the second strat

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is it? Wouldn't this permit arrangements whereby out of state law officers could come into our state or into a city and make arrests and take over and exercise the functions of law enforcement within this state?

Mr. Tate I supp Mr. Avant, but... I suppose I'm supposed to answer yes. Mr.

## Mr. Avant I want to know

Mr. Tate Well, ask me the question one more time, I lost you.

Mr. Avant I want to know it calls would a deal, if local government decided to make such a deal, I want to know if this would not permit. out of state law enforcement officers, say, Mississippi, Arkansas, Texas, or you name it, to come in this state and exercise law enforcement powers in an area in this state just on the say-so of the local governing authority?

Mr. Tate Well...if I understand your question, then, it doesn't seem to prohibit that, it just prohibits two local subdivisions cooperating to-gether unless two-thirds of the vote...of the electors in each subdivision...

Mr. Avant ing at (A). Well, I'm talking about (A). I'm look-

Mr. Tate Oh, Mr. Avant, I'm not rising to do more than raise questions as to (B)...all right, let's see what (A) says. I'm not on the committee.

Mr. Avant Well, you've read it.

Yes, yes, I would agree with you, Mr. does. I would agree with you it does. Tate Yes, nt, it does. Avant,

## Further Discussion

Mr. Chairman, fellow delegates, I rise in support of this section as it stands right now. I'd like to bring to your attention that Subsection (A) merely authorizes the parishes, and cities, and political subdivisions, whatever they might be, to perform any governmental functions at their to perform any governmental functions at their will. It authorizes them that they may do these if they so please. Subsection (B) only applies in the case where the legislature requires political subdivisions, to cooperate into any governmental cooperation venture. Let me bring to your atten-tion that it was the feeling of the committee, at tion that it was the reging of the committee, that should the political subdivision be opposed to such cooperation, that it would be left to a vote of the people. If the people wished to join into such a venture, that the political subdivision would do so. Let me further bring to your atteninto such a venture, that the political subdivision would do so. Let me further bring to your attention, a number of people have questioned the two thirds provision. On page 13, line 3, we are talk-izing the consolidation of political subdivisions or the joint exercise of powers and performance of functions by political subdivisions. This, in essence, is consolidation and mergers of political subdivisions. Let me further bring to your attention that with any definition of political subdivision of the political subdivisions. Let me further bring to your attention of the consolidation and mergers of consolidation of political subdivisions of the political subdivisions. Let me further bring to your attention that the "disolution, merger, or consolidation of parishes would take place only by a two-thirds vote of the electors in the parish," so that the committee, in this Section 23, is only following the lines of what the Convention thas already adopted. Let me relterate again that Sub-ready adopted. Let me relterate against their will, that there's still a door open for cooperation through the vote of the people. We thought that the vote of the people would take place. I'll yield out any questions.

<u>O'Neill</u> Well, Mr. Toomy, I can appreciate explanation, but it seems to me that Section Mr. O'Neill Mr. Unetii well, Mr. Howy, Fice appleties your explanation, but is seems to me that Section (A) says that they can do any of these things jointly or together. The people have no say-sou-thorizes it and, say, the people want it, then it requires legislative approval and two-thinds the vote of the electors. I...you know, this seems pre-posterous to me. Two-thinds of the electors never even det we concert. around sixty percent.

<u>Mr. Toomy</u> To answer your second question first, if you will read lines 7 and 8 on page 13, it says, "two-thirds of the electors in each of the political the second seco subdivision affected thereby, who vote, who vote in subdivision affected thereby, who vote, who vote in an election called for that purpose." Not two-thirds of the total electorate on the rolls, but only two-thirds of the popole who vote in the elec-tion. The first question...I answer, it's been the feeling throughout of the Local Government Com-mittee, that the local governing authority had a better pulse of the people within the area, and that if the governing authority was acceptable to such cooperation, that it would be more favorable to the people. If the legislature mandated such cooperation and it was cannot the will of the novcooperation and it was against the will of the governing authority, then we would allow it to a vote of the people.

### Amendments

Mr. Poynter Amendment No. 1 [by Mr. rate]. On page 12, deltete lines 20 through 32, both inclusive, in their entirety including all floor amendments thereto (and there are none) and on page 13, deltet lines 1 through 8, both inclusive, in their entirety including all floor amendments.

Now, Amendment No. 2. On page 13, between lines 8 and 9, delete Floor amendment No. 2 proposed by Delegate Burson and adopted by the Convention on October 2, 1973, (as a separate second amendment).

<u>Nr. Late</u> All right, Mr. Chairman, and fellow Gelegates. I don't rise with a great deal of con-fidence because it has not yet been explained to me what the purpose of (B) was. Nevertheless, look-ing at (B), the concept that 'the legislature shall not require political subdivisions to exercise. powers or perform functions jointly in cooperation with any other political subdivision," as an abso-The blacket prohibition, it seems to me to be an unwise restriction on the power of the legislature to require governmental units performing the same functions such as gravity drainage districts, functions such as gravity drainage districts, levee districts, etc., to perform the same... to cooperate. I rise particularly, however, in opposition to the second sentence of the section which prohibits the consolidation of political sub-divisions which...or the joint exercise, even the joint exercise of powers of functions by political subdivisions unless it's approved by a two-thirds vortiof the even to sind of the second the second of the event of the second second of the second of the event of the second of the second of the nall subdivisions, subdivisions are defined not only as towns, parishes...we all know what great thirds they are because we believe in home rule, etc. But, subdivisions are defined as special dis-tricts such as the garbage districts, the severage etc. but, sourisions are defined as special and tricts such as the garbage districts, the sewerage districts, the mosquito control districts. I just it's more adequately explained to me, it seems absolutely unwise to freeze into the consti-tution a restriction, an absolute governmental bar or authorizing cooperation.

### Ouestions

Mr. Lanier Judge Tate, if we delete Subsection (B), then, am I correct in saying that there would be no prohibition against the legislature of the State of Louisiana, say, consolidating the powers and functions of the parish of Jefferson with the parish of Orleans, to require that for all future

Mr Tate - I read your the promition, it a that the leg lature ay not reluine polition stands to exercise powers or perform function Los in the event of proversion perform functions on a versal in with any liner pittinght in the interval of the second se

Mr. Tate Unless it's sub-itted to a vote of the pope and two-third of the people of unleans Par-ish, in a special election called on the purpose.

Mi. anier but, would you ayree that the evil inherent in not having this provision is that the registature could erge the power and functions if "rieans and Jefferson?

Mr. Tiny udge, you under tand that 'ub' tim The start of the start of the start of the start of the start 'un, locally, and that what Mr. Lanier was a king was only in the sale of invituntary operation, and i don't think that' the series in our to the start of the start of the start of the start the start of the start of the start of the start operation of the start of the start of the start start of the start of the start of the start start of the start of the start of the start of the start start of the start of the start of the start of the start start of the start of t

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Mr. Late read value, plants

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Mr Tate No verting the integral of we relete the left integral of a solution narriwly draw to it verting integral of a type

[1554]

Mr. Perez Yes, sir, and I would again suggest that we ought to limit this paragraph to the parishes and municipalities, and not to all these various districts. I'd be glad to support an amendment which would limit it to the local governmental subdivisions in order that the functions of the parishes and of the municipalities could not be merged without their consent.

Mr. Perez, did 1 understand that you would accept an amendment to Section (8) that would limit it, "shall not require local governmental subdivisions," which are defined as parishes or municipalities?

Mr. Perez Yes, sir, I would.

Mr. Tate In the first and second sentence?

Mr. Perez Yes, sir, I would. If you'd be...If you will withdraw your amendment, I'd be glad to offer such an amendment.

I'd be glad to withdraw my amendment if Mr. Tate I'd I you'll do that.

Mr. Perez Fine.

## [Amendments withdrawn.]

### Amendments

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. o'Neill, et al.]. Page 12, line 30, immediately after the word "require" and before the word 'to", delet the word...words "political subdivisions" and in-sert in lise thereof "local governmental subdivisions"

Amendment No. 2. On page 12, line 32, immediate-ly after the word "other", and before the word "nor", delete the word "political subdivision" and insert in lieu thereof the words "local governmental subdivision".

Amendment No. 3. This one was drafted with ex-pediency in mind. On page 13, line 3, line 5, and line 7, knock out "political subdivisions" and insert in lieu thereof "local governmental subdi-

So, in effect, you are changing "political sub-divisions" to local governmental subdivisions in five different places, line 12...page 12, line 30; page 12, line 32; on page 13, lines 3, 5, and 7.

## Explanation

Mr. O'Neill Ladies and gentlemen of the convention, this takes care of the problems that Judge Tate has mentioned. I want you to just refer back quick-Jy---I won't take very much time--to page 27, part 5, under definitions.

5. Other definitions: You will see there is a difference between the way local governmental subdivision "and political subdivision". There is a distinction made between these two. Rather than leave the words "political subdivision" in the committee proposal, we are subolvision in the committee proposal, we are attempting to change it to "local governmental-ity. So it won't include hospital districts, mos-quito abatement districts, or all these other little nit-picky things. This is a beginning in clearing nit-picky things. This is a beginning in clearing up many of the problems that have arisen over Part (B) of this section.

There is no objection on the part of the committee, as you can see by the coauthors on the amend-ment. I'd ask for your favorable adoption.

 $\underline{\mathsf{Mr}}$  . Conroy I don't know whether this should be directed to you or to the Chair, or what. But, does this also delete the Burson amendment which I would assume would no longer be necessary, would

Mr. O'Neill No, sir.

Mr. Conroy It doesn't delete it? Is it necessary

anymore?

### Amendment

### Explanation

Gravel Mr. Chairman, ladies and gentlemen of Mr\_Gravel Mr. Chairman, ladies and gentlemen of the convention, this is a very simple amendment that certainly is self-explanatory. This means that there, after the legislature, of course, has enacted laws authorizing the consolidation of po-litical subdivisions or the joint exercise of powers, that that law shall become effective when it is approved by a majority of the voters and not by a two-thirds vote. I think this is ample pro-tection. This doesn't mean necessarily that law islead anybody, but I believe that it's fairer to say majority than two-thirds. say majority than two-thirds.

### Questions

<u>Mr. Lanier</u> Mr. Gravel, would this mean, then unac-if the legislature so authorized that the powers and functions of the parishes of Orleans and Jefferson could be joined by a majority vote in both places?

<u>Mr. Gravel</u> Well, they could by a majority vote, but they could do it by a two-thirds vote here. But I don't believe that's the intent of this at all.

<u>Mr. Nunez</u> Mr. Gravel, your amendment, would you say it would be compatible with Section 2 which takes two-birds vote for consolidating parishes, dissolving parishes, creating new areas, or changing parish boundaries which, evidently, under (B), very possibly was the powers and functions intermingled could mean the same thing. In it, you are getting away from the compatibility of Section 2, which is the same now in (B) of this section.

Mr. Gravel Well, perhaps so, but let me make sure that I make this Clear. First of all, the legislature is acting in con-nection with this particular provision. Once the legislature has acted then a majority of the voters, as I understand it, should be the ones to decide whether or not that provision would go into effect. Otherwise, you would have a relatively small minor-ity that could prevent the legislature's actions from taking effect.

<u>Mr. Nunez</u> Well, it might be wise to have a small majority preventing the action, if that action was so directed as to direct an urgent request, what have you, that they merge, consolidate their powers and functions. It might be wise to have two-thirds in there.

Mr. Gravel I don't agree that it would. Mr. Nunez, I tinin, Tret of all, that we keep in mind that we are predicating this on action by the legisla-ture, which. I assume in most instances would be wise action that would be taken. Therefore, if you are going to have a vet by the people within the affected areas, it should be by a majority of those and not by two-thirds. It's just that simple. I imagine that some of you have a different view, but this is my view.

Mr. Nunez Well, would you...another question?

Mr. Gravel Yes, sir.

Mr. Nunez Would you recommend we go back and

Section \_, where .\_ 1 ean

Mr Nunez Sectin . In the call Government Arri-cle Section 2... parishes may consolidate sar ishes, disolve parishes, etc. That with two-thirds vote of the voters or electors in both par-shes concur.

Mr. Grave: well, would think that Section 2 would be specific with respect to the things entioned in Section 2, and probably are, f a higher degree than...the provisions we are talk ng

Mr. Nunez well, wouldn't you say , ain concern is that Section 2, that this section would apply to a sillar type of mergers in Section 2 and we should prohibit that. That's my main concern, wouldn typu agree?

Further Discussion Mr. Toony Mr. Chairman, fellow delegates, and particularly Mr. Gravel. I don the beleve you read structure of the two-thirds of the structure of the structure of the no readom why we should change the vote. We already have the legislature author zation in Section 1. Your amendment would simply create a conflict be-you are proposing to change this section. I further subt t, if you remember the last time who we tail election compared to the people on the of when a legislature and the section. I further subt t, if you remember the last time who vote at election compared to the people on the of when a legislature agoing to consolidate parishes, the few number of people that might be involved in one election. This affects people more than any-thing you can bagine in the state, to change the parish lines, to consolidate parishes. I do not this that a two-thirds vote h each area is unreasonable. I feel that this is the neart of the home role people who would the search of the home only see Mr. To when the structure is the search of the service of the search the search of the home only see No we should change the provision. I con only see

operate within cities and parishes. I see no reason why we should change the provision, ) can only see proble arising from changing this from a two-

Mr. Tobias Mr. Toomy, are you aware that section 1, as far as changing parish boundary lines, etc., would control over this section of adopted. In other words, they are not in conflict with one

Mr. Lomy. As I read it, they are in direct ion-flict. One says the legislature may establish only after a taxistic vite, and the other say. If you will read it, "the conjolidation of local givermental subdivision , and, as Mr. Gravel propiets, by only a ajonity vote. If you further understand what this setturn ay, by conjolidating the pieces and function of local governmental sub-division, you are, in essen e, violidating the governmental ubdivision.

Pr Runez Mr. India an ani teliw delevates, 1 still trying trunder-tand ection || or tertain, don't think war dealing with right now liertain, don't think that by fairing analority it the aniwr to the project that they ne have two thind to it I think if you don't understand it, you don't lier et, let specific there, but let y don't change the two thirds with the aniority vote think if is north the with in a logit vote time think if is north the with in a lift.

the way in way it however, the construct a source of the source of the

We have by the second s

Mr. Poynter Mr. Burson sends up an ale d ent in page 13, between 1 mes and 9, delete the fir Amendment No < proposed by hi and addited by the convention earlier in the day

Mr Bur in Thi state, maaaen et sin el think tis bijiyas when yu chan et the definition that in ude wij par e an ite. you din tineed the seund a end ent that na en-

Wednesday, October 3, 1973

## ROLL CALL

[75 delegates present and a quorum.]

## PRAYER

Mr. Eurns. Our Heavenly father, we thank Thee for Dronging us back to this convention for a new day. Drong who has taught us to fly through the air like birds and travel under water like fish, we would ask that You would guide us down the straight road to January 4, not letting us turn to the right or left, but deliver on that day a constitution to the governor of the State of Louisian that will not only meet with Thy approval, but with the approval of the people of the State of Louisiana. We ask all these things in Jesus's name. Amen.

### PLEDGE OF ALLEGIANCE

## READING AND ADOPTION OF THE JOURNAL

## Reconsideration

Reconsideration, Committee Proposal Mr. Poynter Reconsideration, Committee Proposa No. 17, by Delegate Perez, Chairman on behalf of the Committee on Local and Parochial Government, Section 24, thereof, dealing with assistance of local industry by political subdivisions, deep-Water port commissions or deep-water port, harbor, and terminal districts. The question before the convention is the question of the reconsideration of said section, which failed to pass on yesterday.

> [Motion to reconsider Section 23 adopted without objection.]

## UNFINISHED BUSINESS

## PROPOSALS ON THIRD READING AND FINAL PASSAGE

<u>Mr. Poynter</u> Committee Proposal No. 17, introduced by Delegate Perez, Chairman on behalf of the Com-mittee on Local and Prachial Government, and other delegates, members of that committee. A proposal making for general provisions for local and parochial government and levee districts and ports, the financing thereof and necessary pro-

and ports, the financing thereof and necessary pro-visions with respect thereto. The status of the proposal is the convention has adopted the first 24 sections of the proposal, with the following exceptions being Sections 2, 4, 10, and 20, which the convention by amendment has de-leted, and also Section 23, just reconsidered.

Mr. Henry Mr. Perez, do you want to go ahead and work on Section 23 again, or move on to 25? Twentv-five?

Read Section 25, Mr. Clerk.

## Reading of the Section

Mr. Poynter "Secti Titical Subdivisions "Section 25. Appropriation to Po-

Section 25. When the legislature appropriates Section 25. When the legislature appropriates funds to one or more political subdivisions and the legislature does not specify the purposes for which such funds shall be expended, or the amounts to be expended therefor, the expenditure of such funds shall be determined solely by the governing authority of the political subdivision or political subdivisions to which the funds are appropriated. The legislature may require a report concerning the allocation and expenditure of such funds.

## Explanation

<u>Mr. Burson</u> Mr. Chairman, fellow delegates, this is a new section. There is no section like it in the present constitution. What it is designed to do quite simply is to prevent a situation such as has occurred with revenue-sharing, where the legis-lature made blanket allocations of funds to local governmental subdivisions, cities, or parishes,

and in many cases, the legislature delegation reserved the right to approve particular expenditures of those funds. What this section says is that if or those runds. What this section says is that if the legislature does not specify in the act of ap-propriation, the purpose for which money is to be spent, that is, if the legislature does not specify that the money is to be spent for roads or for some other purpose, then the specific expenditure of such funds shall be a matter to be determined solely by the governing authority of the political subdivi-sion, or political subdivisions to which the funds have been appropriated. Of course. it nose withhave been appropriated. Of course, it goes with-out saying that the legislature, through the legis-lative auditor or any other means, should always be able to require reports concerning the expendibe able to require reports concerning the expension three of such funds, but the question met squarely by this section is whether or not an individual legislator, any parish, or munitipality should be able to go back into the police jury meeting and say, 'i want ''' amount of dollars out of the revenue-sharing funds to be spent for five miles of blacktop read in Ward 6 of St. Landry Parish," which under the revenue sharing setup in many of the parishes, a legislator could do. It is an issue, really, as far as the local governmental subdivisions are concerned, of an intrusion of the state legislature into specific decision making at the local level. This is not to say at all--and I want that clearly understood--that if the legisla-ture decides that it wants to make specific alloca-tions for the purposes, say, of roads, that in that event, certainly the individual legislator should have a great deal to say about where these monies are to be expended. But, in the event of a general grant or general appropriation, that is not spec-fifed in the appropriation what the purpose of the money is, in that event the decision making as to which under the revenue sharing setup in many of the specific expenditures, it is the position of the committee, should be left to the local govern-mental body. Now, Senator Rayburn raised to me the question yesterday that the language on line 6 saying, "or the amounts to be expended therefor, The quest of the amounts to be expended therefor, really placed on myposes for instance, in the ex-penditures of roads, it would be impossible to pre-dict the exact amount that would be expended for a distribution of it would be expended for a dict the exact amount that would be expended for a particular project until you really knew the final bid, so at his request, I have prepared an amend-ment which will be pending which would delete the words "or the amounts to be expended therefor," and will simply leave the language clearly stating that Will simply leave the language clearly stating that in the events that the legislature does not specify the purposes for which such funds are to be expended, then in that event, the expenditure of such funds shall be determined solely by the governing author-ity of the political subdivision. I'll answer any questions that anyone might have.

### Amendment

Mr. Poynter Amendment No. 1, by Oelegate Burson. On page 14, at the beginning of line 6, delete the words and punctuation "or the amounts to be expended therefor,

## Explanation

<u>Mr. Burson</u> Mr. Chairman, fellow delegates, as 1 mentioned in the presentation of the section, this amendment was drafted when it was suggested to the committee that it would be impossible to ascertain the amounts expended for many projects with any specificity until after you had bids in, to know what the project was going to cost, that it wasn't practical to have this requirement in the section. The committee has no objection to the deletion of these words, and if there is no other objection, to a we can go ahead and delete them and move on to a discussion of the rest of the section.

### Ouestions

Mr. Burson, I can see that people are Duva1 Mr. pretty fascinated with this section, so I'm going to ask you a question about it. I'm sure the com-mittee discussed the idea that perhaps if this

inction is adopted then the 'evil ature would be

Mr. Burson That was discuised, yes, hir

Mr Duval what was the reason you did it this way? What did you decide

Mr Burson well, as I mentioned in the original presentation, this is a problem which has really been put especially in focus by the revenue-sharing controversy, and this is what this is designed to deal with, primarily,

Mrs. Warren Mr. Burson, would this mean then that the legislature would not be able to specify what it was for?

Mr. Burson No, ma'am. All this section...

Mrs. Warren

<u>Mr. Burson</u> No, ma'am. Taking these words out simply would eliminate the requirement of specify-ing what arout was to be expended for a particular purpose. Since in any cases, for instance, if you're going to build a road, you have no idea what the road's going to cost until after you've gone through the process of taking bids on it, and that s why I agreed and the committee has agreed to take these words out of there, since it's not a

Mr. Poynter Amend ents sent up by Delegate Gravel. Amendment No. 1. On page 14, delete lines 2 through 11, both inclusive, in their ent rety.

Mr. Gravel Mr. Lhairian, ladies and gentlemen of the cluvention, this a endment seek, a indicated to delete thi entire scion. There is no reason that I can possibly conceive of why thi kind of a, Find of prohibition or restraint or direction, whatever you want to call it. on the legislature should be collatened in the constitution. The lana) while of prohibition or restraint or direction, whether you want to be 1 kt., on the legitisturge pudge is bad; the purpose may very well be loadible that for which this section was during the loadible that for which this section was during the legitisture to puly with the directive here. For evalue, the section was during the legitisture the field black of the section was during the legitisture that for which the directive here for evalue, the section was during the legitisture to puly with the directive here. For evalue, the section was during the legitisture to puly with the directive here for evalue, the section was during the legitisture to puly the directive during the section of the directive during the section of the directive during during

Mr. Rayburn Mr. Graet, 1 with here is to Tast senten e. In the entry fit at the spend the use of the arythin to show the spend the one uncer to rule data at a benefiture, and if rh, with half data but they by that the show to rule any spender of ush find. Two is mattines with at record fitter we not to

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Mr. Gravel Revenue-sharing funds, which are just a two year old concept, are generally allocated by the legislature to the local governing last visions, and in some there have been a list of some thirteen or fourteen different areas in which these funds could be spent, but I don't even think that that would be contemplated by Mrs. Warren, by this section, because I don't think there that the kind of specifics contemplated by this section are really spelled out in the revenue-sharing acts that have been passed by the legislature.

<u>Mrs. Warren</u> So, in this, if you don't delete this, it would mean that you would never be able to allocate funds for specifics?

## Mr. Gravel Yes...

<u>Mrs. Warren</u> ...That you wanted to fund something specifically, you couldn't do it? This is what I'm trying to find out.

<u>Mr. Gravel</u> Well, now, I think this could be done under this section. Under the revenue-sharing bills, the last two that were passed, and I think there have only been two, the legislature has said that these. .that the excess funds in revenue-sharcertain tax recipient bodies, that excess funds could only be spent for certain nurposes. But they weren't specific purposes. There were a list of some eighteen..thitteen to eighteen purposes as I recall it for which such funds could be used. I don't think...

Mrs. Warren Thank you, but I would like for you to give me a list of those eighteen things--not right now, but I'd like to see them.

Mr. Ray Mr. Gravel, can you tell me, as a practical matter, from line 7 on, how the expenditure of these monies, determined solely by governing political subdivisions, could be accomplished, that is, as I understand the definition of "political subdivision" you can have two mosquito districts from two areas, or two water shed districts, and how would...what's the mechanics for them agreeify percent of them have to agree? Just how would it work?

Mr. Gravel Well, I think under this section, just the allocation is made, and there the constitution stops, and there are no criteria or guidelines or safeguards with respect to the expenditures by the local governing subdivisions.

### Further Discussion

<u>Mr. Gellieux</u> Mr. Chairman and ladies and gentlemen of the convention, I want to support this amendment, and make my remarks very brief on it. What it this mendment was supposed to correct, was individual legislators being able to dictate to their local governing bodies how to spend revular amendment is not going to correct that situation. What it's going to do: it's going to result in the legislature taking on a lot of these functions, centralize the government, and you will have a whole lot less funds going to governot that signed these functions, centralize the government, and you will have a whole lot less funds going to governot that signed for the government, and you will a spending of those funds. I think this is a good amendment, and I certainly think we ought to take this particular provision out of the constitution because it's going to hamper our local government. The amendment. I ask you to support the amendment.

## Further Discussion

Mr. Flory Mr. Chairman and delegates, I rise in support of the amendment, and briefly, to tell you

my reasons for that, the other day Mr. Nomack stated, and I have no reason to disagree with his figures, to say that the state gave to the local government monies to the figure of 5648,000,000.00 a year. Now, this is what we are talking about in dollars, raised by the state. I suggest to you that if you read this section carefully, what you're saying in this amendment is; all finds appropriated by the state could be taken out from under the public bidding statutes of the state. Now, mind you, you're talking about 5648,000,000.00 which are now subject to Title 38, Section 22.11, under the public bidding statutes of the state. Now, mind you, you're talking about 5648,000,000.00 which are now subject to Title 38, Section 22.11, under the public bidding statutes of the state. Now, mind you, you're talking about 5648,000,000.00 which are now subject to Title 38, Section 22.11, under the public bidding statutes of Louisiana. Adopt this amendment of this section, and you take those funds from a public bidding statute now on the statute books in Louisiana. For example, Act 10 says-and it appropriates \$10,000,000.00 a year to the various municloads-- there is a further stipulation in that act: it says that those contracts...those projects have to be let by contract. I suggest to you under this they would not have to be let by contract. Further than that, each year the legislature appropriates some \$20,000 to each parish for off-system roads. Now, you imagine with this provision in the constitution, what would happen in these police juries that have the ward system in effect. Without having to go the public bidding roin in fit-system roads. Series you have now dowed really complicate the work of the legislature and require then to deal far more in specifics than they ever have in the past. When you get down to it, really, the \$648,000,000, very little of it is earmarked by the legislature for use by local governments. I'd be happy to answer any questions, Mr. Chairman.

### Questions

Mr. Stagg Gordon, would you further explain...l think | heard you say that this money that was sent back to the cities and/or the parish governing authorities, would not be subject to the Public Bidding Act. I thought any expenditure for repairs up to a thousand dollars or purchases...under twenty-five hundred dollars were not subject to the Public Bidding Act, but everything over that was, even on the local level.

Mr. Flory That is the law today, but if you eract this in the constitution, and you give total discretion to the local governing authority to use it as they see fit, then 1 think that repeals the public bidding statute insofar as that monies are concerned.

Mr. Stagg How can an allocation of funds to a local government agency override the public bidding law?

 $\frac{Mr.\ Flory}{Statutory}$  . I think this is constitutional and that's

<u>Mr. Stagg</u> Would you say in here the language, the line or the words in here that you say does away with the public bidding statute as to these monies?

Mr. Flory As to these monies, that's correct.

Mr. Stagg Where in here? What line?

Mr. Flory Well, beginning on line 6, "the expenditure of such funds shall be determined solely by the governing authority of the political subdivision, or political subdivisions to which the funds are appropriated."

<u>Mr. Stagg</u> Well, Mr. Flory, doesn't that mean that the use of the funds is determined solely by them, not the method by which they go through the process of spending it?

Mr. Flory As I read it, it means both the purpose

Mr r\_ l Mr a , y and have disa ree in not the first tile

because I think is bein ued. that the money is going to ittle and police urors to build road and bridge, and do other thing where does the ...what I the S64, build to be the second sec

Mr. Flory I don't have the list of the funds broken down, but Mr. Wr ak had it the other day, and read fro. It fri. this microphone, and I pre-sume it to be factual.

<u>Mr. Rayburn</u> Mr. Chairman and fellow de egate , here we are at it again. I hale to think that the time has core in our great state, when public offi-clais cannot trust each other, or do not have con-fidence in each other. In my opinion this is a power great. It is mething that does not need to power great should be a little encerged should the law my opinion. I a little be in our constitution, in my opinion. ... m a little concerned about the language in this partiular se-tion, and I want to say here and now, I was in the legislature when the legislature passed the act. It said that they could, if they to deired, have all the back to a local level. ... could, if time would permit, tell you what brought that about, but where spent once they appropriated them and ent the back to a local level. ... could, if time would permit, tell you what brought that about, but where would eliminate. ... en offering if this langue we may have that ay that if you are going to use state funds, that the road has to get unit, have en-pineer before you can expend thoe fund. ... we were Income when I tenta ittli meney hailhore to draw et this --that they had a hanger it heart after they out it -and they desided they draw it in the second they desided they draw it is a second to be the second to be second t

An the end type are seen that the second sec language needs to be in the state of the sta

for a judge to get active in politics. Well, 1

for a judge to get active in politics. Well, 1 made one time-and I'm fixing to close--They invited me to the Judicial Council. 1 don't know whether you all know what the Judicial Coun-cil is, and I'm a member, ex officio, because I'm chairman of the Finance Committee, and those judges like to have anybody around them where expenditures originate. I know that's the reason they asked me to come. Well, they had a big debate going on--l'11 tell you, they had a fellow, McCaleb, I be-lieve, and he spoke before me, and he painted the oretriest neiture that I've ever sen. or ever prettiest picture that I've ever seen, or ever heard, or ever listened to about why a judge should heard, or ever listened to about why a judge shoul be appointed and not elected, and once he got it, he ought to be able to keep it. Well, I got up there and I said, "I hate to disagree with that fellow," I called him a fellow; well, that irri-tated him to start with. A member of the big, high court, you know, but I forgot his name; I didn't know what else to call him. So, I said, "I want to disagree with him wholeheartedly." I said "Since I'so hear in the lenislature if I "] want to disagree with him wholeheartedly." [ said, "Since I've been in the legislature, if I ever had a real serious political question, and you just said that judges didn't know nothing about politics, if I ever had a serious political question, that I couldn't decide, I'd go at that time, when the Chief Justice was Judge Barnett, believe." I said if I couldn't find Judge Bar-nett to help me out with it, I'd hunt a college president, and I'l guranter you, they're both well qualified on any part of politics you want to discuss.

## Further Discussion

Mr. Asseff Mr. Chairman, delegates, 1 wouldn't speak if it were not peressaw these to be a set of the set of t it were not necessary, because I am ill

speak if it were not necessary, because 1 am ill and hardly able to be here. I regret to disagree with the distinguished Senator. But, I--and I've known him for many, tion 25. Section 25 is an excellent section, very excellent, one of the most important that we can adopt. I agree that it needs strengthening; in a agree that it needs strengthening; in a faits upon the power of the legislator that the Cametor states. It simply tries to prevent the Senator states. It simply tries to prevent one thing and one thing alone. I wish it would do it more specifically. It attempts to keep the legislators, in their individual capacities, from dictating to the local governing bodies. That is its purpose. The purpose is a good one as long as the legislature acts as a legislature, which is the way it should act. Then it can impose whatever restrictions it may care to impose upon the local governing bodies.

I urge you to reject the amendment and to adopt Section 25. I hope the committee will clarify its purpose. Thank you.

## Further Discussion

<u>Mr. Lowe</u> Mr. Chairman, fellow delegates, I arose to agree with Mr. Gravel to delete this section. But, I understand from the Chairman that they have agreed to withdraw the section and agree with Mr. Gravel. So, in that case, 1 have nothing further to say to you.

### Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, first I want to briefly explain to you the purpose, the reason that the committee included this provision.

had included this provision. It has become quite a problem in some areas of a some and the approblem in some areas of and appendent of the approximation of the and appendent of the approximation of the expended which are allocated to local governments. It did appear to the committee to be a problem and that's the reason the provision was included. But in view of the fact that if appears that

we might have a long and extended discussion over this matter, and that it does affect only certain areas of the state and is not universal in the

problems involved, I've canvassed a majority of the members of this committee. They have agreed to go along with the Gravel amendment and to delete the provision.

[Previous Question ordered. Record vote ordered. Amendment adopted: 84-22. Motion to reconsider tabled.]

## Reading of the Section

Mr. Poynter "Section 26. Uniform Procedure for Calling, Conducting, and Canvassing the Returns of Certain Special Elections

Section 26. When any election is required to be held in any political subdivision pursuant to be held in any political subdivision pursuant to the provisions of this constitution which require submission to the electors of any proposition or question, such as the change of parish lines, change of location of parish seat, levying taxes, issuance of bonds or incurring of other deto tobligations, the assumption of debt, referendum, recall, or the adoption of a home rule charter, the election shall be called, conducted, and the returns thereof can-vassed, in accordance with the law pertaining to the election...pertaining to elections for incur-ring honded indebtdences, and succial taxes relative ring bonded indebtedness and special taxes relative to local finance, as the same now exist or may hereafter be amended, or as may be otherwise pro-vided by the legislature."

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, the purpose of this section is to provide the means whereby the various elections which are called for in both the part of the Local Government Article which we have already covered, plus the provisions on finance, can be carried out by election.

Chapter 4 of Title 39 is the provision dealine with bonded indebtedness and special taxesand has all of the mechanics needed for the calling of elec-tions for propositions, yes or no. Therefore, the committee felt that in order to be able to carry out all of the various provisions, such as elec-levying of a tax, the change of parish lines, the issuance of borns. In call, and adoption of a nome rule charter, that the provisions provided for in this particular part of the revised statutes would be applicable and should be used for the calling Chapter 4 of Title 39 is the provision dealing be applicable and should be used for the calling

be applicable and should be used for the calling The last part of the sentence, rather the last part of the elections. The last part of the sentence, rather the last exists or may hereafter be amended or as may be otherwise provided by the legislature" for the purpose, for that particular language, that if the the sist wants to make special provisions for any of these purposes, they would be able in proper of the short on the to give an automatic means whereby ...the vehicle through which all of these various elections could be called and the elections held and the results canvased.

I yield to any questions.

Mr. Bergeron Mr. Perez, I'm seeking some informa-tion. I'm looking at line I', such as you juit partly explained...icy for the change of perty of taxes," etc. If you don't specifically name these in the constitution, can the legislature call...can an election be called anyway?

<u>Mr. Perez</u> Yes, there is an amendment coming which will shorten the section. If you would read it without those words, which would say, "when any election is required to be held in any political subdivision pursuant to the provisions of this pro-temperature." constitution which requires submission to the elec-tors of any propositional question, the election

shal be called, et. I be lieve if we ell inate the specific lan uage, it would still carry out the

Mr. Bergerin It wouldn't lurt tie intert

Mr. Perez Yes.

Mr. Ber-eron Thank you.

Hr. Grave Mr. Perez, I want to direct your atter tion to page 14, lines (2 and 3, particularly that part of those two lines that says in accordance with the law pertaining to elections for incurring

Mr. Roemer Chalin, let me see if I understand What you are trying to do here. As I read it, the rules of procedure governing these elections, would be either the laws as are presently existing, or that might be amended, that have to do with...

Mr. Perez If the legislature so decided. You see, again in Title 39, Chapter 4 of the Subtitle [2], the procedure for the calling of elections for bonded indebtedness and constants various elections which we have because there are the issuing of debt, for or against the assumption of debt, etc o that we...we found that hapter of the revised clatute which is telearly, or most nearly, fit the needs of local government, referred to it, and then aid if the legil ature decided at a later time it wants to write specifi laws with respect to how these election is hou d be conducted, then, of course, it may do so the conducted, then who have to have a variate through which ...the method have to have a variate be called, curvassed and conducted until such time as the legis ature might adopt such a law

Hr. Roe er: o. 1 see- what you're saying is the until the legislature provide otherwise, then Title 39, Section 4, as related to the procedure of incurring bonded indebtedne i going to pre-vall. Is that right? What you're saying is that

Mr. Perez Yes The reason again is that you tell people, "You can adopt a home rule, harter, but if you don't have the method of onduiting the election, then the home rule harter provision in

Mr. Burn. Mr. Perez, a l understand this estimation of there who effort on the danger, or no families the transmission of the state of the structure of the str

Mr. Perez Tois 1 just the projedure by with these election will be alled and ionduited

Mr. Byrter: A lend ent h. h. i. n.w. Effened by Mr. Charpajne and Mr. VK Jazquez a. their Sient-ment's were idential in purpose Un par 14. Ene. ', after the wird and purific alon question, delets the remainder of their re-and delete itse if through ', but insolutions' in their entirety, and on the sid at the testinger.

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Mr Charlagne Mr hal an, add and entered. C will ale thivery brief. . ave do used to amend entwith evens a cerr of text the and with the entering the tand a give day ago, who moved lie all three, are he said it was all r is, in the tart a of your in discussion where need the ea-

Mr. Bergeron A friendly uestion, Mr. Charain, Are you uit de et in this a am friend 217 In other words, the lei in a tre election could be alled without perficiell, namin the e appear in the vitin th

Mr. har age hat the her or described and the service of the her best of the her best of the service of the serv

Mr tha pagne Well the offer the error

qualifications to vote in such elections, and that we are talking here about a uniform procedure to be followed and not substantive rights. I move the adoption of the amendment.

### Question

<u>Mr. Bergeron</u> Mr. Gravel, if your amendment was adopted, looking at line 24, "as the same now ex-ists or may hereafter be amended or as may be otherwise provided by the legislature," would this line be needed, as you see?

Mr. Gravel Well, I think this simply says, as Mr. Perez has indicated, that the present law and the present procedures are being maintained unless and until, either by an election code or by some legislative act, other procedures are adopted. I think...transitionally I think it might be needed. I don't think untilately it would be.

### Further Discussion

Mr. Perez No objection to the adoption of the

[Previous Question ordered. Amendment adopted without objection. Previous tion passed: 105-1. Motion to recon-sider tabled. Motion to waive reading

### Explanation

Mr. Chairman and fellow delegates, Sec-Mr. Kean <u>Mr. Kean</u> Mr. Unalfman and fellow delegates, sec-tion 27 is a general provision dealing with the acquisition of property by political subdivisions for any public purpose. The language as presently reads provides that it's subject to such restric-tions as the legislature may provide by general law. Mr. Gravel has inquired as to whether or not would have any choicing to exist in the the second second the second sec I would have any objection to making that read "subject to and not inconsistent with this consti-tution, political subdivisions may acquire property

August, to and not inconsistent with (his Consti-tution, political subdivisions may acquire property for "encodic purpose, including, but not limited acquires the personally concerned, I would have no objection to an amendment which would provide that language. The purpose of the section is merely to make it clear that the political subdivisions do have the right, without the necessity of further legislative action, other than that which would require certain steps to be taken in connection with expropriation, do have the right to acquire pomercy for their purposes, either by purchase, clarifies their right to do so and, with the amend-ent suggested by Mr. Gravel, it seems to me, would permit them to do it without doing violence to other provisions of the constitution. I will yield to any questions.

## Questions

Mr. Gravel Mr. Gravel You may have misunderstood the request that 1 made of you. I didn't mean that the amend-ment that I would propose would delete "subject to such restrictions as the legislature may pro-vide by general law." That would be retained, but we would add the other language to it.

Mr. Kean Yes, that's perfectly all right with me. I have no objection to it.

Mr. Kean, political subdivisions as defined by the committee proposal as "parishes, municipalities and special districts," I assume including fire protection districts, water dis-tricts, lighting districts, sewerage districts, etc., this would give to those districts, wouldn't lt, expropriation authority for any public purpose, not just their public purposes, but for any public Mr. Kean Well, I think the law would mean...would interpret that to mean, Mr. Jenkins, that the pub-lic purpose for which they could expropriate would have to be related to the purpose for which the district was created. You couldn't have a mosquito control district which would seek to acquire prop-erty for a firs station, or a fire station which would seek to acquire property for mosquito control be to acquire property for mosquito control that particular district was created. I don't think would...dive them no created authority than think would...give them no greater authority than

 $\underline{Mr. Jenkins}$  So, the intent, really, then, is to allow them to expropriate for public purposes within the scope of their authority. Is that the intent?

 $\frac{Mr.\ Kean}{quire}$  . I would say that the intent is to acquire it for any public purpose for which that particular agency has been created.

### Amendment

Hr. Poynter [Amendment by Mr. Gravel.] On page 14. Time 28, after "Section 27." and before the words "to such", delete the word "Subject" and in-sert in lieu thereof the following: "Subject to and not inconsistent with any provision of this constitution and subject".

Nr Gravel All that this amendment would do. would be to make sure that no political subdivi-sion could exercise the right of expropriation in conflict with any provision of this constitution that was already adopted. That's all it does. It adds that concept to the section as recommended by the committee. I yield to a question.

### Ouestions

Mr. Lanier Mr. Gravel, would this amendment really Wr. Lainter W. Gravel, would this amenument real be necessary in view of the fact that in the first section of the Bill of Rights we say that "all of the rights granted here in shall be maintained in-alienable by the state and shall be preserved in-violate by the state"?

Mr. Gravel I think since this is a specific grant under rather general language, that I believe the amendment is necessary. Row it may very well be that that amendment, which is similar to an amend-ment that appears in other sections, can be accom-medeny action. But I think that's something weld bave in determine later on and through the S-via have to determine later on, and through the Style and Orafting Committee. But I do think at this and Urarting Lommittee. But 1 do think at this optimized the second second second second second second second of the second second second second second second second of the second second second second second second second to the restriction that "the legislature may pro-vide otherwise by general law," I think it is es-sential that we put this in now.

Mr. Lanier If we follow your approach to this section and other sections, would it not be true that every time we have some type of grant of au-thority to anything, say like in Education and Wel-fare, or Revenue, Finance and Taxiton, or Natural Resources, that we'd have to tack this language onto everything?

Mr. Gravel. Not necessarily, but in some instances I think, where we have clearly spelled out our po-sition already, that it may be necessary. I think that that's one of the problems that we...we're going to be confronted with because of the fact that different committees are working on different

I would agree, Mr. Lanier, that the whole con-cept can be, perhaps, accommodated in some other

way ut unless and urt.1 t' done, I think we need the protection of this language

Mr. an er well, this specific anguage, though, loesn't this leave the door open at lo e later tile, in so e other article, to infringe upon this right

Mr. Gravel 1 don't think so, Mr. lanier. All 1 think we're doing here...let me...this disturbs me when you say that political subdivisions may ac-quire property for any public purpose by way of ea-propriation. Now that's a...and the only limita-tion that the co ittee saw fit to put on that, as i see it, is that if there was a legislative act of general application that would be enacted in take the litation as it did in any other in-stances. By each as otherwise provided in this con-stitution. The content of the source that

Mr. instant Amend ent No. 1 [by Nr. R y]. On page...this is the Roy amendment...On page 4... which has been distributed...on page 14, line 30, immediately after the word purpose and before the comas, "insert the following: "within the

Mr. Poy Mr. Chairman, ladies and gentlemen of the unvertion, this a endient wa written, of course, with the concept in find that probably the constitute ay not disagree with it. Mr. Kean, I think, ensured in a sense that he would not

Mr , hately is a counter R y, 1 know you are not the advante of a short spatial r , by, rescaling a decreasing of the amendment with retermine r , there are heavy l

Mr Ky fr., , he ave when we av that

ay surger only for an observation of the state of the st

Pr Alario hris, as there te where y d that you didn't want the non-rost ta re-property to build highways, has wild tals re-vent-let! say they built the initial area where there aren't any his since in his sis, ad then they want to build a way to et ' the "Thool would that prevent the shore brand from acquiring the land to build that way to et t

Mr. Ro, By the act or the overniental rejulation for the local political adjust of that set of up. Then, if there is so e er or usest on a di-it, of course, it ay be that it a er of the terpreted. But it think that it a situation.

Mr. Gaithier only fwe dout within the impeof their authority, two is to be in udinal interpretation. I that one t

Mr. Roy well, if you of nt net, yes "ut, prevably ...

Mr Roy V., no, under tai si e t don't think i, wendell, i oun t , this i we leave thi out, within the outer field a thority, that they ay a first performance of the statistic really durit meed for purpose

Mr. authier Bit in the first a will, with no ing to deter ne wiether in winn the co-of their authority

Mr Roy well, if we have the set of the constitution, then there would not not interest a sound on the set of determine at the set of the set of

were related to the authority granted to that agenci-Where we come in and try to implant into the constitution some such restriction as this, it sim-ply raises another question in my mind, as to what ply raises another question in my mind, as to what you would have to show in order to expropriate or require property for a particular purpose by a par-ticular agency. I think the section as it is now draffed, adequately protects all of the rights of individuals and otherwise, and that we ought to reject this amendment and go ahead and adopt the section without further delay.

## Ouestions

Mr. Jenkins Gordon, I certainly would agree that up till now, school beards could only expropriate for school purposes, for example. But up till now, we haven't had Section 27, have we, which says "po-litical subdivisions may acquire property for any public purpose"? "Any public purpose."

Kean I would take that to mean any public purpose related to the operation of that particular agency.

Mr. Kean, let me help clear this Mrs. Zervigon up in my mind. Aren't there cases where three or more districts get together and cooperate on a project, a street lighting district, a paving dis-trict and the sewerage district may get together on the construction of a roadway?

## Mr. Kean Yes.

Mrs. Zervigon Do you see that this would cause problems in who acquired the property in order to further that project?

Mr. Kean Well, that's the point 1 tried to make a moment ago with respect to the sanitary sewerage facility, where a police jury would have authority to build a line and to require rights-of-way for that line. On the other hand, you can create special districts for that purpose, and the ques-tion then coming up, as to who had within what authority to acquire the rights-of-way. You would simply delay the project in the process.

Mrs. Zervigon How would that be defined under this amendment, do you have any idea?

Mr. Kean Well, 1 would have no objection to saying "require property for their public purposes, if that would clarify the thing in the minds of all the delegates.

Mr. Avant Mr. Kean, you just said something that disturbs me and something came to my mind. Let's suppose the school board acquired a tract of land suppose the school board acquired a tract of land in the middle of a bog hole, and they decided they wanted to build a school there. Now, as the situ-ation now stands, if they wanted to drain that and they had to get a right-of-way for drainage, the council would have to cooperate with them and say, "Well, we think that you've got to build a school in the bog hole, so we will go along with you. We will expropriate a drainage right-of-way, so you can build it." You on't want that situation to prevail, as I understand it. You want the school board to be able to buy this bog hole and then ex-propriate other property to drain it, so that they can build a school there---without having to get the cooperation of the people who have those pow-ers. Is that correct? ers.

Mr. Kean I would assume that at the present time, Mr. Avant, if the school board felt, based upon their studies and the needs of the community, that they needed a school in this particular site and they had to have some off-site drainage for it, that they would have a right to acquire the off-

Mr. Avant Well, I misinterpreted your remarks

 $\frac{Mrs.\ Warren}{1}$  I've got two of them; I'll try and make it quick. You have included school boards in Section 27?

Mr. Kean Well, the plan as I understand it, Mrs. Warren, now is to include school boards within the definition of the words "political subdivisions," and then not...and exclude school boards wherever it's necessary to do so.

<u>Mrs. Warren</u> Well, in a situation like this, school board has property and this school is going to be torn done had the pit Soria to the school is pro-property to build another school within the same section. You see, I mean this thing has gone pretty wide; and I haven't gotten up to that mike, but i got something in my mind that is probably going to be going on in my section that the people are very

<u>Mr. Kean</u> Well, under the present law as I appre-ciate it, if there was a school that had to be torn down, the school board felt...

You've exceeded your time, Mr. Kean. Mr. Henry

rejected: 43-56. Motion to re insider tabled. Previous Question ordered on

## Reading of the Section

Mr. Poynter "Section 28. Servitudes-of-Way; Ac-quisition by Prescription Section 28. The public represented by the vari-ous political subdivisions, may acquire servitudes-of-way by prescription in the manner prescribed by law.

Mr. Kean Mr. Chairman, fellow delegates, this is in it carries forward the provisions now contained to an excise IV. Section 16 of the present consti-tution. Those provisions were placed in the ex-isting constitution, and 1 think it is necessary to carry them forward because under certain cir-curstances by legislative act, municipalities and parishes where they maintain a road for three years, acquire by reason of that maintenance a servitude-of-way. Under the circumstances, if we did not have some support in the constitution for the ac-quisition of that servitude by way of three years. there could be a question raised as to whether or not this would be in conflict with other provisions of the constitution. I think it's necessary that we continue the present policy of acquiring ser-vitudes-of-way by reason of three years of mainte-nance, is based on acquiescence by the property vitudes-of-way by reason of three years of mainte-nence, is based on acquiescence by the property owner, and for that reason, if we are going to con-tinue that legislative policy-which I think is a good one--then we need to have the benefit of Sec-tion 28 to support it. For that reason, I urge you to adopt the section as written.

Mr. Bergeron Mr. Kean, I had spoken to you ear-lier about this section. The section is word for word as it stands in our present constitution, except "political subdivisions" takes the place of "parishes." Now, talking about political subdivi-sions, are we speaking about things other than municipalities and parishes?

The committee used it in the broader Mr. Kean Mr. kean Ine committee used it in the broader sense, Mr. Bergeron, I have no objection to making it read, "local governmental subdivisions," which would conform to what the present situation is. Wi used it in the broader sense with the idea that there might be some other instances where the legit lature might want to prescribe the means by which

you would a quire pervitude

Mr ergeron Joh al, aybe what, or more all

Mr. Kean rainales, right f-waily, intering f a ntenance, thing of that kind

Mr. Intetar, Mr Fean, doe the point a sub-division acquire the servitude or does this state

Mr. Yean inder the present law, the political ubdivilions--for example--if the pailh maintains a road for three years, the pails then acquires that servitude if the munipality maintains a mode for three years, then the munipality ac-muires it, the state does not

A more than the design of perturbations of the second perturbation of th the to Mr. Lhair an, ladies and gentle en of

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Mr Kean Mr hirar, felw to t provi n prepit r Art e t, eit which read re r t n hi t r r r t which reads the number of the state of the state is a state of the state is a state of the state

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insofar as the state or its political subdivisions are concerned. For example, suppose there was a right-of-way acquired by a political subdivision and someone encroached upon that right-of-way for a certain period of time. If the state had acquired the right-of-way, that individual coulan't acquire any rights with respect to it because of the present prohibition in Article XIX, Section 16. If the local governmental or political subdivision round--under the present status of the law-prescribe against that political subdivision, insofar, as encroachment is concerned. This would simply put both the state and the political subdivisions in the same posture.

Mr. Arnette Mr. Kean, this is just a quick question. I realize this section is just about like the old constitution. But under this section, say the state had a contract action against someone for a contract they made, say in 1900. They could sue today on that contract action under this provision?

<u>Mr. Kean</u> I don't think they could, no. Not if the contract had been completed and accepted by the party to that contract.

Mr. Arnette In other words, what I want to know is, what is "Prescription shall not run against the state" mean? Does that mean a contract action would prescribe or it would not prescribe; or a tort action would prescribe or would not prescribe?

Mr. Kean The normal...the jurisprudence under this section--and we kind of get Mr. Pugh in the middle here--as related to questions where land was involved, for example, or the right-of-way...

Mr. Arnette In other words, you really meant to say, "acquisitive prescription shall not run against the state."

<u>Mr. Kean</u> That's correct. We are talking about acquisitive prescription, that's what we are talking about, or a prescription acquiende, or whatever you call it.

Mr. Arnette Do you intend for...

Mr. Henry The gentleman has exceeded his time, Mr. Arnette.

Mr. Arnette Mr. Kean, so in other words you don't intend, or you do intend for liberty of [liberative] prescription to run against the state? Is that not true, or what was the committee's intent, that's what I'm trying to find out?

Mr. Kean We were talking about, based on the jurisprudence that dealt with this article before, Mr. Arnette, prescription acquiende causam---liberated prescription, acquisitive prescription. Thank you.

Mr. Arnette Acquisitive prescription. Don't you think maybe we better clarify that with a little technical amendment and put liberative in there?

Mr. Kean I would have no objection to it.

Mr. Pugh Mr. Kean, are you now familiar with such other committee proposals as they might otherwise provide? Do you know how effective this may be to those?

Mr. Kean I do not, Mr. Pugh; this language was taken from the present constitutional provision.

Mr. Pugh May I ask you one other thing, please, sir? Did you all intend to protect the party against whom an action may be brought by the state, growing out of the same set of facts in which prescription would not run, so that in compensation, that party, also, wouldn't have his rights...relative to prescription having run on him. That is to say, that if the state sues some similar for ten thousand dollars and John Smith Mas a clear offset against the state for five thousand dollars, except that prescription as run against him-but not against the state-what if anything, do you propose to do for that man in this section?

Mr. Kean Well, as I understand the interpretation of this section, as it was interpreted by jurisprudence heretofore, Mr. Pugh, it was talking about the interruption of prescription acquiende causamor the other way around--prescription liberum de causam and it was not involved with the question of contract rights, or the other prescription that might be involved with individual rights.

<u>Mr. Pugh</u> If the technical amendment about "acquisitive prescription" is placed there, to limit it to that, I would wholeheartedly agree with you.

Mr. Kean I have no objection to that technical amendment.

Mr. Pugh Thank you.

Mr. Vesich Mr. Kean, it's your impression of that particular section, that it does not apply to tort actions or to workmen's compensation actions?

Mr. Kean That's correct, yes, sir.

Mr. Vesich But, it doesn't say that; you admit that?

Mr. Kean Well, that's been the interpretation of it under the existing constitution. As I pointed out before, I have no objection to a technical amendment which would place the present interpretative language into the constitution.

Mr\_Flory Mr. Kean, by the terminology in that last portion "unless totherwise provided in this constitution or expressly by general law." Are you prohibiting the legislature there from waiving prescription in particular cases with extenuating circumstances?

Mr\_Kean Yes, sir, I would say they did it where they can expressly do it by general law; you're recognizing their right to do so. I think you would, also be governed by the---I don't recall what we did with respect to governmental immunity-but I think there is some provision or was that had to do with ther ight of the legislature to waive prescription under those circumstances.

Mr. Flory Well, as I appreciate the waiving of prescription is done generally where you authorize suit against a state, you waive prescription and that's by special act; it wouldn't be general law, that's the reason I pose the question.

Mr\_Kean Herctofore, it had been provided in the constitution that the legislature could waive prescription, insofar as the tort actions were concerned. I don't recall at the moment how we treated with that question in the legislative section, when we dealt with governmental immunity.

Mr. Flory I don't believe we dealt with it at all, If my memory serves me correct, either in the Judicial or the Legislative Article.

## Amendment

### Explanation

Mr. Arnette Ladies and gentlemen, this is just a technical amendment. I just talked to Mr. Kean, and he said this is what the committee's intent was

to put, the ani acquisitive presentitor, and all we are doing in uit saying it, in there win't be any doubt about it. I urge the adoption of the alend ent.

### uestion.

Hr. 'Neill Greg, for the benefit of the nonlawyer delegates, why don't you explain what that means?

means: Mr. Armette well, what this eans is there is two different kinds of prescription-acquisitive and liberative. Acquisitive prescription is when someone acquires a right through the lapse of time to other words, say if somebody is sliting on the state lands in thirty years without a title, they get that land, well, this would prevent that. Liberative prescription would run against a state. In other words, lose a right through the lapse of time--say you have a contract, well, they would have to a the state cannot lose any of its lands or anything like this, built would position you arise to see in estate the state cannot lose any of its lands or anyhing like this, built would lose its right to see in certain instances. I don't know if I can explain it any better than that.

Mr. uuval Greg, what is the present law on the state and liberty of [...beratuv\_] prescription?

Mr. Arnette The way I understand it, the Supreme Fourt has interpreted prescription in this particular article to mean acquisitive prescription. At least, that's according to the west's Annotations.

### Further Discussion

Mr. onrol. At this point, I' not in a position to dia ree with what Mr. Arnette said, I si ply dont inow, I'm trying to find out right row, several of us are scraabling around trying to find what the present state of the law i on pre-cription. I have some hesitancy about 'imiting this. I had thought that the way the con ittee had worded this section with the provision in there that the legislature could affect thi whole prop. Tion by whatever general laws were appropriate was the best way to handle it. I am concerned about inerting trees ription, because things to streaming on a crass in which presprints and should not run against the state. My prevent polition i one of onern about foolin with what the cuilitee has une here would refue and reletion i this andment mere tage bothers that will cuee along that will larify one of thi, but would reset the one at the to the

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Mr. Engelee: Amendmints out op hi tele atel hew "The full Flan har! Therdoot No. of the plucit, define the o through 1 both inclusive in the errors, and Mr Newton us fabunda e faston us normalized for the faston of  $\gamma$  M Arnette and us adopted, and efficiency fue to the following

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### Exlanation

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### Mr. Late all

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## Mr. Newtild Set

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Mr\_Lanier The thing that bothers me is if...say school boards are not covered by your proposal, did you know that in my parish a lot of the sixteenth sections of the school boards are way out in the marshes, and that it would be easy for someone to acquire this land by prescription by setting on it?

r. Newton I did not know that about your parish Mr. Newton 1 did not know had about your person. I know that that is a problem in some of the par-ishes of the state. My understanding is that is the way the law has been interpreted, that it does run against the school board...and drainage dis-tricts, too. 1'd like to...to address myself to that problem at a later time.

Vice Chairman Casev in the Chair

<u>Mr. Avant</u> Mr. Newton, I want you to know that I think this is a good idea and I ask you, isn't this the exact language of the present constitution?

Mr. Newton This is the exact language of the present constitution. I believe this state has been living real well with it...since 1921.

Mr. Avant Aren't there many, many decisions which have passed on the question as to whether the Levee Board is at the state, the school board is at the state, is this the state, or that the state-and we couldn't possibly sit down here and try to write something that is going to cover all of these con-tingencies, could we?

Mr. Newton I'd rather not try to, right now, Jack.

This is the best thing we can do under Mr. the circumstances?

Mr. Newton That's my opinion.

Mr. Avant lar inegu Mr. Avant It [IF] there is anything, any particu-lar inequity anywhere in the law, they can go to the legislature and get it straight, can't they?

Mr. Newton Under this amendment, I believe so.

### Further Discussion

Mr. Corray I strongly urge you to support the Rewton and Planchard mendment. We're in an area right now as I indicated earlier that does involve property rights. Mr. Newton referred to that... it was brought out by further questioning, but this is the kind of area that the Constitutional Conven-tion should be very careful in tampering with. The Newton and Planchard amendment puts into the new constitution exactly the language that's in the present constitution, which has been pointed out, had been interpreted by the courts, adjustments have been made, the legislature has acted on the basis of that in many areas. It has provided appropriate periods of limitation where it needs it. For example, in the taxation field, the state has provided periods of limitation within which the state must act in order to bring tax claims against individuals and where these things are appropriate, the state can, and shall, act to limit its own authority. But, I'm not surve, that the Arnette amendment as adopted, does what he intended it to do by failing to refer the liberahad been interpreted by the courts, adjustments intended it to do by failing to refer the libera-tive prescription at all. I'm not sure whether he might not have in some way limited the legislature's authority to deal with liberative prescription. I authority to deal with liberative prescription. I think the only safe thing we can do in this partic-ular area is to reinstitute in this constitution the language which has been in it, has been inter-preted for over fifty years, and I think has been soundly interpreted. We should keep it, and not run the risk of the state losing rather substantial amounts of money and claims to lands and mineral rights and other things of that kind. I urge your support of the amendment.

Mr. Poynter Now, Mr. Pugh, we're going to need a third amendment added to your amendments to delete the Planchard-Newton amendment..Newton-Planchard

Amendment No. 1.[by Mr. Pugh and Mr. Lennox]. (Now a third amendment will have to be added to the distribution, which will delete the Newton-Planchard amendment).

amendment). Amendment No. 1. On page 15, line 11, after the partial word "stitution" and before the word "by" delete the words "or expressly" and insert in lieu thereof a comma "." Amendment No. 2. On page 15, line 11, after the word "law" change the period "." to comma "," and add the following: "or by contract with the state." An Amendment No. 3, as indicated has to be added deleting the Newton-Flanchard amendment just adopted.

<u>Mr. Pugh</u> Mr. Chairman, fellow delegates, I appre-ciate your not calling for the question so that I might submit this amendment to you. As you know when it relates to prescription...prescription cannot be waived unless or until it runs. You can-not validly under the existing jurisprudence in this state waive prescription in advance. Bearing that factor in mind it is conceivable that as was acked of the last seaker or the one before bin that factor in mind it is conceivable that as was asked of the last speaker, or the one before him, how can you protect yourself in a contract relative to this prescription? By this amedment, if the wishes to do so,...by contract it can set the limits of the prescriptive period. If, by contract, the state is so vitally interested in a project, and if the question is raised by bonding attorneys or others relating to prescription, the state may specifically and expressly provide that after five years, or three years, as it may choose to do under will run. The thought came from a duestion from will run. The thought came from a question from some other member on the floor. Mr. Lennox and I took his thought, placed it in this amendment and took his thought, placed it in this amendment and I think it's an excellent one as it relates to the question of prescription. 1, also, deleted "or expressly" from a pure construction standpoint be-cause as the last amendment provided it says "by law or expressly by law." I don't know how you can be more expressly than by an act of the legis-lature. All this does is allows the state, if it wants to, to provide in a vital contract that after a certain period of time the question is forever barring prescription as run.

### Ouestions

Mr. Bollinger Mr. Pugh, does not your amendment, or would not it affect the Newton amendment as it would the committee proposal, that is, you are offering a second amendment which would delete the Newton-Planchard amendment? Why are you doing this?

Mr. Pugh Because David told me I had to. No

<u>Mr. Bollinger</u> Do you agree with him...that it is necessary to add the language in that we deleted with the Newton amendment?

<u>Mr. Puch</u> Well, as my record will show I voted for that other amendment...I'm not quarreling with David about how he lines all of this stuff up. I just believe him to be honest in telling me the truth that's all. I just do what he tells me. Sometime, not very well.

Mr. Avant Mr. Pugh, would not your amendment mean that on a contract basis the rights of laborers. material men and people who have certain lend priv-ileges on building contracts would never know where they stood, that it would vary from contract to

contract

Mr. Pugh Absolutely not. juste the onter,

Mr. Avant

Mr. in Because you just and i an arener the province that I won't run again. I the state, the period of that you enter into with the late can pecifically spell out the tens in which it will run against the prescription on the other in-running against the prescription on the other in-

Mr. Avant well, for what purpole did y u ake a reference to a londing co pany awhile ago?

Me. Puph 1 didn't say bonding conpany if 1 did Tapilouize. I earl to say a bonding attorney. I ay we have said company. If I said company, then express that through the lawyer. I just aying if a bonding lawyer raises a question about we won't bond this because if there's any proble.

Mr. Jurson Mr. Pugh, of course, under the general law PI the tate a ineral servitude prescribes in len years. I was wondering, wouldn't jour amend-ent i ply that the state ould by contract pro-vide fir prescription in less than ten years for

Mr. ugo Yel, they could. The tate could get it balk quicker that way perhaps.

Me, urson You want this...you want the tate to one and to waive use ription to what was thinking fixed in the swhere the state light ake a single to be all by ontrait. Would you want the first to all that restant of the less that the set of the state of the state

be or orb than ten. I trink t wings on r way , have no objection to that

Millionnite Mr Pigh, would on ider letting the Over-orderaft your alendeer on that of applies to Mr hewtyn' alend ont instead if the olitice pro-onal, brian eine aid it wouldn't be on trouble

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A rend ent Mr. Baynter, Now, Mr. Miller, is , is a fai ing that you win this is a constraint of the anguage priviled for it to form the anguage priviled for it to form the between incession of a definition the action of the second of the second of the constraint of the constraint of the

herein shall prohibit the leasing of lands. I'll be glad to answer questions.

# Questions

<u>Mr. Newton</u> Mrs. Miller, isn't this presently for the most part statutory?

<u>Mrs. Niller</u> No. Some of this is constitutional matters now, of course, the imprescriptability of be constitutional. If you don't make these things constitutional, now may be in the same predicament we are right today. In 1972 both Houses of the Legislature passed an act that just gave a state agency complete authority to contract away the state's minerals. So, unless you have some constitutional provision we might be in this type of situation again. I don't believe that's what the people of Louisiana went.

Mr. Newton Now, don't you think that possibly your last sentence might restrict how the state could develop its minerals in the future?

<u>Mrs. Miller</u> Well, this last sentence is the law as it is today except it's phrased in the positive instead of in the negative.

<u>Mr. Newton</u> Well,... i know, but that means in effect that they could do anything with it...and to lease it, also. Now, here this might be getting reversed where they couldn't do anything with it, but lease it. I have another question; these mineral rights, would shat...that would include things besides oil and gas, wouldn't it? It would include sulphur, gypsum; iron?

<u>Mrs. Miller</u> Yes, and that's why we said mineral and other purposes. There are a great many type of state leases now in state lands that the land office and other agencies deal with.

Mr. Hernandez Mrs. Willer, I think your amendment is certainly worthy of consideration and I like it very much, and I think it's all very clear except one little thing here. The second sentence says "the mineral rights on all property transferred or sold by the state, its agencies, school districts and political subdivisions shall be re-"except where the owner or other person having the right to redeem may buy or redeem the property sold or adjudicated in the state for taxes." Now, when the owner or another person having the right to redeem property and they do redeem the property, J want to get this clear, do they get the mineral rights back on this land?

<u>Mrs. Willer</u> Yes, they can get the mineral rights back. Now, they may have to be...this may be something the state will have to take care of by law... to provide for the prov...to provide how the method will be that they will be given when you purchase a...

<u>Mr. Hernandez</u> Yes, ma'am, but this definitely will give them the right to redeem the mineral rights on this proterty that was adjudicated to the state for taxes?

Mrs. Miller That's correct.

Mr. Hernandez Thank you so much.

Mr. Leigh Mrs. Miller, in that question that Mr. Hernandez asked you about, are you using the words "buy and redeem," or are you using those as being synonymous? I understand there is a provision for the sale by the state of lands adjudicated to the state and not redeemed, they can be sold.

Mrs. Miller That is the present practice now...

Mr. Leigh But, when they are sold, the mineral

rights are reserved.

Mrs. Miller Ordinarily, unless they buy them back.

<u>Mr. Leigh</u> Now, what I'm asking you is the words "buy or." In other words if he redeems, he would get his mineral rights back, but that shouldn't apply, do you think to the purchase of lands? Would you agree to delete the words "buy or" so that the person entitled to redeem might redeem it, but not buy it, is the point I'm making?

Mrs. Miller I'll be happy to make that deletion, and just leave the words "redeemed for taxes."

Mr. Leigh Delete the words "buy or." Could that be done by a technical amendment without...

<u>Mrs. Miller</u> I'll have to ask the Clerk. Mr. Clerk, in this amendment on the second sentence, could the words "buy or" be deleted as a technical amendment right now without...

[Amendment withdrawn and resubmitted with correction.]

Mr. Duval Mrs. Miller, does the Natural Resources Committee have provision which would encompass this idea?

Mrs. Miller Some of this may be included. At This state it does not encompass--it's a whole idea and I'm not a believer in walting and saying, I do believe a bird in the hand. I believe too, we've opened up a very important question on the Section 6...29 that we just mustn't leave it to chance that it might get taken care of later.

Mr. Duval But, your intent is for this amendment is to apply to the basic management of state lands, is it not..not merely it doesn't..merely deals... the problem of thrust is not local and parochial is it?

<u>Mrs. Miller</u> That's correct. So, if we come in with a natural provision that will encompass this, it might be that when we get to Style and Drafting we can delete any surplus language here.

<u>Mr. Duval</u> Now, let me ask you a substantive question---right now if...the law is...l'm going to ask you,...if you purchase land from a police jury, is the...are the minerals automatically reserved?

Mrs. Miller They're supposed to be. Of course, there has been a lot of problems in conjunction with these lands where they have dealt with local political subdivisions. This is one reason I think it's important to go on and include it here because you do not have the good management sometime of the leases when it comes to your local subdivisions. They don't always know how to manage and lease the lands, and what they should reserve and what they shouldn't:

Mr. Duval What I'm asking you, as a matter of law, then it's not...if the minerals are not reserved in an alienation from a local political subdivision to an individual, the minerals go to the individual?

Mrs. Miller That would be a question although, I think that it would. I think...and it's usually been interpreted that way many times, I understand.

<u>Mr. Duval</u> So, this would represent a change in the law where a private individual could never purchase minerals from any type of political subdivision, is that what it does?

Mrs. Miller I think it would make that very clear.

<u>Mr. Duval</u> What's the purpose of that? Why do you want to change the law? What is your primary purpose in doing that?

Mrs. Miller well, wilay its nit every tile. Mr invali beineve nik mist fiy ur pille a - und villinni have en ugh knik edge ab ut the value

Pr. Euros. Mis. Miller, you know we have a pro-cedure now, and have had exe since 1 reember, where property that has been adjudt ated previously in the tate, a sitzen and we had been and alse ap-plication to have that particular piece of property advert 4 and, 1 believe, put a depoil, and it sold at not less than the appraised value, but the mersil are not include; they are reserved by the state. Would that make any change in your

Mrs. Miller No, basically, because I believe now, Mr. Burns, they do have a provision where the per-son who is buying back the property...redeeming

Mr. Burns No, I m not talking about redeeming it. I talking about where just any citizen can come in and file application for the state to advertise for sale, property that has been previous-- don't

Mrs. Miller I think now, since we deleted the words buy or at Mr. Leigh s suggestion, that would take care of that situation, and leave it only where the person is redeeming the property

Mr. Burn I see, but outside of buying it in, wou dn't get the minerals?

Mrs. Miller hat' right. It would limit it to those redeeming.

Mr. Chatelain Delegate Miller, wish you would follow with e in your second sentence over here in having a little proble understanding since you deleted the words "buy or' it seems that the person who has a right to buy this land then. looks like the language is a little bit confusing to me. It looks like you had it better written at fight to low this you have the better written at fight the your fanguage has been at first. a your clear is on thet, please

Mrs. Hiller well, let e. here s what happens syme ime. A great many propile ale it a pratter to no around this state buy min property at tax sale, and a forth. I think Mr Leinh's amendment was very yood. I mean his unget thin that we de-lete the buy or', really does brinn this into fa-cus because it livits this it the period who has the right to redeen that property, and kind rf take, it out if one re as far at lust a lot of speculator, and maybe glows the state a man e to speculator, and maybe glows the state a man e to e other them the period with the right is redeen it, whilest it

Me thatelain well, wa uit thinking, periapi, we could re-tructure the e-indientence. It seem trie ke to a inthibit infusing, but guess

Mr. Miller. This over not affect the leastn of Tands for inerals and other surplice of der the

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Mr. Francisco fr

Mr. Miler ubject to the roll of the teler law the equature provide, at the teler

Mr. Lennox

Mr. Have Mrs Miller, fluider tak this are d-ment, whild it be that the state in direct with these rights but could not than fer th

Mrs. Miller

Mr. Hayes is that what : ider taid in the lease paragraph

Mrs Miller Yes, and this is in weeln with the spinit of the law as it is tooy. It he line in prescriptable and taken to the table with the is what we re trying to preserve it tak the fath does not lose these thing or newel and it transfer the through sure state are , have

Mr. Hages This is for in , bi prei rit i a e , u concerned. It son y by pres ript in that this

Mrs. Miller Yes, this is the prelimption phase of that

Mr Velazquez Mrs Miller, the end that you've presented, in title as a term thing a the intrig aw that we have that

Mrs. Miller Yes, this basial, e awa '' i today, and I think it is well with this prit of the awas we kniw it tiday

Mr Velazuez There no drait have of from the velocities as evolution of the tate of our anal

Mrs. Miller No, Twouldn t warr ea , and ay abrilutely not, but r y belver \* a not hange any if the east in law, it i fin up or if the law to ave toth, ea that

Mr. Roy Mr. Miller, y a sciel en year the

Mr. Mille' ive fails recert. We fails a to tee of i right with raw the a "iske to be to Natia Roburne" ("ic, a to so coll little it or to "innek v" to a

Mr. \_\_\_\_\_ for Service time is already in the service of a service service of the service servi

<u>Mr. Thompson</u> This is dealing with the whole constitution that we may adopt. I think it's out of order in this section. It should be somewhere later on when we get through writing the constitution.

Mr. Roy It's in the proposal, Mr. Thompson. It can't possibly be out of order at this time.

<u>Mr. Thompson</u> Well, I don't think it's in the right place, at least.

Mr. Roy Well, but it's here and we have to consider it unless you...if you don't like it, then, you know, you may try to delete it, but it's here and we've got to consider it.

Mr. Thompson Can I ask Mr. Burson a question?

Mr. Roy He hasn't explained it yet. As soon as he explains it, you may.

### Explanation

 ${\rm Mr.}$  Eurson Mr. Chairman, fellow delegates, let me begin by saying Mr. Thompson is undoubtedly correct in that this provision would probably be better placed by Style and Drafting in another section of the constitution. However, the reason why the committee proposed it in this section, I think, is rather obvious; if you will recall the vociferous debate that we had on Sections 7, 8, and 9, where there was a lot of discussion as the bone rule constitution and where there have been continuous amendments offered, particularly to this constitution. You would provisions of this constitution or not inconsistent to the provisions of this constitution. You would want to set out in unequivcal terms that the provisions of this constitution shall be a fitted as the set of the constitution or not inconsistent to set out in unequivcal terms that the provisions of this constitution. You would want the algos being the a gravitice of the set of the constitution of the set of the set of the set of the set of this constitution and where here there here been continuous and the set of the set of the constitution or not inconsistent to set out in unequivcal terms that the provisions of this constitution. You would want to set out in unequivcal terms that the provision in the set of this constitution whether the legislature nor any political subdivision of a set out in unequive the set of the constitution of the constitution and whether they are provisions contained in this article or in any of the other articles we've adopted, or any article we will adopt. I think that, really, it's largely set fexplaned to the set or the set of the constitution or the set of the set or the set of the constitution of the set of the constitution whether they are provisions contained in this article or in any of the other articles we've adopted, or any article we will adopt. I think that, really, it's largely set of explaned to the set of the constitution or the set of the constitution or the adopt. I think thet constitution or the set of the c

### Questions

<u>Mr. Tate</u> Mr. Burson, would you accept an amendment that says "subject to and not inconsistent with any other provisions of this constitution?" This constitution is supreme.

Mr. Pugh Can you tell me, if we don't adopt this section, how anything other than the results of this section could conceivably, possibly, flow? How can this constitution be anything but paramount to those things?

Mr. Burson Mr. Pugh, I would agree with you that that should be <u>Horn Book Constitutional Law</u>. However, this is one of the things that if you don't say it, apparently disturbs some people. Again, I think we need only look at the numerous amendmaving "subject to this constitution," or "subject to the provisions of another article of the constitution," and so on. The United States Constitution says it, and I say it doesn't do any harm to say it here.

Mr. Puph Well, don't you think then, at least, we ought to make this all-embrasive language in an area other than in this particular article? Shouldn't it be somewhere later on in the constitution, so at least we're talking about the whole constitution and not just this article. <u>Mr. Burson</u> Well, Mr. Pugh, we are definitely talking about the whole constitution in this partype of the second of the second second the second state at Mr. Thempson pointed out, that you probably ought to move it to another article, but we haven't had anybody offer it up until now in either the Legislative Article. Executive, Judiciary, or the Bill of Rights.

Mr. Pugh I suggest the reason it wasn't offered is because it is so patently clear.

<u>Mr. Roemer</u> Jack, don't you...doesn't this section remind you of President Nixon when he gets up to give a speech he says "I can assure you, I am the President"?

Mr. A. Jackson Mr. Burson, if you believe that this section is necessary, would the committee agree to delete it at this time with the understanding that it will be placed in the General Government Article where I think it appropriately belongs, if it belongs at all?

Mr. Burson Mr. Jackson, I would certainly not have any objections to placing it there because that's where it belongs, but I think the debate that we've had--particularly when we were talking about the home rule charter question--indicates that we should have it in here somewhere, and that's the reason why the committee proposed it.

Mr. A. Jackson As chairman of Bill of Rights and Elections, I would offer to place it in there, if that meets with the committee's approval.

Mr. Burson Well, if nobody else on the committee objects, 1 certainly won't.

Mr. Kean Mr. Burson, now that we've got this matter on the floor, and it provides that the constitution is supreme, and so forth, even though it ought to be obvious that it is, if we now withdraw it or if it doesn't now or otherwise appear in the constitution, would that be construed as some indication of intent that the ordinances and legislation would be..could be inconsistent with the constitution?

Mr. Burson Well, I would certainly hope not, and since Mr. Jackson has indicated that his committee would put in the general provisions... I would like to ask for about a two minute recess here where we could discuss this with the members of the committee and see if we will not voluntarily withdraw if at this state.

### Recess

[Quorum Call: 95 delegates present and a guorum.]

# Further Discussion

Mr. Burson In this new convention by consensus that we're conducting here, we've agreed that the committee will go along with Senator De Blieux's amendment to delete this provision with the understanding, as Mr. Jackson has already said, that it will be introduced at the proper time with general provisions.

[Amendment withdrawn.]

### Amendment

Mr. Poynter Amendment sent up by Delegate De Blieux as follows:

Amendment No. 1. On page 15, delete lines 12 through 16, both inclusive in their entirety.

Mr. Roy Mr. De Blieux, naturally you don't need to explain this, do you?

[Frevious Question ordered. Record vote ordered.]

Mr. Officer in a start restriction of the second se

Mr. R.e.e. Thank ....

Mr. will A point of order. Mr. have the

Mr. Ru. An, he waived the explanation of it. In every deleter the entire section

Mr. Willis well, for the life of te-

Mr. Willis Idike to ask hi a ue the

Mr. Rol to you want to lose, Mr. ne to an Perefuses to close, Mr. Willis This in annual, Mr. Willis, he s refused to close.

Mr. Willie Very well, Withdraw y phint

Mr. P. John Amend ent control by Delegatin Chat hair and anner. The implementary there, it they are not a source of the transformmentary in the source of the source of the source of the entrol of the source of the source of the A content of the normal source of the A content of the source of the source of the A content of the source of the source of the A content of the source of the source of the A content of the source of the source of the A content of the source of the source of the A content of the source of the source of the A content of the source of the source of the A content of the source of the source of the through the source of the source o

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# Mr. Avant That's not correct?

Mr. Lanier The legislature may not legislate with reference to the organization and structure.

Mr. Avant Or the particular distribution or redistribution of powers and functions, correct?

<u>Mr.Lanier</u> That relates to who exercises the particular power, but I think the legislature still has the right to act with reference to the powers and functions themselves although they are prohibiled from acting with reference to the organization and structure, and the distribution and rethe organization and structure. That's the way I understand it.

<u>Mr. Avant</u> Alright. Now, my next question is this: Even though the legislature may not act with respect to the particular distribution and redistribution of powers and functions, two, or three, or four, or five, or a dozen municipalities, or parishes, or combinations thereof, could get together and agree on how they were going to distribute and redistribute their powers and functions as amongst themselves, isn't that right?

Mr. Lanier I would say that once the original home rule charter is drafted setting up the organization and structure and the distribution and redistribution of the powers and functions, that in order for them to accomplish that in joint relationship with each other that each would have to amend their home rule charter to so provide.

Mr. Avant You think that--then this Section (A)-before a home rule charter governmental subdivision can enter into any such agreement that's going to change their method of operation in any degree, they're going to have to amend their charter?

<u>Mr. Lanier</u> That's not necessarily so. It depends on how their charter is set up. It may be set up so that they can exercise jointly powers and functions with no amendment whatsoever.

Mr. Avant Alright. If they put that in there then all of them that do that can make all kind of deals with respect to the particular distribution and redistribution of powers and functions, but the legislature wouldnit be able to control it.

<u>Mr. Lanier</u> If a local governmental unit felt that it was to its advantage to modify its organization and structure, etc. in order to cooperate with its neighbors in the best interest of the people of the area, it certainly could do so by way of an amendment.

Mr. Avant How this is not limited to neighbors, is it? This would apply, say, to Baton Rouge, the city of Baton Rouge or the parish of East Baton Rouge, making some sort of agreement with the parish of Caddo, wouldn't it? They don't have to be neighbors.

## Mr. Lanier That's correct.

Previus us stion ordirol. Rejord vote ordered. Us run Call: 101 delegates present and a guerum. Ameniment adoptedi 97-9. Mitin to reconsuler tabled. Notin for h Previou , ust on on the Soctim.]

## Point of Information

Mr. Avant Point of information, Mr. Chairman. We have the right to debate the section as such, separate and apart from any amendments, do we not?

### Mr. Roy That's right.

Mr. Avant Now, if the previous question on the

entire subject matter is called, will that not cut off debate on the entire section as such?

 $\frac{Mr.\ Roy}{argument.}$  That's correct, except for the closing

# Point of Order

Mr. <u>Dennery</u> Point of order, Mr. Acting Chairman. I'm not certain whether the last amendment deleted the previous amendment so that 'any school board' is no longer in this section. Would you please read the section as it now reads?

### [Rereading of the Section as amended. Motion for the Previous Question withdrawn.]

<u>Mr. Poynter</u> Mr. Vice-Chairman, a couple of people have inquired whether the words "or school effect of. I believe it was the set of two amendments first proposed by Delegate Burson yesterday that struck "or school board," then added in paragraph (B), "the provisions of this paragraph Shall not apply to school boards." That latter language being finally deleted itself by a subsequent amedment. So, the phrase "or school besetion at this time.

## Further Discussion

<u>wr. Avant</u> Mr. Acting Chairman and fellow delegates. Trise to urge that you reject this section be-text of the rest of this article as we have adopted it up to this point, it is a very unwise section. Now, let we tell you what my objection to this section is, and then I think you will agree that what I tell you what to vote for it that way, then that's certainly your percegative. But, first, look at Section 8. Now, this, under the language of Section 9 as we have adopted it, there would apply to any home rule cnarter municipality. Now, you look at this scotton. Any political subdivi-sion-it applies, also, not to just local govern-ries or governmental bodies that we have provided the authority to have then created by local govern-ties automatic stat we have provided the authority to have then created by local govern-ties automatic stat we have provided the authority to have then created by local govern-ties automatic stat we have provided the authority to have then created by local govern-ties automatic stat we have provided the authority to have then created by local govern-ties automatic stat we have provided the authority to have then created by local govern-ties or governmental bodies that we have provided the authority to have then created by local govern-ties or governmental bodies that we have provided the authority to have then created by local govern-ties or governmental bodies that we have provided the authority to have then created by local govern-ties or governmental bodies that we have provided the authority to have then created by local govern-ties or governmental bodies that we have provided the authority to have then created by local govern-the states of the states the have provided the authority to have then created by local govern-ties of the states the have bave bodies that we have provided the authority to have the created by local govern-ties of the states the states the have bave bodies that we have bave bodies the states the states the have bave bodies that the have bav Avant Mr. Acting Chairman and fellow delegates, cies or governmental bodies that we have provided the authority to have them created by local govern-ment. Now, let me teil you, I respectfully submit that this gets back again to the basic philosophical question that I have asked from this podium several times. That is simply this: Are we going to write a constitution for the State of Louisiana? Are we going to recognize that there is a State of Louisiana, or are we going to write a constitution and of late as offer section what for you, soft what to call tif? But, under this section as it is proposed, any number of local government units, anywhere in the state, any combination of them as to whether they may be parishes and cities and levee boards. they may be parishes and cities and levee boards, any combination of them, over any geographical area you pick--it could go from the mouth of the Missisyou pick--it could go from the mouth of the Missis-sippi River to Caddo Lake--may get together and make any kind of agreement with respect to their powers and functions of the particular manner in which their powers and functions are going to be exercised that suits their fancy. The legislature has nothing to say about it. The rest of the peo-ple in the state, other than the governing author-say about it. Now, if you think that's a good, sound thing, that that's the way the governnent of this state should be operated, then I just can't argue with you. But, as somebody pointed out from this state should be operated, then I just can't argue with you. But, as somebody pointed out from this podium yesterday, the Constitution of the Uni-ed States provides that states may not be making agreements with other states or with foreign powers except in those instances where they have been au-thorized by the Congress to do so. The Congress has authorized agreements in certain particular In-

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Further licuston Mr. Thosy Mr. Chair an, fellow delease, J rie an any mr. Chair an, fellow delease, J rie tan any mr. Statum and the tand right now. That undroad the objection that in the bond for int cooperation in power and function that are authorized to the political undroit on of unh power and function would be unh a big and bad influence on the tate of Louisma. We're onli talking about the are howers and function that the undroit lou und inditioually eerics. I don't ee how the Unit erecte wuld be with a bad influence in the case in the state of Louisma. We're onli talking about the are howers and function that the undroit without the are howers and functions. Again, the rese of the stathorized power and fun-tions, which each they would ust be jointly per-dention by the state of the state of the state the state of the stathorized power and fun-tions, which each they would ust be jointly per-dividually do otherwise

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Texas holding that constitutionally sound. No Jexas holding that constitutionally Sound. No state has ever provided that you could take some-one's property for an industrial subdivision by expropriation. Additionally, yesterday, we pro-vided, in fact, that if you had some family prop-erty-that is to say, if Aunt Millie's home was erty--that is to say, if Aunt Millie's home was the first home in a parish, then you could take that home from her and pay her a consideration therefor. Now, pretermitting all of the rights to take, pretermitting all of these questions, the only thing that I humbly beg you now to consider is that under our law, the only person who would decide whether or not this taking was proper would be the district court. Thereafter, the sole ques-tion relegates itself to proceeds. It has nothing be the district court. Increaster, the sole dues-tion relegates itself to proceeds. It has nothing to do with whether or not my children ought to be able to have Ant Millie's house. From the moment that case is decided in the distriction of the that case is decided in the distriction of the it would be to have Ant Millie's house. You can take that property, and all they can take hab out hat or on is money. I'm not asking you to withdraw what you did to allow us to do what nobody else in this country can do. I do ask you to consider that appellate court to review whether or not you should have been able to take it. All that does is allow an appellate court to review not ally the money in-volved, but whether or not you had the right to take it. Now, genitemen, before somebody asks me whether that's going to delay us, I filed a suit in the States of Lowisan aon Octor 10, and the United States of the source her sign to the united States of the source of the source of the united States of the source of the sour of the to out fail the States of consister of the source of the united States of the source of the source of the united States of the source of the source of the out of Antwer States of the source of the united States of the source of the source of the source of the out of Antwer States of the source of the case on October 9, less than a year later. I tel you if Aunt Millie's house has been sitting there since 1812, then Aunt Millie or her heirs aught t to have that year. If you can go all the way to the United States Supreme Court and resolve a question in a one year period of time, then, by golly, let's at least let somebody else look at whether or not this political subdivision and the district judge This point is a subdy is on and the district of under was right. Without that, you have no suspensive appeal. No court looks at whether or not it really was the best thing to take this property for an industrial subdivision. Now, in Caddo Parish, we've got one of these industrial subdivisions that wasn't taken, but was created out of an old farm. It was if you live in Caddo Parish and you want to buy a tract in that industrial subdivision and you have a business already there, you can't buy it because they want only people from the outside to buy in that industrial tract. Again, I tell you, nowhere in this United States-1 cited a case for you yes-theday that held it to be unconstitutional to do not was done yesterday. I'm not trying to stop that. I do say, though, let's let some other court other than the district court decide whether or nat it's right or wrong. It has nothing to do with the than the district court decide whether or not it's right or wrong. It has nothing to do with the quick-taking statute-build your highways, build your streets. It has nothing to do with the ports --build your ports. It has nothing to do with the levees and the flowds-build your levees. It mere levees and the floods -- build your levees. It merely applies to other things. I beg you to seriously consider the question of expropriation. You kno You know, you take something that belongs to somebody else. Sure, you're paying for it, but suppose he don't want to get money. Suppose he wants to keep his Suft you to have been been approved to be approved to be a set of the set of

## Questions

<u>Mr. Lanier</u> Mr. Pugh, aren't the matters of suspensive appeals and devalutive appeals covered in the Louisiana Code of Civil Procedure?

Mr. Pugh Say are they covered there?

Mr. Lanier Aren't they covered there?

Mr. Pugh Yes, they are covered there.

Mr. Lanier Isn't that a statute?

Mr. Pugh 1'm saying that unless you spell it out bere as a right to an appeal, these statutes may not apply to give him a suspensive right. Now, I'll tell you this, in the statutes, he doesn't have a suspensive appeal today. However, the statutes don't provide that you can take his property for an industrial subdivision, and they don't provide that you can take his grandmother's home from him. That's the same statutes.

Mr. Lanier Well, my point is, Mr. Pugh, couldn't the legislature amend the Code of Civil Procedure to provide what you wish here?

Mr. Pugh Article I, Section 4 of this constitution provides that the political subdivision can take it. Now, it also says that a priest epter judicial review. There's mothing about a judicial review in Article I, Section 4, when it relates to the taking of property. For that reason, I say he does not have the right to a review, regardless of what the legislature says. That's what's in the section, and read it.

Mr. Lanier I already have.

Mr. Kean That case you referred to that got from the district court to the United States Supreme Court in a year, that was because you had a little cooperation from other counsel in getting it up there, wasn't it?

<u>Mr. Pugh</u> Another lawyer and I filed the case and took it direct to the Louisiana Supreme Court. After that, there was no help.

<u>Mr. Kean</u> Let me ask you this, Mr. Pugh. If I understand your amendment...your proposal correctly, if you had a courthouse that you wanted to build and you needed a site for that courthouse, then you'd...you'd be entitled to a suspensive appeal in connection with that taking?

<u>Mr. Pugh</u> Yes, sir, you would have it, and I'm not satisfied that you can't decide whether or not you want a courthouse to be built and where you want to build it in less than a year. I know of no courthouse in the State of Louisiana that they didn't deliberate for a lot longer than that they didn't deliberate for a lot longer than thay to build it, and (2) where they were going to build it.

<u>Mr. Kean</u> Well, we're talking now, though, after they have made the decision where they are going to build it. Then, that's when the suspensive appeal comes into play, doesn't it?

<u>Mr. Pugh</u> Mr. Chairman, I'd like to withdraw the amendment, add the word "courthouses," and return the amendment.

Mr. Roy The gentleman moves to withdraw the amendment. Mr. Kean.

 $\underline{Mr.\ Kean}$  I don't have any objection, Mr. Chairman, but I've got a list of about ten other projects here that would be affected by this amendment, and I want to get them all in there.

Mr. Pugh Well, so far, let's put the courthouses in.

[Motion to withdraw the amendment adopted: 71-23.]

### Amendment

Mr. Poynter [Amendment by Mr. Pugh] "Section 27.1.

ir all expropriations or appropriations, except

Mr. Puth The only difference between y explan-tion of this a end ent and the last one is that we have added the word "courthouses. Thank you

Mr. Pugh They could, but I would be happy to withdraw the amendment and put your quantum in

Mr. Duval I'm just trying to find out the intent of the amend ent, Mr. Pugh. That's all.

Mr. Jenk ns Mr. Pugh, doesn't your amendment really accomplish one thing, the fact that before people's property could be taken, it could be finally determined whether or not the taking was legal? Sn't that correct?

Mr. Jenkins of a govern ental subdivision an mo into court, i ediately take projecty, and then a year later the courts say the fainn wai files a, deeint it really do no good whatsoever for the property owner--his property if taken if regally

Mr. Pu\_h Ex ept for the pis bility of some da-age that ay have occurred, that's absolutely

Mr. Jenkinn But, for instance, if it' for a courhouse, they could have already destroyed his home, put the courthouse there, and then the court find that it's illegal. Isn't that corre t

Mr. Pugh I'd run v risk on the ourthouse

Mr eikin Right, but this is to prote t the property owner in that regard, isn't it?

Mr Pugh Yes it was. Tet's have ourth uses

Mr. Avant such to clarify the resurd, Mr. Push. To take a suspensive appeal you have to put up a bond, due t you

Mr. Avant in you i of newhat the ist if that what the size of that lond will doe if you thus a suspen ive appeal from an expropriation for a

Mr. Jugh A. ald, the sourtbourss, the so-have the 1 worsted about Aust Mill e. I she san put the sorry of, let her put it up

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--but, the committee reached the following conclusions, in case that you have forgotten what they were: (1) Adequate provisions should be made in the constitution for the continuation of leve dis-tricts or flood control districts. (2) The legis lature should be given the authority to consolidate small and noncontiguous levee districts in order to provide for more efficient management and operation of these districts, and to provide for fewer levee boards. (3) The legislature should be granted the authority to divide levee districts which are located in one or more parish in order to provide the possibility of merging levee dis-tricts into the governing authority of those parishes.

As a result of this study, there were two bills As a result of this study, there were two bill introduced into the legislature last year which passed. Those bills dealt with the internal or-ganization, you might say, of the levee districts The per diam to members of these districts varied from ten dollars to forty dollars per meeting. The legislation that was passed at the last session made this uniform throughout the state. It pro-vided for a payment of thirty-five dollars a day with a maximum of twenty-four days per year per diem unless an emergency arose, which has to be declared by the governor. In that case, why, they are able to meet as often as they deem necessary. Another bill provided for fiscal control which was Another bill provided for fiscal control which was sometimes, according to the newspapers, has been abused. It now has to be approved...the fiscal control is vested in your division of administra-tion here in Baton Rouge. It's just the same as all other government agencies. We have, as a Com-mittee on Local and Parochial Government, we think that we have a good article. We have shortened, if to some degrees, we only have six articles in-cluded in this now. Under the old constitution, it required many pages pertaining to the levee dis-tricts.

## Amendments

<u>Mr. Poynter</u> First amendment sent up by Delegate Nunez as follows: Amendment Ro. 1. On page 23, line 26, after the word "or" and before the word "shall", delete the words "such districts" and insert in lieu thereof the words "such district." Amodment N. 2. Page 23, line 27, after the word "district;" change the semicolon to a comme and add the following: "as provided by law".

## Explanation

Mr. Nunez Mr. Acting Chairman and gentlemen of Mr. Nunez Mr. Acting Chairman and gentlemen of The convention, what this amendment does is to make tit cleant how the methers of these level simply provided as "they shall be appointed as provided by law." The present constitution is lengthy on the appointment of level board members. It provides that each legislator, each Representa-tive and each Senator, shall recommend or nominate The address descent repair of a start depresenta-tive address descent repair of the start of the start a member to the governor, and he shall pick from a panel of names recommended by the various legis-lengthy and it shouldn't be in the constitution, number one; and number two, it allows hin to pick from a panel of names that was before reapportion-stam districts rather than parises, wall posted member in one district 1 don't recall, but one member in the legislature could recommend at least, if he would so choose to pick, would be forty levee bard members over the other fifty-two legislators in that district. It's totally inadequate in its address the start law.

Mr. Shannon The committee has no objection to

### Amendment

Mr. Poynter Amendments sent up by Delegate Ginn. These are the Ginn amendments

Amendment No. 1. On page 23, line 26, after the word "be" delete the word "appointed" and de-lete line 27 in its entirety and insert in lieu thereof "elected as provided by law;". "Elected as provided by law."

### Explanation

Ginn Mr. Vice-Chairman and ladies and gentlein my opinion; it's to determine whether your levee board members would appointed by various means and methods or be elected by the people at home. That is my objective in this amendment, having these

is my objective in this amendment, having these people elective. I don't want to get into the specifics or the mechanics of the election. I would want to see that be determined by the legislature as provided by law. I think they need that right. But we're talking here, in my opinion, about local government, not representative or executive governor, or...come from recommendations by Repre-sentatives and Senators, which is O.K.; that's the process. But we are talking about local govern-ment. That's why I'd like to see these board mem-bers elected by the people at home...your local goople and, therefore, your local governent. people and, therefore, your local government. The appointments can become, in my opinion, a pain in the neck for the governor. They can embarrass the governor and the...embarrass the political atmo-sphere of this state and the posture. I'd like to, in my little way, help this new constitution im-prove the political atmosphere of the state. One of my main reasons for pushing this amend-

One of my main reasons for pushing this amend-ment is, if you look over on page 24, Section 45, of the committee proposal, you'll see that in Section 45 there, you...the levee boards may heav mills on the dollar. In other words, the board members could tax these folks annually. I'd like to see those people have a voice in electing these people to this board that might be taxing these people. I just think it's only right. If you read a little bit further, you'll see in levee boards and as a diditional funds, but it does say here it must be submitted to the electors

does say here it must be submitted to the electors. That is good. But my main reason is--not only am I fearful of this levee boards levying this tax on I fearful of this levee boards levying this tax on the people when the levee boards are appointive, not elected, I have another reason. I just think that the responsibility is in the hands of the peo-ple. I think the levee board should be elected as prescribed by the legislature, the method, but the responsibility should be in the hands of the people. the man can be removed through the process of an

would ask for your favorable support of this amendment.

 $Mr_{\star}$  Stinson You think by your amendment, election on that would take politics out of the levee board then, won't it?

Mr. Ginn Well, it would put the politics in the hands of the people during the campaign to elect the men on these boards.

Mr. Stinson But isn't...

Mr. Ginn The politics would be the campaign.

Mr. Stinson Isn't it a fact, though, that most

Mr Ginn it is y di knowledge that they rec about thirty-five dollars for a meetini, it is is ewhat of a patronage job. It is a nelessary ab. I ust favor the eletion

Mr. Stirko, well, can t you foresee if you ake the elective, then they are joing to increase theirs as or, ard jet up retireent, and all such as that, and really put it in business that it' not intended for

Nr. Give That would have to be deter ined by the legislature. The report filty there in those regards, and your oncern, would be in the hands of the legislature. It sould occur, But it would be the lenislature's respons bility as provided by

Mr. Burns Mr. Ginn, how are the commissioners selected now?

Mr. Ginn If there are so e elected, a pointed if it. It was my thought that they were appointed

Mr. Ginn Appointed by the governor, and it's my, also, invaledge that sometimes recommendations of the area-legislators-which is understandable. But the governor makes the appointments, to my know-

Mr. Ton., Mr. Ginn, wou dn't you think that it w uid be better to allow the legislature to provide whether they would be applinted or elected in the future rather than to link ing into the constitu-tion that it would be one or the other?

Mr. winn ho, no, 'e aus it' uit y perional mininn that...put "hal responsibility in the peo-ple. Want the ecited. I wouldn't want to see the legil ature deter ine their future.

Nr. Toomy As I inderstood the polition of our committee, we didn't want to take the deter instin, wr Toch it, in whether it would be elected or ap-pointed. We were wort on enned that it would be resident to the district, whether they are elected or apublished and not by negate the lenillature inme all wing agio intent. You under tand

Mr. In pagne Mr. Ginn, a provided by law, but the law culd ay we are using to live you two name and ther they'll be elected from the two,

Mr. Ginn. No, e.r., would think that you would have to have qualifying paper and you'd have tu have a to paign. That would be no opinin.

We have a structure of the second sec

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Mr. Note: : ... tan matcher, u are aware fit or not, but sid trave as te for the existing argument to the existing argument to the transition of transition of the transition of the transition of the transition of transition of the transition of transition of

Mr Ginn well, 0-F

Mr Chatelain Gelejate uinn, what worster or idea as to ter of these die te ericit, f these selected pe ple

Mr. Ginn Well, again, it would be effected to the legislature. Post bly a four-yea to the so ething of that nature. But it would be the remained by the legislature. I then the test in that field with.

Mr. Chate ain in ther wird, the levee districts, you'd want the allele e, reader if they needed to be eleted in not in that in-

Mr. Newton David, I hint I in wishat you want to do. I think a sion a we have sale see distrits, it in poly a rint. But opprie, with upple that the ellower and the doe n't just of the ellower and the doe n't just of the ellower and the sale with the ellower distrit of the sale state with the ellower into one fatewide level it it is the even of this to they will date all even district into one fatewide level it it is the are completed with the

Mr Ginn Perhapi, in ure to the ue with the entres are entration to that in y nern

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Monthly with the art to be with they by the state of the state of the state then state of the st

Re Level Using a structure to sense there exists and the sense of t

Mr. Ginn No, no, I did not. I would certainly favor board members being residents of the area.

. Juneau The only point I wanted to make, if w adopt your amendment, that could conceivably happen.

Mr. Ginn there. Well, draft an amendment right over

Mr. Juneau No. I quit about three months ago.

I understand that, and I agree with you

## Further Discussion

<u>Mr. Brown</u> Mr. Chairman, ladies and gentlemen of the convention I rise to very strongly oppose Mr. Ginn's amendment to elect levee board members. I wish, if you are uncertain about this, that you would go to any delegates in this convention who live in areas that have been heaviest hit by flood-ing. I'll tell you, I think I can speak from some ing. I'll tell you, I think I can speak from some area that was probably as hard hit as any area in the entire United States during this most recent flood. Talk to Mr. Perez from the area he comes from, and talk to him about the importance of these particular levee boards and what they do in times of flood. I don't think this is an area where we could afford to politicalize the process, let some yor the fellows who can hustle this most votes-to get out and be on these levee boards. If you look at levee boards, and I have to speak from yown experience, up throughout all of northe louisiana, from the entire Monroe area-all of northest Lou-isiana-you will find that most of years. These members have served for years and years. These are gentlemen who in most...if you'll...what the speakers have said before. I think they up until this year, made ten dollars a meeting. I think now they make twenty-five or thirty dollars a meeting. They are limited to meeting twice a month. meeting. They are limited to meeting twice a mont Up until this year, they could only meet once a month. Now, who's going to run for an office like that and expend great sums of money for a position that meets once a month or twice a month? What are

that and expend great sums of money for a position that meets once a month of twice a month? What are we let me tell you, I stood by my house and looked at the Mississippi River come up foot by foot each day during this recent flood, and it scared the devil out of me. I'd hate to see us politicalize the process till we start making everyone run for these particular positions. I think we've got in these particular positions. I think we've got in the floot of the start making everyone run for think ont. If your position to the tor off-trict, if you think that's the way it should be. But there's lots of levee districts that have out-standing personnel who have served for years, who have a great deal of expreince, who want to leave the thing the way they are. I think we'd be making board members throughout the entire state. In the propositi talks about consolidation. I think one of the questions were raised: What hap-pens if we consolidate a bunch of these levee boards: to we agoing to have poole running statewide to

pens if we consolidate a bunch of these levee bo are we going to have people running statewide to control the levee boards? I think it's just too important to start electing people to. I'd like to see us leave it the way it is.

Mr. Mire Senator, in your experience in the recent flood, didn't you find, though, that the most mean-ingful decisions that were arrived at during this time were really decided by the Corps of Engineers and by the Department of Public Works, when it was

Mr. Brown I don't know what you mean about mean-ingful, Mr. Mire. When the levee's about to break.

when the main line levee is about to break, it wasn't the Corps of Engineers or someone from the Department of Public Works who were out there day in and day out. You mentioned the Department of Public works, and I think what you are getting at is: should we possibly consolidate all leves and let the Department of Public Works take over? I think that's what you're trying to get at.

Mr. Mire No. I...

<u>Mr. Brown</u> Let me finish commenting. I m Unarman of the Joint Legislative Committee on Public Works. The Department of Public Works has a very small The began on mannower whatsoever. It's Let me finish commenting. budget. They have no manpower whatsoever. It's those levee board members who day in, day out, take care of the caretaking procedures that keeps those

levees in operation. No, it's not. It's the levee board members out there on this job who, up in my area, that kept our flood area from breaking.

Mr. Mire Well, as I remember in my area, particu-larly along the Atchafalaya Floodway area, that the decisions made as to how high the levee would be ueursions made as to now ning the levee would be and what work would actually be performed, this was done by the Corps of Engineers in just about all cases. You mentioned they serve at hardly no pay. Did you know that, in my area, this is one of the sought after political plums?

<u>Mr. Brown</u> Well, that's been one of the problems with our levee boards, Mr. Mire, because some mem-bers have been abusing this thing. Possibly in pers nave been abusing this thing, russion in your area there has been some abuses. There's never been the slightest hint of any kind of abuse up in my two levee districts in the area that 1 represent. If you've got a wart on your nose, you represent. If you ve got a wart on your nose, you don't cut off your head, you take care of the wart. You know what I mean? So...what I'm saying is, do we abolish the whole thing just because there are some abuses down in your area? There have been no abuses up my way. None whatsoever.

<u>Mr. Mire</u> Well, I agree that we shouldn't elect them. However, I agree that it should be in an area where there could be...administered to properly.

Mr. Brown All right. Your point's well taken. I think this particular provision allows for con-solidation. It allows for that. If later on down the line we want to consolidate, abolish, and fund the Department of Public Norks to take the thing over, fine. But let's don't get into big election right now for all these members and get completely with the set of the s Brown All right. Your point's well taken. out of hand.

Mr. Roemer Senator Brown, did you say that levee boards were too important to be elected?

<u>Mr. Brown</u> No, I didn't. Those are your terms, Mr. Roemer. I said that levee boards are too im-portant to be politicalized in terms of letting someone hustle for the job, in consideration...such as that, not too important to be elected, no, not whatsoever.

## Further Discussion

Mr. Stinson Mr. Chairman and fellow delegates, I wish to urge you to oppose this amendment. I've had experience with...there are two in our parish, north and south Bossier Levee Boards. I am connorth and south bossier Levee boards. I am con-cerned about the way, even in consolidation, it says that "the members will be appointed from the district." If you create a new district by consol-idation, it can end up that the north levee board idation, it can end up that the north levee board district in our parish wouldn't have to have any. But, still, from the election standpoint, all of them could be elected from one portion. As you know, the election laws in this constitution and the interpretation by the federal courts, a person from New Orleans, if they wanted to try to get a job in some of the districts that have the most money, all they'd have to do is go there and regis-ter. In thirty days they could be elected and

59th Days Proceedings—October 3, 1973 never when his other and et electer, yen the ter peakers have said, in a lo bet see to be and till is an honorary between the ter peakers have said, in a lo bet see to give it to the peoker structure the ter peakers have said, in a lo bet see to give it to the peoker structure the sector of the sector of the sector of the the sector of the sector of the sector of the the sector of the sector of the sector of the the sector of the sector of the sector of the the sector of the sector of the sector of the the sector of the sector of the sector of the the sector of the sector of the sector of the the sector of the sector of the sector of the the sector of the sector of the sector of the the sector of the sect

Mr. k = a + Mr. chain an, expension of the nonven-tion, I want to rise in pusition to this, and a constant provide the state ent that he aid that we have two lever brand in ur district be have never had any raket, when you hoke at a election, you don't how why you are giving to elect each four years, or rapic that years, when you have a state of the state of the state of the state you have new cover and course, but they till will real no up tant all grow my when who have a vested interest in earny that that levee is intained.

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muneration that you can get in this. Most boards do not have the personnel where you can do any payroll padding, and that's been taken care of by legislation to stop that. Now there are some twenty levee boards in this solate. Three or four of the siticism has been taken care of through the last legislation that we passed to correct that situation. I can't see, for the sake of me, how you could get people to go out and run for something like this over a large area. Now some of this would be parishwide in most of your parishes--a parishwide the levee district does not enbrace the whole parish, and there would just be a portion of the parish, and there would just be a portion of the parish, and there would just be a portion of the parish, and there would just be a portion of the parish, and there would just be a portion of the parish, and there would just be a portion of the parish, and there would just be a portion of the parish and there would just be a portion of the parish and there would just be a portion of the parish and there would just be a portion of the parish and there would just be a portion of the parish and there would just be a portion of the parish and there would just be a portion of the parish and there would also this committee on local and Parchial Government. It was our opinion that the best to let the legislature adopt the laws that would govern the appointents. Under the present law, levee baard meehers' appointents are locked into the constitution. A governor appointing a levee baard meeher ow cannot get rid of office. The only way they can be potten rid of is to be addressed out of office by the legislature.

focked into the constitution. A governor appointing a levee board member now cannot get rid of that levee board member during the time of his office. The only way they can be gotten rid of is to be addressed out of office by the legislature. Now, what we are endeavoring to do here is put this in the legislature and keep it appointive. Let the governor appoint them, but let the governor have the right to remove that levee board member if he doesn't do his job. I don't believe that you can get a plum out of this. I know...l'm not asking for it not to be elected because l'ma legislator...l am a legislator and I am interested in ficiently, and they are honest, hardworking people meas for wanting to go to this process of letting the legislature dicta how they shall be selected, and give the governor the power to appoint these people. If they do not perform, them addressed out of office.

## Questions

Mr. Roemer Mr. Representative Shannon do you realize that the legislative auditor's report, no less than seven times last year, pointed out dollar abuses among levee boards and levee districts in this state amounting to thousands of dollars, not seventy dollars a month. Do you realize that?

Mr. Shannon But we have had legislation to correct that situation, Mr. Roemer.

Mr. Brown Mr. Shannon, do you realize that those abuses are only in a couple of boards in south Louistana and that the boards up in north Louistana did not have one inta of scandal in the whole history they've been operating. Are you aware of that?

Mr. Shannon I'm not. .l'm not going to say where there were, but there was only two or three boards out of twenty.

Mr. Stinson Mr. Shannon, don't you know investimations also showed that a lot of illegal stuff was going on right in the capitol out of the office of the Director of Administration, and he had to fire those people: that were crooks? You realize that, don't you?

Mr. Shannon I read that in the paper, yes, sir.

Mr. Stinfon I'm sure it's so, and Mr. Roemer, Sr , was quoted, wasn't he? That had been going on for some years, hadn't it?

Mr. Shannon Apparently so, Mr. Stinson.

Mrs. Warren I'm not speaking for or against, but

who pays back all that money when it's messed up'

Mr. Shannon We have due process of law that they can go through and be prosecuted, and the money can be recovered in that manner, Mrs. Warren.

# Mrs. Warren I hope so. I really do.

### urther Discussion

 $\underline{Mr}$ , Lowe I urge your defeat of this amendment.  $\overline{Mr}$ , Chairman and fellow delegates, I merely rise to make one point, and then rise and to oppose Delegate Gin's amendment. I doubt seriously if you can really appreciate the problems of the levee districts unless you've lived behind a levee, unless you've seen a farmer go out and borrow a half a million dollars to invest in a crop, ar fifty thousand or five thousand. When you ride right over that bridge and see the leveer is ing. The ride to ver that bridge and see the leveer is ing. The ride to ver that bridge and see the leveer is ing. The ride to ver that bridge and see the leveer is used to ver the bridge and see the leveer is the ride to ver the bridge and see the leveer is the ride to ver the bridge and see the leveer is the ride to ver the bridge and see the leveer is the ride to ver the bridge and see the leveer is the ride to ver the bridge and see the leveer is the ride to ver the bridge and see the leveer is the ride to ver the bridge and see the leveer is the ride to ver the bridge and see the leveer is the ride to ver the point of the last weeks and were worried about property rights and the right to own property and worried about protecting that property, this is the time for you to get serious and start listening levee boar whow that the engineers. I've head at this increphone discussed that the oblidge. but they are not there everyday. The people on the submit to you that the very have a lot of expertise, but they are there everyday. They stay in touch with the engineers and they try to carry out the wishes of those engineers. I submit to you that we are going to deliberate this levee district thing a great deal. The only thing I can ask you to do about property, to help protect what we have today. Hequities there, whit's proposed in this constitution gives a framework where those inequities can be straightened out.

tion gives a framework where those inequiries can be straightered out. The straightered out is the straightered out every wear, will sit and try to put yourself in the position of those that are in that position. I ask that you vote this amendment down and try to leave the levee districts in the position that they are in today.

### Questions

<u>Mr. Fulco</u> Mr. Monday, could the police jury or the Public Works Department assume these responsibilities and perform just as well as levee boards?

Mr. Lowe Well, Delegate Fulce, I can tell you that the police jury can take over the responsibility, but I don't see any possible way that they could perform the dutles as well. This is a specialized duty and it doesn't fit into the general framework of what police jurors are normally used to taking care of. I have people on my levee board, in the Atchafalayaleve Board, that's been there posed to the dangers of what can happen. I'm happy that they are there.

<u>Mr. Newton</u> "Monday" do you think that this Constitutional Convention can cure all of the ills in the levee boards?

Mr. Lowe Mr. Newton, there is no way in the world. I agree with you that what we have in... I hope you and I agree that what's in this article, gives a framework where they can be cured.

Mr. Newton You know, I do agree with you. Don't you think that the only way these kind of problems can be solved is through the legislature?

Mr. Lowe Yes, sir, be ause we are "..." the legislature the authority to call ele timm, if in their wisdo., this is what they feel hould be

Mr. ha pagne sa e lott Hr. ha pagne Mr. Lowe, I uppose you got the same letter up on un cations that I did that the levee board said they were happy with the proposal as sub itted. Did you get that?

Mr. Lowe don't recall getting it, Mr. Cha pagne But, 1' sure that I did and if they weren't happy, I' sure I would have heard from the , that's for sure. I ask that you defeat this a end ent.

Mr. Arnette i would like to asi the addes and gentie en of this convention a couple questions. The first one is, isn't it about the that we take levee boards and all of that politics out of the back rood and put it you in public. Let's get it out there where the people can see what's going on. The second questions is, i would like to idd why the governor of somebody else, or somebody who has to face reclection next time. Who does better by the people-that an's got to face reclection r somebody that just depends on the governor? by the people-that as gut is the restriction or somebody that just depends on the governor? I think the answer is obvious. I think we ought to adopt Mr. Ginn's amendment. If there are no other speakers, I move the previou question.

Mr. Ginn Very, very quickly. I' an advocate of speedy legislation in the process. If it passes, I ar going to core back with taking the board en-

Explanation Any declinear Any, hair any ladies and ventile en-of the locar Mr. hair any ladies and ventile en-of the locar the perils of the second second second in states, the legislature as you can be a second in the second second second second second second second in the second second second second second second second is a second second

Mr Newton emator from pre-iter the pre-ent-le-extoard in the contractor

Mr. Selley, I's of superstance, art, the are, I'know, Mr. and in 1, 's and the and

Mr 'ewtor will, if the all that and this ections all end at the weare the con-stitutionalizing these thigh that we end 's re-viously "stitutional that mentioned to the theory of the stitution Min

Mr. Newton You indw. ' think y u have a ni-

Mr. Etimion It's not princliked. Therefire, they

Mr. DeBlieus Well, l'mafraid, the ream that Tailed that wind be iserted thine, be an it is right be interpreted--rie fait that the intru-tional convection did not put it in, that then are in ited only to reorganizing, dvin in an if they left nut all if there winds, i would be tainly across with your

Mr. The x When you out it this e artifliar three atoguine and leave out the thir e, his s an indication that thire was out to the thire ensited one hold have that a to rit

Mr timen likew, out taken not a serve this orvertion bester to the ministration has want to be to the time not to the even though there in the time to the four are follower our server to the to alway through this concerns, we interest the the time has defined.

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Commission---the arm of the U.S. Corps of Engineers Commission---the arm of the U.S. Corps of Engineer: --with whom the state leved districts cooperate in the construction of levees, had this to say, "Based on many years of civil works experience, the system of a coordinated state and local effort in Louisiana is the best I have seen anywhere. We in the Corps feel that the local cooperation re-quired by law is being well provided by the Lou-isiana system of coordinated state and local en-tities, whose principle concern is the flood pro-tection system." What General Noble meant by that is that the Dopartment of Public Works arts as the is that the Department of Public Works acts as the advisor to all the various levee boards, but that the levee boards throughout the state take care of the many, many functions which are needed to take care of levees day in and day out. Let me give you an experience as to what happened in my parish dur-or clock in the afternoon that half of our...of a levee section, about three hundred feet in length, had suddenly fallen into the river. A similar sit-uation happened up at KNDIZ, a little further up-river, except it was the batture and not the levee which had caved. The Department of Public Norks showed up the next day. The U.S. Corps of Engineers of the uter their hands and the levee boards throughout the state take care of ple were on the scene, and shook their heads and walked away and said "You can't stop it." We, the local people, because we are the ones whose lives local people, because we are the ones whose lives and properties had to be protected, pitched in and said "it will not happen." We fought for about eighteen to twenty-four hours until we finally stopped the cave. We stopped thousands of our peo-ple from being inundated. We were told by the Corps of Engineers we couldn't do it. We weren't even told by the Department of Public Works; they the message that I'm trying to give you is that after hering all of this testimony, the committee almost unanimously came to the decision that these levee districts must continue and must continue in almost unanimously came to the decision that these levee districts must continue and must continue in local hands. If the legislature is given the au-thority to abolish levee districts, it then would be given the authority to consolidate those func-tions into the Department of Public Works itself has said that it would be impossible, that they could not take care of the many thousands of miles of levees throughout the state, and also take care of the many other functions which they have to under-take. So I say to you that the reason that the Legislative Committee did not include the abolition of levee districts in this provision was because of the fact that they wanted to be sure that these levee districts would continue to exist--and under local control. I might say to you that if, for any reason, any levee district becomes obsolete and has used as the statute stays on the books with respect to that levee district. But a great deal of harm could be done if these levee districts were abolished and placed into one central agency. I, therefore, urge you to defeat the amendment.

## Questions

Mr. Flory Mr. Perez, under the program that has just been announced in the Federal Register, by the federal government, where the local people are going to have to assume the cost of construction of levees, drainage, this sort of thing--if it becomes law-wouldn't you then need some vehicle on a local level to do this in the future, like the levee board?

Mr. Perez There is no question about that. 1 might also tell you in our parish, for instance, as a result of the two hurricanes--Camille and Betsy--that the Corps of Engineers is enlarging over one hundred miles of levee in my parish. The tremendous problems in dealing with all of the local people with respect to the compensation that is people with respect to the opening to fr impreently adopted Federal Uniform Relocations Assistance Act, all of these functions are taken care of by the local levee boards, in addition to those functions of caring for the levees and constantly inspecting them to see that we don't have levee problems. There are so many functions which are taken care of by local levee boards that even, as 1 have said before, the State Department of Public Works has agreed that that function would be impossible for them to undertake.

Mr. Lennox Mr. Perez, how else would rights-ofway be provided for the U.S. Corps of Engineers if a local levee board or similar organization was not constitutionally authorized to do such projects?

<u>Mr. Perez</u> Well, I know in our area the problems that we have even having the local contact with the people. I would assume that the Corps of Engineers could hire people to take care of these problems. It would be a problem as General Noble pointed out in his remards, which I have before me, which would almost be impossible for them to take care of.

[Previous Ouestion ordered.]

### Closing

Mr. De Blieux Mr. Chairman, ladies and gentlemen, Tet me point out something to you. My amendment does not abolish one single levee district. Let's get that clear and straight. I m not atocating thing is, lay that in some future years-and we ought to be puting together a document for future years, not for just now, but in the future-that if it ever becomes desirable that the legislature abolish a district, a leve district, they could not do it. You might have one that may become obsoletc. Io hat i, you sight have one that may become obsoletc. Io hat i, you sight have one that may become obsoletc. Io hat i, you sight have one that may become obsoletc. Io hat i, you sight have one that may become obsoletc. Io hat i, you sight have one that may become obsoletc. I hat i, you sight have one that sub legislature cannot abolish it, if it costs too much to pass a constitutional amendment to change this? I think mow is the time that we ought to just put this little one word into this particular provision to be that authority. That's all i im asking, ke world done by adding this one word into that particular provision. I ask you to approve the amendment.

[Amendment rejected: 40-64. Motion to reconsider tabled.]

## Amendment

Mr. Poynter This is the De Blieux amendment. Amendment No. 1. On page 23, line 26, after the number and punctuation "(2)" delete the word "any" and insert in lieu thereof the following: "Subject to the provisions of Faragraph (1), any"

### xplanatior

<u>Mr. De Blieux</u> Mr. Chairman, ladies and gentlemen of the convention, in this particular paragraph there is a provision that if any levee district is located solely within one parish, that it can be consolidated in the local government. In that particular provision, in my opinion, it could never be consolidated, divided, or merged with any other levee district regardless of the needs. I just wanted to add in the words in the beginning of this paragraph to allow that if the need should happen to the provisions of Paragraph (1) which gives the right to the legislature to consolidate, divide or merge a lever district. I don as it foright now. I ask your approval of the amendment. I believe there is only two levee districts in the whole state that fall within that category.

### Further Discussion

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sel: it travels at a speed of thirty-two knots and that's moving along on the water. It is lavishly appointed. Although I have never been un the rescuer, I have been close enough to it to know that it's quite a fancy piece of equipment. I don't it's quite a tancy piece of equipment. I don't see how that has anything to do with hurricane pro-tection. Now, the late governor Huey Long, for whatever reason he had at the moment, mandated by constitutional amendment the Levee Board to engage tiself in the police bosiness within the policy of the authority of the city of New Orleans. I José Juned the Orleans Levee for amendment is human bainging. had a police arm of some sixty-six human beingsonly one of which had ever received one day's pro-fessional training as a police officer. Now, you fessional training as a police officer. Now, you use your own imagination as to what those people were used for theretofore. The Orleans Levee Board owns and operates at a substantial deficit, without giving any consideration to amortization of inves-ted capital, the New Orleans Lakefront Airport. Now, let me stop there for a moment. New Orleans Lakefront Airport is an absolute necessity to the growth of the city of New Orleans. It is the prin-ciple general aviation airport in the area. Now, general aviation is differentiated between air carrier operations - the air carrier operations begeneral aviation is differentiated between air carrier operations--the air carrier operations be-ing the operations that most of you are more fa-miliar with; those are the commercial airlines. Now, the general airport handles the training of peo-ple who wish to learn to be aircraft pilots and the like. I submit to you that the New Orleans Lakefront Airport if an absolute necessity. But I don't see how you can, in good conscience, say that you ought to be taking dollars that should be invested in the protection of the citizens, and th That you dugnt to be taking dolars that should be property of Orleans Parish tarapares, and putting it into an airport when the city of New Orleans Aviation Board fully competent to do just that. Now, I made an attempt that putting these two to-Now, I made an attempt that putting these two to-gether during my three and a third years, but to furn around what has happened since 1927 with the Orleans Levee Board, I submit to you, just couldn't tions, display advertising-these things have been openly criticized by the legislature auditor in recent years. The absolute waste of taxpayers' funds in developing thirty-four page color bro-chures simply telling you what good guys the men-bers of the Orleans Levee Board were. The Orleans lie bid, the Pontchartrain Beach Arusement Park and several concession stands along Lakeshore Orive. Its bid, the Pontchartrain Beach Amusement Park and several concession stands along Lakeshore Drive. It owns and operates...or owns and leases the shop-ping center known as the West Lakeshore Shopping Center. It owns and leases at a substantial annual loss the Lake Vista Community Center, located in the middle of the Lake Vista subdivision. Much to my amazement, it now owns and/or leases and/or op-erates a varity of airplanes and helicopters, for guard is close at hand. If helicopters or rescue vessels are needed, it seems a simple call to the coast guard would produce the desired result. What What I'm submitting to you, gentlemen, is this particular amendment mandates the Crleans Levee Board to use amenoment manuates interriterans Levee point to use Its tax revenues for the purpose of protecting the lives and property of the citizens who pay those taxes. It further authorizes the ity of New Or-leans to govern local governing authority to assume or to accept those other mon-levee protecting de-

Cast at substantial losses, construe anything I have said to be any criticism of any prior president, or present president, or future president, or future member of the Orleans Levee Board; it's certainly not intended to be that. But, a recent inguiry-and I haven't been back since I resigned in May of 1972-indicates to me that the Orleans Levee Board has, since May of 1972, not dedicated or committed a single new dollar to any hurricane flood protection project. Now, that's eight million dollars later and two years later. We are still in the airport busines; we are still in the amusement park business, but we are yet to get ourselves dedicated to the protection of the citizens of our city. I submit to you that this amendment is in the best interest of the citizens of the city of New Orleans. I urge your adoption.

### Questions

<u>Mr. Jenkins</u> Mr. Lennox, I just want to thank you for bringing this information to our attention. I think it's truly amazing. I think you have a great amendment, do you know?

## Mr. Lennox Thank you, sir.

<u>Mr. Lowe</u> Mr. Lennox, I just woncer if you could comment briefly on what the legislative auditor has said about the irregularities that you have mentioned and what has been done about them as a result of his recommendations, if any?

Mr. Lennox Well, unfortunately, all of the legislative audits usually follow an indictment of a president or a resignation of a president under pressure. I think the last criticism brought by the liticised very strongly then use of public funds to simply run whole page ads in the local newspapers to say what guys the members of the Board of Levee Commis...good guys the Board of Levee Commissioners were. He criticized that use of public funds as being an illegal use and an improper use and I agree with that.

Mr. Lowe Well, the point is, has he criticized any of these other irregularities that you have mentioned?

<u>Mr. Lennox</u> Some of them conti.ue at this date, <u>Mr. Lowe</u>, as nearly as I...this particular brochure, I think, has been produced within the last two years.

Mr. Lowe No, but all of the other irregularities. Has the legislative auditor commented on those irregularities?

Mr. Lennox Well, I don't know specifically what you have in mind. I would like to...

Mr. Love Well, the operation of the businesses at a loss, the builting of the marine, the, ... where the boats are being rented for three hundred dollars a year, and these which seen clearly irregularities that would have been brought out by the legislative auditor.

Hr\_Lennor. They are, indeed, Mr. Lowe. But, what we are trying to do, and the legislative auditor rould not render any criticism there for the simple reason that the Orleans Levee Board, under its present constitutional structure, has the authority to do all of that, to give it away. Now, what I'm saying is you have an opportunity now to correct all of the ills that have been created since 1927.

<u>Mr.lowe</u> Well, the thing that confuses me, <u>Mr.lennox</u>, is that you say we can give away public funds; I don't get my question answered, but I'm sure you believe that. It's difficult for me to believe that you can give away public funds, or misappropriate public funds, without coming under some criticism or some scrutiny from the person that is set up to police the financial affairs of the State of Louisiana.

Mr.Lemnox Well, I was criticized by some of the people who were the holders of this lease because I was demanding that they pay a reasonable rent. To answer your question, as far as I know, the lepislative auditor has brought no criticism to bear on the levee board for that practice.

Mr. Shannon Mr. Lennox, isn't the meat of your proposal in sentence (3), which you have not mentioned--if you did, I didn't get it--where the

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Mr. ein x Mr. hannin, thini in preidin your ection. I did rentini it, perhagi you did not read it. But, there eet to be ne bop ar under standin --the ity of hew riean ay not, under any criminates, ider this and ent, take over the Board of Levee Commission of the "rlean evee nith tas it now exist if you read that carefully, it gives the ity of New riean, by vote of it elected representatives, the right to assue these non-hurricane prote the function, which are not self-sustained.

Wr. Sharmon finder the present constitution, the Dream Levee District is under the present constitution. In our proposal, it would be eliminated from the constitution and relegated to legislative action. Here, if  $\bot$  read this right-and is can read the other way-that you are only providing that the city of New Orleans, by simple ordinance, Lan absorb the Orleans Levee District.

Mr. Lennox Well, that's not right, Mr. Shannon. I suggest you have to read it again. Read carefully the words, "exercise such other powers and funct ons' which see to appear on the sixth 'ine from the bottom.

Mr. Henry You have exceeded your time, Mr. Lennox. Now, we are going to have to sort of slow this thing down, it looks like, because t's five o'clock

### Personal Privilege

Mr. Burson Mr. Chairman, fellow delegates, I asied for perional privilege today because 1 inow you all have all read this editorial that has been passed out here. I wented to say that it wa with heavy heart that I realized that our compliated legislative procedures in this body were beyond the understanding of some of the people whi had been assigned heard of the old legislative technique of loading the wagon to kill a bill that you are against, although Mr. Moses, in the Merning Adviate, did a good job of explaining that the day after we had the debate on the firmem and the policemen. In order to perhap, help one of the reporter, here whose perional viewpoints of the bruses may be use clouding their understanding of the proces, I which awardin, it o particular reporter a copy of the Times Picayune, the Inreveport Journal and the tate Iter, 'one can look at a wood newspaper and learn what's using on in the onvention.

# Ann ur enent

# Thursday, October 4, 1973

### RDLL CALL

## [91 delegates present and a quorum.]

## PRAYER

Mr. Stovall Let us pray. Eternal God, Father of us all, Who in the beginning, when the earth was without form, a there be light," and there was light, and there was order, we pray that You'll give light and was order, we pray that tou if give light and order to us; and Who, when Your ancient people were in bondage, You opened up for them a way into the Promised Land, into a new day and a new future, we pray that You will open up for us, as a state, a new possibility, a new future. Increase our faith in You, in one another, and in ourselves, and enable us to make the decision to be Your people and to move forward. For we offer our prayer in Your name, as the One Who was and is and ever shall be. Amen.

# PLEDGE DF ALLEGIANCE

## READING AND ADOPTION OF THE JOURNAL

# UNFINISHED BUSINESS

# PROPOSALS ON THIRD READING AND FINAL PASSAGE

Committee Proposal No. 17, intro-Poynter duced by Delegate Perez, Chairman, on behalf of the Committee on Local and Parochial Government, and other delegates, members of that committee: A proposal making general provisions for local and parochial government, levee districts, and ports, the financing thereof, and necessary pro-

visions with respect thereto. The status of the proposal is that the conven-The status of the proposal is that the conven-tion has adopted, as amended, the following sec-tions, being Sections 1 through 30, with these exceptions: Sections 2, 4, 10, 20, 25 and 30, which the convention has voted to delete from the proposal. In addition, by motion of Delegate Perez and adopted yesterday, the convention has passed over, at the prosent time, consideration of Sections 31 through 43 in the proposal; as a consequence, presently has under its consideration Section 44, dealing with levee districts, some amendments to which have oresently heen adomed amendments to which have presently been adopted, and, in particular, at the present time, under discussion on the floor is the Lennox proposed amendment, adding a proposed Subparagraph 3 between lines 1 and 2 on page 24.

Mr. Henry All right. We're i debate on the Lennox amendment. All right. We're in the midst of the

## Further Discussion

<u>Mrs. Warren</u> Mr. Chairman, and delegates, 1 don't have the expertise to stand here and talk to you as Mr. Lennox spoke yesterday. But, 1 do support his amendment wholeheartedly. It only takes one who has gone through a flood, and walked out of his house with water almost up to his neck, to know what it means to have a real good levee board, and one that would do its job instead of trying to take on so many other functions. It Mr. Chairman, and delegates, I don't was stated from the audience yesterday: Was Mr. Hence trying to turn the Orleans Parish Levee Board over to the city of New Orleans? This is not what I'm trying to do, but I would like to make it perfectly clear that I'm opposed to the make it perfectly clear that 1'm opposed to the way that they have been conducting their business. I'm not so interested in "sacred cows" because when a cow gets to the place that she doesn't produce milk, she's only good for beef, and beef, you only exp it. I am interested in the people of the city of New Orleans being safe from floods. I'm interested in them carrying out their duties as they should be. I'm going to ask you all to think and remember back when I stood here and I the stood new constructions of the stood here and I said a prayer, as I looked over this state, for many people who had lost their homes and their cattle and other things. I alone...not I alone could be in sympathy with them because many in our areas in 1965 were placed in the same situa-tion. I got home at about nine o'clock at night to put my slippers on, and they were floating but I my attic. So, I'm saying to you, if you think this is a problem that is only unique to the city of New Orleans-and I don't ask for any exceptions across the state-but a drowning man desn't care across the state--but a drowning man doesn't care across the state--but a drowning man doesn't care who throws him a rope, so will you please think about us, when you decide to vote on this amendment, that these people would like to have their lives preferable to a levee board that does not want to do its job. If it wants to do its job. This amend-ment is not going to hurt it one bit. 1'll yield to any questions if I'm able to answer them. If I don't, I'll yield to Mr. Lennox.

# Further Discussion

Mrs. Zervigon Mr. Chairman and delegates, 1 rise to speak in opposition to the Lennox amendrise to speak in opposition to the Lennox ameno-ment. While the concept may be good, of restriving ities, that could be accomplished under the com-mittee proposal where it says that, "The legis-lature may reorganize or provide for the reorgani-zation of levee districts." But, the Lennox amendment, as it is drawn, would leave rather a hiatus in that the levee board in New Orleans reamenoment, as it is orawn, would leave value: a hatus in the be forbedge from optacting various services-and it is not too clear how sweeping that is-including bookkeeping and grass cutting and that sort of thing. The city of New Orleans would therefore, I assume, be mandated to pick the mup, and it is not at all clear to me that the funds generated by some of these services would be sufficient to allow the city to pick them up. If the city couldn't pick them up, or didn't want to, what would become of some of these services? In New Orleans in the past. The levee baard is at present trying to correct that. It's very difficult to provide a levee system that will keep every drop of water off of all the people, under every circum-stance. But, let me point out to you that in the constitutional amendments that have been defeated at the poils, would be the millage that would allow at the polls, would be the millage that would allow at the polls, would be the millage that would allo these extra levees to be built-these hyrricane protection levees to be built. So, it's difficult to blame the levee board, when they are only able to levy two and a half mills and all other levee districts may levy five mills, for activities that they are not able to perform because they've been defeated at the polls with constitutional amend-ments that would allow then this extra millage. so, I urge you, read this carefully. Do not consider it hurriedly. Give it your full considera-tion, and in the end, I hope you will reject this amendment.

### Questions

Mrs. Warren Mrs. Zervigon, I'm not trying to force anything, but I want to know this: you mentioned the millage, and I would preferably vote for it, but under the circumstances, with all the big business that the levee board has gone into, couldn't they have made enough money to have built those levees? All of this that Mr. Lennox gave us yesterday-he says it is frue and he can you support the money that they could have made through their business dealings. I think they should have hade money how hat they needed on the levee board. I'm kind of green at this, and I'm trying to really get to the bottom of it. trying to really get to the bottom of it.

Mrs. Zervigon Well, Mrs. Warren, the last time the Drleans Parish Levee Board branched out, so to speak, I believe, was when they reclaimed land in 1954. The airport was built, I believe, in the thirties. This is not something I'm very expert

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Mrs warren I his amend ent wasn't sayin to abol Sw the levee board. It was ayon what they were supposed to do; this was y understandin.

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Mrs warren Well, i didn't under tann... I didn't Ehrik 1 two coin the eliun of rrik, ut wal also trihir alout hore have thit the ut bark on the rentals of them that we could have outen knew from 'rat

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must be sport only on leves improvements." and that is which this memoment is all about. Now, that is mendment is adopted, contrary to what you've heard, I attempted to get the advice of the counsel representing the city of New Orleans in drafting this amendment, in order that the amendment, if passed, would be acceptable to the administration of the city. I conceded to counsel for the city of New Orleans certain points in the an hour ago, that this particular amendment was acceptable to the administration in every menner, shape and form. I'm surprised that that seems not to be the case at this late moment. Now, let me say one thing: the Orleans Leves Board, if this amendment is adopted, would still be a viable gency of the State of Louisians. Its members fashion they are appointed today: by the governor, resulting from recommendations made by legislators of Orleans Parish. Now, those who oppose this amendments is not want to confine levee boards to the critical business of protecting lives and property of citizen tanapers from the say one content of the state of citizen tanapers from must be spent only on levee improvements," and boards to the critical business of protecting lives and property of citizen taxpayers from abnormal tides. They would have you believe that it is proper to continue to use tax revenues raised for flood protection to construct and maintain fishing and hunting camps, and to operate pleasure boats and yachts for the use of a priv-ileged few. This, I submit to you, since 1927, in Orleans Parish, has been a tool to promote the public interest. If you want to retain the status quo, if you want to you have boards in the public interest. If you want to retain the status quo, if you want your levee boards in the airport, cocktail bar, marine business, then vote against my amendment. If, on the other hand, you want flood protection for flood protection taxes, you have no alternative than to vote yes for the amendment. Thank you for your time. I move the adoption of the amendment. I ask for a record vote.

[Record vote ordered. Amendment rejected: 46-64. Motion to reconsider tabled.]

### Amendments

Mr. Paynter This one is distributed with just the name "Nunez" on it. Oo you want to be a coauthor on this, Mr. Pugh? All right. Mr. Pugh does want to be a coauthor. Amendment No. 1. On page 23, line 26, imme-diately after the words "commissioners of" and before "shall" delete the words "such districts" and insert in lieu thereof the following: "districts

Amendment No. 2. On page 23, line 27, delete the semicolon ";" after the word "districts" and insert in lieu thereof "as provided by law;"

Mr. Nunez Mr. Chairman and fellow delegates, this is in line with the amendments that we had... we passed yesterday that the committee agreed to, and after careful study of them, and talking to some of the staff, it was determined that possibly it old not do what we wanted to do-that was to provide laws, to make the appointments to the various levee boards that are heretofore created or hereafter created, rather than those that will be consolidated. This, we believe, doe ... moressure creates, rather than those that will be consolidated. This, we believe, does what many of us wanted to do: set up a procedure whereby we can establish by law the manner in which these levee board members shall be appointed. It's similar to...it's exactly what we did before, but we weren't sure that what we did before did do what we want to do mow.

# Further Discussion

Mr. Perez We see no objection to the amenament, it just makes it clear that it applies to existing levee districts and any levee districts that might hereafter be created. If there are no...

## Questions

Mr. De Blieux Mr. Chairman, so I read this amendment--it's a kind of point of order to this--it looked like to me this is a duplicate of the very amendment which we adopted yesterday.

Mr. Perez Well, the problem, Senator, is that if the language some people are not totally satisfied with, they wanted to make it sure that it applied, that this reference applied, not only to the dis-tricts which would be consolidated, divided, or reorganized, but would also apply to all levee districts. That's the purpose for the change in the wording, and the wording is different from that which was submitted yesterday.

Mr. De Blieux It looks like to me--I just say that--that you're doing identically the same thing that you did yesterday. Maybe I'm wrong. It looks like to me--I just say

It just further clarifies the language, Mr. Perez

## Point of Information

Mr. Jenkins Mr. Chairman, we're still having some confusion as to what amendment it is. Could the Clerk help us?

Mr. Henry you will. Read it again, then, Mr. Clerk, if

Mr. Perez I'm advised by Senator De Blieux now that he had the wrong amendment before him, and I don't believe he has any question about it now.

Mr. Goldman On this amendment...these two amendments we're talking about now, Amendment No. 2 is already in there. Amendment No. 1 would change a little bit, but we could do away with Amendment No. 2, I think, because that's already there. T was done by amendment yesterday. So, all that's necessary, isn't it true, is Amendment No. I to do the change?

Mr. Perez Well, I would then ask for a division of The question, and if the Chair will advise me that Amendment Ko. 2 was adopted on yesterday, then, of course, I'd urge the adoption of Amend-ment No. 1 and the defeat of Amendment No. 2.

<u>Mr. Poynter</u> Mr. Perez, if it's all right with you and the author of this amendment, I think, perhaps, an easier thing would be to withdraw this set of amendments, strike out Amendment No. 1, and then make it clear in Amendment No. 1 that it effects the deletion of the prior Nunez amendment. On page 23, line 26, delete Amendment No. 1 by Mr. Nunez yesterday.

### Amendment

Mr. Poynter It would read as follows: Amendment No. 1 [by Mr. Nunez]. On page 23, line 26, strike out Amendment No. 1 proposed by Hine 20, Strike out Amenament No. 1 proposed by Mr. Nunez and adopted by the Convention on October 3, 1973, and immediately after the words "com-missioners of" and before "shall" delete the words "such districts" and insert in lieu thereof: "dis-

Mr. Poynter Mr. Roemer]. Mr. Poynter Amendment No. 1 [by Mr. Kelly and Mr. Roemer]. On page 23, delete lines 20 through 32, both inclusive, in their entirety and on page

Mr rely Mr hair an, ladie and centless of the convention, this a endeent 1, of ourse, use a vous. It is by delete any reference betwee districts in the constitution. I at heart want this convention to have the choice, at one the r an ther, to devide whether or not levee district hould be even lentioned in our constitution use framily, i'm of the personal and the there is a the next one of a set of the one of the term of the one of a set of the set of the at one the set of the next of the device of the set of the set of the set of the one of the one of the set of the of the set of the set of the one of the one of the one of the set of the of the set of the set of the one one

Mr. Ro. Mr. relly, actually, even after all this one half of a page of material and words, we still say we leave it up to the legislature to onsolidate, odify, or anything else with respect to levee board, don't we?

Mr. Hell That's wurderstanding, and yet, at the same time, one of the things that bothers me is in 44 kJ you say that levee districts as now ogranized and constituted shall continue to exist. except that. All right, now, in my opinion, that constitutionalize, these partiular levee districts that are in existence at this particular time. Yet, in Subparaph 11 under 44, you come right bock and say that the legislature as create new tack and say that the legislature as preared to that you are going to have some that have legislative statu.

Mr Roy Even those that we...retain the consti-tution status, the legislature can take away all functions and power from it in any event So, all you have is a shell that we can't ever take out of the constitution without a constitutional

Mr. Yelly That's y understanding f it, Mr. Poy ine just ringly ays, the legislature may provide for the consolidation, division, or re-organization of existing di tricts or create new

Hr Roy So, that if we decided in the future that we would no longer have what we rail a levee boad today, but one ther type of better oganiza tion, we build not at rid if the old levee board that i preintly initiationalized, but would have to leave there in some type of limbo, and give all the pweet to view ther originization is

Mr. relly That's orrest, Mr. Ruys

Mr. Rod er - Mr. Kelly, d. you envirten great flords and plaque, weeping our land it we delete levee board from the onit tution

Mr relly No, 1 do not, Mr Rorner

Me Lenter, Me Yely, 10d 1 understand year answer, b. We Roy or reitly, that in use saying that if we railly these several in trice in the constitution, that they ar the changed sur-querity by facture

Mr Iolij That They las t

Millin er Tat

Mr rely N, : did not a tot all the shell not use to was a the shell not use to was a the shell of the levee and in ture. N d ' relate and in the shell to the she

Mr. Lanier - où drit y u reur an ze iz - e statewide levee di tr ct if you wan\*e

Mr Fell Pissie, but find rear in t du that, that car still be done with ut the aced in the constitution.

Mr. Lanier Now, wher we rat fied all of the

Mr. relly That wasn't treisin of wat wa done. In other words, I thnik yo ra'i' ed the powers and functions that these particular me rule charters, existing constitutional hie rule charters, already had, but yu dir ake pivi for legislative action in the, if ree ber correctly. But, we're takin abut hower he charters there, Mr. Lanier, we're takin abut

Mr. Lamier Isn't t the a.e. in your inter-we ratified the home rule harter, n w.w. re ratifying the eitting levee a trictionald you agree with that

Mr. Felly well, let e say the when you are natifying your hole rule horter, that is no thing, in y opinion i really had in well objection to that, ut, that if y even in react, one of them with a need to italize, to you er-tanding, then you have to in fail in the time alizing level dutrition.

Mr Roy Mr Lanier que tons a little leading I n° t the fart tha when we not tutionalize the exiting horizon the harter, the

Mr. Roy

Alternative of the solution of

the investment of everybody in your district being jeopardized, you take a little bit different view. Now, this section, as presently written, gives you the authority. It sets up in the constitution the provision that these levee districts that are in effect, stay there. I don't anticipate that this signification of the second second second the second second second second second second this signification of the second second second this they are going to continue keeping the Acchafalaya about like it is. Water is going to run down hill. It's been doing it a good many years, and you're not going to be any major need or any need for any major change in the system of levees. There will have to be some corrective message added the well border to channels, those kind of things. There is a provision in this proposal, like it is now, whereby the legislature can consolidate. That leaves now now law for any may need as time goes on. I personally feel it is in the best interest that we leave the constitutional levee boards like they are-levee districts like they are-with the made as the years go on, and is se absolutely no reason to delete them. So, l urge the defeat of this amedment.

### Questions

Mr. Goldman Representative Womack, do you know that Lagree with you, and i'd like to ask this question so that the delegates can hear your answer to it? In wiew of the fact that we have constitution passed by the general. By the citizens of the State of Louisiana, and if levee districts are taken out of the constitution, the way the press may handle this the people are going if they have a flood between now and the time the legislature might act again, what will happen, they might get in their minds that they are not in sconcerned. Don't you agree that that pich be an element in whether or not this constitution is passed or not?

Mr. Hommark Mr. Goldman, this... I agree with you. This is Just another one or the items that it would certainly give opposition to this final document a good prey to fall on. I think they could really make hay over it.

<u>Mr. Chatelain</u> Delegate Nomack, do you realize That I support your position on this? I think this is... we spent a great deal of time, Delegate Nomack, to provide that these various levee boards and commissions could be appointed or elected. After all this time, I think there's a great need to remain in the constitution. Don't you, sir?

Mr. Womack Thank you, Mr. Chatelain.

Mr. Lanier Delegate Womack, did you know that If we didn't have proper levees in many places in Lafourche Parish, we'd be in bad, bad trouble?

Mr. Womack I think you'd be in the same trouble all of us are in. In fact, I can show you some half a million, million, dollar losses up in my area, now, even with everything we have. It could be a lot worse than that.

Mr. Lanler Aren't you familiar with the fact that the United States Corps of Engineers, in testimony before the Local Government Committee, sold that our system of levee boards in the State of Louisiana is one of the most efficient in the Mississippi River and Tributaries Project?

Mr. Womack The reports that I have had all the way through is that the levee system in Louisiana

has been the best maintained, the best looked after, the best supervised of any place in the entire Mississippi Basin. That's the information I have.

### Further Discussion

Mr. De Blieux Mr. Chairman and ladies and gentlemen, it wasn't too long ago that Representative Womack stood before this rostrum and made a very good speech, in my opinion, with reference to the responsibility of legislators, and the fact that they were not people with horns con them, and you need to be the weight of the state of the state to have him get up here and say that just by the mere fact that the levee boards are not going to be in the constitution and that it will be tended to by legislators seemed to be a contradiction of his previous attitude. I want to say this: I support this amendment because it doesn't make any difference whether we have constitutional fact that they are in the constitution not in the constitution is not going to prevent one fload or cause one. That is done by the floodwaters, and we are going to hendle the situation with floads as best we possibly can under any circumstances, whether they are constitutional. I'd like to say this, having served in the legislature for a little while, the legislature is made up of individual just like you and 1. If this is a responsible body, they are responsible. If you can't trust the legislature is for your ensible we don't need to clutter up our constitution with Index 1. Jak you to delete the amendment. You are not abilishing a single levee board, just the mer fact that it's not in the constitution. I ask you to for the amendment.

## Further Discussion

<u>Mr. Nurez</u> Mr. Chairman and fellow delegates, you know, there's a lot been said about levee bords. I there that here has been dealing with they issued a very lengthy report after a very lengthy hearing. I guess you can say there were bad levee boards in this state. I guess you can even say there are presently bad levee boards in this state. I guess you can say there will be bad levee boards in the future. I guess you can say there are presently bad levee boards in this state. I guess you can say there will be bad levee boards in the future. I guess you can say there are boards on the future. Or there have been and there will be in the future. Uthere have been and there will be in the future. I were the say bad goes outs, and there are. We there are bad presidents. You could take it right on down the line. But, let me tell you, let me tell you what I've experienced in the past. In five years, my particular parishes have been whit by Camille and Betsy and completely wiped out. I mean Plaquemines Parish, the lower end of it, was devasted to the point that where there was a home, there was a set of stairs left or there might have been a buit four of them. The area that I represent has been totally wiped out a five years, two in five years. In the past fifteen years, whe had about four of them. The area that I represent has been totally wiped out at least three times and inundated at least five times. When you get people that come to you with two and three S.B.A. loans, two and three S.B.A. loans, you know that something has to be done. Let me cannot do it. They admit they cannot do it. The United States Corps of Engineers cannot do it. The corps of Engineers is the first one to come in down there after your levees are destroyed. They will help you repair them, but the water is there;

60th Days Proceedings—Ottober 4, 1973 the damage is the e, the invisit there, and they are repairing yur levee [1] never first Betsy Mr. Mire alred a dusting a discrete first Betsy Mr. Mire alred a dusting a discrete first in never first the nont that tay was rarin down, down the gap, down the de ta an between thermard and law mires and rean we tried desperately to get smear the will defense first and the matronal ward off in als, and we lust could not get the so, what happened. It hety-was under water the hours after the levee bits-two hours after me had not one piece freque allow, if you don't distant we ever seen out there, not after the distant, but during the units, if you don't distant we ever seen out there, not after the distant, but during the at labout to de ete the provision or constitu-tionalize levee districts. If you allow the sating stating a the mean because a levee board meth gets involved in some scandal, and the gislations by a don't act the distant bits for board we are making a serious state; believe we are making a serious state; Norma and not then under the name quest of Phol Norts, I believe we are making a serious site; believe we are aking a rerous error. Delieve that the only place for these levee districts to give the people conject protection in this state is in the constitution. If you read the report that the legislature the selves made, they rect mend that is tays there, and they recore ended a few other things that we're not so in to do all we are trying to do is put the in the on-stitution. You hnow, there's been a lot if reark from some people that it is unsy that the levee bell words and that constant what the levee bell about do is further with the levee bell about do a question, 'udge. You keep raising hands and all that. Do you want to a i me a question?

Mr. Henry Well, we ve ot everal that when you get through with your remarks, enat

Are spice where My while point, ladie and de the en of the convention I think it is absolutely ne-essary that the elevee board, recain in the con-stitution. I think it is vita and essential for the continued growth and the ontinued property of our state. There is if the coalt of ourslam out of there wealch, a lot if natural resources are septectly prote ted by these levee ly te-he restor why we have to have the ability to have new levee system be ause of the fait that down in afourthe Parish is years and we use resulted another levee di trit. They find the restor the source of the fait the state that down in afourthe Parish is years and we as treated another levee di trit. They find the restor the source of the levee is ten in the constitution. Wi chairman, lill be glad to yield the any question:

Mr. I. B. eu enatir Nunez, how rany harrinke do y 5 thirk haven the in the orititution will

Mr. hunez enation the classical of provision of the point of the while thing

My reflexive an instrument you not heart all your around in on the hourst agent in the winder how any of the will represented by haven the in the construction.

Mr. Humer wells, notations, many first the way approximately just and the non-station, but to this way from the station of the dual to be the station of the

Mr. bis en in india en inter

Mr. Toblas in u diru service tratitire an two the New miear Leveel in id the intra-train Leveel train

Pr "oblas" So, reffer, what we all news of the do not adopt the relations end the putting all of the level of trict through the state in the constitution of the state of the

Further with the second second

No. 100 No. and the set of the end of the set of the se

speakers who said, "The authors of this amendent don't know what it is to be in a flood. They don't know what it is to live along a levee." Well, that's bull, and they know it. They must not know where Don Kelly and 1 live. We live along the banks of the Ped River. Wy livelinood not know where uon telly and i live, we ive along the banks of the Red River. My livelihood as a farmer is dependent on the protection of that fifteen hundred acres under fifteen foot of ater for the whole crop season. It makes a difference to my pocketbook. So, I know what I'm talking about when I talk about a levee 'cause when I look out the back door of my farmouse, three hundred yards away is a levee that separates me from a mighty river. Now, I know the importance of levees, and I also know the gob we're sent here to do: that is, to write a constitution. It by putting them in the constitution we've done anything. Read the section. All it says is "the legislature may," what Don Kelly and I are trying represent us. They are going to protect us. They are going to make sure these levee districts buck up and shape up and give the kind of performance up and shape up and give the kind of performance we need. Now, what we're asking here is to take verbiage out and give the right to the legislature to protect us through these levee districts, to meet the needs of the day, not to freeze it in the constitution, one way or another. It amazes me in the months I've spent in this Constitutional Constitution, one way or another. It amages me in the months it've speet in this constitutional obvious and so clear and so vital and have so many of us sit on our seats and use those same seats to do our thinking for us. It is time to stand up-perhaps too late, but better now than never-to stand up, and let's write us a consti-tution. Not one chocked full of this kind of lature, one that shows a need of the legislature to have the flexibility to meet the needs as they come. Now, I close by saying we're not trying to destroy the leves; we're trying to maintain their integrity by giving them the real strength that we have in the law. That is, when there's a power, I close the changed. The levee district thousand dollars, or whatever the figure was, to try to get a constitutional amendment through last times on they wou to think on it and think I beg of you, I ask you to think on it and think about it. Let's write us a constitution. Let's take this legislative matter out of our basic law and give it to the people that represent me and you, our legislature.

Mr. Ginn Mr. Roemer, in your opinion, would it... if we took this statutory material out of the constitution, would it in any way affect the existing levees and the levee boards by taking it out and putting it in the statutes

Mr. Roemer It would only affect them, Mr. Ginn, If at some future date the legislature saw an obvious need and met it. We're giving them the right to do that. You know, yesterday, we had a chance to really strike a blow to make these levee districts shape up. We had a chance to make them go to the people. We missed that chance yesterday; let's don't miss it today.

Mr. Stovall Mr. Roemer, are you aware that Senator Lauricella from Jefferson Parish and the study committee from the legislature on the levees recommends this type wording for the con-stitution? This is the legislative recommendation. Were you aware of that, Mr. Roemer?

Mr. Roemer No, I was not, and I can only answer that by saying I'm glad to see the legislature studying the problem. I'd like to give them

Mr. Stovall Well, this is their recommendation. Furthermore, Mr. Roemer, you're rather emotional about this, aren't you?

Mr. Roemer Oh, no more so than I am about most things 1 care for.

<u>Mr. Stoval</u> Are you aware that about two million people in south Louisiana are emotional about it and feel the opposite way the way you feel about it, Mr. Reemer?

Mr. Roener Well, I didn't know you spoke for two million people. Reverend; I'm impressed. I only say about those two million people that if they think that we've given them anything by putting it in the constitution, that's a little bit like pabulum. I think they're bigger than 1'd that.

Mr. Womack Mr. Roemer, do I remember you right to say that you was offered the opportunity of naming the levee board members?

Yes. Roemer

Do you realize that as strong as I Mr. Womack a little bit, and it looked like it more just another system?

Mr. Roemer Yes, I would realize that. I might say in the offering of those positions, Mr. Womack...

Mr. Henry You have exceeded your time, Mr.

## Amendment

Mr. Poynter as follows: Amendments sent up by Delegate Lennox

as follows: Amendment No. 1. Dn page 24, between lines 1 and 2, insert the following paragraph: "(3) The authority of levee districts to expend its revenues shall be limited to drainage, fload control, hurricane fload protection and administrative expenses. The legislature shall provide for the orderly

transfer of all powers and functions of any levee transfer of all powers and functions of any leves district not directly related to the performance tection and administrative orgenses. In such case the legislature shall further provide that the local governmental subdivision shall succed to and be vested with all the rights, income, resources, jurisdiction, authority and powers of such leves edistricts required for the exercise

Mr. Lennox Mr. Chairman, fellow delegates, the first sentence is precisely word-for-word similar first sentence is precisely word-for-word similar to the first sentence of the prior mendment which you ever, the scond sent status and to for tasks. That the legislature shall inherit this problem and do something with it and provide for an orderly transfer of all powers and functions of any leves district which are not directly related to hurricane or abnormal tide protection functions. Now, it's give the taxpayer what he pays for--protection of his life and property from hurricane tides. Now, I submit to any questions.

Mr. Vesich Mr. Lennox, what do you propose to

a. with the arrise ther a ensite which the levee bar running Prw dryou stend to handle

Mr. Lenny, I wouldn't propose to do anything with them, but I would surgest that the lens-lature, if this alend ent were adopted, would urivide for that.

Mr. Lennox. In, no, there would be no... Mr. ESTCh. You have better than that. Now, ist en give you one example in an wering you takes fon. It the city front Atroport into it. City government and placed it under the jurisdiction of the New Orleans Switchion Board, which is a bureau of the uty government, that ageny operates the air arrier arriport located in Penner. If you combine the two, the rate compensatory aspects of the contrait between the city, through ts aviation board, and fifteen airlines who perate in and out of Moizant would require that those a rlines pick up the deficit of operation at New Orleans. As a matter of fact, it would be an asset because you would have the man ement if those two air-port under the New rean Aviation bards, where

Mr. Vesich what would you pripose for the arina, them? ow would you lalvage that?

Mr\_\_enn=, The arina ould be very easily errord into the lew 'rieans Yacht Harbor whith is continuous, as you kniw, to the irleans ratina, you ould have one administration, one set of telephones. You wouldn't have all that double rverhead and double mana ement

Mr. Vesich

Mr. Lenn: The akefront would be aintained or a function of levee districts involving hurr -rane, find control, hurrigane flood protection, and administrative expense

Mr. .e... talking about the iral solution, and the raintenance of it, and the beaut fication

Mr. Joinch. Your a end ent ay that:

Mr. enning Yel, Str., it sure bin

Mr. Herry costing at the alord err, it ent ther will entry cost ar, there is it out event the cost Mr. even the

By dynamic  $W_{1}$  is sense, J and ppletrum strategy and the procedure explored by a classical procedure J with the procedure J is a sense of J and J and J and J are the procedure of the procedure J and J are the procedure of the procedure J and J are the procedure of the procedure J and J are the procedure of the procedure J and J are the procedure of the procedure J and J are the procedure of the procedure J and J are the procedure of the procedure J and J are the procedure of the procedure J and J are the procedure of the procedure J and J are the procedure of the procedure

Mr hanin wel, older to thee root tan thi not be a line t

Mr ennix Not as Lunder ran t. t w take a vote f the elector, or y ale, Orleans Parish, to a with it unler e t

Mr Shannin well, would you want it taken without a vote of the pepiel

Mr. Lennox Oh, I one of the equal that the greatest confidence in the e stature. Mr Shannon, I think they are fully apple at corpetent to do the right kind f i b.

Mr. Jhannon. You don't think your period in hew Orieans know what they want

Mr. Lennoi I think the pe pe kn w wat te want be au e they e est the lens at rs they see to Baton Rouge to govern the

Mr. Deves Mr. hair an and laifes an elimetric of the convention. I think it's effect, so that this is the same a endent in a essential sa was offere before 1 i y, t reject this amend ent as was the pre-lus a end of the ected. If there are instrume each is

Mr. LeBleu Mr. Perez, di ou know f any ter Ining that levee bland - u d externing for other than wrat's set ut here and to t a row nh

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Mr risk was anythen of that as so the risk offer of the terms of a disk we benchmark of the sound of the terms of the sound of the terms of terms of the terms of the terms of the terms of the terms of terms of terms of the terms of the terms of the terms of terms of terms of the terms of terms of

success for three and a third years?

<u>Mr. Perez</u> Well, sometime...Rome wasn't built in a day, Mr. Lennox. But, your amendment would do a great deal of violence to what now exists.

Mr. Lennox Well, this thought has been going on for thirty-two years, and I think it's high time we do something about it.

[Previous Question ordered. Record

The same question exists now as it Mr. Lennox Mr. Lennox The same question exists now as it has existed since we started talking about this at one o'clock. Do you want taxes imposed on your property for the purpose of hurricane or tidal protection used for purposes other than that? Your answer should be yes or no. Make it clear that it would be a record vote. Thank VOU.

Mr. Vesich Mr. Lennox, isn't the purpose of the entire levee board set out in the constitution? Doesn't it say for recreational purposes?

Mr. Lennox. The Orleans Levee Board does indeed, and it was...the constitution was amended, as I recall in reading the history, something like four times in three years to create new enter-prises for the Orleans Levee Board during 1922-36.

<u>Mr. Vesich</u> All right, now, when you are imposing that millage, you are imposing it for all of the purposes of the levee board: recreation, beautifica-tion, the airport, etc. Am I correct?

Mr. Lennox Mr. Vesich, I quess...

Mr. Vesich It's not only for hurricane protection.

Mr. Lennox 1 guess in the case of Orleans Parish you are right. I would like to give the people of Orleans Parish what they think they have been paying for since 1927

35-75. Motion

Mr. Poynter Amendment No. [1 by Mr. Brown]. On page 23, Line 21, after the word "district" change the semicolon to a comma and insert the following prior to the language added by Convention Floor Amendment No. 2, proposed by Delegate Nunez and adopted on yesterday: "and at least one member of said board shall

"and at least one member of said board shall reside in each parish within such district," so that it would read as follows: Line 27 would read 'or elected from residents of such district, and at least one member of said board shall reside in each parish within such district, as provided by law;" ref district as provided by law;"

# Explanation

Mr. Perez This is Senator Brown's amendment which I see no objection to. Mhat it provides is that where you have a multi-parish district, at least one member of the board shall reside in each parish within the district. It would just guarantee each parish one member of the board. I see no objection to the amendment. That's the present system.

Mr. Gravel Mr. Perez, under the provisions that possible that the, all the levee districts, levee boards, could be merged and consolidated into one statewide district. Isn't that correct? If this amendment is adopted, then you'd have to have sixty-four people on the levee board, would you not?...commissioners...commissioners in the districts?

Mr. Perez Yes, sir, that would be correct. All I am saying, and this is Senator Brown's amendent; I agreed to handle it. Unfortunately, Senator Brown is not here. I just-I was not thinking of it from that context. I was thinking of it primarily from how levee districts now are primarily from now levee districts now are organized and you have some levee districts which are multi-parish districts. The purpose of Senator Brown's amendment was just to be sure that there would be one...at lease one member from each district.

Mr. Gravel But don't you agree that this presents a rather serious problem if the legislature, under the authority that it would have under this con-stitution, were to merge and consolidate all levee districts into one statewide district, which they could do.

Mr. Perez Well, I'd have to agree with that if that were the case, yes, sir.

Mr. Lambert No. 1 want to ask you a question, Mr. Perec. Let me ask you this however, if the legislature did t conshid a however, if statewide board as Mr. Gravel mentioned--which was attempted. I believe, in the '72 Session and which was not successful--would not, as it's written now, could it not be interpreted, for example, that if you have eight parishes within a levee district, they could all come from one parish. Is that not possible?

Mr. Perez That's the fear of it.

Mr. Lambert And the taxes are paid by each...by all the citizens that live within each parish.

Mr. Perez And that's the fear that Senator Brown had and that's why he wanted to try to get the amendment in.

Mr. Tapper Mr. Perez, my concern is in the event there's a levee district that takes in four par-ishes and it's a three-member commission. We'd have a similar problem, wouldn't we?

<u>Mr. Perez</u> Well, I don't...and under the press situation there are at least enough members to provide at least one from each of the various Well, I don't...and under the present parishes.

<u>Mr. Goldman</u> Mr. Perez, what would be the harm, in case the legislature decides to merge all levee districts into one state district, of having 64, each parish represented on that levee board?

Mr. Perez Well, of course, I would think that Senator Gravel would say that would be too large

Mr. Goldman But each parish ought to be repre-sented, don't you think?

Mr. Nunez Mr. Perez, the reason for the previous mendment that we adopted, by myself and Mr. Pugh, was to allow the legislature to determine these sort of problems. I think if we lock it in the constitution, we might be developing a problem that we can't handle.

that we can't handle. For instance, LaFourche district that comes from the Atchafalaya Basin all the way down to Plaquemines. You might develop a problem there where LaFourche distributes..or contributes half the revenues and some parishes don't contribute any at all. If we can spell those things out in he legislature and the law, I think we'd be

Hr. Araha Nr. e.e., a the let in reads t ar, that the bar of the board of simers of the init that be appointed or elected from reinderts if such districts at provided y law. Init you think that if we are le whether or not these pepheares going to be ended or appointed, that we could also leave it up to the legislature to determine where they are indig one from.

Mr Perez Again, I wish enator Brown were here to be able to the forceful you hits insition. I a trying to give to you what the alternatives are alternatives are that there is a pos-contexpected on the board and that why he wanted to the amontmont in

Mr. P.y. Mr. Perez, do sime parishes belong to two in the levee boar s, on sole parts, one ward of a parish in the different levee board systems?

Mr. Perez Yes, there are sime parishes where a part if a parish is included within one ditrict, y e a part of a parish within another district.

Mr. Pirez Yes, would assue so Ye. 'ut l don't eliev that you have any wate of the ward, it's a ways a very up initial part of

M- Grant

Mr rae ''' t y m t t a and what i be eve w ''' w that s t tr eve de '

Mr. Wille Yes. At less the second second

Mr. Nukei Mr. rave, z t t s z t t e priviši miajana-he riti e wo the biard hiret five rice aff t e. ce insvided as provide i an t him wold verward j t t t t

Mr

Mr Gravel No, ion titlini till wit the ale don't, in titlina zin in er tit e ber of the loard a re-arish with titlit.

Pr. Namez Tat "" wat " eai," eai, " el. I sa d'he arguage that we nw hav in thre f the ar hent w advited, tat hi i se san provide that f a levee district ver mar he, that a rever hal se er a

ceilings are being imposed by the governing centrals are being imposed by the governing authorities involved. So that when a solution comes, if it's on a statewide basis for the imposition of...or rather for either a rollback or an increase...! don't see any difference beor an increase...l don't see any difference be-tween rolling back, or providing for an increase in milage for, for instance, a levee district tax, because you are going to have to be dealing with all of these other various taxes which are either statutory in nature or set up otherwise than in either the Local Government or the Revenue and Finance Article. So I really don't believe that we'd be doing any violence to the position of Revenue and Finance. I believe it would be port consistent with an overall solution to the subject matter.

Matter. Now as far as the question of the district tax itself, Section 45 (A) retains what is in the present constitution except that it consolidates the right of all levee districts to impose five mills. Unfortunately, we had to make an exception for the Orleans Levee District because of the fact that the present constitution only authorizes them to impose two-and-a-half mills. If we were to vision that it do, could be automateally, through a new constitution, give...or rather impose an additional tax on the people of the city of New Orleans. That was the reason the committee felt it had to put this exception in for the felt it had to put this exception in for the Orleans Levee District because it was the com-mittee's position that we did not want, through the medium of writing a new constitution, to increase taxes.

The Section (B) provides that in the event there is a necessity for an additional tax, there would be a vote of the people and of the district, and if the people so voted, their tax would be in-creased. It does not have any particular ceiling so that there would be no need in the future for

any amendment. Now I might touch just a little bit upon the question of the automatic five mill...up to five mill tax. The problem which you have is similar to the one which we had with regard to parishes and municipalities. We have a provision in our Local Government Article which would give to parishes the same autority they now have basically, four mills for a parishwide tax and seven mills for a municipal tax, without a voie of the people. for a municipal tax, without a vote of the people, with the provision under the new provision and new proposal that with a vote of the people it could be increased. So that it was the committee's position that these various agencies which are performing essential functions would...must have some automatic tax, that is some base, bottom tax and then from there, if they want more and if they need more, then they'll have to go to the people for an election. I yield to questions at this time.

Mr. O'Neill Mr. Perez, what's a for instance of how much millage is paid in taxes for different levee boards right now? You have a ceiling of five percent in here. I'm just wondering what's

Mr. Perez This is what is in the present con-stitution, what you see here, except that it's

a consolidation. I might say, by the way, for Mr. Lennox's information that in the present constitution there was additional authority for the New Orleans evee District to use some of this millage for avec Uistrict to use some of this millage for and reclamation and we have taken that out. So of constructing, maintaining leves, levee drainage, lood protection, and hurricane flood protection, and for all purposes incidental thereto", they may impole this tax. This is the tax which is in the present constitution and I really think helps take care of Mr. Lenox problem.

Mr. Jenkins Mr. Perez, you touched on this in

Vour opening statement, but isn't it true that as of yet, we have no idea what assessment ratio's are going to be in the new constitution, if there will be. We don't know whether the burden of taxation is going to fall on farms or homes or industry. We don't know all sorts of things about taxation. So when we say five mills in an article here, we really don't know what we are saying, do we?

Mr. Perez Well, I tried to explain that, Mr. Jenkins, a little bit earlier and explained it in this fashion. This five mill that is on'lly paid by people in an area. And then when the solution. when we come to the solution as to what is to be done, whether it be a rollback or an increase, etc...there would be the same uniform application say, to a levee district tax as there would be to severage tax. You're in the same position where all of these oper case in this which most of these people are imposing at this time; for instance, ten mills for sewerage, and five mills for garbage, etc., etc.

<u>Mr. Jenkins</u> Let me ask you a substantive question about it. Under Section (8) there is really no limitation whatsoever on the taxing authority other than vote of the people.

## That's correct.

Mr. Jenkins But formerly, people, just property owners could vote, and they could vote their assessment. Now, it's up to a popular vote. Isn it more important now than ever that we have fixed limitations in the constitution in order to protect the property owner?

<u>Mr. Perez</u> I would say that we have a similar provision in the present constitution which does not have a ceiling. Of course, I recognize the problem that you pose.

<u>Mr. Champagne</u> Mr. Perez, why do you want the "not to exceed five mills on the dollar"? You want it in the constitution because they will actually have a right to that much? Is that right?

Perez Yes, sir. You see, again, it's just the alimony tax for municipalities and for shes. The committee felt that we should continue the same position that certain agencies should have the right to...right to...for auto-matic authorization for the imposition of taxes.

Mr. Champagne Now, the legislature could grant you that right, if they chose to.

Mr. Perez Yes, sir. Maybe they wouldn't, and that's the problem.

Mr. Champagne That's correct.

<u>Mr. Lennox</u> Mr. Perez, do you know that your concern for the city of New Orleans and its citizens is deeply gratifying?

Thank you, Mr. Lennox.

Mr. Kean Mr. Perez, isn't it a fact that we in-dicated to the Revenue and Finance Committee, that dicated to the Kevenue and Finance Committee, t on these sections which had millage provisions in them, that we would only move to reconsider, and not put them on the table so they could be changed if there were drastic changes in the

<u>Mr. Perez</u> Yes, Mr. Kean, I'm glad you brought that up, when we met this morning with the Finance Committee, we made the suggestion that we would not lay any of these tax provisions on the table so that they could be reconsidered just with a majority vote. It was my feeling, anyhow-and I can't speak for the committee because we

haven't had a eeting--bit that we shuld try t dispose of as uch of this local Govern ent Art e as we can before we get off of it, because the lord inows when we will ever get bacion it agoin.

Mr. La bert Mr. Perez, on the 14 where it says 'on a 1 taxable property situated within the alluvial portions of said district subject to overflow ; does that change the present constitu-

Mr. Perez No, sir, that's exactly as it reads in the present constitution.

Mr. Lambert Well let e ask you this, just for y own information. Would that include, for example, backup water, or what? For example, could this conceivably extend the boundaries of

Mr. Perez This will not extend anything, because These are the exact provisions which are in the onstitution now and. .1'm really, of course, 1'm really not sufficiently familiar with the subject matter because all of the land on which we live is totally flat and all subjected to overflow.

Mr. La bert Yes, but you are talking about all the districts, not just the nearest in your area.

Mr. Perez I understand that. I say I am not sufficiently familiar with the reason for this provision except that is was in the present constitution and I assume, it's possible in some areas in North LouIsiana where you may have valleys and hills, that the hills may not be subjected to the tax whereas the valley is. But whatever, whatever the present situation is today that's what we tried to maintain. We did not loke av chance

Mr. La bert Let me ask you one other question. Is it in the present constitution that a levee dittrict can levy from one to five mills without a vote of the people? This is inst a general a linony type provision?

Mr. La best But one to five mills.

Mr Mr Perez No, sir, they do not vote for either two-aid-a-half or five lli.

Mr Suynter he firt et of a enduent, offered Ly velegate Grave A enneent No. 1. On page 24, delete lines 5 hrouin 6, both in lu ive in their entirety

Definition of the second secon

te ay harge that the dijre by n dent to say assessed viewtta. The wischer end view are view elements the view state to ave are view elements the view state of the ord assessed value are elements to the do at this convertion, and one of the the view an only do intell ently ad ears by, it define assessed value to the the view and only do intell ently ad ears by, it define assessed value to the the view and only do intell ently ad ears by, it define assessed value to the the view and ently ad ears by, it define assessed value to view the the did ently ad ears by, it define assessed before view to the the asserted and placed before view to the dete, or at least defer these particular pro-visions, we are going to be perating in the dark or, works still, we are going to be revenue provisions of this onst tut in as a we way the standards that we are entitled to ave the view the state of receden are by the to rake the state of receden are to ave for ave intell goily ness and nil we have the standards that we are entitled to ave to vision also the view to receden a very the vision of this one to dete we are to the or false prenises. By that 1 ean we as to ave the standards that we are entitled to ave the vision of vision to receden are by the vision also the vision of the vision of the vision of the ave to vision a vision vision of the source of the vision of

us. Frankly, my own personal view tract in far-ness to state government, and in formes to state and parochial government, we how doen tior taka-tion and revenue atters integraly, rat least side by side, so that we don't take the take, or so that we don't the ourselves down inwer-The optimum of the set of the se

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before the convention just what we mean by "assessed valuation." That's my only problem.

<u>Mr. Lanier</u> Isn't it true, Mr. Gravel, that this is a permissive assessment, not to exceed five mills and that the district would not have to assess the whole five mills?

Mr. Gravel That's true, Mr. Lanier, but I think you just completely miss my point.

<u>Mr. Lanier</u> One other thing, Mr. Gravel, won't we have this same problem with all of the statutory maintenance millages? Couldn't we provide a roll-back provision to take care of this?

The rollback provision, or the adjusted Pr. Grave inTlage concept, is something that we are going to have to consider. But that has nothing to do with the contention that I'm making, and the contention that I strongly make now is that we have not yet put down the foundation upon which we can approach revenue and taxing provisions. We are not going to be able to do that until we determine what we mean by "assessed valuation." This is not the place to make that determination.

Mr. Nunez Mr. Gravel, I don't quite understand why you are attacking the provision "on the dollar." Regardless of what Revenue and Finance dollar." Regardless of what Revenue and Finance and Taxation comes up with, the dollar will not be changed by it. The value of the dollar will be there. It is just used as a unit to say "five mills on the dollar." Regardless if...if they come up with a five percent or a ten percent of assessed value, it still would not change the "X" number of dollars that will be available for taxation.

Mr. Gravel But it's very clear, Mr. Nunez, that if that concept is true, we have to have developed the adjusted millage concept in order to know how much revenue we are talking about, or exactly what we are giving...what authority we are giving.

Mr. Nunez Well, in the revenue...isn't it true, in the Revenue, Finance and Taxation Article, if we do come up with a high assessment figure and the five mills is too much, we automatically have, a rollback provision whereby they would raise less or more money depending upon what they needed to do.

Mr. Gravel We haven't adopted any such provision yet. We haven't considered any such provision yet. That's my point.

<u>Mr. Nunez</u> But we have. Haven't we considered... we just adopted Levee Boards and from my knowledge of levee boards, the only funds that they have to operate on, isn't it true, would be this millage that you're going to allow them to use.

<u>Mr. Gravel</u> That's correct, sir. That would be correct according to what we've done. But we still have not poured the concrete and laid the foundation for the adoption of this section until we know to what that millage is going to attach.

Mr. Nunez Really, I that much difference. Really, I don't see where it makes

Mr. Gravel Well, I didn't expect, you know, some of you to see it.

Mrs. Warren Mr. Gravel, in the light of what has just happened this morning concerning Orleans district, would you say that the tax was the only dollar...only thing that they had to consider to

Mr. Gravel Well, I believe that the only revenues that the levee district...

Mrs. Warren I mean, listening at what happened this afternoon and yesterday, would you say the only revenue coming into Orleans Levee Board was

the tax dollar, to operate on?

Mr. Gravel No, I think they have other...other

Thank you. Mrs. Warren

Mr. Gravel, under the committee pro-

<u>Mr. 0'Neill</u> Mr. Grøvel, under the committee proposal, I want to ask you a couple of questions about it we didn't get a chance to ask Mr. Perez. Right...the old law as I understand it says that property owners would be able to vote on these millages, but the federal courts have since sid that everyone will vote on them. Is that correct?

correct: part of it, there is no celling on the millags. So, in effect, you would have just the total electorate possibly voting, you know, as much as fifty mills onto the property owners of a parish. That's one of my concerns about the section. That's why I would be for your amendment.

Gravel I don't...Thank you for saying that I don't have as much concern about that additional permissive possibility by a majority vote, but J'm still concerned about our not having the starting point we should have in order to consider this section.

Mr. Nunez Mr. Gravel, your amendment would delete the entire section, as I read it.

Mr. Gravel That's correct. At this point it would.

<u>Mr. Nunez</u> At this point. Well, where would you attempt to put back into the constitution the pro-vision that these people can levy the millage. Shouldn't we be...now my question is: should we not defer an action if it's as serious as you say it is?--I mean deleting it?

If...Mr. Perez and the committee had been willing to do that, I would not have proposed this amendment. I had asked that that be done. It was my understanding that the committee was not willing for it to be done.

<u>Mr. Shannon</u> Mr. Gravel, we've already established the levee districts now. Now, you are not wanting to provide the necessary funds for them to operate on.

Mr. Gravel Mr. Shannon, that is not correct. I am saying we shouldn't try to provide "cheer in a vacuum." What we should ob is wait...when we consider all matters relating to revenue, finance and taxation, and make this part of that consideration. Then the basic criteria can be determined and approved by this convention. Pr whipe and approved by this convention. Pr whipe and approved by the momentum of the proves and the second by the second by the second by the millance attach? millages attach?

Mr. Shannon Mr. Gravel, did you know that this is practically the same thing that's in the present constitution?

Yes, and when it was adopted the... Mr. Gravel view of the framers of the constitution --or the voters, if it came by way of amendment--had before it all other provisions of the constitution which would make it possible for an intelligent deter-mination of this particular language.

Mr. Shannon You do know that because they are authorized to levy this five mills that they do not have to levy the entire millage. In my district that I work with, we were authorized five mills, but at present, the millage is one mill.

## Further Discussion

Mr. Chairman, ladies and gentlemen, <u>Mr. Champagne</u> Mr. Chairman, ladies and gentled I would hope to make myself abundantly clear to each and every one of you. We had a series of

wit no on levees and evee boards. If you would very the record, you would find, hav ng been whind one of those levees, I voted to aintain

the levee boards That is not the question. The point is, for the first t e in this convention, we are reaching at a point in which the coll thee, which was unable to meet because they did not have a quorum this orning, did not reach a consensus of opin on to pass over those matters upon which they do not how, or we do not how, what we are doing. I sue est to you that before 'came to this conven-ion 1. and | uppose you did the same, made a tion I, and I uppose you did the some, made a construction of the public or in private to , urielf, or others, that you would try to infor-yourself on atters before making a vote on

I siply submit to you that what Mr. Gravel is tryin to do is force this committee to pass over

When the product of the product o

Mr. All America

# Mr ha pagne that t, 1'

Mr\_Burson Mr\_ha\_a\_e, velicen an us cate on our collittee fideferrir in ide at in f our revenue provisions to we how what the tai we revenue projisions it we with the tabase is going to be But, there in et in that disturbs e really. A right to yoke ar, it's tober the 4th, and 1 envery esteen a proposal out if the Revenue and a stin in the Now, when we get to the fill est. The arm of takes that for education and the ther all out takes that we have to have to be passing bills server egoing, will we have the mast init infrists and find the proposal in ur in risks stickly? A rewe going to get ne let et at will but to serve the attent we take to back and have to the end of the end of the ether all in y takes that we have to have to back and have the takes that ether all in yokes that we have to have the end of the end of the ether all in yokes that we have to have the end of the e

Mr. Changing Mr. In on, we do have a initial out of committee was in the initial de and didn't agree with it, by two do have one. The percentages are five, ten an filteen, and t will be realized in the first of the standard you, that if it was all do to the ratendar a week from today, wid have to interfirst was are now at a decision. If we is this invest in called it next week, we dhave it.

<u>Mr. la</u>, Mr. ha pane, y que ti mith what you're saying. I motice n this re-posal we list the parish to four is for eera alimony tax, a'd here we is alon i aying t

Mr. lay Nw, dn't yquitter, ou think we an intell ently sait at five is enough or too of built we veritter a it.

find that out now. The only way to do it is to have up to these sections. The problem that has been raised by Mr. Gravel and those of the Finance Committee, who in all sincerity are troubled by the problem of what will be the assessment base. If the assessment base is a hundred percent, obviously seven mills or four mills or five mills or four more money than it does at the present time, and perhaps, more than we would more concerned with the possibility that we may end up with an assessment base that is lower than it is at the present time, in which case, four, seven and five may not be enough. So, what we're really around about is not the concept, but how many mills we're going to put in these order to get, and a millage over that with a vote, that then resent time, in the concept, to decide whether or not we want to give local governmental agencies the right to levy a millage without a vote, and a millage over that with a vote, that then we simply blank out all the references to the actual number of mills in these more adds. Unser, the rought to go ale ad and the assessment base, we then put in the amount of millage that would be required. Now, with that, it seems to me that we could move forward in an orderly fashion. We could go ale ad and so the allowable millages awe want to put in; both as to the allowable millages we want to put in; both as to the allowable millages and as to any limitation if we want to put a limitation upon the amount of property tax millage that could be levied for operating purposes, with that, i don't see how as to the allowable millages and as to any limitation if we want to put a limitation upon the amount of property as millage that could be levied for operating purposes, with that, i don't see how as to me to may millages and as to any limitation if we want to put a limitation upon the amount of property as millages and as to any limitation if he altowable millages and as to any limitation if he altowable millages and as to any limitation if the section, leave blank the millag

### Questions

 $Mr_{\star}$  Mire  $Mr_{\star}$  Kean, isn't it a fact though that we'd have to come back to the section even if we'd leave the mills blank now? So, if we've got to come back any at all, don't we again open it up for any amendments at the time?

<u>Mr. Kean</u> Well, my point, Mr. Mire, is that we need to decide whether or not we're going to follow this concept with respect to local governmental financing. If we're not, then the committee has got to go back and take a look at how we're going to do it, and that has nothing to do with the amount of millage that we would be authorized, or the limit on millage that you might want to set.

Mr. Mire All right. Well, don't you also agree that the concept as far as taxing people will be concerned...as far as ad valorer taxing will be concerned, will be whatever plan this convention does in fact accept, that will really set the stage as to how local taxes are going to be collected?

Mr. Kean I think this convention needs to make a decision now whether we're going to have continued local governmental taxation based upon property taxation. If you decide not, then under those circumstances, we've got to go back and start looking for other sources of local governmental revenue.

Mr. O'Neill Mr. Kean, would you agree that a good analogy of what you're asking us to do is to sign a blank check and to come back and fill in

the figures a little later?

Mr. Kean No sir. I don't agree with that at all.

Mr. Pugh Mr. Kean, is it not conceivable that we could leave the blanks that you suggest, and then come back and find out there's a disagreement as to what should go in those blanks, and then we can't garner enough votes one way or the other to fill in the blanks in a constitution and be obligated to leave it like it was?

<u>Mr. Kean</u> Well, at that point, Mr. Pugh, we just all pack up and go home. That might not be a bad idea, any way.

### Point of Information

<u>Mr. Chatelain</u> I realize that you have amendment... I mean, a motion before the house at this time, is that right?

# Mr. Roy That's correct.

Mr. Chatelain All right, would it be in order that we ask for a five minute recess? I think we will get some things resolved that will keep a great deal of debate down. Would it be in order to have a three to five minute recess here?

<u>Mr. Roy</u> Mr. Chatelain, unless you are speaking for somebody that...you know...you know you're going to get it, I just think that...

Mr. Chatelain I think we can, sir.

Point of Information

Mr. Perez Can I ask all of the members of the Local and Parochial Government Committee to meet over in the corner on the whichever side...

Mr. Roy Mr. Perez has requested that all of the members on the Local Governmental Committee meet over here on the left, in the corner.

Chairman Henry in the Chair

Quorum Call: 1 2 delegates present and a quorum.]

<u>Nr. A. Jackson</u> Mr hairman, I'll withdraw my motion 17...17 it's based on the knowledge and understanding that the Chairman is going to make a similar motion to pass over the sections that deal with taxation. Is that the motion...tat

<u>Mr. Henry</u> I believe that's what's forthcoming, <u>Mr. Jackson</u>.

[Motion to defer action on the Section withdrawn.]

### Further Discussion

Mr. Perez Mr. Chairman and ladies and gentlemen of the convention, at our little huddle which we had with most of the members on the local Government Committee and also a goodly percentage of the Finance Committee, we are attempting to work out this procedure. We would, in local Government, temporarily pass over sections...those sections which deal with finance, such as Section 45 on district taxes and 46 on bond issues. It is my understanding that Revenue and Finance will meet tomorrow, and will hopefully report out their provisions. We would then, next take up the property tax problem before the full convention. We would until the property tax issue was sattled, then we would revert back to the property tax...or rather revert back to the Local Government provisions. With that understanding in mind, and if these pass over at this time, Sections 45 and 46...to determine whether or not...and then by tomorrow,

### hopefully, everything will have worked itself but

 $\begin{bmatrix} M t, n t \\ a \end{bmatrix} t = \begin{bmatrix} M t \\ c \end{bmatrix} + \begin{bmatrix} M t \\$ 

### Motion

Mr. Perez with respect to Section 47, inasmuch as we have adopted the Intergovernmental Coperation Section earlier in the article, we believe that to the Intergovernmental Coperation Article with the totion have this particular section. An amendment is being drawn at this time to delete that particular section, so I ask that we pass over it for the time being, so that when the amendment is ready we can go forward with it.

[M + ... n t wave reading fortin 47 a ptelw that be ton.]

Mr. Henry Now, why do you rise, Mr. Schmitt?

### Questions

Mr. Perez No, sir.

Mr. Schmitt Never?

Mr. Perez | therefore move that we pass over...

Mr. Henry No. We need to take up...don't you want to delete it?

Mr. Perez Yes, sir, we do have the amendment ready now so it's not necessary to pass it over.

### Amendment

Hr. Poynter [Amenument bu Nr. Fean and Nr. Chate Jan]. Distribution copies haven't arrived, but it simply reads, On page 25, delete lines 7 through 12, both inclusive, in their entirety."

[Amendment al ptcd with ut l e t n.]

Reading of the Section

Mr. Poynter "Section 48. Cooperation with Federal Government

Seition 48. All governing authorities of levee districts which have been, or may be instead, are authorized to cooperate with the federal government in the constant of the seves in the constant of the seves may be provided by the federal authorities and A webted by the levee districts "

### Explanation

Hr. Berez, Mr. Chairman, and ladies and gentlement of the invention, we looked at this within 48 rather arefully with the hope that we light also be able to delete it. The only thing that bothers every such is the fait that the federal governent, as you line, its very deeply included in the would not went us to do enything on a quick delition and have the 1's error of inclineers question whether or not we would have the auth rity of concert with them in the construction of levees in the future it's out everal lines in the constitution, but it's out everal lines in the constitution. But it's out averal lines in the constitution, but it's out averal lines in the constitution. But it's out averal line in the constitution, but it's out averal lines in the constitution. But it's out averal line in the constitution of the constitution of a set of inclusions of the line with the in the constitution by the federal authorities and if they gue would be right of the state in the we do not in to In crate, then we will real to be in true to be in true to be in true to be in true to be included by the creating and the reader in an abundance of pre-autors, a word as that we include this art, the set is the a character answer questions.

### planation

Mr. Lanier Mr. Chair an and fellow dele ate., Sect on 49 deals with a subject which has been brought to your attention on several ther actually used or destroyed for levees in evee drainage purposes hall be aid of at a in e not to exceed the assess of value or the ine en-singular to exceed the assess of value or the ine en-singular to exceed the assess of value or in the servitude is not an expropriation. The inhal our disjustion of Artisle, servin 4, initial with the Right to inperty, we will all deferred taking any action in appropriation of the assessment of the service of the servitude is not an expression of the service of the deferred taking any action in appropriation of the head of the service of the service of the servitude is not a taking, but is erely the ever-ite of a right that he giver net had when it granted the lands to the giver of the service of the servitude is not a taking over net had when it granted the lands to the giver of the service of the toriginally, the land when a the take is granted the lands to the giver of the service of the lands of the lands to the giver of the service of the toriginally, the land when a the take is granted the lands to the service of the servitude is not a taking over net when the toriginally, the land when a the take is granted the lands to the service of the toriginally the land when the take and is to build the levees and when the take is toriginally the land when the take and the service toriginally the land when take and the service of the take reaches that the take and the service of the toriginal of the take and the service of the take the take the take and the service of the take reaches the take and the service of the take the take the take and the service of the take the take the take and the service of the take the take the take and the service of the take the take the take and the service of the take take take the take take take the take the take take the take take the take of the projecty in its entrety, then a the

compensation will be to the full value of that thich is is then. This is a change from the present law which merely provides the assessed evaluation for the last preceding year. This provision also says that with reference to batture property and property the control of which is vested in the state, there shall be no compensation. Batture is the portion of land between the high water and the low water. In some places in south Louisiana, the low water. In some places in south Louisiana, the issue the legal terminology, the batture is between the high water and the low water. Property that is vested in the state or any political subdivision thereof for purposes of commerce would be property on which the state is already operating in a commercial type enterprise and no compensation is paid for thet. Now, the (8) parts of this section it, then it is authorized to levy a tax on all of the taxong the property so used with the riparian servitude. This is the present law...this is the method for compensation; this distributes the loss throughout the entire distributes the loss through in the state is our present law, and in other words, in the situation where the levee is caving in you don't have to go through any type of a formal procedure, you just go in you the compensition as is required by law. Under the law, at the present time there is no requirement that you go through any formal courtroo procedure to exercise this sectified mail to the parson whose property is going to be used. That is the general explanation of the riperiafron. J'I be gladt o yield to questions at this time, Mr. Chairman.

## Questions

Mr. Newton Mr. Lanier, this...when this compensation is to be paid at fair market value, now... this says when one-third of the property--total ownership of the property is taken, is that right?

Mr. Lanier It says, "when it shall exceed more than one-third of the value of the property or improvements."

<u>Hr. Newton</u> Now, is it intended that this is to be..cumulative or..in other words, if they start out and they take a tenth and then they take another tenth and then they take another tenth--when they get that fourth tenth, they have gone over a third. Then would he be entitled to fair market value?

<u>Mr. Lanier</u> Quite frankly, I don't recall that we considered that type of a situation in our deliberations on this, but I believe, as it's written, it applies in each taking. In other words, it would not be cumulative. I don't... as a matter of fact, I don't even recall us discussing the cumulative effective problem...and we were thinking in terms of a single taking at the time that we drafted this.

Mr. Newton Did you discuss the...with respect to this one-third, the time within which takings could take place?

Mr. Lanier No, I think this was...we were thinking in terms of a taking. In other words if we have to go rebuild a levee or put a new levee and the property was needed, then you would build it and that would be the taking.

Mr. Newton Right.

<u>Mr. Lanier</u> Now, it may take you a while to build the levee, but I mean... I think what you're talking about is several stages of doing something, which we did not contemplate.

Mr. Duval Mr. Lanier, 1 certainly appreciated your fine explanation of this article, but one thing 1 don't quite understand. Why is it that one-fourth..if one-fourth of your property is taken, you get ten percent, but if by some charde one-third of the value is taken, you get a hundred percent. How did you arrive at this distinction?

Mr\_Lanier This was sort of a value judgment that the committee came to. We felt that under certain circumstances more than the assessed waluation for the last preceding year should be given, and this was a value judgment that was made on this particular point. You could make it two-fifths or you could make it one-half. This is just a ugestion of where you would draw the line. Part boards to pay. It would draw the line. Part boards to pay. It would draw the line was been and the state of the partment of Public Works, and the Chief Fugineer, Mr. D.B. Creasp, concerning the ability of these people to compensate. In the Mississippi the Mississippi River, the Atchafalaya and part of the Red River the federal government pays for the taking, except for relocations of pipellnes and thing like that. Outside of the Strippin the districts in their ability to pay. In fact, specifically, in this report it said that most leved districts in Louisiana are not financially able to acquire rights-of-way for enlargements and setbacks at other than the assessed value, where reimbursof factioners. So, here we have the problem of ...the compensation for the ted the problem of ...the the stription for the ted the problem of ...the the stription for the ted the problem of ...the the stription for the ted the problem of ...the the pays the complicating factor here, is, as you know, with a servitude the person who owns the property still retains the title. This is merely the exercise of a servitudes the for hele version for sine reason taken down, then the property is returned to the person and he can use it for whatever he wants.

Mr. <u>Duval</u> Mr. Lanier, how would this be...how would you arrive at the valuation? How would it be determined when it's one-third rather than... an infinite amount less than one-third?

Mr. Lanier Well, value here, as used, would be the actual market value, or actual cash value as would be set by an appraiser.

<u>Mr. Duval</u> In other words, it would require a court proceeding to determine whether one-third of the property has been taken or not, each time?

Mr. Lanier If...there could not be an agreement between the parties.

Mr. Tapper I understand what you are trying to do, but my question pertains to Paragraph (B) which, as I read it, authorizes levee districts to levy an additional tax on property within the district wich no limitations.

<u>Mr. Lanier</u> Well, the lay shall be to pay for the property so used or destroyed, and is used as a landerstand it, is intended to mean that you can only collect enough to pay for that which the value, as provided for in (B), of that which was used or destroyed. Now, by taxing throughout the district, of course, you're spreading the burden of the loss amongst all of the taxpayers in the district, who are the people that get the advantage of the improvement. This is the present outle framkly.

Mr. Tapper understand, of this rice in the authority to tax over and ab verthe five

Mr.\_\_anler h, yes

Mr. Puth was there any reas in that you fe t that the an ought to also be deprived if in inerals, or did you intend for his t keen his inerals?

Mr Lanter I don't think this is anything to do with Inerais. The title of the property remains in the person, even though the ervitude is exercised. In is ust like a a servitude for any other type of person.

Mr. Pugh This is nothing but a servitude?

Mr. Lanier Yes.

Mr. Pugh Bk.

Mr. Lanier If you look at-and I've of it here, you ay want to look at it just for your own interest, but it's based on Art I te 665 deal n with legal...1 don't think you need...

Mr. Henry Mr. anier, you have exceeded your time.

### Point of Information

Mr. Conro. Mr. Chairman, again, | think it light he p f we could have a very brief recess for those who don't have a endments in here are a number of people who have discussed this proposal with me. I would like an opportunity at the front there, to distus it with people who are particularly interested in this propoled a endment and the problem as to whether somethin else should be recomended here.

Nr. Henry, Well, normally what we have been doing in circlestances like this...(1): talk over the mike...Nr. Perez, plint of information er something, explain to the delemate what ydu wer saying to e. I want Nr. Conrey to know, we can all...

### Point of Information

Nr. erez Mr. Lhair an, ladies and gentle en if the convention, I thought and hoepfully I are get your undivided attention to asse thit are matter which is a little bit complicated and et is well established in the law. I would like for you, if you will, to bear with ne while I evolatin to you the way thit intention well.

Mr Tenry Now, wait, at before you tart, is all fairnes, to Mr. onry, be ause the way we have been doing thi 1--and the way t propcer what work the weidt is what no are trivin to do here 1 in maving a tough time tailing. Wit, what we now if y is, and properly do 1 eighan the either at the affect of amound in the "here the start and the start of the here and the fill of Lange and do it probably hout and the here and the start of the here here watch to be all the starts and this is a the wetter we want to an a the start of the start of the start of the start of the start watch to be all the starts and this is a the start of the starts and the start of the here. The starts are starts and the start of the starts which here were a starts and the starts and the starts

### Foint of interaction

We usually off acts before, think there were even a perpendence of interest to the act of a such as the second act of the second secon

### Mitter

### Ex langth r

Mr lergt hank you, a set in the set of the s ta red about if whe that most in if the process taken, then you pay fair arise value et explain to you hava if the when when there is a levee setbah, and when et a k is eant that the river is the if the when River levee is oved baik at a way find the river-then the or of the end of the fair ariset value for a river, the addition to that, you have the if n end is A sistance At, which we are to the de-benefit if the herement and even in the in recess where you have our standar the you actually out do get pend with the have even taken pool with were in the taken bar.

cannot pay. What we wanted to do is to Say "Let's don't leave these levee districts and you have a lot of levee districts who are awful short of money. If they have got to go tax everybody else to pay one or two large landowners, it just isn't fair and isn't right." We tried to hit the isn't fair and isn't right." We tried to nit the fair balance here by providing that if a substan-tial portion--we said one-third, if the convention feels maybe it should be twenty-five percent, or twenty percent. I have no quarrel with that-but the main concept we are trying to get across is that the man who owns that large tract of land, that land would be valueless if it were not for the fact that he had the levees to protect him. On the other hand, if we are substantially des-troying a person's property, we want to pay for it. Again, it's only in that limited situation with the levee elargement. Tres, i'll yield. twenty percent, I have no quarrel with that--but

Mr. Perez, l've got a couple of I have heard of instances where there Mr. Newton have been taking for levee purposes which amounted to taking a barrow pit which was some distance from the levee and hauling the dirt and building a levee somewhere else with it. Now, what would be the situation there? Would there be an assessed value be paid in that case?

Mr. Perez You are talking about a on the river side or the land side? You are talking about a barrow pit

Mr. Newton The land side.

Well, I can tell you what we have done Mr. Perez Mr. perez well, i can tell you what we have used in our parish. We have adopted ordinances pro-hibiting the taking of land unless it's refilled. As a result, in our parish, they cannot dig out on the land side. We prohibit it. So, we don't have that problem. I understood someone else had have that problem. I understood someone else had this problem in another area. I really don't understand it, because I just don't feel that they have a right to do it that way. I would like to look into the problem and maybe see if I can help to get it straightened out. I just had never heard of it before.

Mr. Newton Now, I have another problem here in... exceed more than one-third of the value of the landowners property. Is that his total property holdings, or ...

Mr. Perez lot, or w ez We intended to say the house and the whatever it was, the total value of what's

Newton Well, I think that needs to be cleared up.

## Recess

[Quorum Call: 105 delegates present and a quorum.]

## Amendment

<u>Mr. Poynter</u> As follows: Amendment No. 1 [by m. conreo]. On page 25, Amendment No. 1 [by medice the words' a price not to "and delete lines 25 through 31, both in-clusive, in their entirety and insert in lieu thereof the following: "fair market value; pro-vided, nothing contained in this"

Mr. Conroy The amendment essentially changes the committee proposal to provide that "Lands and improvements thereon actually used or destroyed for levees or levee drainage purposes shall be paid for at fair market value." I had hoped, in the recess, to either reach some middle ground or settlement of differences, or possibly pass over the section because the section, as written,

uses the phrase "assessed value". We have pointed out, previously, that at this point in time, this convention really doesn't know what assessed value is. But, I do call your attention to the fact, that at the present moment, the committee proposal of the Revenue, Finance and Taxation Committee is to place land on the assocramer rolls at fixe of the Revenue, finance and laxation Committee is to place land on the assossment rolls at five mean that a mon's land who was taken for levees or levee drainage purposes, would be paid five percent of the value of his land, unless more than one-third of his property was actually taken. Now, this seems to me to be unreasonable. I under-stand the committee's arguments in this area about the levee servitude. I must confess that when I first heard about it, it was quite a few years ago now, in law school. I thought, even at that time, that it was a remarkably unfair system--that a man's property could be taken, under certain circumstances, and he would only be compensated at the assessed valuation, when everybody knew the practice was to assess property at far less than its fair market value. I think that the courts could properly take into consideration the points that are urged by the committee as to the existence of the servitude and the committent of that property to a certain servitude, in deter-mining what fair market value is of property taken. But, there are a number of occasions when property is taken for a levee or levee drainage purposes, that are far dway from flood tholken been described by the committee. Sometimes they are quite far away from a navigable stream. I think that the area, as I said, is one that while in many cases through the help of the United States government, gross unfairnesses have been avoided because the United States government puts put the still are parts and occasions within this state where I feel that very gross misjustices occur, existence of the servitude and the committment of Share dife pail thanks due on one and initial occur, because of the taking of property for these pur-poses. The people are given just a token payment for, in many case, valuable land that's been taken. I urge the adoption of the amendment to provide for compensation at fair market value in such cases.

I yield to any questions.

## Questions

<u>Mr. Lanier</u> Mr. Conroy, is it not true that when the riparian servitude is exercised, that the title to the property upon which it is exercised remains in the owner?

Mr. Conroy. Not if it goes into the navigable Stream, Mr. Lanier, and it might under certain circumstances go to the state, depending on how the levee is constructed and where it winds up. But, if it winds up in the bed of a navigable stream, no. it's no longer owned by the...

Mr. Lanier Well, of course, that's true with all the property...

Mr. Conroy ....Rr. Lanier, this description her applying to levees and levee drainage purposes extends well beyond riparian owners. It applies to land that is quite a distance away from any sort of navigable stream. ... Mr. Lanier, this description here

Mr. Lanier Oh, now. First, let's clear up this first point. Is it not true that if the stream doesn't eat into the bank, that the owner of the property retains title even though the servitude is exercised to put a levee there or a

Mr. Conroy Yes, and he should be compensated only for the fair market value of what was taken.

Mr. Lanier If that levee was abandoned in the future, or if the drainage was abandoned, would not the complete use of it be returned to the property owner?

Mr. Conrol In its then condition, Mr. Lanter, whatever light have happened to it in the meanwhile. If he had used it for a boilding and there was now a levee there, it wildn't quite be the same piece of property he had before. But, the ownership would be returned, provided it hadn't ernded into a mayfable stream.

Hr. anier Now, with reference to the extent of ine application of the riparan servitude. Is it not true that the riparan servitude only applies to lands bordering on navigable streams, which were such at the time that the land was separated from the sovereion?

Mr. Conroy Well, by definition, that is what a riparian servitude is, yes.

Mr. Lanier So, if the land did not front on a navigable stream at the time it was separated from the sovereign, it would not be subject to the servitude, is that correct?

Mr. Conroy That's correct.

Mr. Lanier And, in which case, the only way you could get it for these purposes would be to expropriate, rather than exercise the servitude?

Mr. Conroy That's not what this says.

Mr. Lanier Oh, yes sir.

 $Mr.\ Conroy$  Well, J don't find that in here, and  $I^*m$  not...I don't think that's the application of this state.

Mr. Lanier Are you familiar with the jurisprudence interpreting the present Article XVI, Section 6, and Article 665 of the Civil Code?

Mr. Conroy Not all of it, no. You can address yourself to...

Vice Chairman Casey in the Chair

Mr Duval David, I think conceptually certainly you lave a good amendment. But, the question lim going to ask you is as follows. The question lim lengthy, BS, presented by this proposal.-in other words, you have many different type of levee. Don't you think it's comething that maybe the legislature should study and have statutes which words, I say as provided by law rather than...I disagree with the committee proposal. I don't works, I say as provided by law rather than...I have precisely what effect your amendment will have either.

Mr Coprog Well, Mr, Duvai, as you know in the discussions that too place in the recess, we were trying to find some appropriate area, but the own item-there seemed to be confusion as to what the proper area was. My feeling is that the context hould be established in the constitution and be paid fair market value. But, I would eertainly find onething uch as you sungested, far less objectionable than the committee proposal, it would be paid for at assessed value. I think that's an understable provision to have invited in the constitution.

Mr. Avait Mr. Energy, I'm Geeking information, believe me Tou know in the ordinary expropriation take, you got two thing you longiden. Thu take the things A man is entitled to the value of the property that wai taken, live whetever demone he an show has secured to the remainder of his more than It was before the taking, you still don't offset that against what they foul Aright

Mr. Conroy Under Juditiana law, that has been

the rule. That is the identity federal unisprudence

Mr. Awant But, this is hore if an termining on this layer business when yo built a road through a cotton field, the and we with some of this land, that we are taking about, without the layer, it don't and the some of this land, that we are taking about, without the layer, it don't and the some of the s

Mr. Conroy 1 don't think there a thin, at all wrong with that. I think that is what y amendment would acco plish, frank y

## Further Discussion

Mr. McDaniel Mr. Charman, fell w delegates, i would Tike to address those of you that are not familiar with levees and those by you who ive by them as 1 do, about so e of the practical problems involved in a serie of fair play. I think you can judge by what i have sufficient i heart ly resupported is do fine of the edment. live and farm within a rile of the Mississ pillevee in Madison Parish and believe , u.e. th didn't look any too big. we are looking n w--the Corps of Engineers tell us--about an enlarge ent of the levee syste fro the outh of the Red of the levee syste from the outh of the Red River northward to solve point in Arkansa, railing and enlaraing the levee fir fir to six feet to bring it up to grade. Here you were tailing a uit increasing the price or the size of an existing levee. Just last night, one of new horial led me and to dime that he had uit gotten is new for two and a fraction ares if and in the land side of the levee, where dirt was take to bid a berme to protect land in y area. This was, his herd the assessed evaluation of this land, which was five dollars an acre in uit area. was paid at the assessed evaluation of this lond, which was five dollars an acre in our area for woodsland. This is beginning to how cart of the problem. Certainly these rink of way and emuch of this land was worthless without the tection of levees. U.I. thin will thin a, when many if you that are far releved for the being there maybe even fifty or a hum releven being there maybe even fifty or a hum releven away. I would live the relation of this thin now, to advecuately enable provide the this of between when an embandement of this to be there when an embandement of the time of the theory when are provided to the terms of the thin of between when an embandement of the time to be there when an embandement of the time that I heriveve we need to inclure and innover the advanate y is enable by the second to be there when an enlarge entate by the second to be the second of the second seco

construction of I-20 or the protection involved with maintaining a strong levee system. I would be inclined to believe that more would be affected because of the fine levee system. The point I'm trying to make, that we are talking here about a matter of public good, a matter of public concern because people miles and miles away are affected. Why should the individual who happens to own Why should the individual who happens to own property there-at a particular point--suffer all the loss when we are all protected? I don't adjoin a levee. But, I'm just... a short distance I am away, I am very vitally affected by how good or how bad that levee system is. For these reasons, I would like to urge any of you, who would, to support this amendment, that anyhody that's in-curred these losses of land that he at least receive fair market value.

## Further Discussion

Mr. Perez I didn't realize that this matter would become as controversial as it is. We have agreed to pass over some finance...the finance provisions of local Government. Due to the fact that this does have a bearing on finance with regard to the taxation to pay for the lands taken and because of the fact that it provides for the payment of 'the assessed valuation, I do believe it would be appropriate if we would pass over this subject until such time. Therefore, I move that we temporarily pags over this section and take it temporarily pass over this section and take it up with the finance provisions.

Mr. Casey Why do you rise, Mr. Newton?

Mr. Newton I rise to object.

Well, just a minute. First of all, r. Casey Well, just a minute. First of all r. Perez is requesting that we pass over the The motion is not in order, unless Mr. section. section. The motion is not in order, unless Mr. Conroy withdraws his amendment, in order to permit him to do that. So, we have...We want to find out, first of all, if that's even possible that Mr. Conroy is going to withdraw the amend-ment, which you really have to object to is the withdrawal of the amendment. Mr. Conroy, what is your pleasure? You're in the driver's seat on the amendment.

<u>Mr. Conroy</u> I would be happy to withdraw the amendment, provided it would be understood that when the matter comes back up again, that if the matter hasn't been resolved that the amendment can be considered at that time.

Mr. Casey Well, you have a right to submit the amendment, at any time, Mr. Conroy, that's no nrohlem.

<u>Mr. Conroy</u> All right, fine. I'll do that to permit the thing to be passed over, because that is what I had originally suggested should be done with this section.

> [Amendment withdrawn. Motion to pass over Section 49 adopted without objection.]

## Reading of the Section

Mr. Poynter "Section 50. Ports Section 50. All deep-water commissions and all deep-water port, harbor, and terminal dis-tricts as they are now organized and constituted, including their powers and ...

[Motion to waive reading of the Section

Mr. Perez Mr. Chairman, ladies and gentlemen of the convention, as you know we have several of the port authoritles, with all of their specific powers and functions and duties included in the present constitution. In order to attempt to

provide certain security for these ports and at the same time not have all of the various details in the constitution, with respect to the various ports, the committee came up with the approach that all deep-water port commissions--which would include the ports of New Orleans and Baton Rouge and Lake Charles, and the South Louisiana Port Commission which are now in the constitution--that they would continue to exist and it would take two-thirds of the legislature to affect their two-thirds of the legislature to affect their structure and organization, distribution and redistribution of the powers of any such commission or district. Particularly with respect to the other ports, there is a very, very strong feeling that they need the security of feeling that their operations will not be easily tampered with. They were very strong in their feeling that they should remain in the constitution with all of the detailed making these various deep-water port commissions statutory and of keeping them in the constitution. So, I suggest to you that this is as good a compromise as we could come up with, where we would provide that it would take two-thirds of the legis-lature to affect those various ports. I'll yield to any questions.

## Questions

Mr. Brown Mr. Perez, how do you define deep-water port?

Mr. Perez If you will look in our definition section, on page 28, Definition #11--deep-water port commission and deep-water port, harbor, and terminal districts means "hose commissions or districts within whose territorial jurisdiction exist facilities capable of accommodating vessels of at least twenty-five feet of draft and engaging in foreign commerce." We were advised by these port people, that this would include those various ports along the river from Baton Rouge down river and alco Lake Charles.

Well, you don't read this as pro-Brown <u>Mr. brown</u> well, you don't read this as pro-hibiting...in other words, if a port was developed along the Mississippi River in the future this is...l don't read it that way; it's not your intention there would be any pro...

Mr. Perez If it fit into this category, it <u>Mr. Perez</u> If if into this category, it would be a deep-water port. The legislature could create them, but it would take two-thirds of the legislature thereafter to affect that func-tions. Again, it's an attempt to, by general provisions, to give the protection to those various ports, which feel that they are the important ports, which feel that they need more than just statutory positions.

Mr. Brown Why ask the question...the Concordia Parish Port Commission is in the constitution, at the present time, and it's on the Mississippi River; and is capable of a ship tieing up there, to take a twenty-five foot draft...

Mr. Perez If it does, then it would be one of those included in the two-thirds category.

Mr. Jenkins Mr. Perez, how many ports do we now have in the State of Louisiana?

Mr. Perez Oh, we have many, many ports and that was the reason we tried to distinguish between the deep-water ports and any ports. We have maybe hundreds of...or many, many, I wouldn't know the

Mr. Jenkins Are all of them given constitutional status or some of them created by statute?

There are some created in the consti-Mr. Perez There are some created in the consorting tution and some in the statutes--a greater majority of them are in the statutes.

enkins So, really, we are constitutionalzing powers and functions granted those by statute. Mr. \_enkins

<u>Hr</u> <u>Perez</u> You would, in a limited number of cates, such as the super port, which was created by legislative act. You would be giving it this two-thrids position, not a constitutional position, but a two-thirds position to require more a so-called super majority to affect.

Mr. Jenkins But, I see in here 'No authority can only "diminish, reduce, withdraw their powers" but they can't actually abolish or consolidate them. Is that true?

<u>Mr. Perez</u> Well, I suggest to you, sir, that they could so affect their powers and so forth, that there would be nothing left to them. I don't think that would preclude them from being abolished as a practical matter, because they can affect their structure and organization and so forth, and withdraw from it anything they want to.

<u>Mr, Brown</u> Mr. Perez, you might have answered this. I apologize if I wasn't listening. Why did you again say that you felt that a two-thirds vote was necessary?

Mr. Perez Because of the fact that we had ex-tensive testimony, for instance, from the New Orleans Dock Board people and the Baton Rouge Port Authority, and Lake Charles Port Authority -all of whom were very adamant over the fact that they felt that because of the type of operation they conducted, that they were really in a type of situation where they had to make long-range agreements with the handling of commerce and so forth. They felt that they should have constitu-tional status and they wanted the specifics to be in the constitution. What we did, is a compromise situation, was to come up with this particular

<u>Mr. Brown</u> Do you think that would cause some problems in the future as the Port of Baton Rouge and the Port of New Orleans grow toward one another, and it might be in the best interest of the state for them to be consolidated? I know where you live down your way, you are kind of locked in the Port of New Orleans...you might want to develop your own situation down there. Do you think that just might be too stringent, the two-thirds requirement?

Mr. Perez Well, I can only say to you, sir, that from the testimony we heard, that we...the majority of the members of the committee were onvinced

Mr\_Boener Mr. Perez, are you familiar with those provisions in Revenue and Finan e-proposed proposal, that deals with purts in the senie that it maker them like all ther state agencies or

Mr. Perez hat was called to my attention at ne of the eetings - I told you that I didn't see any objection to a provision which would ay scept a otherwise provided in the constitution

Mr Flury Mr llury Mr Perez, in reading the proposal where you raily and conting the existence and the authority, the truiture, the unianization, the powers and fonctions up all there port-in re-rearching the matter, i find that in the '1 fonction' they centimed that is and the 1966 By the proposal aren twe then onfiring all of that? How do you fird out ust what they can and they cannot do

what the constitution of the inited states ears, 1 don't know of any lawyer that ever reads the constitution itself, he starts owing into the books as to what that constitution ears. Othere is no question about reference, this had been done. But, we know of no other way to hand e

"Section 50. Ports Section 50. All deep-water port Section 50. All deep-water port and all deep-water port, harbor, and ter inal districts as they are now organized and constituted, including their powers and functions, structure and organization, and territorial jurisd tion, are ratified and confirmed and shall ontinue to exist, except that: (A) The begislature may di finish, redure, r

The product is the set of the set Mr. Dennery

which called for two-thirds vote, two sections of the Executive Article which require two-thirds votes, and at least one section in the Judiciary which requires a two-thirds vote of the legisla-ture. The port commissions of this state are all business organizations, and it is guite important that they retain their powers and functions and that these powers, functions and territorial juris-dictions be only changed as a result of a so-called "super majority" of the legislature rather than by simple majory, so the legislature rather than considerably, and except for the one specific deletion of Section (C), it's practically the same as the committee proposal. J urge its adoption, and i'll be pleased to answer any questions, Mr. which called for two-thirds vote, two sections of Chairman.

## Ouestions

Mr. Singletary Moise, are there any ports or harbors or terminal districts that are not in the constitution?

Mr. Dennery Yes, I believe the... as Mr. Perez mentioned, the "Superport" is by an act of the legislature. I believe all of the others are in the constitution.

Mr. Flory Mr. Dennery, could you explain to me the reasoning behind the requirement for the two-thirds vote to change the powers, functions, structure, organization of a port, and yet, if the legislature wants to give them some additional power, it only takes a majority vote?

Mr. Dennery Well, the only way I can explain that is that that's the way the committee drafted it, and I adopted the committee's language. I would have no serious objection to changing the second to a two-thirds majority, if you feel that's proper

Mr. Flory Wouldn't it b first part to a majority? Wouldn't it be better to change the

Mr. Dennery No, I don't think so...

Mr. Flory You're not being consistent, then?

Mr. Dennery No. 1 don't believe it's inconsistent, Mr. Flory. As I say, 1 would have no objection to changing the second to a two-thirds, but I go along with the committee in this feeling that a port, in the business function that it operates under, should require a two-thirds vote to change its powers and functions.

Mr. Ullo Mr. Dennery, did you know that I support your amendment, and that we will follow this up, if your amendment is accepted by this convention, with a Section (C) which will give each parish and each port authority a definite representative?

Yes, sir. Thank you. Mr. Dennery

 $\underline{\rm Mr.~Abraham}$  Moise, following up on the line of questioning that  ${\rm Mr.~Flory}$  had, in Paragraph (B) where you say, "subject to compliance with Paragraph (A) of this section," doesn't that require the two-thirds vote?

Mr. Dennery No. The purpose of that was that in the event of an addition to the powers or terri-torial jurisdiction of one port, by some chance should infringe upon the powers or jurisdiction of a neighboring port, we would require then a two-thirds vote to diminish, and therefore, it had to be made subject to that. Some of these ports con-ceivably could conflict.

Mr. Joomy Mr. Dennery, in your amendment in Subsection (A), where it says that "the structure and organization might be affected by a two-thirds vote," is that your understanding that, for in-stance, the Board of Commissioners of the Port of New Orleans could be changed by a two-thirds vote

of the legislature?

Mr. Dennery Yes, sir.

Mr. Toomy That's a change from what the com-mittee proposes, that by a majority vote, that board could be changed.

<u>Mr. Dennery</u> Well, the committee report, as you recall, provided that for a ten-year period, or until the legislature acted, if it did act within the ten-year period, a majority vote would suffice. Thereafter, it would require a two-thirds vote.

<u>Mr. Toomy</u> It's your understanding that that wo just be a single action. The legislature would act at one time to change the board, and there-after, would require two-thirds vote for further It's your understanding that that would change.

Mr. Dennery That's my understanding of how the committee report was written. Yes, sir.

Mr. Jenkins Mr. Dennery, doesn't your amendment do the same thing that the committee proposal do the same thing that the committee proposal does from the standpoint that it constitutionalizes the Superport, and if the legislature would ever wont to abolish the Superport authority, it would take a constitutional amendment, even though it was not created by constitutional amendment?

<u>Mr. Dennery</u> No. sir. I don't think...as a matter of fact, I think the legislature under this amendment, as well as under the committee proposal, could abolish any port by two-thirds vote. I do not believe it would require a constitutional amendment.

Mr. Jenkins Well, it doesn't say that. It says it can diminish its powers, but it doesn't say it can...

<u>Mr. Dennery</u> Well, if it can diminish its powers to zero, that would, in effect, be abolishing the port. I can't conceive that any port would be ultimately, completely abolished, anyway.

Mr. Jenkins Well, if, for instance, L.C.O.P is built, it may preclude the building of the superport, might not it?

Mr. Dennery It's conceivable, yes.

Mr. Jenkins So mightn't it not? So, it might want to be abolished,

Mr. Dennery Yes, but I think you can abolish it effectively by a two-thirds vote.

[Previous Question ordered. Amendment adopted: 90-8. Motion to reconsider

## Amendment

Mr. Poynter Amendment No. 1 [by Mr. Ulio and Mr. Conroy]. On page 26, 11me 12, 1ne Hoor Amend-adopted, below the longuage added by said amendment adopted, below the longuage added by said amendment add the following paragraph.-and this is a little bit different than that Paragraph (C) reads on the long version of their amendment. "(C) The membership of a deep-water port com-mission or deep-water port, harbor, and terminal district exercising territorial jurisdiction in

more than one parish shall include at least one elector of each such parish."

Nr. Ullo Mr. Vice-Chairman, members of this Convection, my mendment is very, very simple. It just guarantees definite representation to each parish that participates in any port authority throughout the state. I think it would be only proper right now that I would give you a brief

The Port of New Orleans was created by acts of the general far as the board and jurisdiction is concerned. This has led to a complete domination of this state gaency by New Orleans over the years. Bo you how the the observation of this provide the theorem of the state of the state Parish for over fifty years, nor has st. Bernard been represented on this select board for forty years? As far as Jefferson is concerned, we've had an occasional man because of a constitutional provision that one member should come from the west bank of the river, Jefferson has had to west bank of the river, Jefferson has had to be one provide the state of the state of the state west bank sector of New Orleans. As far as Jefferson is concerned, we have only had one wharf in over fifty years, and that is Perry Street, which was sparsely used for years, until the time of this convention. We in Jefferson have as New Orleans, but underdeveloped. I only wish the treemodus inequity that exists there, which has been fostered by the administrative control of has cost the State of Louis and? These are just some of the things, fellow delegates, that have brought to you I feel a little brief history have brought to you I feel a little brief history

Mr. annon Mr. whiteman, ladies and gentiemen of the onventium, I have is ulated and talked to the best of the local and Paro hal Affars sumittee, and the majority feel that they have to objection to this ettom. I also would like to infor you that this, in the isruation of the Greater Baton Rouge isrt, with it will be to outsiana Port on isrt, will inter a the sustaina Port of the any way is. I think its updatible, and a traited that I think would mentic both the Port f New Arises in the face of the limit and the sub-staint of the sum any pertine, if anyme would willy d i

Mr. Reeven Mr. Lannin, 10, u know that is bair an if our conconstrees on the port, si well of the other of Guyrnier's of teer comparis Mr. To is this usive

Mr. ann. Yet, r, d.d, aid. think that this is undensin, nto hirter anguage what we basically on the subcollittee in ris feit a

Mr. Dennery Mr. Can on, wanted t a ) this question of Dr 1110, but ust to keep the re rds

<u>Pr. Cannon</u> Yes, sir. we are aware if that, and we know that...what is the ran's name. Eads Poitevent recently a void from ir leans into deffersor Parish, so he is now a efferson Parish resident Yes, sir, we were aware of that:

<section-header><text> Mr. Nunez

Mr. 1 als p., 1 lave in 1 min .

provide that the membership of the deep-water ports shall be as provided by law, just like we did with the levee districts.

Mrs. Warren A question came up that the represontative from Orleans Parish had moved into Jefferson, so I'm wondering now when we have a member that moves from one parish to the other one, it leaves that parish without a representative. So, how are we going to really provide for adequate representation from each parish?

<u>Mr. Nunez</u> Well, Mrs. Warren, I think that if we adopt the amendment that says, "is shall be provarious structure that says, "or all those various structions that you are mentioning that arise. I think Jefferson has had membership on the dock board over the years, either from the west bank representative, or some other. But, they have had some representation.

<u>Mrs. Warren</u> Well, I don't have any...I mean I'd like to see representation and I'm not just really against the amendment for that reason, but I would like to see where...if one leaves, he could be replaced.

Mr. Champagne Senator, you don't have a representative now, right?

Mr. Nunez No, sir.

Mr. Champagne Wouldn't this allow you to have at least one, sir?

<u>Mr. Nunez</u> They don't want one; that's the problem. You see, I'm..trying to correct the problem by law, rather than freeze something in territorial jurisdiction lies. You're freezing in territorial jurisdiction this is not clearly defined, really, in essence, it's not clearly defined.

Mr. Champagne Wouldn't you have a right to define it by the legislature having the vote?

Mr. Nunez Not after what you've just adopted.

Mr. De Blieux Senator Nunez, I notice in the amendment that we just previously adopted that the legislature would have the right to change the organization of a port commission by twothirds worke. Now, if we adopt this amendment and lock in the membership, one from each parish, the legislature wouldn't be able to change that, would they?..this amendment would be inconsistent with what we just previously adopted, isn't this correct?

Mr. Nung: That's why i'm trying to get you to not adopt this amendment, and adopt the amendment that will say, "as provided by law," and I think we'd have some consistency in the deep-water port structures of this state, as to the amendment we just adopted, or the section we just adopted...

Mr. De Blieux I'm going to ask you this question: couldn't we accomplish what they are trying to do by this amendment, by legislative act as provided in Paragraph (A) that we've just adopted?

<u>Mr. Nunez</u> Well, I imagine you can, but you've adopted that, and we're talking about a new amendment that provides for memberships, and I just don't believe we ought to start talking about memberships again, putting them in the constitution, and guaranteeing representation when it should be loose it should not be as clear-cut as we want to frezez it in the constitution.

## Further Discussion

<u>Mr. Tapper</u> Mr. Acting Chairman and fellow delegates, I also rise in opposition to this amendment for the same reusons that Senator Nunez set forth, and also for the additional reason that, in the case, let's say, suppose it was for the best interest of the Port of New Orleans to expand-and of course, we're willing to expand into St. Bernard, well, let's say they do-well, they go into St. Charles, St. James, St. John the Baptist, Plaquemines; you lock the number of members in the constitution and you require that members in the constitution and you require that are we? We don't have enough representatives to go around remough members to go around the second remough members to go around the lative matter. It is not a constitutional matter, and I want to make it perfectly clear. I hope that the convention does, that by no stretch of the imagination, that anything we adopt here can imply or have any court decide that what we've done or what the people have done, after the st, heren of parish under the New Orleans Port because, as was so ably pointed out by Mr. Ullo St. Bernard Parish under the New Orleans Port because, as was so ably pointed out by Mr. Ullo or Mr. Conroy, one, that this, I reckon the last fifty years, the New Orleans Dock Board has done little or nothing in the parish of St. Bernard. You can readily understand why the people of St. Bernard Parish don't want to be included in the New Orleans Dock Board. They've set up sears thing that should be for Port in the city of and Orlean. They error at the parish line on the end Orlean: they store at the parish line on the thing that should last for the mext hundred years and longer. In the Centro Port in the city of New Orleans, they stop at the parish line on the Mississippi River Guil Outlet and don't come into, even with their plans for the next hundred years, they don't come into the parish of St. Bernardy New people of St. Bernard don't want to be included in this dock board? I understand also the argument of the dock board and the city of New Orleans, and I represent...half of my district is in New Orleans. But, most of my district is excluded from the people of St. Bernard don't want to be included. For fifty years, they haven't done anything in St. Bernard Parish. For fifty years we haven't had any industry put in St. Bernard. We've had that his morning about having six feet of water in my house; some people lost their homes, lost everything they had. At least on-third of the people of the Bernard horts. Bernard lost every-thing they had as a result of this diath that was dug by authority of the New Orleans Dock Board, and it was dug to the detriment of the apople of St. Bernard Parish. Now edon't want any phouse is more people of the stiment of the people of St. Bernard Parish. Now edon't want any part of the New Orleans Dock Board, and it was dug to the detriment of the apople of St. Bernard Parish. Now edon't want any part of the New Orleans Dock Board, and it was dug to the detriment of the people of St. Bernard Dock Board, and I hope that you reject this amendment. hope that you reject this amendment.

[Previous Question ordered.]

## Closing

Mr. Conroy I'd like just briefly to give you a little history of what has transpired. The amendment, as adopted by this convention, as proposed by Mr. Dennery and others, at one time, when it was drafted, had tissentially the little institute of the state of the state of the state of the state of most port commissions...l mean, the delegates here who have ports that are affected, to be certain that there were no problems in it. It was my understanding, my thought, that it was that I would call just a fair amendment and a fair proposal to insure membership on a board, wherever there was multi-parish jurisdiction of a board. Later, it was brought to Gur attention, the floor, by the delegates from St. Bernard Parish. I istend to the arguments today i've listened to the arguments before, and I still, frankly, gates from St. Bernard Parish. The amendment, as adopted, provides that the teritorial jurisdiction or fite ports is not affected by what has been adopted, to it is ratified and confirmed. If the the the istendential unisdiction in St. Bernard, hen this amendment, which we have proposed, would not affect their membership on the...dock

Journ Lrays Proceedings— Uctober 4, 19/3 board 1, however, they do, are in judies within the territorial jurisdiction, it would us use the sebership on the dock board, and it would even to me that the complaints which they having representa-tion or the dock board. I cannot under Land the attitude that things are bad, and therefies, so e of our property is affected, but we int want a voice in what's happening. It would see to me that they would want such a voire. Certainly we do, in afferston Arrish, want to be assured that the feeling of the people from other port com-issuois, as well, that it was only a fair thing to do, was to insure such representation. So, we urge you to support the amend ent before you. Thank you.

 $\begin{bmatrix} A & \cdots & p t & \cdots & p t & \cdots & n & t \\ t & r & n & p t & t & b & d & t \end{bmatrix}$ 

Mr. Poynter Delegates Nunez and Tapper send up the following amendment: Amendment ho. 1. In page 26, line 12, add this language "strike out Convention Floor Amendment No. 1 proposed by Delegate Ullo, et al, and just adopted, and in Floor Amendment No. 1 proposed by Delemate Deport all adopted by the con-

Explanation

We arrest constraint on the second s

 $B_{1}^{\prime}$  where  $B_{2}^{\prime}$  , there is a significant set of the structure of the structu

lature we have been as a set of the end of t

Mr. Rie ke l'not quest tat, est Al Eknaw is that they din have, in the days, three thousand end piece or te de tukard, and nix they ve tailet not did t seems to esthat the status like we've, othey have done a control with don't know what affect your in table.

Mr. Nunez well, if they very near day, the arend ent you just addited what very arelist

Mr. Tony enator, by the a fur amendment, couldn't the lerislature rule for the same provisions that Mr. III waitrigh provide for? That any part of the trav-embership on the board..

Mr. Numez Mr. 10 y, that what i tryin to say, and that's what i tryin which is the parish that the ort i determined is have an objection in. If the want the and the shall have been housed to be a set method in which that parth shall have he method in which that parth shall have he is an group that they want to an int-th overning authority. I all of the less at re-

Mr. Weiss elegate hunz, we have terr to privance of tability in these part of necessary but they plan for each of the terr of ter

Mr Nure, N , i and the set of the fact finds of the set of the se

in this state. You are speaking of only one.

 $\frac{\text{Mr. Nunez}}{\text{applies}}$  Well, I'm...I think this amendment applies basically to one.

Mr. Weiss No, it applies to all.

Mr. Nunez It applies to all, but it deals with...

 $\frac{Mr.\ Henry}{ask\ it\ and\ let's\ get\ on\ with\ it.}$ 

Mr. Flory Senator Nunez, isn't it true that in response to Mr. Riecke's question to you, that there is a provision in the existing constitution, and the others that we've already ratified by Mr. Dennery's agreement, that the people that work for the Port of New Orleans have to be under civil service?

Mr. Numez Absolutely. You ratified the organization, their form, their powers, their structure, their jurisdictional...their territorial jurisdiction, etc. All we are doing now is the same identical thing we did for levee board members. We are providing that they be appointed by law. You know the mess we have had in appointed by law. You know the mess we have had in appointing levee board members in the past, and you've got the same mess in appointing dock board members. So, what's so wrong in saying they shall be..."members shi the provide for as by law? I can't see shi the provendence on the set wrong with it. I think it's the proper way to handle it.

Mr. Dennery Senator Nunez, as I understood...as I understand your amendment, it now will conflict with Section 50 (A), which provides that the legislature may affect the structure and organization of such a port commission by a two-thirds vote. Your amendment would permit them to affect this by a majority vote. Is that correct?

Mr. Nunez It would affect the members by a majority vote, yes, sir.

Mr. Dennery I'm sorry, that's not what I understood you originally to have suggested, sir.

Mr. Nunez Well, that's what...that's what I originally suggested. I suggested that we appoint the members by law, and that doesn't affect your structure when...

Mr. Henry You have exceeded your time there, Senator.

## Further Discussion

Hr. Brown Wr. Chairman, fellow delegates, I'd Tike to Driefly support what Senator Nuncz has said. J think a point we ought to think about is this; we're talking about deep-water ports here. Mammoth things that I think are really difficult for any of us to understand. We don't the present since the think are really seen plans as to how it may be conceived, could stretch from one end of this state to the other-all along the coast of this state, all the way up to Baton Rouge. This thing has got mammoth proportions. If any of you have ever been up to York, up in New York, the architz up in New York, up in New York, the safehor ty up in New York, up in New York, the safehor ty up in the Work, up in New York, the safehor ty up in the York up are professionals; they are paid thirty or forty thousand dollars a year. They run the whole gamut-the airport, the shipino, the trains, whole gamut-the airport, the shipino, the trains, a deep-water port affects us up in orth louisiana. Very much so, in terms of the trade and commerce that could come about .50, I think that Senator Numez has the right dee to give us this flexibility Numez has the right dee to give us this flexibility Numez has the right dee to give us this flexibility Numez has the right dee to give us this flexibility Numez has the right dee to give us this flexibility to allow us, ir years income, to structure a membership on a port authority that could take care of a mammoth operation to which this is conceived. I think he's got a good idea to leave it up to the legislature, and I would urge you to strongly support it.

## Questions

Mr. Hillis Senator Brown, this is a friendly question because I commend what you say and dito Senator Nunez. If it is too much to expect loyalty against self-interests by a legislator, don't you think that in the name of economy, efficient administration, and fairness that the legislators administration, and fairness that the legislators make a just arrangement in the matter of appointments?

Mr. Brown Well, I think very much so. Like I say, this is something that transcends a small parish boundary. It's something that affects the entire state; it's of the upmost importance to us up in morth Louisiana because it affects the vital economy of the entire state, and for that matter, the entire South. Now, I think we've got to look at a little wider range view. Your point is well taken.

Mr. Willis Precisely. Now, my next question is, That as it must, this provision applies equally all over Louisiana so that were the shoe on the other foot, the same principle would apply, wouldn't it?

Mr. Brown Very much so, very much so.

## Further Discussion

Mr. Gannon MR. Chairman, ladies and gentlemen of the convention. In the chairman, ladies and gentlemen of the convention. In the chairman is a subcommittee sound apprein your committee and subcommittees, which we had in our committee and subcommittees, which we had use type of business where our competition is not with each other, and not with other businesses; our competition is with the Port of Mouston, and the Port of Mobile, and other ports along the Gulf. What would like to say in answer to strongly against it. Let's take a look right now strongly against it. Let's take a look right now that does it take right now to change membership on a port commission? I think there are about ten of them in the constitution. There are thirtyseven, I think, active port commissions right now in the State of louisian. Well, of these that are in the present constitution, it takes a ship, to change their structure, organization, or anything. The other extreme is a simple majority of the legislature. It was the feeling of the committee and the subcommittee that the two-thrids vote, this super majority, was a good thing. This would be a compromise. How do you compromise a Chootist? To thort. You settle one way or the hard. They have nominating groups familiar which hard. Of the and the Port of Lake Charles. They have nominating groups familiar of the Afl-CIO from that area. The Port of Lake Charles, I think, even includes one member of the Afl-CIO from that area. The Port of Lake Charles, I think, even includes one member of the Afl-CIO from that area. The Port of Lake Charles, I think, even includes and the bard Rouge, of the parish of East and the file of the parish of false that Rouge, of the city of Port Allen, the parish of West Baton Rouge, of the parish of East Baton Rouge, of the city of Port Allen, the parish of the parish of Ascension. The governor has one appointed by the three police Livies of the thre

Goth Days Proceedings—October 4, 19(3) Saint parishes: St. John, it. James, and St. Chares. I have 's ogt thei that's what I get for not being Catholir. But, the police Juries submit pane's of names of structures of parts, participant of the structure of ports, participant of the police that the function of ports, participant of the structure of the structure of the State of Louis and, prime antily located in that area around the city of New Urleans, is appro-timately two billion dollars a year. Inis is salaries and incomes going into people's pockets with which they can pay their bills and hire of the State of Louis y their bills and hire of the State States. Lake Charles is one of the teens, I think it's about seventeenth in the country. But, Tsay these are tremendous econol it appears to be a compromise, do not be decrived by it. I think the committee and the subsisties 11. I think the committee and the succommittee compromised themselves from what now exists to change membership, which is a constitutional amendment, and I think this is the other extreme. I am not in favor of it. "Thank you, sir.

Mr. Tapper Mr. Chairman, Mr. Anzalone, and other is this: the amendment that was adopted, the Dennery amendment, makes no provision whatsoever, no pro-vision whatsoever for the membership. If you will read it, you will see. It makes no provision for the membership or for the change in the membership. In addition to that, in due respects for Nr. Cannon, the legislature appropriates, directs the expendi-tor of two billion dollars a year. In addition to that, the legislature, every year, passes leois-lation which affects your daily lives and the lives of all of the people of this state; legislation that affects the lives much more than port avthat arfects the lives much more than port au-thorities and the leve boards and other commissions. We had one in the last session of the legislature on capital punishment. If you take a man's live, there is nothing left for him, he has nothing left. Yet, the legislature pased that by a majority vote The argument for two-thirds does not beling here or in any deliberative body in these United States we are a de locracy where we should be governed by a majority. Ladies and gent bene, live that the there is no setup, there is no ruling in the amend-ment as adored, the Dennery amendment, for the membership, for the appointment of the membership of these boards or these port authorities. you will vote for it.

Nr. ennery Nr Tapper, don't you agree that when in my arendment which need that the legislature may affect the structure and ingoniza-tion if the board, that that will permit making what you said it did not permit.

Mr\_\_\_\_per\_\_N, in not agree, Mr. Dennery In all fairners to you, you are talking about structure and or anization; however, there' nothing there in far as the matter of applictment

Mr. Definery well, I would thirk that the structure and the organistic of a loard would include the retholof appoint ent of the board. I support to you that this is not point to are to that

Mr. Tapper . Not when to read the first para raph It has to be read in thorough raterial with the second whene you are 1.00 g it to the way it f

Mr bennery Well, is other words, if it is

where the transformation of tra

Mr. Tappe be n your a end ent

Mr. Dennery

1 opposed to t at all, Mr. every Mr. Tapper

Mr.

Mr. Pugh Mr. Tapper, some people alread, rave Their ports. I agree with your analysis of Section (B) and the first paragraph. Inst far as Section (B) is concerned, obviously, there was no provision insofar as the berships are comerned for any new port. In the event some bodd, else wanted a port. Isn't that forrect?

Mr. Tacger You are right, Mr. Pugh, That's so ething I had forgotten to mention. But, 1

Hr. weiss Delegate Tapper, in light of elegate Dennery's remarks, wouldn't you say that this amendment is sliply one to redule the vise of the legislature from two-thirds to meass the majority in changing the elevithip of the prit.

Mr. Weis That is a major purpose

Mr apper yes, definitely, lessa ellipat before, lithini it huid be by a ority vite the legislatire by a ajority vite attaily inter-the lives of all the people attails tate, at l can tsee why they oudent in the are it to

Mr By Mr apper, in the aree that entropy Mr Dennery's aread ent is an invest over the ownittee language, that regime a two-thirds vite is nithing mre than a still effet in the rest of the tate and all stille part is signs to type the tate in the feature.

## Mr apper Yes, agree will that

Mr. India Mr. Indiana, fellow delenates, f we all the acid strain of the service of the service which, is the fellow a transferred strain entry which is the fellow a transferred strain entry which is the service of the service strain is the fellow a transferred strain we have the service of the service the service of the service the service of the service with the service of the service of the service of the service the service of the service of the service of the service the service of the service of the service of the service the service of the service of the service of the service the service of the service of the service of the service the service of the se

amended, guarantees membership to each parish in that district on that board. If you adopt this amendment, we're in bad shape.

## Questions

Mr. Reeves Mr. Tobias, you mentioned the city of New Orleans port. Are you aware the city of New Orleans has no port?

Mr. Tobias I am...you are correct.

Reeves That the great State of Louisiana taxpayers throughout this state, are you whose taxpayers throughout this state, are you aware that they are the ones that support this port? Are you aware of the amount of money that the State of Louisiana, the folks in Winn Parish, put in to the Port of New Orleans?

Mr. Tobias They put in money, you are correct. But, let me say that the benefits are derived throughout, and that to protect it guarantees it throughout the state.

Mr. Brown Mr. Tobias, this is what concerns me, and let me ask you if this concerns you. Do you think there may be a problem if you have a deep-water port authority that maybe has twenty-five parishes in it? I want to emphasize how big these deep-water ports are. Do you think it will be in the best interest of the Port of New Orleans, if it is made a deep-water port, to have twenty-five different representatives trying to tell you your business, someone from Ascension and St. James and all of those parishes down there all serving on your boaru telling you what to do? Because that's what's going to happen under the amendment that's what's going to happen under the amendment of someone from every parish. Do you think that's in the best interest of the Port of New Orleans to have someone from every single parish trying to tell you your business?

Mr. Tobias That's p two-thirds provision. That's precisely why I favor the

Mr. Brown Well, this has got nothing to do with two-thirds. This is giving everyone representation.

Mr. Tobias I realize that. That's why I want... Mr. rouses As a practical matter, nothing like that is going to happen for a long time to come. It can be corrected by constitutional amendment. A port is a business. It's got to be protected.

<u>Mr. Tapper</u> Nr. Tobias, 1 know you said that this port is operating very efficiently, and I don't doubt that. Are you aware of the fact that two years ago the legislature had to come up with thirty million dollars to bail the Port of New Orleans out, because they were in so much debt? Did you know that?

Mr. Tobias Yes.

Mr. Tapper the bonds. The people of the state are paying

<u>Mr. Tobias</u> Mr. Tapper, let me, also, say that I recognize the political problem that St. Bernard Parish has in this matter, and that I understand why that you are opposed...are in favor of this

Mr. Henry Mr. Tobias, on a point of information, someone just pointed out if you would talk a little faster, you could have said what you said in ninety

Mr. Chatelain Mr. Chairman and fellow delegates, you haven't heard this French voice in several days now, but I must rise, as much as it hurts me to ever oppose a good friend like Nunez and Tapper, good friends like those people. I know they appeared before our committee on many occasions fighting

for their rights in the St. Bernard area. I sat on this committee for eight months, and there is no other action greater than the action involving no other action greater than the action involving the Port of Orleans. Ne've heard input from many, many people in that area. I'd like to impress on you that I feel this is a bad amendment, and I'm going to oppose this amendment for these reasons: that I feel that the Port of Orleans belongs to all of Louisiana. I am deeply concerned in lafayete Parish, as I am sure the people in from this port. This is the reason why we are enjoying Louisiana today, as you well know. We sent a man to buy the Port of Orleans from France, way back yonder, and he came up with the whole... sent a man to buy the Port of Orleans from France way back yonder, and he came up with the whole... of the Louisiana Purchase. It's been a great, important part of the lives of all people in the Mississippi Valley for many years. I can tell you in simple, few words that all the problems involved in the Port of New Orleans in the last two years has been involved in a somethat of a mission that runs this port. My committee, my subcommittee, took a tour of the Port of Orleans. We spent two days down there analyzing, to try and analyze the problems that existed because we

We spent two days down there analyzing, to try and analyze the problems that existed because we were vitally concerned. It now operates with a five man commission, with a hundred and fifty million dollars a year annual operating budget. One hundred and fifty million dollars annual operating budget is a big business in louisiana. I feel that we ough to look at this amendment rep., the hard. Whet is does is reduce the to one-half, and as a metter of fact, we don't need the amendment at all. I think the way we are operating now, has been brought out, is very, very good. We had discussed going as much as a seven man commission to operate it. After long, very good. We had discussed going as much as a seven man commission to operate it. After long, many hours of debate, felt that it would be better to leave it at a five man committee. I submit to you, fellow delegates, this is a very, very serious business. I suggest that you vote against this amendment. Thank you.

## Further Discussion

Purchase visions of the protection of the pro

Mr. Duval wende 1, you know | really enloyed your rears, and don't you know that I think that the constitution and the state is not going to rise and fall on this amendment. I sure wish that you would once the previous question so we can

Mr. <u>asey</u> Mr. Chairman and delegates, this an extre ely i portant amendment, and we feel insofar as our deep-water ports are concerned Mr. Chairman and delegates, this is insofar as our deep-water ports are concerned. it's certainly vitally important to the stability of our ports. The most important thing that we can talk about is not just structure and organiza-tion and distribution and redistribution of the powers, but it's the membership of the board. The very members that are going to exercise those powers and functions and assist in establishing the structure and organization. That's the heart and soul of the conduct of the business of the port. How much more important can it be? Of the poil, show motine one important way that there, we attempting to a find the point from the array set of the point from the array set of the least from the set of the least from the set of the least from the set of the least set of least set of the least set of least set of the least set of the least set of le

Mr iso er I have only one for, is it the du you want to leav the local for with this invertion that it was the part wine of an is end ent like this that put the surt of an

We casely We lot er, you know is a type Centing the type that at all list, one thing that for a second sec

Mr house set a few world. An chain an and tellow delegates, out can under taid the arount of a cration that ther housed to this

h and ertain y, nobody is trying o do that, especially e Pr. Dennery, f you m worked out the improvise on the port, i to d worked out the improvise on the port, i to d you I woul or prit t and I dd is to d you don't think we should spel out any elerynip. or any prohib lion against a eler, or any inor any prohibition against a ember, or any in-clusion of any me ber. I vited for you, and i vited against Wr. III os a mend ent it just sort of gets to you when speaker after speaker gets up here and solv we are trying to political set New Orleans port. Hwile by letting the egislature say who the members are, by telling the egislature that you shall appoint, or you shall make laws that would apply to the deep-water ports in this state. If that's politicalized, then whole state. well, itel you politicalized the whole state. well, itel you orthing that says every member, every county. The Port of Houston has ten counties. They have nothing that says every me ber, every county, has to be represented in that dock board or that port. This is not a Port of reans or a Port of St. Bernard or a Port of Jefferson, really, its a state port, operated by state funds Abut four years ago. I think, we passed a thirty or forty million dollar bond issue for the twe rean Doney that. If the tappyers this state pay for. I think they produce some revenes, and everybody that's involved in them-state against <text>

My transfer provide Neural, the first first first first or the state of the second state, where the state of the state of

Mr. Nonell. Mr. Lapper, 1 acree with sum lier

Both Days forceedings—October 7, ford fainly, 1 respect and admirs..and certainly, the new Orleans Dock Board is a vital function of this state. I would never do anything to harm it. I don't believe, in any stretch of the imagination, to let speakers come up here one behind the other and say "This is going to politicalize the port." No way. This is going to politicalize the port." No kay the original amendment; look at the original proposal; we were spelled out in it because there to tell you the truth. Let's tell the truth if we want to tell the truth about it. I had said 1 don't want no part of it-they want do appoint two from Orleans. So, that gives three to two. I don't want that. I'm sure you members from Orleans know I ddin't want that. Never have I advocated that. That's not kell a greed with Mr. Denney and his whole proposition. So, I ask you to adopt this allowit do violence to the dock board; it doesn't do vidence; it doesn't politicalize it; it just allows us to provide by law how those members shall be appointed. Thank you.

> [Record vote ordered. Amendment rejected: 96-38. Notion to reconsider tabled. Notion to revert to other orders adopted without objection. Notion to take up Reports of Committees adopted without objection.]

> > Reports of Committees [I Journal 588]

Announcements [I Journal 588-589]

[Adjournment to 1:00 o'clock, p.m., Friday, October 5, 1973.]

Mr. E . Landr. Lear Father, vul tau vis now to pray over two thousand year, agi. prayer has never been to proved upon by the so of man you said Pray two your Father wh art ir neave, hal lowed by In se. Thy kingdo co e. Thy will be done on earth, as it is in heaven. Sive us this day, our do ly bread, and forgive us our trespasses as we forgive those who trespass

# REPORTS OF COMMITTEES LYING OVER

Mr. Willis Mr. Chairman and fellow delegates, ine is not a vrievous one; that is to say: I have no vrief. Indeed, it is in an expression of happiness

Even the weak are mighty when their hearts are combined with honor and love of discharging duty. The winner is always he who gives himself to

You are in the silent majority--so hang on. The eternal stars shine as soon as it is dark enough, and God will splash our horizon with light tomorrow--so hang on: Complete your climb with care, confidence, and

A great deal of talent would be removed from our nist if you quit-so hang on: hold on a minute longer, that is the time and place the tide will turn-to hang on: Courage respects courage, and courage is con-tagious-to hang on' Finally, hang on so we can all hang on' It is better to wear out than rust out some

Mr roynter Consistere Proposal No. 17 introduced ty bilegate Perez, Thaiman or behalf of the in-mittee on locan and Parohial Government, and other delegate, me bere of that on intree A proposal aining provision for local and pare child government, revee district, and port, the finan ing thereoi, and necessary provision with respectively and necessary provision with

Eplanatur Mr. Corry, As the proposals rement, tank think dock board and contitee Pripial Vis S the dock board and contitee Pripial Vis S the the states thance and Baction title, and the pripial Vis S the the states treating and the terms of the states the states treating and the terms of the states the states treating and the terms of the states the states treating and the terms of the states the states treating and the terms of the states the states treating and the terms of the states the states treating and the terms of the states the states treating and the terms of the states the states treating and the terms of the states the states treating and the terms of the states are not thin site on a lot of different agencies as we then as the effect, not only on the dock board many if the resist over that concept and problems the states the terms of the proposed of this a end et nere the states the concepts here support the the term of the prople win problems that the term of the prople win more states are the term of the prople win problems that the term of the profit that in the terms the some oncertainty now as to whether that the or not novers to that in the the terms the some once that states the concept the states the term of the prople win problems that the term of the profit that in the terms the some oncertainty now as to whether that the or not novers to that in the terms the term of the profit the states the terms the some once the over a concept that the terms the the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that the terms the some once the over a concept that

Mr Lanier Mr onro, thi con a deal with deep-water ports i haven t read your Article Ly but would it apply t deep-water of a web a

 $\label{eq:result} \begin{array}{cccc} H_1 & \mbox{ call } n & \mbox{ call }$ 

An energy Mr can er, that evaluates all when the dependence of the second seco

Mr lane: Well, et easy send the this would t the effect of your language be to also this pipe here otherwised, of os to that

tion? Is that correct?

Mr. Conroy Well, the language used here is, I think, somewhat familiar. I'm not the original author of those particular phresets, but my intention misunderstanding about what these different phrases mant, so we could discuss them all at one time and hopefully change them all at one time. I would have chosen different wording initially, but I did want to parallel the language that is used in other parts of this article.

<u>Mr. Lanier</u> Well, what I'm getting at is those who were here that wanted to consider the interest of deep-water ports would actually have to watch every provision that got proposed from now on out to make sure that it didn't affect this provision.

<u>Mr. Conroy</u> This is true of the Local Government Article generally, Mr. Lanier. On many sections, as you know, that that same phrase appears, and I think the same concern applies to all the places where it appears.

Ms. Zervigon Mr. Conroy, to follow up on Mr. Lanier's line of questioning, can you tell me why you didn't phrase it "subject to the budgetary controls specified elsewhere in this constitution," or something like that? I have no objection to postponing the fight, but this is really rather "buying a pig in a poke," and it's rather like not laying something on the table, don't you agree?

Mr. Conroy Mrs. Zervigon, as I explained before, I used the phrase simply because that is the phrase that's used in, I think, at least four other sections in this article at this point; and I didn't feel it appropriate to suggest, at this point, a difference in language and attribute some other meaning to the other four times that this convention has seen fit to use that same phrase.

Ms. Zervigon Well, isn't it correct that the other four times that the convention used those phrases, they really meant the entire constitution as it is or will be drafted, and you really have reference to one particular section?

<u>Mr. Corroy</u> 1'm not sure that that's so. In any event, insofar as this might involve expropriation authority, or other things, the same arguments could be raised here about the effect of the Bill of Rights and all of that. None of which arguments entirely appeal to me, but nevertheless, this convention has on, I think, three or four or five different occasions seen fit to use that language.

Ms. Zervigon Did you know that 1 voted for those things earlier, but now I've begun to be a little afraid of them because I don't know what they include. You haven't the same feelings?

<u>Mr. Conroy</u> Well, I have the same feelings, but that's why I'd prefer to continue to use the same phrase, and If possible, at some point when we understand what we've done, change them all because I don't think they were that well designed from the outset. I probably should have had Mr. Gravel present this amendment anyway.

Ms. Zervigon Are you hoping that each time you open that poke, you're going to find a better looking pig in it?

Mr. Willis Mr. Conroy, if I can play a little bit on words--she talked about a "poke"--1'm going to talk about "hocus-pocus." This amendment..it seems to me from a grammatical standpoint, if something is "subject to," it is "not inconsistent with." If it is "not inconsistent with," it is therefore "consistent with." Now, if it is "subject to," and "consistent with," then there is some redundancy, don't you suppose?

Mr. Conroy Yes.

Mr. Willie Now, assuming that's so, you are on the same committee that I am that's working Sunday ... Style and Drafting. Do you think that we can make that phrase or this subjection clause, turn a square corner in Style and Drafting? I think we have the power.

Mr\_Gorroy Yes, I do, and I think that by the time we get it there that it will be clear as to what it's meaning. That's what I meant earlier, though, when I said I'd orefer to use the same phrase here so that there could not be a suggestion made that at different points, a different phrase having been used, that different significance had to be attributed to the phrase in the different places th the phrase used elsewhere, and hopefully change it everywhere it appears.

Mr. Willis I understand you to say that we will ....in Style and Drafting, define with fastidious precision what each phrase means, and if it has a double meaning, we will clip half.

Mr. Conroy I would hope so.

Mr. Willis There is a record now.

<u>Mr. Jenkins</u> Mr. Conroy, the way this section reads without your amendment is that all powers and functions ever granted to any of these commissions by statute will be ratified and included in this constitution. Aren't we really buying a "pig in a poke" if we don't adopt your amendment? Isn't that really the fact, because we don't know what's been in these statutes in the past, have we...do we?

Mr. Conroy I don't.

## Further Discussion

<u>Mr. Casey</u> Mr. Chairman and delegates, I certainly understand what Mr. Conroy's intentions are, and 1 know he's quite sincere with his amendment in suggesting that we delay any argument on handling of funds--port authority funds--until we arrive at the revenue and taxation area of the tors subjects are, but he's using some extremely broad and general language here which connects this, not only to the revenue and taxation section of our new constitution, but to every other proposal. Now, I know his main concern is the handling of state funds--the central management of state funds--and that the agencies will have their funds funneled through the state treasury, and maybe, perhaps, that migh be the best thing to do. I don't know, but I've already indicated to Mr. Conroy that I would suggest that that's not ever other the type of thing that we should constitutionalize, because what may be good to yor for hot heir of thing for certain of our agencies. I would like to inform the convention of this: that we presently have a central cash management law which the legislature put into effect a couple of years ago and which I coauthored. I creating concur in that concept, but in the prticular statute, the legislature put into effect a couple of the secause of the peculiar makeup of the ports and because of the peculiar duties of the ports. How were involved in international trade, prot authorities. Because of the peculiar duties of the ports and because of the peculiar duties of the ports. How here havely in here process of a mentioned to you on yesterday. The Queen Prot of the Pacific, San Francisco, once was one of the place, and one of the contributing factors to their loss of preside was the fact that they lost budgetary control. They lost budgetary automy. I know that mainsent, but I would sugest to you, we're treading on very dangerous ground. Not only here,

but even under the revenue propolal, to require onstitutionally that every agency sust do 1 You ust leave that to the go d c on onese af the legislature to decide fro one year to the net what may or any not be in the best dood do the individual agent the egislature--i want to pint this out--we're not prohibiting cath anage ent f port funds. Under the proposal--under the Demery amendment as amended by the 110 and Conroy aend-ent on yesterday--all we're saying is that in future years it's going to require a two-thirds volte of the legislature in order to require the process that port funds will be funneled through the state treatury. I urge you to defeat this amend ent at this to the because we are buying some hocks-pous's as Mr. willis said, and maybe a 'pig in a pole-we don't know the overall effect of connecting this propolal, not only to the revenue section, but also to any other section of the constitution that we have but.

Mr. Jenkin to , doesn't the only thing this amendment do is say that 'subject to and not incon-sistent with other provisions of this constitution, and so forth? Lish t that all it does?

Mr. Jenkins Well, even though he has said that, that really is just one tiny part of what this section would be subjected to under that language,

Mr. Case You're absolutely orre t and that precisely one of y other concerns, which 've in

Mr. wenting My primary question is, if we're goin tu go through and railly and confirm, as this ef-tion does, all existing statutes and other initi-tut onal authority granting to ports certain power and functions, shouldn's all of thos statute, all of those powers, all of those functions, be subject to and not inconsistent with thi constitu-

Hr. Garey I don't how meen arily 1 don't think that agencies uch as the port author til should have their power's and function reduced, diminished, and lesiened by virtue of lan uage of that type, le 5 than what they have today to sperate

Horther Uniousian Her Biss Tive get them. You want to go which the question first, see, or is support the Cinry amendment I think it a very, vin perfant is used in the that take agen will regardles of their very first and interest, regardles of their very and interest, regardles of the rest of the the take of the both is the Nirth, is in the water of in and re-mardles of their very and interest, regardles of the very first of the rest of the the set of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest rest of the rest of the rest of the rest the rest of the rest rest of the rest of

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Mr Lanier Mr Rieer, wird Licking the phrae moett at it is all of these inferent etting wird the bear inferent etting hiller, in wird

Mr Anzaline idda, y tave in the about the an analiert an in the about the tan in the second s

Mr. Risser, w.H., N. K. w. J. th nk. Mr. General, ann thirt, hairt Mr. - t i a' t Lan, fil

<u>Mr. Roemer</u> Well, it says the same thing that we've done some six or seven times so far in this same proceeding. It leaves the option open.

## Further Discussion

<u>Mr. Avant</u> Mr. Chairman, and fellow delegates, I get up here to speak in favor of Mr. Conroy's amendment, and l'11 tell you why. In the first present the state of the state of the state of the orleans, the Port of New Orleans, the Port of New Orleans, like that's the only port in the state and that's all we've been talking about. That's not so.

That's not so. Mr. Chairman, and fellow delegates, I believe ['1] tsart over. I said | get up here to speak in favor of Mr. Conroy's amendment, and I'1] tell you why. I sat in here all yesterday afternoon and we listened to the Port of New Orleans, the Port of New Orleans, the Port of New Orleans, like that's all that this subject matter deals with. Aell, that's not all it deals with. It deals with all of the deep-water ports in the state, of which the Greater Baton Rouge Port Commission happens to be Greater Baton Rouge Port Commission happens to be one. So when we're dealing with this section, we're not just talking about something that is very importe. Soure talking about something that is very importe. Now, the specific matter before us is whether or not we're going to put, in this section, language that we have inserted in a number of other sections of this constitution where we have ratified, and continued, and confirmed certain preexisting body. That is language which makes it clear that while those bodies are ratified and confirmed, and con-ther dealer that while the wait he subject to. they are continued, but they will be subject to, and their powers shall be exercised in a manner not and their powers shall be exercised in a manner not inconsistent with the provisions of this consistu-tion. Now, let me tell you why I got up here...the specific reason I got up here. Every one of these port commission has got the right. Now, we have, incomparing the property Now, we have, in certain sections, when we have continued preexisting bodies, we haven't used this language "subject to and not inconsistent with," perhaps, or maybe we have, but I know we've used it in some places. Well, if we don't use it here, and we don't put sections, then we its wide open for the courts It here, in view of what we have done in other sections, then we leave it wide open for the courts to hold that the expropriation powers of these port authorities will be governed by the Constitution of 1921, and the statutes under which they operated prior to the adoption of this new constitution, and will just completely nullify what we spent the better part of, I think, two days here arguing about, and that is the expropriation provision in the Bill of Rights. Now that's just one thing that we're talking about. Of course, they've al-finance and taxation, of which I know very little, but I do know this: that there are gasoline taxes that are dedicated to the Port of New Orleans, and there are gasoline taxes that are dedicated to and there are gasoline takes that are dedicated to the Port of Lake Charles. Now, I understand that we are going to be asked to do away with all dedi-cated takes. I don't know what we're going to do on that, but if that's what we decide to do, we certainly ought to nail it down that we're really doing it and that the port is not some special creature that's going to be suparte and apart from what everybody else is going to be under. So for the sake of uniformity and the sake of making sup future, will not be undone. I think it is abolutely particularly in view of the fact that we have inserted that language in other sections; so I ask and there are gasoline taxes that are dedicated to inserted that language in other sections; so I ask that you support and adopt this amendment.

## Questions

Mr. 0'Neill Jack, this problem has come up time and time again when they've tried to ratify existing material. Oon't you think that we've done this and we put this phrase in before? Upn't you think it's just consistent to put it here just to make sure that these things will conform from here on out?

Mr, Avant Well, I feel even stronger than that, Mr,  $O^{\rm TReill}$ , I feel that it's modatory that we put it here, since we have done it in other places, and if we don't do it here, we're saying "Well, it doesn't have to be subject to and not inconsistent with the provisions of this constitution."

<u>Mr. Lanier</u> Mr. Avant, with all of these "subject to and not inconsistent withs" that we've been tacking on, suppose two of these provisions that have that on it become inconsistent with each other. What would we do?

Mr\_Avant Mr. Lanier, that's a problem we get ina--not with the idea of saying "subject to this constitution"--it's an oldea that you get into by constitutionalizing--it's a problem you get into by constitutionalizing--it's a problem you get into statutes, which is what you're asking us to do. You're asking us to put into this constitution a "pig in a poke," as somebody said, and that is day one concerning these particular little special groups and entities and going to put them in this constitution. We don't know what we're doing, and you don't know what we're doing because we couldn't pastibly know what all those statutes provide. Yet, hat's exactly what we're being said to do, just put them in this constitution, make them constituconsistent since the day one, not because we made them inconsistent.

## Further Discussion

Mr. Dennery I speak in opposition to this amendment, and I particularly speak to the point that Mr. Roemer made, namely, that we should keep our options open. I agree that we should keep our options open. I think we close our options when we adopt this amendment at this time. I had hoped to be able to ask Mr. Roemer a question, but unforumately this for a start of the start of the table to be the start of the start of the cash management, if we choose to do so at that time. The language "notwithstanding the provisions of Section 50." which is the port provision, nevertheless such and such shall be the case...It seems to me that we leave our options much wider open by not freezing it in at this point and by letting it go urason I urge you to reject the amendment at this time.

## Chairman Henry in the Chair

## Questions

<u>Mrs. Warren</u> Mr. Dennery, Mr. Avant made a statement when he was up there, and I didn't want to ask Mr. Avant this question. I wanted to ask somebody else that was in opposition to his amendment. Just want to know, you know, for my information. Mr. Avant said if we didn't put Mr. Conroy's amendment in, that with the situation that we're in now --giving industry and ports the right for expropriation of property--that they would be in the same situation as they were in the 1921 Constittion. They would be governed by the 1921 Constittution. This is what 1 gathered. Is that true?

<u>Mr. Dennery</u> I don't agree with Mr. Avant on that point. It seems to me that we now...if this constitution is adopted, we will have a constitution which provides for methods of expropriation and that's the law.

<u>Mrs. Warren</u> l'm wondering if Mr. Hargrave is in here, one of our...this is very important to me. l'm wondering if one of our staff, Mr. Hargrave or sombody, can interpret this, to tell me if this is

going to be---it is rit is not. don t want no halfway ine I want to know if it is or f it's ost probably that it would be.

Mr. <u>Dennery</u> I don't inow whether Mr. Hargrave is here. I can't answer that question. I can only give you y opinion that if this constitution is adopted, the provisions regarding expropriation of property that are contained in the 1974 Constitution will prevail, despite what the 1921 Constitution or any stat tes may have said previous[y.

Mrs.marren well, you see I don't understand not being inconsistent." That seems to me that somebody is very upset about the constitution...,things not being inconsistent with it. In just a layman, and I'm kind of green, and I want to know because to me that sounds like it should be. But with all the racket that I've heard seems like it's something that shouldn't be, or somebody's got some good reasons for it not being.

Mr\_pennery Well, Mrs. warren, the only answer I can give to that question is the one that Mr. Casey gave when he spoke up here. That was that the arendment that is presently before the convention... it has been adopted, rather. My original amendient provides that the legislature may diminish or reduce the powers that any court presently has by twothirds yote. If we put this provision in, it is my considered opinion that if other provisions of the constitution permit a majority yote, that that will wipe out the two-thirds provision in this section. That's why I'm opposed to it.

Mrs. warren Than

## Further Discussion

Mr. Jenkins Mr. Chairman, delegates, when 1 look at a section like this Part IV on ports and read it, ask myself what does it accomplish? What does it do? What does it accomplish? What does what would the legal situation be after the adoption before writing? If we said nothing about ports, what would the legal situation be after the adoption bolished or would they continue to exist, or what would be the situation? Surely if we said nothing in here about ports, all our ports would continue to exist, would have all their current powers and functions, except as those powers and functions and authorities might be inconsistent with this Section? The only purpose that I can see for this section? The only purpose that I can see for this section? The only purpose that I can see for this section? The only purpose that I does not constitution. Read what its tays. All deep-water port commissions and districts as they are now organized and coun titued, including their powers and functions, structure and organization and jurisdiction, are ratified and infirmed and shall continue to exist, eacept that the legislature may change then by two-thirds vode. In other words all the stat utes, all the constitutional authority in previous y-tailing. The situation the output set for the soling or gereen engages and pages of tatutes, previou on titutional law, and sometimes over curd de sions is that what we re going to do here? Without the Conrog mendment saying that this section is ublect to and shall not be held to be immediated the and in the weat as the powers and functions of urports. Une thing or the spect of the interprovisions of this constitution, we will be doing us that. That's port are poing to unitimate engine the held to be immediated with other provisions of this constitutes, provide the and held the held to be immediated with the state the state of this section is ubleating expressed and pages of statutes, previou that the engine the mediation authority, expropriation authority which is not of there with the Bill We with New, that doesn t ale sense, if we remain a have this set in, and this subally douted in the first place, but we certainly have to ale it subject to this constitution. New, if and of regret the e-phasis that is been put on that that is not the issue here. The question is wether or not the powers and functions of our it is structured in the state of the second se

## Questions

 $M_{\rm f}$ ,  $J_{\rm -}$ ,  $J_{\rm -}$  ackson wordy, the point has been raised in . The question has been raised to me that this allow, the amendment as exists, the section as exists, allows our port authority to, etc say, establish warehouses that, let's say, not in ocation of the waterfront or something like that

Mr. Jenkins Johnny, you see, it is making a general reference to all the powers and functions that ports might have. Frankly, I can t tell you all the powers and functions of the port commissions because they would be faund in countless constitutional provisions and countless statutes that we are hereby ratifying. That is the absurdity of the section as written. We can't be expected here to ratify things which we don t have before us we don't know what they say. We don't know whether they're inconsistent with other provisions of this constitution.

Mr. Weiss Delegate Jenkins, are you familiar with the aspect of the financial ...of the onittee on Finance as to what they will propose in other words, it seems to be that we are preparing to sign a blank check, so to speak, for the people win have population all constitutions without the sing what the Finance Committee has it mind. For example, all funds that come to the port may ult mately git to the state treasury, and if essential depository is made for port funds, how are the people who operate that come to obtain (nuds from a tate treasury)

Hr. Jenkins Well, Doctor, the thing we're going to have to do when we get to that substantive ques too is analyze it and consider whether in it prits should be under ash manage ent Bu' that should be decided then.

## Further Ulscos ion

Mer lobias Mer hair an, fellar delegates, direct that I have to rise again tai, to attai another amendment I (firmly berieve that this is a very bad amendment I (firmly berieve that this is to ninety second in line with what the hali an his comment yesterday I have about this a direct that the hali and the tail of the second of the sec

Provide a constant of the second second

rdered. Amendment rejected: 53-59.]

## Amendment

Poynter Amendments sent up as follows: Amend-

<u>Mr. Poynter</u> Amendments sent up as foliows: Amend-ments by Nunez, Tapper and Gauther. Amendment No. 1. On page 26, line 12, strike out Floor Amendment No. 1 proposed by Delegates Ullo and Conroy and adopted on yesterday, and in Floor Amendment No. 1 proposed by Delegate Dennery, et al, and adopted by the Convention on yesterday. Below the language added by said amendment add the follow-

ing: "(C) The legislature shall make provisions with respect to the membership of the herein provided commissions. Once the membership is established it may be changed only upon a two-thirds vote of the elected members of each House of the Legislature."

## Explanation

Mr. Nunez Mr. Chairman and fellow delegates, this amendment will do essentially what we had spoken about yesterday: that is to provide for the membership in our deep-water port commissions, which by the way we are not providing for now, and I can't stress that enough. We are not making provisions for the membership of the deep-water ports. Now, for the membership of the dep-water ports. Now, what this amendment does is very simply it provides for the legislature to establish provisions, not to appoint, and let me assure you that's not the inten-tions of having the legislature appoint these members. It provides the provisions, just like they are provided for now in various statutes... provides the method by which they shall be ap-pointed. Let me assure you, these port people are very influential and very effective in working in the legislature. Once this provision has been established in the law and once the members have established in the law and once the members have been appointed, it would take a two-thirds vote.a two-thirds vote of the legislature to change it. Now, I think this is as equitable and fair and good a compromise that I can possibly reach because it does similar to what the present provision does--changing the territorial limits and the jurisdic-tion etc., by two-thirds. But this only touches on the memberships. It only touches on the mem-berships, and it cannot be changed. A lot of you have told me, and I realize rightfully so, that the legislature could change it each year if it saw fit by simply majority--by a simple majority of been appointed, it would take a two-thirds vote..a fit by simply majority---by a simple majority of the votes. If the legislature changed, they could change the membership. So, we decided to go with two-thirds which, by the way, is essentially what Section A says, or Paragraph A or B. The jurisdic-Acction A says, or varagraph A or B. The jurisdic-tion, the territorial limits, the powers, and func-tions, and etc., by two-thirds can be changed. So, we would establish a procedure, a provision for se-lecting the members, and I am sure it will be simi-lar to what you have now. You know the port people in this state, and you know the legislators that are representatives of those various districts. They practically comprise a majority of the members of the House and the General I act an individual or the House and the Senate. I, as an individual, or myself and several others could not do nothing that Heyseir and several others could not do nothing that they don't want to do. I think this is the way to do it. It's that simple. I think that this is the way we should do it. I see nothing wrong with doing it in this manner, and certainly locking in the provision that they cannot change it, except by two-thirds at later years, is exactly what they have now. Please tell me what's wrong with that, Mr. Duval. Please tell me..evidently, there's no objection. So, I move final passage.

## Ouestions

Mr. Lennox Sammy, how does this snake differ from the one we killed yesterday, other than in size?

It's no size. Mr. Lennox, the one we Nunez Mr. Nunez 11's no size. Mr. Lennox, use one we killed yesterday the legislature could come back every year if they so desired, or every four years when you change the legislature, and you have a habit of changing us quite frequently, by the way.

When you change the legislature, they could come back and change the port. So, we inserted the same provision you now have---the same identical proviprovision you now have---the same identical provi-sion that you now have in Section A or B. It takes two-thirds of the legislature to do that, and by the way, it can do it now by two-thirds. So, saw nothing wrong with that but to generally establish the membership the first year and to provide for the membership by a simply majority.

<u>Mr. Stinson</u> Mr. Nunez, isn't it a typographical error? Shouldn't it have two-thirds to establish, if it's going to take two-thirds to change? Wasn't that a typographical error?

Mr. Nunez No, sir. That wasn't a typographical

Mr. Stinson You mean it intended a majority can establish it, but it takes two-thirds to change it?

Mr. Nunez That's exactly...you're doing almost the same thing now with your provision by taking it out of the constitution and said it can be changed. You're saying a lot more than membership by the way. You're saying territorial jurisdiction. I just thought a lot of people had come to us yester-day and said, and I think they basically were tell-ing us that they would vote for it, if we would put this sort of provision in. A lot of people said they did not care to see it changed every time the ensistature met or every time there was a change legislature met or every time there was a change in the legislature. I think the two-thirds provi-sion would give them what they have been seeking. That's the solidarity or the consolidation of the board.

Mr. Stinson But those that told you that, didn't they say that if it took a two-thirds vote to do anything that they'd be for it, but not to freeze in and take two-thirds to take it out.

Nunez No, sir. You're the first one I heard say that. Those who told me said if I would do this way that they would accept it, that if they found it to be acceptable because it tracks.... Those who told me said if I would do it

Mr. Stinson In other words, this is just like Tocking the barn door and throwing the key away. Isn't it?

<u>Mr. Nunez</u> Well, I thought that's what the ports wanted to do. Lock the barn door to what they have now, and throw the key away. It just does exactly what they want to do but the initial step shall be by an act of the legislature. To set up the pro-visions, Mr. Stinson, to set up the method by which they shall be appointed, and then you can't change that except by two-thirds vote of the legislature. I see nothing at all that should....

Mr. Fulco Sammy, what's the term of office for these members? For how long do they serve?

Mr. Nunez They presently serve a term as provided by the constitution. I think it's five years, but that would be provided by the legislature, Mr. Fulc If they want them to serve ten years, five years, twenty years, it wouldn't make no difference to me. If the legislature provided so, that's the way me. If the registrature provided so, that's the we it would be. They're presently serving, to my un-derstanding, I think...they're different. I'm not sure how...l think the dock board in New Orleans serves for five years.

Mr. Fulco Well, that's what I wanted to know. didn't know whether it was staggered term or four years--serve at the pleasure of the governor or

Mr. Nunez Well, they are staggered. I don't know if you were here yesterday when we ran down how they are appointed. The method of appointment of that particular body is an archaic method, and that has been the problem. If you want a change, and you have to change, you can't change it except by a

constitutional a endment rou re taking the port. constitutional a endment foure taking the port, and put them under the two-thirds provision of the legislature for changing their jurisdictions, their functions, their powers, their structure etc. I doing the same thing with this alend ent one the

Mr. Chair an and fellow delegates, we Mr. nr. supper in this bairman and ferrow deregates, we went through this basically yesterday, and I won't belabor the point. However, it's been said by the opponents to this amendment, and the proponents of the structure of the Dock Board as it is today, that this is not per sea Port of New Orleans. This is this is not per se a port of new offens. Inits is a Port of the State of Louisiana. I agree with that. I think Louisiana depends very basically on the Port of New Orleans. For the life of me I can not understand why the opposition to the State of not understand why the opposition to the State of Louisiana deciding the makeup of this Dock Board which is so vitally important to the entire state. to every parish, to every citizen in the State of Louisiana. All we're asking for is that the State of Louisiana decide the makeup of the Port of Louisiana, call it what you will. This is the Port of Louisiana, we decide everything else in the State State of Louisiana by a majority wite of the letter Louisian is a state of we decide the makeup, we can't by the mere whin of the legislature every year or majority wote of back and change it. by majority vote go back and change it. I don't by majority vote go back and change it. I don't agree with that. But it does, not it does prohibit the changing of it by a majority of the legislature every year. It takes a twn-thirds. For the life of me 1 cannot understand the opposition to allowing

Hr. Casey Mr. Chairman and delegates, mey thought, had fought this battle on yesterday al-ready. I would have hoped that at this point it most issue, but it's amazing his thought, had fought this battle on yesterday al-ready. I would have hoped that at this point it might have been a moot issue, but it's amazing how many lives things of this type have. I hope it only has two lives and not nine. It's curious to the why we adopted on yesterday the provisions that a-ture when, except in only one little curious in-tance, we re making a very curiou exception. We're saying that the legislature on one occasion shall ake provisions with respect to the mean the source of the board commission, and why just on one small in tance or o casion we're going to have a simply vote of the majority of the legislature. I meany through this type of everything that may affect the goard commission, and why just on one small in tance or o casion we're going to have a simply vote of the majority of the legislature. I meany this type of everything that any affect this goard by this convention. As I and on yeterday, the elbership of the board, or rather the missions, for the port, are fixed, are set at this the in law, and in some nistances in the ciniticulo we're taiving that day, we're giving to to the prerugative of the legislature by a twe thirds, vue it will nit enjoy institut hal priteit in the future a in some nistance is not we think the think the sum in the enjoy institut hal priteit in the future a int one contained is not had you the the sum in the enjoy institut hal priteit in the future a the sum of the to add the sum of the intertion the sum of the endors of the board of your door of the sum of the sum of the to add the of your door of the sum of the sum of the sum of the board the sum of t boards, particularly of the Part of New orlean, is what ha, reactly added to the tability of the part in the heart and only if the tability of the part, but in be used of particular and the stability of the part, but in be used of particular and the similar and danger of failing nonletely that it was found me essay to give to the full the fail of the part of the

the plate at what he function activity of the port where it is to be no business that buy not but the system state As is and my eterday, we use that by thy because when the evence and the end ty because when the extremined the entry of a larse day fine an show the work of the state work of the state of the state

Mr. Willis Tom, I a not basesser with the delu-sion that two times two equals five. I werer, des this not ive a signed promissory dote the res-ent legislature, secured by a strate of three leg-islators, by akin it me-haf fine present is is lature and then two-thirds on future is slat.

Mr. Casey of course, that's pre-left wat it dies, assuring that it is this leislature that will the one that would act on the ebers!, a this it has a constitutional andate that in the ad-tion of this constitution, it would be this leit an-ture that would deter ine the fate of the corrolo the that would deter ine the fate of the corrolo

And this vacillatin fr a a t, Mr. Willis And this vacilatin from a surt, to a two-thirds is what also to salen int

Mr. Casey No question ab tit Thile

Further TETEED
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cause we have not been able to resolve our problems that it is a legislative job and we should let the legislature take the time, the time it's going to take to study this problem in ironing it out and work out the details. After they have done so, come up with a composition of a commission and then lock if in. I don't feel that is being unreasonable. If the source of this state. I beg of you to consider it. Do you really know how many members, or where they come from, are now presently serving on the Port Commission? Do you know its makeup? Do you know what it will be? Are you satisfied with it? If so, vote against the amendment. But if you have any questions, if you're in doubt, then I say to you it is a legislative problem and let the legiss it out of the political arena, lock it in by twothinds vote thereafter. Please consider it before you cast your vote.

## Questions

Mr. Roy Mr. Gauthier, does Orleans Parish have seven Senators?

Mr. Gauthier | believe you're correct, Mr. Roy.

Mr. Roy Then, if this doesn't pass, it would Take...all Orleans Parish would have to do is to pick up another six Semators and prevent any type of meaningful application of law to this area that has been, and we've already constitutionalize the encrusted people in there, and they'll never be able to be changed. Is that right?

 $\frac{Mr.\ Gauthier}{nail\ right\ on\ the\ head.}$  Chris, for once I think you hit the

<u>Mr. Anzalone</u> Mr. Gauthier, do I understand from the meaning of your talk that what you are looking for is a little bit of flexibility in these appointments?

Mr. Gauthier That's correct.

<u>Nr. Anzalone</u> But yet, what'you're really saying is that after we get it the way we want it then we want it to become inflexible again which is the same problem that we've got now.

<u>Mr. Gauthier</u> You're right, Joe. You're very right. After the way we want it, all of the people, not a certain few, but all of the people. "We" was a good preface to it, Joe.

Mr. Anzalone One more little quick question. How many people decided who was going to be on this thing in the first place?

<u>Mr. Gauthier</u> You'd have to go back to the history books, Joe. I couldn't tell you that, and I don't believe anybody in the room could tell you that.

Mr. Casey Mr. Gauthier, I'll never understand, and I'm asking you a question, how all the people are making this determination when it's a simple majority of the legislature as distinguished from a twothirds vote of the legislature, and is not Mr. Anzalone correct that a simple majority of the legislators may initially, under this amendment, it is possible might do a very bad job, and then in the future after that, it can only be changed by a two-thirds vote. Is that not correct?

Mr. Gauthier Tom, I'm even amazed that you have asked such a question. You profess to have so much faith in the legislature and in a democracy which, as you know, majority rules. It amazes me that you even ask this question.

Mr. Casey Well, couldn't the legislature under this amendment indicate or state or require, under this process now, that the governor would make all the appointments. Couldn't the legislature do that? Mr. Gauthier Tom, in the same vein that you have spoken many times...

Mr. Casey You didn't answer my question.

Mr. Gauthier Are you going to let me answer...

revious Question ordered ]

## Closing

Mr. Chairman and fellow delegates, I Mr. N think Nunez think if ever we have reached a reasonable compro-mise in this convention, I think we have reached mise in this convertion of only we have reached it's logical, it's sensible, and it's the way the problem should be handled. I think Mr. Roy, or Mr. Gauther, where rought it out, brought out a very good fact. The ports in this state that are represented in the legislature have almost a majority, or fourteen members of the Senate--fourteen members of the Senate. That's two-thirds of that Senate, pretty close. You need one or two more Senaic, pretty close. You need one or two more members and you've got two-thirds. I just can't see how this would jeopardize the operation of any port. I just can't see how this would jeopardize or politically influence any port. Let me tell you. We've had a lot of port legislation in the past ten years since I've been up here, and I don't believe I've ever voted against any one of them, including the loan we make to Baton Rouge annually. The loan we make to Baton Rouge annually to pay off a didict the howe. I will contine to do thet, willion dollars to support, to help the Port of New Orleans, including the gasoline money that they get, including the other provisions that they ask for in the constitutional amendment that they can for in the constitutional amendment that they can bond their revenue money. Nobody, subody especially the speaker up here, is out to hurt our deep-water ports. I know the value of our ports. I live right next to one, and I've got, I'd say, a number of their...probably of their commissioners live down in my parish. They live in the surrounding areas. A tremendous amount of workers live down there, of the conomy of the entire areas. I am not going to do anything to hurt that port. I think it's a matter of record. I think it's a matter of record that the legislature will not do. The legislature that the legislature will not do. The legislature that the registrature will not do. The legislature doles out annually pretty good to these ports in the state--pretty good. If you look at the past bond issue we've passed, you'll see what I'm talking about. All I'm doing here, gentlemen and ladies of the state is supporting to appoint the state. And if representatives of the people of this state, and if the state is supporting these outs, where a lea you can use resonance appointments by the elected representatives of the people of this state, and if the state is supporting these ports, where else people that's appointing them own, certainly not because you have no provision now. All you have is something here that says "one shall come from each parish represented, or each parish that it has jurisdiction in." You don't say how; you don't say if that parish doesn't want to be represented; or all sincerity, and i'm telling you that this is a vital thing to a lot of people in this state. You're not giving me anything. All you're doing is telling the legislature you provide. You, the elected legislators of this state, who are doing out, finding the tax monies to run the ports, you provide for a method of making those appointents. Once you provide, gentlemen and ladies of the leg Source you provide, gentiemen and ladies of the leg-islature, you cannot change it except by two-thirds. Isn't that giving them security? It's the same security they're asking here. It's the same security when you took them out the constitution and placed them in this provision in the constitution that they can be changed by two-thirds. I really think we're doing the right thing for the State of Louisiana. I think it's in line with what we've done in this constitution. I would see no reason, no reason at all, unless someone wants to lock into the constitution, or into the statutes, an archaic provision for appointing board members to ports.

61st Days Proceedings—October 5, 1973 a. 1 weld blead with y a to give this arenent arenet source of the source of the source of the source arenet to be done and wat ought to done in this tate when it cores to our ports. It provides a sethod for lings wething that we won thave any truble with in the future. If we do have to change, if we do take in a parish in two and extend the gurd-d tion of a port, like it's very likely we might have to, ... it's been said about the great growth fr Baton Rung down to flew in leasts, and if your arenet to be the source of the source of the source arenet to be the source of the legislature to agree on any-the source of the legislature to agree on any-head the source of the source of the source of the legislature to agree on any-the source of the legislature to agree on any-the source of the legislature to agree on any-the source of the source of the source of the source of the legislature to agree on any-the source of the legislature to a

Mr. <u>Synter</u> A eldments ent up by Delegate envires as follows, --apparently, a lot of these were lost, they ve been repassed out, l belfeve--A end ent No. 1. On page 26, line 12, in Conven-tion Floor Ameldment No. 1 proposed by Delegate Dennery, and adopted by the Convention on October 4, 1973, on 1 ne 8 of that a endment, after the words The legislature' and before the word' ay: Insert the following: " ay consolidate or abolish any ach co ission or district or".

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and terminal districts; (B) The legislature"--this is the insert--"may consolidate or abolish any such commission or disconsolidate or abolish any such commission or dis-trict or may diminish, reduce, or withdraw from any such commission or district any of its powers and functions and may affect the structure and organiza-tion, distribution, and redistribution of the powers and functions of any such commission or district, including additions or reductions of its territorial jurisdiction, only by act passed by a favorable vote of at least two-thirds of the elected membership of each house;

(C) The legislature shall make provisions with respect to the membership of the herein provided commissions. Once the membership is established it may be changed only upon a two-thirds vote of the elected members of each house of the legislature."

## Explanation

<u>Mr. Dennery</u> Mr. Chairman, l'11 be pleased to answer any questions. I had explained it before Mr. Poynter revised the language.

## Ouestions

Mr. Newton Moise, did you...you left the language of the Jenkins amendment in. Is that right? I didn't catch it.

## Mr. Dennery Yes.

<u>Mr. Newton</u> Moise, I wish you'd look at your lan-guage in Section (C). I think maybe it might be better to say "the legislature make provision for determining the membership," or something like that. I think the language is a little wague. Maybe Style and Drafting could do something about it...

Mr. Dennery Well, Mr. Newton, that's the language that the convention just adopted. That's Senator Nunez and Representative Tapper's amendment. I didn't want to bring that question up again. It'd been brought up enough.

I mean it might be just locking people Mr. Newton I mean it might be just locking p in there, is what I'm talking about...persons, instead of a method of...

Mr. Tapper Mr. Dennery, I believe I understood you to say that your amendment in no way affected the amendment that was just passed, and I think you're referring to Section (C) which says that "the legislature shall make provisions with respect Mr. Dennery, I believe I understood to the membership of the herein provided commis-sions." However, the wording of our amendment was Slons: However, the wording of dur amenument wesy that the memory of the provident of the start since your second sentence in Paragraph (C) refers to two-thirds, if you would not be implying by Section (C) of your amendment that it would take two-thirds to make provisions for the makeup of the...

Mr. Dennery Mr. Tapper, this is a Xerox of your amendment. I don't think any change was made, unamendment. I don't think any c less Mr. Poynter made a change.

Mr. Poynter That's just a Xerox, Mr. Tapper, of your and Nunez's and Mr. Gauthier's amendment.

Mr. Duval Mr. Dennery, this is merely a technical amendment, is it not, reversing the paragraphs to make your intent clear? Isn't that what it is?

Mr. Dennery Yes, it merely reverses (A) and (B).

Mr. Champagne I have the same question that Mr. Newton had, and I know we adopted it, but I don't know if this doesn't say, once you say "these five people are going to be in there," you have to have a two-thirds vote to change it, to get them out, or to even change those names. I know..

Mr. Dennery Mr. Champagne, I can't answer that question because I didn't draft the amendment.

[Previous Question .: derei. Record vote ordered. Amendment copters 94-10. Motion to reconsider tabled.]

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Chatolain] On page 26, line 12, in Floor Amendment No. 1, proposed by Delegate Dennery, and adopted by the convention on today--amendment just adopted--on line 22, of said amendment--and incidentally, that's down in (C)--after the words "membership of the" delete the remainder of the line and at the begin-ning of line 23, delete "vided commissions." and insert in lieu thereof the following: "Board of Commissioners of the Port of New Orleans." It would make the first sentence read as follows

It would make the first sentence read as follows ...of (C), if you've got that Dennery amendment, just adopted: "The legislature shall make provi-Just adopted: "Ine legislature shall make provi-sions with respect to the membership of the herein provided commissions, once the membership..." No, I didn't do that right, either..." The legislature shall make provisions with respect to the membership of the Board of Commissioners of the Port of New Orleans." Then pick up "Once the membership is established."

## Explanation

Chatelain Mr. Chairman and fellow delegates, The shale shale of the state of Louisiana, that this fight is...in the Port of Orleans, not the entire State of Louisiana. For eight months I sat on this committee, and we had more meetings relative to this Port of Orleans than all others put together. I feel that the in-fighting in the three parishes around the Port of Orleans has caused this problem. I'm not faulting Defferson Parish. St Bernard Parish or Dieser Orleans has caused this problem. I'm not faulting Jefferson Parish, 5L. Bernard Parish, or Orleans Parish, but the problem has been going on for eight months in this Constitutional Convention. I feel.. my amendment will put the problem exactly where it belongs in that area. Let's limit the Board of Commissioners to the Port of Orleans in Section (C) of the amendment just adopted. I feel that's where it belongs; that's where the problem is, and let's nut it sourely, sourely where it belons. Let's but it squarely, squarely where it belongs. Let's not involve the Port of Lake Charles, the Port of Baton Rouge, the South Louisiana Ports, and other ports in this state. Let's let the fight be in the Port of Orleans area only. I urge your support of this amendment.

## Ouestions

Mr. Rayburn Mr. Chatelain, would you briefly tell me what this amendment does?

Mr. Chatelain Yes. It limits the possibility... of the...one-half of the legislature to debate the Port of Orleans only, not the rest of the ports in the State of Louisiana.

Mr. Rayburn Would you explain the "one-half of

Mr. Chatelain Yes.

Mr. Rayburn Well, what are you talking about?

Mr. Chatelain Well, I'm talking about one-half of the legislature now, in Section (C), can change the commissions and the boards of all the ports in this state.

Mr. Rayburn Do you have any ports in your area?

Mr. Chatelain Yes, sir, Port of Lake Charles.

<u>Mr. Rayburn</u> Well, what are you doing to them? No, Lake Charles is about as far from you, or further, than New Orleans is from me. I mean, what effect will this have under the present language that we just adopted? I can't understand the divi-

Mr Latean well, true to twish provides the state that a rule test in the rot in the rot in the rot of the state the three parties adjusts to the the test in the that area the short well the fort were rot short but for the future of this state, or all of ottest.

Mr a unn You're just going to let the embers the less ature in that area vite on anything

Mr. Chatelally No. sir

Mr. Fashurn Well, ..e plain how you said you are going to divide the legislature on voting. I couldn't follow you there.

Mr. atelan well, Senator Rayburn, 1 think you full well know what 1 mean...1 mean that a major ty f the elected thirty-nine endors, and one hundred and five representatives of the State of Louisiana.

Mr Pieler ..., as I understand it, your amend-ent uit deals with the ajority vote for the original opposition, the me bership of the board

Mr. Enalelath That = exactly right.

Mr. Lee er You would have...you would have that Maj r ty Rule Legislative Composition Act deal only with the ort of New reams

Mr. Chatelain Right

Mr. Poter with n ther port

Mr. Thaleland That fort Exactly.

Mr. Rosser Ll. you know, 10 oppoind to your

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Mr. (m.) . I withward and the

tyred, we did put in our committee report the years, could change the makeup or the membership of the Dock Board of New Orleans. All that this Nunez amendment does is to make that apply to all of the Dock Board of New Orleans. All that this time, maybe, we begin to think a little bit about the politics of all of this, and I realize that is is going to be a very...the people...some of the people are not going to like it. But, I don't believe that we should be so politically unwise as to pick on the Ports of Baton Rouge, of South Louisinaa, of Lake Charles, and I'm saying to you that if this amendment is adopted, at least, with will bring down the emity only of those who would believe they not problems? I say to you, I think that you're making a big mistake, if you do that. So, since the problem is localized, I suggest to you that, even though it is not the best constitutional method of approaching a problem, that we must pass than we already have to the passage of this consitimit the effect of the Nuncz amendment to the Port of Nunc Orling is instaked of apply to all the other deep-water ports.

## Questions

Mr. Weiss Delegate Perez, would you say then, that the Port of New Orleans is quite unique and different? Of course, it has a different volume and load, and the count sistons and the board that constitute it is entirely different than the rest of the ports of the state, and that we'd just as well call a spade a spade and lable it for what it is, and let the constitutional article constitutionalize it, rather than to create a large commotion which is apparently occurring?

Mr. Perez That's correct. You see one of the problems involved is that the Port of New Orleans has been in the constitution; the method of appointment of its membership has been in the constitution for these many years, and, as a result, it was virtually impossible to change that...the makeup of the membership, and it was because of that fact that all parties involved who testified before the committee recognized that there was an inequity with regard to the Port of New Orleans, that the committee put is the ord of the orleans, that the committee put is the ord or the orleans, that the committee put is the ord or the orleans. But, I don't believe it's wise to subject all of these other deep-water ports to that same situation.

Mr. Weiss In how many previous constitutions has the Port of New Orleans been constitutionalized?

 $\frac{Mr.\ Perez}{back\ into\ many\ of\ the\ earlier\ constitutions.\ I\ couldn't\ tell\ you\ how\ many.$ 

Mr. Weiss Many previous constitutions.

Mr. Perez But, some of the present provisions relate back to earlier provisions...provisions of earlier constitutions.

## Further Discussion

Mr. Reeves I rise to oppose this particular amendment. It's not the reason that I favor the of Louisiana, and I favor the entire state. What we're writing is a constitution for the future, not a constitution of the past, and I don't know if you realize what you did or not. But, I was chairman of the Subcommittee on Ports and Transportation Districts; I know what you did. I hope that you will litten a moment and find out what you did do. I find out what you's one for the past the days.

First of all, beginning of Section 50, you said First of all, beginning of Section 50, you said "All deep-water port commissions, and all deep-water port, harbor, and terminal districts...as they are now organized and constituted, including their powers and functions, structure and organization, and territorial jurisdiction, are ratified and con-firmed, and shall continue to exist, except that, "and go on down. I don't know if you know what that means, but that means that the Port of Orleans, the Port of Baton Rouge, the Port of Lake Charles, the Concordia Parish Port Commission, and the South louisiane Port Commission are all renetiturinal. Louisiana Port Commission are all constitutionalized. Now, then, for one second I would like to tell you what the Lake Charles Port Commission has in reference to its members. We find that In it in reference to its members. We that that the first-now, this is reading from the Constitu-tion of 1921 which you just ratified, in case you didn't know it--we find that the 'first vacancy on the board shall be filled by appointment by the governor, with the advice and the consent of the Senate, from a list of three nominees from the Rice Growers Association.' Presume that fifteen, or Growers Association. Presume chat inteen, or twenty, or thirty years from now, the Rice Growers Association...which central office is located in Lake Charles, happened to move. Say it moved to Abbeville. You can't have anybody on the Port of Lake Charles...that's from anyplace else; it's in the constitution; you just wrote it in. What I saying to you is, if you pass this amendment, t you are simply making it only necessary for the Port of New Orleans to be able to be changed. What l'm that Port of New Orleans to be able to be changed. I don't know what we are going to be needing to be changed in the Port of Lake Charles, or the Port of ...of the South Louistana Port Commission in the nope we will in this state, it may be necessary that we change these particular authorities. The way we've got it set up now, you can change them, but if you put it in there that just you can change the Port of Orleans, you can't change anybody else. Sit down and realize what you've done. It is un-in here, on down in the Lake Charles Port Commis-sion, that, not only the rice arowers are on the sion, that, not only the rice growers are on the Port of Lake Charles, but you've got the Lake Charles Maritime Commission. Presume that something Charles Maritime Commission. Presume that something happened to it, and some of you say, well, nothing's ever going to happen to it, but no one would have thought that there would have...ended a cotton ex-change in Orleans Parish, but it did. That was written in 1921. The cotton exchange does not exist in the 1921 Constitution, and you exist under it, and this is what's wrong. We've got to realize that we're writting a constitution for the future, not one for the past. This is not an Orleans rennot one for the past. This is not an Orleans pro-vision; this is a State of Louisiana provision, and I would hope that you would vote no on this amend-ment, noc for the city of New Orleans, for the city of New Orleans does not own the port; the great or new Orleans goes not own the port; the great State of Louisiana does. We can be a great state; we can continue to be a great state, if we all stay together, but let's be together, and not single out the city of New Orleans or the Port of Orleans as a certain problem. Let's take care of everybody.

## uestions)

<u>Mr. Bergeron</u> Terry, I'm in agreement with what you've said. Every time people get up to the microphone many of them have said, "We're not talking about the Port of Orleans, which pertains only to New Orleans; we're talking about a port which pertains to the State of Louisiana." Do you agree with me on that?

Mr. Reeves Yes, sir.

<u>Mr. Bergeron</u> In the past articles that we've completed, we've only mentioned New Orleans one time. Do you realize that?

fr. Reeves Yes, sir.

Mr. Bergeron It's been our job, and it seems like

In the second se sh. Do you agree with me on that

eves Yes, sir. I agree that we need to nove the city of New Orleans and Orleans

Hr. dio Mr. Chairman, felow delegates of this convention, Jrise in favor of this amendment juring all our hearings on this Subcommittee on Ports, it was very apparent to me that all author-ties throughout the state were quite happy with Ities throughout the state were quite happy with their embership, their structure, organization, so I can t see now why we should open any can of worms, as far as these other port authorities are con-cerned. I feel nost of our sessions were dedicated to the Port of New Orlans, where, it's certainly were apparent. St. Bernard, Jefferson were very were maried to something we had nothing a world were maried to something we had nothing...wanted no part of. I think, ike Mr. Perez, this would be politically unvise to go forward and not make this exception as far as the Port of New Orleans. I ask your favorable adoption of this amendment.

Mr. neiss this com Mr. setss Delegate Ullo, sole of the members of this collittee have recently testified that they are opposed to the inclusion of New Orleans, speciare opposed to the inclusion of New Orleans, speci-fically and separately. Yet, is this not the rec-comendation of the committee, that I hold in my hand, that was presented to this body, that New Drieans and its Port and Board of Commissioners be considered separately. One, this Section [C1] specifically says that "for a change in the method of selection and composition, the Board of Commis-sion of the ort of New Orleans, and define its sectors of the ort of New Orleans, and define its sectors of the separately flassified. Is that cor-rect?

Mr. 110 les, Or. weiss, that was our reco enda-

Mr. Lanier Dr. Ullo, is it not correct that the vote on that particular provision was 8 to 7? Mr

Mr. Ju It was very close, but they had a group of people on our collittee, seemed to be against us

Me notelain Me, nairian and fellow delegates, you energise the second entities of one of a note the you don't a test a convert in our ein a second test and the second entities of the new what the elves. I fee this alend ent ha done the what the elves I fee this alend ent ha done the what the elves I fee this alend ent ha done the what the elves I fee this alend ent ha done the what the elves I fee this alend ent ha done the second the second bar of the provide whet the test test at east we fred to full the second test and the provide the second test and the second test and test and the net test and the second test and test is the second test and the provide test test and test and the second test and test and the second test and the second test and test and the second test and the second test and test and the second test and the second test and test and the second test and the second test and test and the second test and the second test and test and the second test and the second test and test and test and test and the second test and test a Mr. Instelain Mr. Instrian and fellow delegates,

debailing here tiday a processing the structure of the Braro of the eart of leases and the problem lies in three parishes. The paris of the rears, the paris of the structure of

<u>Mr. Perez</u> Mr. Chair an and addes and enteren of the convention, as you kn., the bif the Local and Parchna Govern ent Cuin Titee was to take about one-third of the enstitution and the condense it and to conso idate it it as brefa de the fail that it was necessable on the term definitions do that men we tak about certain areas of local govern ent that we wild not nave to say including this one, that one, and since the na-of the various agentes. For insteine, it is an end on, that we would have a comion definition in a job fite various agencies. For instaile, i you muid look at the definition, and is what we have used throughout this article and the article and in the instance additional the word local governental subdivion each apparish or municipality. Is that as we went a in the various articles, when we muited tig ve authority just to parishes or ullice at thes we determine whether of give a structure that the instance of the articles are the word of give authority is the task of the structure of the structure and whether the structure and the structure and whether the structure and whether the structure and the wee wanted to give authenty, not nely to an hey or workspallities but to things the sewerage di-tricts and water districts and the any utner are cless of the state, then we had a definit is political subdivision which cans arishel, un-cipalities and any other unit of all were ment berform governmental functions are arreaded of the various types of unit partical and to of the various types of unit partical and to which ease less the canse arish arishes are and vallages. Government to come any which ease less the canse to the defined of the various types of unit partical and to which ease less the canse are to the defined and vallages. Government to come any which ease less the canse of the canse and vallages to the canse of the canse are felt that we use a definit of ear aw which ease the ther are to a hank or yet a ther with the the a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the the state of the to a hank of the to the state of the to a hank of the to the state of the to a hank of the to the to a state of the the to a defined of the to a hank of the to the to a state of the the to a defined of the to be eased to the to the to a hank of the to the to a state of the the to a define to be and the to the to a define to be any to be the to the to a hank of the to the to a define to be any to be the to the to a hank of the to the to a define to be any to be the to a define to be any to be the to a define to be any to be the to a define to be any to be the to a define to be any to be the to a define to be any to be the to be the to be to be any to be the to be the to be to be to be any to be the to be the to be the to be any to be the to be the to be to be to be any to be the

words, "school boards and".

Mr. Burson Mr. Chairman, ladies and gentlemen, this simply affectuates the approach that we have Mr. Burson Mr. Lhairman, ladies and gentlemen, this simply affectuates the approach that we have adopted here with regard to the definition of school bards as a political subdivision and it would add after...in the definition of political subdivision farishes and municipalities and any other unit of local government including school boards and special districts autorized by law to perform governmental functions." You will note that as we have gone through the local government article we have excluded school boards from those articles where they did not belong, but this would take care of all of the many articles...sections in the local government article where they do belong and we had the choice of either following this approach or including school boards in each article where they belong and at the advice of many delegates here chose the approach of simply excluding school boards from the four or five sections which they did not belong as a political subdivision. When we return from the four or five sections which they did not belong as a political subdivision. When we return to the finance provisions you will find there, in many cases, for instance with regard to bond elec-tion laws and the time for contesting a bond elec-tion that all of these things in many, many cases pertain to school boards. This is one reason why we want to make it plain that they fit into this definition.

## Questions

<u>Mr. Munson</u> Mr. Burson, then it is your feeling that political subdivisions does not define school boards. In other words, it is your belief that a school board is not a political subdivision?

Mr. Burson There are some cases that would indi-cate that this is possible. Some cases would in-chere are sold experimental the solution but there are some cases particularly dealing with the question of prescription running against school boards that indicate that they are not to be con-sidered a political subdivision for that purpose is and any next but mistake. I think and in order to avoid any possible mistake, I think it would be wise to go ahead and put them in, for that reason.

<u>Mrs. Warren</u> Mr. Burson, it is commonly known that school boards are not political and when you say "political subdivisions" does that mean they are going to be political?

<u>Mr. Burson</u> Well, Mrs. Warren, l guess that they are not political in some areas. They are in the one i come from, but in all seriousness the term "political subdivision" here is simply used in the context of subdivisions of the political entity of the state and not necessarily in the term of par-tisan political that I think you're thinking of

## Further Discussion

<u>Mr. Perez</u> I see no objection to the adoption of the amendment. It's consistent with what we've discussed before, before the convention, with regard to the authority of school boards.

Mr. Poynter Amendments offered by Delegates

m: roynter menduments oriered by detegates Gravel, Nunez, Rayburn, Brown, Mire and others. Amendment No. 1, on page 28 delete lines 6 through 16 both inclusive in their entirety...6 through 16...and on page 28 delete lines 22 and 23 in their entirety.

Mr. Gravel Mr. Chairman and ladies and gentlemen

of the convention, it appeared to many of the delegates that these particular definitions, espe-cially those seeking to define powers, functions, structure and organization are certainly not needed in any way in any constitution that we might adopt. I don't know of any serious objection to the dele-tion of these kind of definitions and I would urge that you go along with the recommendation of the coauthors and myself that the definitions be de-letic. Hay need to the definition of local or letic, hay need to the definition of local or leticular manner, which really doesn't define what a local or special law is, it just says what it is not. I believe that at some time later on there might be ancessify to give consideration to a not. I believe that at some time later on there might be a necessity to give consideration to and, of course, the other definitions that we would ap-prove of at this time, excluding the ones that hope-fully will be left out as a consequence of the amendment here proposed, then could be relegated to that definitions section. So, I urge that we adopt this amendment which would delete the provi-sion of the committee report, lines 6 through 16 page 28, and line 22 and 23.

## Ouestion

Mr. Vick Do you know of any constitution of these United States that has a section on definitions?

Mr. Gravel No. I don't, Mr. Vick, but I can con-ceive of the possibility that we should have some definitions, but certainly not these kind of things. I urge the adoption of the amendment.

[Amendment adopted without objection.]

## Amendment

Mr. Poynter Amendment No. 1 [by Mr. Dennery], on page 28, line 17, after the words and quotation mark, "general law" and before the word "means" insert the following: "or law."

## Explanation

<u>Mr. Dennery</u> The purpose of this amendment, Mr. Chairman and delegates, is that I find in eight places at least in this section the word "law" is used and in other places the words "general law" are used, and I believe that the intention of the committee was the use of that word 'law" implied the use of "general law". So, therefore, I have law amended the definition to say the words "general law or law" shall mean a law of statewide concern and so forth.

## Question

Mr.Stag Mr. Dennery. I have seen definitions before and 1 think there is a general theory of definitions that you don't use the word itself in describing what the word means, and if we read what your amendment does, it says "general law or law means a law". Is that what you intended to tell us?

<u>Mr. Dennery</u> Yes, sir, Mr. Stagg, because it doesn't mean a law. It means a law of statewide concern. That's the purpose of It. Mr. Poynter has pointed out to me however, that the amendment is slightly incorrect and it should read 'or 'law'".

Mr. Henry Of and Mr. Stagg. Of course, he's right, Mr. Dennery....

You know, when you're hit with an amend-

to ay t the convention is that I'm not sure what it eans and don't in w what to do about it

Mr. Perez The only purpose of this amendment is  $\bar{t}^{-}$  correctly number the various definitions inasmuch as we have taken several of the definitions

Mr. Roy Well, it goes to the substance of it, and I' ust wondering. .on line 32 when you speak of a versel of 5 foot draft and engaging in fore gn commerie that don't..

Hr. Henry Mr. Roy, I think your business is out of order. It is hard to tell really. This is a te hnical amend ent that the gent eman

 $K_{\rm T}$  Henry, Hr, Roy, please. What you're taling about i fyu dnn't he it, but he s, ot a technical a end ent up here and [ don't believe your me t, n has anything to do with it, a thoun 1 don't think any f'u have had the benefit or instanty ening the term sal area ening the technical area.

Initiantion Figure 16. It years is provided to a minut denke all antipitions of term in the provided in the second problem of term in the provided in the second problem of the second the second provided in the second problem of the result of the term in a figure of the result of the term in a figure of the result of the term in a figure of the result of the term in the second problem of the result of the term in the term in the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of the term of the second problem of the term of term of the term of the term of the term of term of term of term of term of the term of term of term of term of term of term of the term of the term of the term of term

M ervice Mr. Suar o, ale you aware that o the process there is a definition of

Mr. saidline frail the one we restricted

Manarylan Wel ther, yu're llyin yn run e

t delet in that all definition on fire and le ard unic all views

Mr suari so when I get t t, . . d that t

Ms Zervigon K.K.

Mr unlinen Mr Guarlo, the destitution I saw had definitions in it, and I think the I nis Constitution has definition it, and do you know that I as a loy an apreciste the fast that can under that do get the term such in the original

Mr Guarisco Mr Gold an first of all, i necked the Thimois Constitution and it loes is have definitions of ten's e ndly. I diapreciate that you would like to have definit is that you could understand it, and this is perfectly a est able to in the statutes and the "vil Code, the civil code of procedure and so "it, but not in a

Mr. Derbes Mr. Guarisci, can yiu define inter-state comerce for us 5 wirds in less

Mr. Burn Mr. Guarloss, doi: to us in his that we the viter's read this wine institution or they vote on it that the work we to an to e definition is they could one itel it is it

Mr Guarisin I thins Instituted for Marine I thins wought to it down and we can for each artifle we nould accept a for due procet, equal protect of in aw

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H. Links, No. 1, Carlo M. W. M. W. M. M. M.

know what a deep-water port was if we didn't have it defined?

Mr. Perez I have no idea. That's the whole pur-pose of these definitions and they are all an in-tegral part of the whole local government proposal and without the definitions we have nothing.

## Further Discussion

Mr. Chairman and ladies and gentlemen <u>Mr. Gravel</u> Mr. Chairman and ladies and gentlemen of the convention, I just want to make one point clear because there may be a misunderstanding about something and I'm not suggesting that Mr. Guarisco didn't have the right to present his amendment for he does, but he had indicated to me as the author he does, but he had indicated to me as the author of the previous amendment that he was going to with-draw that amendment and I know that I made that representation to a number of those who signed the lead author on, and I wanted to make it clear that I wasn't aware of the fact that Mr. Guarisco had changed his mind. I'm not criticing him for it. I think, however, that I must say that idefinities then the do refet her remains on the dot rest her dot me do the serve her the set of the set of the set of the dot refet her remains on defaurt heat are in this article. I urge that you defeat the amendment, and I now, Mr. Chairman, if there are no other speakers, would move the previous question.

> [Previous Question ordered. Amendment rejected: 10-99. Motion to reconsider tabled. Previous Question on the Section ordered. Section passed: 105-7. Motion to reconsider tabled.]

## Motion

Perez Mr. Chairman and ladies and gentlemen of the convention, in accordance with the intention that was announced on yesterday that we would now move to return the Local Government Committee Promove to return the Local Government Committee Pro-posal to the calendar with subject to call with the understanding that Revenue, Finance and Taxation will begin their work on the property tax problem and that immediately thereafter that we would then call back from the calendar the Local Government Proposal and go through the remainder of the pro-vision. visions.

> Motion to return Committee Proposal Motion to take Committee Proposal

## Recess

## Reading of the Proposal

<u>Mr. Poynter</u> Committee Proposal No. 33 intrustee by Delegate Alphonse Jackson, Chairman of the Com-mittee on Bill of Rights and Elections, which is a substitute for Committee Proposal No. 20 also by Delegate Jackson on behalf of the committee and committee memory of that committee other members...delegates members of that committee. A proposal making general provisions for elec-

Mr. Jackson This is going to be brief. Mr. Chairman, ladies and gentlemen of this con-vention, Article X of the proposed new constitution for this state is embodied in the Committee Proposal No. 33. We believe that this is a very important document because in the document we have tried to uccument because in the obcument we have tried to that voting is a basic right, that voting is impor-tant to the democratic process in a way that all of us must be aware. We have also tried by way of this article to preserve the integrity of the electoral process in this state. We believe that voting is a sacred right probably the most precious thing that Louisianians will ever own, so therefore we ask your full consideration of the sections contained in this proposal, and I would now ask the Clerk to read Section No. 1, if there are no questions.

## Reading of the Section

Mr. Poynter Article X. Elections Section 1. Free Elections Section 1. Elections shall be freely and fairly conducted on a periodic basis. No laws shall inter-fere with the free exercise of the right to vote.

## Explanation

Mr. Jackson Section 1 of this article is found in most of the constitutions of this country in In most or the constitutions of this country in which we live. We have researched the question fully. We think that this section provides for the general impetus and philosophy of the present con-stitution yet, it assures that we will have fair and free elections on a basis authorized by the legislature or by this constitution, and we believe that this is a very important section and we would ask for your adoption.

## Questions

 $\underline{Mr. Sutherland}$  Mr. Jackson, in regard to this section...J'm in favor of free elections but what does this do for age requirements such as 18, to be able to vote. It says no law shall be passed to....

Mr. Jackson There is a provision in this...in the Bill of Right's Article that establishes 18 year old...the 18th year as the time for voting. We've already adopted that in the Right's article.

Mr. Jackson, refer to the first sen-Mr. Dennery mr. Jennery Mr. Jackson, refer to the first series tence and the last phraseology there, "elections shall be freely and fairly conducted on a periodic basis". Does this not imply or negate the possibility of holding special elections?

<u>Mr. Jackson</u> I don't think so. What we were after...we wanted to be sure that elections were held in accordance with time as designated by statute.

Mr. Dennery What you're referring to is regular elections; is that correct?

Mr. Jackson Yes.

<u>Mr. Dennery</u> Well, that's why I asked the ques-tion. By just putting "elections" do you not imply at any rate, negate the possibility of having special elections?

Mr. Jackson I don't think so.

Mr. Fontenot Mr. Jackson that last sentence. Tho law shall interfere... kind of bothers me, begistration and residency requirements and all these other kinds of laws on the books which would ...are for the regulation of voting privileges. Don't you think that somebody might say that this laws are necessary but somebody might say that this is interfereing with my right to vote.

Mr. Jackson No. I don't think so. Mr. Fontenot. 1 [IT] you look at the complete article you will find in the sections provisions made for registra-tion. You will find in there provisions made for residency requirements and what have you, so I do not see now that language would interfere with the requirements as suggested by way of this section... by way of this article.

Mr. Roy Mr. Jackson, to make that last sentence

tte re lucid, what we had planned was that f that...the exercise of the right to vote to exer ise it, we didn th want anybody interferin with it. They ouldn't stop you and arrest you 'u a bunn of thing or jall people right before ar election. But, you had to have the right to vite, and it as inplied in that that you had its, of curse, eet voter gual f at ons in another se-tion, being at least e gnteen and what have you wo, there is no prohibition, right

## Mr. A. Jackson That's true

Mr. Pointer Amendment No. 1 b Mr. ravi and Mr. Burn r . On page (, between lines 1, and 3,

the provisions of this constitution, the legisla-ture shall adopt an election code which shall pro-vide for the registration of voters and for the conduct of all elections.

Mr. Chairman, ladies and gentlemen of

Mr. Chairman, 1 wish you would ask Mr. Jackson, Mr. Roy, please, to let re ake my state ent before

Mr. Henry Mr. Gravel, let me say this about that. I have been trying during this whole convention to get Mr. Roy settled down. He belongs more to you than he does to me. If you can't put up with him--

Mr. Grave Mr. Chairman, if I had been able to settle him down, I would have done it. That's why

Mr. Henry |111 ask the sergeant-at-arms to seat Mr. Roy. Mr. Roy, take your eat, in all eriousnes. I recognize the fact that you, as always, want to tpeak, Mr. Roy. I have decided the reason they elected you to this convention was to get you out of from

Mr Grave I want to make it lear that what we are doing here, and I realize that there is a part of this provision in bection (7 of the counsities propoial. At the very outset, I think, though, that this convention should adopt the provision uggested by thi amendment to the effect that 'the regislature'shall adopt an election of woters and the onduct of election. Let me say this, that in the event this particular proposal is accorded by the convention, then a obstantial part of and shill not be event framply, don't think it -hould be event in the constitution, that the any of part of it. Now, let me pais on so thing that be lime 1 know a little bit about That is, the probles that we have, presently, with

adjust of the set of t

Mr. warren Mr. Gravel, yu al 'we als' lat alena ent that yu have, that so in the t other sections in thi, Article hui in your ind any that yu will be the to in your ind any that yu will be the total total

In your ind any that you we will be the set of the seto

Mr. <u>Gravel</u> I think Section 2 certainly would not be required.

Mr. Sandoz Mr. Gravel, if we adopt your amendment, could it not take the place of the entire proposal?

Mr. Gravel Well, a good part of it, yes, sir. There might be...it really could do it, Mr. Sandoz, but, there may very well be some very, very important things here to this convention you know that some of you, or a majority of you, may feel just have to be in the constitution. I think we should weigh and consider each section carefully in that light. I don't want to say let's just disregard all the committee has done. But, most of what is in here would be absorbed, Mr. Sandoz, by my amendment. Yes, sir.

Mrs. Miller When we look at Section 3, Mr. Gravel, isn't it true that some of the federal court decisions have already taken place, like the secret ballot, no matter how much we would like to defend it and have this right in the constitution. Under the federal court decision, anyone can go into the booth with the voter, if the voter requests assist agree with you in principle that we...that most of this is statutory in this proposal. We have so many problems that we need to straighten out with good legislation, rather than with the constitution.

Mr. Gravel That's why...thank you, Mrs. Hiller. The reason I saids an incline rode was I don't This fit can be done simply by saying "by law" or "by statute." I think we need in Louislana a comprehensive election code. I might say this, that the secretary of state, two or three other officials others-are at this time working on a modern streamlined election code. I know Mr. Ambroise landry can tell you more about that, because werking laying the base or the groundwork for that kind of action by the legislature.

Mr. Willis We are still talking about Section 1, which you seek to amend?

Mr. Gravel That's correct.

Mr. Willis Now, take this proposition---a man is presumed innocent until proven guilty beyond a reasonable doubt by competent evidence. Suppose a man is in jail and you apply that second sentence to Section 1, "shall not interfreme with his free exercise or right to vote," and it's not bondable, does he vote?

<u>Mr. Gravel</u> I think we do have some...the reason we came with this amendment at the outset is I do have...a number of us had problems with the language in Section 1. But, above all, we wanted to really implant, hopefully, the directive for an election code at the very beginning.

Mr. Willis I see what you are trying to do is to adumbrate initially the legislative powers, and then we'll go to the finesse.

<u>Mr. Gravel</u> Exactly. Frankly, I do have serious problems with both Section 1...each section in Section 1 needs to have some further things said. If we were not going to delete them, then I think they require extensive amendment. I think we will elongate this article by amendments and by exceptions and by changes if we don't adopt, initially, this first proposal.

## Point of Information

Mr. Abraham On this amendment, the way it reads, if it's inserted between lines 12 and 13--the question I have: is this going to replace the existing language or does the other language come behind it or what? I don't understand how it's going to fit in.

Mr. Poynter No. unless there was subsequent areandment, it would not replace the present because it doesn't amend it. It would insert this ahead of the present Section 1. Then the present Section 1, presuning this amendment was adopted, would be open to further consideration by the convention.

## Further Discussion

Jenkins Mr. Chairman, delegates, Mr. Gravel's amendment really puts the committee at a disadvan-tage. We were placed in a position of having to tage. We were placed in a position or naving to defend in advance sections that are several pages ahead. In regard to, like Section 12 and Section 15, let me just say that there are substantive things in both of those sections that we want to will always have commissioners and particularly poll watchers at elections. We are mandating that commissioners and poll watchers be included in any system devised by the legislature. We are not devising the particulars of that system, because not devising the particulars of that system, because we don't think that is necessary. In Section 15, for example, we require that there be a Judicial determination of contested elections, as opposed things of that nature. We have gone over the elec-tion law of this state in great detail it is lengthy. We have boiled it down to a bare skeleton outline. Frankly, I think it would be very diffi-cult to boil it down much more. We already provide in Section 12 that the legislature will establish a dais of election law. Certainly, the language of Mr. Gravel's amendment would be perfective accept. of Mr. Gravel's amendment would be perfectly accept-able to me in Section 17, in place of the language we have there. The difficulty that I see is start-ing off with this, because I don't think it is the first thing that should be said and attempting to first thing that should be said and attempting to indicate that we can leave out a number of these sections. I think it would be bad judgment to leave but any of these sections, because each one of them tant to preserve. We would not want a system, for example, that would do wawy with secret ballot or allow proxy voting or allow public funds to be spent for or against candidates for office or which would deny the right of citizens to engage in po-litical activity and on and on. The purpose litical activity and on and on and on. The purpos of Section 1, as written, is to be an introduction -- a general statement -- getting into this election law; to give the courts a general guide; that our elections are going to be freely and fairly conelections are going to be freely and fairly con-ducted; and that laws should not interfere with the right to vote. Now, I guess if you look at any language written in this constitution-if you want to see monsters in it, you can-but this language in Section 1 of the committee proposal is straight out of at least five or six other constitutions which can almost nercisaly the same thion. The fart out of at least tive or six other constitutions which say almost precisely the same thing; the fact that elections are going to be free and that they are going to be fairly conducted; they say that no law shall interfere with the right of suffrage. That hasn't created any chaos or problems in those That hasn't created any chaos of problems in those states. Section 1 is really meant to be read in connection with other sections that you will find in this article. When we say, for example, in Section 12 that we are going to have a system of commissioners and poly we read the information with Section 1. So, that any system devised by the leg-islature is going to have to be a fairly conducted system, in the selection of commissioners and poly watchers. So, what I would like to urge you to do is to, at this time, defeat Mr. Gravel's amendmento. I think if he offers it at...when we get to be an ideal place to have just such a section, but most of the delegates here have not had an opportunity of the delegates here have not had an opportunity or the delegates here have not had an opportunity to read our proposal or to study election law. Please, don't shoot from the hip and start prejudg-ing our section and our articles before we even get into the meat of it; that just is not going to

be a good approach to this top at all or the defeat of this a envient.

## uestions

Mr. Anzaione Mr. Jeniin, as | lok at thi a endent by Mr. Gravel and Mr. Burson, it would see to e that the intent of t is to replate about half of the articles that you all have written in this section. Would you a ree

Mr. Jonting Well, Mr. Gravel lays that I think if we dopt it even, it wort atcomplish that end, Mr. Anzalone, because there are any things in here that we do not want to leave to the legislature. There are too many things in here where we can see that if the legislature would do something other than this, it would create an unfair election system.

Mr. Anza one Mr. Jenkins, I asked you the intent of the Gravel amendment.

Mr. Jenkins Well, as I said, I don't...he said that aybe that's his intent. I think even if we adopt it, though, it won't facilitate that.

Mr. Anzaione well, you know, just what I was In King that I can remember the day when we got into a little discussion on this floor about the recoimission of the Local and Parochial Article. At that time, everybody thought that s what should happen to it. bet you there aren ta lot if people thinking about that Loda, are there

Mr. Jenkins That could be, Mr. Anzalone.

Mr. A. Jackson Mr. Jenkins, didn't the contract conclude that we wanted to be careful that we would not put any language in this article that would prohibit open privarie.

Mr. Jenkins Yes, that's correct, Mr. Jackson. We were very careful throughout it to do that.

Mr. A. a son lsn't the computee on record as to our position in support of open primarie, and we thought that would be dealt with in the election code?

<u>Mr. Jenkins</u> Yes, that's correct, Mr. Jack on we con't of course, mandate open privates in here we don't prohibit it. We leave it up to the legislature.

Mr A Jack on In't it true that we didn't mandate it because the subject was too comprehensive to be deal with in this article? We tried to eet forth the basil rights and the protections that we thought to be important and left the whole que tion of open privaries up to the election ode proviion

Mr. lerkin hat current. That was entainly one of our considerations.

Mr. tinion Mr. Jeniini, Mr. Gravel said that tion was unneceivary 100 tota fait that the unitee felt that we should have thin in there to insure permanent registration, if that was more nothere, it could be done away with

Mr Jenkin Yes, Mr tin on that silerreit

## Further Office ton

Mr. 4 y Mr. Insistent, ladies and perturbate the investigation of both perturbation of the second second that Mon y has available of the second secon

mean that nobody who came in second gets elected to the office. The other sentence is not inconsistent with it because you could have a tie, and you could put a semicolon and say "however, the legislature shall provide for a method of breaking ties." If you recall, we took that out of the Executive Arti-cle on my motion because we read this particular provision to you in the future. I'll yield to any questions. the office. The other sentence is not inconsistent

## Point of Order

Riecke The speakers are discussing the whole article here, whereas, what we have before us is just the Gravel amendment. I submit that the Gravel amendment says "Subject to and not inconsistent with the provisions of this constitution." We can discuss the rest of the thing after we pass on this. We are wasting time.

I think Mr. Rov's remarks are well taken because to understand the Gravel amendments you have to understand the man-Gravel. While it does not mean that the rest of the section won't be in order, it's possible if you adopted this amendment that could happen. I think that's what Mr. Roy is pointing out. So, he is speaking on...

Mr. Riecke But, is every speaker going to discuall the amendments and then we are going to come But, is every speaker going to discuss back to this?

Mr. Henry Now, you have been here just as long as I have. You just can't tell what a speaker might discuss on the floor of this convention. We do allow a great deal of latitude and we....

Mr. Riecke But, I'm trying to cooperate with you in speeding up this thing ...

Mr. Henry I appreciate it, sir.

Mr. Riecke Thank you.

Mr. Roy Mr. Riecke, I agree with you to the extent that you have stated what you did. I just want to make sure that you all knew what we were talking

## Further Discussion

<u>Mrs. warren</u> Mr. Chairman and delegates, I hope That I won't offens my very, very good friend, Mr. Riceke. I'm not an attorney, but Mr. eent old cut out other parts of this proposal. I asked him from the floor what amendments did he have in his mind that he wanted to cut out and he wasn't sure. The form was today that he wanted to cut out and he wasn't sure. The first time that I have seen this proposal was today. I had to ask for it. You may have never been around aquicksand, but I know you have seen many shows and if you get in quicksand you just go straight to the bottom. If election...your privilege to vote is very important. I heard a number of our distin-multed delonates mention here a few yeap'r one and guished delegates mention here a few weeks ago, and I discussed them on the floor, that whatever the legislature gives you...remember they can take it back. If they don't want you to have it, in this case, they don't even have to give it to you. In this instance, these persons said things that people deve this who to the legislature. I tell you, dear friends, I have a lot more faith in the legislature than I have said, but, I m not willing to leave all of this up to it. I'm not saying that I would not like to see some of this probably deleted. I'm not saying that I am trying to keep anybody from carry-ing out their campaign pledges. Dut I didn't ry out their campaign pledges. I don't think that's what we came here for. I think we should look at this discussed them on the floor, that whatever to this convention to try to help anybody Carry out their campaign pledges. I don't think that's what we came here for. I think we should look at this thing real carefully, consider 1t all the way down the line. If Mr. Gravel's amendment is going to cut out a lot of things that he said it is going to cut out, without me having a chance to hear some debate on it, I am not for Mr. Gravel's amendment.

1 don't think you should be either, %6, 1% going
to ask you to defeat Mr. Gravel's amendment.
Do you have any questions?

O'Neill Mrs. Warren, wouldn't you kind of like to know what sections they are proposing to take out in case this thing would pass? I sure would

<u>Mrs. Marren</u> I asked from the floor, and I got supposedly some would. But, I would just like tu know. If somebody has one on elections in their hip pocket; they can pull if out now, because I would like to see it before I vote on it. Are there any more questions?

## Further Discussion

Mr. A. Jackson Mr. Chairman, ladies and gentlemen, Mr. Gravel is a scholar and a gentleman, but even with those attributes, oftentimes you can find him in error. He suggested to you that we ought to start off with his amendment. I don't know anything that's more sacred, I don't know of anything that is more important, to the people of this state all provision, that we ought to have free elections. Now, we are not opposed to open primaries. We are very much aware of all of the problems that we have for this state as it relates to elections. There-fore, you will find a provision in this proposal calling for an election code. We have no objection calling for an election code. We have no objection at all if Mr. Gravel were to offer his language at that time to amend that section to make it read as he would desire, to cover all of the points that he would desire, to cover all of the points that concern him, but, we are very much opposed to him suggesting that we ought to adopt this amendment at the beginning of this article in order to delete other sections. Now, he suggested from this plat-form that he wanted to eliminate Section 2. J would remind you that Section 2 is a very, very important section; Section 2 is the Bactbone, for and places in the constitution the principle of permanent registration. I don't have to tell you ladies and gentlemen all of the pains that some people in this state endure when we do not have adies and gentlemen all of the pains that some permanent registration. I don't have we do not have permanent registration. I don't have to tell you of all of the people in this state that were purged from rolls time after time after time. Do we want to revert to those days? Do we want to usher in again an atmosphere where people did not believe that they had the right to participate in a demo-cratic election? Is it that we want to demy certain people the right to participate? I think that Mr. Gravel is wrong when he says that Section 2 should not be in this constitution. It is not only basic, but it is important; it is not only a right, but if our democratic process is going to endure, we are going to have all of the people participating. I would ask Mr. Gravel to withdraw his amendment and offer ask Mr. Gravel to withdraw his amendment and offer it again at the appropriate time and place. I believe that these sections ought to be considered as they have been offered by way of this committee and that each of them are important. We certainly want to emphasize that we have no opposition code to be the section that we asked for an election code to be section this are important it is time if it is designed to delete Section 2 and other important sections.

Mr. Lanier Delegate Jackson, i my memory correct in that in the Bill of Rights we guaranteed the right to yote as one of the rights in the Bill of Rights that would be preserved inviolate and in-

Mr. A. Jackson That is correct. But this provi-sion here talks about the apparatus by which indi-viduals can exercise that right--elections.

The rely Mr. hairs an, adde an any estimate the coventing, i think the use that a set any any appreciate the black of the set of the set of the set of the black of the set of the set ing with me ting and that is to insert a use in the very beginning of this inposal which we is of y say hat the legislature shall adopt an est in code. Nik, this is by any can, at this part like to going to delete any of is to be any set of the set of the set of the theorem is a set of the set of the set of the provisions, but that he would leave that to the discretion of this body. Jost in effect, wait we can do, is go ahead and place this much meeded an-date it the constitution, advising the legis a ture that they have in to adopt an election ode. Now, we have heard arguments up here about is of the set. that we all support Mr. Gravel in this a end ent.

Mr. Chair an and fellow delegate , the Mr. Burton Ar. Durch Mr. Chair an and reliew delegate. the reason why joined in osponsoring this amendment was, as Mr. Kelly well stated, we are not, by this amendment, supplant n anything in the commit tee propo al. We are imply wanting to establish at the outset the print iple that we are mandating the legislature to pas, an election code. Now, we all know the reasons who we need such a rode in the legislature to pas an election code. Now, we all know the reasons why we need such a code n this state. We know the tremendou expense of going through three elections that have been visited upon candidates for public office in recet, years in the State of oursiana. In many lases, the expense becomes a probletive factor in preventing worth-this is concentration needs to be dealt with drastically. It need to be dealt with at on e by the legislature we how that the problem. the drastically. It need to be dealt with at one by the legislature. We how that the proble, the whole proble of conducting elections, is related intertricably to the proble of capsing expenditure, is the inited State. We all know that that proble mas reached to the highest levels of our government today. The need for a page may is directly related to him any elections you ve got to rout, and how long these election are, and the project that for public funds. The direct do for reletions or for candidates. I'm not sure about that for public funds. that There is seriou consideration being given on the national level right new to one sort of public functing the range election campaigns. Cer-tainly, this is the indication of issue that the legisla-ture, with it ability to investigate the ething throughly, should be able to unsider at length indication, which is the indication of the election of the source of the source of the election in one yatishes need, to be reviewed. I have you ability had one is obtained at any over ability had one is obtained at any over ability of the source of the source of the source ability of the source of the source of the source ability of the source o that Mr. acking was talking about, but we get

An even we the fail of even of the the even of the state of the state

Mrs. warren woul you ay tat r Nr snavel it wanted to include an election code, ne ou brave just used and ask that it be ut sy, team of being No. 17, be Nc t would have had e

Mr. Burson - But, the extra verb age that we have

Mr. outline it has the pure self ay synthet that election ode ust include the restriction of voters and the shall of all elections, all elec-tions being there, but to all elections and the election to de annut privide ust for prial elect have general elections by an ther take, but at want all election is vered by an electronen ive elections.

Mrs warren Lid nut Mr. nav ay that he wante to cut out other that larte a 1 f t

Mr Burron I think that Mrs warren, ne at that the convention ont is de that it is so want uners the f  $\Pi$  wing resting, and that as well be, but, that in t the risk why we resented this.

Mr feel of perturbing the fact that the anew etc. If young taken to art of the exiting etc. We Gravel's account of them, to

<u>Mr. Herry</u> N., Ir Ya + thave tren-ter t by a technical a entient two die it word

make it Section 2, or 1(A) or something like that, sir.

[Amendment adopted: 81-27. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 93-14. Motion to reconsider tabled. Motion to take up other orders rejected: 21-75.]

## Amendment

<u>Mr. Poynter</u> Mr. Juneau's amendment, which has been passed out, reads as follows: Amendment No. 1. Dn page 1, delete lines 13 through 16, both inclusive, in their entirety.

## Explanation

Mr\_\_Juneau Mr\_ Chairman and fellow delegates. I had originally thought, as many did, that this was ...the previous amendment was in addition to this language, but I think the same principle would apply. I just frankly don't see any need for this language. No one is going to fault the words, of course, 'the election shall be freely and fairly conducted.' I think that's implicit in the fact this provided that a person shall have the right to vote. I might add that there are some distinct and some very bad problems in the language, as I see lines 14 through 16: for example, the words "on a periodic basis." What does that do when we get to talking about special elections? Now, I just think that presents a lot of problems. But, more crucially, and more important the not still interform with the free exercise of the right to vote. One of the immediate problems that comes to any mind would be the right of the laws with respect to registration. Now, there was some mention about what other state constitutions have done in that regard. I have a copy of the model state constitution. It very simply provides isomething along these there. North purpose, insure screey in voting, and provide for the registration of voters, abstente voting, the administration of elections, and the nomination of candidates. I respectfully submit to you that that is basically the same concept and the same language as the Gravel amendment we just adopted. I think that that language is inclusive enough and is broad enough to the negles to this language than I do than in good is provided. I would move for its favorable adoption.

## Questions

<u>Mr. Roy</u> Mr. Juneau, do you understand that the second sentence, "No law shall interfere with the free exercise of the right to vote," that that means that first of all, you have to have the right to vote to exercise. Do you not agree?

Mr. Juneau And we have given that in the Bill of Rights Section. That's right, sir.

Mr. Roy Where have we given it?

Mr. Juneau Sir?

Mr. Roy We have given it to all eighteen-yearolds, but it may be suspended for certain times or periods. Is that right?

## Mr. Juneau That's right.

Mr. Roy Well, then, don't you realize that all we are saying is that except for the fact that you must be a registered voter and meet those qualifications, and you may not be in prison or something, that the state may not pass a law requiring you to be, like, in a suit to go vote. That would be an interference with a free exercise of the right to vote.

Mr. Juneau It would appear to me, Mr. Roy, that it's very feasible in the future that circumstances will arise where conflicts can appear between those two sections-the one we gave the right to vote... I would be more content in giving the right to vote, which we did in the Bill of Rights section, and letting that language, and that language alone, sustain by itself.

Hr. Dernary Mr. Juneau, if Section 6 says that "every qualified elector shall be privileged from arrest, etc., except, and while exercising the right to vote in all cases except felony or breach of the peace," does this not also conflict with the second sentence in Section 12

Mr. Juneau It does to me, Mr. Dennery. The point that bothers me, it conflicts not only with. I think, provisions in this article, but there are many circumstances I can't even fathom at this point that it may be inconsistent with in the future. The point being, I think we're creating a bigger problem than what we are trying to accomplish.

<u>Mr. Jenkins</u> Mr. Juneau, do you realize that this same language is found in a number of other state constitutions, and that it has caused no problems in those states?

Mr. Juneau Well, I can't...I'm taking your word for it, Mr. Jenkins; I don't know that; but if you say that it has caused no problems; so be it. I'm just saying I, personally, see problems; and I can only speak for what I can read by the language herein the search of the search of the search of the taken from the model state constitution, which I understand was sort of a gleaning of the best across the state, and which has no such language in it.

<u>Mr. Jenkins</u> Do you understand, also, that the purpose of it, and our intent of it, is to simply give the courts a general guide by which they can insure that every procedure and every law that we may have is done in a fair manner?

<u>Mr. Juneau</u> I understand the intent, and I wholeheartedly endorse the intent of the committee, Mr. Jenkins. My only problem is I think that it creates more problems than what was originally intended.

## Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I rise in opposition to the amendment as proposed. As you can recall, on the first amendment that came before you, there was some considerable concern on part of the committee as to if other sections. It has the state of the committee as to if other sections. It has the state of the committee the state other sections. The base of the section of the delete other sections. It has been been been been delete other sections. It has been been been been delete other sections. It has been been been been been me. He said that based on the adoption of the Gravel amendment, that he very seriously questioned whether we should have Section 2 in there. I think that Kr. Jenkins has brought up a distinction. In the Bill of Rights we did provide for the right to vote in saying that that's inviolative. But, a trarise or exercise of a person's right to vote. It has been stated to you very clearly that this language does appear in other constitutions, and that be Bill of Rights or Section 2. On the matter of special elections, what's more perions been stored and the period contractions. In the store of the you have period 1. On the matter of special elections. The period of think that we are to be so embedded in the problem that...that we might be denying special elections because I do not believe that the language

**flat Days Proceedings—October 5, 1973** 

# REPORTS OF COMMITTEE

# Saturday, October 6, 1973

### ROLL CALL

[70 delegates present and a guorum.]

### PRAYER

Mr. Alexander Oh, Lord God of our Fathers, Thou who has been so good to us in the past, we come Who may been so good to us in the part, we come to the form of the second seco struggles in this world, we pray that Thou will grant us admittance into Thy Kingdom where we shall praise Thee forever. In the name of Jesus, Amen.

### PLEDGE OF ALLEGIANCE

READING AND ADOPTION OF THE JOURNAL

# REPORTS OF COMMITTEES LYING OVER

## UNFINISHED BUSINESS

## PROPOSALS ON THIRD READING AND FINAL PASSAGE

Mr. Committee Proposal No. 33 introduced Mr. poynter Committee Proposal No. 33 introduced by Delegate Jackson, Chairman on behalf of the Committee on Bill of Rights and Elections. The proposal is a substitute for Committee Proposal No. 20 by the same gentleman on behalf of the Com-mittee on Bill of Rights and Elections and other delegates, members of that committee. A proposal making general provisions for elections. The status of the proposal is that the convention has adopted a new Section 1 dealing with an election code, has voted to delete the original Section constituting lines 13 through 16 of the proposal, has a contemplated amendment, 1 presume, by Mr. Duval under consideration at the present time.

### Personal Privilege

<u>Mr. Tate</u> Mr. Speaker, fellow delegates, the radio reports that the Egyptians and Syrians have invaded Israel on this Yom Kippur, their Jewish Day of Atone-ment. It brings to all of our minds the fragile nature of world peace and of civilization. I think it might be appropriate for ... just to bow our heads for just a second or two to pray to our Lord that the cessation of hostilities is accomplished quick-Amen

### Amendment

<u>Mr. Poynter</u> "Amendment No. 1 [by Mr. Gruvei] on page 1, between lines 12 and 13, immediately below Soction 1 as added by Floor Amendment No. 1 by Delegate Gravei, proposed and adopted by the con-vention on yesterday, insert the following section: "Section 2. Election Code;"..add this please, tion..."Section 2. Election Code;"..add two the "in" fyou would insert that on your copy, "Right to Vote;"

"Section 2. Subject to and not inconsistent with the provisions of this constitution, the legis-lature shall adopt an election code which shall provide for the permanent registration of voters and for the conduct of all elections; except as otherwise provided in this constitution, the right

<u>Mr. Gravel</u> Mr. Chairman and ladies and gentlemen of the convention, if I may say so quickly before going into the amendment, I'd like to announce that at least in part, Judge Tate's supplication for

peace has been partially answered. Chris Roy and I have reestablished our partnership, and we are going tc continue together, I hope, for many years yet to come.

vertial the to also point out and state to the con-vention that although this proposal appears to be my proposal, it's joined in by Mr. Burson who was not here at the time that the proposal was typed up. He's authorized me to say so. Now ladies and gentlemen of the convention. I

now louis and gentiemen of the convention, i think there was some misunderstanding yesterday with respect to the intent of Section 1 that this convention adopted. In order that there will be no question, but that we were not, Mr. Burson and I were not, proceeding with any ulterior motives; I were not, proceeding with any ulterior motives at all, and after meeting with members of the Bill of Rights Committee on an informal basis, and dis-cussing this matter with other delegates, it ap-net the structure of the structure of the structure he idea of permanent registration of volters and, also, getting away from constitutionalizing, with-out any doubt and without any question, the concept that voting is a right and not a privilege. With those thoughts in mind, we have propared a new sec-tit would be in order for as, to driete Section 1 that we adouted on yeterday. Let me then say very it would be in order for us to delete Section 1 that we adopted on yesterday. Let me then say very clearly and explicitly to you, or at least as clear-ly...as clearly and explicitly as I can, what this proposal does. May I suggest, ladies and gentlemen of the convention, that it is significant and im-portant, although the three concepts encompassed by this amendment are basic.

No. 1. This amendment directs the legislature to do what we all know needs to be done and that is adopt an election code. I don't think I need to elaborate upon the necessity that we have in State of Louisiana a compact document dealing with registration and the conduct of elections.

with registration and the conduct of elections. No. 2. This amendment, in addition to what we did yesterday, now makes it abundantly clear that the election code must provide for permanent reg-istration. We have permanent registration in every sitic exception of one. I think I'm wrong about that. So all we are doing with that provision is maletaion the nerma cent registration system which

that. So all we are doing with that provision is maintaining the permanent registration system which we have in the State of Louisiana. The third thing, that this does, and it does it without any question, is to say that voting is a right and not a privilege. We are going to elim-inate forever, if we adopt this amendment... I hope on the argument that is amendment... I hope we do...the argument that is sometimes made that we do...the argument that is sometimes made that the opportunity to participate in free elections and a free society is a privilege and not a right. So, clearly we want to establish that principle instructions of the source of the source of the source of this constitution here relevant, because it could very well be said that...are there...very well be asked. "Are there any limitations on the right to vote?" There are limitations on that right of plasts, where we have set forth the age... ornvided...and provided in the constitution already in the Bill of Rights, those instances where the in the Bill of Rights, those instances where the right to vote can either be waived or more correctly, let me say, forfeited. Now, we have taken care of that already in the Bill of Rights. I think one of the things that we could do, and should do, is to adopt this amendment and to announce to all of the people of the State of Louisiana, by the action so taken, that we want a streamlined, comprehensive code of election laws, that we want permanent reg-istration to continue in the State of Louisiana to stor laws. and that our citizens have the right to participate in the election processes.

Wr: Chairmon and ladies and gentlemen of the con-vention, that's what this amendment does. I urge that we join together and adopt this amendment and the concepts embodied therein. I'll yield to any questions.

Ouestions

[1643]

Mr. Abraha Mr. Abraha and R. Juit to be sure i units and what is eant by per anent re itration, what would be the effect of this in the present provision that if you do so te for so any years that you have to reregister and this type of thing?

Mr. Gravel That's an appendage to the concept of per anent registration. A solutely, there id be no question about it. A a atter of fact that's part of the nevessity to keep live, vital election rpls up to date. That is correct, Mr. Abraha-

Mr. Haynes Mr. Gravel, is the right to vote guar-anteed in the Bill of Rights that we already passed?

Mr. Gravel I think it's implied, it's implicit to some extent in the words that are used. But this here in the elections article is a clear-cut state ent without any doubt that is what we are language, I think, in the Bill of Rights that says the right to vote', but we are going a little bit further other than describing the voling process. We are saying that the right to vote is guaranteed under this constitution ight to do the sky anameted under this constitution ight to do has been greated and given boost deraition and probaby it does exist there. Now, the right to vote could treated and given consideration and proven of the does exist there. Now, the right to vote could be ddified, I would think, unless we have this language. But I want to make this abundantly clear as to what we are talking about.

<u>Mr. Lanier</u> In this last clause, "except as other-wise provided in this constitution, the right to vote in elections is guaranteed to all citizens of this state." Would this mean that if there were a perion charged with a capital offense in gall on election day, unless there was provision in the constitution that said you didn't have to cake him

We not all data secret ballot: We cave I Me, anier I don't think that it would require that, in y opinion. I think the an would have the right to vote. I think think the think, personally. I have no problem with the idea that a enne hould have the right to vote who have not been convicted of an offense. How, whe her you have the right to vote is a forfeiture use this of the second there is a forfeiture use this of the right to vite would be guaranted. I think the right to vite would be guaranted. I think the right to vite would be guaranted. I think the right to vite would be guaranted. I think the right to vite would be guaranted. I think the right to vite would be guaranted. I think use ould provide for the opportunity to vote I wouldn't earn ne lard ly that h. that per a woi to the right of the the right to vote the right of the ther flar, a which h. not di qualithe the right of viting the right have the right of the ther flar, a which h. that right here the the right of viting the right have the right of the the right of viting the right have the right have the ther flar, a which here than the right the right of viting the right have the right here the ther flar of viting the right here the right here the ther flar of viting the right here the right here the ther flar of viting the right here the right here the there flar of viting the right here the right here the there flar of viting the right here the right here the there flar of viting the right here the right here the the right here the right here the right here the there flar of viting the right here the right here the the right here the right here the right here the the right here the right here the right here the the right here the right here the right here the the right here the right here the right here the the right here the right here the right here the the right here the right here the right here the the right here the right here the right here the the right here the right here the right here the the rig

<u>Mr</u> for er N(w, th) and a perfere, use the and me income remarks the provision of this construction, we have put the a elam a e-m energy of the remer in tailing what which have not the remering the provision with this language unned out to be in our other other income would that in its be re-

Mr. Grief 17 to ourt on thoms that our there though

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е е ani ажруде́, veto, arudover h ti-aniure ertai tizens fri the resitratir . Уугеа ern, i tipi bie that ve trare turn vents ould bring to bear ti i fru-

Mr. Gravel Let e an wer your init ne : ... t think that unless we otherwise resorted it this constitution, and I don to think we are go in to, certainly don't think we re Id, that any wellfica-tion tests ould be authorized under this is guage Does that answer that question

Mr. Gravel Lould not be authorized, Mr. Baynes

Mr. Haynes A second uest in ne of the parishes where...since Reconstruit in, it as been i possible for certain peole to reriter and vote They required that the blacks would have one wite to identify the . Then when they is near the a Wr. Clarke, they required that they wull have two whites. Now all of the exitance it hin prescribed and perpetrated in ertain peible with the in the provided by this do exitant in the provided by the or in the periode by this do exitant is the period.

Mr. Gravel I think those pis bill ties would excluded by this language and it interder ' it exclude those possibilities, Mr. aynes.

Mr. Hajnes Thank you, very uch

Mr. Willis Calille, 1 us the best us to real three as the term

<u>Mr. Gravel</u> Yelteriay idn't et wir er anent'r front of the wird reitratum, and there was of et wird reitratum, and by ipliation weight et al. way, with erna-nent reitration, thick had rather intant in addition to that, we related with waiter ant because there was of merice and whether or not we were nit min t treatter its ite a uch "Inativa" hed here tit.

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Mr. Poynter "Amendment No. 1 [by Mr. Gravel]. On page 1, between lines 12 and 13, delete Floor Amendment No. 1 proposed by Delegate Gravel and Burson and adopted by the convention on yesterday."

### Explanation

Mr. Gravel They delete the action that we took yesterday relating to the Election Code because that action is fully encompassed and made part of the section that we just adopted. Therefore, that amendment is now unnecessary.

Amendment adopted without objection.]

## Reading of the Section

Mr. Poynter Original Section 2, lines 17 through 20 of the proposal.

"Section 2. Registration of Voters Section 2. The legislature shall provide for registration of voters embodying the principle of permanent registration.

### Personal Privilege

Mr. Gravel Mr. Chairman, I think it, some of the delegates, I think, may be a little bit concerned about it and confused. I think we would clear everything if we could make a technical amendment to make the amendment that was just adopted inclear, would ordinarily do it, but maybe we, by unanimous consent of this convention, could designate the section just adopted as Section 1 instead of Section 2.

l so move, Mr. Chairman.

Mr. Henry Well, wait, Mr. Gravel. Now you just can't move it like that.

<u>Mr. Gravel</u> All right. I'll get an amendment, then, on it.

Mr. Henry What we are going to have to do is call from the table...

Mr. Gravel No. No, I'm not going to do that.

<u>Mr. Henry</u> Well, I'm sorry, but, you know, we've got to go by the rules here. So, we'll just clean it up some other way.

### ecess

[Quorum Call: 95 delegates present and a quorum.]

### Personal Privilege

Mr. Mire Thank you, Mr. Chairman, ladies and gentlemen of the convention. I would like for you to give me your attention for just a little while this morning. I think near the week we'll probably be getting into one these of this convention...propmetry tax. We've talked about rights. We've talked about the legislature. We've talked about the judicial system. Now we are going to get into everybody's potcet. I believe that everybody is going to be very much interested in what we are going to do.

Do. I'm asking you today, over the weekend, each one of you to go back home, take a little while, go back and talk to your assessor, look at a specific piece of property, not some sophisticated figure, or some sophisticated survey that somebody has made, put together, they may give you some percent, some may give you some statistics, so-called, lask you to look at your own home, your own lot, your own business, your father's business. Go to your tax assessor, find out what it's assessed. Find out what what what while, worth. You know what today it would

bring on a fair market on the market. Look at it. Figure out for yourself what percent you are as seen to be a seen and the second of the solution of the solution of the second of the solution of the second of the second of the solution of the second of the second of the second of the rhat next week when we start talking about this proposal, you will, yourself, feel that you can intelligently question it, intelligently appraise it and, I think, vote for the best interests of the people of the state.

Thank you very much for your attention.

### Personal Privilege

<u>Mr. Lowe</u> Mr. Chairman, fellow delegates, just two things I'd like to mention to you very briefly. Number 1, we said we'd pay off on the tenth and the twenty-fifth. I think we are going to be able to make payday Tuesday. I imagine we're coming back Tuesday. If not, it will be Wednesday. But if we're back Tuesday, we'll be able to pay Tuesday. Secondly, I think we have gotten into the convention to the extent that many of you would like to know something about finances. Although we have

Secondly, I think we have gottem into the convention to the extent that many of you would like to know something about finances. Although we have been mailing to you mouthly a summary of all the financial transactions of monthly and for the year to date in the "CC/3 Reporter. I monts your dat this uss with the Chairman the earlier part of this week, the necessity, probably, for putting in the official Journal a tran...record of all of the financial transactions from the year to date, and the current month in the official Journal once a month so that we would have permanent record. So, starting next week, we will publish in the official Journal the transactions from January 5, 1973, through September 30, 1973, that period for the year to date, along with a monthly statement compared to the budget so that you can see how much we are over and under budget for the year to date. Jourd with a month budget for the date. and how much we are over and under budget for the ear over und with und wate permate to date. and how much we are over and under budget for the ear over und under budget for the date. and how much we are over and under budget for the ear over und wet hat you can see how much we are over and under budget for the ear over und wet hat you do nat to date. and how much we are over and under budget for the ear over under the state to date. and how much we are over and under budget for the ear over under the state to date. and how much we are over and under budget for the ear over under the state to the date. and how much we are over and under budget for the ear over under the state to date. Statting next week, we will publish in the details behind those figures that you can take home and answer your constituents or anything else. So statting next week, we will publish in the official Journal all of the financial transactions. Thank you, Mr. Chairman and delegates.

<u>Mr. Henry</u> We have, now, two sets of amendments to go with on this Section 2, Mr. Clerk? Why don't you kind of recapitulate for the delegates where we are and what we've done up to this point. If you will, ladies and gentlemen, please give Mr. Poynter your attention so he can sort of bring everybody up to what we've done so far.

Mr. Poynter On yesterday, at the very outset, prior to the consideration of the original Section 1, Mr. Gravel proposed and adopted an amendment providing with respect to an election code which became, in effect, a new Section 1. Subsequent to that, Mr. Juneau offered an amendment which was adopted by the convention of the elector that was adopted by the convention of the elector that of the gravel then offered an amendment which followed that Section 1 which he had added and was, in part, the same, dealing with an election code which he entitled Section 2, which of course, was adopted. Thereafter, Mr. Gravel moved to reconsider, call from the table and reconsider, and the convention voted to delete the Section which is presently adopted to this projection which is presently adopted to this proceed in There is no Section 1 of any variety at the present time, which is the Gravel amendment which I'm sure you still have on your desk.

You now presently have under your consideration, the old Section 2, being Registration of Voters, constituting lines 17 to 2D of the amendment...of

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Mr. Abraha No. a a fere n rie fee to do away with a time wet the enway with when o to the our he lier the re. It need the rise a time the enwe party loe not first a time there is arty ad elf la in a fee that the shuld telle a time rise to the shuld telle a time rise to the or that have to reserve it a set that

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Mr Abrata i would be to be not to but, if you register as an impendent at the to be today, the only electric actain in your to is oning to be the menue raise not vote in party in arie;

Mrs Warnen This a kin for fitt t think that you would real want 'e with a er'i and you don't want to be to wi

Mr. Tapper Mr. Anales, in the transformer of transformer of the transformer of tran

We hareful not the solution of the formula of the

with the party, though, and nut with the courthquee, not with the state.

Mr. Munson How are you going to go about registering with the party?

Mr. Abraham That should be the party's problem. They should set up the machinery for that.

<u>Mr. Hernandez</u> There's one question I want to ask about this. Under the terms of your amendment, a card-carrying communist can just walk in and register and not have to indicate that he is a communist?

### Mr. Abraham Do what, now?

Mr. Hernandez A card-carrying communist, a member of the communist party, can go in and register and vote in the primaries and in no way indicate he is a communist.

Mr\_Abraham His party affiliation is no problem to me, and should not be any problem to the state, as such. Now, we are talking about the right of go and register to vote. I should be able to down to register to yaparty; I'm registering to vote. If this man wants to belong to the communist party, or the American party, or the democratic party, that's his business. Let him go register vary this calculate party. We are inserting very the to state, and this is what I am talking about.

<u>Mr. Hernandez</u> Well, this does give them the right, then, to...to a card-carrying communist to go vote in the elections without indicating that he is a member of that party.

Mr. Abraham Well, Mr. Hernandez, I'm not going to get into a discussion as to what card the man carries. All I am saying is that he carries whatever card he wants, and when he registers to vote then he should not have to declare his affiliation

Mr. Arnette Well, I'd like to clear up maybe a Tittle misconception here. Couldn't a card-carrying communist go down and register as a democrat?

### Mr. Abraham Certainly he could.

Mr. Henry Or a republican.

### Further Discussion

Mr. Fulco Mr. Chairman and fellow delegates, I only wanted to say that if we pass this amendment, it will take away from an amendment that will later come to you on Section 7, the necessity of specifying party designation opposite the name of a caning party designation opposite the name of a cantook of the second second second second second vote this down, because it, I hope that you wilt to know what party you belong to. In fact, it's a courtesy. It's a courtesy to the people of your own party, if they're not aware of the fact that you are a democrat, or republican, or whatnot. It's the most absurd and ridiculous thing you've ever heard of, not to have a party designation on the take up any more of your tration. So, I won't take up any more of your the second second second second there any more speakers?

### Ouestions

i'r, ith Mr. Fulco, don't you and 1 and about twenty others have a lot better amendment than this will do? his one won't do anything, will it?

Mr. Fulcc That's right. We have about...Mr. Smith and [have about twenty-five coauthors on an amendment callin for an open primary. It will require opposite the candidate's name, the party designation. New, if this amendment is passed, it will nullify the party designation on the ballot which, I think, is something that the peocle hould have and have a right to know what party the candidate is a member of.

Mr. Rayburn Mr. Fulco, if this amendment is...if it happens to be adopted, which I hope it won't, would I, in the future, be able to qualify in all party elections? I could run as a republican, a democrat, and an independent?

Mr. Fulco Well, it would appear to me that you would, yes.

Mr. Stinson Mr. Fulco, when you said that this thing, if adopted, wouldn't do anything, don't you think you were in error? Oon't you think it would do a heck of a lot?

Mr. Fulco Well, what I say is this: sure, it can do an awful lot.

Mr. Stinson Well, you said it wouldn't do anything.

<u>Mr. Fulco</u> No, I meant it wouldn't do anything insofar as...

Mr. Stinson You meant it wouldn't do anything good, that's what you meant, wasn't it?

Mr. Fulco Well, nothing good, no.

<u>Mr. Willis</u> Mr. Fulco, how would the registrar of voters prepare a poll list for a democratic primary unless they are delineated as to who is what?

<u>Mr. Fulco</u> I think your point is well taken. I don't see how they could show any number of...what number of republicans, what number of democrats, what number of any...

<u>Mr. Willis</u> It's not a question... I don't mean a question of numbers, I mean a question of kind. Not quantity, but quality.

[Mot: n for the Previous \_uestion rejected: 24-68.]

# Further Discussion

Mr. Gravel Mr. Chairman and ladies and gentlemen of the convention, first of all, 1'd like to state that philosophically 1'm opposed to this amendment, whether it be in the constitution, or the statute, or anywhere else. But, 1 don't intend to make any long statement to you about it. 1 do suggest, however, that this is precisely the kind of thing that the legislature can and should consider in the adoption of an election code. I don't...1 want to emphasize that 1 don't mean by that, that I support the concept because I think it should'nt go in the constitution. I don't think it should even go in the code. But, nevertheless, the legislature, when it considers the code, can and should consider this kind of a proposal. Frankly, I think, as a consequence of what we have a lready done, that not only do we not need this amendment, but there's doggone there's the code we already done, that not only

### Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, there have been many self-serving declarations made from this podium, and at this moment. I don't intend to depart from that normal practice. When this convention undertook the debate on this subject yesterday, had previously been. I think, entered as a delegate proposal. He also had a delegate proposal on open primaries. Mr. Gravel said that philosophically he's opposed to this. Other speaker's preceding me and questioners have stated that this would impede the voting process in some way or other. But, the principal point Mr. Gravel made was that this in in an election code. To a degree with

ring "his is a basic principle. The chain of the open primary is legislative and statutory nature, and the echanics of an open primary needs to be debated in the halls of the legislature in the confection of an election code. I'd ive to the confection of an election code. I'd like to point out to the delegate that you do not register as a decorat, or a republican, or as an indepen-dent in Teass, or Aransas, or M Sisippi, or Ala-ba a, or Georgia, or in Tennessee. You do, however, register by political party in Louisiana and in Florida. I think that this state is going to change its election method, but Cannot forese and fore-tell to you what those changes are going to be. I annot, in Mr. Will iss words, with fast dous annot, in Mr. Will iss words, with fast dous annot, in Mr. Will iss words, with fast dous annot, in Mr. Will iss dords and the fast dozen different kinds of open pri ary. In leass, for instance, where you are simply a registered voter, on election day you'd go to the precinct building. In one room the denocratic primary takes orage. tration rolls of the State of Jexas. The point J would live to leave with you, and quite firm yis, I believe that the state has an obligation to reg-state has the duty of performing rise duty if list-ing the embers of political parties, whichever they may be and however you choose to be affiliated. That is the duty of the political party. From this podum, it was said a few minutes ago that we don't have a two-party syste in this state. Well, don't agree with that, and as you damn well know, i don't. But, I don't believe that if that was true, that you can say of the deocratic party in poppring it will be the don't believe that if that was true, that you can say of the deocratic party in poppring it will be the don't believe that if that was true, that you can say of the deocratic party by by outpring it will be the don't believe that if that was true, that are highly or anized, that have computer printiates that are highly or anized, that have computer printiates that hother democratic party by by outpring it will be the fashion, and perhaps we should. The deocratic party in Louisiana, from y long-time observation of it, is a collec-tion of the that be that fashion, and perky in-ther doncrat in this state. I don't say that has true of the republican because they are rhy a hearty band of so effity thu and very in-the doncrat in this tate. I don't say the have of the party in louisiana, the future in rease. But, will we have better the don't we have have the internet if i the party sheart if you remove the ne eistly of rege tractic by pelficial party i land its of the doncratic in the set on the don't say the sheart by pelficial party i land the part we will be party and party i land the part we will be party and party in the parts the duty of heplicial party in the parts the duty of heplicial party in the parts and the set to use.

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Ar Abraham 1 stopy want to total operations in the original provided by the arriters in Section , they said , how shall be the state of the rest to vote. Well, I say that n as mail time with the free exercise of the right the tree term is the state of the right of the state of

Mr. Alexander Mr. Abraha, the state to the in my find, the exhanis of what would have to your a ende ent were adouted, when the registrar of voters prepares his list for the how would he do that if the part off at a re-unitional? That is, everyby your elected with party affiliation, or wid dhe how which a vie in the de or natio privary and in the re-offical privary, or which decent.

Mr. Abraha My whole point is this Wr. A served that that register of voir  $\ell$  is an interval  $\ell$  with the set  $\ell$  is a set of the set  $\ell$  is a set of the set of the

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Mr. Anzalone Do you realize that we still have the primary system in the laws of this state?

Mr. Abraham Yes.

<u>Mr. Anzalone</u> Well, how in...how on earth is this going to work if you're talking about primaries and you have no party affiliation?

Mr. Abraham Very simple, Mr. Anzalone.

Mr. Anzalone I hope it is.

Mr. Abraham I don't see any reason why the parties can't set up their own registration system the same as the state has set it up. All I'm trying to say here is that that state does not need to get involved into registering people by parties.

<u>Mr. Juneau</u> Mack, let me see if I can understand. In other words, you are not pretermitting that the state will run the elections through the voting machines and so forth, are you?

Mr. Abraham Do what, now?

Mr. Juneau You are not saying that the parties will establish and run the elections through the voting machine system, are you?

Mr. Abraham No, sir.

Mr. Juneau Well, then, how are we going to end up with the state running the voiting machines, the mechanics of the election, and then, they in turn have to take a list which is given to them purportedly by a party as to who is or who is not a republican or democrat. How would you do that?

Mr. Abraham It's done elsewhere, Mr. Juneau, and  $\bar{l'm}\ sure\ it\ can\ be\ done\ here. I'm not...I don't know the actual mechanics of it.$ 

[Record vote ordered. Amendment rejected: 11-94. Motion to reconsider tabled.]

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. Newton]. On page 1, strike out lines 17 through 20, both inclusive, in their entirety.

### Explanation

Mr. Newton This deletes Section 2 because the Tanguage of this is contained in the Gravel amendment that we adopted this morning. The committee has no objections.

[Previous Question ordered. Amendment adopted without objection.]

# Reading of the Section

Mr. Poynter "Section 3. Secret Ballot Section 3. Voting shall be by secret ballot, and the legislature shall provide a method for absenter voting. Proxy voting shall be prohibited. All ballots cast shall be counted publicly and preserved inviolate until any election contests have been settled".

### Explanation

Mr. Roy Ladies and gentlemen of the convention, Tim going to be very short on this. We constitutionalized three things which we think should never be changed by the legislature, as much as 1 believe ballot. The legislature was mandated to provide for absentee voting. Now, we just couldn't go into all of the problems about absentee voting. If you look at your present constitution, there are a number of sections dealing with that. We just felt that we would mandate the legislature to go into it and that would suffice. But, it would have to be secret. They couldn't have absentee voting that would be not secret. Proxy voting, 1 don't think anybody in here wants. If you want it, well, then you will have to take this part out. But, 1 don't think the legislature should ever allow for proxy voting. The third thing is that the ballots must be counted publicly and preserved inviolate until any election contests have been settled.

### Questions

Mr. Lanier Mr. Roy, how would you go about preserving a voting machine inviolate?

Mr. Roy You don't preserve the voting machine inviolate, you preserve the ballot. The ballot is a method of making one's choice in a political contest as to what he wants or doesn't want. So, you preserve the tabulation of the voting machine.

<u>Mr. Lanier</u> Now, if there were an election contest, would this not mean that all of the voting...say it was a statewide election, wouldn't this mean you...

Mr. Rey No, no, it would not mean that and it doesn't mean that under present law. It means that the tabulation would be preserved unless, Mr. Lanier, a person contended in his suit that the machines had been tampered with or fixed. Then, under the law as it now is, you would have the right to secure the machine itself for examination and checking.

Mr. Lanier Your interpretation of the word "bal-Tot" does not mean the listing on the voting machine of the votes?

Mr. Roy It means the tabulation of the voting machine.

Mr. Goldman My questions were almost similar to the ones just asked you. What I was going to ask, if there is a contention that the machine has been tampered with and it's in a first primary, and those machines have to be held inviolate until such time as judicial decisions can be made, what happens to the second primary with those machines?

Mr. Roy Well, you just have...under present law, you just have to get some other machines, Mr. Goldman, or provide for other methods of voting. That's presently the law, as I understand that. Tow, Mr. Landry, Ambroise Landry, I think, has an amendment that says, "as provided by law" that he may come up with after that. The law is just like l've said it. Now, that's how it is right now. If you contend that the machine has been rigged, you have a right to have the machine examined.

Mr. De Blieux Mr. Roy, what would this section provide that the election code couldn't take care of?

Mr. Roy Well, Mr. De Blieux I don't see how you missed what I first said. It provides that the election code may never say that you can have anything but secret balloting. That's number one. It provides that the election code may never say that you can have proxy voting; that's number two. It provides that the election code may never say that ballots may be counted in secrecy; that's number three.

Mr. De Blieux Well, couldn't the election code take care of all those things without the necessity of this in the constitution?

<u>Mr. Roy</u> Well, certainly, it could, but by the same token, it could say that we are going to have proxy voting, we're going to have open voting, and we're going to have ballots counted in secrecy. If that's what you want, then, vote against the section. It's very simple. Incidentally, every state law, every state constitution either provides and mandates the legislature to provide for secrecy of

the ballot and for preserving it, etc., or a ma-

Mr Jenins Mr. Roy, with regard to preserving the voting machines inviolate until election con-tests have been settled. The objection was raised about what about the second primary, et ., these next pri ary elect on a yway, don't they, in order for ...you know whether that primary is going to

Mr. Re. That's orrect, Mr. Jenkins. If they don't try to do it, a federal court will enjoin the election in any event.

Mr. Anzalone Mr. Roy, if the legislature, in its infinite wisdom, should decide that the only all entee voting that was going to occur would be those by people who are employed out of the state,

Mr. Roy I am not certain. Under state...under federal law it probably would be close; under state law it would be constitutional. Under our provision it would be constitutional because we leave it up to the legislature.

Mr. Poynter The first amendment that the huddle agreed to go with is Mr. Arbro'se Landry's alend-

Arendment No. 1. On page 1, line 25, irred ately after the word inviolate" and before the word "un-the insert the words "as prov ded by law".

Lanier Mr. hair an and fellow deletates, Mr Laner mr. norran and terrow determined legate A broise Lanery i not with us today. We had a death in his failing, and he asked me to pre-ent this amendment on his behalf. He has prepared

### A ernent

Mr yese: A enth w: are , inc , d a eya er to trike out the war with and ert r thereof in all ce tan by te pelle, stim and between jines 6 am c, nert the fall winn

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Mr. wal, did Mr. Anzailine nut you

Mr. Duval Even though it has one rail as ran-ifications, he did not

Mr. Lypper Mr. 1000a. For this this visa visit and a definite definition a set of y the set Would you live of that efinition

Mr uval he definition that two a penvote: A voice vite rathint in the initial ethod, that is, a real

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He support the set to a set a constraint should

against the constitution. There are cases in the present constitution where when it wasn't practiced, the courts have said it had to be practiced. It means and the vote will be open. That's precisely what it means, and I think certainly public bodies should vote openly. That's what this means.

<u>Mr. Arnette</u> Stan, would you consider making a technical amendment and changing the language to English, and say an open public vote or something of this nature?

<u>Mr. Duval</u> Well, the reason I'd be reluctant to doing that is because this is a term notwithstanding what Mr. Tapper said that's in the present constitution. It has been interpreted by case law and why don't we change habeas corpus to free the body. It's been interpreted, we all know what it means. The law...the courts know what it means who have to interpret it. We don't have to interpret it.

Mr. Roy Stan, I didn't hear every comment, but for the benefit of everybody here, viva voce doesn't mean by voice vote, necessarily; it means a show of hands--just an open vote.

Mr. Duval Yes, sir. That's what it has been interpreted to mean. Right.

Mr. Roy There's no question about that is there?

Mr. Duval No question about it at all. Anywhere.

Mr. Velazquez Basically this prevents city council from meeting in a dark room somewhere and passing laws, is that correct?

Mr. Duval Thank you. Thank you. Yes, sir.

Mr. Velazquez Thank you.

Mr. Stagg Mr. Duval, wasn't one of the things that the delegates actnowledged was their intended purpose is that to write a new constitution which out having to go to see his lawyer? Don't you agree, that such words as voir dire, habeas corpus, ex post facto, ex officio, viva voce, are words that can better be said in English for the understanding by the ordinary citizen? Do you further nets, sir, that if you would change that viva voce topport, pur amendment?

Mr. Duval Mr. Stagg, I certainly don't mind doing that. It's just that this has been...if we do that to ex post facto; I think it's been interpreted over the years and the courts, who have to interpret this document know full well what it means. When we start changing the words then the courts may well change their interpretation. This is the basic reason for that. But,...open public vote...it says exactly...perhaps...

<u>Mr. Stagg</u> Then when you use the voting machine an open public vote will get away from viva voce meaning to vote by voice.

Mr. Roemer Stanwood, do you know what veritas means?

Mr. Duval Yes, sir.

Mr. Champagne Just one short comment, you do know that I had rather have it in French, sir.

Mr. Duval Well, I assume that's a question.

Mr. Singletary Stan, where is the...what's the citation for the language you are using in the constitution?

Mr. Duval Article VIII, Section 7, of the constitution which says---l'm reading from it "and all elections by persons in a representative capacity the vote shall be by viva voce." This is in our present constitution. It's been interpreted by the courts. It's clear what it means. There's no... that the vote be open...

### Further Discussion

Mr. Anzalone Mr. Duval, it is with a great deal of humility and with heartfelt thanks that I, as a pedigreed Italian, and representative of those similarly situated, rise to thank you for your attempt to put into this constitution words from that which is the true language of romance.

## Further Discussion

Mr. Ray Ladies and gentlemen of the convention, as I can understand it, the committee has no real feeling about this, but I have a certain feeling I want to share with you. Then, I'm going to ask Mr. Duval maybe to withdraw his amendment and come back with it. Since it could be argued that we would be mandating secrecy in all voting, even with respect to elections of presidents, of police juries, and all that---and that's not what we intended---then I certainly would be for his first comment in that in all elections by the people made pretty clear and we ought not to ever get awy from that. So, if his amendment could be divided, I would have asked that it be divided, but Mr. Poynter tells me it can't. Then, with respect to viva voce voting in the different boards and police juries, and whatever have you, that have, I have no real strong feeling one way or the other. But, if we delete it, if we could divide it and deleted No. 2 then it would be up to the legislature in its code to decide whether it was going to allow school been the makes is real good because it makes it very clear that in all public voting by the people, it has to be scret, whereas, in other areas we may provide for a viva voce voting in the rareas we may provide for a viva voce voting in the ther school be divided on those two issues because I than't could be divided on those two issues because I than't could be divided on those two issues because I than't think it's real important. I think some people her the devided on those two issues because I than't altomether. S, they may be for or against it al-

### Question

Mrs. Harren Mr. Roy, I really don't want to have to come up to that mike and talk this morning. I'm concerned about you saying...school boards not having open meetings. Now, I like school boards i like children, and like all that thing; but 1 am not for any school board member being able to go and have any secret meetings. That's a lot of our problems in Orleans Parish and I don't even single it out, but I just think that this is good and it should be in there. I was just about to save time and not get up there and speak in favor of this amendment.

Mr. Boy Well, Mrs. Narren, I understand your position and I'll probably will vote that way, but the second second second second second second second tann--you should be able to have secret balloting or voting in those particular types of areas and all we're doing is, you're going to make them who would want to vote have the public secret ballot always secret. You may make them vote againt Mr. Duval's really clarifying it because they're onposed to what you are for which is, oper voting in school boards and what have you. That's all I'm saving.

Mrs. Warren Well, I'll talk at that time.

### Further Discussion

Mr. Burson Mr. Chairman, fellow delegates, I rise

c suprirt of he amendent hat wuld reau re a in the recet tiltin all permins site i a representative as it is to tenen and pu-til durit this that the a vice port to ster that we have onsidered in the noise of the ster that we have onsidered in the noise of ster that we have onsidered in the noise of the ster and all y u want to but ten tilling and the steries of local werment, but if allowed decisions, with to be taken in eret, so have decisions, with to be taken in eret, so have decisions and the steries of operations in the steries of the use first constructional provide the there was a very hot ontroversy going on and the buard went in the executive session on one day, took a vote in in support of the amendment that would read relate

Mr. willi. I ply tated, Mr. Burson, thi 1 tantamount or parallel to the polling of a jury when they rade a decision.

Mr. Burson

Mr. Willin counted

Purchase Discovering Art apper Mr A ting Chainman, friluw delemates, in all units to belador the point, 1 think it has the send ent 1 appe that we en been those to the send ent 1 appe that we en been those to the send ent 1 appe that we en been those to the send ent 1 appe that we en been those to the send ent 1 appe that we end to be to purchase our purch to day, but there as have the tail an udge that ade that de to not unething in the has of the uniprudence to confuse other people init udge, that wanted to put unething in the send the uniprudence to confuse other people init in the thir that we're in it to be able and have not year 1... please let and there relations to the sent institution be able or the uniprudence of the sent people and year on the sent in the 1 even before a ladge and year have this in here 1 going any deletion is append to be that it has to be by value vite 1, you have this.

Mr. Holiche M. Tipler, ark and the form for which is the rite tate and the form there which and what for the tate full decided for the wind of form that is used.

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Mr env Mr hird, a e er titte of Pints titte an terter in tree but yown nithattir erta trive in to ova a end ent becare a ritter n-

Further issuestor Mrs. warren Mr. Acting ha nar, an in e ate, . really hated tigety here the set is at talking beaue I felt this thin was an bery structed an of the board of the set that they are human and this are all that they are the set all the set that they are the set all the set resent us set this are the set of the set that they are all the set of the set to all can be all the set of the set from the should bland, and I this is an in the human would size from a set to set on the set of the set of the set to set on the set of the set of the set of the set all the set of the set of the set of the to set on the set of the set of the set of the to set on the set of the set of the set of the and line the set of the set of the set of the He so the main hand new and the had a set of the set of the set of the set of the He so the human hand new and the had a set of the He so the human hand new and the had a set of the human set of the set of the set of the set of the He so the human hand new and the had a set of the human set of the set of the set of the set of the He so the human hand new and the had a set of the human set of the human set of the set of the set of the set of the human set of the set of the set of the set of the human set of the set of the set of the set of the human set of the set of the set of the set of the human set of the set of the set of the set of the human set of the set of the set of the human set of the set of the set of the human set of the set of the set of the human set of the set of the set of the human set of the human set of the human set of the human

### Amondment

Mr. Poynter Amendment No. 1 [by Mr. Avant]. On page 1, line 23, immediately after the word "vot-ing" and before the period "." insert the follow-ing: "only by members of the armed forces of the United States and their spouses and children liv-ing with them".

### Explanation

Explanation <u>Mr. Avant</u> Mr. Chairman, ladies and gentlemen of the convention, l'm not going to take a lot of time on this amendment. I think it's very obviss means that absence voing will be limited to mem-bers of the armed forces of the United States and their spouses and children living with them. Now, I know that this makes a radical change in the law. I'm well aware of what it does and, of course, l've had people talk to me about this amendment and say do you real list that this with dof show. The vertice of the states and the second show the second do you real list that this with dof show 2. How and a state of you be before the election happens to get into an automobile accident, and had his leg broke and was laying up in the hospital in tration, he wouldn't get to vote either. There is no law that the mid of man can devise or piss that is not impossible to draft any kind of law that's just going to be perfection. So, let me give you the other side of the coin and i'l give it to you very vering is done by people, who election day choose to maybe go squirrel hunting or be off on vacation or should have abs. I her wing, Let me ask you this simple question and then l'm going to close we should have absentee voting. Let me ask you this simple question and then I'm going to close this simple question and then I'm going to close and sit down. Just sit back and think, over the past ten to fiftuen years how many elections that you know of, that the machine vote was very close, very close, maybe fifty-one percent to forty-seven per-cent and then they open the absentee ballots and low and behold, the absentee ballots as opposed to thight to nee on favor of or and add ate. Think about that we can't write are kind of a nerfert about that. We can't write any kind of a perfect law, but we can do the best we can, and you do and you have to consider both sides and see which paryou nave to consider both sides and see which par-ticular side of the coin you think is going to be in the public interest. I believe, that if we limit absentee voting to members of our armed forces and their immediate families who happen to be liv-ing with them, we will be doing a great thing for providing and insuring that we have honest elec-tions in the future.

### Ouestions

Mr. Lanier Mr. Avant, are you aware that in Lafourche Parish we have a lot of shrimpers and fish-ermen who go out for long periods of time in the

Mr. Avant Oh, I know that Mr. Lanier.

 $\underline{Mr. \ Lanier}$  Would...in effect wouldn't your amendment disenfranchise these people who are out there working for a living?

Mr. Avant No. It doesn't disenfranchise them. They can vote at the polls.

Mr. Lanier election day. If they come in and hang around for

Mr. Avant That's right. Wr. Lanier, as I said you cannot write a law that is not going to have some rough edges and it's not going to be perfect. You can't devise a perfect law. I can't, you can't, nobody can. But, you just think about those close elections and those very unclose absentee ballots and then you make up your mind which way you want to go. I've already mode up in my mind the way I

want to go.

Mr. Lanier Another problem; are you aware of in my parish, is that we have a large offshore indus-

Mr. Avant I'm aware of all that, Mr. Lanier, you're not telling me anything new; we discussed this yesterday.

Ms. Zervigon Mr. Avant, isn't this a change from the work that we did earlier in the convention where by and large we've kept things more or less as they are and provided for orderly change by the legislature or other responsible bodies?

Mr. Avant Ms. Zervigon, 1 don't know that we have done that, but I will admit that this is a substan-tial change in the law, for what I consider to be a very good purpose.

Mr. Cowen Mr. Avant, do you think that this amendment will tend to make elections more honest?

Mr. Avant Yes, sir. I certainly do.

<u>Mrs. Warren</u> Mr. Avant, l'm...when your amendment came before and you started talking i thought abou one thing. The Constitutional Convention is in session now, it's going to be elections all over the state. We're going to have one in the city thought about of New Orleans on November 10th. Now, we might get or new urleans on November jutn. Now, we might get bogged down here on that day which is on a saturday. We might get bogged down and 1 won't be able to go home and voit and I won't be able to vote absentee so I think, I think that you're trying to cure one thing and...one ill and you're going to make an-other one. What would you think...

Mr. Avant I'll put it this way Mrs. Warren. I'll be very blunt. I think that more wrongs are com-mitted and have been committed by the absentee voting system as we now have it than would be committed or done if we adopted this amendment, and perhaps some people did not get a right to vote or did not ge you und when really they sig about? I just think that in the public interest and go that way. Knowing full well that whatever we do it's going to have some rough edges somewhere. some rough edges somewhere.

Mrs. Warren I'm just sorry to disagree with you.

Mr. Tapper Jack, did you know that I agree with your theory; however, I'm afraid that a lot of it's been said because so many people are not going to be able to vote, like college students, like fisher-men that was mentioned before, or oil field workers that work seven on and seven off, or ten on and five off. I just...l'm very leery about this. Don't you think we're going to disenfranchise a lot of

I don't think we're going to disenfran-Avant nr. avant i oun cullink we're going to disenfrân-chise that many, Mr. Japper, because l know in my own mind that the vast majority of the absentee bal-lots that are cast are not cast by people in that category. They're cast by people who just choose to be somewhere else doing something else on election day rather than going and exercise their right to

# Further Discussion

Mr. Roy Ladies and gentlement of the convention, the committee opposes this amendment as a whole and i'll just say a couple of things, but list a bunch of people. Mr. Avant keeps talking about you're going to have rough edges whenever you deal with some thing that you're trying to correct. That's menthing that you're trying to correct. true, but why have the rough edges in the constitu-tion? Why not let the legislature deal with this and if there are rough edges then the legislature very with time from year to year can smooth them out. Once we've put somehting like this in this constitution we'de just disenfranchise a bunch of people there's hardly any way to get it out. Now, let me tell you how

Any proper and on first in d. Fillie an are not in eq. , people when double or in any proper and the second of the second proper and the second of the people will be at 1 the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the the second of the second of the second of the second of the the second of the second of the second of the second of the the second of the second of the second of the second of the the second of the second of the second of the second of the the second of the second of the second of the second of the the second of the second of the second of the second of the the second of the the second of the the second of the the second of the second of the second of the second of the the second of any pope , ed infrat \* d Fill, wh

Mr. Goldman Mr. Roy, will you on ede that the right to vite is just as pre ious as the right to a fair trial

Ar Goldwan Arl right, Will yms uncede that the right to a fair trial if we use this same philisa-phy ost anyb g., we wild have to this that ary-one that is indiced by a riand ury the avity of the are. There is much evilence to have a trial why din't we us tay that once the exidence to lown for a trial why arent this auto-matically guily we relate the discoperative will be that those that ... there is no the area this matter that the there is the set of the set of the that the set of the set of the set of the will be an area that we have the set of the that those that is the set of the that those that is near high the have to pro-that the set of the set of the set of the set of the that the set of the set of the set of the set of the that the set of the set of the set of the set of the set that the set of the set of the set of the set of the set that the set of the that the set of the s

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[Amendment rejected: 23-78. Motion to

### Amendment

Mr. Poynter Mr. Sandoz, did you still want your

amendments, sir: Amendment No. 1. Dn page 1, delete lines 21 through 26, both inclusive, in their entirety. We're going to have to add some language. On page 1, delete lines 21 through 26 both inclusive, in their entirety, including all floor amendments

thereto. ..., and ..., and ..., and the second and the lan-..., and ..., and between lines 26 and 27. All right. Hever mind, he's going to knock it out so, it's going to read as follows: on page 1, delete lines 21 through 26 both inclusive, in their entirety and between lines 26 and 27 delete the language added by the Duval amendment. So, it would have the affect of deleting the entire section including ..., and the section including and the section including ..., and the section including and the section including ..., and the section including and the section including ..., and the section including and the section including and the section including ..., and the section including and the sectio deleting the language added by the Duval amendment. I'll make that correction on the official copies, Mr. Sandoz.

<u>Ar. Sandoz</u> Mr. Acting Chairman and fellow dele-gates, at the outset, I would like to say that as far as the Duval amendment, I have no objection to that, however, I think it's out of place at this point. My amendment is very simple; it deletes this section. I have no aversion to any of the preserved to that the returns of ballots shall be preserved. However, I want to call to your atten-tion the fact that we have now approved the Landry amendment still leaves the matter up to the legis-lature. My philosophy in offering this amendment is simply this, that with the adprise of the horized the legislature to enact an election code, we have provided in that the legislature shall pro-vide for the permanent registration of voters. We vide for the permanent registration of voters. We have specified that they shall make provisions for the conduct of all elections, and we are also provided that the right to vote in these elections is guaranteed to all citizens of the state. My point is that this section, as well as a number of the other sections in this proposal, are unnecessary. I am of the optimis that the legislature...that we adopting the election code that's provided for by mr. Gravel's amendment, that they will include in that the legislature...that we adopting the election code that's provided for by mr. Gravel's amendment, that they will include in that the same provisions, or essentially the same that the same provisions, or essentially the same provisions that are incorporated in this section. New, I know that Mr. Roy and the members of the committee will oppose this amendment which delets: ferent philosophy that we have. I believe that the best way to leave this is in the hands of the legislature. I think that in the event that some change needs to be made, that the legislature would be better able to change it rather than to freeze it in at this particular point, and without labor-ing the point, that's my philosophy on this. We just don't need it in view of the Gravel amendment.

### Further Discussion

Mr. Roy Ladies and gentlemen of the convention, the committee, of course, is against this amendment, and of course, it brings everything right to the front now. You're either going to constitutionalize the basic prohibitions that we have tried to set forth or you're not. You're going to leave it up to the legislature... I need not remind you that, you know, sometimes the legislature goes off on a fixe election law come tho being, downend off people were purged in the name of not meeting the requirements. Now, the other thing is that. I requirements. Now, the other thing is that, I think Mr. Sandoz misinformed you when he said that the...with the Landry amendment...leaves everything up to the legislature anyway. That's not correct.

The Landry amendment followed the preservation of the ballots with respect to contests for elections, and doesn't have anything to do with voting by secret ballot, and what have you, which you've al-ready voted for. Remember that the Landry amend-ment came in section...in the second sentence of Section No. 3, and we felt that that was correct and it should be that way because people of the legislature should provide some method even though who section...we still went along with it because we felt that it specifically clarified that, so don't be misled into thinking that we've given everything over to the legislature. We have not allowed the legislature to deny scret voting nor The Landry amendment followed the preservation of allowed the legislature to deny secret voting nor to allow proxy voting, as was suggested. I'll yield to any questions.

<u>Mr. Warren</u> Mr. Acting Chairman and delegates, I'm back again: The very thing that I was so interested in and was so glad that we were going to get in this constitution was to see that our school board meet-ings would be open, and we would know how our representatives voted. I'm going over this thing again. It could have been left to each delegate in this It could have been left to each delegate in this convention to send a copy to the school board if they had wanted to, but the information was here for them to get and they had a right and an oppor-tunity to tell us what they would like for us to do. If this is taken away from us now, we won't even have a chance to ask them, or try to insist that they give us this right of representing us fairly, so I'm going to ask you to vote against this amendment, and let us keep Mr. Duval's amend-ment in here. Thank you very much.

Mr\_\_denking Mr. Chairman, this proposal has been submitted to public hearings on repeated occasions. The office of the secretary of state has rebutted the director of the beard of registration of the state. The League of Nomen Voters and other organ-izations, have gone over this proposal; they think it provides the basic protection that we need in our electoral process. You know, we can draft a beautiful constitution. We can grant in the Bill our electoral process. You know, we can draft a beautiful constitution. We can grant in the Bill of Rights, the appropriate rights that people ought or have. We can set up a sound structure of gov-ermment, but if we don't have an election process we can say god-bye to all those ther things, be-cause we'll have men in office that will ignore them and that will flout them. We have taken the election law that was in our State Constitution and boiled it down to a bare minimum. This is about as bare and basic as you can get, but under foing way with the scret hallots cannot be publicly counted. All those are in the present law now; there's no change. We've allowed more discretion for the legislature in absence voing; we've allowed the legislature to provide in more discretion for the legislature to fix constitution, and have a constitution. The purpose of a consti-tution is to provide certain fundament patches, so l urge the rejection of this amendment.

## Chairman Henry in the Chair

Mr. Poynter Delegate Gravel has an amendment, and it's just now heing distributed.

A end ent N . . On page 1, line 75, i ediate after the wird ublicity and before the word and insert a peril . and delete the relationer of the inne, and delete inne 6 in its entirety Now, I've inserted the language for Clarity the dest copies...and delete the remainder of inne meaning line .5, including all Convention Flor Areendients thereto, which is for Clarity, and de-tete line 6 in its entirety

Mr. Grave. Mr. Chairman, and ladies and gentle-en of the convention, I'll be very brief on this As a coisequence of adopting Mr. Landry's proposed amendment that was handled by Mr. Lanier, saying that the bal oit, would be preserved inviolate, and I thin' as provided by law' or something to that effect, you've made this completely unnecessary in the constitution. So this then, can and should be considered by the election Code. That's, in ef-amendment that Mr. Langrey presented on behalf of Mr. andry. This language can ado should be of that amendment, and i urge the adoption of this amendment this provision, that particular language that that provision. that particular language that now has a ready been relegated to the statutory area. I move the adop-tion of the a endment, Mr. Chairman.

Mr. Jenkins Mr. Chairman, I certainly wish we had been as brief in some of the previous articles as some people would like to have us be here. We have a provision that says something when we say "the ballots shall be preserved inviolate as pro-vided by law until any election contests have been settled. That says something: That says the legislature cannot pais a law which requires or perrits the destruction of the ballots right after perfits the destruction of the ballots right after the election. If the legislature, when it makes such provisions, does that, the court will rule it unconstitutional. But, thi one clause as written now, and as amended by Mr. Landry, is the only protection we have against such a law. If you have no way of verifying election results other than the taily originally developed, you don't have any real way to check the validity of those result Assentee ballots should be preserved inviolate. Therwet mest, the arm as possible, hould be pre-served interval ballots that be preserved availed by a provided by law until any election contests have been resolved, prevent the legis-lature from doing something which will allow the destruction of those ballots. isture from doing something which will allow the output of those balloch. Certainly, they can allow here in the source of the source of the allow their destruction. Now, that's important, that's important to the an fity of our election projects, and entainly Mr. Gravel's amendment i not well tagen at this point, so I urge the re-

Mr. Poy Mr. Jeniin, do you realize that if Mi Gravel's amendment pairs, that we're back to the old studition where sychows arright without a con-contolist sust be dispused of in the days, then it won make any difference anyway if there is a valid ontest. They'll defree the ballists after five days, and even if the ele tion was studen tron-you and everyhody innes it. There wild be an thing you -could be head we hadn't constitutionalized that these ballots will be preserved until the etc. In ontest is here in the studies of that

Mr. Jenkins. 1 think you're right, Mr. Ruy

Mr. By loc.n t that is into the teeth of present federal surjeprodemon that will not all whistate to continue where there has been a substantial vi-lation of stillers right, and elections will be

Mr. DeBlies Mr. Lenkin , under the revision as presently written with Mr. and r, s a end end, wouldn't the legislature have the resht to et

 $M_T$  , Jenkins, Yes, ir, Senatir, the langet the rule, but they call to do anything that would be the destruction - the indicate destruction - if

Mr. <u>DeBliev</u> well, what ' thinkin, about i that preserving this is, inn't it ussible that the...if there is an ele tin contest in the fir priary, you light tie the u and ' the able t use the machines over a certain perio of the if the legilature is going to vouv de the rule, they can do it and set the rules with whu do ereasin-

Mr. <u>Mr. Jenkins</u> No, Senator, as you muw, right now, we have sum ary proceedings that revire eld tin questions to be realized in forty-eight hur imany cases. we're going to ontinue th have that, and by saying as provided by law, we give the legislature leeway to provide from sline that But, without this sector the lefillature uld come along and pass as law saying the ball its should be imediately destroyed without this, bit we're prohibit that with this lanuage.

Mr. DeBlies I think that if the lettilature is going to provide it, dn't you this the legisla-ture is going to provide the rule well, then, it is nece ary to have this particular risking in it?

Mr. Jenkin. No, because the left lature, for example, right be orpletely lent. In u.h. a.e., this provision would give u.m.e.protitin be-cause we know that they wuld have the reserved.

Nr Gravel Nr shali an ladie an gentle en f the right is let e uit r e a pille ta then figurand let's ee whether or nit thi langua e by itself, a fit dan les here in the i

stitution, could possibly help solve problems rather than, on the contrary, create them. Let's just suppose that in a first primary election there was a contest between the candidates for governor, and as a consequence of the contest, one of the candidates demanded a statewide recount. That means something, I suppose, to the committee-it means were this isognape they would almost recuirethere this isognape they would almost recuirethey and the suppose is to the committee-it means would require-that all those voting machines would remain in tact and inviolate-whatever that particular word means in relation to voting machinesuntil any election contests have been settled, until the processes of the state and federal courts, even, had been concluded. Now, what's going to happen to yourg to ha primary? Louises and relates and if there's no second primary? Louises and relates and if there's no second primary? Louises and relates and consequence of the landry amendment, is meaningless because it simply says that "as provided by law, ballots shall be preserved inviolate until any election contest has been settled. So that leaves it up to the legislature to implement this in saying in this regard is that we do not need this language. It is cluttering up this section, and clutters up the article. There's nothing here about when an election contest has to be had, how long it's going to take to conclude it. As a matlar constitution situation to the other of this satued. "I don't think this means much. Now, i don't think there's any doubt but that if we adopt, and we're certainly going to do it if this constitution authorizes it, and the constitution passes, an election code, but that twe're going to advoking machines in order to properly determine that you support this amendment, and that we delete this provision because it's totally unnecessary, and in addition to that's and law twe delete this provision because it's totally unnecessary that prehaps it is intended to solve, and yus ti.

### Question

Mr. Jenking Mr. Gravel, isn't it true, that right now, that if a person appeals an election outcome, which he can do only within a very limited period of two or three days after the election, that in fact, a recount will be ordered right now under looked at again, and so forth, and that this provision simply maintains that present situation? Isn't it also true that...

Mr. Gravel Just a second, I want to answer you one at a time. That particular provision has efficacy in meaning in very, very few cases for the simple reason that a great majority of the cases are not settled or determined in any way whatsoever, but are dismissed by the courts as being moot because the time has expired, or the time within which the secretary of state has to print the Those are the kind of problems, Mr. Jenkins, that have got to be considered in their totality in the election code. You very seldom settle or conclude--now hear me well, settle or conclude-an election contest under present law. That's one of the big problems that we have now. The courts just are not finally determining. All I'm saying is that in election code, this entine process of touched on lightly, and I think, very inadequately

## Reading of the Section

Mr. Poynter "Section 4. Residence of Elector" Section 4. No elector shall lose a bona fide residence by temporary absence due to any employment, including military service, or while studying or visiting away from his voting district."

### Explanation

Roy Ladies and gentlemen of the convention. Mr. Koy Ladies and generation the use of the word, before you get all upset about the use of the word "residence" let me tell you why we had to use it. We had a lot of input from Mr. Bellar who is with the secretary of state's office...like I said, Mr. Ambroise Landry sai in a lot of our meetings... there were other people, there was the League of Women Voters as well as Mr. Russell Gaspard who is with the Baard of Registration, and was once a registrar. The present federal law and federal juris-prudence is that any person who arrives in a parproducte is that any person who an inter-one upware say you may not agree wins at inter-one upware say you may not agree wins at a can't control that inter the matter-but, anyone of us here who's in Baton Rouge may go down to the registran's of-fice and register to you te in Baton Rouge because all that is required now, under federal jurispru-dence and federal legislation, is residency re-quirement with respect to voting. Now, you cannot vote, though, unless you've been there thirty days and the federal law has allowed for some type of administrative procedure whereby you are in the process of registering at least thirty days ahead of time before you can vote. But, that has nothing to do with the fact that you may still have a dom-icile, which is a legal word which means that you live in Alexandria like I do, and have the inter-tion of making that your home. Now, what would be ticular place can step off of the bus--now let me tion of making that your home. Now, what would be the practical effect of the matter is that I have the absolute right to go down here and register in Baton Rouge-Fast Baton Rouge Parish-because I'm a resident here, I've got an apartnent here, and I'm here more time than I am in Alexandria, as a matter of fact, right now. If I choose to, and if I'm here for thirty days, I may then vote here in East Baton Rouge Parish. There's nothing we can do about that. Now, the fact of the matter is that though, I lose my right to vote then in Rapides Parish, unless after I vote here. I go back to Rapides and reregister over there. So you see, you can be registered in two places, as a matter of the absolute right to go down here and register in is that. can be registered in two places, as a matter fact, but you may vote in only one which is the last place where you registered to vote. Now, w simply provide here that, and this is taken to a Now, we extent from the present constitution, the fact that you area, due to employment, including military service, and that would amount to employ-ment with the United States government. You may ment with the United status only amount to temping) the an affshore worker morining in the North Sea at this particular time, or while studying or visiting to where you don't lose that residency, so that the legislature may not pass a law in the future that says if you're not at home all the time, or if you're not a domicillary of a certain place you may not...you lose your residency. Now, as much as you may disagree with the idea that the federal word is a certain and as the 'tick pointed out, all this will have to go to the United States for approval in the end, in any event. That's simply what we provide for, and if you have any questions, 'll be happy to answer them. It's Article VIII, Section 11, of the present constitution.

### Question

Mr. Lanier Mr. Roy, would you agree that if this is controlled by a federal law and there is nothing we can do about it, we really don't need this anyway?

<u>Mr. Roy</u> Well, Mr. Lanier, that same argument can be made with respect to a lot of things that we've done in this constitution. I feel I'm of the

<sup>[</sup>Record vote ordered. Amendment rejected: 40-60. Motion to reconsider tabled. Previous guestion ordered on the Section. Section passed: 95-1. Motion to reconsider tabled.]

opin in that we should put cans on cuil at the and increases of the second second second second to develop a curt to deal with t, and there is no need for the legislature to start trying to pass stuff that is unconstitutional, and it's presently Article...Section 11 of the present con-stitution except we have just cut it down some. Federal law doesn't prevent the loss by temporary

Mr. Poynter A endment No. 1 [by Hr. Lard 2]. Un page 1, delete lines 27 through 31, both in lusive, in their entirety.

Mr. Sandoz Mr. Chair an, fellow delegates, again my amendment si ply deletes the section. I think with the Gravel amendment, that this section is unnecessary. I've read this section; it lists cer-tain things that would happen and why you would not ose the right to vote. For example, suppose a man is ill and out of the tate, would he lose the right to vote? Illness is not mentioned, it's studying or visiting, but there may be an in-voluntary absence. I just submit that the pro-tion code, which is authorized under the Gravel amendment, and it's not mecessary to include this in this constitution.

<u>Mr. Roy</u> Mr. Sandoz, I really can't understand that last statement. You mean to tell me that if you're ill out of the state, you're not visiting?

<u>Rr. Sandoz</u> Mr. Roy, you specify "visiting, 1 would assume that may be ionething voluntarily... visiting someone. But illness-you're specifying studying-now, wouldn't illness be a more important reason to be out of the state than studying? 1 just show that as an illustration or possibility.

Mr. Roy You mean to tell ne, if you went ut of the state on business and becale ill while you re elsewhere, that this section doesn't blain?

Mr. Jandoz No, l'm Jaying, Mr. Roy, that you ma become ITT while you're in the state, and you're wored involuntarily out of the state, and that ex seption is not specifically mentioned No, 1'm Jaying, Mr. Roy, that you may

Mr \_ anier Mr ' andoz, do you view this section as I du as a vain and useless thing to try and introl section; that is introlled by the federal

Mr. anu z lagree with that.

Mr. anier And the rejulation ray hange even ore in the future

hat's right, Mr. fontenet.

Mr Fontenit 5 can you and the your reli-lence just be all e of a ten yrary intenne of they want to say you to e your right to vite, they sught to say lo e your right to vite of that correct?

Mr. Sandoz I avree with you, Mr. Fintenot

Mr. Berneron Mr. andoz, J thirk what you re trying to say is that this section. Let  $\{H_i, h_i\}$  enumerates certain thins, and there are be thig which are left out which ary later in e roled as neither a valid reach, so 1 red to agree with you on this.

# Mr. Sandoz Thank y P

Me, O'Neill Please, Me haira carr what you're sayin i', thei, that we hour let the justic depart on write'l threas thad even atterpting to write'l threas i dat a what you're laying

Mr. II. Liev, Mr. II. Nell, from kinning override the Federal Institution, and the it if you would be a known more than t

Mr. Willi he suite coart of the formation overnient, like any this start tot fair the novernient, han a and field on pills,

Mr. 2011 12 to that it willow sull (2001) in-cept on the tend tend on such that the ingles will be such as the interverse will not one test tend to be a such versus includes the tend of the such as the versus includes the tend of the such as the versus includes the tend of the such as the versus includes the tend of the such as the versus includes the tend of the such as the versus includes the tend of the such as the versus includes the tend of the versus includes the versus incl

My leasts No lateras, by ears or a course way we exit be events or the or the article line, want or the to that vict ally evens tats has in ferrers.

law, in their constitution, a similar provision. If I could have your attention for just a moment, I think I might clear up some of these questions I think I might clear up some of these questions that have been raised. Virtually every state has a similar provision. Now, let me give you some examples. The state of Calorado has Section 4 of their constitution's Article VII on Sufferage and Elections says "for the purpose of voting an eli-gibility to office, no person shall be deemed to have asigned a residence by reason of his presence. have gained a residence by reason of his presence. have gained a residence by reason of his bresence, or to have lost it by reason of his absence," and so forth, and spells out the particulars. Look at the state of Nevada..."for the purpose of vot-ing, no person shall be deemed to have gained or The non-person shart be detend to nave galled of Sonia erfort be pushed by the sonia te of con shall be deemed to have gained or lost a residence, so forth. State of Louisiana...the same thing. Now, there's no way this provision can be ruled unconstitutional by the justice department because it doesn't deny anyone the right to vote. What it It doesn't deny anyone the right to vote. What it doesn's, it grants certain people the right to stances. It specifically protects the right to vote when you're temporarily absent for certain reasons. Now, the legislature can come along and vote meet. Now, the legislature can come along and say "weil, there are other reasons, there are other ways that we want to protect people's right to vote." If they're temporarily absent because of vote." If they're temporarily absent because of illness from the state, the legislature could pro-tect that. The legislature can extend the fran-chise to other people, but the legislature here could not take away the franchise. Now, here's why it's so important. It's important because of political vendettas, primarily, and that the pri-mary reason why its been included in all of these particleal kenucties, primarily, and that the prie other state constitutions. It's an attempt to prevent the case that might arise when you have someone who is away at school, away in the armed forces, away on business, and then some legislature, knowing that in...having that in his mind, the fact that that's his primary opponent, manages to pass and the source of the source of the source of the force of the source of the source of the source one must have continuously resided in the district for a certain period of time. We have many in-stances of people being elected to office who were in the military, elected to office in this state... ot even in the country, instances where they were in school and not residing in their district. If we don't have such a provision in this constitutions wender an attempt to exclude someone from running for office, come along and pass a bill which would preclude such a person from running from office; so the attempt there is not to exclude anyone from preclude such a person from running from office; so the attempt here is not to exclude anyone from running for office or voting. It is to specifically say that some people are protected in their right to vote even though they may be temporarily absent. It's not an attempt to conform to federal law particularly. It's obviously within the purview of federal law. What we're doing is protecting aga federal law. What we're doing is protecting against certain actions by the legislature which might be detrimental to the right to vote and hold office of some of our citizens, so that's why we need it in here. It is important. Other states have recin here. It is important. Other states have rec-ognized that importance, and we need to defeat this amendment

### Further Discussion

Mr. Burson Mr. Chairman, ladies and gentlemen, I

<u>Mr. Burson</u> Mr. Chairman, ladies and gentlemen, I rise in support of Mr. Sandoz's amendment for two brief reasons. First of all, we already have set out that the legislature has to write a comprehensive election code, that that code has to guarantee important rights such as permanent registration. We've gua-ranteed the right to secret ballot, etc. There is very little else, in my view, in this article that could not more properly be addressed by the legis-Lation mix mule property be addressed by the regis-lating than it can by a constitutional convention. Stop and consider well, if you will, that fears about the legislature running away with some impor-tative that is laterative running away with some impor-tative that is a stop of the source of the source of the first of all, sensor Rayburn soid this morning. "They must think we are going to open Jackson and

let the population there come to run the legislature. We are not going to pass an election code which does away with the secret ballot, or with commissioners, etc." Well, I have to agree with That makes sense.

ind.: Indexmarks sense: Secondly, the justice department will have to review under the Civil Rights Act, the Voting Rights Act, anything the state legislature does. It's hard for me to see how, then, the state legis-lature could run rampant, doing away with impor-

tant voting rights or election rights. Finally, if we make a mistake in our delibera-tions here and adopt even two or three sections in a lengthy elections article that do not pass in a lengthy elections article that do not pass muster by the justice department, we're in a heck of a fix. How do we then change it after the con-stitutional convention has adjourned sine die? We can't, as I see it. So we'd then have to go to the voters in Louisiana and ask them to approve sections of an election article that the justice department has already ruled are unconstitutional in light of the U.S. Constitution, which is sort of an absurd circumstancement.

So I, generally, in sympathy with the view, that with a few possible exceptions--and I am go-ing to look at each section as it comes up--but certainly with regard to this section and residence requirements. This is a field that the Federal Government has preempted, and we do not need that in our state constitution. It should be covered properly by the legislature in an election code.

## Questions

Mr. J. Jackson Mr. Burson, in Mr. Jenkins' re-marks, he mentioned the names of several states marks, he mentioned the names of several states that have very similar provisions. Would you care to comment on that in light of your remarks about the justice department? Because if his remarks are true, and I take it to be true, then it would mean that the precedent has already been set and that the justice department has not found any particular ruling are any unfavorable of your any unfavorable ruling...or any unfavorable...given any unfavorable ruling as it relates to the states that he named. So, I don't...how...would you care to comment on

Johnny, I don't know. I haven't done Mr. Burson the research on that, but I cannot...I'm talking about the Louisiana State Legislature. I cannot believe that the Louisiana State Legislature would Deriver via the cultiens date Legislature Wolla make an election code residence requirement more been proposed to us today. I don't know why they'd want to. As far as other states, There of all I don't know why using the make the second There of all I don't know why using the far the re-First of all, I don't know how up-to-date the re-search is, becuase we have to remember that the Yoting Rights Act is a rather recent piece of legislation, comparatively speaking. It's been in ef-fect now, I believe, since 1965, so it's very pos-sible you could have had something within the last decade that would not have had to pass muster yet under the Voting Rights Act because nobody had complained about it.

Mr. Kean. Mr. Burson, in all of the references That Mr. Josphiss made to other constitutions, and in the reference he made to Article VIII, Section 1) of the Louisiana Constitution, it said that these temporary absences not only didn't lose the bona fide residence, but they would not have gained a residence by reason of them. That language is not in this section. Do you know any reason why

<u>Mr. Burson</u> No, sir, and I imagine the reason why it's not is that that would probably be in conflict with the federal position on the question, which really renders this whole thing sort of irrelevant.

Mr. Willis Mr. Burson, recalling the exodus of the days of <u>The Grapes of Wrath</u> where people would remove themselves and go to California not knowing whether they were coming back or not, and contem-

residence was intent- Now, assule, for the sul-

residence uss intent Now, assu e, for the ui-pose of this era ple and question, hai y t f ten trousand people .so e one thiusaid people would go to California with no intent of stayin, but no intent of coing back. Now, then, use this idependent clause, the last one in this section- visiting away from his voting district; so that a thousand people in California, with no intent to come back or stay, aintain their per anent residency here. They vogot to be given absentee voting rights and they can control an elec-tion in y city.

Mr. Bur on Mr. Willis, in y old hometown--which has a population, I think, now, of about seventeen hundred and fifty perjele according to the last cen-sus--there are still fourteen hundred per ple regis-tered to vote. It hink that's because a lot of them have been living in Lake Charles for ten or thety years. I think that if there's inyheh on-that will ippinge upon fair elections inhe of anothy, its that kind of thing, for whatever it's

Mr. Poynter Section 5. Political Activities Section 5. No law shall deny the right of each person to organize, oin, support, or oppose any political party or organization or to support or organization or to support or

Mr. Jenkins Mr. Chairman, this outlines a most

Mr. Jerlins Mr. Chairman, this outlines a most important oplitical right that our citizens have, that has to be considered and dealt with when we tak about election law. Naturally, there is a provision in here that says except as otherwise provided in this constitution. That is spe fil-cally eant the refer to C vil Service or other pro-visions that we hight place in the constitution and the constitution. That is spe fil-cally eant the refer to C vil Service or other pro-visions that we hight place in the constitution age in certain political activitie. It is meant specifically, though, to do a number of things. For one thing, it is eant to insure the right of our ities to line organizations in order to express their own political view, by de-nying the cistem e of any law with would prohibit the ing political party they way de use, or at leas to find any law with would prohibit the firm doing o.

doing o. The hase a situation that arise as a result of the period excipie that the situation that arise as a result of the period excipie that the situation that years the situation the period of the situation that arise as a result of the the situation the situation that arise as a result of the situation the situation that arise as a result of the situation the situation that arise as a result of the situation the situation that arise as a result of the situation the situation that arise as a situation that the situation that arise as a situation the situation that arise as a situation that the situation the situation that arise as a situation the situation the situation the situ

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Mr. Burson Mr. Jeniins, would you aree wit e that the Columist Party hal, a the air pail in its platform, the overthrow of the werner of these United States by ville e r a othe

Mr. Jenkins well, in not that failliar with their platform as such, but I think you are reb-ably right.

Pr. Burgon well, then which this self which burgentees to every criter into the con-sistent to support that political array. Include then, the active participation is and fur-therance of that objective of the American un-ist Party?

Mr. Jenkins No, I dun t think it would, Mr. ourcate a particular position and join a articular party are not already protected. Ney an we , let me answer the question, Mr. Burlow \_they an, of course, join that party\_lint to translation now. They have every pright to. The superior of the ularly trying to help the best of the superior acti-alsure you-but those prophet, stillered, let popular group have the prophet in, to crit or to oppose any organization that they se

Mr. Burson l'e not talkin abet le-althe h l will frankly state that 'e e l'e tat believe that the rights of any arts 'e her 'e that is dedicated to the villent vertraw 'e novern ent shuid an uit be 'e rist uil l'm talkin about when you as 'e rist uil tat talkin about when you as 'e rist and 's tat talkin bout when you as 'e rist and 's to don't gual try and 'e no aby as.' you don't gual try the try and 'e about tate of Louisiana, supert 'u'e the ad a' of that party!

Mr tening his let estate earses, that the winds here it earst an arts or the aug to one arte blannets, and do in fry in Enverthis the vernest if tenine to take in the take of our waals to we and do in one here traditional initial and site, this of fairs one anything the that in the earth any way affect, is wind affect his additional and four or let any wind the time of the original

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Mr. Prikty well, if , have as a eller, Mr. Noter, that well, if , have as a eller, Mr. Noter, that well at the training of the eller Noter well as the source of the eller of the eller Noter well eller at the source of the eller Noter well eller at the source of the eller the the the training of the eller of the eller the eller well as the source of the eller the eller well as the source of the eller the eller well as the source of the eller the eller well as the source of the eller the eller well as the source of the eller the eller well as the source of the eller the eller well as the source of the eller the eller well as the source of the eller the eller well as the eller well as the eller the eller well as the eller well as the eller the eller well as the eller well as the eller the eller well as the eller well as the eller the eller well as the eller well as the eller the eller well as the eller well as the eller the eller well as the eller well as the eller well as the eller the eller well as the eller well as the eller well as the eller the eller well as the eller well as the eller well as the eller well as the eller the eller well as the eller well as

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that...that thing, sir. But I think one of the things it would accomplish, it certainly would allow people to join parities of their choice. By "join", that simply means to go to the registrar", office and say, "Put me down as such and such a party, whereas that right has been dericed people as present, they are denied the right, in this specific case, to affiliate themselves with the American Party, that's the most current example.

Of course, 1'm concerned about the Alexander stipulation that a party must receive, I think, ten percent or twenty percent of the vote...or five percent, or it will not exist any longer.

This won't deal with that from the Mr Mr. Jenkins in is won to deal with that in the train of standpoint of ballot position; but certainly it would mean that regardless of what percentage a party got, a person could affiliate himself with that party. That's the point that 1 think the with section would make.

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [*by Mr. Sandoz*]. On page 1, delete line 32 in its entirety, and on page 2, delete lines 1 through 5, both inclusive in Amendment No. 1 [by Mr. Sandoz]. On their entirety.

## Explanation

Ladies and gentlemen, I'd like to call Mr. Derbes to your attention the fact that the amendment that's currently before you is the Sandoz amendment and doesn't have my name on it, but Mr. Sandoz has asked me to handle it. I rise in support of it

and I'd like to add my name to it as a coauthor. The effect of the amendment is to delete what Ine errect of the amendment is to delete what is Section 5 in the present committee proposal. Let me say this to you. J believe like all well-intentioned people, perhaps the way it should be, that the committee's reach in this particular in-stance has exceeded its grasp. The problem is basically one of draftsmanship, and the problem is one of providing for exceptions to a basic rule. Now if you read the section, it seems to have a great ring of truth to it. Listen to it. It says, "No law shall deny the right of each person to or-"No law shall deny the right of each person to or-ganize, join, support or oppose any political party or organization, or to support or oppose any candi-date or proposition except as otherwise provided in this constitution." Now that sounds real good. But let me explain to you what 1, as an attorney and as a person who has considered this section. First of all, 1 think basically, one's right to organize oneself and to express one's political

beliefs through political activities is a right protected by freedom of speech, both in the Ameri-can Con...the United States Constitution and in the constitution of this state presently...which is

the constitution of this state presently...Which is presently the law and which we have proposed. Secondly, I feel that the way the committee pro-posal is presently worded, it has the effect of denying to the legislature the right to regulate campaign practices and contributions and activities of legal entities, both individuals and corpora-Sions. We have several, what I regard, as worth-while laws on the books in this state which pro-vide that campaign contributions by corporations vide that campaign contributions by corporations are prohibited and in some cases, campaign activ-ities by corporations are prohibited. To my mind, the word "person" means not only individuals, but ondly, as I am Sur To are all aware, there are a great number of current critics-and I think very worthy critics-of campaign practices and campaign activities in this country...activities which have surfaced, I think, as a result of the Watergate investigation. What we are doing, it seems to me in this section, is we are prohibiting the legis-campaign contributions and campaign an activities of campaign contributions and campaign activities of both individuals and corporations. I think that such laws and such regulations as may be enacted by the legislature can be very salutary and very

helpful to the political process. So, I suggest to you that in this particular area there are so many exceptions, and proper ex-ceptions, to the general rule which we have... which we enunciate in the gettion-exceptions which cannot be conveniently and effectively pro-vided for in this constitution--that the only way vided for in this constitution-that the only way to properly handle the exceptions is to leave it up to the legislature. And when you agree, based on, I believe, this argument that such exceptions should be left up to the legislature, it follows very logically from that point, that the whole area should be left up to the legislature and I believe that indeed it should be left up to the legislature.

So, I urge you to support the Sandoz amendment. I urge you to delete from the committee proposal the language which forms Section 5.

### Ouestions

Mr. Kean Mr. Derbes, as I understand it...do I understand your explanation correctly that a "person" is broader than an "individual"...

### That's correct. Mr. Derbes

Mr. Kean Under this section, corporations would be constitutionally authorized to expend funds to support political parties and candidates?

Mr. Derbes 1 think your question is a very good one, Mr. Kean. Essentially, we have present laws on the books in Louisiana which prohibit certain on the books in Louisiana which provide Certain types of corporations from engaging in certains therefore, and the like. I think "person", as the committee proposal is currently phrased, is broad enough that it would include corporations.

Mr\_willi: Mr. Derbs, because your argument charns me, to make what first appeared to be a kitten to be as big as Mike, the tiger, would it please you, sir, to request the opening of machine so that I could join in this amendment and that would put an end to it all.

Mr. Derbes It would please me, Mr. Willis, if you would do that.

Mr. Willis I would give you the advantage since you have the mike.

Mr. Derbes Well, if there are no speakers, 1 would simply move the previous question.

Mr. Willis That is as effective.

Mr. Vick Are you going to introduce your amend-ment?

Derbes If the Sandoz amendment fails, then I would introduce my amendment which is on the desk and bears my name. But I am rising in support of the Sandoz amendment, because I...for the reasons already stated.

Mr. Vick Why did you offer this one then?

Mr. Derbes I offered it merely in anticipation of a possibility that the Sandoz amendment might fail.

 $\underline{Mr. Vick}$  . Well, wouldn't this...wouldn't you be satisfied with this as an adequate substitute for Section 5 as written?

Mr. Derbes I could live with it, but I would prefer the Sandoz amendment. I could live with

Mr. Vick Well, the Sandoz amendment is to delete

Mr. Derbes That's correct. Unless there are other speakers, Mr. Chairman.

For her incusion Mr Jaham Mr. Theirman, ladies and genil en the surgerting, I wild all that y serious y set that if you have a problem with the lan-inc, that we ought to deal with it. I efly, before an ing up to the platform here, alled the Mr our nabout his concerns, but to meet to you that there are or nanizations that the set to you that there are or nanizations that the set to you that there are or nanizations that the set to you that there are or nanizations that the set to you that there are or nanizations that the set to you that there are or nanizations that the set to you that the set the you the set of the right the set of th nave the right to join whatever orianization that he wants to oin. I think that once he breaks a law of the State of Louisian and the federal gov-rn ent, then that provides the kinds of checks and alan es that we need. I want to i press you not that if you we got one probles with the anner in which Mr. Jenkins has worded it, then I uage t we don't delete it, just that we put the lan uage to ale sure that it doesn't extend to the kind of extremes as it is beyond. <text>

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to. Mr. Jackton, 1 - party to pt test-

62DAI DAyS Proceedings—October 0, 1973 or the Black Panthers, or the Black Muslims, or the American Party, or the John Birch Society, or some-body. We are afraid to let them discuss, afraid to let them organize, maybe because we don't have the courage of our convictions, or we're too paa-thetic to get organized or something; I don't know what. Now if there're technical objections to this section...let's offer amendments to change it. If we want to change 'right of each person' to 'right tend this right particularly to corporations. I don't have any objection to that. That's not the point we are getting at anyway. We're trying to aive constitutional protection to basic political point we are getting at anyway. We're trying to give constitutional protection to basic political give constitutional protection to basic political freedoms; the rights to organize in groups for po-litical purpose; to express your ideas and engage in political activities; to support your candidates, to support your propositions or to oppose them. If we don't, we have no protection in this con-stitution for a lot of groups, such as teachers, for one, who can be denied their basic rights by amore faiture without such protection.

a mere statute without such protection. Now we seen in the past how various groups were persecuted seen in the past how various groups were persecuted because their ideas were unpopular, because they had only tiny minority support. Mrs. Zervigon, they is the second second second second second present constitution and read the election article, we'd probably have fewer problems in our discussion of the election provision that we've proposed. If some people would look into the election laws of other states and see how they do it there, they'll find that all the things proposed here aren't so strange and unusual.

strange and unusual. Did you know, for instance, in the state of South Dakota they don't have registration of voters at all? In most states, a majority of the states, you don't have registration by parties. I think over this weekend, one of the best things that we could do would be to read our own constitutional election law and get a couple of other constitu-tions and see how they do it in other states. But this serion is one thing we need rearby to recomthis section is one thing we need greatly, to pro-tect the basic political freedoms of all the citi-Zens of this state. Offer some amendments if you're not pleased with the particulars of it, but let's have a provision of this nature in this constitution

Vote ofdered. Amendment adopted: 59-29. Motion to rewnsider tabed. Motion ti riturn to ther orders f business adopted without objection.]

Personal Privilage Mr. Schmitt Before we leave today, I think that we should take into consideration that there are other alternatives besides the assessors' plan. I've offered certain mendments which are being property takes the state of Louisiana, manely, residential, commercial, industrial, ag-ricultural and all other property. It would also require use value for agricultural, horticultural, and timber lands in order to give these people certain types of benefits. It would also estab-lish a review system in certain other systems so that people could complain about their property to the termine the termine of the system so that people could have the responsibility under this schemers of the fair market value is and assessing the value of all property which is and assessing the value of all property which is and assessing the value of all property which is and assessing the value of all property which is and assessing the value of all property which is and assessing the value of all property which is and assessing the value of all property which would be either

the police jury or the city council in that particarea

Next, it would be reviewed by the Louisiana Tax Commission and the final appeal would be to the Commission and the final appeal would be to the courts. I just leave you with this thought in mind that this would take us out of the problems which we have had in our committee. It also would make a much better and a more salable type of con-stitution because if the parishes so wanted, they could leave their classes of property the same as they have established at the present time. There-fore, there would be virtually no increase or de-crease in particular classes of property and the taxes that they pay within that district. However, it would allow us for the opportunity for change into the future.

I just give you these ideas so that you might ponder them and decide for yourself whether you want the state to control the local governing au-thorities or you want them to determine their future. Thank you.

Mr. In Let us pray. I graciou, neavenly, and erciful Father, the giver of every good and perfect girt, we than thee for hy love and Thy mercy and Thy many blessings. Help us, 0 Father, today to do Thy will. Give us Thy diving guidance and wisdom as we work on this constitution. Help us to walk humbly to do justly in the love of ercy. May the words of our mouths and the meditations of our nearts be acceptable in Thy sight. 0 Lord, our strength and our Redemer. Amen.

PETITIONS, MEMORIALS AND COMMUNICATIONS

Hr. ardin[Aus start lerk] Unfinished Business. We have Com ittee Proposal No. 33. Section 1 was added by a endment, later deleted by amendment. The original Section 1 was deleted; Section 2 was added by amendment. Section 2 in the original being and the section 2 was added by a endment. Section 3 has been amended and passed. Section 4 and 5 have been deleted by a endment. Section 6...

Mr Hardin "Section 6. Privilege from Arrest Every gualified elector shall be privileged from arrest " going to and returning from voting, and while exercising the right to vote in all ases, except felony or breach of the peace".

Mr Vics Mr. Chairman and fellow delegates, this is a repeat of the Constitution of 1921, Section B f Article VIII. That said, "Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their at-tendance on elections and going to and returning from the sale we have just changed the language a little bit, as you an see Mr. Chairman, I move te alpCin and will yield to any que tons.

Ar A value think that a thiry control of the two the provision which net of the provision which net of the vertice of the ver

Mr Arnette Jouldn t av Mr Arnette Now, the ear that the ellature louidn thave any the fultrer us if at other than the ones that are in the filsting. It at

Mr. A. Jackion That scorrect

Mrs. Zervigon Representative assum, what would this do to the require ent that a sugge retire in the bench if he plans to run for any other fire except another udgeship shit he double fed from doing that?

Mr. A. Jack on It says a otherwise wided if the constitution

Mrs. Zervison we I have stitution. Did we do t at

Mr. A. Jackson Yes, it's alrealy !-

It was in the Judiciary Art Lei Mrs. Zervigon

Mr. Lanier Ocegate Jatum, this say that he cannot be denied the right to run for publi (ff) e in the district in which he is revealed at he be registered in a district and, yet, not be a resident of the district?

Mr. A. Jackson well, we are reading tating are not prosupposing what was the fact that you registered in the district readict at our had to be a resident in the district relies you use t

Mr. A. a k on the that , yu are easing with the ability to register. That doesn't result the fact that you ould have far results us taking a ut the in another district. It is use taking a ut the

Mr. Lanter That swhat there a uthere four have las [ understand it, it he the rule to run for office on whether or nuther restrict and not whether in the second and it is a second of the dirict.

No A minim well, construct, ministructure ministructure managements that we directed in the transmission we are inply saying intertwise, in relief a direct transmission of the transmission of transmission of the transmission of transmission

No an e- on or represented the start date where you fair a real to

you had two residences?

Mr. A. Jackson Well, you can violate the law, if you want to, but the law is rather clear on it.

<u>Mr. Lanier</u> Well, the present constitution, as I understand your digest, says that you have to be a resident of the election district.

Mr. A. Jackson That's correct. That's...

<u>Mr. Lanier</u> If you move away, you lose your office.

<u>Mr. A. Jackson</u> Well, I think that we had...we set forth the requirements in the section that was deleted, but I think the law is rather clear on that.

Mr. late Mr. Jackson, Mrs. Zervigon raised a guestion that gives me some concern. We have not put it in the constitution that a judge can't seek any other office except the judicial office, but it's in the canon of ethics and also the legislature passed a law. Now, I also understand that the registrar of voters, and someone around can correct me if I am wrong, but there's a statutory prohibi-'tion against him seeking office while he is registrar and maybe for a period afterwards. See, there are some offices that, for reasons of public policy, you want...don't want them to use their judicial or registrar office to build up a political...

<u>Mr. A. Jackson</u> We have a section, Judge, to deal with that. Section 11 of the Election Article deals with the registrar of voters.

<u>Mr. Tate</u> And it specifically provides that he can't seek office or something?

 $\frac{Mr. \ A. \ Jackson}{conditions \ in}$  Yes, we have...we set forth the

Mr. Tate Well, we're still...I don't know what other offices there are like that. I know there are judges, I know there are judges, and I wonder ...that's the point of the concern that unintentionally you may prohibit the legislature from making certain types of offices forego running for other offices because of their sensitivity and so on. I'm just asking questions, I guess, sir.

<u>Mr. A. Jackson</u> Well, I can't...we discussed the question at length, and we did feel that it was necessary to put a section on the registrar of voters, and we thought the whole problem as it relates to the judiciary was already cared for. We didn't...we couldn't think of any other prohibitions that we should exercise.

<u>Mr. Tate</u> Well, now, for instance, the civil service...I believe they have a prohibition against political activity. Now, whether or not that is wise or not, this would say that they can't...you either have to provide in the constitution every time you don't want someone to run for office, or else you've got a right to run for office.

<u>Mr. A. Jackson</u> Well, I think that that problem or question as it relates to civil service will be cared for in the constitution. Of course, personally, have some strong feelings as to its validity, but I think it's... I think that that question, well, I know that that question is going to be cared for.

<u>Mr. Tate</u> Well, the only office, I really can't think of another provision right now, is judge. But, I do know that...there...for reasons of public policy, in the past, they have held certain offices so sensitive, so I wonder if it's wise to put it in the constitution?

Mr. A. Jackson Well, as I indicated earlier, I think we've cared for the ones that we know about.

<u>Mrs. Warren</u> Mr. Jackson, I think we discussed--Mr. Lanier brought the question up-we discussed being domiciled within a resident, meaning that you lived in it. We discussed that kind of pro and con, and when I looked at this, I thought that that word "gualified elector" would take in the fact that they had gone through the necessary procedures of being living in there.

Mr. A. Jackson That's exactly right. If he...

 $\frac{Mrs. Warren}{1...}$  I wanted to be sure, though, before

Mr. A. Jackson . If he was not...I mean, if he didn't possess the necessary residency requirement, he wouldn't be a qualified elector.

Mrs. Warren Thank you. That's what...

Mr. A. Jackson Mr. Lanier knows that; he just wants to aggravate me on the first thing.

### Amendment

Mr. Poynter Delegate Sandoz sends up amendments as follows:

Amendment No. 1. On page 2, delete lines 11 through 15, both inclusive, in their entirety.

### Explanation

<u>Mr. Sandoz</u> Mr. Chairman and fellow delegates, this amendment deletes this section. The primary reason for it is as I have outlined on Sections 5 and 4, previously. I believe with the Gravel amendment that this section can be better attended to in the election code, which will be and shall be enacted under the authority of the Gravel amendment, by the legislature. The...some of the questions that were asked of Mr. Jackson concerning the fact they they may be...this prohibits the legislature from imposing certain other restrictions or additional qualifications. Some of the questions that weeking other offices, those are some of the reasons why I hink that we need the flexibility of the legislature and the election code rather than freeing this into this constitution. Therefore, I submit that this section should be deleted and be relegated to the election code. I yield to any questions.

### Question

Mrs. Warren Mr. Sandoz, I believe in trying to cut the constitution down, but I want to ask you one question that comes to ny mind. We say we're going to leave this to the legislature. The...we talking about running for office, can you see where the legislature would change this to suit their own needs? They run every four years, you know. Could you see any problem here?

<u>Mr. Sandoz</u> I see no problem, Mrs. Warren. I see no problem.

### Further Discussion

Mr. Jenkins Mr. Chairman, what we are really dealing with here is the question of a basic political right. If we don't have a section like to tion which gives to every citizen the right to run for public office. We have, of course, given in the Bill of Rights, the right of each citizen to serve as an elector and to vote. We've made that right, except under certain very limited circumstances, inalienable. But, if there are going to be other restrictions on who can seek office, cereough that they are either provided in this constitution or that a mechanism is provided in this cations. We have provided, or certainly we will in civil service, that people under civil service

Don't leave public affie. We ought in all a mustion under the ud crary Art let u ovide that udge could not seel an office while they are provided here in the ection, in entire the use they provided here in the ection, in entire while they are trars, suid at seel an office while they are trars, suid at seel an office while they are trars, used at seel an office while they are trars, cap cloudy, or all grant set all ort of addit, mal guar that uses for runn for while they eare old the est, any, a sity count set of y eare old the est, any, a sity count set of the set of the set of the set of the would be possible, puntive type legislation, which hould be possible puntive type legislation which set they for a fract one range or another, one manter, to prevent the or prohibit the fract runn. for affice under crain circumstances. Really, this is suit about as basic as you can get think we sught to provide for it in this constitution. If the care crain enception, we ought to all provision the constitution which would ive, specifically, the legislature flexibility in these careful and the set the de at the we don't have the set of the the set of the set of the set of the set of the the set of the set of the set of the set of the the set of the set of the set of the set of the the set of the set of the set of the set of the the set of the set of the set of the set of the the set of the set of the set of the set of the the set of the set of the se

### Juestions

Mr Thas Mr. Jenkin, could you tell e why the equal rotestion hause would not over this

Mr. John we , I din t think the equal protection clause wild behause the equal protection clause, in protection the equal protection for the equal protection of the equa protection of the equa protection of the equa protec

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### further J

Mr. Gravel Mr. Chairman and sole is don't end of the unvention, I support Mr. a dual are left because I believe that the set is a million of the decided by the proposed a endient. I is the other sections, are not now social ark, an that mill be able, in the erection code that a leet authorized, to develop a somehon is ear a all coordinated plan for the election is relation using that you support Mr. and m. are end. Mr. Chair an, if there are no other scealer, i would like to move the previous question

### Question

Mr Jenkins to ille, i know you or it reat confidence in this prip sed eet in the lot and i understand that you understant the entire of governient and have influence in the draftil of it, but aren t you assing us, an de enter, rei you to take a lot for granted, th as use all the art really lay one of the real basing us de etter for this constitution the influence time in int in every strigen to seek offliver

Mr. Jansin, well, built is a sense and a base of the sense of the sens

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said...

Mr. Gravel I said one was...that there were... steps had been taken with the idea in mind of preparing an election code by this administration, and some work along that line has been done by some of the state officials who are charged with the responsibility for conducting elections. That's correct.

<u>Mrs. Warren</u> Well, I think the question was put to you that you would probably be helping to write it.

Mr. Gravel Well, now, Mr. Jenkins just said that.

<u>Mrs. Warren</u> Well, I mean, you kind of...He said it, but you kind of nodded your head to give me the idea that it was. I'm just trying to find out.

Mr. Gravel Well, I'm going to quit nodding my head because I believe you read, sometimes, more into it than I do.

Mes. Warnen All right, now. You've answered that, 'Ou have an amendment here. You say you thint Mr. Sandoz's is good, yet, still, you have an amendment here that is going to delete part of it and leave part of it. Now, which one do you think is the best?

<u>Hr. Gravel</u> No. I am supporting the Sandoz amendment. Thope it passes. If it doesn't pass, I want to insert the words "as a voter" to make it clear what we're talking about with respect to registration. It doesn't do any...it's more of a technical change than anything else. I hope that the Sandoz amendment passes. If it does not pass, then I think the language itself should be amended, Mrs. Warren.

Mrs. Warren 1 hope it doesn't pass, so somebody else can bring something a little bit better before us.

## Further Discussion

Hr. Goldman Mr. Chairman. fellow delegates, l rise to ask you to defeat this amendment because I have another amendment that's coming up. I don't know how long it will be before it's ready, but I think it will satisfy everybody. I think this fact ought to be in the constitution: that no qualified elector shall be denied the right to seek public office. My amendment will read as follows:

"No qualified elector shall be denied the right to seek public office as provided in this constitution."

## Questions

<u>Mr. Willis</u> Mr. Goldman, I'm not trying to be facetious, but what...but your amendment would just say that no one would be denied the privilege of seeking public office as provided in the constitution?

Mr. Goldman That's correct.

Mr. Willis Well, why do you want to say that if it's provided in the constitution?

Mr. Goldman Because I think we want to tell the people of Louisiana that every qualified elector has the privilege of running for office. We want it in the constitution, so there will be no doubt about it.

<u>Mr. Willis</u> Well, if you say "as provided in the constitution," it must be elsewhere provided, must it not?

Mr. Goldman Well, the code will be provided through the constitution by the legislature, and in the Bill of Rights it's provided. That reference, "as provided in the constitution," takes care of reference to both of those. I think we ought to say in the constitution that every qualified elector is eligible to seek public office, or shall not be denied the right to seek public office.

Mr. Willis Well, don't you think that that passage would be about as ponderous as the provision that every individual, or elector, or citizen, or person should have the right to see, to live, to breathe, and to die?

<u>Mr. Goldman</u> I think we have that in the constitution already, and I don't think it's ponderous at all. I think it's perfectly plain.

[Previous Question ordered. Record vote ordered. Amendment adopted: 67-20. Motion to reconsider tabled.]

### Reading of the Section

Mr. Poynter "Section 8. Vote Required for Elec-

Section 8. No person shall be elected to any public office unless he has received the highest number of votes cast for that office. The legislature shall provide a method for breaking ties".

### Explanation

<u>Mr. Vick</u> Mr. Chairman and fellow delegates, this was included for the obvious reason that it should be, as someone in high office said, that the...in order to make it perfectly clear that anyone who receives the highest vote in the election should be elected. Now, in the current code there is a provision for drawing straws in the case of a tie, and 1 understand in election contests for this office, that is, as divergeder, in the there from Orleas Parish who. I believe, conducted that coin flip. But, it's a simple statement, and unless there are any questions, I move for its adoption.

### Questions

<u>Mr. Riecke</u> Ken, in a case where they have...where the law provides that, like in the school board, where the highest number of votes is not the one elected if you have more than two candidates. Doesn't this contradict that?

 $\frac{Mr.\ Vick}{you?}$  . Well, then you'd have a runoff, wouldn't you?

<u>Mr. Riecke</u> Yes, but in the election he would receive the highest number of votes, but he would not receive a majority. Doesn't this contradict that?

Mr. Vick No, I think that there's a sense of finality, Louis, and if, in the case of a school board election, it would seem to me that if you are electing one, and two...you have a runoff sit you had a clear-cut victory, well, that would settle the question. If it was not a clear-cut victory and if, indeed, a tie, the legislature would provide for the breaking. I don't know if that answers your question.

Mr. Riecke It doesn't, no. It doesn't say that in your amendment.

Mr. Vick Well, Louis, what I can suggest to you is, then, an amendment may be in order to clarify it.

Mr. Riecke Okay, thank you.

<u>Mr. Arnette</u> Mr. Vick, it seems to say here that you would have to run in a single-member district. In other words, this would prevent dual districts because suppose you have three people running for an office, and it is two seats to be filled. The

pers n gett n the eard hi he t nu ber of , te even though it would be over a a in ty, he would not be ele ted ac ordin to thi provision

Mr Vick mel, Mr. Reke has ust pointed u the proble instar as scholboard. It ay con-ceivably artise in other onlests. However, as you recall, the first arend ent that this constitution accested was to create single-member district in

Mr. Arnette well, I'm talking about something Tike, say, city countil Like in New Orleans, you've got three or four councilmen running at

## Mr. Vick Two.

Mr. Armette Olay, two running at large. You ve got. say: our in the race. One of them gets a thousand votes; one of them gets nine hundred a ninety-nine; one of them gets ne vote and one of them doesn't get any. Well, according to this, the an who got nine hundred and ninety-nine votes wou dn t be elected because he didn't receive the highest nu ber of votes for that office.

Mr. De Blieux Mr. Arnette touched upon the same question I have. This doesn't even provide for a majority of the vote. I'm wondering about this: majority of the vote. 'm wondering about this: where you have only one position to be filled, and Would and metener one of them receive a majority. Would this...could the person receiving the highest number of votes, under this particular section, say that he was elected to that office?

That s within the realm of conjecture. Mr Vick

Mr. De Blieux the majority? And yet, he would not have received

Mr. Vick That's also within the realm of conjec-

where you have multiple offices to nr. Use biley andre you have mailing of nees to run, then you might have two candidates that night have a majority of the vote. But the second man may not...since he dind't receive the highest number of votes, it might be conteiled that he wasn't elected to the office. Isn't that correct!

Mr Vick I would suggest to you, Senator, as suggested to Mr. Riccke, that an amendment most certainly would be in order to clarify that.

Mr De B ieux Don't you think this could be better taken care of in the election code, we should

Mr Roemer right here.

Mr Vick Right Right

Mr. Roomer I can't make tense of this there two sentences back to back, with duesn't seem tu be unusual of the onfusion of this particular article It says that "No one shall be elected tu any public office unlet" he has received the higher to maker of yutes, cast for that office. Well, n the ale of a tir, who re eived the highest nu ber

Mr. Vilk. Well, they obviously both did. That's why the tielbreaking provilion in there.

Mr. Rener well, you say that he shall not be elected unless he receives the highert nu ber the asy of a tie, nobudy receives the highest number bues the legislature clunt as one vite

Mr VIE Re I would all use that if use flipped

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Mr Roee, well, de to roy of the form

Mr Vick that

Mr. Poynter as follows!

Mr. andoz Mr. Charran, felme delegates, te particular section is bad for several reast Mr Zervigon, who i lean or heaving bas there fr advice, also points out to e that muber of votes and then it would receive the high decided that he acquired that right is the visi-by fraud and yet, he couldn't be denied a rist take office under this orstitut take office under this orstitut and for section is not the event take office office section is the event which were asked of Mr. ick. Again, such that code, we have no co parable priss in uner the existing constitution. I such it at the section of the section is such that the formation code, we have no co parable priss in uner the

Mr. A. Landry Mr. Sandiz, ' we wire to anot the prophsal, wolidn't we wolltin it the slitten in the slitten what is now in the tatute on r R for prinzy election. And the slitter end is the election laws

Nr. Jons n Mr. hair an ne r the unit in this withow as to take i are of a live it we have a problem that in the hair and the take is a state of the hair and the take is a state of the hair and the take is a state of the hair and the take is a state of the hair and the take is a state of the hair and the take is a state of the hair and the take is a state of the hair and the take is a state of the hair and the hair and

either because someone doesn't understand it or because it is not written in a way that everyone agrees with. The argument was made to delete it. Listen, you can't get any more basic than the fact that people, when they are elected to office, ought to be the ones who receive the highest number of yotes. Now, we have in this constitution, in the about three readings of a bill and public hearings: we went into all of that. We went into great detail in the Executive Article, in the Judicial Article. We even talked about judges' retirements. In the Local Government Article we went into details of ports and levee districts and all sorts of they. Now, we have needs a simple sected to an election code. An election code will be a lengthy, detailed explanation of election law. We are talking here about basics, and this is as basic ayou can get. You know, I fear that too much period. The result of the relevant of the committee opposes some of the work of the Local Government Committee, and some people still have that in their craw. Suit you know some people proposed an alternative Bill of Rights. Extending our personal Controversies and old grudger constitution. If people are voting on that basis, they are making a terrible mistake. We can't cut off our nose to spite our face. This is extremely important. Let's don't open the way for people to be swept into affice were hough they haverit received the highest number of votes. We might have thole ticket of the wining outernative suit on this some they are making a terrible mistake. We can't cut off our nose to spite our face. This is extremely important. Let's don't open the way for people to be swept into office. We can't cut off our nose to spite our face. This is extremely inportant, let's don't open the way for people to she we tho affice even though they haverit received the highest number of votes. We might have a poolal governor who passes through the legislatorial election, people will run by tickets and the whole ticket of the winning outernatorial can

### Question

<u>Mr. Stovall</u> Mr. Jenkins, do you know that most of us feel that this is unnecessary, not because of any personal animosity, but because you really haven't presented any justifiable reason for it being in the constitution?

<u>Mr. Jenkins</u> Reverend Stovall, I thought I had, really, explained some justifiable reasons, certainly relative to the other things that we are including in here. I think that for one thing we need protection against ticket sweeping into office by people who haven't received the highest number of votes. Certainly, we need provisions that will prove due to the state of the state various circumstances. We might have, for instance, one party able to sweep into office if the head of the ticket of that party were chosen for office. There are all sorts of punitive legislation that could be passed, and that's why we need this provision in here.

> [Previous Question ordered. Record vote ordered. Amendment adopted: 70-22. Motion to reconsider tabled.]

### Reading of the Section

Mr. Poynter "Section 9. Limitation on Term of Office

Section 9. No term for any public office elected by the people shall exceed four years, except as otherwise provided in this constitution."

## Explanation

Mr. A. Jackson This section is similar to one that's in the present constitution; of course, there are some exceptions. We have provided for those exceptions as they relate to the judiciary and for district attorneys. Of course, 1 know there will be some questions raised about school boards. We have received information that the Committee on Education will provide for the exceptions in the Education Article. If there are no questions, Mr. Chairman, 1 move for the adoption of this section.

## Ouestions

<u>Mr. Anzalone</u> Mr. Jackson, at the present time, are there some city court justices in the state who have six-year terms?

Mr. A. Jackson I...yes. I have been informed....

<u>Mr. Anzalone</u> Are these people now incorporated in the constitution?

Mr. A. Jackson 1 would think so. I see Judge Tate nodding his head; he said that they were provided for in the article on the judiciary.

Mr. Anzalone But, how about the ones that are yet to come?

Mr. A. Jackson What?

Mr. Anzalone How about the ones that are yet to come, the new ones that we are going to set up, hopefully?

Mr. A. Jackson It's cared for.

Mr. Anzalone It's cared for?

Mr. A. Jackson Yes.

Mr. Anzalone Are you satisfied that they will also be entitled to a six-year term?

Mr. A. Jackson Yes.

Mr. Anzalone Will you please cite me your authority?

Mr. A. Jackson You see me after class.

Mr. Riecke Mr. Jackson, I don't believe the juvenile judges in the city of New Orleans are covered in the constitution or in the judicial amendments. Wouldn't this mean that they would be cut from eight years to four years?

<u>Mr. A. Jackson</u> I don't think so. There is a delegate proposal on juvenile judges and the provisions of the juvenile court. I'm trying to look in the article to see if it's provided for; I'm not sure, Mr. Riecke.

<u>Mr. Riecke</u> I don't think it is, but if it is, it's all right. But, if it isn't, this would cut their term to four years.

<u>Mr. A. Jackson</u> As I thought, I thought my memory serves me...it served me correctly, there is a proposal that will care for that, Mr. Riecke.

Mr. Riecke Well, I hope it passes.

### Amendment

<u>Mr. Poynter</u> Amendment No. 1 [by Mr. Casey]. On page 2, delete lines 21 through 24, both inclusive in their entirety.

### Explanation

Mr. Casey Mr. Chairman and delegates, Section 9, being a limitation on terms of office for any office held in Louisiana other than those offices

Ged Days Proceedings—October 9, 1973

Ar utherland Mr. Hairing, felow delemate. The berief ut, di wast therly a usi to be brief ut, di wast therly a usi the functional Article will ontain a provision incerim, nool board meber, hat i not ver-net. The propulate that have not utility and the functional article will ontain a provision incerim, nool board meber, hat i not ver-net. The propulate that have not utility and the of the realm is that not site in the file one of the realm is that not site in and us are ele ted for is year term. Herefur, t would be difficult oput anything is the on-rition a to mat which would not be not to the noticities that determines the term is the eleve the official term is the eleve the official term is the eleve the official have to the the eleve the official have you

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Mr. Baynter Seltin in Printing (1999)

Section 6 abl - f d d to to to arge any electric to f e f r r s to to a d date, n=r as orrated an initiat - to to rranization

Mr. V. F. Mr. Statistics of the solution of th

Mrs. Zervigon Mr. Vick, this has in it a prohibition for campaigning for or against candidates, appropriating money for or against candidates of two political organizations. If I read it correctly, it doesn't say anything about public money for or against an issue or a proposition-like a bond issue or an amendment or something like that.

Mr. Vick That's correct; it does not.

Mrs. Zervigon 0.K.

Mr. Vick I move its adoption.

Mr. Fontenot Mr. Vick, would this include, possibly, not only funds but also services rendered? Take, for instance, a city council who are up for reelection, providing gravel and other services to the local people to get the local people to vote for them. Would this be prohibited if we adopted this language?

<u>Mr. Vick</u> The intent of this section is a clear, unequivocal prohibition to forbid the use of public monies to finance a partisan, political campaign.

Mr. Fontenat It has nothing to do, then, with the possibility of the police jury or the city councilmen doing special favors for individuals to get them to vote for the incumbent at reelection time, does it?

Mr. Vick Well, I don't know what you mean by favors. But, if you are talking about taking money from the public weal to advance the cause of any individual in a partisan manner, I would say that clearly..is a clear prohibition.

Mr. Dennery Mr. Vick, you are familiar with the present federal law which permits a deduction on an individual income tax return up to fifty dollars, or whatever it is, in connection with political contributions. Would this prohibit a similar provision in the state law?

Mr. Vick No, as I...I didn't answer that...in response to Mr. Champagne's question, I didn't answer the way I would answer your question, which is that that is private monies...those are private monies.

Mr. Dennery Well, of course, it permits the deduction from a tax return and, at that point, the taxes are public funds.

 $\frac{Mr. Vick}{ducement}$ . Yes, but that theoretically in an in-

Mr. Dennery Correct. I just wanted to be sure in case this state ever adopts a similar law....

 $\frac{\text{Mr. Vick}}{\text{of thing--public monies.}}$ 

Mr. Lanier Is this type of activity presently prohibited by statute?

Mr. Vick Daly insofar as the use of public monies are concerned to advocate as in the last, I believe, general election. The advocating by an agency of a provision that would be favorable to them. The statute deals with the use of public monies ...prohibits the use of public monies to advocate an issue that they are particularly concerned with, and that is, soliciting votes as it were. It is not an educational thing; that's what the statute permits. But, the abuse that Mr. Wall was attempting to correct was the solicitation of votes and not education.

### Amendment

<u>Mr. Poynter</u> Amendments sent up by Delegate Avant as fullows:

Amendment No. 1. Dn page 2, line 27, immediately after the word "candidate" and before the comma ","

insert the words "or proposition".

### Explanation

Mr. Avant Mr. Chairman, ladies and gentlemen of the convention, this is, as you can see, it is a set of the convention. This getter is the abeliant of the convention, this is the convention of the convention of the convention. The set of the convention of the convention. We want that is a lend at is to prohibit the use of everybody is the convention of the convention of the convention. The set of the convention of the convention. The convention of the convent of the

### Questions

Mr. Rayburn Mr. Avant, would you mind defining as to how far this language could go? I'm very familiar with the bond issue that was called by the local school board. Several letters to the editor in our local paper were along this line. What will this school or that school? The local school board came back with a very definite and complete definition of how every dime of the money would be spent in the event the bond issue passed. Certainly, they didn't pay for that out of their pocket, which I don't think they should have. It was public information, and it was information that the people desired. Under your language. I'm afraid that unling the proposition or the proposal, that they could not do it.

Mr. Avant Mr. Rayburn, this is not aimed at the dissemination of factual information. If you will read it, it says, "used to urge any elector to vote for or against." It is not aimed at matters that are strictly educational.

 $\frac{Mr.\ Rayburn}{1}$  I know, Mr. Avant, but wnat's got me concerned, if I'm having to vote on a bond issue, and I want the facts to make my mind up, whether I'm for it or against it, and the local school board prints the facts as to how the money will be expended, that might have a lot to do with whether I was for or against it, and that's what I'm thinking about, and that's what concerned me, and that's why I asked you, would you give me your opinion as how far-reaching this language is.

Mr. Avant I think that they have to urge you, and the language of this section is what is says, "to urge any elector to vote for or again! I any candi-

Now, to un an advertise ent, say n. Mat date. Now, to un an advert second, say no latures a certain sum tut la landnent second part and set automotive second se

Mr. Nell Mr. Avant, you re eber Mr. Leinox areadients the other day, and his telling us about the even board spending six hundred thousand dol-lars to carpaign statewide for an arendient that was for the areadient. Touries, what you're pro-posing here would prin bit that, and that's what you're ail ing at, right?

My a end ent would prohibit the use \_f Mr. Avant Ny a end ent would prohib it the use public funds to urge any elector to vote for or against a propositi n, not prohibit the use of

Hrs. Corne Mr. Avant, my question was answered, in part, by your answer to Senator Rayburn, just now. Hiwever, wouldn't that be true of a city council trying to inform the public on public improve ents that were needed, and certainly that would be in the light of urging the people to vote for, since the city council would then be the ones

<u>Mr. Avant</u> Mrs. Corne, I can tell you that tomorrow we're going to have a hurricane, and the winds are going to be a hurdred and ten miles an hurr, and there's going to be fourteen inches of rain dumped in this area within about an hour and a half time. I can tell you that, if it's true and it's factual without telling you, fhow, Mrs. Cone, you do titer going the second of the going the second of the sec

# Mrs. Corne

Mr. Avant As long as it is factual information, and does not get down to the level of polities, see no harm in it. But, you inow-and I think you know, you should know, and I now,--that much pub money is spent, not on education, but purely and simply politics, under the guise of education, per-haps That is the kind of thing that we re trying

Mrs. Corne How would we then police the tricks?

Mr Asant Ma'ani

Mrs Corne How would we then police the trick !

Mr Avant

Mrs Corne I said, "There are all kinds of tricks to that trade, you know

Mr Avent . h. yes, ha an we can't write any throughst's going to be ablicitely one hundred percent byg proof . We can go back over everything we've done, and 1 can tell you all lind of thing that might haspen, whether they will happen or not realars to be leen

Hr. Entries in intropate Avant, I've gut a this souther of a friendly gut stimm, and here i my problem we have a pulty in such outstand, and in particular, adaptice Parish, where the tr soundland the pulle outstand, such as the ber quality of the second outgoing of the second standard annual, to a section outgoing attracts, such as the ber of the second arhaa, tu a ertain urganization, sun as na ber of Comere, Mardi era Alim attin, and the safety oun il. Nux, as tithi haler il. mere, its a polizin uer ity that the haler flue ere will endurse ertain publi bind frue, su has shoulbund il. ve, and ertain il.

Mr. Avant Mr. chatelain, the uly this can ter you is trat suit it right tri a aa-jut frabut te week, that is stinisthe and you are along is eque to shat are very in urtant, and tist are gins to vare it e an-seered ut get to yor actioner let en-the arendeent and this section in y ind has nothing to do with that type if sit at in

Mr chatelais well, that what warted the tablish here, thate a reform of the fart that, in your opining it would not refore the fart that, young it is a police jury to give fund to the man-bers of Collerce, safety clincing, and ther ogen-trations such as that

Mr Avant Now, I think that if they were doing it specifically, knowing that it was the out it any candidate or proposition, and they were trying to ds, indirectly, that which they could not d directly. I think it would be prinoited but the point I asing is. for instance, let say, that the budget of the that be off on erce is a rundred thousand doilars a year to though doilars a year, so that is a sail part of that budget, but, in fail, down the read, during that say eyer, the has be of with civic i prove ent such as drainage or do with clvic 1 prove ent such as drainage or

Mr. Henry The gentleman Mr. Chatelain. sorry

Further Discussion <u>Hr. Leith at</u> Mr. Chair an, fellow delegates, rise in opposition to this a end ent be ause 1've been down this road just as Mr. Riecke and W. Sutherland, Mr. Aerther, and the other school board members have. But, I've bost down and it's basis provide the school board of the school board this, we have great needs in Jefferson Parish, a population of some 4. ... people to pass a such needed board sisue, and we atter jetd to do it, uith as this amend ent spells out, without urging any people, without expenditure of noies, to prite it he board issue, and we ster jetd to do it, uith as brough back to us by the itizens of the s-munity--we did not spell out just what was invived with the board issue, where the noi severe to be board issue, this time we utilized we fund. public funds, to publize the hid issue, to siel out clearly exactly in do lars and ents what school were to be constructed, where the in the board issue, to siel school were to be constructed, where the newere to be constructed, what removations were to be undertaken, and spelled the entire atter with thout any problems whatsover, the bond issue passed. So, I say that I think it would be wring for a public to support so think, and I without knowing what the onles are to be pentify, and I withink there also be initial inst, you may want to put restrictions on your schembards, propuls don't in a that in the constitution. I would not use the software provided the software provided the software provided to a software the software provided to a software provided to a software provided the software provided to a software p

kenneth, in your lecind advertise e.t. when the bind issue pared, you spelled out the farts, but you don't urge the we plet wate for or against the proposition, did you

Mr leth an lob, i din t know the exact i at that the that was used in the advertise ent, but I would age this, that we probably urged the lit-zen to get ut and vote on Nov I, i Niv I I, I would say, in essence, we did urge the pro-

Mr. Munsun . Is u unged them to get out and s te, but

my question is: did you say, "Vote yes"? I think that's what this amendment is aimed at, is whether you urge a person to vote for or against. Giving facts, to me, would not be a violation of the law.

<u>Mr. Leithman</u> Well, I think the fact that yes or no was not used, if you're going to urge the people to vote for this proposition...if you don't have to say "this proposition," you say "Please, get out and vote on Nov. 15," and here you're presenting them the facts, I think it's something unwritten, that you're urging the vote for it, in essence.

Mr. <u>0'Neill</u> Ken, my question was in the same Time as Bob's, but I just wanted to know: do you think that what you did would be prohibited under this amendment by Mr. Avant? I really don't, but I'm asking you if you do.

Mr. Leithman I think it would be because if you, again as I mentioned to Mr. Munson, if you're urging the people to vote on Rov. 15, and you're itemizing what they're voting for, I think, whether it be written in black and white, yes or no. I think you're urging them to support it.

<u>Mrs. Warren</u> Mr. Leithman, you made a statement at the podium a minute ago. You said there might need to be some restrictions put there. Now, what restrictions do you think should be put there?

<u>Mr. Leithman</u> I really don't know what restrictions. I think those restrictions that should be placed, should be placed in the statutes, and not in the constitution. Along the line as a limitation, maybe a small fraction or percentage of your bond issue might be appropriate, something of this nature, where it may be utilized in newspaper advertisements or things like this, but 1 just don't see a blanket prohibition. But, 1 think there, perhaps, should be some limitation as to what monies, how much monies, and it may be a fraction, Mrs. Warren, of the bond issue. That may be appropriate, but right now I'm not prepared to tell you, but I think whatever limitations you place, should be done in statutes.

# Mrs. Warren Thank you.

Mr. <u>champagne</u> Don't you agree, Mr. Leithman, that if we included this provision in the constitution, that we would probably open the road to new legal interpretations? Did you...did you tell them to say...to vote "yes" without actually putting "yes," and so forth? In other words--and you answered the other question already--this could well be taken up by legislation, rather than imbedding it in the constitution.

# Mr. Leithman Very definitely so.

<u>Mr. Roemer</u> Kenny, there was a line of questioning earlier, that tried to get you to answer whether or not in your advertisement, you solicited a yes vote or a nay vote, on an issue. Isn't that somewhat a hard line to draw, when you present an advertisement that lists all these points as the good things, and all these other things as bad, and then say 'get out to vote." Isn't that the same thing in your mind as soliciting a vote one way or another?

<u>Mr. Leithman</u> Oh, yes, if you're itemizing what monies are going to be spent for, this is the projects that will be constructed by virtue of this bond issue, and you ask the people and you urge them to vote on Nov. 20, or whatever have you. I very definitely say...you're urging them to vote for the proposition.

### Further Discussion

<u>Mr. De Blieux</u> Mr. Chairman and ladies and gentlemen of the convention, I want to rise in opposition to this amendment, and I'll tell you the reason why I believe so. I agree with Mr. Avant and those who proposed that taxpayers' funds not be used under certain circumstances to advance the interest of certain circumstances to advance the interest of the langus or bet you und or set to be ablet to accomplish this surpose cannot be placed in this constitution, and I feel like that you cupht to do that by statute, legislative authority, where you can spell it out in detail, as exactly what is meant, and not prohibit the legitimate use of public funds, sometimes, for glving factual information. that's being advertised, one person may consider it factual, the other person will consider it political. You've got a lawsuit, and who's going to be the judge? Not the ones who sit here in this constitutional convention and told you, one way or the other, what was or was not political. If's going to be what this judge think's as this beight due that it is going to the the politital. In our you can't spell it out in detail, and make it necessary to accomplish the legitimate purposes, and to prohibit, what we would low was up this this docting the data of the data legitimate purposes, and to prohibit, what we would you was to prohibit by this legislation. So that you can't heat the purposes, and to prohibit, what we would you want to prohibit by this legislation, was that you you want to prohibit by this legislation.

### Vice Chairman Casey in the Chair

### Further Discussion

Mr. Riecke Mr. Chairman and delegates, l rise min opposition to the Awant amendment. This amendment provides that no money shall be spent for the support of any candidate or proposition. Now, as Mr. Leithman said, this vitally affects school bards. In the parish of Orleans, we had schools the school of the school of the school of the children to a class. The general public doesn't know this unless they tre told why we need this bond is averse to any new taxes or any bond issue, unless they know it's going to be well spent, and how it's going to be spent. Now, every man and woman here would vote against a new tax, or a new bond issue, if they din't know gecifically, where publes, if they din the general puble to schools, and the public was able to know how badly the school were dead there. But, this amendment would ...now, insofar as Mr. Avant said that if would not we need more classrooms; we need this or we need that, writhout urging mybody to vote for it. Any judge-lim not a lawyer or a judge-but, if I were a judge, and we put in the school board that we need the money for this purpose, certainly, that's urging the public to vote for it. This is a bade's is 's lawe it up to the legislatther. Please vote against this amendment, and I understand

### Further Discussion

Mr. Chatelain Mr. Chairman and fellow delegates, I won't take but a minute. 1, too, have to rise in opposition to this amendment. I think it's very bad for many reasons. In the city of Lafayette recently, two months ago, we passed a \$61,000,000 bond issue, for many meeds in the city of Lafayette, and the city's budget was Si5,000-not to try to sell this--to offer it in it's right perspective to the people. I felt this was, and as many other

peore feit, it was a guot trim t d be au will out the having So ethins, in writing, and sup ethion the edia to tell the the need for these is prove ents, the peope will on those in a will be the support of the support of the support in this bond issue was greatly needed for the city of Lafayete. I could go on any on, but I fee that it of you feel that Avants intentions were good, but I be leve that we've got a ituation here we debetter nit take a chain e with i urge you to presse vote It down, and, perhaps, the thing ere speakers, Mr. Chair an, I ove the previous que tion on the amendent.

Mr. <u>D'Neill</u> E.J., did var ous people vote against this bond issue in Lafayette?

Mr. Charelain Absolutely, we had some vote again t it. About sixty-five percent had voted fur.

Mr\_0/Neill what you're saying, then, is that, even though those people opposed it, you're using their tax oney to help finance a campaign for that bond ssue. That's eractly what you're saying, right? Even though they're against it, their tax more, is being used.

Mr. Chatelain Yes, but, you know, those same people still live in Lafayette, and I hope they will continue to live there.

Mr. Cannon Mr. Chatelain, I was ust trying to hypothesize the situation as to how a court might view public oney spent, informing the public of the needs of the schools, and what have you, right after the board had called the bond i sue election. If the school board, by an action, offi ial action of that body, calls a bond issue election, doesn't this automatically put them on record as being for it. Therefore, any oney spent would be i proper under the Avant amendment?

Mr. Chatelain Absolutely right...by inference, you tell them you're for it. That's exactly right. There s no other way you can deny it. I'm not a judge like Mr. Riecke said, but i'd certainly have to ru e in that direction. Thank you very much.

### Further Discussion

Mr. A. Jackson. Mr. Acting Charran, ladies and gentlement of this convention. I rise in opposito to this amendment, not that I an unmindful of the pany abuses that have been perpetted agains the people of this state in this area. But, I rise in serious oppositon because I think that we are placing in jeopardy something that will far outweigh the abuses that have been or vie dly pointed out by the maker of this amendment, and I refer to the whole area of public education and it impertance to the growth of this state. I don't believe to the state of this area distribution and it impertance to the growth of this state. I don't believe to any state of the state of the distribution of the whole area of public education the distribution the whole area of public distribution. They are the whole area of public distribution of the distribution the shore of the growth of the state. I don't believe the whole area of public distribution of the distribution the shore of the growth of the state. I don't believe the shore of the growth of the state of the state the shore of the growth of the state. I don't believe the shore of the state of the state of the state the shore of the growth of the state of the state the shore of the state of the state of the state the shore of the state of the state of the state the shore of the state of the state of the state the shore of the state of the state of the state the shore of the state of the shore the shore of the state of the shore of the shore the shore of the state of the bond is use. That are failing all were the the child is use that are laiding at the shore of the shore the shore the shore the shore the shore of the child is the shore the shore the shore the shore of the shore the shore the shore the shore the shore of the shore the shore the shore the shore the shore of the shore the shore the shore the shore the shore of the shore the shore the shore the shore the shore of the shore the shore the shore the shore the shore of the shore the shore the shore the shore the Alake is by the set of the set

### Further Islussion

Hr. Jenking Hr. Chairian, what the use of an election of the only purples and between a true reflection. The purples and the constant of the purple shows the second states or government bons on the data was an election is not free. It is one consent, and how can an elect in the free. Jocal governing guthor ties and shear Dard is giving subtle information about needs, but in television collected for proposition in which we there but out. It doesn't say. The real niths issue is proposed is because we need su any multi-to met projected populations. It say is the re-this out is the second summary multi-tomet projected populations is a summary multi-tomet projected populations. It say is the re-this bond election. Now, what is neither ence-between propagnada and that is mail the difference. That seas the triss is a affronted when it in re-tris, the version screen, and is the television is a summary to the triss of a structure by that is the difference by that ing vote for A end ent N 6, all r 1, the relean Levee oard affree by that think my rights as a citizen are bein a seas to and I think your area, too, who is a

What the English works mean, "urge, woke, for or spaint". That's not what it mean. It means just that, if you tell them to vote for something, then you're in violation of this section, not dissemin-ation of information. So, let's maintain a system of free elections. Let's prohibit government ination of information. So, let's mainfain a system of free elections. Let's prohibit government in-volvement in the election process. If government is involved, it has no mandate to govern because it is not a free election. There is no true ex-pression of the public will. It is a fixed elec-tion, a rigged election, a propagandized election, and there's no place for it in this sort of soci-

[Quorum Call: 91 delegates present and a quorum.]

### Further Discussion

Mr. Chairman, fellow delegates, the Mr. Lennox <u>Mr. Lennox</u> Mr. Chairman, fellow delegates, the <u>committee proposal on this particular subject mat-</u> ter is certainly O.K., and I'd have no fault to find with it, other than it does not go nearly far enough. Now, I can't improve on the dialogue that Mr. Avant has presented to you in favor of his amendment, but I would like to say to you, in dis-cussion with him I understand he's going to ask in a moment for a suspension of the rules to withdraw bits emodement and to come hack with a mionr channe the support of the rules to withdraw the support of a support bits more direct and to come hack with a mionr channe with a moment for a suspension of the rules to withdraw bits more direct and to come hack with a mionr channe with a moment for a suspension of the rules to withdraw bits more direct and the support of the rules to withdraw bits more direct and the support of the rules to withdraw bits more direct and the support of the rules to withdraw bits more direct and the support of the rules to withdraw bits more direct and the support of the rules to withdraw bits more direct and the support of the rules to withdraw bits more direct and the support of the rules to withdraw bits more direct and the support of the rules the ru a moment for a suspension of the rules to withdraw this amendment and to come back with a minor change atable to a greater majority of the delegates on the floor. Now, let me submit to you that this particular amendment tracts a federal statute. Really, the only difference being, is the federal statute has penalties tied to it. If you violate the federal statute, there are penalties involved, There are no such penalties involved in this amendment, the Avant amendment, that's before you right now. Now, as a very young man, 1 watched the careers of Mr. Riccke and Mr. Sutherland, as school board members in Orleans Parish, and I submit to you that they both served with honor and distinc-tion. But, I can tell you otherwise that school boards in this state have not been devoid of corrup-tion over the years, and there have been scandals with school boards, and if there's any question about that, Mr. Jackson, see me after class, and I'll give you a few examples of the subject. I would urge that you consider Mr. Avant's proposal to suspend the rules, and make an amendment, and resubmit this amendment, after which I would urge your adoption of the amendment. Thank you.

### Questions

Ed, I agree in concept with what Mr. Juneau mr. Junical Co., 1 agree in concept with what will wrate the operation of the second secon Isn't that correct?

Mr. Lennox Well, in fact, that's correct, but I think we both recognize that the Federal Constitu-tion was written back in the eighteenth century, and we're talking about a twenty-first century constitution.

Then, what we have is sort of a pro-<u>Mr. juneau</u> lnen, what we have is sort of a pro-hibition in the state constitution, but with no criminal sanction, or no sanction built into the constitution. Isn't that right? That's what we'd have if we pass this amendment.

<u>Mr. Lennox</u> Our amendment, as it's presently drafted, embraces no sanctions, but I think you could, you or I could go to court, and stop a public agency from using tax funds in this manner, under this amendment, the Avant amendment, to this article.

Mr. Juneau Can you visualize, within the Executive Department in the state, a situation between, let's say, Arkansas and Louisiana or Mississippi and

Louisiana, where the Executive Department will want to advocate a certain position that would involve two states?

Lennox I think that's possible. I think 'd just have to find some way to do it without using public money.

Mr. Juneau Or they would be prohibited in that kind of case under this?

Mr. Lennox Be prohibited from usi That's the intent of the amendment. Be prohibited from using public funds.

### Motion

<u>Mr. Avant</u> Mr. Chairman and fellow delegates, I would withdraw the amendment. I would resubmit it exactly like it is. That is, inserting the word "or proposition" in the same place where I now or proposition in the same place where I now have it, but I would add a new sentence to the sec-tion at the end of line 28, following the word "organization" and the punctuation mark "., which sentence would read: "The legislature shall pass laws to implement this prohibition." I would then, if I am permitted, explain the amendment, as resubmitted.

### [Amendment withdrawn.]

### Amendment

It keeps the first amendment and adds

Mr. Poynter It keeps the first amendment and addy - the best way I think we can do this, Mr. Avant-adds Amendment No. 2 as follows: On page 2, line 26, immediately after the word and punctuation "organization." add the following, organizations to implement this "The legislature shall pass laws to implement this prohibition"

### Explanation

Mr. Avant Let me explain what I am trying to do. In the first place, I ask you to heed very well the words of Representative Jackson and they were so profound, I think, that I wrote them down, I think, in an exact quotation. He stated that "he is not unmindful of the many abuses that have been perpetrated against the poople of this state in this area." Now with that in mind, that's why I offered this amendment. I want to do something about those many abuses.

many abuses. Now I am thi don't discore in philosophy at all with friends like Mr. Jackson and Mr. Riccke and others-that there may be certain cases where you need to get certain facts before the public. But ... and straight out and out simple politicking. Now I think that what we are doing here is simply Now I think that what we are doing here is simply putting in a general proposition, a constitutional mandate that you don't use public funds for politi-cal purposes; low don't use them to support candi-pet projects. We then mandate the legislature to do something about that, to implement that prohib-ition. The legislature, in its wisdom, will be able nature which would draw the distinction between education and politics. I am the first to admit that sometimes it may be a fire line. have here may abuse porpertarded adding the people

But going back to Mr. Jackson's statement, there have been may abuses perpetrated against the people of this state in using everybody's tax money for some politician or group of politician's pet little project. Even after the people's tax money has been spent, they still couldn't convince the people, and they voted down the scheme. That has happened time and time again.

Mr. Casey Mr. Avant, may I interrupt you just a minute. I think you were recognized, really, to explain the purpose of the change. I think it would be appropriate to make additional remarks during your close. I think I'm obligated to recognize the other speakers.

Mr Avant Thank you, ad es and gentle en liank

Mr. J. heill Ladie and entlemen of the Jiven-nn, I believe now, the hange Mr Avant, which you have a lowed hi to make in your a end ent, 1 nope will insure passage of this avend ent 1 I nope will insure passage of this arend ent 1 thin several coments could be appropriate here--Several things which possibly need to be and. This have been said one way or the other, but 1 thought a hit about this, and 1 thin out of this whole arriele, this was the one most "portant bestiding a new governmental coplex, a unicipal efter, well, we tried to pain the bond issue twice, cam-paigned for it and pushed it, but both times the people vote it dawn. Apparents they had good

well, we tred to part the bond issue twice, cam-paigned for it and pushed it, but both times the people voted it use. Apparently they had good reason for this. They did n think their take oney should back a bond issue to build a munippil work of the second issue to build a munippil voted down the bond issues because we're going ahead full steam with it anyway. But the point is that those people who are against that bond issues should not have their tak oney used to help finance the gassage of the bond issue. I'd like to draw an amalogy for you, and one that I think most of us analogy for you, and one that I think most of us it is and what would be covered under this anticle. I think most of you would agree that any money all ocated to this covention hould not be used to help finance a camping for or against this con-stitution. But I think you would agree that pos-ther the bond is use the twick would help insure. That you can't a paign for or against t, you can only objet ively state it. I think the most be covered under the solid to the pose the insure the ther the solid to the pose the the you can't apaign for or against t, you can only objet ively state it. I think the most be the solid the solid the pose insure. That you can't apaign for or against t, you can only objet ively state it. I think the most be the solid the

well taken. But I also think the people, ha purposes, which were voted down by the people, ha

Be order upon them. Mr. Jenox stood up here and talked the other day about the New Orleans Levee Board spending is hyndred thousand dollars in a capaign to help pass an amend ent to the constitution this pait elec-tion. Hy understanding of that transaction is that eventy-five thousand dollars was allo alted for that overous it couldn't have here allocated in the standard tables tables the standard tables the standard tables tabl

that purpose. It souldn't have been allocated in the first place. But even though they went a' far a pending is hundred thusand dollar, having contail parties and train ng abud the take try-in to hunce pa age of that annulent. I think these are the wrongs that M' Avant 10 trying to the work as well. Reas the etton very sarefully think the block whore no status are taking from write viewoiten up here to peak again tit. I ay of in a national way, are taking from write viewoiten that is too to the annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a parage of this annume add on will have a the the people were winning the boot is be too the paper is have one is the boot is bot unit the bayer. I have the here winning the sector of the paper is have not the boot is bot unit the paper is have not the boot is bot unit the paper is have not his annume is don way that he doe in it this is the arith the is a late is the main is winning if the boot is the bayer.

Me using Mr. D Neil, . due to asserve y the annuent a toben restated, but previously, a propage by the ittee, the mass a assolute rombition against the use of wind for erisal purple --for the use to use any electricite for ragainst any and date wass a lat, a use prahibitime open the lan age, a to reen added, dilute the effect of the reen added, dilute the effect of the areas originally avoided by saying that the len-signate with upper this.

### Yes, Mr. Cohr y, 1 think it die Mr. o NellI

Mr. Flory Mr. hair an, deletates to the state and ent. I do so primarily based and mr. en sate and ent. I do so primarily based up not estate ment and the facts as they stand in regard to the state of the state only one side of an analysis of the state only one side of a successful of the state only one side of an assumption of the state only one side of an assumption of the state of the state of the state. I can never real suble funds being used to give both sides for an allowed by the state cast an intellight the state of the state cast an intellight the state of the state cast an and the state of the state cast an intellight the state of the state cast and the state of the state to present the state of the fact that in order to present the attern a fair light, then you way aparticlar primary set. my

an issue. Take fr an exaple, the art of the sever and of New Orleans that has been entimed erou here from this it, rophone You go as the art the that the referendue was being the ever of ar-the passage of those constitutional a end eff. and you greenber the spot advertionent in teles in pad for by the New Vielean Dat art in any what they and was. Yote finale diet is and o. "They did it give details. Hey did they both ide of the pitture it was very in wall dent of Orlean, to kin what the ead fait if the sterre.

for want of somebody other to ask it of, I guess, but first of all, do you see this essentially as a self-executing provision and one in which persons aggrieved, general voters or taxpayers, would have standing to raise it, in opposition to expenditures of public funds? I think these are two key questions. I was wondering what your thoughts were on

Flory I think your question is a good one, Derbes. If you read the language of the section e it says "to urge," I think that is the criter-Mr. Flory where it says

where it says to drive, is annow that it the criter is a such about the set of the set where the set of the set of the set of the set of the legislature prescribe the ground rules on what is meant by the word "urge as far as public bodies, meant by the word "urge" as tar as public bodies, and with particular reference to school boards, in furthering a particular increase in ad valorem taxes, or whatever taxes, to present a fair and true picture as to what the needs of the system might be.

Mr. Derbes But, do you take the position that a principle part of the amendment as phrased, gives substantive legal rights to taxpayers and citizens, would have to be implemented by further legislation. If the answer is "yes" to the latter, than it would seem to me to be unnecessary in the constitution

Mr. Flory I think the language that was added was a matter of clarification for those whose interests were..

Mr. Henry The gentleman has exceeded....you have exceeded your time, Mr. Flory.

### Eurther Discussion

Mr. Stovall Mr. Stovall Mr. Chairman, ladies and gentlemen of the convention, I originally asked to be put on the list in order to move the previous question, because I think it was quite obvious that this is a bad amendment, and we should vote it down and move along.

However. as the discussion has proceeded, and as Mr. Avant has seen it necessary to add a further amendment, I think the issue has become clearer, and I feel the need to discuss it for just a couple of moments.

To begin with, Mr. Avant felt it necessary to add the statement "the legislature shall pass laws to implement the provision," which in response to Wr. Derbes' question was recognition that it is not self-operating. It needs further legislation. It seems that we should simply leave it to the legis-lature rather than putting this kind of provision in the constitution.

the constitution. The legislature can deal with it in order to correct the abuses without placing unnecessary restrictions on school boards and other legitinate public bodies who might feel the necessity to use limited funds in order to promote certain provisions that might be before the public. The question that is before us is this. Do we are the state of the stat

want intelligent, informed voters, or do we want ignorant, blind, uninformed voters? It seems obvious that there are times in our urban society when many average citizens cannot be acquainted with the details of different propositions. They need to be informed through the mass media concerning definite provisions that might need their support

artinite provisions that might need their suppor and their advisability. So, I encourage you to reject both of these amendments, and let's adopt the section that is given to us by the committee as it has been presented. Thank you.

### Ouestions

Mr. Toomy Reverend, wouldn't you think the augu-tion of this amendment, which would weaken the part that we have presently written on the prohibition

Mr. Stoval: I can't understand your question, Mr. Toomy.

Mr. Toomy ....the adoption of this amendment, wouldn't it weaken the prohibition that we have written in the section against public funds for candidates?....leave it more or less to the dis-cretion of the legislature?

<u>Mr. Stovall</u> Yes. If you add Mr. Avant's amend-ment, you are subjecting the Amendment No. 1, when it refers to money being used by a candidate, to 1, where

# Further Discussion

<u>Mr. De Blieux</u> Mr. Chairman and ladies and gentle-men, this new amendment isn't any better....if as good as the previous amendment which Mr. Avant withdrew, because all that this amendment says is that the legislature shall implement it. If you

that the legislature shall implement is. If you can't implement it to start with, how can the legislature detail t because all this does is pro-hibit the use of funds for any sort of a proposi-tion that you might want to advertise. Now, as I stated before, and I wanted to let you here its explain that you're doing here its telling the goole that you here you here its each of what those who propose this amendment say, because if you like the proposition, you are going to say "that's alright for public funds." If you are against it, you are going to say "that's alright for public funds." If you are against it, you are going to say "that's alright for public funds." If you are against it, you are going to say "that's alright for public funds." If you are against it, you are going to say "that's alright for public funds." If you are against it, you are going to say "that's alright for public funds. If you are against it, you are with the legislature to say how, when and where, and where they cannot be used, funds of this cannot be used. funds of this cannot be used. this, I think is better to leave it to the leg-islature to say how, when and where, and where they cannot be used, funds of this sort, for the adver-tising of any issue or candidate, or whatever it may be. I just think it's a bad proposition. We ought to leave it to the legislature to set the details.

### Ouestion

<u>Mr. Willis</u> Senator, if we project your argument you just made, would it not be more behooving for us to strike out the entire section and leave it for the legislature?

Mr. De Blieux I that, Mr. Willis. I have an amendment to do exactly

Mr. Willis 1'll embrace it.

## Further Discussion

Mr. J. Jackson Mr. Chairman, ladies and gentlemen of the convention, I'll attempt to be very brief in my remarks. Let me suggest to you that, as obvious by the conversation here, that you have fifty percent on one hand saying about the abuests percent on the other hand saying that we ought to allow the people to be protected. It seems to me that if we voted for the Avant amoundment, that r we're just satisfying one fifty percent on it. seems to me that we ought to delete, as Senator De Blieux has suggested, delete the section, leave it silent, leave it to the legislature to make the it silent, leave it to the legislature to make the necessary corrections according to the situation that arises. I grant you that there is some talk about public funds for political campaigns. There is some talk about the necessity of school boards to present issues to the people. Can that very well be construed as being, and I imagine a court could possibly interpret it as being that it's political advertising. I don't think that we can solve the intricacies of the problem by adopt yint; if'y percent on the part of the necessity, for the school boards and public agencies, to adequately inform, and to promote the interest and they are elected...most of the mote by the elector-

ate, tou, at the use t e prime the which ritection that Mr Amant ay built of street errors of Mr and the street the addention of constor or Bileux is a real weat the addention of constor or Bileux is a real weat and be real you are attend to do it, te which anot be real you by a long-latting prime of on or the onlistic of the street of the street prime of the street of the street of the prime of the street of the stree very well auggest that ear in all arend ents and the development of these various agen ies who, iny of whill are elected to, cannot exit, par-tiolarly for the petterment of a particular is we first the varietiency. Boll subject of the second lifer way we can stup here, and we can arive of day. I think that do not ee a clear dis-tor in uittin before, wone ed this or such and such any such is real. That coul-be construed as political advertisement. We need this tails about political advertisement. We know that which have a not such an encode the second to be the second tails about political advertisement. We know that talk about political advertisement. We know that use the buards and our public agencies are not unsidered as political agencies. So what do you do about that kind of situation i fou know, they can't even go out as a candidate...go out there and values it's support to be a non-partisan election. The support of the angle and situation that exists, that the elected representatives of the period with the elected representatives of the period with with treemeduus and or of mear no.

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Mr. Hinry Mr. Wall, you have been our the

Mr. Wall Thank you very some stword ad a dig this a end encland ad of the

runther discussions of the second sec

<u>Mr. Avant</u> Mr. Sutherland, is there anything in my amendment that would change the most commendable way in which you say your school board did oper-

Mr. Sutherland I don't know of any, Mr. Avant.

Mr. Avant And isn't it a fact that all this amendment would do would be to mandate that all such public bodies operate in that commendable

Mr. Riecke After you spoke, I didn't know whether you were for this amendment or not. Are you, or aren't you?

<u>Mr. Sutherland</u> I see nothing wrong....I told you when I got up here I wasn't urging you to vote for or against it. I wanted to give you the facts. I'll let you decide whether you want....

Mr. Riecke You're neutral.

## Further Discussion

Mr. Aertker Mr. Speaker and ladies and gentl I know it will come as no surprise to you when Mr. Speaker and ladies and gentlemen, say I rise in opposition to this amendment. When I heard Mr. Avant introduce the first amendment, I was opposed to it. When I heard him introduce the I was opposed to it. Ameri, mean of the introduce the amendment to the ...and withdraw it and introduce another one, I'm still opposed to it, but for the simple reason that all I can see that he did with the second amendment was the he inserted the subter-fuge to get around the provisions of the first amendment.

I want you to remember when Mr. Avant presented this and he was being asked questions, what he said this and he was being asked questions, what he said was, what he thought about it was he thought that it meant so and so, he intended that it meant so and so, and that there were a lot of questions to be thing. I tell you that when we have something pre-sented to you with that many doubts and that many points involved into it, why we would ever give any consideration to putting that as a part of this constitution that would be binding in its effect just would maze me to think that we would give for Surpation to it. I would also the something pre-tast batton Ruge Parish for the last ten years, I have personally spearheaded five elections. We have never expended one single dime for any tele-vision, for any mewspaper, for any radio advertis-ing. Our sole expenditure was when we passed the resolution authorizing the call for any tax election that's the brochure, incidentally, that Mr. Jankins had reference to about reasons why yous should vote give some thought to "What is the responsibility of the school bard?" What is the responsibility of the school bard?" What is the responsibility of the school bard?" What is the responsibility of the school what is, go the some the school was the put them in there if it isn't to give them informa-tion dour what is, go the some the school was the school was the pressible of the school bard?" What is the responsibility of the school bard?" What is the responsibility of was, what he thought about it was he thought that tion about what is good in education, and what is needed in education? This is necessary in order needed in education? This is necessary in order to explain to the people what they need in education. explain to the people what they need in education. 111 take it one step further; what is political a school in their community and if they don't build a certain school, and if they don't implement a certain program, what's going to happen to the edu-cation of their children.

I state to you that it is a responsibility of the school board. It is not a political deal when a school board gets a tax election for the benefit a school boald gets a tax election for the behavior of the children of that community. I urge you, when you give consideration to voting for this amendment, that you think about what you would be doing. Don't stifle the initiative and the opera-tion of the local school boards in this state; vote this amendment down

Mr. Jenkins Bob, are you aware that other public bodies, perhaps not the East Baton Rouge Parish

School board, but other public bodies have pur-chased television time, newspaper ads, radio spots, etc., aren't you?

<u>Mr. Aertker</u> I'm aware, Mr. Jenkins. I would sug-gest that if this is an abuse-and I consider it an abuse-why not handle it through the statutes where it should be and not put it in this constitu-

<u>Mr. Jenkins</u> Aren't you also aware that in the brochure, for example, that the East Baton Rouge Parish School Board put out, that on the front cover it did say "vote for" these propositions. It wasn't just an explanation, isn't that true?

Mr. Aertker That's correct

<u>Mr. Jenkins</u> Isn't it also true, Bob, that in many instances--1 know in our own parish--public school facilities, mineograph machines, telephones, meeting rooms, have all been used to actively go out and urge people to vote for propositions appearing on an election ballot?

Mr. Aertker That's probably true. Incidentally, Mr. Jenkins, I'm glad you asked that question be-cause one of the things that really had me confused as I listened to Mr. Avant present this proposal, I said, 'You know what? If we had a tax election and no public funds could be used for it, that mont as sub-intendent, I wuldn't be able to or that school system. I wuldn't even be able to or speak at anything on that, because I wuld be using time that should be diverted into something else. It got, to me, to be even that ridiculous as to how would you delineate as to what exactly was public funds in this.

Mr. Avant Mr. Chairman, fellow delegates, I don't have any doubt but what I could pass this amendment if I would just exempt school boards from it. But what's good for levee boards, what's good for city what's good for levee boards, what's good for city is so and the school boards. The school boards is for the life of me, understand somebody coming up here and saying, "We never have done and never con-template doing what you intend to prohibit, but don't prohibit it." I doubt the sincerity of that type of logic. As I have attempted to make abun-don't prohibit it." I doubt the sincerity of that type of logic. The since the since the source is the or leans Parish School Board operated when he was a member of it. Matter of fact, I think they are a member of it. Matter of fact, I think they are under a duty to do that. But I think when they go

a member of it. Matter of fact, I think they are under a duty to do that. But I think when they go beyond that and they start using public funds, whether it be a school board or any other public body, for political purposes to politick a certain particular put through the they be politic for the when you may be against it, that that's wrong. Now all this amendment does it say that you shall not do that and the legislature shall provide the ground rules. It's simply like in the Constitution of 1921 when they put in there the language 'gam-bling is a vice and the legislature passed laws suppressing gambling as dusiness. They never have pup norm, where it wasn't conducted as a business. I say that we need to go on record as saying that 'thou shalt not usen y tax money to promote political propositions or candidates." Once we have gone on record and said that, I'm perfectly wilding to leave it up to the legislature in its wisdom to provide the ground rules. They never lave gauge is 'urge am' elector to vote for or against so when the legislature in the source is leave in the round rules. They never have part of the source of the source of the source of a saying the time to record and said that, I'm perfectly wilding to leave it up to the legislature in its wisdom to provide the ground rules. The key lan-guage is 'urge and elector to vote for or against source the legislature can ut some mest on those

guage is urge any encoded any proposition." Now, the legislature cna put some meat on those bones. The legislature can say what is legitimate

education, and what is pure and simple pulit i don think that you can justify-rand as Mr. wall swid, don't say it doesn't happen because it does happen-using public tax money to buy wniskey. to throw barbecues, to do all sorts of plain old common ordinary garden variety political activity to get various and sundry political propositions passed. It does happen, it has happened, it s going to happen if we don't do something about it. Here simple statement of principle in this constitution, and then leaving it up to our elected representa-tives in the legislature to put meat on the bones of that proposition as they will many other funda-mental principles that we are incorporating into this document. education, and what is pure and simple pullting

I urge you to vote for this amendment. I say again: I don't see how anyone can be against it when they say they have never done it and have no intention of doing it.

[Record v.te rdered. Amendment reje ted: 48-57. Motion to re: ns.der tabled.]

Mr. Poynter Senation lowing a endment. Amendment No. 1. Senator De Blieux sends up the fol-

Amendment No. 1. On page 2, delete lines 25 through 28, both inclusive, in their entirety.

<u>Mr. De Blieux</u> Mr. Chairman and ladies and gentle-men, 1 think that this amendment is very simple. This is a matter which 1 think that the legislature Ints is a matter which I think that the legislatury can deal with adequately and they should, and they ought to. Any kind of language or restriction we try to place in the contitution is going to be somewhat in my opinion, make it very difficult for the legislature to deal with. The legislature can put the details exactly when public funds can be used if they can be used for nurnoties and when The registature to bear with. The registature can be the fixel an act of the fit of the registature can they cannot be used. They can spell it out as when they cannot be used. They can spell it out as when advertising of any political issue. I certainly think that this is the proper way. Certainly, we don't want to put a restriction in our constitution that as yearst e eliminate what I consider, right now, is a very serious drag upon our political system, and that is having Sole sort of a public finance campaign funds for candidates selling the Because as you well know, the candidate sually that that the necessity of candidates selling the Because as you well know, the candidate usually that that she may success-ful. I certainly think that we ought to leave that avenue open in the event we should see it to do that at so e future date. I ask you to concur in the amendment.

Mr. Kayvurn Mr. Chairman, in a matter to expedite time, I whild like juit to suggest that in the future where you have an abundance of a ends ents and one delete, the entire section, that we take that amendment up first. We have waited about an hour and a half here or two hours this alternoon and finally turned around and accompilihed that very thing. I don't believe, I here you wouldn't get any static where you had a buicth of among yes any static where you have subtime, an enough consider that one first. I werely sugget that in a matter to save a fittle time because I gut avful Siegey, duzed off a uple of time ver there, and there's a lot better thin i cuuld be doing AF. Thairman

Mr. Henry Y us point (, well taken and ) let the sweet talk e down there awhile aug. They

## route again Thank you. r

Mr Pointer Section 11

Mr. Roy. Mr. Chairman, ladies and gentle en of the convention, we only sought to alle ne real i portant change here, and that is, to nit penalize a registrar of voters from seeking office within a year after the time that he sin onger a relis-trar of voters. We just saw no reas n to be eve trar of voters. We just saw no reas in to be leve that just because you were a good registrar of voters that you should be prohibited into seeking office within a year of the date. So, the coil lite changed the structure of the previse constitution section and statutes to say that you ay not serve as the registrar of voters while a qualified can di-date for any elective office. The specific reasons being, that we just filt is serve if you're with to any other...into any other isses as to crea candidate or once while campaigning you'd get into rouble because some registrar are beintere ted in

Mr. Abraham Chris, I know that the Intent is n to do so, but does this prohibit a registrar of voters from taking a leave of absence in order to run for office in case he was defeated, then he could go back to his job or what

Mr. Ray we specifically concern ourselves with That and when it says that he ay not--- i do t think there's any provision for leaves of absences. but once he qualifies as a candidate he can there and I think that would knock hill out Besides that, he's got...there's no provision

Hr. Lanier Hr. Roy, I had previously discussed this matter with you and Mr. Sick, but is that to record is clear on thi puint, in the first your committee to do away with the present state Board of Registration which is composed of the

Mr. Roy

Mr Lanier You hav it suie other place

Mr lanter we , if the new constitution does not contain a provision for the state and of existra-tion, would it not be about hed

Mr Ry well, yu've got eat a tweeel really don't in while the answer to ne tate and i Reputration in to deal with in this variation incluin range way, 1, 10

well, was it interded to be lefeted Mr lanter

No. No. it was to that would the te

Well, it would still be...well, then we'll Mr. Roy have to put it in somewhere else if you want it. We don't...not..this doesn't take it out if that's What you are talking about and we didn't intend to take it out. But, we haven't put it in anywhere else and I don't know if it belongs in this section or not. Perhaps, it does.

Mr. Lanier Well, are you aware that the present State Board of Registration has the absolute right to remove registrary of voters in the parishes with...at will? Are you aware of that?

Mr. Roy Yes, I am. I don't think this takes a away. In other words, Walter, the way I look at it, what we don't put in here, constitutionally, Yes, 1 am. I don't think this takes that in the schedule will be any constitutional amendment that we don't propose or we don't specifically take out of the '21 Constitution will go into the schedule as statutory law, as I understand it. You'd still have the State Board of Registration and it would still have the powers that it's got right now.

<u>Mr. Lanier</u> Well, are you aware of the fact that <u>I'm opposed</u> to giving up State Board of Registration as presently constituted that type of power? Are you aware of that?

## Mr. Roy No, I'm not.

<u>Mr. Lanier</u> Do you feel that type of power should be given to an individual or a group to remove a registrar of voters at will?

Mr. Roy No. I really don't because I always think that you have to remove for cause if you're going to remove anybody.

Mr. Lanier What would be the position of committee, if any, on that particular point What would be the position of your

Roy I can't answer for everybody else, if you can be an an an and the second without cause.

Mr. Roemer Mr. Roy, you, in answer to these board of registration questions which I think were very appropriate by Mr. Lanier, you said well, if it's not in the new constitution then we...it's automatically in the statutes, wasn't that your answer?

<u>Mr. Roy</u> I said, that it's my opinion that in the end what we don't necessarily retain in this consti-tution will have to be relegated to the schedule in some way or another

Mr. Roemer Dk. Now, following that same logic, why do we have to have this section at all? Why don't we regulate the whole thing in the schedule? I mean, what have you done with this section, that can't be done in the schedule?

r. Roy Mr. Roemer, that's my opinion and you're n your way to convincing me that I'm probably wrong about it.

## Mr. Roemer Thank you.

Mr. Roy In fact, you have convinced me. I just got in from talking to a group and I'm not with it yet. Any other questions?

Mr. Stagg Mr. Roy, one of the questions asked, I think by Mr. Lanier, had to do with what happens to the Board of Registrations and I'd like to ask to the source of the set of the s powers and perform buch duties as may be authorized by this constitution or provided by statutes." Do you believe, Mr. Roy, that the provisions for this kind of powers in the Department of Elections and Registration does effectively do away with the Board of Registration?

Mr. Roy 1 don't know why we are talking about the Board of Registration when we're talking about registrars here.

<u>Mr. Fayard</u> That wasn't my question, Mr. Roy. My question is, that under almost every other elective office or constitutional office that we have provided for, we have at least established a term even for Supreme Court justices and also the governor; did your committee give any study or any thought to establishing a term for the office of Registrar of

Mr. Roy Well, we did, we felt that since regis-trars were a peculiar animal in a way that they come about---they are appointed by the local governing body, the parish governing body that we dian't want to impose upon that body a set period of time and they had historically served during the time and good...you know, of good service and what have you and you just couldn't get into it. We didn't want to put him back in politics.

Mr. Poynter Amendments sent up by Delegates Ginn and Reeves as follows: Amendment No. 1. On page 2, delete lines 30 through 32, both inclusive, in their entirety, and on page 3, delete lines 1 and 2 in their entirety and insert in lieu thereof the following: "Section 11. The governing authority of each entire the section of the section of the section whose compensation, term of office, powers and functions, and bond shall be provided for in the election code. No person shall serve as registrar of voters who has qualified as a candidate for elective office."

## Explanation

We're concerned here with your parish Mr. Ginn <u>mr. uinn</u> we reconcerned nere with your parish registrar of voters and we had been working on it and we hope we have the solution here, we hope. First of all, we're taking about the governing authority of the parish shall appoint the parish registrar of voters. We wanted to solve the problem authority of the parish shall appoint the parish registran of voters. Ne wanted to solve the proble of the governor appointing them or a board of elections appointing them or something of that nature. We wanted to somewhat remove possibly authority appointing the registran of voters as you have it now. Compensation we felt like if we left the compensation up to the legislature maybe, some-day, in the future we might have somewhat of a degree of uniformity statewide. But, wanted the legislature to have that responsibility. Now problem of off correct ins it. First of all we're concerned with their lifetime jobs and how you're going to remove these people and how long they are concerned with their lifetime jobs and how you're going to remove these people and how long they are going to serve the just of the second second to serve the second second second second second when that term would end and you would know the political aspects of this job. There again, your election codes set up by the legislature would handle his term of office. Your powers and func-tions are self-explanatory. Now, about bonds, we had to include bonds in here because anytime you have a public official, who has to sign checks; have a public official, who has to sign checks; handle the money, you have to have that bond pro-vision in there..it is necessary---and there again, your election code in that sentence. In this last sentence of this amendment, "no person shall serve as registrar of voters who has gualified as a candi-date for elective office." Well, we saw a problem here of..of a conflict of interest and..several candidates running for office who may be friends of the registrar of voters; --- all kinds of prob-

les. Now first of redistrar of voters is that part in . we see the there by be south that what there that so we had to put this prevention in there that so we had to put this prevention lad to yield to any questions

### uestions

Mr Denner Mr. Ginn, y question really is in mnection with the last sentence, who has qualified as the candidate for elective office, when? uppose a an previously qualified, and rai and was defeated and subsequently was appointed registrar of voters; he would cone under the prohibition there hecause he has qualified a candidate.

Mr. Ginn Well, that may be the case, but we just didn't...or it ight not be the case it depends on the tile of when the an qualified.

Mr. Denner, well, that s what I'm asking you. In other words does this een that if he is qualified...if he has qualified then at that point he can no longer serve, or does it mean if he ever in the past qualified?

Mr. Ginn Well,...it's just a prevention to keep him fro running for office at that time, that's what we are try'ng to accorplish.

Mr. ennery I m sorry, but I did not understand your provision for renoval. You said to ething about it, but I didn't quite follow what you said. What provision is there for re oval?

Hr. Gin: That would be taken care of in the election code, but my coment was that...the legislature would set that term of office and you would know when that an could be removed, if it was necessary. Really, it was a "on halant Latement.

Mr. Rayburn Mr. Ginn, don't you think you ought to use words you ay here who has qualified'? Don't you think you should add there, during the time he s a candidate? If I read this right, once you qualify your dead inverser, would bid the tim there while as a candidate, but you just say 'no person shall serve as a registrar of voters who has qualified as a candidate

Mr. Ginn Yes, sir.

Mr. Rayburn Which eans in y opinion, that once he qualified he ould never erve.

Mr. Ginn I understand that and I agree with you. I think that it's jult wordy and that we need to rearrange.

N w, I think we used ive 'y ann in teal f who ha qualifid, but while qual fied

Mr Ray urn And to do it Belau e I jot a reittrar if voters that qualified murt when he went to the supre e Court, he got unualified, but he still a registrar, and a don't want to knyck his out.

Mr. Perez Mr. Gran, I's generally in favor at your a endment, but one of the thing' that trivublue of twhere you ay that there various term of offices, etc., shall be privided in the election ade, and it ay be a number of years betrare we actually adopt an election use would you allento aying a provided by law in trad ut in the election inde<sup>\*2</sup>

Mr Ginn well, would hope hat the levilature would deal with it and that what I want to deust put that responses its there in the ensist ture as in previding that election de

Mr Ferez Well, would yo have any other too to of tay no, by aw cather than in the election de Mr , widt e y skeat b. t n. he it we want 'e e lature t no wewat the 'ave tat e. t,

Mr Myrte David, in relards towal eatr Raylurn was ust asing use asies y sale ue ting, woldn't to est y tetter just to e the last sentence that in teolia apry asi that muld accomp is mere thray on en in na serve as registrar of suters will e a ual feate didate for any elective ffice a ther that te last sentence that you have in or a end ent

Mr Ginn we re doing that right inw You rearest were taken care of

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### idestions

Mr. Abraha David, what have we really see ere with your lanuage that's any different free the language in the consister proposal

## Mr. Ginn Well...

Mr. Abraham A you've really put here and but said that the...added the wirds of per attention of office which is in the elections and emitted wind by awaid the law ould be the election enter there.

Mr. Ginn well, we ust thought we were try to clean it up a little bit. There's evera try to people who had objections and this wather to a compromise a end ent. If that will answer out tion, we did add a few tho nos here

### Further Listussion

Mr. Pergz. Mr. Char an and ladie an entless of the consection, while 1 generally far rebothers meretion, while 1 generally far rebothers merey uch is, first, the lat take ay never get an election ode nies this is netained within an election code the evalues to could not be taken are of ut, even ne neutant than than ithat, is that when you ay mise compensation, ter if fice, pivers a dist and bond shall be privided far is the even tat it could not be taken while the termination of the the termination of the termination of the could be associated for the even termination of the termination of the termination of the could be associated for the even termination of the termination of the termination of the over beause the thin an evaluation of the thing is mereally that the termination of the businet constraints, that the termination of the businet constraints of the associated of the thing is mereally that the termination of the termination of the businet constraints of the termination of termination of the termination of the termination of the termination of termination o

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Mr lener will, fait the thin that Litter, e and that's why laker whitee or still a thirt wind airer to a a since will be that the law with near to total in the world apply, and the arc, obey it has be been a since the since the since will be the sit to make with the sit of the sit of the act of the sit of the air site of the site will be a to the site of the air site of the site of the act of the site of the si

M. Marren, M. Berner, and S. C. Marren, C. M. Sarren, C. M. Sarren, S. M. Sarren, S. M. Marren, M. Sarren, M. Sarren, M. Sarren, M. Sarren, M. Sarren, M. Sarren, S. Sarren,

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<u>Hr. Parez</u> Well, that's very difficult to say decause the election laws of this tate are very complex. It took to revise such things as our Criminal Code and other various codes that we have, many, many years. I don't know how many years it will take to revise all of the election laws of this state. It's a very complex subject matter and it could take many, many years.

Mrs. Warren Maybe, you should have got up here

Mr. Gravel Mr. Perez, were you here last week when we adopted the first section of this article that provided for the election code which also were you here then on Saturday, when that particular provision that was adopted on Friday, was amended to state that there should be...there would be provisions in the election code for permanent registration?

Mr. Perez Yes. Well, I wasn't here on Saturday, but I'm familiar...

Mr. Gravel You're aware of it? All right, sir.

Mr. Perez That those provisions were adopted. My only point here being that the way that this particular amendment is phrased, that it may be many, many years before we adopt an election code. I'm afraid of what may happen in the meantime with respect to the Office of Registrar of Voters.

Mr. Tate Mr. Perez, as an expert in local govern-ment, do you have any concern at all...

<u>Mr. Perez</u> Judge, any person who claims to be an expert, is a damm fool. I don't claim to be an expert in anything.

Well, I claim you are anyway. I guess Tate Mr. Tace I'm a damn fool.

Mr. Perez I am what, sir?

<u>Mr. Tate</u> An expert. But, do you have...the present constitution provides not only that the registrar can't serve while he's a qualified candidate, but that he cannot be a candidate for twelve months after he leaves office. Does it concern you at all that, that former constitutional prohibition is not maintained? Under the current basis was it...it's a sensitive office, one we want to keep out of politics...

Mr. Perez Under this particular provision, the Tegislature could deal with it, under this particu-lar amendment. The present law says no registrar of voters shall be elected or appointed to any other office within twelve months after vacating that of registrar.

## Further Discussion

Mr. Gravel Mr. Chairman, and ladies and gentlemen of the convention, I rise in opposition to this amendment primarily because of the provision in here that mandates the legislature to fix a term of office. Now, I know that may sound rather strange to most of you because the obvious feeling that every delegate I guess, would have without maybe giving it too much consideration, is that some term of office should be fixed for registrars of voters. Let me suggest to you that there's a vibat serve the law. In the first place, that serve rm of office tor registrars of voters. fixes a term of office for registrars of voters. At the present time, they can be removed by the Board of Registration under the provisions of Article VIII, Section 18, of the constitution for no cause at all. There's no guarantee that they are going to continue in office for any specified period of time. But, they at this time can even be removed for no cause at all; which many of us,

of course, feel is a very, very bad situation with respect to the law. What I think we've got to do if we do anything at all, about registrars of voters, if we do anything at all, about registrars or voters, is to maintain them in somewhat the same position that we maintain our civil service employees; our school teachers under the tenure provisions that we've adopted into the statutes, and give them pro-tection and insulation from arbitrary action by the appointing authority. That is, generally the police inrv and which, of course, constantly and consisappointing authority. That is, generally the police jury, and which, of course, constantly and consis-tently could make political demands collectively and individually upon the registrar of voters, if his office is permitted to be politicalized. Now, I would suggest to you that we give consideration to defeating this particular amendment, and then, per-haps determine whether or not we haven't gone as far as we need to go by adopting the initial section that the election code would provide for permanent regis-tration. Certainly, a provision with respect to tration. Certainly, a provide for permanent regis permanent registration could, and should encompass in the election code a section or a part that would deal with the appointment, qualifications, period of time which they would serve, and things of that nature; insofar as they relate to the Office of Registrars. So, I would urge that we defeat this amendment for the reason that it can cause more problems than I think its authors seek to cure by The amendment, and that we give consideration either to deleting the entire section, or perhaps, coming up with some amendments that would meet the very many serious objections, that have been already urged to the proposal. If there are no other speakers, Mr. Chairman, I would...

Mr. Kelly Mr. Gravel, am I to understand that your basic objection to this amendment is the phraseology in their term of office?

<u>Mr. Gravel</u> Yes, Mr. Kelly, because that's the... those are the words that would really politicalize the office

<u>Mr. Kelly</u> Well, are you aware that assuming that this amendment does pass, which I do favor, I have an amendment to this amendment that would delete those words?

Gravel <u>Mr. Gravel</u> If you had that amendment I could then ...if we cleaned up the last sentence to say what I know the authors intended it to mean I think, then we would have a provision that would be satisfacto-

Yes, Mr. Chairman.

Mr. Roemer Mr. Gravel, as I understand it then, you are opposed to this amendment, basically, be-cause of that phrase "term of office." Is that correct?

Mr. Gravel That's correct. Yes

Mr. Roemer If that is deleted then, how will there be any provision for removal and in whose hands will that be?

<u>Mr. Gravel</u> I think we would have to say that that should be...how they should be done, either in this section or leave it up to the election code to provide for removal.

Mr. Roemer Well, I noticed that you had an amend-ment earlier which said that "the governor shall Are you going to push that amendment on

<u>Mr. Gravel</u> Well, knowing that you are not going to support it, for that reason, Mr. Roemer, I might withdraw it.

Mr. Roemer Well, do you have any alternatives to a term of office, then, if it's not going to be the governor?

Mr. Grave I hadn t th u nt of any, but . Ure we could o e up with something

Mr. Roe er well, wasn't it y understanding befire you took the like ear er that you had supported this alend ent? wasn't that the 'pression you gave me?

Mr Grave You ean the inn-Reeve a end ent

Mr. Roe er Yes

Mr. Grave! No. I didn t say that I would support it. I thought that this was an alternative that would be...should be presented to the convention.

Would be...should be presented to the convention. I so stated up here at the huddle too. Mr. Roteier. Let a ake it clear, so there is no question about it. I was asked to prepare the amendment that was distributed to all of you by the registrars of voters, who are here today, and asked me to prepare and sub it this amendment. They are not umvilling to go with the amendment as proposed by Mr. Ginn and Mr. Reevel. I think that it presents some problems, and J m Saying So.

Yes, Mrs. Warren.

Mrs. Warren Mr. Gravel, do you know what disturbs me most is whether you said that the registrar of voters could be removed for no cause at all?

### Mr. Gravel That's the present law.

<u>Mrs. warren</u> Right. Now, you said that amendments could be drawn. The only objection that you had was a term of office. Anta about drawing you hat amenement and be cause for them having to be removed ...That nobody should be able to remove just blank blank just because I don't want you any more.

Mr. <u>Gravel</u> Well, in the amendment that I had distributed--which we haven t discussed yet--I did make the provision that there could be re oval by the governor for cause.

### [Prev us yuest ordered.]

### Closing

Mr. Revers let us get this stuation into perspective. What we intended to do was to estabilish that the parish registrar of voters shall be appointed, first of all, by the governing authority of the parish. Then, we did not want to get involved in this stuation of removal by the governoror re oval by the parish governing authority. We felt, first of all, that the governor should have manting a registrar of voters in a parish. We felt that this shud not be done. We did, also, feel at the same time, that the registrar of voters should not be placed at the discretion...or his removal placed at the discretion... or his removal placed at the discretion... or his removal placed at the discretion of the police jurors, who appointed thm in the beginning. We felt that this could possibly bring an alliance between police jurors and registrars of voters. So, simply, we said that the compensation, the we det that the seven it up to the lowisiana legislature—who we trut-to establish an election code, to set forth the term of office, the compensation, and the powers and functions of the registrar of voters we do not want to class in for youry strongly against this. I will look any regi trans of voters as a lifetime position. I feel very strongly against this. I will look any regi trans of voters as a lifetime position i feel very strongly against this. I will look any regi trans of voters we do not want to classify the appointed and the power should will be provided and the down without being able to be re moved by anyone. This again the down astic process of which is overy strongly all favor of Ris wrong for an individual to be appointed and not be able to be removed. But at the same the, it's wrong for that individual to be appointed by the marine like lury au them rescanded and that is a serie of the state of the second and and the registrar is the Attless end of the second and and the registrar is the attention of the second and and the registrar is the attention of the second and and the registrar is the attention of the second and and the registrar is the second and the provide of the second and the provide of the second and the second

### Question

Mr. Cannon I have two questions, Mr. Reeves to you know that in your, using the word on your roposal "ter of iffle --whether the for fur year six years, ten years, or what-you have will a ized the office in that this particular individual period of the, you know, as versue an ufflexible term? Jet dyna real closs --that derive a poor the for enrous for a poor with the second the office of registrar of yothers for a certain number of years really, in effect, below e wase for removal?

Mr Reeves Mr annon, viu are s pitialized Isay to you ...Cone to winn Par h and find ut about politics we just appointed a new renitrar of voters and it was an exiiting gale filt

### A end ent

On page , delete lines 29 through ... b th inclusive, in their entirety and on page , elete ines 1 and ... in their entirety

### Explanation

Mr. Libla, Mr. Lhair an, fe liw de egate, the e is nuthing in ecti n l) that and be hand ed by latute over the adoption of the a enirent

### Further Dis ussinn

the provision as it is now written. "The governing authority of each parish shall appoint a parish registrar of voters." If we remove this entire pare not going to have your local people making this appointment possibly. You are locking it in by at least putting something into this constitution concerning the governing authority of the parish making the appointment. If you take it all out, you put it all in the hands of the legislature appoint dicreate some special commission, they could but the entire thing in the hands of the governor or any other political body, concerning the appointment of your local registrar of voters. For that you vet this amediment down.

## Further Discussion

Mr. Stagg Mr. Chairman and fellow delegates, ['1] make as short a speech as Max Toblas made in presenting his deletion amendment. If you have been for local government and for home rule since we have been in this battle, then your vote is against the Toblas amendment. The registrar of voters ought the toblas amendment. The registrar of voters ought the state of the wind. I urge you to vote against the Toblas' amendment and leave the registrar of voters to be appointed by the local government.

## Further Discussion

Mr. De Blieux Mr. Chairman, ladies and gentlemen, I rise in support of the Tobias amendment. There is the support of the Tobias amendment, there is the local governing body can't appoint the registrar. The only thing is, is what it says that it's the election code it can be provided for if we delete this section. They can determine upon what terms and conditions the local governing body can appoint the registrar, how he can be removed, safeguarding him from being removed because of anything of that sort. I certainly think that we nest of this proposal by the election code. We don't need to clutter up the constitution with a lot of meaningless-you might say-legislation, and thats what this amounts to. I ask for your support of the Tobias' amendment.

## Further Discussion

Mr. <u>peres</u> Mr. Chairman, ladies and gentlemen of the convention, in my judgement the provision that point a parish registra of voters is a must provision in our constitution. Let me, if I may, go back a little bit in history and see whether whight recall some of the problems and abuses which when the governor had the total authority to appoint the registrar of voters. That was, probably, the biggest political plum of any of the gubernation appointments. It was subjected to a great deal of political abuse. In my judgement, we must, we should put a provision in the constitution which assures that the registrars of voters will be app parishes. Now, I will be coming with an amedment -right after this-which will provide that whose compensations, powers and functions, and other provisions with respect to such office, shall be provided by law. I believe this will pretty much ale the same time, assure that the governing authority of each parish would appoint the registrary of a tatewide abuse, by some governor, some day, trying to control registrations all over this state to. I, therefore, urge that you reject the amendment. I will offer an amendent shortly afterwards--which in my judgement-is a very, very dangerous thich for a subject the people of this state to. I, therefore, urge that you reject the amendment. I will offer an amendent shortly aftermards---hoperully--when this is defeated, which i hope will straighten out the problem. Judge Tate.

### Questions

<u>Mr. Tate</u> Mr. Perez, when your amendment comes, do you anticipate that we would keep on as statutory material in the schedules, the present method, which has worked pretty durn well?

Mr. Perez Well, the present method, yes. I believe that under the amendment, itself, it says "shall be provided by law," would include the present provisions, until such time as it might be amended.

<u>Mr. Tate</u> This would be kind of a transition material that we could keep on when we get to that transition business.

<u>Mr. Perez</u> That's correct. That would do away with the possibility that it would wipe out the present law, when you said it must be put in an election code.

## Further Discussion

Mrs. Warren Mr. Chairman and delegates, I was really wanting to support the proposal by the conmittee. Mr. Gravel brought up a very interesting question which kind of disturbed me a little bit-where the registrar could be removed without cause. Mr. Perez brought a question into my mind that the court might be years coming into effect, it was going to take so long. So, I mn ot warting to defeat this amendment. I think it's too important to just let the registrar of voters just be hanging loose, and we don't know which way he is going. I think if Mr. Perez is going to draw an amendment. I think if Mr. Perez is going to draw an amendment. I would like to get with him and put in there that this uthorities that appointed him, but, for a cause.

[Previous Question ordered. Record vote ordered. Amendment rejected: 5-98. Motion to reconsider tabled. Motion to temporarily pass over Section 11 adopted: 84-15.]

## Reading of the Section

Mr. Poynter "Section 12. Commissioners and Poll Watchers

Section 12. The legislature shall provide for the selection of commissioners and poll watchers at every election."

## Explanation

<u>Mr. A. Jackson</u> Mr. Chairman, ladies and gentlemen, this is a rather simple section. I don't think that it bears the responsibility of the time of this convention by way of explanation. I think that it is rather clear. It leaves the old regulation relative to this proposition up to the legislature. I, at this time, would move for the adoption of this section.

## Questions

<u>Mr. Bergeron</u> Representative Jackson, 1'm looking at the way Section 12 reads, "The legislature shall provide for the selection of commissioners and poll watchers at every election." Does this mean that at every election they will have to provide for a different way of selecting commissioners and poll watchers?

Mr. A. Jackson I don't think so. I think it simply means that at each election you will have commissioners and poll watchers.

Mr. Bergeron Is this the present language we now

### have

Mr A \_alkor well, our landage in the signal provident of the second axes to another the second axes to another of the source of

Mr. n en Mr. a.k.n, don't you think it mould also be arried in the election ode

Mr. A. Jackson, It , use preserve be handled in that fashion.

Mr. enkins Mr. Jakimin, is it it true that one reason that it in necel ary ti include this section in this article is the fact that thi does andate that we will always have poll watchers who are, of course, are chosen by the candidates to safeguard this candidate in the candidates to safeguard this candidate in the candidates to safeguard and this modate the legihlature to provide at elections and this modate the legihlature to provide a system for choosing such poll watchers.

## Mr. A. Jackson That is correct.

<u>Mr. Jenkins</u> And, also, isn't it true that it also provides that we will have a syste of commissioners - and this means--that commissioners can be selected in sone fair and realonable way. But, we must have on ssioners and poll watchers and the election use cannot do away with those things. Isn't that sprect?

Mr. A. Jackson. The section mandates contrisioners and poll watchers.

### A end ent

Mr. Pointer Delegate Sandoz sends up amendments. age , delete lines 3 through 5, both inclusive, In their entirety.

### Explanation

Mr. andoz Mr. Lhaiman, fellow delegates, 1 din t want Lu Sing the same song over and over again bot again, 1 and that the provide states of the that the same state of the same state of the the election codu. It is no necessity to include this section in the constitution.

### Questions

Me lenkin. Mr. Sandoz, at present, candidate for office-any andidate - an demand that he hay in the election place a poll wat her. In provsion andate uch a provi in in the future, because it...poll wat hers is a term of ordinance that may we will have poll wat hers. In it is good prite tion to nave, so that no elect un ode in the future und say that maybe only commission ers, for example, oul due prenet at the polling place' lsn't this a go d prutection for ws

Mr bando. Mr leniin, l certainly at in favor of o issioner and poll watcher kat, l have enough shfifer e in the legislature is feel that they will provide for bith in the eleit in d

Mr. A candy Mr. and z. 1. It true that pill wat here are not paid.

Mr. anoz That's Correct

Mr A landry. Han't it lien your replacements and that even through pull watcher are noted, onless they are very only to the and nates, they never this up at the pull?

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Mr. Lynter Lettin, 5 sheithr was no section 1, Returns feletion in a uniform somer 13 and som shateling the se retary of state.

### Exp anat in

<u>Mr. Vick</u> Mr. Chain an, fellow delegation the present constitution privide that in return of elections for all cuil officers in a by the governor shall be adely an exceedant tion. This is a rewrite and it is a time in onghy technical area in the rewrite in the onghy technical area in the rewrite in the any hour, of consultation will the terretain state and his assistants in the interval of an amendment to delete the cuil is off wr Abroise landry cuilden ghness as the variances-related to the terretain believes the variance that the terretain the state and his state in the terretain is than amendment to delete the cuil is off wr Abroise landry cuilden ghness as the variances-related of state in this flow believes the variance that the best is the terms into state in the state is intent of chis state in the state is to insure that they are invalid in the intervaladoption i will yield.

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Mr Vik Yuread tverywel, Mi

Mr. erkin Mr. Lick, in there an interaction of the set of the set

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law and say that on every bond issue, on every local election and so forth, that instead of the local committees promulgating the returns of the elections, it will be done by the secretary of state?

Mr. vick Well, Mr. Perez, Mr. Bellar, who is one of the attorneys for the secretary of state was by the secretary of state was bis insistence...not at his insistence, but is this suggestion and admonition that this language be included. Now, you may find it objectionable and, of course, if you do then you are entitled to attempt to change it.

Mr. Perez My question is whether this makes a change in the present law because of the fact that your praturns of elections are promulgated either by your parish committee, or by your senatorial district committees, or by your congressional districts committees, or the various other state of the various other state of the various other state the promulgation by the scentary of state of every election in the state under all conditions and that's what concerns me about the language.

 $\frac{Mr}{correct}$  That's what it says and you may be correct that it may change the law.

<u>Mr. Burson</u> Mr. Vick, j haven't looked at the law in this matter as closely as you all have. But, I'm under the impression, now, that the procedure followed on bond and tax elections would be that the tax embodied be it-drainage districts, school board, city council, or police jury would be responsible for promulgating the returns. In many cases, most cases, probably the secretary of state would have nothing at all to do with the promulgation of at least that type of election as distinguished from an election where you had contesting candidates, or in a party primary, or otherwise, or a general election. Did you all look at that aspect of it?

<u>Mr. Vick</u> As 1 said in answer to Mr. Perez's questions, Mr. Bellar after hours of consideration on the wording...on just how the wording should be...how precise the wording should be to achieve what was desired. This was what the committee came up with. Now, if it does do violence to the promulthe Constitution of 1921, I can't enswer that. I don't know that.

<u>Mr. Burns</u> Mr. Vick, in following up Mr. Perez's question. I take it that under this wording that every parish election, every judicial district election, every senatorial district election or whatever the nature of the local election, that the local election commissioners would take all of their election returns, their tally sheets and so forth, and send them directly to the secretary of state at Baton Roue?

Mr. Vick It is my understanding, Mr. Burns, and Imost certainly...prepared to stand corrected if I am wrong, is that the preliminary returns are, you know, always in order. In other words, obviously candidates and those interested in particular issues want to know what the returns are. But, promulgation means official-the seal of the secretary of state goes on the official returns. They may vary one or two votes, or three of four, or a dozen or so but...It doesn't mean that the candidates would not know as soon as the returns were added up. Promulgation is a term of art.

## Amendment

Mr. Poynter Amendment No. 1 [by Mr. Sandoz]. On page 3, delete lines 6 through 8, both inclusive, in their entirety.

## Explanation

Mr. Sandoz Mr. Chairman, fellow delegates, the

only justification that I heard in the explanation of this section from Mr. Vick was that it would provide a uniform method of promulgating these returns. Well, my answer to that is that this can be done by statute or in the election code. Hence, there is no reason to include this in the constitution. Furthermore, I want to point out that when we adopted Section 7 in the Executive Department, which was a section a section of the there concerning the powers and duties of the sche there concerning the powers propare and certify the ballots and promulgate all election returns and amendments to the election laws except voter registration and custody of voting machines. I submit that this section as in a number of these others can be deleted, without in any way affecting the constitution.

### Questions

<u>Mr. Rayburn</u> Mr. Sandoz, the bond commission met today and approved some eighteen or twenty little special drainage districts, and water districts, and various districts. Two weeks ago, we approved forty-four, I believe, and two weeks before that, thirty-nine. In the parish, Mr. Martin has not had anything to do with these returns from these elections. But, if I read this right, in the future he would have to, would he not?

Mr. Sandoz That's correct.

<u>Mr. Rayburn</u> Do you have any idea how much that would cost for him to promulgate every little election, in every little area, in every little district in this state?

Mr. Sandoz You, probably, are the best qualified one here to estimate that, Senator.

## Further Discussion

resigned and Mr. Robi hau was appointed it. doen it alway more that way for instane, d you real ze that if the comissioner in the returns of an election for a statewide office would faisify the returns, they were cluid very place a an in the second primary who doesn't deserve to be in the second primary. He wouldn if nd oil of in in the state on the fluid were the election, that the secretary of state had prowigated homestily, but he only prowigated frait the returns of the comissioners, and he has false returns. No matter they state, where you have some uniformity, some check and balances, where you he corrected returns-after they have been checked by the clerk, by either the some returns be forced to be made to whomever promulgates the election returns, to make some that the line, that you have some uniformity, some check and balances, where you for corrected returnsafter they have been checked by the clerk, by either the cline is the election of supervisors of election that some returns be forced to be made to whomever promulgates the election returns, to make sure that al candidates got a fair count. That's all lisk of you.

> [Previ us juestion indered. Amendment adopted: 84-17. N t. t. re insider tabled.]

### Reading of the Section

Mr. Poynter Section 14. Registration Challenges Section 14. A person may contest in the district court his denial of registration, or denial of his request to have removed from the rolls any names placed or standing thereon illegally, which cases shall have preference over all others.

### Explanation

Mr. Guarisco Section 14 merely is a codification of The present constitution insoftar as a person having...guaranteeing a person to have standing, to purge the rolls of ilegal voters and to contest an election. It's in the present constitution under Article V. We changed it somewhat in that in the present constitution you had a right to trial by jury, and they had the anount of the jury, etc. We culled most of that out and leave the procedure to the legislature. Also, it says, that theme, simply in lawyers' language, that it is a summary proceeding and due to the nature of elections, it would be important that it would be brought up at a very early hour so that the election could be decided very swiftly, or the rolls could be purged between elections and that only those persons entitled to vote would vote. So, it only guarantees a standing. We may have standing, probably through the Bill of Rights, but that would have to be

### Questions

Mr. Rayburn Would you mind defining for me, in your opinion, the words "district court"? How far could you contest it? You just. I use here "dis trict court." Hould you define district court for me, in your opinion?

Hr. Guarisco Well, Mr. Rayburn, the district court is certainly the first court of record in our judicial system. Its functions are set out in our Judicial Article that we had previously adopted 1 don't think that any way you could interpret the first court of record being the lait court that would ever hear the contested election. I think you can go through the judicial process on eyou net into rourt the first time.

Mr. Tobias Mr. Guarisio, following up enators Rayburn's quertin it says a person may cintest in the district court. In rieans, we have a ivil and rifinal district cuurt. Which could would it go to?

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### A e o e t

Mr Poynter A end ent N 2 4 1 2 n page 3, delete lines 9 through 14, bith relative in their ent rety.

### Explamation

Mr. andoz. Mr. hair an and fellow delegates, agree with everything thats in this section, but to the section of the section of the section of using the adoption of the alend ent deleting the section.

### uestion

Mr. Dennery Mr. Sandoz, are you keep in the late record of speakers with regard to this article that you have normally kept?

Mr. Sandoz I might spol my lage. I de ded not to keep a record on t

### Further Discussion

Mer\_denkins Mr. Chairman, delegates, this set in gives our citizens a very important rimit that they have had for any years. A rink mich persons in vitually every important rimit that they have had for any years. A rink mich persons in vitually every other state have Really, it would be a travesty to take it out of the constitution because it is, of course, possible that the legislature would be dened. The rink to court in his case would be dened. The rink to register and vote would be really quite eaninless if a person had no procedural way terfore that right. This section gives him a way if he is denied the right to register, then he can g t the district court, and in a sum ary proceeding have ther sight devides. Also, it preserves the integrity of his own right to vote because your right to ther going whose marks are on the ro is iterillegally. If you oak at Artice vill, et in 5 dour present constitution, you will find the guisedent present provision. It says. Alsy erson by his constitution who may be do the strict ball the offers to register to all strict court and have those marks purged. If they are there illegally. If you oak at Artice vill, et in 5 dour present constitution, you will find the parshin which he offers to register. Said outs shall then try the cause giving it preferene ever all other cases before a jury of the vertice have "he trial court, however, may grant are were pitted have may and the remensation of the ause. "he trial court, however, may grant are were pitted have may any proceeding have standing to sue, to either be registered. If have that have the from the rolls. My undeness, lets don't take that have preserving for our citizen their right the use from the rolls. My undeness, lets don't take the is protein. The section, and the defeat of the endendi

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that. Of course, I suppose that we could say any elector, but when we are talking about the right to challenge your denial of registration, well, you see you might not be an elector if you hadn't been allowed to register. So, we have to give that right to every person.

<u>Mr. Rayburn</u> Woody, believe me, I'm not trying to pick this thing, but I did promise to try to submit back to the people a little shorter constitution. I notice here where you say at the bottom, that "these cases shall have preference over all others." Then, right in the next section which we are not discussing now, but you are saying if a person gets elected or an election has been contested, you make no provision. They can wait a year to decide it. I wonder what the rush is.

Mr. Jenking Well, we are continuing present law "giving it preference over all other cases." We are doing that because if it's right before an election and there are names standing on there illegally, you'd want to immediately have them removed so that you wouldn't have a fraudulent election. Or, if your election were coming up and you weren't allowed to register, well, you would need to act immediately in order to be able to vote. So, that's why the provision has been in the constitution and should continue to be.

> [Previous Question ordered. Record vote ordered. Amendment adopted: 77-21. Motion to reconsider tabled.]

## Reading of the Section

<u>Mr. Poynter</u> "Section 15. Election Contests Section 15. The legislature shall provide by law for the judicial determination of contested elections".

## Explanation

Mr. A. Jackson Mr. Chairman, ladies and gentlemen, this section makes no changes in the present law. It tracks the language as it is included in the present constitution. I move for the adoption.

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. Sandoz]. On page 3, delete lines 15 through 17, both inclusive, in their entirety.

## Explanation

Mr. Sandoz Mr. Chairman, fellow delegates, again I have no objection to the language contained in here, that "the law shall provide for judicial determination of election contest," but I submit again, that this should be a part of this election code and not a part of this constitution.

## Question

Mrs. Warren Mr. Sandoz, 1 might not get a chance to ask you this question. Have you gone through all of the rest of the proposals, and have you decided what we are going to delete? So, if you have, let me know and 1...1 can be studying to find out what is in it before 1 get to it.

Mr. Sandoz I haven't done that yet, Mrs. Warren.

## Further Discussion

<u>Mr. Jonkins</u> Mr. Chairman, let me read you the present constitutional socient. It's found in the section of the section of the section contests. It says: "The legislature shall provide by law for the trial and determination of contested elections of all public officers, whether state, district, judicial, parochial, municipal, or ward except governor or lieutenant governor, which trial shall be by the courts of law, and of the dowicile of the party defendant." The thing that this section would accomplish is to make sure that contested elections will be decided by the courts of law because it says "judicial determination of contested elections." It would not allow an election commission; it would not allow some public official such as the would not allow some public official such as the to such and allow some public official such as the would not allow some public official such as the to such and the legislature, say, to sole on it, or something like that. It requires that the courts of law make this determination, and we buoght that the reason that that was included in our 1921 Constitution was that the drafters of that document field that these contests should always people-not appointed by some net-won have access to the jurisprudence in the area and can make a determination based on law and facts rather than some political whim. I think we need this section, and Lurge the defeat of the amendment.

[Previous Question ordered. Record vote ordered. Amendment adopted: 70-26. Motion to reconsider tabled.]

### Reading of the Section

<u>Mr. Poynter</u> "Section 16. Election Fraud Section 16. No person shall register and vote in more than one place, nor offer or receive anything of value in exchange for a vote, nor engage in any other form of election fraud. The legislature shall enact laws to suppress such activities, and penalities in such cases may include suspension of the right to vote and hold office for a period not to exceed five years".

### Explanation

Mr. Jenking Mr. Chairman, delegates, the equivellent section in the present constitution is Article VIII, Section 23. It discusses corrupt practices, disenfranchisement, grand jury investigations, district attorneys. We have taken that section, shortened it considerably. I suppose the most important part of this section is the second sentence. disenfranchise people for election fraud. The present constitution says that "wheever is guilty of election fraud-buying, selling votes, things of that nature-shall be forever excluded from the right of suffrage and from holding any office of trust or profit under the United States, or rather under the laws of this state. The committee felt that a permanent exclusion of some for a used that if someone is so disrespectful of the electoral process that he engages in such activities, that he ught to be denied the right to participate in such activities for a set period of time. We arbitrarily established five years as that period. It is particularly important that this section not be impossible, under this constitution, to disenfranchise aryone or prevent then from holding office if they have engaged in election fraud. However, we the sught to vote is guaranteed under the Bill of Rights, and a person is restored to the right, the full rights of citizenships, under the Bill of fughts, after completion of serving a term for swe here, say that people can be disenfranchised disenfranchised by any election code or provision thereof. So, if you that that buying and selling votes, vote fraud, is so serious that people ought to be denied the right to vote for a period of five. years, you will have to adopt this section or five. versor, you will have to adopt the store the one other voters of the state. So, lurge the adoption of this section.

### Questions

wildy, wild you indite in e what mean: ho person shall relister and Mr Perez wildy, wild you the ewords rean: ho perso vote in one than one place?

Mr\_\_Jenk\_ws\_\_\_hat eans that ust as the resent constitution that it's i legal to register and t

Mr. Perez

Mr. Jenk hl well, of course, at the sale the

Mr. Perez well, y proble again is, and l read-ing the words, is whether once you registered in

Mr. Jenkins Certainly I feel that a person should not be able to register in more than one place, and 1 hope that this language rombins him from duing it. I think that is the intent of it. I think that this is a proble that this convention should be concerned about because under federal court deci-sions, certainly there are no durational require-ments for registering to vote. You do have to be a resident of an area, but there is no durational resident of an register. Aithout such a provi-sion, I cert that it may be possible for people to go around registering in more than once place and voting in mere than once place.

Mr. Demnery Woody, under the right to vote section of the Bill of Rights, Section 19, as 1 understand it, the right to vote may be suppended while a person is under an order of imprisonment for con-viction of a felony. Therefore, if the legislature determined that vote fraud was a felony, you would achieve the same result that you unst sonk of

Mr. Jenkins Well, Moise, you could only do it for the period of his imprisonment, you see, or his probation. You...he may get off with a sus-pended enterce, for example, but he would still be able to hold office and still be able to vote.

be able to hold office and still be able to vote. So, the only way that we can prohibit him from voting and holding office if he is not actually in prison or under probation or parole would be with this constitutional provision. Let me explain that briefly one more the because 1 know a lot of people weren t really listening. The only way we can disenfranchise people for element than once place, and things of that nature--i if we specifically provide in this constitution that that right can be up ended for a period of time, such as five years. that right can be u pended for a pe nd of time, such as five years. If we delete it, an election code cannot posibly, legally provide uch a thing because the Bill of Rights would be superior to any election code, and the Bill of Right, gives a person the right to register and vote even if he has been convicted of such a thing a this unle he is actually in prison or under parole or proba-tion. ...o, we need the eition if we are going to have this extraord narry penalty under these circum stances so I unge the adoption of thi ection

Mi joynter Amendment No. 1 [/ Ar , in page 3, delete lines in through - Loth in la lve, in their entirety

Mr. <u>candoz</u> Mr. hairman, fellow deletatel, and a 1 agree entirely with the language of this of the however, 1 annot envision the legislature aoth a tring per unit to register and vite in a re than me place i submit again, that this is the type of

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Mr. U'Neil well, would you ex 'air why process

Mr. andoz wel, because i start are with t. I think the legislature and the et with it. I just disagree with that inter, reat Mr. Jenkins

Mr. Fayard Mr. Sanuaz, is tot to encode legislature to provide that it small be a rin y for anyone to buy rise interiment of the second activities, and if cinvited, then would be to a person be disenframmised from the

Mr. Alra a The artin e n the start re-reads that every citizen i the tast re-sighteen years of age shall have the re-siter and vote, except that this right is a perform pended while a person is interdited as used as is declared entailly incluse the read read read imprisonment for conviction if a feature to read

Mr milli Mr anduz, I resite at the standard process of the standard process of

Mr. Sandor: You ll have to a k. Mr. enking that question

Mr lenkin Nr and 2, vir to thrue if the construction of the constr

We exist a set of the set of the

<u>Mr. Sandoz</u> Well, it would be a question as to which provision would control as the courts would interpret it.

[Previous Question ordered. Record vote ordered. Amendment adopted: 78-22. Motion to reconsider tabled.]

## Reading of the Section

Mr. Poynter "Section 17. Code of Elections Section 17. The legislature shall provide for a code of elections". Mr. Chairman, I might say at the outset there is a committee amendment to delete this section.

<u>Mr. Henry</u> Committee amendment to delete the section. That's the one that's already been taken care of. Right, Mr. Jackson? Provided for that in the first section. This is an amendment to delete Section 17.

### Amendment

Mr. Poynter Amendment sent up by Delegate Alphonse

An royact Jackson. Amendment No. 1. On page 3, delete lines 26 through 28, both inclusive, in their entirety. Of course, Nr. Sandoz had an amendment just like

[Amendment adopted without objection. Motion to take up other orders adopted without objection.]

Announcements [1 Journal 615-616]

[Adjournment to 9:00 o'clock a.m., Wednesday, October 10, 1973.]

Mr. 1. Loudry Lord, help us to work is out more we have a groble we are out noncerved abort, don't let t get us down. We ask four help, help us to wrk it out, however hoge it ay be, don't let it scare our hearts or let it worry us so outn that it ay tear us apart. Help us to remember that we are still all ve, and that we possess a rind, and that so where, sirely, there must be some an-wers we can find, and that there is no problem on this earth w hout a slund solution, if only we will taitle it with faith and resolution. So, Lord, do not et us surrender in a storm of fear and doubt. Give us the grace to understand that, if we ask Your help, You will help us to work it out. Amen.

Mr. Heeren Mr. Chair an and fellow dele ates, rise this morning, once again aggrieved--it seen rise this morning, once again aggrieved-it seen like it happens to me about once every two or three week. Some weeks back, the honorable mayor of Dhrevepint pad, I guess, his annual visit to this constitutional convention for a couple of hour, after which he held a preis conference and predicted dow for our efforts. I noticed that in this morn-ing's Mirmire Anducate in, three's an article that cays. Two mayors call voters won't pat, new con-titution it goe no to account about an i promp-The more control from Baton Rouge " al hour Alleg and more control from Baton Rouge " al hour Alleg and alleg, tellber continue in the same direction is and the source of the source of the source of the price of the source of the source of the source is price coastilution, it is good government with me rule, which the people light accept " he find guite I want to read by you is from Wr alegade down there, buil don the line is the they're allegade down there, buil don the feel like they're allegade down there, buil don the feel like they're allegade down there, buil don the feel like they're allegade down there, buil don the source of the bail of the source of the bail of the source of the source of the source of the bail of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the source of the source of the the source of the source of the sour

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Mr. Chatelain Mr. Chairman and fellow delegates, I'm not aggrieved; I'm happy and enthusiastic this morning. T sesterday morning at seven o'clock a.m. I met with my mayor and city councilmen in the city of Lafayette, for the second time in three weeks, at their request, and they were very happy to give me their time, since I sat on the local and Parochial Government Committee, they are very happy and enthusiastic and accept the proposals as they came out of this convention. I want to bring you good tidings from south Louisiana. They are one good tidings from south Louisiana. They are one hundred percent for the new proposal, and I feel sure they'll do everything they can to help sell this constitution. Thank you.

## UNFINISHED BUSINESS

## PROPOSALS ON THIRD READING AND FINAL PASSAGE

Committee Proposal No. 33 introduced <u>Mr. Poynter</u> Committee Proposal No. 33 introduce by Delegate Alphonse Jackson, Chairman on behalf of the Committee on Bill of Rights and Elections, which proposal is a substitute for Committee Pro-posal No. 20, also by Delegate Jackson, on behalf of the committee, and other members of that commit-

A proposal making general provisions for elections

The status of the proposal, at this juncture, is that the convention has adopted, as amended, new Section 2, has adopted the proposed Section 3 and proposed Section 6, as amended, has deleted all other sections of the proposal, save for Section and the sections of the proposal, save for section and and ments pending at the desk to propose the addition of new sections to the proposal.

[Motion to revert to Section 11 previously passed over adopted without objection.]

## Amendment

Poynter Amendments proposed by Delegates

nr. reynet: Amenoments proposed by delegates Kelly, Ginn, Roemer, Gravel, and others: Amendment No. 1. On page 2, delete lines 30 through 32, both inclusive, in their entirety and on page 3, delete lines 1 and 2 in their entirety and insert in lieu thereof the following: "Section 11. Subject to and not inconsistent with the pro-visions of this constitution the autemain." I. Subject to and not inconsistent with the pro-visions of this constitution, the governing authori-ty of each parish shall appoint a parish registrar of voters, whose compensation, removal from office, bond, powers, and functions shall be provided for in the election code. Upon qualitying as a candi-date for public office. No law shall provide for the removal from authority of a registrar by the appointing governing authority.

## Explanation

Mr. Kelly Mr. Chairman, ladies and gentlemen of the convention, I refer you to Section 11, as it is written here. Quite frankly, there are about three issues involved in this section. One is three issues involved in this section. One is, who is going to be the appointing authority? Quite frankly, 1 think there is very little controversy among the authors of the different amendments up here, concerning that issue. My amendment would say that "the governing authority of each parish shall appoint a parish registrar of voters." All whet most further inconsistent with Section 11 right, not further inconsistent with Section 11, right, not further inconsistent with Section 11, as written by the committee, it would say that "is compensation, bond, powers," and so forth, would be determined by law." Now, we do say "the election code." Quite frankly, 1 admit this could be an issue, but won't argue that issue at this particu-lar time. I mean "law", "election code"...it's six of one, half a dozen of the other, as I see it. Now, the same language or the same concept was at-tempted to be traced, that is in the committee pro-posal, trying to make it clearer. We simply said that "upon qualifying as a candidate for public office," Under the committee proposal, it would "No person shall serve as registrar." This say, could possibly mean that he would take a leave of

absence, and yet, not, in fact, forfeit his office at that time. The last statement in the amendment being presented is probably the key issue. That is, that no law shall provide for removal from office of a registrar by the appointing governing authority. Now, under Section 11, as it's written now, there is no reference to removal from office. There is no reference to a commission, as we have in the 1921 Constitution, and 1 refer you to the 1921 Constitution-1 believe it's Section 8... Article VIII, Section 18--which deals with a commis-sion which sets up a three board panel of the govhouse, which provides for the removal of the reginouse, which provides for the removal of the regi-strar of voters. Now, the primary purpose for put-ting this last statement in there, "no law shall provide for removal from office of a registrar by the appointing governing authority," is to, at least, try and take some of the local politics out of this office. I can foresee that where you've got a registrar of voters that is absolutely and completely controlled by the appointing authority, then you've of norholes. I can also see that where la's 1 can also see, that where, let got problems. suppose that an election is coming up, and the police ury or the appointing authority, whoever it might be has the absolute right to remove that particular registrar, they can go out there, they can even make registrar, they can go out there, they can even make this a campaign issue. Let's suppose you've got one in a particular parish, say, you've got a family that is politically strong, and it's real important to have this particular family, or this particular group backing you. Well, I can foresee where four or five candidates for one of these local offices would go to this particular indep for he a second them, or however many it would take to be a majority, especially if they have the power of this re-moval, and say, "all right, now, you all come on and go along with us on this thing, and we'll make and go along with us on this thing, and we'll make ole brother-in-law over here, the registrar of voters," What we have done in this amendment is to try and prevent a situation like that. It says that "the legislature is going to provide for re-moval from office, with the limitation that no law will provide for the removal from office by the same authority that does the appointing." It's that simple-you're either for the concept or you're against it.

## Questions

Nr. Abraham Mr. Kelly, this last sentence is what I was concerned about. Maybe I am unaware of what the problems may be, but what is wrong with treat-ing the registrar of voters, the same as any other parish employee, in that...the example you used, that if you voted for me, we'd make someone's brother-In-law the registrar of voters. Well brother-in-law the registrar of voters. Well, doesn't that same philosophy apply to all of these various parish jobs? Couldn't they do the same thing with the other parish jobs? Why the exception, or why is there a problem with the parish registrar of voters?

Well, I can just foresee that...something that is as basic as voter registration, I mean I don't like to think of someone who is handling the registration books of a particular parish, who is in in charge of registration of voters in a particular area, is an ordinary common employee of a particular political subdivision. I think it's a very important job, and I mean, I can't even equate this to an employee of a political subdivision, Mr. Abraham.

De Blieux Mr. Kelly, 1 just want to be sure <u>mr. ue biteux</u> Mr. keliy, i jusc wank co be sure about this division. Do you mean that, if a regi-strar of voters qualifies for office, then he is no longer a registrar, and even though that he dis defeated, he cannot assume the position as registrar, unless he's reappointed, or something of that sort?

That's correct, Senator. In other words, Mr. Kelly Inat's correct, senator. In other words, I don't think that this stops him from ever becoming the registrar of voters again, assuming that he was defeated, but during his period of qualification and during his political race, he would have to for-feit the job. Now, if we assume that he was defeated, and he can come back and obtain the removal process

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Mr denus in t you think that if you to i it away from the local governin bidy, who had the There of applintent, t would be a question of taking one rule points. Their authority away, and puttin it in state poilints? In other words, the same political ituation of arise at a higher feel, and sudd result in a ristrar of voters of result is were prefectly satisfied with.

Wr. rely don't thin that would ever happen. Fire K, lett luck at what the law is right now, be-fore we get int. this business about anti or pro-nome rule. If mit hanging arything. Because under Arth lev III, bul eve it s Section IB, of the 1921 function, the local appointing authori-thy has no authority concerning the removal. In ther words, it is coified within a three man com-missin - the governor, the levetmant governor, and the peaker of the huie. Mr. Burns, it is beyond y inagination that a governor, or a speaker of the ruse, is a lieutenant governor, for that mat-ther, would o init a part cular parish, against the wines of an entire police ury, and, for poli-tical reasins, re over a registrar of voters. I man, mw, upon recu elastion, ay, of the appoint ing auth rit, a substantial rajority of the. I und tay what this con isson, as it presently hinds, would do. Mands, would do.

mr. Burns

Mer really  $1^{\prime}$  we state, and Me. corns, ast matrix to the head,  $1^{\prime}$  where  $1^{\prime}$  is a fraction of the registrar of verse  $p_{11}$  and  $p_{12}$  is a point of the state either, and if it will play of right back into the hands of the application during  $t_{11}$  that it is an it is an

Re regeron Jun, you don't think that the regi-fram forter should be allocate be removed by the for all presenting instruction for sauce

Merently, and a state of the Arborn Poil, Firms from other meaning and the Arborn Strage of the to the winner the winner count to fough what for a use mention of the winner count to fough what for a use of the state of the sta

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Mrs. Warren Mr. Pelez, Edon's krow wich al yw Lan an wer thi Do ause yw ane ta min's ent, but Mr. Kell ta' 1 a min's y voters reigned tirun frra tel if he lint, he musica Dalin. t

Mr. Perez Well, it leaves the same problem as we had yesterday when that particular provision was defeated and creates additional problems. Yes, That's correct. I therefore ask you to defeat the amendment and adopt the amendment I will offer in ... after this amendment.

Mr. Stagg Mr. Chairman, I have only one point that I wish to make in the...when Mr. Kelly was at the microphone. The last sentence of the Kelly amendment leaves, I think, this whole matter kind of hanging there kind of twisting in the wind, to use a phrase of recent origin. When we were interested in the office of the

legislative auditor, in order to protect the office of legislative auditor from an excessive zeal in the performance of his work and the numbers of The performance of mis work and the numbers of performance of the of the legislature. I would like to suggest to Mr. Kelly and the authors of these various amend-ments, performance the basis for a compromise, I seek to have the registrar of voters appointed by the local governing body. Could it be possible that you would find acceptable that he could only be re-moved by that local governing body, for cause and by a two-thirds vote of the members..all of the members of the local governing authority. It would seem to me that if a local governing authority by a two-thirds vote..or if you even want it worse than that, make it a three-fourths vote..l submit that it's a possible way to solve this dilemma and have it all to be taking place on the local scene that you could not disposess a registrar of voters of the members elected by the local disposed or voters of the members elected by the local workering au-thority. I suggest that to Mr. Kelly or the authors of these others amendments as a possible way of solving this end of the dilemma caused by the last you would find acceptable that he could only be resolving this end of the dilemma caused by the last sentence in the Kelly amendment.

### Eurther Discussion

Mr. Roy Mr. Chairman, ladies and gentlemen of the convention. I rise in support of the amendment and want to discuss with you what I think are some er-rors of law that Mr. Perez and I have on his inter-pretation of it.

If Mr. Perez is right, if it takes an election code to be enacted by the legislature before we can move forward with this particular plan, if the present law will not go into the schedule until amendment that you all passed...or the first section that you all passed to this entire Elections Article that you all passed to this entire Elections Article doesn't make any sense either. If you remember, we said...or you said "that there shall be an elec-tion code provided by the legislature which will embody permanent registration" and a couple of other things. Now if the same reasoning obtains, then it obtains in both places. Until that election code is enacted, is it Mr. Perez's real argument that we will not be able to vote in the future?...That we will not be able to resisten neole? Corticate you won't be able to register people? Certainly not in my opinion. You will still have the same laws that will go into the schedule. So don't be misled by something that I think was probably an erroneous statement on Nr. Perez's part. I don't mean that he...I'm just thinking that he...he has mean that he... I'm just thinking that he... he has a difference of opinion with me as to what he's saying. I don't think that this amendment at all precludes future registrars from being appointed just as they have been in the past until such time as a Code of Elections is adopted. Because if it does, if he's right, well then, every...no one is going to be able to vote in the future, be-cause we said in the first section of this particu-lar article that you've got to have an election code embodying the principles of pernament registration as well as registering voters and how it shall be as well as registering voters and how it shall be

So I rise in support of the amendment. I think it's good. I think the last sentence is what really is needed. I don't think we should subject officials

In the category will registrars of voters to the whim and caprice of a police jury or other type of governing body. A two-thirds vote suggested by Wr. Stagg is not, in my judgment, a valid one, because what happens on that real local level, of course, is that you may have an entire new police jury coming into being, or two-thirds of them may be new and may have had a deal that they would take the registrar of voters outs as they got in there.  $30_{\rm O}$ , in all so that "course" before you can remove any percent from office.

<u>Mr. Lanier</u> Mr. Roy, the language that's in this amendment, and the language that's in the provision you refer to, about the enactment of an election code, it does not set a specific period of time. does it, within which the legislature must enact the election code?

<u>Nr. Roy</u> No, it doesn't. My point is that, though, that if does say that the election code will embody permanent registration as well as other methods of voting, etc. All I'm saying is that this one says on more or less except if gets a little more speci-fic. I'm saying that the schedule will have to take care of these things until such time as the election code is adopted.

<u>Mr. Lanier</u> Well, let me get to the next point, then. Is it possible, then, that there could be, say, a two-year time lag between the date of the adoption of our new constitution and the time that the legislature promulgates the election code?

Mr. Roy Enacts?

Mr. Lanier isn't it? Yes...or enacts. That is possible,

Mr. Roy It's possible.

<u>Mr. Lanier</u> Now, would you agree that this language that says that "the compensation, removal from of-fice, bond powers and functions, shall be provided for in the election code" precludes the legislature from so providing by general law?

Mr. Roy You mean at this time?

Mr. Lanier This language in this amendment.

Mr. Roy No, I think an election code is a general The second se

Mr. Lanier Are you trying to say that what we have on the books right now is an election code?

If the legislature chose to call it an Roy election code, it would be an election code. That' all I'm saying. The term "Election Code" is like the Code of Civil Procedure. I think that the legislature could provide by general law for venue in a certain other section, and not necessarily deal with the Code of Civil Procedure.

<u>Mr. Nunez</u> Mr. Roy, do you believe...in the last sentence, Mr. Roy, "No law shall provide for the removal from office of a registrar by the appointing removal from office of a registrar by the appointing governing authority." Do you believe we should ever forbid the appointing governing authority from removing the people that they appoint? For instance, let's take in the event that sometimes in the future it might be advisable that the legislature provide for removal procedure of the registrar by the ap-pointing governing authority. Do you think we should pointing governing authority. leave this sentence in there?

Mr. Roy I think for this particular...yes.

Further Discussion

<u>Mr. Landru</u> Mr. Chair an and fellow de egate . would hope that you'd upport the arendrent of Mr Ke'lys. I also looking forward for an addition been in New Orleans and witnessed some of the things with the interred and ather hope with red been in liew Orleans and witnessed some of the thin, that I have witnessed and others have witnessed, pertaining to registration...There was a time when I wished we could have had a registrar of voters re oved by the local governing body; when o'd peo-ple had us stand in line from six o'clock in the borning until four o clock in the evening and get right at the door, with door, and that deal votes in consistent even to cart, you the expression of saddress on their faces, and with the determination, "I'll be back to orrow." Many of these beole had to on throw this three and The determination, if if be back toworrow. Many of these people had to go through this three and one of these people had to go through this three and ple. Thousands were turned away ..could not regi-ster. So the office of a registrar of voters is a very powerful office; I know because I served as of your registration drives in New Orleans. But now, we cannot go back to that type of system of new office; I know because I served as the orlean of the second of the orleans. But now, we cannot go back to that type of system of heating our people become registered voters. I do be able to remove anyone from office. If they hire him..they should be able to remove him. I also feel that..that registrars should have some outlet ...some means of being able to appeal his case... say to the legislature or to the governor. But believe that local governing authorities should have some say-so about who is going to register their people..who is going to register their people..who is going to reasible for the registration of their people. For the reason, I believe that foch y some andment is a good amendent,

Further Discussion Mr. Burns Mr. Chairman and fellow de legates. I think we are all here for a common objective, and that is to get this constitution adopted by the voters when we finish with it with that thought in mind, is en or real to go out of our way and wave a red flag, so to speak, in the face of sixty-three or sixty-four police juries throughout the State, together with whatever number of clizens the state, together with whatever number of clizens the state, together with whatever number of clizens the or sixty-four police juries throughout the State, together with whatever number of clizens the local authorithes ever at some future time, if conditions should change, being able to remove a registrar of voters. Now, if the worse comes to worst, I would suggest removing this positive re-striction and let the legislature, in its wisdom, today, put this positive prohibition and name the local verning authority that they shall never nave that right either now or in the future 1 Innik we are just looing for trouble and anatoponi-ing a lot of governing bodies throughout the state, where lits not necestry.

Mr Burin Mr Burn , don't you feel that the unified concept of the Committee un Bill of Right and Election in Section II, which left this decl-sion of remutal to the legislature would be far preferable than u trying to de loft that question

Mr. Burnt Ab olutely, Mr. Burson I particularly object to us being responsible for having this perma-ment prohibition in it in our constitution

Mr. Burn Isn't this the hind or situation mat would be pecularly outert to tattery new lation where perhaps, under size insultaters, you would wont to give the power to one agenty and inder to clinicate the other, and that would be write out in tatter whereas we can there !

Mr toson Mr Burns with reference to the last entinee, don't you fee that if the don't you think that if the appointing authority has uper-vision and no say-so that these registrers are go

Mr\_Burn I think that that. ore that kely to be the result As far as 1 personally -cerned, I think the one that has the puwer to opint should have the power to relove, but have t even

Mr. Stinsun - If the governor or s -e group in Baton Rouge is the only one that can relove, don't yu think it will really throw it into politis

Mr. Burns

Hr. Fulco Mr. Chairman and fe low deceate... Just wanted to say that I think we are all a mountain out of a moletill. I think the ome ttee ...I mean the amendment by relly really copin ates the matter. I think the last sentonce in hus are do ment really confuses the situation i think Ji Burns used the phrase that was going to use and that was, let the power to appoint have the power flow. I tapor the 1 appoint have the power to a set the phrase 1 appoint have the power to a set to appoint have the power to appoint have the power to a set the prover to appoint have the power to a set to appoint have the power to appoint have the power to a set the power to appoint have the power to a

to remove." Now, I favor the...I appreciate the explanation that Perez gave of his amendient I thick his amendment is well taken...the point of his amend-ment is well taken...the point of his amend-ment is well taken. Let it be settled by amendment is well taken. I think Perez's amend ent will be serve this situation that we are faced with now much better than the Kelly amendment. I urge you to defeat the kelly amend ent and vote the Perez amendment. Thank you

Mr Cannon Mr Fulco, in the prejent lei lat having to do with the removal of the registrar uf voters, don't you find the words where the giver-nor, lieutenant-governor, speaker of the hose, ay remove, at will, rather objectional le?

Mr Fulco well, I do, definitely sive seen so much of that in the past I related in the mark of us do, the time when the now deleated over n Long attempted to exercise such authority, with ut

 $\mathsf{Nr}$  Landrum 1 agree with y u that the ant entense in  $\mathsf{Nr}$  kelly's amendment is a bad one. Now, tells is this, in comparison with the tree proposition is a section of the that last entense, do y u think it's a good areadment.

Mr andro. Now, do you this the atcenter e chuid be deleted and it would be a time a end e t

Mr Fulse Well, that

Mr Landr, Recaule when I ay us part, that exactly what is an The last entenie, dit partiularly are for the last entenie

Mr. Fuller. I don't either That's the revan e that I have toward it.

We set by the only hardwe that I would prove to a set of the set

[1696]

[Amendment withdrawn.]

Mr. Dennery Mr. Kelly, in listening to the various remarks that have been made. I noticed that several people said that they thought this was a good idea provided the removal was for cause. Now, why would you not, in amending this, insert those words when you have removal? Removal without cause, whether you have removal? Removal without cause, whether it be by the legislature, by the governor, by the board of elections, or by the local governing au-thority, 1 think is what your amendment is aimed

Mr. Kelly I would have no objection to it...I mean I don't want to just keep amending the thing mean I don't want to just keep amending the thing up here without the copies being redistributed. But I mean I have no objection to that as far as inserting the words "removal from office for cause." have no objection to that whatsoever. I think that's what we are really getting at.

Amendment

Mr. Poynter All right. Mr. Kelly also does want to make that last change that's suggested by Mr. Dennery. So the amendment would read as follows: Section 11...Instructions stay the same... "Section 11. Subject to and not inconsistent with the provisions of this constitution, the gov-erning authority of each parish shall appoint a popul from office for cause, bond, powers and func-tions shall be provided by law." "It way with the next sentence on the next line: "Upon qualifying as a candidate for public offic.

"Upon qualifying as a candidate for public office. The registrar of voters shall forfeit his office. No law shall provide for the removal from office of a registrar by the appointing governing authority."

## Ouestions

Mr. Lanier Mr. Kelly, why do you feel it's necessary to put this language at the beginning "subject to and not inconsistent with the provisions of this constitution"?

<u>Mr. Kelly</u> Walter, I was hoping you would ask me that question because you and I fought a big battle here about two months ago. I don't want to get mixed up with the commissioner of elections and the secretary of state again.

Mr. Lanier Now, let me ask you another question. We've been tacking this phrase onto a lot of other provisions that we've been going through. What would happen if two of these provisions happen to be inconsistent with each other? Which would pre-

Mr. Kelly I don't think--and I have read the pro-<u>Mr. Kelly</u> I don't think-and I have read the pro-visions relating to the powers, functions, and duties of the secretary of state and of the commissioner of elections. They are not in conflict at this time. In order to assure that this article would not create any conflict in the Executive Articles, that is the specific reason for inserting the words of their constitution. of this constitution"

Mr. Landrum Mr. Kelly, the last sentence, why do you find it necessary to place it.

<u>Mr. Kelly</u> All right. Reverend, as I said, I think now we have boiled this thing down so that is really probably the only issue left in the amendment. It's just... I meant that is the gut issue, as I see it. My primary reason for putting that in there is to assure that the registrar of voters in a particular parish is not completely embodied within the local polities of that particular parish. I gave a hypo-thet in my opening...when I was explaining the amendment whereby I tried to explain this. I said at that time that I could foresee a situation where every time you had a new police inv or a new ap-Mr. Kellv All right. Reverend, as I said, 1 think every time you had a new police jury or a new ap-pointing authority--whichever authority it might be --come into power that this office would be up for grabs. I meant there would actually be politics...

say, "alright, you do this and you do that, and we'll see that you get elected registrar of voters." I just think that this is too important an office to be in the absolute control of politics like that, the are doing breat, it the way. I think that what the are doing breat, it the way. I think that what ture shall provide for removal from office for cause." Then, we are putting a check and balance on this power. We're saying, "now you can provide the method and procedure for removal for cause, but you can't put it right back into the hands of the complete discrition or control of the, or ining authority." That's the real issue right there.

Mr. Landrum Mr. Kelly, this way. Are you saying, in effect, that the only individual who can remove the registrar of voters would be the governor because, well, then if not the governor, who else could do it?

Mr. Kelly Quite frankly, Reverend, it's not saying that at all. I meant the language just simply says that the "removal from office for cause shall be established by law". The legislature could go to any method, procedure, a distinct commission on the side. That's the way it's handled right now. That's what I'm drid everyone deesn't understand. They keep talking about waying red flags and everything inte thing, local government due is understand. They registrans of voters in this state don't want to be placed into this political situation.

Mr. Landrum Now, he can be removed by the governor. I'm just trying to find, under the...as it...as the officers, the registrars operate now, they can be removed by the governor under the present law.

 $\underline{\mathsf{Mr. Kelly}}$  No, sir. Article VIII, Section 18 provides that a commission composed of three members, the governor, the lieutenant governor and the speaker of the house have the powers of removal.

<u>Mr. Landrum</u> Well, of course, the last one I saw removed was by the governor. But, I'm trying to find that other agency, or that other individual, that other officer who can remove them except-unless it's the local governing body or the governor himself

Mr. Kelly Well, I think that we need an independ-ent commission somewhere besides from the appointent commission somewhere besides from the appoint-ing authority to take care of the removal situation, Reverend. In other words, I don't think we neces-sarily want the governor. I don't want the gover-nor to have the complete control of removing. Know you don't. But at the same time, I don't want the same governing authority that made that appoint-ment to have the uncontrolled discretion to effect that removal, either. That's the basis of this last sentence

Mr. Wattigny Mr. Kelly, I'm for your amendment. The only thing that enters my mind is why we have stayed away from a fixed term on these appointments.

Mr. Kelly A fixed term?

Mr. Wattigny Right. For the registrar.

Kelly Well, quite frankly, I cannot support a fixed term for a registrar because I think that is really going to put it into politics then. In other words, it's going to be...l can foresee that as being like a sup...local superintendent of edu-cation or schools--whatever the appropriate name is Cation or schools--whatever the appropriate tame to where every so often, i meant, maybe he would run. I meant he would actually be running a little race ...two or three guys. I meant they would be vying for this position within the police jury or the

Now, I meant if we are going to go so far as to have the terms for registrars of voters, then you may as well go on and make the office a parish-wide

Well, that 1, ht be a good thing. Mr. Wattiny

Mr. Hills Mr. Kelly, putting aside. I want to project Mr. Lanier's question on target aside the question of the com issioner of election and depletes this section of total efficacy?

Mr. Kell, 1 don t think so y op nion that it does not 1 don t think so, Mr. Willis. It is

Mr. will's well, we have in the first section that the legislature shall east an election code. Then we have into this section-lay aside the com-ssioner of election and the secretary of state-how, we have in this section, "subject to and not inconsistent with ... o that means that the legisla

Mr. Willis put a question mark to it, your...Mr...Your Honor...Mr. Chairman.

Mr. Kell I see the thrust of your question. I think you and I just disagree upon what you say it does and what I say it does.

Mr. Willis Well, it's a wholeso e disagree ent.

Mr. Rajburn Mr. Kelly, I've always tried to be fair; I don t think I have always been. But I read here where you say 'no law shall provide for the

Mr. Yelly Yes, sir. I certainly do.

Mr. Rayburn All right, well do you think then thi Tanguage is really going to do what those registrar-think it's going to do if those local governing authorities don t wait him?

Hr Keily Yes, sir, still this it , Senator, and I d life tu explain by saying, in a situation where you ve git derell tion of dutle and function and you've oit a unanimous resolution paised by the and you've of a unanimous resultion paised by the aniant ong authority even under this, the language of thi last sentence, where'r i going to have the entablished by the recoval power will be established by the lensibility of the oral authority, resolution is prevented to that re oval authority, but yet, at the ania time. I meant if two or three guys in the public jury i on the augorithing au tharity happen to juit get "hasked off" at the pue instrument register of yoter, be ause of by other will the authority happen to juit get "hasked off" at the pue resolution in the thirt. We have the public for an end register of yoter, be ause this politic, are have the list that they should be able, under resolution, the an indinance or anythin cite lay. All right, its anythen on or anythin cite lay.

My Perez Mr Chairman and Ladie and pentlemen, I repression to get up here again, but be ause of the fact that the arendient way withdrawn and the suth of the distance of the main study of drawe, to a entain entert, representing of the toward of a entain entert, representing on the action to a entain entert entert, and it up how and the supersenting of the supersenting of the supersenting to a entain entert entert, and the supersenting of the supersenting to a entain entert entert and the supersenting of the supersenting to a entain entert entert and the supersenting of the supers

u' int i we' this we' u with e arut in ite; to write i un tees with te p... in this it's in " when Mr ery referred to the duties of the secretary of state. The duties of the secretary of state have about or inti-to do with the registration of voters with re-per to the. the on signer of ele to it, and the make in the cost fution is that te one or of ele conversit a do first reserve and one of the conversit a do first reserve and one of the conversit a do first reserve and one of the conversit a do first reserve and one of the conversit a do first reserve and one of the conversit a do first reserve and one of the conversion of th

addition to the problem of the possibility that a governor may not want-row whoever they \_\_\_ in whever they may not want-row whoever in Batt Ruge-they may not want to remove sime body from infice who, in fact, is not doing a good \_\_\_\_\_\_ but al government any want to re over mm. I think that we should leave this up to the legislature where they'll have more opportunity to study the alternation of the registrator of voters \_\_\_\_\_\_\_, therefore, unger or specification of the sentence of voters \_\_\_\_\_\_\_, therefore, unger or specification to the sentence of the sentence to the sentence of the sentence to the sentence of voters \_\_\_\_\_\_\_, therefore, unger or specification of the sentence of the sentence

Mr Perez Well, the only proble we have or constitution at this time is the question what a general law, and the question of whether arm it you classify like, say, is cities over five hundred thousand But, under either amend ent, that liua-

Mr. Roy Hell, even if they not to the de that for t Bernard Parishes, and they, na they could recove by the coal governent with to asse, but in all other parishes that they have t

That'l the proble w fast w with

Hurther 's and in a second sec

The and let's don't talk about what may be the way to proceed and the way to remove these people for empiric registration is since; do you wait insulate him from petty, partisan, political activities throughout the entire course of the conduct of his office? If you leave with the governing authority, the possibility--or even leave that possibility with the legislature-that the registrar of voters can be removed by the governing authority then you make him beholden to the people that he is concerned. You're not ever going to get him free from political activity. Right now, the registrar of voters, in most instances, with rare exception, has been operating on a merit system type of employment or civil service type of employment. I think it's important to get away from the concept of her rule when we're talking about the of the very basic that leads to all elections, and that's registration. That doesn't relate just to the elections in the locality. That registration roll relates to all elections that are conducted throughout the State of Louisiana. So let's don't be misled about the fact that here we are taking something away from the governing authority. We're power is concerned. Let's make sure that when the legistars of voters, that it's done in any way that the legistature, in its wisdom, thinks it should be done, and for cause, but not by the appointing authority that would be in a position, I think unred voters. I urge that you support the Kelly amendment that is before you as it's been amended. Thank you very much.

## Questions

Mr. Burson Mr. Gravel, don't you think it would be wiser to leave this decision of removal to the legislature, so that in the event that a particular scheme did not work out, they could come back and change the statute to meet whatever problems arose?

Mr. Gravel That's exactly what we're doing, Mr. Burson, except that we're saying that the appointing authority shall not be the removal body or the removal medium by which that's done. That's the only thing. We are leaving it to the legislature with that one restraint and restriction.

Mr. Burson My second question would be--l know that you were involved in the events of that time to some extent--don't you share my concern that we might have a replay of what we had during the Rainach era when the pressure for improper registration practices came, in some cases more from the state level than it did from the local level, if you leave this, say, just totally divorce it from the local unit?

### [Previous Question ordered.]

### losing

<u>Mr. Kelly</u> I just have one or two brief things to say possibly reverse just a little Mr. Perez's psychology here on him. Quite frankly, I think we've got a good amendment here how, and he spoke only concerning 'the subject to and not inconsistent this language. Then in that case, I suggest that we go ahead and adopt this amendment, and then follow up with an amendment by smoone. If you want to remove this language then let's determine the removal of this language the later date. With regard to that last sentence, and that 15 the key to this entire amendment. I think I can say it no better than I had previously stated it; I don't think anyone can express it any better than Mr. Gravel expressed it earlier. Now, Mr. Perez would like for you to go back and defeat this amendment and pick up his. You've got copies of it laying there, and it just simply says that "the governing registrar of volers" Now, the key words here are "whose compensation, powers, functions,"...it says nothing about removal from office. It would be my interpretation then that the inherent power to apoint would say that this would not necessarily...

### Questions

<u>Mr. Bergeron</u> Don, to presently remove a registrar, you have the governor, lieutenant governor, and speaker of the House of Representatives, am I correct?

Mr. Kelly That's right.

Mr. <u>Bergeron</u> And any two can remove the registrar. Well, under your amendment with that last-now this is for my own information-that last sentence... would it leave the authority there?

Mr. Kelly Pardon.

Mr. Bergeron Where would the authority be?

Mr.Kelly It would leave the authority with the Tegislature to provide by general law the means, methods, procedure, and causes for removal. In other words, the legislature would have the discretion to set forth the procedure, and method, and so forth, of removal.

Mr. Bergeron They could leave it in the hands that it is now where they could change it, is that correct?

Mr. Kelly They could leave it in the hands as it is now. They could establish an entirely separate more independent commission. We'd leave that to the discretion of the legislature.

Mr. Bergeron Thank you, Don.

<u>Hr. Nunez</u> Mr. Kelly, aren't what you and the advocates of this amendment saying that "we trust the legislature, leave it to the legislature halfway; you don't trust us all the way, just halfway; put a prohibition that they can't do certain things." Isn't that what you're saying here?

<u>Mr. Kelly</u> Well, Senator, I have seen the lobbying forces of all sides down here, and I'm relatively new to this game concerning local authorities, and then the concept of statewide, and so forth; and all I'm saying is that they can set up the procedure and so forth for the removal, but at the same time I don't want to take any chances that this could throw this office right back into a terrible political situation as I see it.

Mr. Nunez So you're saying that the legislature would possibly do that by putting this provision in here, you'll stop the legislature from doing that?

Mr. Kelly That's absolutely correct.

Mr. Nunez You trust them halfway then.

Mr. Landrum Mr. Kelly, don't you know that i trust our local officials as much as i trust the legislature? But, now tell me this, don't you think the power to remove should be by the local governing authority, but also with the understanding that the registrar have a way out that he could appeal his case to the legislature or to the governor?

Mr. Kelly Well, let me say this, Reverend, if you said that he had a...l meant, we haven't provided

for that. In other words, I an foresee where the legislature could possibly set up on ein that proceedings still within the local governing authors, but yet at the same time, would nave a cneck and balance. In other words, a final deter instion if you go on the basis of saying that the local goerning authority an releve for cause, who is goin to deterine cause asswing that we don't nell it out, and let's assume that the legislature doesn't spell it out? That is going to be deter in ed in a court of law, as I would assume It's my underost political subdivisions contribute heaving to the salaries, and so forth, of the judiciary at this particular time.

Mr. Gravel Mr. Kelly, you stated that, in answer to the questions put to you by the distinguished senator from Plaquemine and St. Bernard, that perhaps you only-Jefferson and part of Jefferson-that you're only trusting the legislature halfway, which I think is a low percentage, but did you dethe legislature in the Local and Parochal Government Article, section by section?

Mr. Ketly Slightly, Mr. Gravel.

[Amendment adopted: 64-8. H tin t reinsider tibled.]

### Amendment

Mr. Poynter In Floor Amendment No. 1 by wr. annon], proposed by Delegate Kelly, et al and adopted by the convention on today, strike out lines 8 and 9--if 1 counted correctly, that last two lines at any rate-of said amendment, strike those two lines out in their entirety and insert in leu thereof the following: "The registrar may be removed from office for cause, only by the governing authority of the parish."

### Explanation

Mr. Cannon Mr. Chairman, ladies and gentlemen of the convention, I think what we had...this last sentence of the Kelly, and others, amendment...This last sentence obviously caused some people, you know, some concern, because it makes this absolute prohibition against the governing authority of the parishes from removing from office the registrar of voters. I strongly disagree with Mr. Kelly about...

### Point of Order

Mr Roy Isn't what Mr. Cannon trying to present us with exactly what we just argued about for an hour and voted on; namely, whether the re oval for cause was going to be that way or not?

Mr. Henry No, it's not, Mr. Roy.

### Explanation continued

Mr. Cannon Well, 1 will make it short, Mr. Roy, and I will try to be considerate of this body. I'd just like to draw out a few things The state puts up half the salary for the deputy, the local governing authority puts up the other half, and may add as much as three thousand dollar a year to the registre of voters' salary, and quite often pays the mole, particularly from town of the pays of an operation budget for the registre of uter's office of a hundred and thirty thousand dollars, the state only puts up approximately twenty thousand I think we have, in other well on of this constitution, we have removed the appointive puer of the governor, and from the tate level transferred it to the lumal level farti ularly. I wont to all your attention in the ase of the sherilf' No longer can signature. I went's the pueron's many attened to the governor, and the pueror. the case under with neriff in order the Bredthen ad initiation think this with the nething that find required the this with some corrected in the rely a mendent. These wid at with the ability the releast the swong, and think we all find that, by Mr felly adding this i here, as i this we all as eled this portion. But, what i trying to do the end at the trying to do the in our Local and Parcon all Affants Pruposal, e the 17, 2) The local governing auth by doing to exercise budgetary and fiscal correl wer this agency, and that will include the registrar i treers. Like i say, the local governing auth trying to agency and that will include the registrar is traers. Like i say, the local governing auth trying the agency and that will include the registrar is traers. Like i say, the local governing auth trying the agency and that will include the registrar is traers. Like i say, the local governing auth trying the agency and that will include the registrar is traers. Like i say, the local governing auth trying the agency, and that will include the registrar is the trained the say of the local governing auth trying the agency and that will include the registrar is the subject to this last particular serverce, ad in would, you know, since we already have debided to take we call for the question in the interest of the.

### uestions

Mr. Fulco Mr. Cannon, Isn't the piller ury nearest the people within its parish?

Mr. Cannon Yes, sir, they are.

Mr. Fulco They are subject to removal these people in the parish...the voters?

Mr. Cannon Yes, sir, through an elect on projest

Mr., Fulco. They are going to have to shim respiration to the respiration to the registrar of voters is concerned, isn't that true?

Mr. Cannon They certainly hould, or be a ted o t-Yes, sir

Mr. Fulco And if the registrar of voters has survey to plants--justifiable complaint --against him, aren't the people in that parish going to be given better service insofar as the polle jury action toward the registrar of voters is comer edi

 $Mr.\ Cannon$  . I certainly think so, and 1 think that s exactly the place for it and the purple of amendment.

Mr Fulso Now, wouldn't it be wise then, for the responsibility of removing the registrar f voter, be with the police jury rather than a budy or a group of people far away from that is a area

Mr Cannon I certainly think st. Mr Full, and Lertainly it should be for lause. It injuid not be "at will" as the present law exit

Mr Fowler Mr Cannon, you wanted to ave one time. Ton't you think it would save us a reat deal more time if you would withdraw your a encent, teraure the kelly a endment wa paced by a two one vole us ta morent ado

 $M_{\rm P}$  Cannon Well, I'd like to all for the que the , and we can see that, Mr. Fiwler

Mr A landry. This ay be reletition. We annotate that we voted a second all of a second a second a second and for a use was in the alend ent that we vited on?

Me canion Yes, ir, I did

Nr. A landry. Are you full, aware that still is of u want this power to be at the left a live leve rather than the is allevel by the allower that we such approved.

He annum there's no juestion that the feilla ture, think, is going to have to ake be provi-"Ion for the process of records bolaw. In w, whether or not this records bower houd tay with the local

governing authority, or whether or not this should be vested in whoever the legislature wishes to vest it in, I think that is the question right here.

<u>Mr. A. Landry</u> Well, aren't you definitely aware of the fact that we do not want the appointing. That is sixty-four people in this body do not want the appointing people to have the power of removal? I mean, you are aware of that?

Mr. Cannon l'm aware of the past vote, yes, sir. I'm not aware of that feeling.

[Previous Question ordered. Amendment rejected: 41-59. Motion to reconsider tabled. Previous Question ordered on the Section. Section passed: 89-24. Motion to reconsider tabled.]

Personal Privilege

Mr. <u>Gravel</u> Mr. Chairman, and ladies and gentlemen of the convention, I know that at least two of those additional proposals are proposals by Mr. Abraham, and also a proposal, I think, by Mr. Fulco and many other authors. Each of them seeks to place into the constitution some provision dealing with the "open primary" concept--essentially, dealing with the idea that instead of having a first primary, a second primary, and a general election, that the election code will provide for not more than two elections. We've had several discussions about these particular proposals because, 1 think, most of the people that have been thinking and working of the people that have been thinking and working along the lines of the adoption of an election code agree that in principle, without any doubt, without any question, there shall be embodied in the pro-posed election code the idea of two elections in-stead of three. Along that line, k know, and I'm authorized to state to this convention, that Mr. Jasper Smith, who is one of the coauthors with Mr. Fulco, personally discussed with Governor Edwards over the telephone the essence and the gist of the Fulco proposal, and, of course, 1 talked with the governor also about the Abraham proposal, so I governor also about the normalism proposation. To the convention that we would like to leave any de-tail, with respect to this concept, out of the con-stitution. It could create more problems than it would solve: But, the governor is firmly committed to the proposition that he will do all that he can. and exert every influence that he has in connection with the adoption of the election code, as soon as possible, to carry out the commitment that he's already made so many times, publicly, that we will get away from the system of holding three elections, such as the system that we have known in the past. Now, it was my understanding with Mr. Abraham, with Mr. Fulco, with Mr. Smith that this statement would be made for the records, so there would be no ques-De made for the records, so there would be no ques-tion about it, and that upon the making of that statement and the obvious concurrence of those peo-ple who have been talking about this, that they then would not proceed with the detail of their proposals and recommend them for adoption by this convention.

### Ouestions

<u>Mr. Anzalone</u> Mr. Gravel, are you doing this for the reason that you've been over at the Independence Hall now for about two months fighting the governor, and every opportunity...everything that he wants, you voted against it, and now we're here where he may be listening in and you're going to take his side this morning just for that reason?

Mr. Gravel Yes, sir, that's the reason, Mr.

 $\frac{Mr.~Smith}{1000} Mr.~Gravel, didn't the governor state also to me over the phone, in case his concept is not in the election code, that he would veto the code?$ 

<u>Mr. Gravel</u> That's exactly what he said--said that this election code was passed by the legislature

that did not embody this concept, he would veto it.

Mr. Abraham I understand that there already is a committee of some sort that is working or this election code. Is that correct?

Mr. Gravel There's a kind of unofficial designation that the scoretary of state, the custodian of voting machines, and others who have been primarily concerned with the election process and the legislative council, are to be coming up with the ideas towards the formulation of election code. The reason I say it that way, there's been no formal putting together of a committee, but the principal people, including the representatives of the Clerks of Court Association, are informally working now toward getting ready to recommend the basis for an election code, that's correct.

Mr. Abraham This may be premature, but do you know whether or not that they have been talking along these lines of having, say, just one general primary where everybody runs at the same time, and you vote for the person and then you have one general election? Is this what they're talking about?

Mr. <u>Gravel</u> That's correct, Mr. Abraham, and let me just say this, too, in that regard. We attempted at the very first session of the legislature--after Governor Edwards was elected--we attempted to get everybody together to work up the amendments to the existing law that would permit that, and hopefully it could be submitted to the legislature; and we found that because of some problems in the existing constitution and because of the problems that we have in our election law in Title 18 that it was just not feasible to do it at this time. An effort have the vehicle to do it now, as a consequence of the adoption of the first section of this article.

Mr. Abraham Well, as you know, I've discouraged placing statutory material in the constitution, and I would withdraw my amendment knowing, if I am assured that this type of thing will be considered, and we will attempt to have this type of election.

Mr. Winchester Mr. Gravel, would this do away with the Democratic Executive Committee and Republican Executive Committee, as we now know them?

<u>Mr. Gravel</u> Well, now, I don't know whether that would or not. That would not necessarily...in other words, my concept of it would not necessarily preclude the existence of those committees. Not, site My concerned to the second time, and the second of the second second second second second second about party affiliation and party machinery. But those are the kind of questions we could get into and start arguing about if we get into any detail a whole lot, Mr. Winchester.

Mr. Winchester But, a committee would have to run the election though, wouldn't it, and call it, and so forth?

 $\frac{Mr.\ Gravel}{tion\ machinery\ certainly}$  is going to have to be set out in the election code.

Mr. Winchester Thank you.

<u>Mr. Stinson</u> But that running would be from Baton Rouge, and not from the individual parishes, wouldn't it?

Mr. Gravel 1 don't understand your question.

Mr. Stinson The question raised by Mr. Winchester, if the committees would do it, and you said "someone would do it," and of course, anything that's done has to be done by someone, doesn't it? Under this, it would have to be run from Baton Rouge, and not locally, wouldn't it?

Mr. Grave It wild detend up in the river of the elector ode, Mr. In or

Mr. this — That the normal two is which is a more be worked, which is the four body of drift have your from the

Mr. arave we , a v u mmethoday, et out the bedone, and I is ine the election code with

Mr. Stinson I didn't a anythin had to be done I said that sile ne would have to do it

Mr. enr. will you , ie d to a jue tion fro Mr

Mr. sravel Mr Stagg wants to know if the Republicans are solved to be represented on the consistee

Mr. Stagg Those three...will be here longer than you will,...

Mr. De Bleux Mr. Chair an. adde and gentlemer. TTI make it very short All understand, there' a proposal being prepared now to be submitted to the next session of the legl lature with reference to the concept of open privary voting. That use to has been asked and bringht up in requite a lui about the time limit and everything. I ust let that information go to you so you an allay your minds with reference to that next users

Mr fuics I ust wanted to say, Mr. □hairman and fellyw delegates, that as the prime coauthor author of the amendment that was to call for an open primery, that in view of the conversations that have existed between us and the guvernor, and, too. Commile Gravel, that I thought Camille made a very yood statement in behalf of the governor. The Boint is very clear to us, and because of the confi-tion we win the integrity and the sincerity

We Figure A wendment Nu 1 [ $\mu_2,\mu_3,\mu_{3,2},\mu_3$ ] in page , line  $\mathcal{W}_2$  add the following "structure Probabilited Use of Lobils Fund Section. It would find hall be used in urge a yields for the for ungain t any and date is proposition, mr appropriated to any land date is proposition, mr appropriated to any land date is proposition, and and rate in Albert the section hall not printing the date is an interval for a section in the section of the section of the section is an approximate of the section of the s

Mr. Avant. Mr. hatman and fellow deletate, it you will reall, we had initidenalle discuttion Mr. Chalman and fellow deletate, t. atd, f. you will recall, we had initidenal edition for internation.

Net were two edgest which neered the wind result in the entry free, we shall wind the data entry. See, the entry of the method that the entry of the two the transformed that tran

Mr lerbe Mr Avant, I sletty in y this with what you're trying this stift to the doesn't it seen possible to you hat this to that you use in the propial's found the nature that a court ould construct to the privilegel, which you seel to ret is the er body state in the course ounger the

Mr. Avant Mr. Derbes, i e ive e e realize that ost anythin statistics with er e

Mr A example Mr Avant, othere electronic version of the start of the s

Mr Alexander out, o control, the shall the kine of capacity, and the second state of t

Mr. Arnit Well if it me and fait, while recrease in taxt, the solution of tail, in the taxt of did not, if fait, etchicate in taxe is on't time that yet they him of the period of fit tails is an ended.

Mr Anor i i it A o i i ar i i Rijfata tak i forstin a ti i. te i i taka inder fr

they're doing, and why they're doing it, and what's going to happen if the bond issue is adopted.

<u>Mr. Newton</u> Jack, do you really see any difference in urging somebody to vote for a particular bond issue, in presenting the favorable facts of...in favor of the proposition only? Is there really any difference there?

Mr. Avant Mr. Newton, if I understand your quesclion, I would answer it this way: that this is designed to permit local governing authorities, or any particular governmental authority, to use news media to set forth on a factually accurate basis the reasons for...of certain propositions. In other words, give the people the facts as to what is going to be done with the money, as to how much it's going to cost, as to how it will affect homestead exemplion or be affected by them, and such things as that. It be does and furnishing boxet, and other various and sundry items of political persuasion, at the expense of the general public, in order to put forth and across a certain political proposition. Does that answer your question? If it doesn't, I'll answer another.

<u>Nr. Lanier</u> Mr. Avant, just for the sake of the record: what would you construe to be political organizations as you have it listed in your amendment---says no public funds shall be appropriated. to candidates or political organizations.

Mr. Avant Now, let's get one thing straight, Mr. Lanier, That particular original sentence in this proposal is not of my origin; that was the committee section as you will recall. My amendment simply inserts the word "proposition" in the first sentence and inserts the second sentence. But, you usked that public money should not be appropriated to be given to, say, the Demorratic Party or the Republican Party or the...any political party or organization. I can name several that, or you can probably think of several political organizations in your own area. I know of a few in this area, but private political organizations. The public to make the explanation of the questions, or attempted to, that anyone had cared to ask, I have made the explanation; I think you all understand what we're trying to do, and what we want to do, and the abuses that we want to stop and the things that will be permitted and should be permitted. With that, I ask that you vote favorably for this amendment.

## Further Discussion

<u>Mr. Bollinger</u> Mr. Chairman, fellow delegates, 1 haven't been up here for a good while, but 1 hink this is an important issue... 1 presume that's a hint. But. 1 seriously think that this is an important issue because when you look at our represenbecause you are represented in a public body, that whatever this public body does is done for the good of the whole. Look at the actions of the legislature in a lot of cases with regards to constitutional amendments. It takes two-thirds of the votes of the whole Look at the actions of the legislature in a lot of cases with regards to constitution al amendments. It takes two-thirds of the votes of the desk in this House plus an equal vote in the benate to get a constitutional amendment on the belthey're not all good. Many legislators will admit to you that they vote for them because it's an issue for the people to decide. Consequently, you have a proposition that's put before the people, a lot of local governments who are affected, use public founds to advocate the peassage or defeat of this; this is the point that was not stressed enough, in my opinion. What's wrong if I'm opposed to an issue; it's my tak money just like it is everyone else's? Why don't they pay for my point to fight the issue, oney to advocate the public body is against an lssue which affects a local area, why don't l get money to advocate the passage or de proposition? Why should public funds be used on a lopsided basis?  $1\ \text{move}$  the adoption of the amendment.

### Questions

<u>Mr. Chatelain</u> Delegate Sollinger, this is my problem with this; I wish you could clear me on it. I'm a little confused at this second sentence that says "However, this provision shall not prohibit the dissemination of factual information," Now, do I understand you to say that you could spend money, ...can the political subdivision spend money to disseminate this information?

Mr. Bollinger Yes, sir, there's no question about that the public has to be informed to vote Intelligently on a proposition. The amendment limits the money being spent to only dissemination of information and not the advocation of defeat or passage of the proposition.

<u>Mr. Chatelain</u> My second question please. Supposing, for instance, that a city council or a school board voted to have a bond election for the purpose of buildings, etc., and three or four more of the other political subdivisions in that parish were against it, can political subdivision No. 2 then spend money to oppose the bond issues for the schools?

<u>Mr. Bollinger</u> Right now, I would say they can; however, I don't think it should be allowed. I don't think either side should be able to spend public funds for the passage ur defeat of that kind of proposition.

## Mr. Chatelain Thank you.

<u>Mr. Deshotels</u> Delegate Bollinger, 1'm in agreement with the first part of your sentence, but the first sentence that you have has two thoughts in it doesn't it? First of all, you're talking about an election, and in the second part you're talking about the person, isn't that right? Now, if you read the first sentence, and you read, "No public funds shall be," and then skip over to the third sentence, "appropriated to any candidate or political organization." Now, a candidate can be in more than one capacity, can he not? A candidate could also be in office on some other...in some other capacity, could he not? Could not this prohibit him from getting his salary?

Mr. Bollinger 1 don't think so, Mr. Deshotels, because he's getting his salary for executing the functions of an office and not for campaigning for his reelection or for election to a different office.

Mr. Deshotels But, you see you have no...you have no qualification as to that in your sentence.

Mr. Bollinger l don't see why it has to be qualified. He is not receiving funds for the advocation of election or reelection to an office; he's receiving funds for the job he is doing in that office. I don't think there's any question about that.

<u>Mr. Deshotels</u> Mr. Ballinger, would you, when you sit down, reread your first sentence?

Mr. Bollinger I don't see the problem.

Mr. A. Jackson Delegate Bollinger, how does the Tast sentence of this amendment differ from the present law?

Mr. Bollinger Delegate Jackson, I don't know what the present law is with reference to the use of public funds.

Mr. A. Jackson My second question: are you aware of the fact that this problem that you're attempting to correct by way of a constitutional provision has been dealt with in the legislature and can be dealt with effectively, by way of statute?

Mr. Bollinger If it has been dealt with, in my

opinion it s a poor is of enforcement be ause any tile, on the local level-il nit really far ar on the state level-that you have any suit of provide s tion proposed to the people, it is ovide that the public funds are used to adviate passage in defeat, so if there letislation to this effect, then it is not enforced

Mr. Chair an and gent e ar, you will Now, the Jefferion Parish peop e--it was the people didn't kniw what it was all about, and after, on the second time, they informed the public what they were going to use the money, bond loney fol, then the people were satisfied. Now, we all remember a couple of years ago, when the constitu-tional amendments on the ballot--there were fifty-two constitutional amendments. Now, some of those amendments were real good, really needed for their communities, but because there were fifty-two amend-ents and nobody inew what they were about, the weople voted against all of them. This is the way become vote: 1 vote that way, and you yote that people voted against and of them. This is the way people votes i vote that way, and you vote that way. If they want to put something on a ballot and 1 don't understand it, for safety's sake I vote against it. This amendment has been changed to prohibit the dissemination of factual information relative to any proposition appearing on the ballot. To me, this corrects the thing that was wrong with yesterdays amendment, and I we talked to as many people as I could that voted with me yesterday and against this amendment, and they feel that this takes care of the situation and does permit the dis-semination of information. I'll be glad to answer

Mr. Arnette Mr. Riecke, the way you read this, do you think this would prevent any factual informa-

Mr. Riecke permit it. But, it wouldn't prevent it: it would

Mr. Arnette That's what I'm saying; you can...

It would permit it; that' right.

Hr. Arnette Right. So, this wouldn't prevent anyone from giving out the information, and subse-quently, in other words, the thing would pass be-cause the information was given out. Is that not

Mr. Hayer Mr. Riecke, would this permit the scho boards to use public funds to disseminate this in-formation with? You could use public funds, what Mr. Riecke, would this permit the schoul I'm saying, to disseminate this information with?

Mr Riecke Purely for informational purpose, yes

Mr Hayes OF

Mr Roe er Mr Rie ke, ust to save time, in your conversation around the floor, is there any one opposed to this? I haven't heard any opposi

Mr. Riele - I've talked to a great deal of great many people, there so a great deal of

Mr. Plaichard Mr. Riecke, I have sure cuncern on

the words: In the event, this provide a set of the size nation of factual infinition of the size of t

Mr Riecke Well, you ay be right, bit yi te pretation of it is that it or ple eff the first paragraph whin says in subil fund in ha be used. Then the second paragran in ple ents that, making an expetion. Thank you

Mr. A. ackson Mr. Chair an, adie a d e tee of this convention, I rise in opposition to this amendment. I don't think that the solid for a srevenent over the area of the second end of the

Mr Will Mr Jackin, I want to tell you that I subscribe to everything that you said, and in the way you said it. I have four question to subscrib thate what you say as valid. Nr: I is it rot tru

Mr A Jack on Well, it depend on whis uling the pen and the sword

Mr. Willis well, we retaiking in energy titles J(a) use your answer would be yet, in e.m. it be Now, does not this last sentence with which is upplie, tend then unage the spending of public monites for a procession.

Mr. Willis - And, if that tendency is carried to its list, would it not en orage a private its gen against the proposition to spend o elest iney.

Mr A Ja Leon 1 then a

Mr Willi c, that would be the layin tard with a fellow and lending hit oney

Mr. A. Jackinn. I think that you're lidrige t

[1704]

Mr. Willis Now, the third question is: isn't a half-truth the worse kind of untruth? Assuming your answer to that is yes--and mine would be-that isn't it a fact that if the school board, or whoever which are used to a school board, or whoever ple half the truth about that proposition, they are not telling them the whole truth, which is what you swear to as a witness, then they might be telling them a gross untruth, isn't that correct?

Mr. A. Jackson I think you raise a rather interesting point that ought to be considered.

Mr. Willis I applaud your statement that the legislature can better handle it with the proper exceptions to this general and becoming proposition, but there should be exceptions to every general rule.

Mr. A. Jackson I appreciate your observations.

Mr. Sandoz Mr. Jackson, isn't it true that this section is not self-operative, and it would require legislative action to enforce it?

Mr. A. Jackson There's no question about that; that was the question l proposed to Mr. Bollinger.

Mr. Sandoz Isn't it also true, sir, that you have some provisions in here already in your statutes?

Mr. A. Jackson That is correct.

<u>Mr. Sandoz</u> Isn't it true that if there's any problem with the enforcement, that it exists under the present law, and this would not solve that problem?

Mr. A. Jackson There's no question about that.

[Motion for the Previous Question rejected.]

### Further Discussion

Ladies and gentleman, I won't take Derbes much of your time. I'd just like to point out a couple of things here in the interest of trying to do this as effectively as possible. I don't think do this as effectively as possible. I don't think that this kind of language belongs in the consti-tution that we're proposing today, and l'll tell you why. I think, basically, that I am in complete agreement with Mr. Avant's efforts, but I don't think that the succinct language which we can only use in this constitution is sufficiently specifi to define the areas that we seek to prohlpit a en the areas that we seek to permit. I would like to point out a couple of things to you. First of all, as I understand it, some ordinances which authorize certain bond issues include, in the ordinances passed, language which explains the benefits or advocates that the issues are in the interest of the local governing authority. It would seem to me that this kind of language would be prohibited by this particular amendment. It also occurs to me that this amendment is not self-executing. In īn other words, it does not necessarily give taxpayers, or voters or citizens, a right to challenge efforts on the part of local governing bodies, or contribu-tions made or their over the sector of th on the part of local governing bodies, or contridu-tions made on their parts, to such programs and such advertising campaigns. What I'm suggesting to you is that although something might be prohibited by this language, perhaps the voters or the taxpayers may not have standing to challenge it, and that such standing might have to be provided by legislative act, which means that we would have to legislative act, which means that we would have to revert again to the legislature for specific autho-rization. Now, I want to argue with the language of the amendment itself. First of all, I spent arguint of the second second second second second the second second second second second second mean, I think I know what it is, but what it is to you and what it is to me may be two different things. Believe me, I have argued with a lot of reporters and a lot of writers about what is factual and what is not. Secondly. "to urge" means to me to advocate or to persuade, but such urging can be either implicit or explicit; indeed, it can even 

## Question

Mr. Flory Mr. Derbes, how do you reconcile the fact that you felt it strong enough to place in the constitution the preservation of historical district ...or historical preservation districts like the Vieux Carre, and yet, you're not willing to put in the constitution protection of the public fisc?

Mr. Derbes Well, Mr. Flory, I suggest to you that we can, that the two of us, or all of us, can sit down and we can agree on exactly what my amendment on historic preservation districts means. I suggest to you that the two of us cannot sit down, or this body cannot sit down as a whole, and agree on what this amendment really means because it's too general.

## Further Discussion

Mr. Newton 1 will try to be brief. First of all, I want Lossy that 1 think that the campaign of the Orleans Levee Board for the passage of a constitutional amendment in this last election, or when they were trying to get those levee districts, that the amount of money they spent and they way they did it was one of the greatest abuses of the public fisc that I have ever seen. But, I rise in coposition to this amendment. This is the set in coposition to the second place. Now, assuming that the last sentence allows the spending of public funds for dissemination of information, let me point out to you that there is no limitation whatsoever on the spending of public funds. They could spend money on high-powered advertising firms, and you what the dissemination of information-a good public relations firm can make it come out any way they went it. I urge the defeat of this amendment.

### Further Discussion

<u>Mr. Burson</u> Mr. Chairman, fellow delegates, I am ogainst this amendment for three basic reasons. First and foremost, it seems to me that this is the kind of thing that involves subtle distinctions that can only be made in legislation and cannot be made in a constitutional provision. I share the distaste of the previous speakers for the type of use of public funds as was demonstrated by the Drleans Levee Board in campaigning for the hurricane protection provisions during the last constitutional amendment election. However, it seems to me that the first sentence of this amendment absolutely prohibits the use of any public funds and might be conany proposition in wharging some might be conbosolute prohibition, inm yiew, is not in any way affected by the second sentence which merely says that you can disseminate factual information. Of course, you can disseminate factual information.

bition against the use of public fund in the firt t sentence. Now, in the school board on which I have served in St Landry Parish, when we've confronted this issue, we have never spent a nickel of public oney in any kind of ask in the newspaper, or otheroney in any kind of ads in the newspaper, or other-wise, for school bond issues or for the renewal of school taxes. We have done our work there by sett-ing up private funds for this purpose. I think that's the way it ought to be, but I t troubles e that when you use such broad sweeping i anguage, you ay be, as was pointed out by Hr. Aerther and some of the other speakers yesterday, whether you intend to do so or not, leaving open the possibility that the public funds prohibition could be stretched to semble the information for you to use in your ads. Certainly, I think that these salaried employees ight well be prevented from going out and address-ing civic cubs and meetings of citizenry to urge passage of chool bond issues and school taxes. I think that when they work for the school board they are honor bound to do this; they must do it, and they're the ones that have the information that the public has to have. I can't imagine any school supervisor or school board member going out and giving a hal-baked or half-hearted factual prejenta-tion without concluding this presentation by urgins advancing. I think that this amendment is directed at a specific abuse, that a specific abuse can best be taken care of in legislation. I, for one, would not wart to do anything that might be even possibly construed to hamper the public school system in a time of great trouble for that system because I be-leve, firmly and totally, that the public school system-free public ducation-is what, more than anything else, sets out American society and dis-tinguishes it from other systems in the world. I urge, for that reason, the defeat of this amendment.

Kr. Riecke Mr. Burson, didn't you tell me yester day when I showed you this amendment that you would be for it?

Mr. Burson No. sir. I said that J was for the principle of not using public funds to Jolicit votes for or against a proposition. However, I think J also indicated to you that J thought that that was a matter that probably could be best handled by statute because it sees to me you've got to make

It in, at any part was unlest that is a second of the second seco

Mr. Jack Mr. Chairman, addes and gentlemen, support the theory of thi a end ent, but with bothers me is the working in the se nd sentence it says, inverse, this provision shall it rela-bit the dissentant on of factual infor at in relat-to any prope ition appearing on an elet in ball to dispend public funds as line as it was to di-senting about if, say a sentol and support as it was interested in a certain boad support as it if me dispendent in the second support as it was interested in a certain boad support as it if me dispendent is for a set of a support with a set of a set of a support as it if me dispendent is an appearing in an election ballot "Now, you have and in in that the intering about of a set of a set of a support relative the priposition appearing in an election ballot "Now, you have and in the three is the assument set is a tastual to the set if the defense attorney raise at least the set assument set is a tastual to the set intering if public is the set of the set assument set is a set of the assument set is the set of set of the set of the set of the set of the set of set of the set of the set of the set of the set of set of the set of the set of the set of the set of set of the set of the set of the set of the set of set of the set of the set of the set of the set of set of the set of the set of the set of the set of set of the set of the set of the set of the set of set of the set of set of the set of set of the set of the set of the set o Mr. Chair an, adles and gentle en. . leads to an arguittar or that are the solution of the solution

Mr hong All right, et e ee fin he y or cate, pleaetkey rat dwe nite ni, ee sive te tariary r

elector to vote for or against any candidate or any proposition. Likewise, public funds should not be used for dissemination of factual information. It's easy enough to get the factual information in the papers and the news media for nothing. For those reasons I reluctantly vote against it, but I feel I must, under the circumstances.

## Questions

Mr. Roemer Wellborn, you are the second or third speaker who said that you had no quibble with the intent behind this amendment. Is that true?

Mr. Jack That is correct. I don't think the public funds, Mr. Roemer, should be used at all on these kind of things, and I'm afraid; though, the way this uses in the second sentence that they can get the message over and use our money and really be campaigning for or against some proposition. I'm not bothered about the candidates.

Mr. Roemer I understand that; I understand your reason. But, I wondered that...for those of us who share with you the intent to support what this tries to say, I wonder, if for our benefit because you disagree with the wording, are you working on an amendment that would clarify your objections? I mean, are you taking that extra step to really give us something to work with if this really is no good?

Mr. Jack No. 1'd be glad to sit down with you, but The not, actually, greatly worried about it. It really ought to be statutory. It won't hurt to put it in the constitution, but I don't know that we should put every so-called safeguard. However, I think all we'd have to do-you and I can draw an amendment-just tell the Clerk to draw one like that and take out that second line.

## Further Discussion

Mr. Juneau Mr. Chairman and fellow delegates, I won't take up much of your time, but it's just been mazing to me. We are sitting here and everybody is agreeing that the concept that's embodied in this agreeing that the concept that's embodied in this agreeing that the concept that's embodied in this agreeing that the sponling forty thousand dolmember that problems on the levee board, and I alegislative act." It seems to me that this is a pretty good amendment. It seems to me that this is a pretty good amendment. It seems to me that this is a pretty good amendment. It seems to me that this is a pretty good amendment. It seems to me that this is a namendment here which is basically the same prohibition that we are operating the Constitutional Convention of 1973, and I can't think of anything in the last fifty years that's more important than this Constitutional Convention. We have a specific prohibition which prohibits this convention for this constitution. I believe we can do that. I believe that if we infringe upon the rights of one person in this state, be it in the local election or in a state election, to tell him that we're going to pass or defeat a constitution with his money, I think we are doing a wrong. I think if we've done a wrong to one taxpayer in that regard, then it's bad. For that reason, I think that the amendment is good. There's been a lot of discussion. Mr. Flancherd brought up what L consider to be a signin, refer to the use of public funds. Well, I'm going to have an amendment, if this one passes, to clarify that problem. But, that's not a reason to vote against this amendment. If you agree in concept, I subit to you that what this amendment will do in our constitution, it's going to make a man on the local level, or on the state level, a little bit more conscious when he starts hiring or getting ordy to speed fifty and sixty thousand dollars of through a proposition they may only get through by fifty-one percent. I think that's a good concect. I think it will make him more conscious of the constitutional provision. Mr. Chairman, are there any other speakers on...

## Questions

<u>Mr. Vick</u> Mr. Juneau, did you hear all these speakers say that this should be relegated to the legislature in the form of a statute?

Mr. Juneau I heard some people say that, yes, sir.

Mr. Vick Do you know that Mr. Wall proposed this as legislation and couldn't get it passed?

Mr. Juneau I wasn't aware of that, but if you say it's so...

 $\frac{Mr.\ Vick}{the\ constitution}$  . And that's the reason it should be in

Mr.Juneau Nell, my answer to that, whether it was proposed or wasn't proposed, Mr. Yick, I think it's of sufficient magnitude to be in a constitution. We're talking about the public's morey, and I think this is the kind of prohibition that ought to be in a constitution.

Mr. Jenkins Pat, as chairman of the Public Information Committee, you've had to deal with this very question in promoting the work of the convention. Have you had a great deal of difficulty or have you been able to work it so that you can explain the convention's activities without advocating passage or defeat?

<u>Mr. Juneau</u> I think that we are not able to buy buttons and banners and things of that nature. Mr. Jankins, but I think that we can use the motian allereately so. To my knowledge, we haven't got any complaints saying that we have overstepped the bounds in that regard. I think that the Job can be done, yes, sir.

Mr. Hillis Pat, assuming public funds were used to disseminate information with respect to that "igloo" in New Orleans, the big one, what percentage of truth of that information is now residuum or is left? Do you follow my question?

Mr. Juneau 1'm not sure that I do, Burton.

<u>Mr. Willis</u> We were told, as I recall, that it would cost so much. Now, what percentage of truth was that in the initial story?

<u>Mr. Juneau</u> Are you talking about with regard to the cost of the convention? I'm not sure that I understand you.

Mr. Willis Well, I'll be specific. We were told, once upon a time, that the dome stadium would cost in the vicinity of thirty-one, thirty-two, thirtythree million dollars. Now, what percentage of truth was that to that information disseminated to us at that time?

Mr. Juneau Well, my answer to that, Burt, would simply be this: That I think, putting into the constitution, that you have used the language fractual." suit, and this would be no exception. But, I think that we have done to the maximum extent possible, as the legislature could do no more, to mandate that you shall go no further than factual information. I can...it would be my reaction, Burt, that it would be avfully difficult for a man on the local level or on a district..or on the Superdome, to overstep such a prohibition in our constitution at the time. I think that there would be an awfully more careful step would have been made at that time.

Mr. Willis But you realize that there is no provision in this amendment to put anybody under oath with respect to the truth, the whole truth, and nothing but the truth.

Mr. Juneau I'm con clous of that, yes, fir

Mr. Payburn Mr. uneau, what ommittee do ,ou chair in this convention?

Mr. Juneau Public Information, sir

Mr. Rayburn Do we spend any oney on...for publiinformation, to your knowledge, or to inform the public as to what we re doing?

Mr. Juneau Yes, sir.

Mr. <u>Rayburn</u> Do you see any difference in the montes that we are spending than the money that the school board or some other public body might want to spend to inform the citizens of what they were planning or what plans they had to do?

Mr. Juneau No., sir. I don't see any problem at all. I do...l would think this distinction would exist, Senator Rayburn, that if we were to come out with advertisements, "Support the Constitution," "Information of no regard, "Check Yes," as would a school board, and spend thirty thousand dollars in that regard for a documentary for the advocation of the passing of the constitution. If a school board would do that, I think we would both be doing wrong. Hopefully, we haven't done that, yet, in this convention.

Mr. Rayburn Well, do l understand you to say. Then, that we don't intend to spend a nickel asking the people to support any phase of what we're doing down here? Is that your opinion, or is that your statement now?

<u>Mr. Juneau</u> It's my understanding, Senator, that through the act of the legislature which appropriated the money--this legislature--this Senate and this House specifically and that no money shall be used by this convention to advocate the passage of this constitution--not public money in that regard. That's my understanding of the legislation.

Provinus Juestin ordered.

### Closing

wr. Ayynt Mr. Chairman and fellow delegates, I ask you to listen to me and I ask you to think about what this convention is doing. I want to say that I cannot understand, for the life of me, the people who come to this microphone and say "we have never dome this. We have never spent public money in the fayhnon that you are seeking to prohibit because we don't think c's right, but we don't want you to put that prohibition in the constitution." I just doits uncomposed whose smarthillites may be offended if I get e otional I was criticized for that the other day, but I want to tell you where we are, as far as I'm concerned. You have, in your wisdom, seen fit to recomment to the neople of thi state that we put a provision in this constitution that the lipermit local govern mg authorities to create district: that will be able to epropriate mond issue for that purpose, to build an indurinal plant on my property, my neighbor' property, and then turn around and sell it to how they will Now, you are being asked to take my tax money and my neighbor's tax oney and end it to convince the woting public that that's the right and proper thing to do. That what you are being ask to do yone right that's what you are being as us to dink. Hend row yon engine that you are being as all to the level that live in the united tate, of Ameria, and if to day ever me, that you are being as a to do you you engine that that you are being as a to do you engine that you are being as a to do you you engine that you are being as a to do you have the you and that hat you are being as to do you engine that that you are being as to do you engine that the tate, of Ameria, and if to day ever me, that you are being as the set in the the what I't taking about that the law of the that you and to take my property and y menuber that inde the you have to take my property and y menuber you property away for make my property and y menuber you to have to take my property and y menuber you to have to take my property and y menuber you to have to take my

## [Amendment fred 67-4 Mt. . \* r s crtab.ed: 6-

### Amend ent

Mr. Pointer Amendment No. [a. wr. and n page 3, 1 ne 29, in Floor Arend ent No. Prussed by Delegate Avant, et al., adopted by the Criention on today, and on line 6 of said a erd ent, after the words "shall not prohibit" and before the wids "the dissemination" insert the words the use of public funds for.

### Exp anation

Hr. Juneau Mr. Chairman and me bers of the sevention, I won't take up uch of your II e other than to tell you this was the a endment which was discussed just here previously. I treat this andment as being a clarification of what the intent was. If we do not adopt this amendent, then t would be a hiatus that you could not nossibly use public funds even for the dispemination of the information. Incertainly of this convention 1. of rourse, am open to any questions.

### Ouestions

Mr. Dennery Mr. Juneau, I take it that the addition of the language which you suggest would perpublic office, the use of a publicly uned television station to permit all of the candidates to appear on public television, that it would also perto dissemiate information by any governmental efficial on any proposition that ight be before the public. Is that correct?

Her Juneau It's my understanding, the way that the amendment was originally drifted, that this a guage with pertains only to a proposition for the use of public funds by a public body could be used, pamphets or television wise, to factually discentnate whatever that information is, whenever that cost could be absorbed, yes, sir I d mit I true that, though, with regard to andidates be ause the second sentence, as I read it, has nothing whatswever to do with candidates, but will with re and ta a proposition.

Mr Dennery well, in other words, y is feel that the first sentence would prihibit the use of a ublicity owned television station to per it all of the candidates for a particular public off et allear and speak their piece, for example?

Mr unreau I think that you could not use, as read it, Mr Dennery, could not use public finds used to urge any elector to vote f = ror a a + t. It would not, in my pointon, prevent a f = u + r a dis ussion of all candidates be asse, in  $\tau = p + 1$ . That would not be for or against

Mr. Dennery Thank you, in r - 1 wanted that in the record

Mr Chatelain Delegate Juneau, doubers tethat the the evalt question I alled previous hit is what was morened about, and I would better live with the alend eff all is in whilended

Me uneau Nell, the point 1 ade, Mi state and when the rears 1 ade that the en ent wat of n at the tile we voted in the interview are d ent

Mr. will in Pat, I an end ve with triw with your wird to an each have not it. Everythim has a Dist-life, takes, in possible the st on the use of public tund, here. It fails define 64th Days Proceedings-October 10, 1973 tation.

<u>Mr. Juneau</u> Burt, I would have to say the accounta-bility of a local public official would be the best limitation you would have in that regard. I think, be it in a constitutional or legislative act or otherwise, it would be completely impossible to put a limitation per se, in that regard.

Mr. Willis Well, it is a limitation with respect to public officials and not to public funds for the dissemination of information. But, I think that the proper purpose of a constitution is to properly harness. I should think that the limits would be the best harness, and it is devoid of limit.

<u>Mr. Juneau</u> Well, the only answer to that: you would be talking about, I assume, a dollars and cents figure, and I just don't think that would be appropriate in the constitution, myself.

[Previous Question ordered. Amendment adopted: 91-3. Motion to reconsider tabled.]

Point of Information

Mr. Tate Mr. Speaker, as a point of parliamentary inquiry, now the new amended section is going to require sixty-seven votes to pass?

Mr. Henry That's correct.

### Amendment

Mr. Poynter Amendment No. 1 [by Mr. Derbes]. Dn page 3, line 28, in Floor Amendment No. 1 proposed by Delegate Avant and adopted by the convention on today, at the end of line 8 of said amendment after the word and punctuation "ballot." add the following sentence: "Any elector shall have standing to con-test an evendture of funds motholited by this test an expenditure of funds prohibited by this Section."

## Explanation

<u>Mr. Derbes</u> Ladies and gentlemen, I acquiesce to the convention's greater wisdom in adopting the Avant amendment, although I had some misgivings about it. I would like, now, to make it clear that any elector has the right to challenge unauthorized uses of funds that seem to be prohibited by the uses of funds that seem to be prohibited by the amendment. In the past, in some instances, persons who were registered voters--but not property owners --were deprived of this right. It seems to me that that's the kind of problem that this amendment would face if it were litigated. I merely try to anticipate that problem and make it clear that any elector has a right to say, or to allege, that the public fisc-monsethr. Tedrys of three for the the public fisc-monsethr. Tedrys of three for the final ten-de capit be houred out of court simply heavier be He can't be bounced out of court simply because he is not a property owner, or simply because he doesn't have a specialized interest in this area. I suggest to you that this amendment really makes the entire provision operative.

## Vice Chairman Casev in the Chair

## Question

Mr. Roy Mr. Derbes, do you mean that an elector from Alexandria could file a suit in Orleans to stop some type of use of funds on a basis and have standing in court, even though he is not from there and has nothing to do with the election?

Derbes Good question. Maybe you ought to draft another amendment, Mr. Roy.

[Amendment withdrawn.]

### Amendment

<u>Mr. Poynter</u> The instructions [on amendment by <u>Mr. Derbes</u>] say the same, the language or verbiage was changed as follows: "Any person who is an

elector and who is a domiciliary of the district or districts wherein the election is scheduled, shall have standing to contest an expenditure of funds prohibited by this section." I'll do that one more time. The initial language would read as follows: "Any person who is an elector and who is a domiciliary of the district or districts

wherein the election is scheduled, shall have standing," etc.

Mr. Derbes Again, I think that if you are going to say that people have a right or that...if you are going to say that "public funds cannot be expended in a certain way," the only way that indi-viduals then can challenge such expenditures of viduals then can challenge such expenditures of state funds or public funds, is through access to the courts. Unfortunately, the line of cases which has developed the arguments of standing, and the principles of standing, have occasionally excluded ordinary citizens--that is, electors, registered voters-on the basis that they were, in some in-stances, not owners of real property or they didn't have a specialized interest in the outcome of the elections. In other words, that they were merida to demonstrate a greater interest that in order to succeed. So, I suggest to you that if you really want to say what you mean in the Avant amendment, that you should adopt this amendment as a supplement that you should adopt this amendment as a supplement to provide all citizens of the area affected with access to the courts. It seems to me to follow from the premise of the Avant amendment--which I had my own disagreement with--but now I would like to make it clear.

## Ouestions

Mr. Munson Mr. Derbes, the electors or the people you are concerned with in that particular district, don't they have that right now to go to court? Is it prohibited now for them to file suit?

I thought I explained that to you, Mr. Mr. Derbes Munson. In Some cases, in some elections, for example, I can call your attention specifically to for example, I can call your attention specifically to the thing that we have been discussing--the Drieans Parish Levee Board's expenditure of funds--in order to advoacte, or in order to publicites, or provide were advanced recently. A group of citizens went to court and were bounced out of court challenging that public agency's right to spend the money. They were bounced out of court, because they weren't own-ers of real property. I am merely trying to clarify ny issue. I am merely trying to say that all per-they are citizens of the state and domiciliaries of the area, they should have the right to the order. the area, they should have the right to challenge

<u>Mr. Munson</u> What would you do in the case of a minor, who is a property owner and a resident, but is not an elector?

<u>Mr. Derbes</u> He wouldn't have any rights under the amendment, Mr. Munson. He would ordinarily not have any right to bring suit in his own name, any-way. He would have to be an elector.

Mr. Munson But, he is a property owner, isn't he?

No...if you... Mr. Derbes

But, he would be affected even though Mr. Munson he was minor?

<u>Mr. Derbes</u> No, no. The amendment, as it's phrased, reads in the conjunctive rather than disjunctive. It says "Any person who is an elector and who is a domiciliary of the district or districts," etc. So, he would have to fulfill both....

Munson You got me then, because I didn't understand what you were saying, being a farmer.

aid, : d n t kn w w at that ea s.

Mr erbei n other words he has to at sfy two require ent , rather than one or the other

Mr. Arnette Mr. erbes, there are two thin that upset e about this First of all, suppose as a taxpayer of the state. I taxed-with happropriation westi, say, it the levee board of Hew Orleans, or Trleans levee Board-and they pend y money to do so ething that I don't want the to do that is against the con tution, why shouldn't I have a right to bring suit about it.

Hr. Gerbes well what I' suggesting to you, Mr. Arnette-you be this illustrates the very point of my riginal disagreement with the Avant amendent: rately, it the sto do the uch with to few words that, i would like to point out to you that by a legislative act, additional provisions could be dewhereby Arnette, who lives in dennings, could be the legislative and the single the second second of the legislative act and the single the to see the prime second second second second second second the the legislative and second second second second prime second second second second second second the second second second second second second the second s

Mr Arnette Why don't you just leave it to the regisfature? How, you say, of course, why wait for re enereal law? But, the problem with your thing fyou tate this in the coilt ution, it sees of int, it to those people that our name and they

Mr. nervies hip, no it mply grant the stand-ing and the legislature an supplement that by add "then provisions which would make...which would by the trings and live them other a cess to the trust. I lowing at the original roll call on the Avant and ent. I not ce that you voted yes to t, Mr. Arnette. I, frankly, can t imagine why uu are not in favor of y amend ent.

Mr Derber 71 u arr ditn., Mr Su, you object to y a rid int, Mr 7vint, be auter if merely con-tier, and eisentlati, diffic, exiting raw

Mr since Mr Werbel, you rean attorney l want to alk a real optimum in this lifet' a une hat the since braid print three thou and dolvars

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Mr e el Mr hair an, ad e d entie an I r e t e te nu us r ti at ar provision et cuar as it write n he onstituion. The intenti is h reare d, out you can well ree nu e, init at the arti-rection, is a solution at the arti-vision in here, whitewer, fr eviat catter to do that. This d esh t say a ord t aw r anything the sync owarey. I ut the effect and enforce twithout we have a constained in the resistant at a life for an constained in the resistant at a life for an constained in the resistant at a life for and the tappayers, or electors, or the itime in the or and the tappayers, or electors in the or solution of the sin of the tappayers or electors or the eliter of the tappayers of the sin of the tappayers or electors or the itime for the <text>

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Mr. Avant Mr. Chairman, I waive and use the words of my friend, Mr. Willis, "Just hang in there, baby."

Motion to

## Amendment

Mr. Poynter Delegate Conroy sends up amendments dealing with citizenship. This adds: On page 3, line 29, the following Delegate Conroy sends up amendments

Section--and let's change it to 19, Mr. Conroy.

"Section 19. Citizenship Section 19. A person who is not a citizen of the United States shall not be citizen of this

state

## Explanation

Mr. Conroy In reviewing the action which the convention has taken so far and in reviewing Article VIII of the present constitution on elections, there were two provisions which I found that we had not dealt with--it seemed to me as a convention--that we should consider and not simply fail to deal with. I bring these each before the convention as a whole, so that there can be a clear understanding as to what the convention intends and what it has done. The first of these two amendments is the one that What the convention intends and what it has bolies The first of these two amendments is the one to you have befory tool, dealing with citzeship. Un-for have tool of the second second second second tool have tool of the second second second second bably don't have available--it may still be over in Independence Hall--but the fact is that the present constitution requires that, in connection with vot-ing, that every citizen of this state and of the United States, native born or naturalized, shall have the right to vote. In what we have done so far, we have left out the reference to being a citi-zen of the United States, in connection with the right to vote. In the Bill of Rights Committee Proposal, we said "Every citizen of the state upon reaching eighteen years of age shall have the right to register and vote." In this provide for a Code said that "The legislature shall provide for a Code of Elections and except as otherwise provided in this constitution, the right to vote in elections is guaranteed to all citizens of this state." Ag Again. a citizen of the United States. However, in the a citizen of the United States. However, in the qualifications for office for the executive branch, we stated that to be eligible for any statewide elective office, a person must have attained the age of twenty-five years, be an elector, and be a citizen of the United States. I think there is some confusion, therefore, at this point as whether there is any possibility of a person being a citizen of the States of the content of the soft a citizen of the United States. The Fourteenth Amendment to the Constitution of the United States deals with a converse principle and says that "Any person who is a citizen of the United States shall person who is a critzen of the united states shall be a critizen of the state in which he resides." But, there simply is no definition in our constitu-tion of what a critizen of the State of Louisiana is. Now, if we intend that a critizen of the State is. Now, if we intend that a citizen of the State of Louisiana can only be one who is also a citizen of the United States, I think we have to say so. Otherwise, it is possible and under some United States Supreme Court decisions may be closer to reality than you might at first think. It would be possible for a person who resides...an alien who resides in the State of Louisiana to claim that he is a citizen of the State of Louisiana, even this of the merone or this of the unent of steeply. is the purpose of this amendment, was simply Ints is the purpose of this amendment, was simply to clarify that point and to make it clar that state, particularly in reference here to the ques-tion of voting unless he is a citizen of the United States and either native born here or naturalized under the laws of the United States. I'll yield to any questions.

### Ouestions

Mr. Do Blieus Mr. Conroy, film not mistaken. I know it has been the law for some time that a per-son has been also interpreted as being a corporation. Now, J know you did not meen that in this particular amendment. Don't you think it might make this clear-r, if we added in the word "a natural person" in order to be sure of what we are speaking about here because as an elector. I think that's well understood that that must be a natural person, but in this particular amendment just as you have it worded here? Now, of course, I believe we have had classified before in our law is...a corporation could also be a citizen, you see. Now, I believe though, that you would need that clarifying word in there.

<u>Mr. Conroy</u> Senator De Blieux, I would have no ob-jection to adding any clarification. But, I don't think it's necessary in this because this is purely in the negative, to exclude from citizenship in this state any person who is not a citizen of the United States. If you wanted to make further exclu-sions from citizenship, explanatory exclusions, I certainly have no objections to it, but this is simply to deal with that one single problem. As I said, I think that the problem that you address yourself may exist in addition to the problem I'm said, ] think that the problem that you address yourself may exist in addition to the problem I'm addressing myself to. But, I don't think that changes the purpose of it or is needed for the pur-pose of my amendment which is simply to make certain that in order to be a citizen of this state, you must be a citizen of the United States. As a matter of fact, now that you've mentioned it, when I gave that were in there. In front of the word "citizen", I had the words "matural born or naturalized citizen of the limited States . I size noticed that in this of the United States." I just noticed that in this copy that's typed here; that would have made it clearer...it would have conformed to the language of the Fourteenth Amendment

I have the same problem as Senator De Gravel Wr. <u>Grave1</u> , have the same problem as sendor be Blieux had. Are you saying that you are willing to withdraw the amendment and change it to read, "A person who is not a natural born or naturalized citizen of the United States? ?

<u>Conroy</u> Yes, that's what my rough draft had d. I'm sorry that that language isn't in there. said.

Gravel ] would be for it, if that language change was made.

## [Amendment withdrawn.]

Mr. Poynter [Amendment by Mr. Conroy]. Would read

"Section 19. A person who is not a natural born or nationalized citizen of the United States shall not be a citizen of this state." "Native born or naturalized." All right.

Mr. Conroy. The "native born or naturalized" is the language in the present constitution, in connec-tion with moting. The section as it reads is, "A person who is not a native born or naturalized citi-zen of the United States shall not be a citizen of this state

Henry Is that the way your copy reads, Mr.

### Ouestions

Hr. Bergeron Dave, you said you were going to re-fer us to some information in our constitution. Is that Article VIII, Section 1, you are referring us

## Mr. Conroy Yes.

Mr. Bergeron I'm just wondering how up-to-date this information is; it's supposed to be up-to-date completely. But, reading Citizenship and Age, I find "every citizen of this state and of the United

States, native born or naturalized, but not less than twenty-one years of age po sessing the following qualifications. So, I' just wondering if this is the update section we are look ng at

Mr. <u>Conroy</u> That's the present constitution. The United States Constitution somewhat supersedes itself with regard to twenty-one years of age.

Mr. Bergeron Thank you, Dave.

Mr. Duval David, you are on the Style and Drafting Co. ittee, are you not?

Mr. Conroy Yes

<u>Mr. Duval</u> noticed that in the Executive Article the words "citizens of the United States" were omitted in the Style and Drafting copy.

Mr. Conroy Yes, with a note from the staff that 15 says "You cou dn't be a citizen of the state without being a citizen of the United States." I asked the staff, did they have any authority for that and they have been unable to find any authority for that statement.

Mr. Duval I was just wondering, is that the type of technical...corrections that they are making?

Mr. Conroy Well, the purpose of my amendment is to avoid those sort of technical corrections being made here, Mr. Duval.

Mr. Guarisco Mr. Conroy, are you attempting to possibly disenfranchise persons who may be allowed --say emigrants and persons who have never become naturalized citizens of this country-to disenfranchise them from possibly becoming citizens of this state, irrespective of their allegiance to the United States?

Mr. comrog At the present time, a person who does not...an a lien who does not become a naturalized citizen of the United States is not entitled to vote in the State of Louisiana--ts not a citizen for the purpose of voting. That's correct. My purpose here is to bring this question before this convention as to whether they intend to continue that restriction or whether they want to change it But, at the present time, that is the provision of the constitution.

Mr Guarisco Of what constitution?

Mr <u>Conroy</u> The Constitution of Louisiana. That you do have to be a naturalized or native born citizen of the inited States, in order to be a voting Litizen of the State of Jouisiana...

Mr. Guarisco. As the state election...in the state election?

Mr. Curroy Yes. Yes That's the present law. Now, if we intend to change it, that's up to the convention. I don't think the convention has intentionally done so to date in the references that they have made. I ust want to bring it clearly before the convention to make a decision. I think that a person should be a citizen of the writed tatele before he should have the right to vote as a citizen of the State of Louisiana. But, that i the purpose of bringing this before the unvention

Mr. Newfun I really want you to lear this thing up for me, because if you an't be a itizen of the United tates unles, you are a citizen of a tate

Mr onroy That's not so

Mr. Newton: And you an't be a litizen of the state, unless you are a citizen of the unled state What are you

Mr\_inruy No that init of Your first tate entwomnost a corate, Mr Newton The Lourteenth Asend ent to the united tates on stilution area Anylody whill is a natural born or a natural see 2en of the mited States is a ctilzen theres, if the state is which neresides. That is if you you the enait language of the Furteeith A end ent as soon as I find it

Mr Newton I would be to see it

Mr. <u>Conro</u> I read this in a Supre e C urt delimit the other day that just came out in June, which said that a state could restrict the right to vote certain cases but ouldn't restrict a person fro being a... having to work under civil service

Mr. Tapper Mr. Conroy, h w does y ur a end ent read now as it has been changed? You are tablig about native born...

Mr. Conroy ...or naturalized. A person who is not a native born or naturalized citizen of the United States shall not be a citizen of this state.

Mr. Tapper And what is your definition of "naturalized"?

Mm\_<u>Coproy</u> A naturalized citizen of the united States is one who has become a vitizen of the inited States pursuant to the naturalization laws of the United States. This is the same language that is used in the Fourteenth Amendment to the ted States Constitution which says All persons born ur naturalized in the United States and subject to the urlsdiction thereof are citizens of the inited States and of the state wherein they res de.

Mr. Tapper What about the case where a child s born of parents who are citizens of this state and of the United States who are abroad when that hild is born? The child is not a native born

Mr. Conroy Under the rules .Yes, he is Onder the United States' rules he is a dual stizen. Ye . he has the right to elect up to age twenty-one

Hr. Tapper I understand, Mr. Conroy, the inited States Constitution and Jaws, but we are talling about this ...your a end ent that you're attenting ....

Mr Conroy No. I think he is born a citizen. He is born a citizen.

Mr Tapper Not under your a end ent, 1

Mr Conroy Yes, he is. By other hapten a full exactly in that ategory, and I know that he considered a native born sitizen of the nited States.

Mr\_Goldman Mr Conroy

Mr Conroy Yes, Mr Gold an,

Mr Goldman Mr convey, I have a surtion but the language in your in the econd entre e It say a person while is not a native or not a sturalized citizen of the insted state half the a citizen. Wouldn't the better but, citing that citizen behave inal not be don't to that he never an being

Mr sonroy Mr soldman

He many Anale, I all d tage with senotle with the sense of the

Me usidear half of the last of the fullies

Mr loss a bod fondre nie en thire alof Theorem in the formation of the entropy of the entropy term in the sector and the sector effect ther interpreted here and they act at a jue are raturalized. Now

<u>Mr. Conroy</u> Well, I don't think we have to worry about those people, Mr. Toca, because they wouldn't be with us any more and their children would have been...

Mr. Toca Oh, yea, well they've got some still here.

Mr. Conroy Their children who have been born in the United States would be citizens of the United States. Therefore, there would not be a problem...

Mr. Toca I don't agree with you, no, sir. They got some people still living here.

Mr. Conroy I must have misunderstood your dates.

Further Discussion

<u>Mr. Dennery</u> I appear here primarily becuase the Chairman failed to recognize me for a question, although I was wildly waving my hand in the back.

I do not understand why Wr. Conroy's amendment does not follow the language of the Fourteenth Amendment which says, "all persons born or naturalized". He says a person who is not a native-born or naturalized citizen.

The says a person who is not a netweedown in Throppications open for a difference in interpretation. But beyond that, I disagree with Mr. Conroy's interpretation of the Fourteenth Aendment. It seens to me that if you read the Fourteenth Anendment, it clearly says--it defines who are citizens of the various states. "All persons born or naturalized in the United States and subject to the jurisdiction, thereof, are citizens of the United States and of the state wherein they reside." Interfore, anyone in this state who resides here and who is a person born or naturalized in the United States is a citizen of this state, and by the Fourteenth Amendment is also a citizen of the United States. So it seems to me we are putting unnecessary language into the constitution.

For that reason, I urge that you consider very carefully before you adopt the amendment which changes the language in the constitution in the Fourteenth Amendment.

I yield to any questions, Mr. Chairman.

Questions

<u>Mrs. Corne</u> Mr. Dennery, it just seems to me like There are some people who have come here-say during the First Norld Mar period who certainly would be still living today, many of them-as a reason of having married, say, American soldiers, they were automatically accepted in this country as citizens. Would these then come under the heading of naturalized American citizens?

Mr. Dennery Yes, ma'am, I believe so. I think the naturalization law specifically says so.

Mrs. Corne It would be automatic naturalization?

Mr. Dennery That's my understanding of the law, yes ma'am.

Mr. Arnette Moise, one thing that concerns me. You say it's unnecessary. But this is exactly the opposite language of the Fourteenth Amendment in other words, the Fourteenth Amendment says, "if you are born in the state, then you are a citizen of the state and the U.S." O.K. But this is just the opposite. It says, "if you are not a citizen of the United States, then you are not a citizen of this state." Isn't that correct?

Mr. Dennery Except if...there is a negative pregnant in the constitution of the United States which says that "if you are a citizen of the United States, then you are a citizen of the state in which you reside."

<u>Mr. Arnette</u> Exactly correct. But what about the situation where a person is not a citizen of the United States? Mr. Dennery Then he is not a citizen of the state in which he resides.

Mr. Arnette You mean under the Federal Constitution?

Mr. Dennery That's my understanding of it.

Mr. Arnette The Federal Constitution regulates who can be a citizen of this state?

Mr. Dennery That's my understanding. Yes, sir.

Mr. Courrey. Mr. Dennery, if I had been able to find anyone who could give me authority for the statement which you just made, I wouldn't have presented this amendment. If you can find any, I'd be happy to see it. But as yet, I find nothing, as I indicated originally...

Mr. Dennery The authority is Dennery.

Mr. Conroy Thank you, Mr. Dennery.

<u>Mr. De Blieux</u> Mr. Dennery, do you know of any case to where a person could be a citizen of this state without being a citizen of the United States?

<u>Mr. Dennery</u> I can't conceive of any, no sir, Senator.

Mr. De Blieux Well then, what purpose would this serve in our constitution?

Mr. Dennery That's exactly what I say.

Further Discussion

Mr. Pugh Mr. Chairman, fellow delegates, I commend Delegate Corroy for bringing this to our attention. There were some oversights earlier in the work that we have done. However, I suggest that we vote against this amendment because, I believe, one, it should be under Bill of Rights, if at all; two, I think Style and Drafting will at this point be the only committee who might go back into the earlier sections, or articles mentioned by Mr. Conroy, and bring to our attention the corrections that are needed there so that we will not have the oversights in those articles mentioned by Mr. Conroy.

in those articles mentioned by Mr. Conroy. I reiterate, I don't believe we are prepared to intelligently vote on this amendment now. I believe that if there is to be a provision comparable to this in the constitution, obviously it ought to be under Bill of Rights and not under the election section; and third, I think the Bill of Rights can earlier in the passage of some of the amendments or some of the sections in the articles. Thank you.

[Previous Question ordered.]

## Closing

Mr. Conroy I think Mr. Pugh's comment is correct in its direction, but I think it is misleading a little bit in the...in what the Style and Drafting Committee can do. I am a member of that committee, and it would certainly be my suggestion if this amendment passed to try to put the appropriate language in the appropriate place.

<sup>8</sup> Wy concern, at this point, is that without an expression from this convention that we intend that a person would be both a citizen of this state and of the United States in order to exercise the right to vote--that the Committee on Style and Drafting would be powerless to do what Mr. Pugh has suggested we might do. So I urge you to vote for this amendment. I assure you that the Committee on Style and Drafting would the power we are the properties to the thermal the the the thermal term of the state and a state we we are the the proper place. But there is no other way we can do it at this point since we've passed the articular article, and we have passed the section ...the comparable section in the Bill of Rights Article. The

n'y way we can get the necessary re u re ent int the in tituti n is to patchill a end ent then re-arran e the anguage into the appropriate part of

Mr. e lieu, Mr. Lonroy, sing to pose the sale question to you which I poled to Mr. Dennery. Can you give a any exa pie how a person culd be a citizen of the State of Loui ana without bein litizen of the United States?

Hr. Jorro I know f m prohibitium of the legisla-ture of the State of Louisiana say in that any per-son who has re ded in the State of Louisiana for three intis would be a citizen of the State of louisiana. Know H no prohibition of that As

Mr. Delieux Mr. Conroy, don't we have laws that say that the federal government, and only the federal vern ant can naturalize aliens?

Mr. Lumnos tates.

Mr. Conroy Of the inited think that that the ale...

Mr. De lleu ir even of the state. The United tates 1 ade up of the states.

 $Mr_{\pm}$  ,  $Onr_{\pm}$  ,  $Mr_{\pm}$  , e , lieux, but that doesn't mean the 'nited' tate can spell out what the 'aw, are with reard to the state creating a , itizen of that

Mr. Newton David, thi, or similar lanuage was in the 19:1 Constitution which would, in effect, in hits the legislature from invoiding for natura-lization laws for the State of Louisiana. Isn't that simil

Mr. Mt.r. <sup>11</sup> you know of any lause in the Federarian fitution that wuld prohiit Louisiana fru havin noturalized sitizen whiwere sitizens of his fate, lut n't sitizen of the inited state

Mr. Johny A' a latter of fait, I think it would te a relerved power under this leventh Alendient

Mr Haye I think w probably underear the up of you consider two or tion. One of, whit is a officient of the table could you rywere

Mr vervy agree with you that that would re-tainly rear it up full don't in works an wir is that sue to in in wouldn't have preente this

Mr Haye I have here, all perior form or n-turalized in the other fate in system module for there fate it zero, of the United fate.

hat the ale qualification is the tate of Louis analy is it?

Mr. Hags Justinversing reading from a the title overlap to the set of the se

Mr ennery Mr Conroy, isn't there also arti-cent the Constitution of the United States with says a citizen of any state shall have all the rights of citizens of other states 7. That's it even in the Bill of Rights. That's in Artile 1. I think, of the Constitution Mundh't that answer

Mr Conro, Not without a definitio citizen of the state is, Mr. Dennery Not without a definition of what a

Deprochial and local officers. I have attempted to eliminate that problem and not apply it to local efficiency of the requirement would apply only to officials for whom this constitution spells out requirements that they live in a particular district or something of that sort as we do for district attorneys, for judges, for any number of officers. The only one, however, of the officials for which we have described such qualifications, a resi-

The only one, however, of the officialiss for which we have described such qualifications, a residence qualification for whom we have stated a disqualification as a result of change of domicile has been legislators. We do have, we have provided a provision similar to this for legislators, but we have not provided it for any of the other officers in this prosticution; or parish basis, in some cases, for assessors, for shoriffs, etc. Without this provision, it would be, at least theoretically possible, for a sheriff or a district attorney who didn't plan to run again for office, to change his residence or domicile, whichever is required by this constitution, from the parish in which he is serving, and still continue to hold that office. This amendment is designed to carry forward the provisions of the present constitution and preclude that.

### Questions

<u>Mr. Nunez</u> Mr. Conroy, what I'm concerned about is take, for an example, a case where someone out of necessity...let's just take hurricanes, again, because that seems to be prevalent in my area where two hurricanes in five years just totally where out of the second second second second second second further two, a sherriff, and a clerk of court-had to move from there...that particular area. In some instances, to another parish-to Gretna, out of Plaquemine, or from St. Bernard into Orleans.

Mr. <u>Conroy</u> 1 don't think that a temporary change of location of an apartment or something like that, certainly wouldn't be a change within this provision. Senator Nunez, that's...! read you the present constitution. If it wouldn't have affected it under the present constitution, it certainly wouldn't affect it under this provision.

<u>Mr. Nunez</u> Would you call a temporary change for two years...would that be temporary?...occiuse many of them stayed two years away from their...their... where their residence because there was no way to get back. There was no oil, water, gas, lights etc. It lasted that long.

<u>Mr. Conroy</u> Senator, were they ousted out of office under the present constitution? If not, then mine is no more pretrictive boy office changes this restdence from the district, parish, municipality, or ward in which he holds such office, the same shall thereby be vacated." That's the present constitution.

<u>Mr. Cannon</u> Mr. Conroy, I'm noting in your language here that you're implying an active...an act on the part of an individual to change his residence...

Mr. Conroy Yes.

<u>Mr. Cannon</u> ...from one district, or one area that he represents, or some defined area that's referred to in this constitution. What if the district lines change and l'm...l mean if they change upon him...

Mr. Conroy I don't think that would affect his ability to continue to hold the office under the way this amendment is worded.

Mr. Cannon Well, I mean in these days of court ordered reapportionment and things like this.

Mr. Conroy But it would...depending on what the rules were for election the next time around, he'd

have to qualify for election the next time, but this says "he changes the domicile from that required as qualification for election to the office." So if he held the proper domicile and didn't change his domicile, I don't think this provision would affect him in any way.

Mr. Cannon Let me ask you this. What about a district attorney, say who represents a multiparish area, and it gets severed and...

Mr. Conroy. Well, you're going to have two district sitorneys then. If you have...that'll normally provide for the election of two district attorneys to ...the next election again. He is not going to have to live in the district in which he wants to hold that office.

Mr. Cannon Right.

<u>Mr. Tobias</u> Mr. Conroy, I'm reading Section 4 of the legislative proposal, and it refers to what happens after reapportionment. Do you see any conflict between your proposal and this? Why or why not?

<u>Mr. Conroy</u> You said you were reading it. You'd have to wait awhile for me to read it. But I read it previously. I did not find any conflict.

Mr. Tapper Mr. Conroy, isn't it a fact in recent years there has been much, much litigation over the term "residency"?

Mr. Conroy Yes, I imagine there always will be when...

Mr. Tapper Isn't it a further fact that the courts, the federal courts, have held that a man can have more than one residence?...

Mr. Conroy Yes

Mr. Tapper Legal residence?

Mr. Conroy Yes.

<u>Mr. Tapper</u> My last question is, then, why put residency in this constitution in this section when there is so much controversy over it? Who shall determine where a man's residence is. Suppose I have...

Mr. Conroy Mr. Tapper, we have that requirement in the constitution already, in connection with his election to office. If he doesn't change it after he is qualified for election to office, he is not going to have any problem. But the same..it doesn't create any new problems. The problem already exists in connection with qualification for office.

Mr. Jenking David, it's been suggested that perhaps this question should be handled in an election code. But it occurred to me that possibly it would not be legally possible for an election code to handle this. Would you discurs that point?

Mr. Conray. Mr. Jenkins, I do not think it could be handled by legislation because if, in this constat particular office you must be a resident of a particular district for a certain period of time, and then contain nothing...have nothing further in the constitution with regard to removal of that person from office by virtue of leaving that particular residential area, or the residence that he's in. I don't think that the legislature could then come behind and provide for the removal of an officer whose qualifications are described in this constitution. I don't think that constitutionally the legislature would have that right. So that if, if this convention desires to cope with this concept, 1 think they have to do it here in the constitution.

[Previous Question ordered. Amendment rejected: 29-83. Motion to reconsider tabled.]

### Personal Privilege

Mr. <u>De Blieux</u> Mr. Chairman, ladies and gentlemen. Just wondered if we shouldn't take that vote over tin not there is something under the present onstitution that you cannot vote upon, something that you have an interest in Clearly. If I remember particular provision, and he voted It's not the question of how he voted, but the fact that he had an interest. I know we have taken some votes over when somebody had an interest before.

> [Prev us uest. n rderod n the Pr p sa. Pr p sa passed 16+ . M tin to take up ther rders ad pted with ut -b ectin.

> > Announcements [/ urna 6 - 622]

[Ad surnment to .: " Io k p.m., Thursday, ct ber 1, 1973.]

Thursday, October 11, 1973

### ROLL CALL

[103 delegates present and a guorum.]

### PRAYER

r. <u>Champagne</u> Let us pray. Lord, grant me the serenity to accept the things cannot change, the courage to change the things can, and the wisdom to know the difference. Mr. Champagne Amen.

## PLEDGE OF ALLEGIANCE

## READING AND ADOPTION OF THE JOURNAL

### Personal Privilege

Mrs. Miller Ladies and gentlemen of the conven-tion, I do come before you on a point of personal privilege, on behalf of the four Vice chairmen of privilege, on behalf of the four Vice cnairmen of the convention. As you know, you all can often get very much out of order, and sometimes the decisions get very technical, and we do think that Mr. David Poynter is invaluable. As you know, when he's up there, he's constantly telling us what to say. Ver, seldom does he make the wrong move, but, you know, our Chairman says occasionally, he makes a mistake. But, when we hit revenue and taxation, it's going to be very migrator that he does it make any mis-Verv to be very important that he doesn't make any mistakes on his ruling, and so that he dosh t make ony mis-practice on telling us what to say, we have brought him this Charlie McCarthy doll.

PROPOSALS ON THIRD READING AND FINAL PASSAGE

[Motion to suspend the rules to take Committee Proposal No. 23 out of its regular order adopted without objec-

### Reading of the Proposal

Mr. Poynter Committee Proposal No. 23, introduced by Delegate Stagg, Chairman on behalf of the Committee on the Executive Department, and other delegates, members of that committee. A proposal prohibiting dual employment and dual

officeholding in state and local government. "Article\_\_\_\_, Section\_\_\_\_. Dual employment and dual officeholding.

Section \_, Paragraph (A). Except as otherwise provided in this section, nor person holding, under the government of this state or any of its political the government of this state or any of its pointies subdivisions, any office or employment of trust or any office or employment which entitles him to any per diem, salary, or other employment of office shall at the same time hold any other such office or em-ployment with the United States, any foreign power,

Doyment with the United States, any foreign power, or any other state, nor shall any such person hold more than one such office or employment with this state or any of its political subdivisions. (B) for the purposes of this section, the following shall not be considered to be offices or employment described in Paragraph (A) of this sec-tion: (I) ex officie positions; (2) notaries pub-lic; (3) those string, (2) notaries pub-lic; (4) those string, (4) delegates to, making or advisory functions; (4) delegates to, as well as, officials and employees of, any con-stitutional convention; (5) members in the reserve of the armed forces and the National Guard; and (6) election commissioners. (6) election commissioners.

(6) election commissioners. (c) Nothing in this section shall prevent teachers in the public educational system...education system of the state from holding elective public office, except that a teacher shall be prohibited from serving as a member of the parish for municipal school board of which he is an employee. (d) Upon a determination made by the Board of Ethics after a public hearing and under such products and hear muy hear norvided by statute, that the

Ethics after a public nearing and under such the cedures as may be provided by statute, that the public interest is not adversely affected, exceptions from this section may be permitted.

## Explanation

<u>Mr. Gravel</u> Mr. Chairman and ladies and gentlemen of the convention, this proposal by the Committee of the Executive Department, submits for considera-tion by this convention, a strong dual officeholding and dual employment prohibition article. The lan-guage contained in the first paragraph is, to some extent, a rewrite of the present provisions of the constitution, but in part. I think, has been strengthened to make it clear that no person shall hold two public offices, or be employed by any gov-ernment, or two separate governments at the same is the general provision of the article. The next two sections provide for specific exceptions, which the constitution, and the final section authorizes the Board of Ethics, in those instances where the public interest is not adversely affected, to make addi-tional general or special exceptions. I don't think it wuld serve any useful purpose for me to restate what is clearly demostrated by reading of the article, as to what we're trying to accomplish. the article, as to what we're trying to accomplish. I do think it's important to restate that the com-mittee felt that there should be in the constitution a strong, definitive provision with respect to dual officeholding and dual employment. Mr. Chair-man, I'll answer any questions that any of the delegates have with respect to the proposal.

### Questions

Mr. Duval Mr. Gravel, this proposal changes the law quite a great deal. Does it not?

Mr. Gravel Yes, it does.

<u>Mr. Duval</u> There previously was no constitutional provision applying to dual employment. Is that correct?

<u>Mr. Gravel</u> That's correct. ...there's a statute on it, but no constitution-al provision.

Mr. Duval As this presently reads, a person, let's say, who's a secretary or a clerk for a municipality or a political subdivision, could not run for office. Is that correct?

Mr. Gravel I think tha fice, but if elected,... I think that person could run for of-

Mr. Duval They would have to give up their job, right?

<u>Mr. Gravel</u> Unless the Board of Ethics felt, that by maintaining that employment and holding the of-fice, the public interest was not adversely af-fected. That's correct, Mr. Duval.

Mr. Duval ool te Now, I notice that in this proposal school teachers are specifically exempt, and what I'm wondering is: how is there a logical distinc-tion between school teachers and all other employees, either directly or peripherally connected with the state or its political subdivision?

<u>Mr. Gravel</u> The committee felt, after weighing the arguments both ways, that this was a valid ex-ception that could be made because of the number of school teachers that, of course, existed throughout the state, and because we did not want to require school teachers to give up their jobs in order to hold an elective office and particularly in order to service members of the legislature.

Well, what I'm wondering about: why Duval is it going to be...why are school teachers going to be treated differently than all the rest of the What makes them so different? employees?

<u>Mr. Gravel</u> Mr. Duval, we just felt that this particular category was strong enough to be placed in the constitution, and we'd leave other consider-

Mr\_uval You ean strin en u in in inter that there are su ary thin tea her

Mr she 1 Mr Gravel, In your set in junder run ex-eptins, 1 kins in Nuber , this erv-in on Dards, on the instruent-all the performs siely picy-all of a daviery functions, a couple of use the advid her Now under these points and a day that Now inder these points and a person on the person on the person

Mr Gravel Nel, we made that exception because we didn't currider that, that the service on such a board constituted either the holdin of an offic or epicy ent-- wre in the public service capaciti, ike Mr. Bussie, you know, serve on a number of boards, and other people serve on a number of boards.

Mr. <u>Slay</u> Mr. Gravel, would you clear up one thing does this mean that a fellow could not be on the

Mr. Gravel That's correct, yes it would.

Mr. Slay Now, a an ould not be a school board member and a deputy sheriff. What about a con-stable

Mr. Gravel Unless the Board of Ethic ade an exception in his case, specifically, ne ould nut,

Mr say well, now, ny point of that so toon-stable are deputy sheriffs in Rapide Parish, and I think that that a matter that, aybe, we hould

Mr. Gravel Well, I think that would be covered be-caute the constables are...either they are ex of-ficil deputy sheriffs, as I understand It. Jagree with you that that's possibly an area that could be clarified I don't think there do be any problem with that either in this language or by action of the board of Ethics.

Mr. ay Mr Gravel, you say "dual office hold-ing.' In y ale, wa a triple office holder, that all right?

Mr. Grave: It might have been all right under the title, it is not all right under the body of the article.

Hr Burn. Mr Gravel, thi que tion ay have been a ked, I wasn't lister in . Under that Paragraph (5) ublection 3, Brands, Would that prohibit me ber of the shall board, fur initiance, from running for the less lature?

Mr Burns. One other que tion a lunder tand

Mr. Gravel. He couldn't hold both offiles, a same her if the second bland and a smelter if the legislature, unless perifically such mized by the

Br Burn At the resent the tribt a lefter of the outheatern to tribuna following burners of the outheatern to tribuna of the tribuna to tribunation of the tribunation of the Net on take ber of the thought tribunation and the test profession.

Mr. Crave 1 think he will do under the end of the center o

r wro e w tate t ol. Th part ole .w.j.r. t

Mr year Mr araan der tilti Frreto, uis state state state a har but ew erecht etter fan aus offen

Mr Rayburn Wel, гж, read tere wiele, tie Larvofpin eduction wiss that lie all Lileve per nel and all tipe of eliati

 $Mr,\ sravel$  . The language site field the test teacher in the public education y test.

Mr Rayburn would a cleer ferre all-fied as a teacher, i , ur p

Mr. Gravel

Mr Gauthier Camilie, tisags, which mitrie his to any periode – a ary, or other ellow to r office. That' any er die ary a wait, mither winde

Mr unart He would be unite to term exempted by the Bran of the without of from high research to the second of the public terms of the entrem. The second of provides of the entrem. The second of developing of the entrem. The second of developing of the terms of the second of the terms of the entrem.

Mr Gauthier Si, in each a c, the loar ' the would have to deter ne whether the interst the pull is adversely, in mit adver elsi a f. t. Is that correct:

Mr Gravel The Bar f this is in the second se

Mr. llo Mr. rave, the trainer with the trainer with the second statement of th

Mr\_Gravel trink it is the statute. Me

Mr 11

Mr Grave Ye, the atution like to define it' in the precent construction in the the tatute

Mirisina Nita Peratu a transformation w D, a fether A prevent of rousing to transform with the revent to the having resurve operand, the first to the anit, again to the t

 $M_{T}$  (rave). You lear will be please releasing us  $t = \pi/2$ 

Mr. Within well, the firmer without all

prevent me from having student teachers? You see, what I...do you understand about student teachers?

Mr. Gravel No, I don't...l'm not hearing. I'm not getting your words. There's something wrong with the mike or my ears, one or the other.

Mrs. Wisham No. I think it's the mike. A teacher can train other students under them, and we are paid per diem to do it; we are paid so much per month, say, fifty dollars a month for each student. Will that prevent me from doing that? That will be an extra salary.

Mr. Gravel Is that a public employment separate from your employment as a teacher?

Mrs. Wisham Yes, it is.

<u>Mr. Gravel</u> I think you probably would have the prohibition, unless the Board of Ethics would authorize that category of conduct.

Mrs. Wisham Well, my second question was: we do have resource people coming into the, say, the parish or the classroom and helping us...university professors come in.

Mr. Gravel Aren't they working on just one job when they're doing that?

Mrs. Wisham Well, sometimes, we do pay them extra

Mr. Grave.] If there were two separate employments, one by the school board and one, let's say, by LSU, then I think that would have to get clearance from the Board of Ethics under this language. We realize that possibility does exist.

Mrs. Warren Mr. Gravel, some of our teachers teach in the public school system during the day, and they teach at our universities sometime at night. Now, this would prohibit that?

Mr. Gravel If they are separate employers, yes, it would, I think.

Mrs. Warren Number two...

Mr. Gravel Unless the Board of Ethics would rule that they could do it, that public interest was not adversely affected by that.

Mrs. Warren Well, how would the Board of Ethics go about doing it, when you put this in the constitution like this?

Mr. Gravel Just the way they...you know, they would act under the same procedure.

Mrs. Warren They'd make some exceptions to that.

Mr. Gravel Let me ask you a question. They would act just as they act now. A request is made to determine whether or not the particular situation that is presented to them constitutes dual employment, adversely affecting the public interest, and they would make a determination. That's how they would act.

Mrs. Warren Well, in this event, you find some of the federal funded programs. If a teacher's teaching in a public school system, the only way she could participate in a federally funded program, they would have to come through the public school system that he or she is working in?

<u>Mr. Gravel</u> If that's a separate employment, there would have to be either a general or a specific authorization by the Board of Ethics, upon a determination that such dual employment was not...did not adversely affect the public interest.

Mr. Avant Mr. Gravel, do you agree that if this section or proposal is adopted as it's written,

it would make the Board of Ethics just about the most powerful agency in the state?

Mr. Gravel No, I don't agree.

Mr. Avant Well, let me ask you this: I know for a fact that Judge Alvin Rubin teaches at the Law School, or he has taught at the Law School, since he has become a United States District Judge, and as I understand it, he would be prohibited from doing that under this amedment-under this proposal-unless the Board of Ethics decided that it wasn't contrary to the public interest for hit's all rich for you to do that. That's right, isn't it?

Mr. Gravel They could certainly do that, and certainly would, of course.

Mr. Avant Now, my good friend, Mr. Kean, who's a gelegate to this convention and who for many, many years was the city-parish attorney for the parish of East Baton Rouge, he also taught at the Law School. As a matter of fact, he taught me. The same Board of Ethics, though, could decide that it would not be in the public interest for Mr. Kean to do that. Could they not, sir?

Mr. <u>Gravel</u> It might so decide. It's inconceivable to me that they would because I don't see why the public interest would be adversely affected in that case, but that would be a determination to be made by the Board of Ethics, based on all the facts and circumstances.

Mr. Avant Don't you think that's an awful lot of power to be giving to one nonelective board?

Mr.<u>Gravel</u> I think it's enough power to correct Some of the rampant abuses that we have in the state where we have dual officeholding and dual employment that leads to many of the corrupt practices that we have in Louisiana. I think it's a small price to pay, Mr. Avant.

Mr. Pugh 1 believe this follows along with what Delegate Avant said, but if we, so far, provided in this constitution any other authority to any other board or group-perhaps the judiciary to interpret-but any other board or group to, in effect, amend the constitution by one of their rulings?

Mr. Gravel I don't agree that we do that here, Mr. Pugh.

Mr. Pugh You don't think that they may not add exceptions in Subparagraph (8) by finding that those do not, in effect, adversely affect the public interest?

Mr. Gravel All they do is set down a standard saying that people may hold two jobs or two positions that do not adversely affect the public interest, and require the Board of Ethics to make the determination.

Mr. Pugh Thank you.

<u>Mr. Roemer</u> Camille, could you refresh our memory on what we've done here vis-a-vis the Board of Ethics? I mean, who are they? Have we done anything in this constitution...

<u>Mr. Gravel</u> We have not structured the Board of Ethics. All we've done, as I recall it, is to provide that there shall be a Code of Ethics.

Mr. Roemer I see.

Mr. Gravel We have not specifically structured a board.

Mr. Roemer Well, how do we get a Board of Ethics now? Who appoints them? Do they run for the job?

Sult who are they They seen to be very injortant in this plan

Mr. <u>Grave</u> well, under the relent law, the igis ature has set up and structured the blard. I would hope that this convention will tructure the Board of Ethils.

Mr Roe er Are you tellin, us the legislature appoints the Board of Ethic in this tate

Mr. Grave No. I said the legislature structures the Board of Ethics.

Mr Roe er well, who appoints the Board of Ethic. in the State of Louisiana?

Mr. Gravel I think that... m not sure, Mr. Roemer, but I believe they are appointed from panels or from categories by the governor.

Mr. Roemer The governor appoints the Board of Ethics?

Mr. Gravel I believe so from specific categories

Mr. Boemer And, if we do nothing to the contrary in this constitution, the governor would continue to appoint this board. Is that not true? Is that true that the governor would continue to appoint such a board?

Mr. Grave) I don't know. Mr. Stagg's pointing out something to me that says we've passed the Board of Ethics. I don't know whether...I hink we did provide for a Board of Ethics, bot I d'dn't think we have provided for it's [its] structure yet, at this time. I don't know, he's saying something over here.

<u>Mr. Roemer</u> Well, I think somebody, don't you agree, that somebody ought to address themselves to who is the board, what their responsibilities are...

Mr. Gravel Mr. Roemer, I tried to answer that as well as I could a while ago. I said that I hoped that this convention woold structure the Board of Ethics. This is not the place, I don't think, to structure it. I think if we adopted this, then it would become very important to determine what the structure of the Board of Ethics woold be, and how it would be set forth.

Mr. Roemer Well, I'm not suggesting that we structure it here, am I, Mr. Gravel? I'm just suggesting that we consider their importance

Mr. Gravel Oh, yes...

Hr\_Singletary Mr. Gravel, would you explain to us a little bit about the interpretation of the article, under the old constitution, and how the committee proposal differs? It seems that the old constitution has, to my knowledge, has functioned all right.

Mr. Gravel Well, we've really been operating both under the provisions of the old constitution, or the deal officiend structure, too, besides the provisions in the constitution that relate to dual employment. But, thi, is a composite of some of the concepts in the existing law, together with what the constituent of a concept that we believe fell was a refinement of a concept that we believe should be built into the constitution and a trong dual officeholding and dual employment prohibition law.

Let me just make this observation to larify things. Wr liagg hands me a copy of Committee Proposal No. 22, which, as finally adopted, prividen that the Code of Ethics schall be administered by a Board or Blands of Linis, recent by the light lature with such qualification, term life strice, duties and power as provided by law Mr. sigletary was ust wider in f... us tell him your in the r, all ffer

Mr. lovel : an thear y u

Mr\_sice etary = u d y u tel u nmm e f the murstant d Tferences between the committee rank a an the d on titut i for nitie e.m. a we here, we have district attrineys that are unstabase, and this has much been index be a vision of dua officeholding urder the id constitute und you evaluan sime f trust minst

Mr. Gravel I don't believe i cou'd detail the d'fferen\_es at this point. Mr ingletary

Mr. Goldman Mr. Gravel, could you explain, reither name, as examples, those buard which have adviring capacitie only? I din tiquite under tano what kind of boards or corrissions those are

 $Mr_{\rm c}$  Gravel . We l, very often there will be, either appointed by a public off cial, or by a depart ent head, or an agency ...

Mr. Goldman Oh, you ean lie a contree fone hundred for a project for a city or smething the this.

Mr. Gravel Any number of boards "mere are a number of boards that have to be constituted for advisory purposes under the federal proma

Mr. Goldman Such as a board I happen to be a ran of such as the advisory board for the city school system for career education, that would be strictly an advisory type board

Mr. Gravel | I think that s right

Mr. Goldman That wouldn't prohibit the free serving on a state commission that the governor light appoint me on?

Mr. Gravel That's correct. You dibe event

Mr. Goldman All right Now, let eak, u e other question: serving on more than ne state cominision would be prohibited, wuidn tit The same person serving on ore than one state c' isston, such as the relevisi in Authority and the Governor's Committee on the Employent if the Handcapped, unless the Board of Ethic

Mr. Gravel Unless the Board was sole yooln ymaking or advisory. If they had perfored any other functions-any administration is any fining that mature-then, of course, there would be a prohibition, but if you look at the solities roposal, Section B, ubparagram 3, I yue sy ud call it, I think it will answer your westing

Mr. Goldman well, that' why I asked ab ut what an advisory buard really was - I wash t sure Thank you

Mr. tagg Mi Gravel, in the Lumittee in the Eventive Branch we had in our pringram if with both the Byard of Ethic, and dual officient at assigned taue, and i. it intry your reconfection that we brought the floor of the "went in first, on September 15, the proposal on making ir within for a code of Ethic and a loard fitch) ir it, because the just withe dual officient ding ir within whit the all denotes the pro-over "first dual, ir a guipping dual officient ding ir within the interest of the states could then be dual due to the Buard of Ethics. Is that fur the structure of

Mr. Gravel That's rivet hi i the us succeeding committee Propolal Net. They really do interrelate to some extent

<u>Mr. Stagg</u> Is it not your...was it not the consid-ered opinion of the committee, that the Board of Ethics could, by a successive series of rulings, set up categories that might not be adversely affected to where every individual case would not have to go to them, but they would, by the setting up of the procedures and the decisions of the board, form a body of rulings by the board to which a citizen could refer to see whether or not his activity was against the dual officeholding provision in the constitution?

Mr. Gravel That's correct. The language, I think, clearly encompasses the possibility and the probability that the Board of Ethics can rule generally and specially. They can rule and say that as a class, certain kinds of double employment are permitted, so that it would affect maybe hundreds, or once they and to be only the they have be or even thousands, of people. Then, there may be a number of instances where rulings have to be made on specific and unique facts.

### Amendment

Mr. Poynter These are the Anzalone, Tobias, and Gauthier amendments. I might point out, initially, there's a set of amendments passed out with just the names of Anzalone and Tobias. That is not the set. The correct set has three coauthors: Anzalone, Tobias, and Gauthier. Amendment No. 1. On page 1, delete lines 12 through 32, both inclusive, in their entirety and on their entirety and insert in lieu thereof the following: "Section \_\_\_\_\_(A) The legislature shall emact laws defining and regulating dual em-ployment and usficient of the set of local government." government.

[Amendment withdrawn.]

## Amendment

Mr. Poynter . (A) The [Amendment by Mr. Anzalone] "Section he legislature shall enact laws defining and regulating dual employment and defining, regulating, and prohibiting dual officeholding in state and local government."

### Explanation

Mr. Anzalone Ladies and gentlemen of the conven-tion, the Committee on the Executive Department has struggled since we first began meeting, with the idea of dual officeholding. There were certain concepts that we could agree on, but every time we came up with a provision, it was so far-sweeping that is included just about everybody in the State agree that duality in officieholding is wrong. This article prohibits the election to two elective of-fices. and this is rinth. It prohibits legislators Anzalone Ladies and gentlemen of the convenfices, and this is right. It prohibits legislators, rices, and this is right. It prohibits legislators, for instance, from accepting employment in any other state agency, to keep them free and independent, and this is right. But, let's look at some of the things that it does that are wrong. Mr. Slay, you asked a question concerning your constable and the deputy sheriff. No, sir. That's got to stop! A highway worker, for instance, cannot be a part-instance, cannot be a part-an inpit worker, for instance, cannot be a part-an inpit watchman at L.S.U. But yet, the provision does provide that anyone who is lucky enough to serve on a board, commission, or other instrument-ality, performing solely policymaking or advisory functions, at fifty to seventy-five dollars a day can most certainly hold as many of them as he can get appointed to. Well, this isn't right. Sub-paragraph (D) deals with the fact that the board of ethics is constitutionally authorized to make exceptions. Mr. Gravel, in his explanation, said that the board of ethics, by this provision, would be constituionally authorized to make seeping charges. Now, what does this mean? Does this mean the legislature disagrees, then the board of ethics do the legislature disagrees, then the board of ethics for instance, from accepting employment in any other the legislature disagrees, then the board of ethics

is going to rule? It just will not work. The board of ethics is given the authority and the duty to handle every one of these cases. We have information that leads us to believe that there are approximately fifteen or twenty thousand of these things in the state now, at a minimum figure. the board of ethics...how are they going to handle it? A commission of seven people--how many years it? A commission of seven people--now many sear-is it going to take them to get these provisions decided? Mr. Sixty made a question a while ago. Could a man who is a constable drive a school bus? Net under this provision, he can't. If he was Not under this provision, he can't. If he was lucky enough to finally get that school bus, and he came to the Board of Ethics and said "gentlemen, ne came to the board of thits and sald sald gentremen, I would like to have your permission to do it. they'd say "come back in about two years because the docket is slightly crowded right now, because we've got about another twenty-five thousand cases to hear." Ladies and gentlemen, the twelve hours that hear." Ladies and gentlemen, the twelve hours that was allotted to the Committee on the Executive Department was simply not enough time to present something to this convention in the form of a pro-hibition against dual offichenlding and dual employ-ment that is going to be satisfactory anywhere across the realm of this state. This is just not satisfactory-what we have now. The only thing that we're saying is, is that "yes, we do want to prohibit dual officeholding because it is not right." Another thing that we are saying is where the legislature finds it advisable to do so, they can prevent dual employment. But, I cannot see for the life of me, how you're going to disrupt the demo-cratic process of this state, by letting a man who is on the lower echelon of a salary scale, seek 15 on the lower echelon of a salary scale, seek part-time employment with another state or paro-chial agency. This is what this provision does, and it's bad. I ask you to vote for my amendment, and let the legislature study the problem and come up with an answer.

### Ouestions

<u>Mr. Kean</u> Mr. Anzalone, if I understood the state-ment of the Chairman, if we approved your amendment, then we can go home. Is that correct?

<u>Mr. Anzalone</u> I don't know, Mr. Kean. I don't know whether I'm going to vote to go home or not. But, it seems like that's what going to happen.

Mr. Smith Mr. Anzalone, if you left this to the legislature, do you think they'd ever do it?

<u>Mr. Anzalone</u> Well, Mr. Jasper, the only thing that I can tell you is that we've got a lot of "the legislature shall" in this convention, and we don't legislature shall' in this convention, and we don't have anything in here to say what's going to happen to any if they shall nt... But, the only thing it up to the legislature rather than put something in here that's going to affect twenty-five or fifty thousand people that don't necessarily need to be affected. In answer to your question, 1 hope that the provision that we have provided for the legis lature will make them independent enough to do

Mr. Smith Probably some of the legislators now holding dual offices?

Mr. Anzalone Sir?

Mr. Smith Don't you think some of them now are holding dual offices--legislators?

Mr. Anzalone I understand that they are.

Mr. Smith It would be kind of hard for them to do this, wouldn't it--take themselves away from their job?

Mr. Anzalone That would agree to that. That particular one? Yes, sir, I

Mr. Goldman Your amendment doesn't prohibit one who is holding office from running for another of-

fice while he is milding his prejent iffice and

Mr Gold an Do you think that would be a new idea too, to have that prohibited

Mr. Rayburn Mr. Chair an, ard fellow defastt, I rise in support if this arend ent for ary reasons. I personally know of a few people whi are constable: and lices of the peace. I think they make about twenty dollar a onth, and so eo of the work for the city, and some if them work for the parish road syste. So eo of the work for levee districts in order the ake a living, under this you wild say that a professor out here at L. U., who is a sing twenty or thirty thousand dollars a you will say that a professor out here at L. U., who is aim twenty or thirty thousand dollars a year, that he can get a grant to make a survey or do a little reserant and pick up twenty or thirty thousand dollars out of that. But, you're sayin to the little per on over there, who might be a J.P. or a constable, that he can't be a chaplain in a state 1 stitution. I think thi, amendment will leave it to the legislatures and 1 hope the legis-drastic and as one-sided as this proposal 1 if we do adopt so ething, and 1 ask you to go along with the amendment. with the amendment.

Mr. <u>Stagg</u> Turn about, fair play, Senator. In the provision of the current amendient under debate, it says that the legislature will regulate dua e playment, and that it will prohibit dual office-

Mr. Rayburn That is correct, Mr. Stagg. Dual officeholding, in y opinion, eans an elective

Mr. Stags Alright, now, Senatir Egan, one of your fellow rematers, is an elected member of the state board of ducation. Are you saying that the leg-slature will prepare legislation that will prohibit your fellow senator from hold ng that other elected

Mr. Rajburn I saying, Mr. Stagg, that f you adopt this amendment, the egislature will have a andate to pas law to do that. I can't speak as 'b whether or when they will do it.

Ar tagy That was our priblem Now, I've got one further quelition. Do you know of an instance where an entropy of the Strate who serves with you, health agenties of this state for represents the mean of the state for the state of the state of the serve time einiteen ar twenty thou and dollars. Due you consider that the legilature would pass legilation

Mr. Rayburn. Mr. taig, you being a lawyer, I think that's a foolish question to ask me. You know, lawyers Jiawyers Jiawe execut from Johing mich any thing. They can work for any state agenty and collect any fee they want, but if they live me a loca sola, I'm a crool.

<u>Mr</u> togy Well, senator, J have never sold that you were, nickwould I ever be found to by that But, I would I ble to print out tory but hat that we what the nick there priorial waitry by the lineate sole of these obvious division and the perior in you not feel that there are enough write perior in term good by held by a while bit of there is the in there will, held by a while bit of there is the tate there have to part on with dual and trigge and quadruple ifficial division, where me is night

down send o two street fore bar of we not to be lethat we have to put, with that

Pr Ray'sri i duit think we are. Mr is g, and ertain, don't belive that s right werer, d n't believe it's right equal to equal and then say that little ferum as n twenty.

Rr tail id in to be recent the that intert in but if in this at the set of the energy of the set of the set

Mr. Stagg well, we'll both rid or i reath unti-either of those tings happen

Mrs. Corne Mr. Chairman, de cates, : / e / support of this amendment : believe that carma this decision up ta the legislaturs in this sincerely believe that our teachers, which is plement their meager salar es with estra estimation with use deals fairly by the legislature is a de-distory. Eith simethes a ger discount of a devisors, with so ettiles a per die — it if the tile, only experies—consultants, super-ir, -tlatts, super-ir, super-ir, and the supervisors of student teachers—eau astros in fudie such as a tasi for either that are elouite at book selection, transations, tutor, in the entering of classes, speed-reading under a for each end in the entering of classes, speed-reading in a duty in the arrow, in the entering of the arrow, in the entering of the entering of a duty in the arrow, in the entering of the entering of

Further solars the second solar sola

Mr Anzalone Woods, are no aware that the alt

clause in this sentence says that "the legislature shall define and prohibit dual officeholding?"

Mr. Jenking Yes, Joe. But, you see, that is so general and so vague, that it's not clear what it does. For example, herein we make an exception for serving on commissions of a policymaking or advisory nature; in the legislature they might well make exceptions for all sorts of things--serving on boards of whatever nature, serving in all sorts of positions, and so on. Because of the vague nature of it, I think problet through the vague nature of it, I think problet through it was elective offices. But, we're giving so much leeway that we're not really giving protection. I don't think. Let's define it a little more thoroughly; let's don't be afraid of words; let's work out the words.

<u>Mr. Anzalone</u> Woody, you have just touched on the problem that we have struggled with in our committee for the past six months. Now, sitting here saying that you want to reject this amendment, because you don't trust the legislature in what it's going to do, is one thing, but if you've got southing to do, is one thing, but if you've got southing to for six months, and I haven't found it yet, and that's the reason I put the amendment in there.

Mr.\_Jenking Well, I think the place to do it, Joe, is in that first paragraph, the last sentence, where it specifically prohibits dual officeholding and dual employment within the state. I think there, if we say-instead of what it says-if we say. "prohibit dual officeholding," and then "prohibit the holding of both an office and a position think that will solve the problem...keeping, down the in the lower part of that first page, the provision excepting teachers.

Mr. Anzalone Would you write that up and present it?

Mr. Jenkins I'd be glad to. But, if we adopt this amendment, that's going to be moot, so I....

Mr. Anzalone Do you think that this is better than what we have now, as a committee proposal?

<u>Mr. Jenkins</u> I think the committee proposal basically is good, but we need to make some technical changes in it.

Mr. Anzalone Technical?

Mr. Jenkins Sure.

<u>Mr. Gauthier</u> Woody, in light of what you just said, in regards to dual officeholding, or officeholding and employment, are you then saying that the small communities who pay their elected officials possibly fifty dollars a month, or even less-in some cases perhaps a few dollars more-they would be prohibited from being employed by the local governing body, is that correct?

<u>Mr. Jenkins</u> Well, that's the case now, as 1 appreciate it. Of course, we have certain exceptions, Wendell, noted in there. If they're serving on an advisory commission, or something like that, that should be exempt. But, if they're not...my goodness we have 3.6 million people in this state; we have plenty....

 $\frac{Mr.\ Gauthier}{that\ correct?}$  Then there are some exceptions, is

Mr. Jenkins Yes.

Mr. Gauthier Well, would you want to list these exceptions in your proposal?

<u>Mr. Jenkins</u> Yes. I think as the committee has done it. There are some other exceptions that need to be made; let's make them. Mr. Gauthier Uo you think we would cover them all that should be in, or do you think there's a possibility we would leave some out by error?

Mr. Jenkins No, I think we can if we're thoughtful about it, Wendell. I think basically the committees...

Mr. Jenkins I'll be glad to draft some.

Mr. Avant Mr. Jenkins, there is something here down on line 29 that I don't understand, and I wonder if you could explain it to me. It exempts from this, members in the reserve of the armed forces and the national guard. Now, I can recall, I think, at least three members of the legislature who were elected while they were on active draw with the armed forces. One of them, I think, was in Korea, but he knew he wool Me hould this prohibit a man like that from running for office?

Mr. Jenkins No, Jack. As I appreciate the Executive Committee Proposal, it prohibits them from serving in those two capacities, but wouldn't prohibit a person from running while in one of those positions, so....

## Further Discussion

Mr. Abraham Mr. Chairman, fellow delegates, let me read to you the article in the present consti-tution on dual officeholding. Article XIX, Secti Section 4, says "no member of congress nor person holding exercising any office of trust or profit under or exercising any office of trust or profit under the United States, or any state, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of trust or profit under the state, nor shall any person hold or exercise at the same time, more than one office of profit, except that of justice of the peace and rotary public provided this section shall not apply to officers in the Reserve, United States Serve Navy Marines and National Guard " Now We Army, Navy, Marines, and National Guard." Now, w have a provision in the present constitution pro-Now, we Army, Kavy, Marines, and National Guard." Now, we have a provision in the present constitution pro-hibiting dual officeholding. Because this provision may vague, because there was no real means by which determinations could be made of whether a particular position was dual officeholding or not, we attemated to sirtengiher have the proposal to prohibit a person from being on, say, the city council of a small town and working in a lesser job with the highway department. There is nothing in here to prevent a policeman from running for the city council or being on...ont running for the city council, but for being on the school board. What we're trying to prevent here is a person using his office to further his own personal means. Now, the determinations, and will be able to make general ulings exempting carticle. They will determine that this deserming affect he interest of the state, and this person can hold these two jobs or he can hold this one elected office and hold this othic to file. They will determine that state school bus driver, or from a perconvert, for elected office- from promoting hinself into a job as a school bus driver, or from a perconvert end elected office--from promoting himself into a job as a school bus driver, or from a person who may be in the legislature, from promoting himself into a job with the highway department. This is the type of thing that we're trying to prevent in this article. There is no intent on the part of the committee, or on the part of this proposal, to say that this goup who's got this small job-part-in't job mirt-time as a deputy sheriff or anything like that, be cause there has been no one to make rulings on these things, to really say whether this is dual

fficenoiding or not, we have provided for the board of etnics Now, we went through this a couple of weeks age to ake a strong c de f etnic al of this fit in with this ode of etnic 1 urge the rejection of this Anzalone a end ent of ficenoiding and what is not 1 say the best way to handle this is to ake a tron restriction, and then et the board of ethics real the rejection of this sentitive and the adoption of the proposal as submitted by the com ittee.

### Further discussion

Mr. Arnette The attracts opposed by the set of a month of the proposed, sideration of first of all the committee proposed, the intent of the particular provision, was to do away with all the abuses that you hear about in the proper holing two different off ces or having several little tate jobs. This is what we sought to get rid of. Second y, the section as proposed by the committee proposed ting two positions of employment if they aren't rombibit any dual employment. If you want to no a two obs, lits very simple. If it does not conflict, if it is not against the interest of the state for you to hold these two jobs, then you get permission from the ethics commission to do so, or the ethics board to do so. The third point, any an who has honest intentions, and nonconflicting positions, need not fear (his provision at all. It does not the ord in the you find the state interest, and that's the way this particular ection was designed. Another point if this was restinged to get rid of the political hacks, the multical deadheads', who hold more than yne state e ployment or mid a office and, as a consequence, get state employ and it was it was designed to prohibit. An honest hardworking individual, the states of you can hold they don't conflict with the state interest, and that's the way this particular exclosed segled. Another point if this was resting to get rid of the political hacks, the multical deadheads', who hold more than yne state e ployment or mid a office and, as a consequence, get state employ ent...this is what it was designed to prohibit. An honest hardworking individual, the states of this political hacks the way this provision was written and that's the way this provision was interest, and that's the way this provision was written and that's the ipact it will have. The board of ethics could very easily make several gen-eral exceptions to this dual employment provision; they could very easily do this. They could make a hundred general provision sthat are not against state interest. when a close case somes up, sure, they in theve to make a pecial decilion, but nime times out of ten, or probably more than that, but let's get down the real of it. People have bright up there is mad apple pie things like, well, my poor of man back home, her smaking neve or more up there we and apple pie things lie, well, my boor of man back homes, hes making from earning another twenty dollars at an ther do' No, we remot preventing hi from doing that we re not preventing hi from doing anything like that... only if it again it the interest of the tate for his to hold more than one office, that's what we seek to revent, that we have the ention prusoed by the second that we have the ention prusoed by the second that we have the network this office, it finds, a we want to printbit. I think he have learly efficient doing, manny's dual event with a the network of you want we hing the have may red you want we hing that it in the bear is firmed to the to be a second the second that we have the network of the second the second that we have the manny es dual officentiating, manny's dual even by the second the second that we have the second the second the second that we have the manny es dual officentiating was not the second that the tate of L have a on the second the second the second the second the second the second to use we dolled the do the second that the tate the have the as the second they tart the second as the second that the target the second the second the second that the second the second the second the second that the target the second second the second the second the second the second second second the second the second the second the second second second second second the second seco

ner that deem to plot even a history of the set of t

### uestions

Mr. Juneau Greg, this is the probert for same having. See so any changes to be ade, which ones are you talking about than in  $\ ^{\rm Yhat}$  what influencing y vote for this alend et

Mr. Arnette Well, Mr. uneau, I don t in w ea ty the changes that this convention wants t ale in that thing. Now, there are a cuple of thins that might upset e personal y-- ight not. It dele do on the way the arguent coles out Bat, I we t have something solid in the constlution, we re doing to have nothing at all.

Mr. Arnette I don't thick s. Mr. Juneau. . haven t looked at it in quite a while, of all fir al I could see ...

### Further us

Mr. Gauthier Mr. hain an, and every biefly a set delegation, very quickly and very biefly a set with the principle that the set title set and we trying to set firth, hwever useft that pristby they do not real very useft they were doing. In set the set set set set useful to you that we noted haven it is a quark to you that we noted haven it is the legislature to define and revisite use set is the legislature to define and revisite use set is not do define, regulate, and is hold a set is the holding light av that we ay not a set set the legislature nailer is the set is a set is not that the legislature nailer we we hear that the thirt is sitter reth bar is not determine when and where we have not the determore when and where we have a set is of the det is a set of have set is the not the etfort based determent is a set of the doubter is a set of hear and deterdoubter by the other and have used is the advent is a set of hear and deterdoubter by the other and have used is the adventer and the set of hear and the set of the etfort a set of hear and advent is a set of hear and advent is a set of hear a set of the adventer by a set of the set is the adventer by a set of the set is the adventer by the set of hear a set of the adventer by the set of hear a set of hear as the adventer by the set of hear a set of hear as the adventer by the set of hear as the set of hear as the adventer by the set of hear as the set of hear as the adventer by the set of hear as the set of hear as the adventer by the set of hear as the set of hear as the adventer by the set of hear as the set of hear as the adventer by the set of hear as the set of hear as the adventer by the set of hear as the set of hear as the adventer by the set of hear as the set of hear as the adventer by the set of hear as the set of hear as the set of hear as the adventer by the set of hear as the set of hea

Mr. warnin Mr. Siller, is to a thirt bat the tast bary (buy the the back sources as an ensure a source as a beyind as that was and stimular is source at t we not see the bar the term source to 200 come a

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<u>Mrs. Warren</u> If it affects him, if it was in his interest, how could you then say it wasn't also in the interest of the people, whether it was or not?

### Mr. Gauthier I agree with you.

<u>Mrs. warren</u> Alright, then, so what we're doing ...passing the buck. We've been doing it six months, and we've been working on it six months and we can't come up with nothing, so you delegates just go home because we, in this committee, can't come up with nothing. This is what you're saying, is that right?

<u>Mr. Gauthier</u> I don't follow you completely, Mrs. Warren, but if you're saying we're passing the buck to the legislature, I would have to agree with you to some extent. Yes, we are passing the buck, simply because I don't think we want to outline in this constitution what exactly dual employment is, what dual office is, and then go into the list, from what I could understand, it could entail a very long list of what dual employment is. I feel, at one point, it will have to be listed, and certainly not in this constitution.

<u>Mrs. Warren</u> One more question, real clear. Now, the committee...Wr. Anzalone said the committee had worked on this for six months, and they couldn't come up with nothing.

Mr. Gauthier That's correct.

<u>Mrs. Warren</u> Are you all saying that just because you worked on it six months that we can't spend a little time and do something with it?

<u>Mr. Sauthier</u> No, I'm not saying because I wasn't on the committee, but I don't think we have the time now, and I don't think the constitution is the place to do it. I think, rather, that we should mandate that the legislature do it, and that's what this amendment does, Mrs. Warren.

## Mrs. Warren To pass the buck.

[Previous Question ordered. Quorum Call: 109 delegates present and a quorum. Amendment reread. Record vote ordered. Amendment adopted: 86-29. Motion to reconsider tabled.]

### Amendment

defining, regulating and regroups and an employment and holding in state and local government". An amendment to the title.

### Explanation

Mr. Casey Mr. Chairman and delegates, the Clerk, T believe, has already given the explanation. In order to conform to the Committee Proposal No. 23 as amended now, we're merely correcting the title to indicate that dual employment will be defined and regulated, and dual officeholding may be defined, regulated and prohibited by the legislature. That's merely what the title does. It's merely technical.

> Amendment adopted without objection. Previous Question ordered on the Section. Section passed: 102-11. Motion to reconsider tabled. Previous Question ordered on the Proposal. Proposal passed: 104-10. Motion to take up other orders. Record vote ordered. Notion

adopted: 67-40. Rules Suspended to allow Committee on Legislative Powers and Functions five additional days meeting time to study Style and Drafting recommendations.]

## Report of the Secretary [*I Journal* 626]

### Personal Privilege

> [Motion to adjourn to 1:00 o'clock p.m., Wednesday, October 17, 1973. Record vote ordered. Motion rejected: 54-54. Motion to adjourn to 9:00 o'clock, Wednesday, October 17, 1973. Record vote ordered. Motion adopted: 60-55.]

Pr. ens. Let us ray for Maxen's Father, we thank thee fir number brown to stack safely over the weetend. We ask, as we approach one of the top traint weets of this invention, that hum wild give uithe nec-

Mr. Loweter Committee Proposal ho. 16, introducer by climate Payburn, Chair and Sin behalf of the Difference on Reviewe, Finance and Tavation, and other selecates, ensers of that on ittee. A proposal ading ryiston for property fax-

Me sayourn Mr. Dai an and felluw delegates, our compitee has et far eral with as you're wel aware of, and I re lly beleve that we have one of the st divise it tees that I have ever ever in, r I have in atte pied it hair, or ever have er been a ber of. It's so divided that on ur last eet hi thin's we had so have which were tee, inally we here had so have which were tee, inally we alloc the information propress mix." as finally we alloc the information vote, and to and behild, it wa a tre vote. At this tie, I g in that we alloc

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value, asset, and capital in wy twent, rein f experience in the off e. is aw land alue from an average of one hundred do lars per a rein in average of twenty years ago. In y area, cost from three to thre hundred do lars in y area, cost the five five will be able of the second do lars in y base these statements on my parish. The trend that the rate of in rein a base be in lar it taken that the rate of in rein a base be in lar it taken that the rate of in rein a base be in lar it taken that the rate of in rein a base be in lar it taken that the rise in root on a try. We have a law that the rise in root on the second do lars in taken that the rise in root on the second do lars in taken that the rise in root on the second do lars in taken that the rise in root on the second do lars in taken that the rise in root on the second do lars in taken that the rise in root on the second do lars in the second is t assessed in y up parts a second do lars in the second in that in in f what f coild that, as we are done the second do receive the second do lars in the second is t assessed in y up parts a second do lars in the second in all though my parts is the second do lars in the second do lars in the second do lars in the second in uld on mad on the point as a second do lars the second do lars is the second do lars is the second do lars do lars is the second do lars is the second do lars is the second do lars the second do lars is the second do lars the second do lars do lars is the second do lars the second do lars is the second do lars is the second do lars do lars is the second do lars the second do lars do lars is the second do lars the second do lars do lars is the second do lars the second do lars do lars is the second do lars the second do lars do lars do lars do lars the second do lars do lars do lars do lars the second do lars do lars do lars do lars the second do lars do lars do lars do lars the second do lars do lars do lars do lars the second do lars do lars do lars do lars the second do lars do lars do lars

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at least seven amendments to our present constitution, and changing some fifty statutes and our laws to guarantee to the people that their property taxes will remain reasonable and will not be shifted from one taxpayer to another to any great extent. In closing, please understand that the total proposal you have received, so-called "the assessors" plan," is based on a meaningful homestead exemption, which would not only allow the exemption, be would, in monis, iost through this program. I ask your favorable consideration to this proposal, with the recommended amendments, and l'll be happy to answer any questions that you may have.

### Questions

Mr. Burson Mr. Mire, one question that I haven't been able to get the answer to in the reading and so on that I've done--or I get different answers from different people depending who I ask--is what basis does the Louisiana Tax Commission use for taxing public utilities? What percentage of value?

Mr. Mire There are various bases by which they arrive at values for public service properties. Some is what they call schedules, or so much per mile for lines, or for pipes or for something like that, and that mileage assessment is based on their cost when they, in fact, put that line down or put that set of wires out on the poles. Some other properties are based on the present cost today. They use different bases...

Mr. Burson Well, then, what percentage of that basis do they assess it?

Mr. Mire Well, in some cases twenty-five percent of it, but it could be a cost that some of the intangibles are taken out of. So, it's a cost of the real property, and not the total cost of the installation of the total thing.

<u>Mr. Burson</u> Now, is it correct to say that this Section 1 of the committee proposal would leave the assessment of public utilities to the Louisiana Tax Commission, as it is today?

 $\frac{Mr.\ Mire}{Commission,\ but\ they\ would,\ in\ fact,\ have\ to\ now\ assess\ it\ at\ the\ fair\ market\ value,\ and\ fifteen\ percent\ of\ that\ fair\ market\ value.$ 

<u>Mr. Burson</u> They would have to use the fifteen percent instead of the twenty-five percent, or whatever else they were using right now.

<u>Mr. Mire</u> Yes, sir, and it would have to be based on fair market value, and not on cost or, you know, a broken down cost or schedule.

<u>Mr. Burson</u> Well, the problem I have is: how do you decide the fair market value of a pipeline, a thirty-six inch pipeline, in the ground?

Mr. Mire Well, I'm sure that that is a problem to many people, but there are, I can assure you, ways of appraising pipelines or any property, or anybody's property. They have to have some measurement to their wealth somewhere, in stocks, in accounting, and, of course, we could in fact demand these documents.

<u>Mr. Burson</u> The reason this problem concerns me is in 5t. Landry Parish we have a hundred, three million assessment total and twenty-three million of that is public utilities, so it seems to me that if we drop them from twenty\_five percent down to fifteen percent that we've lost approximately forty percent of one-fifth of our total assessment under the present scheme.

<u>Mr. Mire</u> It's the consensus of the assessors and the Louisiana Tax Commission that if public utilities are assessed at fifteen percent of fair market value, statewide, they will probably appreciably go up instead of down.

Mr. <u>Burson</u> Would you believe me if I told you my assessor doesn't see it that way?

<u>Mr. Mire</u> Well, I would probably believe you, yes, but he probably hasn't looked in depth at it because it is positively worth more than what they are using on their reports today. Any other questions?

<u>Mr. champagne</u> Mr. Mire, are you in agreement that in all probability this convention should settle this on a statewide basis, rather than leave it to parish by parish, because if we do not, we may involve some problems in courts later on?

Mr. Mire Yes, sir, very much so.

<u>Mr. Champagne</u> So, we should definitely try to the best of our ability to settle this problem on a statewide basis?

Mr. Mire Yes, sir, and have a statewide uniform base.

<u>Mr. Kean</u> Peg, one of my difficulties is trying to understand the categories or classifications that you've broken down your property into. One of the questions I have is what does the committee define as improvements to residential property? Would that include an apartment building, for example?

Mr. Mire Yes, sir, it does, sir. It will be all residential improvements.

Mr. Kean So, that an apartment building which is productive of rent, used commercially, would then be assessed at ten percent of its value, while the inventory of the corner grocery store would be assessed at fifteen percent of the value.

Mr. Mire That's absolutely right.

Mr. Kean What is the basis for the committee's distinction in that regard?

<u>Mr. Mire</u> Well, we feel that residential properties, you will in fact be helping the renter, the homeowner by having this particular assessment; and then on your businesses, they have ways of writing off and charging off some of these taxes a little bit better than the residential people.

<u>Mr. Kean</u> ... I believe you made some comment about other amendments. Did you say there was a proposed amendment with respect to the homestead exemption, and if so, what is your recommended change?

Mr. Mire I really think we ought to wait, you know, to when we discuss the homestead exemption section...

Mr. Kean Well, it makes a difference to me at this point because if you put certain property on, at ten percent of its value, and then have a high homestead exemption, you are in a fact creating an exemption rather than a classification in your first section. Are you not?

<u>Mr. Mire</u> Well, then, in that case the majority of the committee decided to, in fact, amend our proposal to four thousand dollars for homestead exemption and five thousand dollars for veterans and people over sixty-five.

 $M_{\rm T.}$  Kean Now, one other question: in East Baton Rouge Parish, as I understand it, talking with the assessor, he puts inventory, for example, on the assessment rolls at thirty percent of value. This would reduce it down to fifteen percent of value.

Mr. Mire That's correct.

Mr. Kean How...will East Baton Rouge Parish, for example, make up its loss in tax base under those c'rcu stances?

Mr. Mire Again, Mr. Kean, I think if you'd question your assessor a little bit closer, that if he does get audited reports and actual inventory figures, that he probably feels that he will not lose any tax base in the East Baton Rouge Parish.

Mr. Kean Well, he says he will, and that's what concerns me.

Mr. Mire 0.K., 1'm going again by the Louisiana Tax Commission. These are the people that accept these reports. Of course, they are certainly checked by the assessor, but if we get accurate inventory fources, statewide, from the business people, although many of them are using twentyfive percent and twenty percent, we feel that at fifteen percent we're not going to lose any tax base there.

<u>Mr. Kean</u> You would then anticipate, for example, that insofar as land is concerned, on which there are no inprovements, that the raising of that to ten percent would then offset the loss on other property when you bring it down to fifteen percent?

Mr, Mre . There will be some shift in where the value is going to be, and there will--there's no question about that--but exactly how much, where it'll go, I don't know. I can only answer in my parish as to what would happen.

<u>Mr. Kean</u> Well, this is what bothers me is trying to find out, in light of these percentages, where the shift in the tax burden is going to go, and can your committee tell us that?

<u>Mr. Wire</u> well, in various parishes, it's going to go to various properties, depending on the practice in that particular parish, but, now it's going to be uniform statewide. It has not been that way before, as brought out by the court case. Now it will be.

<u>Mr. Kean</u> But, you do acknowledge that these percentages, with varying percentages between different kinds of property, will bring about an adjustment in the tax burden and will place on some properties an increased tax burden.

Mr. Mire Yes, but we feel that the percentages that we have proposed will shift the burden of taxation the least from the people that are presently paying it today.

Vice Chairman Casev in the Chair

Mr. Abraham Mr. Mire, in the Paragraph (E), where you are saying the legislature may provide for the determination of use value, or the use of a use value factor in determining the fair market value or the assessment ratio, what do you do where you have, for instance, two pleces of commercial property side by side within a municipality, and one is being used, say, as a...for a department store, and as such that particular plece of property has a very high fair market value because it has an or it, you have a piece of property has are being rented out for beauty hops and this type there are a couple of homes on it, and these homes are being rented out for beauty hops and this type value in that detormination?

Mr. Mire No, sir, in the proposal, the use value will be, its being proposed to be used in hortlouiture, agriculture, and that nort of land, fair land.

Mr Airatam Well, don't you feel that that would pole an inequity, that inply because this period would be a precedent of the restrict of the second of the second second

be probably developed, or if you had a buyer for it, that the incole from this beauty slop that light be located in this old hole on this pleted for erchal property does not actually pay the taxes, or bare y pays the taxes

Mr. Hire I believe that the appraisal concepts of today consider the highest and best uses, and considerations, but you can't get around the norman appraisal norms, if you're going to have a statewide uniform assessment, and adhere to the constitutionality of the suit and laws in the state; you'll have to apply it like the law says apply it.

Mr. Abraham One other question you stated awhile ago that in assessing the inventories, and so forth, fifteen percent that if they got the figures, which they normally get off of an income tax return or something like that, that the assessors would actually get money. Well, on what basis, then, are you going to arrive at the fair market value for homes and businesses?

Mr. Mire Well, this would be based on some apprarsal practices on homes and businesses, and, of course, on inventories income tax returns are not always the most accurate figure in getting an inventory.

Mr. Abraham Well, under the present constitution, weren't all these homes and businesses and property now supposed to have been based on fair market value, and everyone is supposed to be using sole standard appraisal practices?

Mr. Mire That's absolutely right.

Mr. Abraham But, they have not been doing so, have they?

Mr. Mire That's absolutely right.

[urum ai: 84 de gites present a quirum. Nicht suspend the runs thall wifer addith in time to questins a pred with ut be the .]

Mr. Pugh My question was along that linewanted to know, and perhaps Senator Rayburn can give this to us, the vote on each of these sections and volucity in the convention when a contee comes up and you think that's the full thought of that committee, or a hundred percent, and then it turns out that some of them oppose it. The you give me the vote on these subsections and the section?

Mr. Mire I can roughly give you who.. the nu bers that upports this first e tion. Yes, I think

Mr. Pugh I don t care about who, I interested in the number.

Mr. Mire I fullow you Actually, in Section 1. I think we're probably eighteen out of twenty-three supporting Section 1.. with the change

Mr. Pugh Thank yo

ha ruan Henry in the Chair

Mr. lenkins Mr. Mire, you reacher is the lift of Right, we adopted ection 3, the right to indyvidual dignify, and it ouranteed to the citizon of the law, and it prohibited di relination. Base of the law, and it prohibited di relination base of the law, and it prohibited di relination base of the law, denies to ur itilen estal intection of the law, becare it takes me property and as weres it at a criatic rath, and an ther and, property and are it is a citierent rath. It were in the have equal in te to the law, shouldn't all operts be also set

uniformly?

Mr. Mire Let me say this. The assessment on a statewide basis is, in fact, based on the equal protection of the law. Any other proposal, octual than on a state of a state of the state of the state of the state upheld by the United States Supreme Court as recent as this year, that you can even have classes that carries no taxes as versus some that carries a certain percent of taxes, and say that it's absolutely permissible.

Mr. Jenking If, in fact, this plan does meet the legal requirements of the concept of equal protection, don't you think that it certainly violates the spirit of such a law in that it tends to arbitrarily help or hurt different categories of people, depending on the types of property that they have and the uses to which they're put?

Mr. Mire No. I don't feel that way, Mr. Jenkins. I honestly feel that this will hurt the least amount of people possible. In reference to the people who carries the least or less percentage, which would be residential properties, these peo-They pay on appreciated value instead of just cost values, and I feel that they are going to continue to pay throughout the years and never can write this off except the specific tax dollar, and I feel that nobdy's being discriminated against.

<u>Mr. Jenkins</u> Well, I have one final question then. Don't we have, though, a mechanism to take a count of the question you rise, namely, the homestead exemption? Since we have a homestead exemption, ratio, and then if we want to quye the homeowner a particular exemption, we can do that? But, why should we assess the homes at a different ratio from other property and then come back with a homestead exemption as well?

Mr. Mire You can't look at just homestead exemption. There are many, mary, many other exemptions that you have to look at, such as farm implement exemptions, industrial exemptions, the various exemptions for different businesses, and some of the inventories, some of the imports, and you've got to look at the whole picture, and this is what we've tried to do. If m not saying that your argued it, and we feel that we've come up with what will be fair to most of the people.

Mr. Lowe Mr. Mire, Mr. Kean asked you a series of questions, and I thik in that series of questions he hit the meat of what we debated for several months. I'm not sure that the delegates got the complete idea of the problem that we had. Don't you agree that our major problem, in all of our deliberations, was trying to establish in our minds what the tax base, at the present time, really is?

Mr. Mire That's absolutely right, Mr. Lowe.

 $\underline{Mr}$ . Love And if we knew what the tax base really was, that we could put a pencil to it and tell what actual effect we were going to have from the var-lous percentages and homestead exemption that we've been dealing and talking about?

Mr. Mire You're absolutely right, and the only people that would have any dramatic tax difference in what they're paying today are those who were not assessed properly in a specific class.

Mr. Love Right. Now, the next question is, don't you bailsee that we have to have some difference in classification, and he addressed his question to classifications - don't you agree that we have to have some lower classification for residences and residential property as compared to commercial and industrial property? Don't you think that we have to have a higher percentage on commercial and industrial properties to maintain the present tax base that we have?

Mr. Mire That's absolutely true, sir. That's exactly how I feel.

Mr.Love So you would agree that if we came up with one percentage that we would have a much larger shift in the tax burden from one segment of the community-residential community to the business community or vice-versa-depending upon where that percentage was established?

Mr. Mire Yes, sir. I definitely think we'd have a much greater shift of the tax burden.

<u>Mr. Lowe</u> So we want to try to stay away from one percentage, and stay with some difference between the two percentages between residential and commercial?

Mr. Mire Yes, sir.

Mr. Lanier Mr. Mire, I'd like to direct your attention Subparagraph (D) dealing with the review of the assessments by local government and by tides that this review by the governing puthority and the Tax Commission will be in accordance with procedures established by law. Am I correct that in the present constitution, the Tax Commission has authority to require uniform assessments, and that's in the constitution?

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Mr. Míre Yes, sír.
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<u>Mr. Lanier</u> Is that contained anywhere in this proposal?

Mr. Mire Yes, it is.

Mr. Lanier What paragraph?

<u>Mr. Mire</u> The proposal itself says that properties will be assessed uniformly statewide, and then it only any who will assess specific properties, you set type of property and the Louisiana Tax Commission will assess the other type, but they are charged with the responsibility of using fair market value.

Mr. Lanier Well, suppose somebody doesn't use fair market value, is it your opinion that, even without authority in the constitution, and with no statutory authority, that the Tax Commission could require an assessor to assess at fair market value?

Mr. Mire Well, I don't follow your question that this proposal does not provide for fair market value assessment.

<u>Mr. Lanier</u> I know it does, but I'm getting at... suppose somebody doesn't?

Mr. Mire Well, the legislature will have to provide for a polica action of a sort that will make it positively that the local governing authority and/or the Tax Commission, both jointly or individually, can, in fact, come in and check and make the assessor do it under certain penalties.

<u>Mr. Lanier</u> Is there any provision in here that says that the legislature shall do this?

<u>Mr. Mire</u> Well, of course, it says that they will seitabils the law, and I assume that they will because there will be many, many local taxing authorties looking at them to do so. This was discussed at length, and we certainly would like to be positive about that that it will have to be done. We feel that the court order will mandate it, you see. You know, even so.

Mr. Lanier What is the present law with reference

to the authority or ability of a parish overning author ty to review an as ess ent?

Mr. Mine well, presently, he can review the tax roll and recom end to the Louisiana Tax of ission, changes. This is done on an annual basis.

Mr Lanier Can the local government itself, make any changes or does it only recollend?

Mr. Mire It can only recorded to the Louisiana ax o ission.

Mr. \_anier Under the present constitution, does the Tax Commission have the authority to mandate the assessor to make changes?

Mr. Mire Yes, sir.

Mr. Lanier But, that authority is not specifically granted in this proposal, is that correct?

Mr. Mire No. We would like that to be statutory.

Nr. A. Landry, Mr. Mire, just like Mr. Burson from St. Landry, Lafourche Parish is very much interested in pipelines, and you mentioned a while ago that they were assessed at Wenty-five percent of the cost of the pipeline, is that correct? Did l understand you to say...

Mr. Mire Not necessarily. Some pipelines carry as checule, like a hundred dollars a mile, or a thousand dollars a mile, or fifteen hundred dollars a ile, depending on the size of the pipe. But, that schedule was based on a cost, but that cost ight have been twenty years ago. The procedure that they're using is as antiquated as the procedure nost of the assessors are using.

<u>Mr. A. Landri</u> In other words, at the present time as 1<sup>-m</sup> nocking at a schedule by the Taxing commission for a thirty-six inch pipeline assessed at twenty-five thousand nine hundred dollars a mile, what assurance do we have, when we seal it at fifteen percent, that this assessment is not going to

Mr. Mire Well, the only assurance you have is That...what size pipeline did you mention?

Mr. A. Landr/ Thirty-six inch p peline.

Mr. Mire Do you think that a thirty-six inch ripe ine--one mile of it--will cost, say what, a half a million dollars? Then fifteen percent of that, what .

Mr. A. Landry I don't know what it costs

Mr. Hire Not ost, but worth. The only assurance you'll have I that It will be assisted at fifteen percent of what that pipelines fair market value h, viu see Of course, we feel that it is going to be estainly as much, if not considerably more, than the schedule that they are persently winn

Mr A Landry So you fee pretty sure that it will be at least that amount or more, is that corre t?

Mr Mire Year

Hr A Landry Aright the evond thing, I have one more question in readed to sealing in per entages of properties, fair market value of propertest and over a prior your fail at with the a fluctuation of value of land in the tate, what happens if, in the future, due to a mini reason that the value of property dropy. Must happens to our maintename llags when we re sealed with a per entage

Mr. Mire Well, of course, you have no protection on that today. If the elongity it sation of a

by the steeness the second steeper has to reduce the assessment based on whatever formula he is using, your takes are going to just be set than they were before, that is going to be the same thing you have tiday, how the assessment...

Mr. A andry We have no guarantee on the airtenaice il a e at al'

Mr. Mire No, sir well, I ean, it and be It has to be based on what the property is wirth at the time.

Mr. Burn. Mr. Mire, what gives a sittle concern is, if you raise a horestead erept in frotwo thousand to four thousand, naturally that s going to double the a ount that the reseve haing fund is going to have to come up with. I there any question as to whether they will be able t provide that additional one?

Mr. Mire Well, Mr. Burns, we don't feel that t will double it because you have to consider that every veteran today, is enjoying five thousand dollars homestead exemption. That's the veteral of World War I, World War I, Yiet Ra, r rea, you see. So, we feel that you re probably talking about maybe twenty-five percent of the even ins that would increase, and then, we don't this they would all go that towild stand, increased and percent. There are people that are liven in eight thousand dollar houses, and, you in a, this i rt of thing. So, we don't think that that per entage would be ...that that nonies would be dubled. If anything, it. agabe go up twenty-five percent, f

Mr. Burns In my parish, St. Tam an , they have an unu ual situation, being a soburb of New reans Half of our assess corts on lands, and h er and residences, is represented by ho estead tax exetion.

Mr. Mire You're absolutely right that your parish, and there's a few others that are ut exactly that way, and this is one reason why we think a caningful ho estead exemption is portant. In warish, by contrast, only sixteen percent f the he lead exemption is that a wint of tales collected in y parish.

Mr. Buens. In other words, you are if he to the any problem with reference to that

Mr <u>Hire</u> Well, we have otten the alcour have tailed with the overnor on this, and ediately after this work have work of the this and he offered his upper to see earns fills are wide reinburg ent proma of a bort to algo his stead elemption what it's intend to be

Mr Gold an Mr Mire, regard in it entity a sment what i the relent, inerall in id the state, assel ent in invent ry?

Mr. Mire. It would probably be first hirty to first y percent.

Mr Gillan 've heard that if the reaction of th

Mr Mire we part he rei fr

Me hild an N.w. low er the restriction of the transmission of the contract his fill restrict at the present tile.

[1730]

of assessor's office, as I mentioned about maps, and about staff, that could, in fact, make these audits or be qualified to make them.

<u>Mr. Goldman</u> Would you agree that although all businessmen in this state are strictly honest, they have various means and ways of providing their inventory values at much less than what they actually are?

<u>Mr. Mire</u> Yes, I believe some people calls that a sophisticated bookkeeping system, or something, but I would agree with you, sir.

Mr. Goldman If the tax on inventories is fifteen percent, would you agree that it would provide the incentive for the business people to give a truer value of their inventories, and, also, the assessor's office could check them a whole lot better?

Mr\_Mire\_That's absolutely so, and a very good point because at one time the disparity was as much as from seventy-five percent to, say, fifteen percent, and you couldn't hardly blame a business man to try to not waste more in line with the other taxpayer.

Mr. Goldman Would you agree also that when we talk about the small businessman as versus the large wholesaler, distributor, businessman, that it's easier at the present time for the tax assessor to really know what the value of the small businessman's inventory is, and he pays through gets a whole lot more break now than he would if we got the true inventory value from everybody?

Mr. Mire There's no question about that. You're absolutely right.

Mr. Roemer Peg, did you address yourself to the problem of the state not now being in the ad valorem tax business, but someday might be? Have you taiked about that? Shouldn't we exclude the state from the property tax business? We don't in this proposal. What's your feeling on that?

Nr. Mire My personal feeling is that the state should be allowed to, in the future if they deem necessary, to get back in the ad valorem tax field. It could be to have a meaningful homestead exemption, or even if our oil minerals would continue to be depleted, very possible we'll have to go that route.

<u>Mr. Roemer</u> So, you're saying that we should allow the state the option, at some future date, if the conditions warrant it, to get back in the ad valorem tax business.

Mr. Mire Absolutely.

<u>Mr. Roemer</u> Alright, and that's opposed, kind of, to the local and parochial recommendation, Section 37, which would exclude them from the property taxes.

Mr. Mire Yes, it is.

 $\frac{Mr.\ Roemer}{happen}$  I just wanted that brought out. I happen to support your position.

Mr. Mire Thank you very much. Thank you very much for bringing it out.

Mr. Shannon Mr. Mire, for my information, can you tell me what the consensus of opinion was of what fair market value is?

Mr. Mire Well, fair market value is what a free seller would sell to a free buyer, some certain property, or what the market would, in fact, bear. Even though it would not be, for instance, for sale, but it has to be what appraisals would arrive at.  $\frac{\text{Mr. Shannon}}{\text{of that, how are you going to determine it?}}$ 

Mr. Mire There are many ways to determine it. There are very few properties that some light property doesn't sell somewhere along the way. If it's some that never sells, that you have nothing to go by as to actual sales, then you'd have to look at their worth and see what, in fact, it is worth in some sort of bookkeeping system to be able to tell what it's actually worth.

Mr. Shannon Alright, let's get down to Section (E) there, Paragraph (E). Can you give me a little idea of what your use value is?

<u>Mr. Mire</u> Well, of course, use value--there's about thirty-one of the forty-eight states presently using this today--and the legislature has set different criteria in different states, as at... arriving at use value, but it would be based on the productivity of that land and what you could afford to buy it for producing-what that particular property is producing, not that specific property, but what that crop, in general, is producing in the area. That's generally the concept.

<u>Mr. Shannon</u> Now, again, in Section (C), you say the assessor shall determine the fair market value, and you go in (E) and you say the legislature may. Why differentiate here?

Mr. Mire Well, the assessor shall determine the fair market value on all properties except the public service properties. The assessor will determine the use value, as prescribed by the legislature, on farmlands. He'll just have to hire the qualified staft to help him do this.

Mr. Shannon Do you have any idea what this cost might be?

 $\frac{\text{Mr. Mire}}{\text{considerable}}$  No, we're studying this, and it'll be

Mr. Shannon Thank you.

 $\frac{Mr.\ Mire}{asked}$  But, this is not something that we've asked for. It's something that the courts have said we must do.

Mr. Casey Mr. Wire, 1 just wanted to relate the percentage factors on page one, whether it be five percent or ten percent, that's not a main concern of mine at this time. I'm just trying to relate those percentage factors to Section 7 when we talked about increasing and decreasing the millage on property. Am 1 correct in assuming that if you come up with a low percentage, for instance, five one come that a low percentage, for instance, five one come that a low percentage, for instance, five one come that a low percentage, for instance, five one come that a low percentage, for instance, the percentage, let's say twenty percent, then some parishes might have to decrease their millage? I'm just trying to relate this factor right now.

Mr. Mire Well, of course, if you'd listened to my address at the outset, and I'm not, you know, saying that you should have, but I made that point that I though, although our percents were low, that probably ninety percent of the municipalities and parishes would, in fact, have a higher tax rate, and would have to adjust millage downward. There are a few sections, and I know New Orleans is one, and I know maybe Caddo and a few others is where you might have to increase the millage. But alls that you, in fact, pay out of your pocket, and whether to go up or down hased on your tax base will not reflect haw many dollars...it will not reflect anybhing but the amount of dollars you pay which would be the same with this millage adjustment. I have never, in my twenty years in office, had anybody come up and say, "on, my millage increased this year, and I've got to pay more taxes." They've always called and said "I've got to pay an

pened? r they call and they say, ilie. m paying less taxes this year, what happened? They don't say the ilage decreased or increased Penple the selves don't really follow the llage

Mr. Casy May 1 as this? what was the dimension in the committee f you arrived at a percentage factor on land of, let's say, twenty percent-just pulling the figure out of the sky--and therefore, one of the parishes, where there is a high millage rate, let's say, ninety 115, may have to decrease the nu ber of ils what is bad about that concept?

<u>Mr. Mire</u> well, of course, what would happen, you would shift the tax burden from other properties to land because land, traditionally, has been assessed at a low rate. No atter how much you reduce the millage by bringing up that value, say four or five time ore than other properties, even hough you'd reduce the millage on all properties equally, they would still have to pay four or five times more taxes on that class of property.

<u>Mr. Casey</u> And would that be true if you had, let's say, no classification in all property whether it be land improvements on residential property, and all property had the same percentage?

<u>Mr. Mire</u> Yes, that would be true where the land would certainly have to have absorbed a lot more taxes than they are presently absorbing...on the statewide basis I'm speaking of in all cases.

<u>Mr. Casey</u> Was any percentage discussed where there would be a minimum amount of adjustment necessary? I'm talking about either twenty percent, fifteen percent, ten percent. Where does the least adjustment occur...at what percentage? Did you all have any statistical information?

Mr. Mire Well, the best information that we could get from all of the parishes, of which forty-three of the responded to, basically what they felt their properties were being assessed today, it seemed like twenty, fifteen, and ten was the one that would more follow what's happening today. We found our position...

Mr. Casey Twenty, fifteen, and ten what?

Nr. Mire Twenty percent on inventories and pub-Tic utilities, and this sort of stuff, fifteen percent on improvements, and ten percent on land, which is what we initially had suggested, or the assessors had initially suggested, but, with a far greater homestead exemption as we presently have.

<u>Mr. Gasey</u> Alright, well, that would follow then. What were those figures taken into consideration with the increased homestead exemption? How does this affect in those percentages, because that's certainly an important factor?

<u>Mr. Mire</u> In adjusting the percentages, we, of course, adjusted the homestead exemption. We brought the residential improvements down from fifteen to ten percent and that alluwed for an adjustment in homestead exemption.

Hr. Gasey were those percentages, twenty, fifteen, and ten, considered in relation, though, to the existing home-itead exemption of two thouland dollars? I hose are the, apparently, the average percentages that are used at this time with a twu thousand dollar homestead exemption

Mr. Mire This would be, if you take everybody's and this is what we arrived at using every part h . .yes.

Mr. Casey Those are todays figures?

Mr. Mire Which, of course, we re still at that particular figure with the exception of the twenty

wient ninvertuies als on ublicuities weire diwint fiftee per ent tat an weiwent down on proveient to ten per ent in relidential i proveient to ten per eit.

Mr. Case, And trose per entage are tatewide fro these forty three parishes. Is that what you all had callulated?

Pr. Mire Yes, it was roundy, no lands, wa about eight percent so we had note to the percent to try to, at the time, at sign so if the error sosses a reas, but we weren table to really elon that.

Mr. Hernandez Mr. Mire, y question relate t Drangspab E, especially ti berlands I wu like to preface my question by aing u t a few short statements. The first place, as y uw well know, tiber is the only renewalle natural remurse that we do have. The amount that an aire of and produces in the ber depends all ost entrely in the work of the statement of the statement of the produces of the problem of the statement of the lines...there are several that go into determinin how much acre of land produces, and the production of that land is directed to the economy of a parfish. In other words, it's related--closely related --the production and the economy of the parts in the tageslature determines the tax vale or an assessed value of this land statewide, won't that have a tendency to discurage what we have been large landowners to plant this land, and care for his timeriand to increase the production.

Mr. Mire Well, Mr. Hernandez, you ade a very good point at the beginning and you stated hw, you will be added and to be well thought out of to be concept. This is why we leave it do the leg lature, and let me say that the greenhelt and land use concept is really the thing the forester and the agriculture and horticulture people want the selves. They feel that in the legislature they con have it put together in a workable way, and so we're sort of acquiesing to the me and on this.

Hr. Hernandez Mr. Nire. I'm spealing for the parish, the economy of the parish now. If this is made statewide to assess this at a certain a ount, won't we-on land user-won't that have a te deto discourage...not discourage, but I mean, give the large landowner a loophole to not everth full efforts toward production on that land which takes away from the economy of the parish"

Mr. Mire I feel that the legislature, in it window, is going to put some requirent in there that the man will have to derive some revenues from it, will certainly have to put sime definite effort, you know, in either agri ulture, horti ulture, or tinber growing works before he can be assessed at land use, and I think that the arsen in that parish will have evidence to that alfert as wish on beer provided by for your or the second of the second of

Rr. Hernandez Yes, sir Now, y u juit befire that, this parish does not I ean this para raph doe not take into on ideration that the are can do so uf it. It says that it will be determined by the legislature. Now, a few inute ago you referred to the legislature, in some buy else's que tion with that, now, will the asic ror, under this faragraph (1), still have the right to rement an ascessed valuation of this tiberland.

Mr. Mire Yes, sir. He ll have to administer this land use, and you can be assured that the assoriation is joing to be very interested in what the Tegislature does, in fact, cue up with, and will

participate in trying to come up with the work of the law on that.

Mr. Hernandez Thank you very much, sir.

Mr. Mire Alright, sir.

<u>Mr. LeBleu</u> Mr. Nire, you were mentioning the statewide uniform assessment. Would the assessment in each parish be done by the parish assessor or would one, say, statewide board do that assessing?

<u>Mr. Mire</u> No, sir. Without proposal it will be done by the individual assessor...in each parish or taxing district. Now, it will be supervised by the Louisiana Tax Commission. They'll have, certainly, supervision, and they'll have a right to come in and see that he is, in fact, doing his job, and they'll have a right to penalize him, and the local governing authority will have that same right.

<u>Mr.LeBleu</u> Well, it was mentioned awhile ago about the forbidding the state to go back into the ad valorem tax business-I think Mr.Roemer mentioned that--and the state is not now in the ad valorem tax business.

Mr. Mire No, sir, they're not, but they are not prohibited from going back; they just, you know, are not in it. But, they are not in fact prohibited from going back. This is all we want to do is just not prohibit them from going back. We don't want to tell them to go back--leave that, you know, to you all, to the legislators.

Mr. LeBleu Yes, sir. Well, what I was getting to is since the state is no longer in the ad valorem tax business and collects no ad valorem tax from property owners throughout the state, it seems to me that the governing authority of the parish should be allowed to grant as much homestead exemption as here and allow the parish governing authority to set their own homestead exemption because they are the ones who are really involved with the use of the taxes that they collect in each parish.

<u>Mr. Mire</u> With a minimum homestead exemption in the constitution on a statewide basis, I personally would have no objection to your concept.

Mr. Leßleu Another thing; Mr. Mire, you mentioned on this uniform proposal, statewide proposal: assessor's office would be required to probably hire more personnel, probably a whole lot more equipment, etc. I think now that the assessors are allowed a certain percentage by the legislature of the amount of taxes that are collected; am I correct?

Mr. Mire Well, no, our expenses are fixed by the legislature which we, in fact, get through a percent of the collectable taxes, but we don't have a fixed percent like the sheriff's office; we've got just a fixed amount by parish.

Mr. LeBleu I see...

Mr. Mire Based on a schedule, you know, that we have had for the last six years or so.

Mr.LeBleu In other words, in order to provide for this additional equipment, etc., you folks would have to approach the legislature to increase that...your office expense in that particular manner.

Mr. Mire Positively--and justified to you all-positively.

Mr. LeBleu Thank you.

Mr. Dennery Mr. Mire, as 1 understand your committee's proposal with the amendments which you have suggested, it would mean that residential property of a value of forty thousand or fifty thousand, depending upon whether the homeowner was a veteran or over sixty-five, would be exempt from all taxation; is that correct?

Mr. Mire It would be exempt of all taxes covered under the Homestead Exemption Act, not special districts and such things as that that aren't and certainly not of municipal taxes in any area but New Orleans.

<u>Mr. Dennery</u> Now, are there any figures which reflect the average valuation of a house today, a residence which is covered under the homestead exemption?

Mr. Mire 1 think the Census Sureau, you know, has those type of figures, but they are figures that are now a few years old, and under the appreciated values of the materials and labor and what have you in building homes, this is hard to keep sonally estimate that 1 guess roughly twenty thousand or twenty-five would be the house that's being built, constructed as a normal residence today.

Mr. Dennery And that house under the present practice, would that have a complete homestead exemption today?

Mr. Mire Yes, particularly in New Orleans. But, in all other municipalities they would have to pay based on what taxes these cities pay. This is the point I want to emphatically make that every other municipality in the state, when we do revalue these properties, are going to have a larger tax base, and these homeowners are going to have to pay more taxes to the municipalities, except the city of New Olreans.

<u>Mr. Dennery</u> Now, one final question, please sir: under the present constitution the assessors are supposed to assess property at what we now call fair market value-1 think the language is slightly different...

<u>Mr. Mire</u> Its actual cash value...yes, sir, Mr. Dennery.

Mr. Dennery Would you say that, in general, the assessors throughout the state have not followed this practice?

Mr. Mire I would positively say that. I think that all of them use actual cash value to determine the percent that they in fact ascess. But, this is something that they've been doing for time immemorial.

Mr. Dennery I understand that, but what I meant was, do you think they start with actual cash value?

<u>Mr. Mire</u> Oh, yes, sir. I do believe that they have to have some specific norm to follow, and I don't know how you can determine whatever percent you are going to use without going to actual value.

Mr. Dennery Would you say that the assessors throughout the state have customarily revalued property every five years?

<u>Mr. Mire</u> No, sir, we have not. I think the majority of them will reassess based on sales or when the property is being transacted.

<u>Mr. Dennery</u> Current sales... Now, is there anything in the proposal which you feel would guarantee the citizens of the state that the assessors would now assess or appraise at the fair market value, and then apply whatever percentages the constitution...

<u>Mr. Mire</u> In our proposal it states that we will have to reappraise within every five year period. I feel that the legislature will have to provide

a strong enough law that this well, in fait that they will in fact andate the assessor under penalty to do this. This is the miny way think we can go to have an equitable, fair assess ent program statewide.

Mr. Mire I think the local, well, think every citizen would have the right to attest it

Mr. Deviery Thank you

Mr. Mire Yes, sir.

### Explanation

Mr. Alario Mr. Chairman and fellow delegates, Section 2, rather self-explanatory in itself, retans the same language that's presently in our constitution. It allows the level strength our constitution. It allows the level strength of the constitution of the level of the second of the strength of the second of the second in the state for whatever need they find necessary to levy a five and three-quarter mills, or rather up to five and three-quarter mills, taxes just as exactly as had been in the past. Last year or so, in the special session we removed the five and three-quarter mills tax and replaced it, of course, -the revenues with the severance tax--in order that we might be able to remove, or thought we were removing, all the ramifications for asking for a hom. New, that we are provide a stretted equaltion. New, that we are provide a stretted equaltion. New, that we are provide a stretted equaltion the properties and land, and fiteen percent on all other properties tatewide, then we feel that in the future the state may just...may want to go back into the property tax busines, and if they do, then certainly, they would be able to go up to the five and three-quarter mills. In legislature would be limited, of course, in this fashion, just like in any other taxes, to the two third rule this tax by two-thirds voite of the member of the elesislature.

Mr. Ra burn Mr. Chairman, 'd like to ask Mr. Leeharry to explain Section 3; Mr. Slay to explain nction 4, Mr. Conroy, Section 5; Senator Nunez, Jection 6, Mr. Champagne, Section 7, and Dr. Mauberret, Section

Mr Chehardy Mr. hairman and fellow delegates, action is the homestead exemption section and at this newest and, based on the contingency that the percentage and everything else fails it to inand or a fer idence of the average homewere, and five thousand, with a five thousand homestead exeption inveterans and for people over isti-five This exemption, as you know and this is nothing new-extends allo to a one hundred and isty ure farm, it does not extend only to a house to a farm, it does not extend in the ame reaththe far in the terms and in the ame reaththe far of the late hould be tild that the farm of the rate of four choused, and it eveteran or if ver sixty five to the rate if five the ame of the events of the rate if inve the and of one or when and in the ame if inve the amount of fur choused, and it eveteran or if ver sixty five to the rate if five the ame of the order of the rate if inve

which current at each of and which would forego any possible hardwhip. If ourse, I refers to pravision for iding sale i tilage, madu tent of milinges, sim dental with the eleventation of the rew per entages as the four thou and i an homestead. When we get to this e tron in total, then, fourse, at that the we would go in the second s

Mr isy Mr hair an at felm bioste. I'm to Settin 4. If you will read t aref 1. believe it's a correction and to we then explained to you about the five and trees warter explained to you about the five and trees warter state mills that we t away fe durit the dat session of the legis ature by a mende t huw, m case the state ever needs to lie and back to the five and three-quarter is what lection 4 s saying that only if we bit the size and three-quarter is nead to bit the size and three-quarter is needed the size the provided. Or, if any part the fire and three-quarter is needed to the size the part. Article X. Section . will the are the state's obligation to pay these bod. A Syour read it, it's avery short para mach ad is believe ti's self-appiantory, but Six we fir further a rey, and if anybody has questions.

Mr. Conro. Section 5 deals with the adjuit ent of ad valore tax illages. As drafted, it is designed to alleviate the proble which the taxing

in Section 2.

Mr. Nume: Mr. Chairman and fellow delegates, Sec-tion 7 deals with...or whatever section...Section 6 deals with the revenue sharing fund. In 19... after the court decision saying that the property tax relief fund was unconstitutional, we met in special session and reestablished a revenue sharing fund to be distributed on the basis of fifty per-cent...fifty percent based on homestead and fifty purcent based on population. We though without put the ference to a second the constitution to eighty million dollars that the legislature may increase this amount if it so desired. It's essentially what's in the constitution today, and it just re-establishes revenue sharing--at the tune of eighty million dollars. million dollars.

<u>Mr. Champagne</u> I have Section 7, which is the method of distribution of revenue sharing funds. This is a very short section, but other than the section on homestead exemptions and the percentages, it's probably one of the most important and vital sections in this proposal. This simply states that revenue sharing funds shall be distributed by the legislature to the parishes solely on the basis of nonulation and number of homesteads in the of population and number of homesteads in the of population and number of homesteads in the parish. The ratio to be used in distribution of these funds by each parish shall be made in accordance with law. This simply sets up two known criteria on which you can have revenue sharing funds. It leaves the percentages of each to the legislature, where this battle should be fought, and not in the constitution. This enables that in the future we could not say that revenue sharing funds. Thall be could not say that revenue sharing funds shall be distributed on the basis of the amount of the home-stead exemption, which, of course, as you know, is the old property tax relief fund, and that is where the problem arose under the results of the suit, and the problems we're now facing in that some parand the problems we're now facing in that some par ishes got a greater portion of this than others by so doing. This is very important; it should read this way, and once again, three are those parishes who would like it all on number of homesteads. But, this provides that the homestead of a hundred thousand dollars is treated the same as the homestead of two thousand dollars, and that is the way it should be, and this is very important. Keep your eye on this, and let's keep it that way. The committee was almost unanimous in adoption of this section. We had no discussion, and had only two dissenting votes, and I really think those two were there simply just not to give the people the idea that we had got together completely.

<u>Kr. Mauberret</u> Mr. Chairman and fellow delegates, Section <u>G</u> deals with the tax assessor, his term of office, and his duties. Besides that, the appoint-ment of an assessor in case of death during that time. Prior to 1952, the governor of this state could appoint a person to fulfill the unerpired time. Prior is gers, the governor bins state could apply it as person to effill the oreopiredrs tend served only two months, the governor had a right at that time to appoint the unexpired term of three years and ten months. However, in '52, Act 576 of 1952, a special provision was adopted and added to the constitution, which is designated and added to the constitution, which is designated as Section 69 of Article VII. This provision pro-vides the governor could appoint only where the unexpired term was less than one year; otherwise, he was required to call an election within sixty days after the occurrence of the vacancy. Ouring the interim between the appointment and the elec-tion of the successor, the chief deputy could act in place of the deceased assessor. Various opin-cines of the attorney general authorized the chief deputy to act as assessor until such time as the governor appointed, or the successor was elected. deputy to dct as assessor until such time as the governor appointed, or the successor was elected. They were attorney generals' opinions of October 5, 1919, May 29, 1933, and November 4, 1865. In the city of New Orleans the board of assessors, composed of seven assessors, would meet and formally appoint a chief deputy as acting assessor un-til such time as the governor would appoint someone to serve out the interim time, or until an election was held. Thank you.

### Amendment

First amendment is offered by Dele-Mr. Poynter First amendment is offered by Dele-gates Mire, Rayburn, and many others. Now, I be-lieve there were two or three of these passed out, so, this one has...it's a single amendment as opposed to a double amendment. Amendment No. 1. On page 1, delete lines 23

and 24 in their entirety and insert in lieu thereof the following: "1. All land-----10 2. Improvements for Residential Purposes--10.

Now, there's a very similar looking amendment which Item 2 reads: "Improvements Used for Res 

<u>Mr. Mire</u> Thank you, Mr. Chairman, fellow delegate this amendment simply changes the percent on all land from five percent to ten percent and, in fact, leaves the percent on residential improvements at ten percent. I don't believe that it needs any further explanation. I would like to move that the amendment be adopted. Thank you, Mr. Chairman, fellow delegates, I would like to move that the

<u>Mr. Hayes</u> Mr. Mire, you had all land ten percent and improvements, for residential purpose, ten. That doesn't add up to twenty, does it?

Mr. Mire No, sir, it certainly doesn't, that is just ten percent on each of those classes.

Mr. Hayes I see another amendment here; it says "All Tland and improvement on residential property" ----ten, which looks like it would include the building and the land. This separate one and two, looks like you got the land one thing and then the improvement another--that's why I asked the ques-ter the look like they were separating them. tion, it looked like they were separating them.

Its just that we are not changing the Mr. Mire two classes. We are leaving land under one class, and we are leaving residential improvements under one class, but both will carry a ten percent fair...

When you put the house on the land, Mr. Hayes Whe it's still ten?

Mr. Mire Right.

Mr. Hayes All right.

<u>Mr. Stage</u> Mr. Mire, this is just for clarifica-tion. In the committee's printed document, that item two is said to be "improvements on residential property." Then the one that you didn't go with says "improvements used for residential purposes." Then the third one said "improvements for residen-tial purposes." Would you tell me wherein the dis-tinction lies in the committee proposal, the one you didn't go with and now the amendment that is before the house? What is the difference?

Mr. <u>Mire</u> Yes, sir. Well, they thought that the committee proposal..the language wasn't just com-pletely clear, the fact that it just said "inprove-ments on residential property." What we really meant was all improvements used as residential prop-erty. But, when we decided to use the word "used," we thought then, that it could be that somebody would dential apportly but is, in fact, not rented and could come in and say "Well, i don't have any-body living in this house, now, it's not being

used as residential property, so you can t a sea it this year. So, to clarif, that, we then thought the language would be better of it would be put as the alegie and puts at now... (prove ent for relidential purpses --which we felt would lust lear the whole thing up.

Mr. reat Mr. M. re, do I widerstand that under this amendment, if you had a building which was used for residential purposes on a piece of property, that then you would assign a value to the land and take ten percent of that, then you would assign a value--a fair ariet value--to the building on that property and take ten percent of that. Sut, you would not consider the building and the land together for purposes of trying to arrive at the assess ent?

Mr. Mire Well, that's correct, you would not. You would have your value on the land and the value on the building.

Mr. Kean Then, you would anticipate, in determining fair market value of the building, that you would have to use some kind of a formula like the reproduction cost less depreciation to arrive at that particular value, because you wouldn't be able to use comparables which relate to both land and the building, would you not?

Mr. Mire Well, Mr. Kean, you are very familiar, 1 know, from just my personal experience with values of properties of which I feel 1 am fairly familiar with. You know, very well, that when you arrive at the fair market value of property, there are established norms that are considered and that we can't balk away from. These are the ones that we purport to use in arriving at a fair market value of a piece of property, no matter what type of piece of property it is.

Mr. Kean But, you would do it...you would break it down into two parts, land and arrive at a value, and improvements and arrive at a value.

Mr. Mire That's correct, sir.

Mr. Mire So long as both values would not exceed the amount of homestead exemption allowed, you'd consider both...

Mr. Kean to that for purposes of the homestead exemption you'd add the two together and take ten percent of that total...

Mr Mire hat's correct.

Mr. <u>Yean</u> If it did not exceed four thousand dollars, then that property would be exempt from those takes to which the holiestead exemption applies!

Mr\_Mire VF, Jir, To further larify your question, and I hrow that you'll agree with me, that except when the law pruvide for a different method allowed either in the ons'tution or by statutes, that the highest and bet use of any property becomes really the criteria for the fair market value

Mr Fean Hell, that's exactly my point, Mr Mine, hormally, when you consider fair market value, you consider highest and hest use and you use either comparable as it sime other without to eitablich that value, But all understand it here, you're going to break the evaluation prome down into an evaluation if land and a speparate evaluation of the distribution of the second state temperate evaluation of those numbers and take temperate evaluation total came out to be less, than four thou and dillar; you'd have a hore trade evention which upered that privers the full extension that include

Mr. Mire That Surrect.

Mr rean you rave any dea what that would far a the tax back in erred in the riner of this state in term of whether in to lower the tax base

Mr Pire | think that this is exactly what being done toda, statewide, in ever all exist. that we're not having a reappraisal in ever fiveyear or on an annual basis-that this is in eal the the enth easisent i established in the property, but | think this is the very pratice that's being practiced states de todar.

Mr. Abrahal Mr. Nice, one thing throughout this that still "bugs" e, and that is we tate that "the percentage of fair market value shall be uniform statewide." how, what provisions d we have to assure us that the establishing of the fair market value will be uniform statewide?

Mr. Mire Well, this is what we're pitting the proposal. It spells out that it will be n a niform, statewide...

Mr. Abraha lo, not the establish ent of the fair market value. It says that the ercentage of assessment shall be uniform.

Mr. Mire Based on fair market value, bit the ercentage...will be based on a statewide unifor fair market value system.

Mr. Abraha Well, what echanics do we have t assure u that various parishes will be establishing fair market value on a unif, r basis

Mr. Bire I thought I had explained it pretty well that we're going to asi that the least ature do in fact set up the vehicle for inspecting these partshes, either by your local overning authority, determining that they are using the fair ariet value and have absolute evidence that they're using it-documentary evidence-not ay thing est tan this. Of course, the court says that this is what we'll do too.

Mr. Abraham kell, let eak one other quet then. In establishing fair arket value is there any discretion that will be allowed or s. and l know that it's practiced now on the part of the assessor...of determining fair ariet value a ing to use because you ay have a particlarice e of property which has a or erial builing in it, which may be rented or you ay have a sinn in next door to it, which a tually due it draw ny income and this type of thin.

Mr. Mire Mr. Abrahai, 111 try t arswer your que tion this way, as I answered Mr. kea we if we go with the rand use concert, rescher tencept, the legilature would e tahlish the prime use to follow in administering this correct the than that, and I'm use that you've each it is the form of the second second second second second that and I'm use that you've each it is the that, and I'm use that you've each it is the second second second second second second that and I'm use that you've each it as the second second second second second second where they don't have it ago int, in it are, three appraival firs, up, edgy emerts in the ield. They all vary a little bit is in to untinue to exit, but there is not a this matto untinue to exit, but there is not a this matto untinue to exit, but there is not a this matto untinue to exit, but there is not a this matto untinue to exit, but there is not a this matto untinue to exit, but there is not a this matto untinue to exit, but there is not a this matto untinue to exit is not the second thank you very use, we have the second the second second second second second second second second that you very use, which we can second second

### Further methods in

M. Breen Mr. Thatman, tellew deletatet, "opport the and ent to than e in effect the coittee next from two, ten, and fiftee per ent of these steppine to ten, ten, and fiftee ercent let e try to follow for hydroxin, a few

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details as to what happened in our original proposal and why we are trying to change it. If you noticed the Committee Proposal No. 26 that you have poser and wny we are trying to change it. If you noticed the Committee Proposal No. 26 that you have in front of you show committee, only twelve out of that twenty-three felt that we could sign that com-mittee...that proposal, there is eleven of us that did not sign it. This happens to be one of the reasons, that is, rate of assessment, that we felt that at frive, ten, and fifteen percent, that the percentages were: (1) too low on a statewide basis, although they fit some parishes. They were too that is, (1), (2) that the relationship between the percentages, that is, five percent being only one-third of fiteen percent. Increw as an unde bur-den being placed on part of the population and too jectives of all the committee-and I want you to notice in this sementment-teenty-too of the thenty. three members of the committee signed and supported it. It was the feeling that middle ground here, that is, ground that would do justice to the re-lationship between ten and fifteen percent; that is, business and residential would be served. Midis, business and residential would be served. Mid-dle ground in that it would..these percentages would more closely follow what our statewide aver-ages are now, rather than the five, ten, and fif-teen percent. To the best of our ability working with the tex assessors, working with PAR, working with the census bureau, we found that statewide properties average somewhere between fourceh here and ehree. But, that gencentage is made up on one side of husinesses then assessed at fwenty to side of businesses being assessed at twenty to thirty percent on inventory and that sort of thing, and residential property being assessed anywhere and residential property being assessed anywhere from six to fifteen or up to twenty percent in some cases. The feeling, in other words, is that the ten, ten, and fifteen is middle ground. It doesn't do absolute service to anybody, but it doesn't do complete injustice to anybody, also. It's the feeling that with the ten, ten, and fif-teen we can maintain an adequate ta base. Some teen we can maintain an adequate tax base. Some of you might not agree with that. But, let me point out to you, as the assessors have pointed out to me many times, that the current assessment rates--statewide--are composed of a certain rate on new property and a different rate on the old property, in the terms of fair market value. You property, in the terms of fair market value. You have to understand that some property has been ony or thirty years "Peg" and has never been reassessed; it's just been physically impossible for the asses-sor to get around to reassessing all of this prop-erty. Today the practice is that he reassesses the property when there is a transaction being made. erc). Today the practice is that he reasesses the property when there is a transaction being made. So, yes, the current sales are fifteen, twenty, then ty-five percent. But, the old property is a the bulke two vercant. So the point is, that under the court order and under this constitution, we are going to call for a reassessment of all property. So, now all property will be brought up-to-date. So, the ten, ten, and fifteen does, I believe--based on what facts I can get-does represent a happy, middle ground that will not hurt any par-ishes-that is, some small difference in this case-ten percent as compared to fifteen percent. For that reason, I'm supporting this; I think it's a good amendment. I think it serves our purpose well in this convention to support Mr. Mire and the other coauthors of this amendment.

### Questions

Mr. Chatelain Buddy, I have some problems that... this is a friendly question. I'm trying to get some clarification. I have been studying for several days the committee report and...we were changing all land, let's talk about that first...

Mr. Roemer Yes.

<u>Mr. Chatelain</u> From five percent to ten percent. Now, when you...I would like to have a definition of "all land," as you have in this amendment I'm asked to vote upon. "All land" do you mean investment properties adjacent to a city? Do you mean "farm land"? Do you mean all...what it says "all land"?

Mr. Boomer Yes. All land will be valued at ten percent of its fair-market value under this proposal, with the exception of: horticultural, agricultural and timberland, which will be assessed at ten percent of its use value. But, all land will have this same percentage against it, whether it be fair market or use, it will be ten percent of that value-all land.

Mr. Chatelain Well, that's what [...] want one more clarification. Going back to your committee proposal the words used there were "improvements on residential property." Now, did that mean residential property..means land, building and land?

Mr. Roemer 0.K. You will have a ten--good question--you will have a ten percent assessment against the value of the land. In addition, you will have a ten percent assessment against the value of the improvements on that land.

Mr. Chatelain All right. Let me ask you...

Mr. Roemer That does not add up to twenty percent; I hope you see that. There's two different elements to assets-there is the physical land and there is the improvements thereon. Each will be assessed at ten percent of its fair market value.

Mr. <u>Chatelain</u> In other words, if the land--for instance--on a given piece of property is worth ten thousand dollars and the home is worth twenty thousand. What is the total assessment, then?

<u>Mr. Roemer</u> All right. Three thousand dollars, ten percent of ten thousand on the land, which is one thousand dollars and ten percent of twenty thousand on the home, which is two thousand dollars.

Mr. Chatelain 0.K. I have one other problem, Buddy. This problem lies in the area of all other properties. I'm confused, then, between your Amendment No. 2 which says "improvements used for residential purposes." Now, I got to assume that (1) takes care of my land and (2) will take care of my ...whether it's a shack or a brick home or whatever.

Mr. Roemer I'm sure you don't live in a shack.

<u>Mr. Chatelain</u> But, I got one other problem. I'm speaking for thirty-three thousand people I represent, not for myself, I can take care of myself, very well.

### Further Discussion

<u>Mr. Chehardy</u> Mr. Chairman, fellow delegates, this particular amendment is part of an overall compromise and it fits into an overall plot of vasid met left fits and an overall plot of vasid met these figures here when you reassess the property of this state will probably produce more revenue throughout the State of Louisiana than has ever before...has ever been seen before in our history. I think this, that it does affect a compromise in relationship to the new homestead level proposed that would establish uniform statewide level of assessment with an equality that has never been major faction who have had differences.

### Ouestions

<u>Mr. Dennery</u> Mr. Chehardy, I'm confused as to the mechanics of appraising land for residential purposes (A), and then (B) appraising the improvements

on that ind. A a pratial at er-nwy ian assess r-i assue a let te total to rear un frit appraial and thei you ither arbinally r in sole other anner, di deli etween i in buildim. Is this cirret

Mr. Ihehard, hat s increit, in the pait

Mr. enner how, under the ritoral, all read it, every five year you are uppied to recaluate and reaprise this in erty, et also that land you be have related in for a five-year period recursely, there will be a derive ation in the prive ert, er that five-year period. "we, how are you win to reapprise at that punt?"

Br. therard, well, very simily in other words, if your presailing land value is a twen ubdivsion or that articular Tot being appraised at worth ten thousand. Here, It would be reappraised at ten thousand; your ten pie ent on this would be tass. If the provenents under a reappraised has suffered depresiation and no apprecision to offset it-you know you an by privements of this mature or that nature-thew of corrise, if the new figure would be five thousand after deprectation, you would put ten precent of that figure or five hundred dollar.

Mr. Denery. But, wouldn't that be different from the first appraisal you made, which you said would be both and and building together? This what's got me confused.

Hr. Chebard, No. sir. Well, actually that in transformed and the second seco

Mr. De nery You mean you would a less it at ten percent? You would appraise it at ten thousand dollars?

Mr. Chelardy Right. Apprate t at ten and asets it at one thousand, ten percent of that. Then, we would appraise the inprove ents or if it was, say, a newly built home; we have the permits, we have the architect, affidavit. We have everythin to establish a cost, of say, thirty thousand. Then, we would take ten percent of that finure and put three thousand, maining a total of four thousand. In fact, Moire, thi would be very simple and there is no complication at all.

Mr Denner, What was puzzling ie, lawrenie, is if you appraise, based on a lale, let us arsume, which I would assume normally you would jif property wai old within, you know, during the five year period of reappraisal. You would put it in your book at whatever it had old ir as its apperiod. Because obviously that the best wold not provide the secure obviously that the best wold not provide the secure obviously that the best wold not provide the secure obviously that the best wold not here a division between land and the prove in this propula it hould seem to me, would require you to appraise separately.

Rr hehardy well, we will Ye, we are undated, and we intend to  $(t, \cdot)$  erely a untinuation of the pravite of a sector land and in provement in separate section if the appraisal on our book.

Mr Jerhery Thonk you

Mr tagg Mr thehardy, in threeven it process there are sisty-live through douby for and a fifty thousand reader see. The land under in the ity lots is apprained at forty eitht is a seen the according the double process to have reader are according to the process of the opproment two humbled and istimation through the opproment two humbled and istimation of the opproment theory of the opproment theory of the opproment of the ter, ear at rul twent-fue nor the terms of the normal terms to the terms of the terms of the term of the provide terms of the term of the terms of term

Mi henardy Rint Num, we have the toring that addo faces to amaile, etc., y is more than addo faces to amaile, etc., y is build for addo faces to amaile, etc., y is build for addo faces to amaile the source of the source of

Mr Lajj had he ed that the finance of snewegers would be the same ould til the delegate. Inclusive it white feet this program will take a use the same sand that a further we that the same our area-which it that area, i think, i the that has the high the priorit of value is and an it rolling the same transmission and the type to the same transmission and the type to the same transmission tory, and the type to the same transmission what this priorit is the will effect an in it heli true yers the same terms.

Mr. Infiring Well, want to result in a Mr. Tally, that where the start of the start

eighty mills. But, I believe, the millage...sliding millage scale will take care of your situation completely.

Mr. Stagg Evenly...even when in the case of the school bard you have raised the homestead exemption and lowered the percentage of assessment. How are you going to take care of the Caddo Parish School Board when it's affected by an increase in the homestead exemption on the one hand, and a decrease to ten percent of the base on the other hand?

Mr. Chehardy Fine, well there are several...All right. That's a good question. Now, in the particular area where you talk about an incein into the constitution the same provision that we had with the original change in the...when we made the homestead exemption absolute last year. What we have provided for is at this stage, an eight million dollar guaranteed base of revenue sharing, and that, of course, is calculated to go back to the communities. Actually, the homes above thirtylion dollar guaranteed base of revenue sharing, and that, of course, is calculated to go back to the communities. Actually, the homes above thirtylive thousand dollar valuation, which would be attin New Orleans, only sixteen percent of the homes even go over thirty-five thousand. In Shreveport, I don't have the percentage in front of me, but I'm centin this not over ten percent or twelve percent. You might have that fact and figure with you. Now, that's one provision. But, the main thing, Mr. Stagg, is when there is a reassessment of property In Shreveport, the reassessment...s should more than offset the loss bacause of percentages even before we go into any millage adjustment. But, millage adjustment is also calculated to take care of the homestead situation. Now, and you caught what I said on the bonding base for the school districts, they people neasure and int whis measure bad enough to waive their rights of they can propose to the people and that is the reason I sent the results of raising assesments throughout the country, there has always been an inflow former, has always worked hardship, ov. Ince an assessor is required to go back in on thes homes that ave never been touched in Shreveport for generations...in Cado Parish on the farms that we never been reverses. Reople face tremendous hardships if you don't have these built-in ness that a set out with articles, you know, discussing the effects in other areas.

<u>Mrs. Zervigon</u> Mr. Chehardy, did I understand you to say that the local governing authority can roll up its millages to take care of the amount that it lost because of an increased homestead exemption?

Mr. Chehardy Not only because of an increased homestead exemption. In other words, they take the total monies collected, and it does not take into regard whether it's homestead exemption or not homestead exemption.

Mrs. Zervigon The total loss...

Mr. Chehardy The total loss in a district, the total loss in a district. In other words, if they are previously taking in five million, and they take in four million, then there would have to be a millage adjustment upward. But, also, if they take in ten million instead of five, they'd have to reduce that millage so people would not undergo the tremendous hardship.

Mrs. Zervigon Well, that's the way I understood your proposal as it was originally explained to me.

Then, as I spoke to other members of your connittee, they pointed out to me that in your millage adjustment section you specifically refer to Article XI, Section 1. Isn't that correct?

Mr. Chehardy That's correct.

Mrs. Zervigon Why do you specifically refer to that section, and you don't refer to the section on homestead exemption when you talk about running up your millage to make up for your losses?

<u>Mr. Chehardy</u> Well, in drafting...in drafting that section, that was never considered as limiting it... or never, in my opinion, as interfering with the-it was a choice of language-as having any interference with the homestead exemption or with the effectiveness of this sliding millage adjustment scale.

Mrs. Zervigon Well, can you tell me why you didn't phrase it so that it says that it makes up the losse: incurred by the changes inflicted by this article, rather than by Article XI, Section 1?

Mr. <u>Chehardy</u> Well, I would say this to you, that I don't believe anything can be clearer. Well, article...the article that we refer to is the article that requires the reassessment of all property, reacquires the application of new percentages.

Mrs. Zervigon That's right.

<u>Mr. Chehardy</u> That, of course, is what will bring about the change--whether you take into contemplation the homestead or not. We had to make reference to it, you know, for that reason.

Mrs. Jervigon Doesn't the increased homestead going from two to four thousand, especially if levied against a smaller percentage, forgive a whole lot more in taxes than used to be forgiven in taxes? Isn't that correct? So that the...Section 3 has an effect, hasn't it?

Mr. Chehardy It has some effect, but it does not ...but it's provided for, Mary.

Mrs. Zervigon It isn't mentioned, Mr. Chehardy. Is there a reason why?

Mr. Chehardy It doesn't have to be. If you read the provision on the millage adjustment, you will see that it does not restrict it at all. The millage adjustment, even though it refers to what brings about a change-in other words, you'll notice what the section says: that in the portiod of readjustmen porcentages to be the section of the section of the section says: that in the portiod of readjustmen porcentages to be the section of the section section of the section of the section of the section you; there's no concern. That's what they're telling you; there's no concern. That's what they're telling stead exemptions or anything else. If you only receives...If you previously received a million dolthe application of the new percentages you receive five hundred thousand dollars, then you can adjust your millage to bring tup. It's not...

Mrs. Zervigon Are you aware that it doesn't mention the homestead exemption...

Mr. Chehardy Absolutely, and it made no difference, Mary. It doesn't...that's not pertinent to the issue.

Further Discussion

<u>Mr. Schmitt</u> Although I'm one of the original coauthors in this amendment, I do not feel that we...the convention is taking the proper course with reference to the question of property taxation in the State of Louisiana. There are many things which must be decided prior to the time when we get into the actual percentages. These are, just some of them are: should the state be

In the property tax bis ness of it is in the property tax bissness, should the local overn en-be given the right to have a different approach to the property tax question? Wat classes of prop-erty shuld exist? hould the lasses of property be the sale for the state as they are for the local governin authorities, or should the local govern-ing authorities have the opportunity and the option a percenter indicate the option. ing authorities have the opportunity and the option to encourage industry, to encourage comerce in their various districts? Now, you say how can this be accor plished? I've prepared some amend-ments which arenit by brainchild, but are...have been prepared from a summation of statements from many other people-some from an original talk given by Mr. Chehardy, some from comments made by many other members of our committee, and by others who are learned in the area of assessment prac-

The classifications of property which I have recome ended are: 1) residential property; com-mercial property; industrial property; and there's and property; and there's another classification -all other property. This would allow, as an ex-ample, in a parish which is primarily adjust as an ex-tober one and the primarily adjust and the second and an exist in the second and the second to encode a similiar (not second and the flex-the local governing authority would have the flex-thility to either area. In California, today, comparisons which attempt to get into California

Mr. Soura Fell w deletates, Mr. Attintention, Frise not in opposition or nit in support of this andment. I rise ore because I have solve es-tions that I was unable to ask, and would like to get answered. I think the I do inthis the prints that should be brought out all a ds, in this amendment, is changed from an increase of the percent of fair arket value to ten end and lands that is for speculative purposes, where buildings are going to be built that are is in bring new purpose, where ourshing out and the set of the bring new purpose.

Mrs. Warren Mr. Segura, I nate to the string I's trying to get. But, use the et '' are thing I's trying to get. But, use the et '' are thing, and I's concerned about the first of farmland, etc. But, in a string trying to that were town at to but. A string that the string the string of the string the string that the string the string

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tutions that were adopted by the people in the United States all have a land use concept. This, of course, is what the Louisiana Farm Bureau wants --the biggest reason why we have put this in our proposal. You would have to be a bona fide agriculture, horticulture, or a forestry man, or farm or organization, and you would be assessed based on this land use so long as this would be a bona fide operation. Should you be using it just to circumwent, say, properties that you manitor that would be in a city theory he be in poment and that you'd be just purely farming it to hold it and there would be evidence to that case, then the land use wouldn't apply to you.

Mr. Segura I think this, Harry, answers my question and Mrs. Warren's. The only thing on that particular thing, I read it, and it says "the legislature may." I notice there is an amendment that says "the legislature shall," and do you, as a member of this committee, feel that that will protect the farmer?

<u>Mr. Mire</u> Absolutely. I absolutely do, and if you notice this amendment that says "shall" is supported by, I think, something like twenty-two of the members of our committee.

### Further Discussion

Mr. Acting Chairman and fellow delegates, I rise to oppose the committee amendment, although I must say that it is an improvement over what we start with in considering this matter. I think that the convention must recognize this question of property taxation and the need to find some realistic solution to the problem as one of the most important issues to come before the conven-Mosk important issues to tome before the conven-tration in Louisiana. I ran across an article that was written in the Louisiana Law Review back in 1942 by Professor Jeff Fordham, who has been a noted authority in this field and whose critique of the property tax situation in Louisiana at that time, equally applicable to the situation now, think, gives you a pretty good insight into the difficulty of the problem. He characterized th He characterized the property tax situation in Louisiana in 1942 as a disgrace, and I do not think that there's been much change in that situation since that date. For that reason, I think we have to seriously and give our most conscientious effort to coming and give our most conscientious effort to coming out of this particular problem with a meaningful proposal that the assessors and the other officials responsible for property tax administration are going to make a sincere, bona fide, good faith ef-fort to begin administering the property tax on a fair and equal basis. Now, I don't think there's any question about the fact that we must start with fair market value. I think we are now con-cidenion what percentage up and to the fair mark with fair market value. I think we are now con-sidering what percentage we apply to the fair mar-ket value, and I think it should be obvious from the discussions that have taken place on the floor wr. Chehardy by Wr. Stagg-of the considerable differences between the parishes in dealing with property tax administration. I would have thought, initially, that these differences lent considerable weight to the possibility of tackling this problem on a local option basis. But, in looking at that approach, there are many problems, and I can only the weeked finally concluded that local option the weekend finally concluded that local option was not a satisfactory solution to the problem. We come back, then, to the question of a statewide percentage. We reach two problems, as I see it, in this area. Dne is to come up with a percentage which is not going to be so unrealistic as to de-plete the tax base of any given taxing authority. The other is to have a reasonable homestead exemp-tion which will not further deplete the tax base of the taxing authority. Now, I oppose classifica-tion of the type that is presented here today for several reasons. First of all, it is not classification because classification in the true legal

sense involves the treatment of all property simliarly situated alike. This does not accomplish that. We have dissimilar types of property within each of the classifications that we have designed in the committee proposal. Under those circumstances-for example, if we say "all land at ten percent"--does that mean that the parking lot, which might have a land value just as much as the commercial building next door, goes on the rolls at ten percent and might produce just as much est enexue to the owner, whereas the commercial building next door would go on at rodiet weith, jess inility than the parking lot had under those circumstances. He are simply placing, as I see it, in these three categories dissimilar property which cannot be justified. Under the circumstances, I can only conclude that we've got to find a percentage figure which would be applicable to all property alike. The Baton Rouge assessor's office, for have a single percentage applicable to all property is to make the you, first of all, the classification. I think it runs the risk of due process, and for that reason I think we need to all operty. Secondly, the percentage each I the sublicable to all property. Secondly, the percentage each is most dated, for example. When you the that into the homestead exsitient at the park that now up end in Cadda, for example. When you the that into the homestead exsitient at the prote that reason I think we need to have some kind of a value which is applicables to all property. Secondly, the percentage in my opinion, is too low. It creates great problems in parishes such as East har Rouge and in Cadda, for example. When you the that into the homestead exsitient at the potent of or undority youn compensate for the loss in that assessment. But, if it does have the authority to compensate for that loss, it's got to impose the tax burden on those who remain on the assessment rolls. Now...

### [Motion to suspend the rules to allow for additional time adopted without objection.]

Mr. Kean Let's look at what this would do-not in East Baton Rouge Parish, or Jefferson, or in Caddo, or the more industrialized parishes of this state. Let's look at what this would do in the predominantly rural parishes of this state. If we take all the houses having a value of forty thousand dollars or less off of the assessment rolls by reason of the homestead exemption at ten percent of value, then who remains on the assess of the state of the fellow that owns the little Western Auto store; it's going to be the fellow that owns the corner gracery store; it's going to be the fellow who owns the little drug store or has the...that sken away by the vast extention of the homestead exemption yoon people who. In my humble opinion, cannot afford to take up that tax increase. Now, in got through with the homestead exemption and business and industry sessment, you're taking about eighty percent of the property taxes in this parish. Under the cursustances, if you had to load another twenty percent on those taxpayers, I uess it wouldn't make too much difference. But, it can be you hat state. In the case of general built be state and the that state away by the vast the best protent who re on that tax rolls, who are largely the small business people in the various communities of that state. In the case of general onligation bonds, where the taxing authority is required to levy so much millage as is required each year to pay the principal and interest on those bonds, that taxing authority has got to place the bonds, that taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the taxing authority has got to place the bonds, the tax mas not not

Goth Days Proceedings—October 17, 1973 th usand and app yin a ten per ent a ust a ten the second second second second second second second second and arish mas get traise the line of a test feither and arish mas get traise the line of a test feither and arish mas get traise the line of a test feither and arish mas get traise the line of a test feither and arish mas get traise the line of a test feither and arish mas get traise the line of a test and test of the bonds. The whore real arish the second second second second second arish and the second second second second arish and the second second second second arises and a second second second second at the second second second second second at the second second second second second are sputen here to day the second second of the second second second second second arises and results for example, going into a second second second second second second arises and arises are further recess for the per-tent arise set and the sponts and sugestions, and the second second second second arises are brack to second second second arises are to the second second second arises are to the second second second second arises are to to a second second second second second arises are to the second second second second second second arises are to to a second s

Mr\_Mine Mr Pean, dio Lumber tan you to say that your tax allocism land that he'd prefer a yer ent that the way if risk eising?

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Mr. Mile the east you, hen, when he, in fact, industrie that they in rait but house Parvin.

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Mr Pa well kill f the a a e been retrig different what they ve been dig u to f s i t. ee

Here regard, particular to survey to a ten the service and the

valued at fifteen percent of their appraisal, will cause a landowner who owns an old building in a downtown area to tear the building down and use it for parking lot purposes because then he will be paying a lower tax rather than given an incen-tive to building up downtown areas?

<u>Mr. Conroy</u> Mr. Dennery, I'm afraid that a lot of us are at a loss to explain exactly what the effect of these things will be. Nor could I possibly ex-plain what the long-range effects of the proposal that Mayor Landrieu has embarked on in the city of New Drleans where exactly the reverse approach is used to land valuation where he uses a much higher used to land valuation where he uses a much higher balled income. This entantly makes a difference, but all income. This entantly makes a difference, but all incan say to you is that it seems to me far prefereble here where we are faced with it right now..as whether you..to reduce that spread. The committee proposal came out at five percent for land and fifteen percent for other property. So my suggestion to you at this point is, by all means, support this amendment to reduce the problem that you point to. But I agree with you, the problem you suggest does exist

used based of the second based of the secon

Now, one, why did you change the word "property" Now, one, why did you change the word "property" to "purposes"? Do you know why the amendment changes the word "property" to "purposes"? To what effect does the word "use" have?

I think that all of these were what would regard as technical amendments trying to I would regard as technical amendments trying to clarify the intent. The intention here is to have all land exempt and to... | mean not exempt...to place all land at the ten percent and all property that is actually used for apartments or residences, or otherwise for residential purposes at the same ten percent level.

### Eurther Discussion

Burson Mr. Chairman, fellow delegates, let Mr. <u>Mr. burson</u> Mr. Lnarman, reliow delegates, let me begin by saying that I am for the amendment only but not nearly enough. I agree with Mr. Conroy that the root problem here is we have to consider the interrelationship of the homestead exemption and this assessment

ratio. Now the committee proposal is for a five thousand dollar homestead exemption which means, briefly, that a fifty thousand dollar home would pay no tax. Now, in my parish of St. Landry--which I will confine most of my remarks to because they will give you some idea of the problems created in rural parishes where there are no big industries to soak to pay the property tax that everybody ought to pay. In my parish, four percent of t bught to say in my strig, four-ercent of the homes, according to the census statistics that you have, are worth more than thirty-five thousand. We would be left with one or two percent of the homes to pay property tax. At the present time, I am informed by my assessor, who I think does an out-standing job, and about whose performance I have no compliants whatsoever, that thirty-five percent, approximately, of the sixteen thousand homesteads in St. Lindry Parish pay some property tax. So we where perhaps thirty or thirty-five percut of the homesteads pay some property tax. So we where perhaps thirty or thirty-five percut of the nonesteads pay some property tax. Now in my humble opinion, you have created a situa-tion where one of three things then must happen. Either (a) the local governmental institutions, Sither (a) the local governmental institutions, such as schools, the police jury, and so on, will not have an adequate tax base to run the government; or (b) you will create a situation where small farms will somehow or other have to come up with a new

tax to supplement to local government the income

that has been lost. Now, let me explain each one of these in turn. Take the first alternative: Either local government will not have the money it needs to operate upon. The answer to that, as I understand it, is two-fold. They say, "Well, you can roll forward the millage that you have." But let me put this to you. We have, at the present time in Ward 6 of St. Landry Parish, an approximate millage of twenty-five for parish and school purposes together. Now, the figures that I have been given in cooperation with my assessor and other people here more knowledgeable than I, show that we would have to increase our millage to get approximately the same amount of income to about a hundred and fifty or two hundred mills to make up for the homes that would be taken off. Now this means to me, then, that the agricultural land that's left, and the small businesses that are left, would have their present taxes quadrupled or maybe would have their present taxes quadrupled or maybe quintupled to meet that burden. Would they put up with that? I doubt it. I think as a practical mat-ter, the next time you came up for renewal of that millage, it would be resoundingly defeated. I would remind you that school taxes right now are being de-feated when you are asking for a five mill renewal all over the state. One was defeated in St. Landry Parish in April. I cannot imagine what the reaction would be to those paying the tax. left to pay the tax if you ask them to renew a fifty mill school

Now the second alternative, then, would be, if agriculature and small business would not be soaked to make up the difference, that the state government some way or other would have to come up with this some way or other would have to come up with this money in order to prevent shutting down the public school system, or doing without parish roads, etc. How would the state produce this money? I have not noted a great surplus in the state budget in recent years. In fact, there was not enough to pay a leg-islative pay increase for school teachers last term. Therefore, I can only conclude that this would require a new tax statewide to come up with this money. is it just? Is it sensible to tax the people of this state, all the people statewide, to provide a home state, all the people statewise, to provide a non-stead exemption for people living in a forty or fifty thousand dollar home who ought to, I submit, pay something to support their parish services. I submit

thousand dollar home who ought to, I submit, pay something to support their parish services. I submit to you this does not make sense. Now the second answer, though, we are given by the proponents of this plan is, where all the prop-erty is going to be reappraised. Ladies and gentle-men, I don't believe in fairy tales. I like to read them to my children, but I don't believe in them...I don't believe in asking any political official to do something that is politically unfeasible. Now are we going to sit here and be naive enough to believe that the assessors in all sitve-four parbelieve that the assessors in all sixty-four par ishes of this state will, upon the passage of t constitution, venture out across the length and piece of property, in eighty percent of the cases maybe doubling or quadrupling the value of that property on the assessment roles? I submit to you, property on the assessment roles? I submit to you, we'll have sixty-four new assessors at the next election, if that happens. I don't believe in ask-ing a man to do something that is politically un-feasible. Practically it's not feasible. My as-sessor tells me it would take three hundred and fifty thousand dollars just to provide the aerial maps necessary to reasess St. Landry Parish. Wher is that money going to come from? the got a staff with three clerks and one assistant. It might take Where him ten or fifteen people to do this reassessment. him ten or fifteen people to do this reassessment. It might take him three or four years to do it. While he is busy doing it, you are going to have to coll forward these inlages, and you are going and small business people that are left. They will have to pay the tax. Or, the alternative is, you will not have a system of public education, you'll not have hospital districts, you'll not have drain-age districts, you'll not have parish roads, and the other things that are presently financed by means of the property tax in our local government. I comnot buy this. I don't beleve in fairy

tales. I don't believe i Santa Clau Final y, i wou'd pint out, as I did ir the uet fun to Mr. Mire, that in our pail i filly twenty percent of the assessed valuat on of our parish right now Is in pipelines and public utilities. They are assessed at somewhere between, deprend onder the col title proposal, this would be an-datorily reduced to fifteen percent which kould, again, be a tree andous reduction and there's no again, be a free mous reduction and there's no reappraising pipelines. How are you going to re-appraise a pipeline that's in the ground I d like for so eone to explain that to e. I would be very interested to hear it.

be very interested to hear t. You say, Well, it's goin to be assessed at its present far arket value. The tax commission, as I understand it, has supprised to have been as-sessing them at fair market value all this tile just like the assessors have been supposed to be assessing property at a hundred percent of fair arket value, just like the assessors will supe posed to be reassessing all the pro-notal. I don't believe it. I think it's unfeasi-te., I think it's unworkable. 9 e. I think it's unworkaure. I ll answer any question...I can...which may

Mr. <u>urns</u> is there any chance at this time to discuss the lection on ho estead exe ption together

Mr. That page Mr. Chairman, ladies and gent emen. The newspace art, undirman, locies and gettement Suggest to you that it is better than the original propo al by the condities. In the event that you do not agree with the percentages in the final re-cult, there i no conditient on your part, or any-body is, to stay with the proposal. But if you do out percent or in do not more the rest.

With a five percent, ten percent, and initieen per-word diverge our therefore, whether you agree or n t, and there are some n you while feel that the ten, ten, and fifteen i not high enuigh, it's not equitable. You will have your thance laten. But uggest that if you writ an prove ent over the five, ien and fifteen, that this ertainly gives you ar input eent. I would, therefore, unge yu or the right of terms with a more out a site it to ngt, it's certainly buffer than the five, ien, and fifteen we have if the rightable proved to rail that has been revealued that duy from infileen we have if the upper to you that the steffal that has been revealued that duy from the file and had and if there each that file we got tiggether i wait to upper and buffer that has been revealued that been and the steffal that has been revealued that be you that the steffal that has been revealued that be you that the steffal that has been revealued that be you that the steffal that has been revealued that be you that the steffal that has been revealued that be you that the steffal that has been revealued that be you that the steffal that has been revealued that be you that the steffal that has been has been the steffal that has been the steffal that has been revealued that be you and the steffal the here. That it as been any dy pre-ended the here that it as it been any your ind J wo las any that frage type ward to onta the per-mally, I will be lad in we you ur vers. In the have here a lot of read in ,

it on a parish-t-parish basis, and in in , not attack the proble at its sourie. Thank you Any questions, I'd try t an wer

Mr. Lowe Mr. Chair an, addies and elleen f the convention, I rise to support the ared ell. 1, like the speakers that appeared before e feel that we may not have the best in t is a end ent, but certaing we are getting liser t what the two factors in the comittee had hoped that they result compression.

of opinion according to the delevation of the service of the servi

way that anyone is going to come to this microphone and tell you that it's going to serve all of us well, because it's not going to do that. It's impossible. So I ask that you support the amendment that we have before us and come up, support the classes because we have the classes will esthethe the second second second second second second leader that we have the second second second to have a treemedous shifting of the tax burden from one segment of the taxpaying community. I ask that you support the amendment that we have before us.

### Further Discussion

Mr. Casey Mr. Chairman and delegates, connection with whether this amendment is or is not adopted, l feel somewhat like a seaman who may have fallen overboard off of a ship which may be carrying a lot of different types of catch from Africa sethey say. "Well, we don't have a life preserver available, but take your choice. We have, you can either latch on to an alligator or a shark. Just let me know which one you want." I sort of feel like l'm in that type of position because, to me as one delegate from a metropolitan area which is seriously affected by percentages, and that's what we're talking about, five percent is certainly pens to be a little bit better and it desn't leave us in as bad a position as we would be with five percent.

Our problems are this in the city of New Orleans. I have been informed or advised that property is being put on our tax rolls when a sale occurs at approximately between twenty and twenty-five percent. I know that for a fact for I have bought and sold property in the city of New Orleans and and sold property in the city of New Orleans and represent many people who buy and sell property in the city of New Orleans. I know for a fact that that criteria is used. I also represent people who who property in the downtown business area of the city of New Orleans. In the downtown business area of the city or New Orleans, the land was revalued and placed on the assessment rolls at thirty-three and a third percent of value. I'll tell you valued and placed on the assessment rolls at thirty three and a third percent of value. I'll tell you how that value was arrived at. The board of re-viewers in the city of New Orleans obtained real estate appraisers who went through the downtown area and fixed realistic valuations and not just realistic. I thought they were personally pretty high...like fifty dollars a square foot for down-town property in the city of New Orleans. That's the basis that's being used in the central business district of the city of New Orleans. The assess-ment ratio evaluation is thirty-three and non-third ment ratio evaluation is thirty-three and one-third percent of those high figures. Now, granted, l know Buddy Roemer has already pointed this out to me, he'll wager that there's probably property in the city of New Orleans that hasn't been revalued or touched in twenty years. He's right. He's ab-solutely correct. We don't know how much property solutely correct. We don't know how much property falls into that category. But the point is, we are estimating that overall, the overall valuation is pretty close to twenty percent for all property. So what happens when you adopt a ten percent or a five percent ratio evaluation and you adopt a four thousand dollar homestead exemption. Today, in the situe of New Arelasc. neurole who own homes are the city of New Orleans, people who own homes are paying real estate taxes. There is not one of them that has asked me as a legislator or as a delegate to this constitutional convention, for relief. They want the services that we provide in the city Nobody of New Orleans and they are glad to pay. b) new Orleans abo they are glad to pay. Hology has complained about being overtaxed. But you know what's going to happen? The shift is going to occur from the homewner who. Is paying taxes today, and he is going to get a free ride. That shift is going to go to other property which is occupied by tenants. The increase in taxes is going to get transferred to those tenants, which is not apply the tenants. is a large majority of the poor people in the city

Also, it's going to be shifted to the shop

owners...the people who own the shoe repair shops, the laundries, the corner grocery stores, and businesses of that type. It's probably going to shift to certain portions of industry. Although, lunderstand, and l don't know that this is correct, that industry is pretty well paying their share of the tax burden now and they probably complain less than anybody about the taxes that they are paying. So all I want to do here at this point is advise caution in dealing with these percentages. I we this of comply, any satisfaction to come over this convention if, and when, and I would assume this ten percent figure will be adopted because more people are satisfaction to come

So all I want to do here at this point is advise caution in dealing with these percentages. I want...I personally, as one delegate, do not want a feeling of complacency or satisfaction to come over this convention if, and when, and I would assume this tem percent flyure will be adopted because force people are the same of feeling at all that many people in metropolitan areas, or in rural areas are satisfied with a tem percent flyure because it doesn't cure our problem at all. It maybe helps a little bit. Just remember, the idea of this... the shark and the alligator...one's almost as bad for us as the other. Tem percent happens to be a little bit better.

I yield to any questions.

### Questions

Mr. <u>Roemer</u> Mr. Casey, I just had two or three brief questions. In your talk you said that the property involved in recent transactions were, to the best of your knowledge, put on the rolls at some twenty to twenty-five percent of the fair market value. Is that correct?

Mr\_<u>casey</u> 1'm not sure if I used the words "recent transactions", Buddy. I do know from being intimately involved and passing acts of sales and more of this over the last few years than I did in the first twelve years of law practice, I know as of that time, say the last four or five years, that that has been pretty much the criteria used.

<u>Mr. Roemer</u> But you also know there are seven tax assessing districts in Orleans and they don't all follow the same percentage. You know that, don't you?...

Mr. Casey It is my...

Mr. Roemer ... you didn't say that to this convention, but it's true.

<u>Mr. Casey</u> You are absolutely correct that there are seven assessors. I don't know which one of them does not follow that procedure. I'm not going to say that all of them do. I don't know which one does not, though.

Mr. Roemer Well, we know, as a matter of fact, they all don't from testimony in our committee. I can tell you that. Now do you further grant the fact that we do have an unknown amount in our opinion, and the committee, fairly large; your opinion, perhaps, fairly small, of older property that hasn't been reassested for numbers of years.

Mr. Casey I stated that quite frankly. You were the one that had mentioned that problem...

Mr. Roemer Well, don't you think...

<u>Mr. Casey</u> ...that's the whole problem. We don't know of the full impact or effects...

[Motion to suspend the rules to allow for additional time adopted without objection.]

Mr.Rogemer I'll be through in just a second, Tom. Now, to pursue this further, you did mention in your talk that there was...although you didm't call it by name...the central business district that has a thirty-three and a third percent assessment on

land. Is that orrect

Mr. asey As of last year, the board of reviewers has placed a thirty-three and a third percent a - sess ent on the land. The land was valued by real

Mr. <u>Recer</u> 1 not questioning that. 1 ust want to bring that out. It's only thi ty-three and a third percent. Is that correct?

Mr. Case, hat's correct. Yes.

Mr. Cases As far as I know, they are not. I don't Fnow what criteria is used. I would imagine, Buddy, that they fall pretty much into the other category of, let's say, around twenty percent. But I couldn't ie you an exact figure. A'll i said is that over-al we esti ate that most property is on the tax rolls at about twenty percent...When you take an

Mr. Roemer Well, Tom, let me ask you a question. Have you read the testi ony in our committee about the central business district which showed quite clearly that the improvements were put on at a

Mr. Case\_\_\_\_\_Buddy, I d d not have the pleature of working on the Revenue, Finance and Taxation Com-

Mr. Roe er I can tell that by your talk. I was

Just trying to refresh... A final point. That is, you bring up this thin out the himested execution. You and I believe, to you know, share this fear of an excrising the mer base. But is now the time to bring that up when we are talking about rates? Won't you agree the important thing is the relationship between the rates...not the doll ar about of the himestead exerp-ion yet? We'll get to that in a little while. I be don't went you to onfise the epenple by tall-ing about he homestead exerption yet.

Mr. Casey Well, Buddy, it's extremely difficult to divorce the percentage and the homestead exemp-

Mr R e er du nit want to be antaioni lic. I only want t make a point lo you agree that we have to take the raie first we are donin it in the proper order. We take the rate first, let that wild, then we take the nomesteed even toon. A first though dilar hime tead exerption reach nothing again to a hundred percent assess ent matter. That's y point

Mr Laley Well, nor estainly doe' affect the ther. Naturally, in the order that we are taining this, estion deal with the home tead exa ption We are firmed by our rule, it take the home tead even ption last. . Wind by, we have it deal with

Mr. Porce. Well, word exagrie we are takin the protection of the first

Mr. Casey

Mr. R. al. Thank you viry still, Mr. phaker

## completely, out, u Lan I

Mr. hehardy Are you aware "at there, unor un proposed plan, that there are in the real arai als of property? You are aware of that fait?

Chehardy Reappraisals, Right Mr. Chehardy Reappraisals. Hight Are you aware that the entirety of a borne break and that has a break and that has a Avenue, such co ercial areas and that la orne, Elysian to Lane Avenue. Cana Street fr - la b r e

mr. cosey I would a give respirations, as it for adjust the second se

Mr. Chehard Correct.

Well, are you aware, also, that this is going to mean a tremendous increase in revenues to the city of New Orleans. A liright will it ear an

Mr. Cases I would imagine reassessment will er-tainly be of benefit. Setter, I will be the set thing that I question. If we are only on the use a ten percent figure, I'm not sure, and I a be wrong, neither you nor I have these fure. wish we did. I think we ould dis uss it en-telligently. I think that wing part of the rele-that we had on the committee. Maybe you all aigh-ave the full information uch we don't it with the

Chehard well, To , I i ht ask you this way

Mr. Chehardy Well.

Mr. asey

We sately not what tails as the real of the real of the well that we real about the last of the real of the real

problem, it's not your parish versus mine, because actually...

Mr. Casey No, I realize that, I don't mean...

<u>Mr. Chahardy</u> ...sctually, New Orleans, and one of two Orbor parishes, versus the majority of the orbor of the orbor of the state of the that arena... in that perspective We...the...'I'd say sevenfy percent of the state has the problem common to Jefferson, St. Bernard and other areas. New Orleans has a problem common to Caddo and Baton Rouge, maybe...

Mr. Casey I wish we could solve everybody's.

<u>Mr. Chehardy</u> Right. But in answer to what you said, I feel the people of this state would feel much safer worrying about their taxes having to go up if they pay too little, rather than turn it over orbitant arounts of money and then hope to God they give it back. Because, I think you'd agree that if we sold all our property and gave it to the city, you'd figure a way to...they'd figure a way to spend it.

Mr. Casey Are you asking a question or making a statement?

Mr. Chehardy Yes, I'm asking you. If we gave them all the money from all the homes in Louisiana, would you not agree New Orleans could spend that in the next few years?

<u>Mr. Casey</u> Far be it from me that New Orleans...to say that New Orleans could not use as much money to its benefit as Jefferson Parish could. I think Jefferson Parish certainly wants to progress just like New Orleans and build its parks and cultural centers and things like that.

<u>Mr. Chehardy</u> Are you aware that Jefferson has again had, I believe, the biggest gains in the state...twenty-four million in relation to property despite the fact of a low assessment ratio?

Mr. Casey I think that's a compliment to whoever increased the assessments and put that property on the rolls...

Mr. Chehardy Well, we lowered the assessment ratio.

### Further Discussion

<u>Mr. Chatelain</u> Mr. Chairman and fellow delegates, I too stand up somewhat like my predecessor here at the podium. I think this is a three-legged problem. I see Sections 1, 3, 4, and S all working together. At this point in time, the percentage doesn't mean a great deal to me. But if I have to go by a guide. I have to follow the committee proposal which states down in 3 that the house to go on the states down in 3 that the fill on the the states down in 3 that the house to go the states down in 3 that the house to go the states down in 3 that the house to go the states down in 3 that the house the states down in 3 that the house to state the one at a long, hard look at this. I know, I agree with Mr. Roemer that we are going to do in Section 3. Now five and six thous and dollar homestead exemptions, are going to be a great deal different than if we'd go back to what I think would be reasonable, maybe a three thousand dollar homestead exemption, or twenty-five thous and dollar homestead exemption, or twentythe spoint, and many of you can't, as to whether you are for the amendent before us now on not because it does bear, if you will read down in Seccions 4 and 5 the problem exists there. Number 4 states that "mo impairment of existing taxes or obligations." This is a significant point. I t does mean a great deal to the various parishes and polifical subdivisions throughout this state. Ail right. Section 5 is a rollback or the roll forward provision in the committee report. I think that, too, bears a great deal on the judgment we make on the amendment before us. I would only leave with you the thought that we'd better be very careful, possibly, if we do accept this ten percent, which is certainly better than five percent, and it looks like the tenor of the convention at this time is that they could possibly buy this ten percent provision, or amendment, if it does somewhat correlate with a two, twenty-five hundred or three thousand don that it hed personally. I think many of you have this same problem. So I would say that let's be cautious. If we do accept this, let's leave it open where we can come back to it and rejudgment, will be good for the people of the State of Louistane.

### Questions

<u>Mr. Roomer</u> E.J., you know, I share your concern that we not do anything in haste, and that we try to sort through the confusion on this issue, but I ask you and any other speaker, in the form of this question: don't you think that we add confusion here if we don't make the distinction for the benefit of the delegates, that we have to do these things one at a time? Yes, they relate to each other, but we've got to take them in their natural order, don't you think? Would you agree with me that the natural order of things is to peg a fair assessment rate? Then, let's talk about homestead exemption. Then, we've got don't free argument we need to be are the order of this 's tart with the rate first. Don't you agree with that?

Mr. Chatelain ['1] trade a question to you. ['1] answer your question if you'll answer one of mine. "Yes" to your question, and my question to you is this: don't you think that five thousand dollars is too high for homestead exemption?

Mr. Roemer Yes, sir, against a ten percent rate.

<u>Mr. Chatelain</u> Well, that's exactly what I'm trying to get, an expression from the committee to tell us about where we're headed.

[Previous Ouestion ordered.]

### Closing

Mr. Mire Mr. Chairman, fellow delegates, I'm not going to be long, but I thought I had to clear up one point, and this is on those who spoke in favor ledge, no parish, to my knowledge today, uses a level percent of assessment. That includes, of course, least Baton Rouge Parish, toddo Parish, towy how the set as the set of the course, least Baton Rouge Parish, toddo Parish, towy ledge, they're using a variable so this is the reason why we have a variable, in an attempt to not have a shift of the tax burden from someone who presently is not, in fact, paying those taxes. Other than that, somebody mentioned something about oil and gas properties, let me tell you that all properties, whether they be oil and gas, pipelines, amufacturing plants, or what have you, can be they can't hear... I think we have one significant point that you should consider is that all taxable property. I man particularly I've heard the lawaper sy. I mean particularly I've heard the lawaper sy. Most of them have been in court with successions of the time market value on some specific properties?" Most of them have been in court with successions of the fair market value on the same start of the set of the set of the set of the tay is not in the of the lawaper done.

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### A end ent

### -yplanation

Mr. McDaniel Mr. Chair an, fellow delegates, this Word from direct in that the levision of a pro-second will be assessed at its use value rather than fair write value. I'd like to briefly tell you what we're taking about here when we tal about use value in lieu of fair market value. In this on ddity of fand we have a unique com ddity in It's in the interest of the urban areas that some of these greenhelts and open spaces be preserved for many reasons, lust as it...very essential to the agricultural base of this state that the tar-builture. Use value is in use in better than thirty states as a basis of assessing bons fide agricul-tural land. With constitutional provision for this basis then the legislature is able to emact the necessary staties to make it effective and apply it only to bons fide agricultural land. Let's look for a minute at some of the things that this idea could do. By giving bons fide agricultural land this tar treatment and these transitional areas where corpetition for land is acute, and the per-and agricultural production. It's in the interest of the urba people in this day in which we are worried about environment and ecoloy. Maintain-ing open spaces in the basic biological processes of agriculture, we can take some of your foul city areating of plants, life-giving oxygen that's es-sential in the process. Certainly, there is some esthetic values there is some recreational value, and values of this nature in preserving some open esthetic values there is some recreational value, and values of this nature in preserving some open spaces. This is tied in with the popularly known area that's mown as the greenbelt concept. We need to protect the agricultural base as a source of foud and [lothing in this state. The farmers are willing to pay their fair share of taxes, and this is not necessarily a shift of taxes. In the State of Wa hington the study wal made upon the effect of user value in relation to other taxpayers agriculture and some of the open land that we have today an be preserved. I might sention that nu-com itter approved this. I under tand the List-tee on Natural Resources has approved its, and sf the various plan that I have seen, between all of

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M. Ar.a., Mr. , are , where that te rate en ature to, been an ate to rear et in te feery ten years with the wild shall the initiation

## Mr. M.Lamel Yes, sir

Pr. Angal ne would yo agree that a more state that you for one the dist is to be a state of the thon, rather than leave this that the evidence shall, o that it would read a priorityral, hist cultural, and the behands will be a select of the purpose of taxation at a perientage fuse value rather than fair arist value.

Mr. M.Laniel Well, there was used to fargument as to whether it should be set to bark up. I'm not sure, you say will will and shall...

Mr. Anzalone Yes, sir. In other wirds, instead of telling the legislature that they very still it, we're telling the people of the tate first isiana that that's the way 't's of't be, ald not wait on the legislature the ale '' ind

Mr. McDaniel well, I would say this, that is connection with addinitistration of the meregoing to have to be any statutes developed to implement a progra of this nature, so I this the legislature is going to have to act to i plement a progra of this nature.

Mr. Anzalone Mr. im, are you aware that the reival of these word, wild nit interfere with the legislative process of assisting in the enfinceent of this

Mr. McJaniel ho, i don t really see on h difference in the meaning of the will or the half you're...

 $M_{\rm T}$  Anzalone well, the thin is,  $M_{\rm T}$  , that you renot sonn to be able to so it with the lenislature tells you you be using to use to do it. If you put i in nerve that arrival rate and ti berland will be assessed, the test the way they are song to start it.

Mr. McDaniel You may be right

Mr. Puth lfl plant y while frint yar and y whole back yard with tulip, do I have rest property, or do I have a horti u tura ur priv

Hr. Hulaniel You still have resident all roperty These are the type ideas that are unversed tatutes in the legislature. Most of these tatewhen they get to the enation lei late to plement programs of this nature, they specific that is board fide agricultural primert and ertain criteria and to use it "sually assurated with this is such things as rollback of it agal, when it does nove into higher uses and the of the nature, but all this should be hand in the legislature to where abuse of the irritet a (hey are surfared).

We fugh founds apprentiate that text to the more stiller there are large traits of land that are stilling there for agrin ultural purpher with any sold at the sevenience of the uner series eveniyear period to the south of the taxaturate Dury of the there people up to the tax advertage Dury of the there people up to the tax advertage Dury of the taxe.

Provide and the searce the history and lar implication of the until it is a search of the should be taked in that ball, the lumber of the should be taked in that ball, the run that land, to a providative or develop it

basis, or just because he can put a fence around it and two horses on it. I think these are the kind of inequities that your statute would deal with, that would spell this out in order to restrict it to the bona fide agricultural user.

Mr. Pugh In other words, you contemplate then, that the legislature will say that history is created by farming for so many years on the tract. Is that what you're saying?

Mr. McDaniel These are the type things that other states have done, and 1 think you could say, such as across the river here because one farmer sold out for two thousand dollars an acre for industrial site; the next man wanted to continue growing sugar cane; they'd been growing it there for ten years or twenty, or such period of time. Dobviously, he couldn't stand a tax rate at that basis, and if you taxed it at its highest value, you could essentially drive it from agriculture into undeveloped or accelerate the urban squall, or something of this nature. It's just that land that's in a transition area, between rural and urban, that this would be protection for the man that has a history in agriculture until it does move into commerce.

I urge support of this amendment.

### [Coauthors added to the amendment.]

### Further Discussion

Mr. Anzalone Ladies and gentlemen of the convention, as so many people have done today, I'm up here-adon't know whether I'm for or against. I do know one thing that I am for use value in the assessment of agricultural, horticultural, and the leadistures shit?" sound mighty good, but the only problem with this is, when shall they do it. You take in your cases of reapportionment, they shall do it every ten years, and then we spend about seven in the federal court system trying to get it done. I'm going to offer an amendment to this section that merely says that 'agricultural, hor the purabse of tarationat a herenets get this section that merely says that 'agricultural, hor due the purabse of tarationat a herenets ge this section will place this concept into effect, and you will not have the problem of waiting until he legislarure decides to 'shall'. I ask that you vote down this amendment. My amendment is 'amated to do. The only thing that differes is the fact that it's going to do it immediately, and not wait upon the legislature to decide.

### Questions

Mr. Abraham Joe, if you simply use the language that you are proposing, would not this leave it open then for various assessors and various parishes to use different percentages in establishing this use value?

Mr. Anzalone That would be set by the legislature.

<u>Mr. Abraham</u> If I understand you correctly, your mendment will not necessarily mandate the legislature to set a uniform percentage statewide, whereas the RCDaniel amendment, as we have proposed now, will say the legislature will do this on a uniform basis statewide.

Mr. Anzalone Mr. Abraham, it's inherent in the language of the amendment itself that the legislature's going to have the authority to do it.

Mr. Abraham What is to prevent, then...you made the statement awhile ago that we did not say "the legislature shall" we should not say that because we don't know when they might get around to doing it. Now, if we do not say anything at all, and they are not mandated to do so, will they ever get around to doing it, if they are not mandated.

Mr. Anzalone | don't understand your question.

Mr. Abraham You're saying...

<u>Mr. Anzalone</u> My statement is simply this, is that we are not going to have use value in this state, under this particular amendment, under this particular provision, until such time as the legislature gives it to us. My amendment is going to give us use value on land immediately.

Nr. Abraham The thing that I am concerned about, though, that the use value will be a different criteria...a different criteria will be used in each parish of the state, and no two assessors will be applying the same use value. How do we get uniformity throughout the state in the application of use value?

Mr. <u>Anzalone</u> You get your uniformity, Mr. Abraham, from the provision that you just adopted, which gives you ten percent, until the legislature decides to change it.

Mr. Winchester Are you under the impression that if we use use value, the ten percent applies to the use value?

Mr. Anzalone It would until the legislature changes it, Mr. Winchester.

Mr. Winchester Because ten percent on the use value would be mighty low, in my estimation.

Mr. Thompson May 1 ask a question? I believe you mistated [misstated] what you meant because, by your amendment, you're saying vote this one down. I don't believe this is neally what you want. Why not vote this one, and then come back with your amendment and say "agricultural and horticultural and timberlands will be assessed." Just leave the other out, but you need to vote for this other one first because, if you're trying to gat this on the your you for doing 't. You can pass this that's there now; come back with one that will strike out "the legislature may provide that," and then you accomplish the same thing. So, what 'm saying, why not vote for this one, then come back with an amendment to strike the first five words out, and you'll have the same thing?

Mr. Anzalone Either way, Mr. Thompson.

[Previous Question ordered. Record vote ordered. Amendment adopted: 116-1. Motion to reconsider tabled.]

### Amendment

Mr. Poynter Amendment sent up by Delegate Kean as follows:

anendment No. 1. On page 1, delete lines 11 through 32, both inclusive, in their entirety and on page 2 delete lines 1 through 7, both inclusive, in their entirety and insert in lieu thereof the following:

"Section 1. Assessment of Property; Adjustment of Millages

Section 1. (A)

[Motion to waive reading of the amendment adopted without objection. Amendment withdrawn and resubmitted with corrections.]

### Explanation

Mr. Kean Mr. Chairman, fellow delegates, l'm not çoîng to belabor the point which we've discussed at some length previously with regard to the question of classification because, as I attempted to previously adopted, that I seriously doubted that

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Mr. Abraham In answering the question posed by Mr. Duval, you stated that the zoning restrictions might restrict the use. He was asking about incorporating municipalities. Well, what do you do in the instance where you have land outside of an incorporated municipality, but which is still subject to parish zoning restrictions?

Mr. Kean Well, we simply were trying to deal with the municipalities problem in connection with this particular use valuation. We were thinking both from the standpoint of the zoning problem, and also from the situation that you could have in the municipalities, where older parts of the town are occupied by people for residential purposes which might not be the highest value, or the highest use value, of that particular property.

Mr. Abraham But, could not the same thing apply to property outside of a municipality? It might be in a shopping center area or an area that is commercial property but may have some old houses in there. Does this deny the...use as a basis in determining its fair market value?

Mr. Kean I don't think it would, Mr. Abraham.

Mr. Womack Mr. Kean, under this proposal, this would greatly reduce the tax liability of the industrial giants, would it not?

<u>Mr. Kean</u> I don't know whether it would or not, <u>Mr. Komack.</u> I just don't have the figures that indicate how they are being assessed over the state at the present time.

Mr. <u>Homack</u> Well, I believe someone had used the figures a little while ago that they were assessed at somewhere between twenty and thirty percent, overall. If that's the case, then, would it not reduce them back to fifteen percent?

Mr. Kean Well, it would...l think in all of these percentages, Mr. Womack, we've got to decide what the percentage applies to. I said earlier, it and the second second second second second second tory at thirty percent. I would be less than candid if I didn't say further that if you took the actual value of those inventories and use that, you'd probably find that you were closer to ten percent insofar as inventory is concerned. I don't think you can get a true picture of what we're doing at the present time because, in most in startine point.

<u>Mr. Womack</u> But, Mr. Kean, if we can't get a true picture, then, it looks like maybe we ought to recess and let somebody give us some research on it. I...

 $\underline{Mr.\ Kean}$  . Well, I would be inclined to agree with that,  $\overline{Mr.\ Womack},$  but we have not been able to develop that kind of information.

<u>Mr. Womack</u> Let me go a little further. The thing That disturbs me is this: That if we have the industrial giants-many of them that's not donaid that's not donaid tay that the set of the tay of the tay that's not when they save money here at the expense of the homeowner, the small operator, and then they pay half of it back to the federal government in federal income taxes, I don't think we're making too much progress. The thing that disturbs me is: factor here from twenty to fifteen that you're not going to reduce by one-fourth the tax liability of these kind of people. If you do, then somebody else has got to pick it up.

<u>Mr. Kean</u> Well, as Lappreciate it, Mr. Nomack, Tf we go to fair market value and truly use fair market value as the basis against which we apply our percentage ratio, then I'm inclined to think that we would come out about where we are now because the fair market value is, in my opinion, would be above what we are presently applying the present percentages to.

<u>Mr. Lennox</u> Mr. Kean, if you will recall for a moment the situation described by Mr. Jack Avant and describe for me or define for me bona fide use for agricultural, horticultural, or timber purposes, and see if, perhaps, we can't bring a little more light to bear on that situation.

Mr. Kean Well, I would interpret this to mean that you're using that property for a true, bona fide agricultural use. I can cite you an example: In West Bacton Rouge Parish, just across the river, there is considerable acreage that is devoted to sugarcane. There's no way in the world that a sugarcane farmer could afford to pay over four hard of the the second for a sign are purposes, and still make a living. Now, that property has probably got a greater value than it has as farmland because it might be sold for industry or for commercial purposes.

Mr. Lennox Well, that situation...

Mr. Kean This would protect that agricultural use. That's all.

<u>Mr. Lennox</u> The situation that Mr. Avant described would not meet the test of bona fide agricultural use, as I understand it.

Mr. Kean That's correct.

Mr. Pugh Mr. Kean, is it not a fact that timberland in the State of Louisiana is presently taxed at two cents per acre, except that an additional two and a half percent for all but pulpwood and that that timber is severed from the land, and that the constitution prohibits the taxes being changed on it?

Mr. Kean If you say that's correct, Mr. Pugh, I'll agree.

### Further Discussion

Mr. Alario Mr. Chairman, fellow delegates, I fise to, of course, oppose the Kean amendments as offered to you. I see it as nothing more than an attempt to switch the burden of taxes, or those taxes that an industry is now paying, to put it on the backs of the homeowners, the small homeowners of the state. The proposal Mr Kean has before you, with this amendment and further amendments to come a little later, by bringing the homestead or the state. The proposal Mr Kean has before you, with this amendment and further amendments to come a little later, by bringing the homestead or the state. The proposal Mr Kean has before you, with this amendment and further amendments to come a little later, by bringing the homestead or would be exempt now would be those below sixteen thousand, six hundred sixty-seven dollars. I'm just figuring, in a particular parish that I'm... I had some figures on, that just a simple twenty thousand home that's ascessed at the percent now is fully covered by the two thousand dollars ing a penny of taxes, assessed for two thousand dollars and covered by the two thousand dollars. That doesn't sound like very much money, and it probably isn't, but, when you're talking about sixty-eignt thousand homes times thirty-three dollars. That yoesn't sound hile very much money, and it probably isn't, but, when you're talking about sixty-eignt thousand homes times thery brine dollars? It's you adjustment in millage, thew who's going to get the break of that 2.2 million dollars? It's going to be the industries that are paying it now that get going to have to no..., this amount of morey. I ake that you would by the went mere the town is a men the commitment.

<u>Mr. Europ</u> Mr. Alaria, a lunder tand your polition to be that as a atter f r n p e a n eowner shou dn t pay thirty-t ree do a a year to support the public sch ofs and the ub i ser-

Mr. Alario Mr. Burson, if the hore when not pay in it new, I don't want to advorate raising his takes one red cent, ush less thirty-three do-

Mr. Burson That's true even though he's got a forty or fifty thou and dol a 'n' e which benefits from all the public services in the parish?

Mr. Alario. Well, if course, there are other means of supporting public chools, too. We're tailing about the sales tax he's having to pay on the sal-ary he gets, income taxes, and various other taxes that he has to pay. So, we're not only looking at the thirty-three dollars, Mr. Burson.

Mr. Mire Mr. Acting Chairman, delegates, ladies and gentlemen, l rise to oppose the Kean amendment principally on-and im not an attorney, but l've talked to o e of the lawyers here on the floor, taised to of of the lawyers here on the floor, and from an awful lot of disjustion with an awful lot of attorneys--about the constitutionality of the first paragraph when he taiks about land se in incorporated municipalities, how defined that would be, when we taik about land use in farminn are pretty well defined and practices that have been defined through the wears and have here around land-use concept as far as mun cipal properties are concerned. I think this would sort of let-if it would be per isible-somebody ust, say, do what they want with any sort of land within any mun ipality. I believe that this is where...why the uope has ruled in the Bussie v long case that we could not do these things, basically what the could not do these things, basically what the it would be constitutional, and I feel that it's certainly a shift of the now taxes from industry in the landwher to the homeowners, particularly to the landowner to the homeowners, particularly with what I know is coming from the very same peo-ple---possibly an amendment to keep the homestead exemption at the level that it is today. I urge

Further Discussion Mr. 0100 Mr. Acting Chairman, members of this Gavention. I rise in opposition to the Kean mend-method of the second all of this merring, this early dates the second all of this merring, this early dates the second all of this merring. This early dates the second all of this merring this early dates the second all of this merring this early dates the second all of this merring this early dates the second all of this merring this early dates the second all of this merring the second all our work during the past year will go down the data in. The second are conserved the second that have this this fail cause tagmatum of exceeding the hole were, will not have the privilege, this define this will cause tagmatum of exceeding the hole were, will not have the privilege the the the hole were, will not have the privilege the the the hole were, will not have the privilege the data the people of this state the house the privation of the people of this state we have there is prive the the second will help to incouct the future grave how the state we have there are the people of this state we have there is the people of this state we have there the the the second were the mean the this data the second were the second will help to incouct the future grave how the state we have there is the people of this state we have there the the second were the people were were in the people of living we have the have the have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were the state we have there the the second were there the second were the second were the there the

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your attention and your support

your attention and your support. In closing, I think this is a good amendment. The tax assessors could be put into this business by making them show, over a period of five years, at least a twenty percent movement each year to-ward this goal, and we will have solved the knotti-est problem to be faced by this convention. I ask your support for the kean amendment.

### Further Discussion

Mr. Chairman, ladies and gentlemen of Mr. Lowe Mr. Love Mr. Chairman, ladies and gentlemen of the convention, I rise to make only one point, and that's to remind you of the point that I made when I spoke previously. We have well rooted in our tax base the fact that there are different classes of property being assessed at different percentages. We're here now getting ready to come up with one uniform percent. I fwe have an area where resi-dences have been taxed at ten percent...have been assessed at ten percent of the fair market value, land at five percent of the fair market value, and business property at twenty percent of the fair land at five percent of the fair market value, and business property at twenty percent of the fair market value, and we take all of this property and lump it into one flat percentage of fifteen per-cent of the fair market value, we're going to have a tromendous shift of taxes from the residences and the landowners to the ...from the businesses and the landowners to the residences. Let's not make that mistake of shifting taxes in this constitution. I ask you to vote against this amendment and stick. with the proposal of different classes of property.

### Questions

Mr. Lowe, on this business of the Mr. Goldman Mr. Goloman Mr. Lowe, on this ousiness or the public questioning the fair market value assess-ment, J can... I want to ask you this question; Wouldn't it be fairly easy for them to question the assessment on homesteads, but wouldn't it be fairly difficult for them to question the assessment on businesses and industry, if they so desired? Isn that one of the reasons why business and industry Isn't should have a higher percentage of assessment than homesteads?

Well, that may be one reason, Paul, but Mr. Lowe The Lower weight, that may be the reason, raul, but I would say the main reason is that we have system, today, that the classes are deeply rooted into that system, and I hate to see us try to come up with any tax reform. So, that would be two reasons.

<u>Mrs. Warren</u> Mr. Lowe, J wanted to ask this for a while, and it does have something to do with this. How many states give the same tax incentive to big business as the State of Louisiana?

Mr. Lowe Mrs. Warren, I really can't answer that because I don't have that information. But, I would think that probably Louisiana gives as good would think that probably Louistana gives as good an incentive as any state. I just presume that. But, we haven't found in any of our hearings, any place down the line, that industry is complaining now about the ratio that they are being charged the percent they are being charged on fair market value. So, I don't see any reason to bring the ratio that we're going to charge on fair market value for land and residences in line with what's value of 1 and and the value value of the value at being charged for industry. I'm convinced, at this moment, that there is a clear-cut distinction, ratiowise, where industry is being charged a higher ratio on the fair market value than industry and other landowners. I hate to see us destroy the.. what's well rooted into our tax system today. the...

## Further Discussion

Mr. Nunez Mr. Acting Chairman and gentlemen, ladies of the convention, J'll make my remarks brief because I see one grave difference in what we're trying to do here and what the plan as pro-posed to you does. If you take into consideration the fact that...and is sounds good that "let's treat everybody equal; let's make all property as-sessed at the same value; let's make all property in the state, whether it's commercial, whether it's industrial property, whether it's residential prop-erty, etc., let's put it all at fifteen percent af let's treat all our citizers the same." But, but it is the same same same same same same let's don't give exemptions for ten years to industry: let's give it to houses, too. Let's don't charge any taxes at all. When a man builds a house, let's don't have any taxes at all on that house. Let's do that, and then we'll be treating everybody the do that, and then we'll be treating everybody the time again about the old property tax relief for-mula. Personally, I thought it was a good formula. time again about the old property tax relief for-mula. Personally, I thought it was a good formula. I suffered in one of my parishes of fifty-two thou-sand people, and a budget of seven million dollars; I lost a million, five hundred thousand dollars. Everybody says it's simply because your parish-and I'll mention it; it's not Jefferson, although I represent part of that parish-but SC. Bernard abused the homestead exemption fund. That's as far from the truth as you can get. Let me tell you what actually happened, and I think it's in line with what we're talking about here. Let m Let me tell you what's going to happen to your growing parishes--your parishes that are experiencing tre-mendous growth that I experienced over the past mendous growth that I experienced over the past ten years. When you bring industry into the parish --and J have had tremendous industrial growth--and you totally exempt that industry, you don't have a nickel's worth of income coming in. Natu-rally, when you bring this industry in, your land values go up and you bring people in; people natu-rally dow industries. You bring houses; you bring residences. You need services and the short water a hours and the formation to be the services and the short water to be the services and the services and the short water water and the services and the short water the services and the service services and the service service services and the service service service service service services and the service servi bring residences. You need services. happened to Jefferson twenty years ago. It's happened to St. Bernard in the past ten years. One industry brought in twenty-eight hundred employees, and it built about five thousand new, additional and it built about five thousand new, additional homes. Well, who supplies that service? Who builds the sewerage plants? Who provides the police pro-tection? Who provides the garbage pick-up? Who provides the daily services? The local governing authority

Now, where does the money core from? They can't new, where does the money core from? They can't put it on the industry; the home is virtually exempt; the only place they have to go is to the homeowner. So, what I'm telling you here is that if you tax this property all at the same ratio, that if you want to tax all property at the same value--that is, fifteen percent-let's start on an equal prem-ise that all property is going to be exempt for ten years when they come into this state. Let's give that homeowner the same brack that you're giving a homeowner would sottle for the fact that he has a home and he doesn't pay any taxes for the first en years-once at all. If he has inventory, which we never. .we haven't gone into yet, but if he has inventory in that home can yakind, let's exempt that also, or let's make certain provisions that he's not taxed at the same ratio, that the That he's not taxed at the same tatio that the other parcels in his home are taxed at. That's what happens, and let's make provisions that on the first of the year, on the first of the year we might be able to push that inventory to Detroit or New York or Chicago where it isn't taxed in Louisi-ana. That's what you have. Then you'd have every-body at parity; then you'd have everybody on the same basis. Then, we can say, let's treat every-body the same. But, as long as you are treating some people...and I voted for all this stuff, by the way. I go the same the same the same basis. I'll continue to do it because we need jobs and we need industry but, let's don't use the argument that this treats everybody fairly--that this gives everybody the same break. It doesn't. It is simply does not. So, I would say to you that the only way... I think the fairest way, and we've been going 'round and 'round with this thing--not since this that he's not taxed at the same ratio that the convention started, but since the day one and I imagine a lot of other people wrestled with it be-fore I got involved in the problem, but it is a problem. I think the fairest and the most equitable and the best solution is the solution that the committee has come up with--where you tax them at a

aifferent ratio and you eave the exeption a th have been tow leave industry to get tere exp-tion. They need it, they deserve it But, et's don't take the burden and shift if from the indu-trialists, from the comercial enterprime, and have some yyelf. In fact, what you're saying, guess--any of you people out there are bus ness en -you are shift in that tak load back it you, but you are really not. But, let sign in that that bar burden at this parties are not hot tare end end

Further Discussion
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Mr. rean No. sir, I don't this that wull e the care.

Mr. Yean Weil, that's not ine, Mr. hehard,

Mr. Alario All right hw. the torrela e so ewhere around fifty its

Mr. Kean l' sorry, it would be two hub realing fifty thousand, excuse in a second seco

Pr Tony, Mr. Charton and edite solvaget. Transht have nor attention for a solvaget. Transht have nor attention for a solvaget. Discolaro had rejusted that held leave the solvaget of th

## Amendment

Mr. Poynter Amendment No. 1 [by Mr. De Blidax] On page 1, delete lines 13 through 17, both inclu-sive, in their entirety and insert in lieu thereof

(b) page 1, derive files to choose 1, occ. Actor sive, in their entirety and insert in lieu thereof the following: "Section 1. (A) All ad valorem taxation shall be based on fair market value of the property. The legislature shall establish winform procedures for determining fair market value and shall provide for considering use value in the valuation of bona fide agricultural, horticultural and timber land.

### Explanation

<u>Mr. De Blieux</u> Mr. Chairman and ladies and gentle-men of the convention, this amendment you might say, is more in the nature of a technical or a clarification of what we're trying to say. I think, in this perticular section. If you will notice we have already taken care of the percentage factor-ion in Dargraph (B). Unlost the care of the have already taken care of the percentage factor-ing in Paragraph (B). We've taken care of the as-sessors listing the property in Paragraph (C). So, therefore, and also if you will recall that we amended Paragraph (E) this morning to allow for the use value in the assessment of timber land, agricultural land, and horticultural land. So, in order to simplify all of these. I have proposed that Section (A) read as I have it here outlined. I think it would make for much more orderly pro-cedure, it would eliminate some words that would be, you might say, mere duplication. I think it So. be, you might say, mere duplication. I think i would be a better basis on which to proceed in writing a constitution. I ask your approval of the amendment.

### Chairman Henry in the Chair

[Previous Question ordered. Record

Mr. Chehardy Senator De Blieux, in other words this would require an assessor to assess your property at actual cash value on the rolls then. Is that correct?

Mr. De Blieux This wouldn't require anything more than is already stated in Paragraph (A) of the present provisions which we already have.

<u>Mr. Chehardy</u> No, sir, what this says here, par-don me..all ad valorem taxation shall be based on fair market value of the property; not on the assessed valuation of the property.

Mr. De Blieux You've taken care of that in Section (C), there is Paragraph (C) and Paragraph (D), Mr. Chehardy.

Mr. I'm not worried about that. I'm asking you about your provision.

Mr. De Blieux Well, I'm talking about my provi-sion; it wouldn't that.

Mr. De Blieux Doesn't change that at all.

Chehardy Senator De Blieux, your provision would require actual cash value assessment, and the same thing you acquired in your decision, one hundred percent assessment on the books, and the community would apply the tax against it. That's what you're putting in here.

Mr. De Blieux No, Mr. Chehardy, wait; let me ex-plain again. The only thing is that you've al-ready...we have already established the fact that we're going to assess property based upon fair market value. That's what this section says, t you will use fair market value in the valuation of property. We have taken care of the percentages in the other; it's not going to change any of that whatsoever.

Mr. Chehardy No, sir. I want to again repeat to you that when you state...

De Blieux Mr. Chehardy, let's don't try to confuse the issue.

### Chehardv I'm not.

Mr. De Blieux If you'd state something right, go ahead, but let's don't try to confuse the issue.

<u>Mr. Chehardy</u> All right, we're not...I'm going to read your language, and you tell me if it doesn't mean...Well, let me ask you this question. Show me in your provision where this provides for other The in your provision where this provides to the than actual cash value going on the assessment rolls. Show me, for example, where it provides that a percentage of agricultural lands or timber lands or homes will go on the rolls?

<u>Mr. De Blieux</u> Section (A) as it presently reads in the proposal reads that "all property subject to ad valorem taxation shall be listed on the as-sessment rolls at its assessed valuation which shall be a percentage of fair market value. " Kow, that's what we're using, fair market value. I've used those very words in this particular section.

Mr. Chehardy That's correct, but this is contra-dictory to the section you just read, is it not?

<u>Mr. De Blieux</u> It is not contradictory because your percentages are taken care of in Paragraph (B). We have the use factor taken care of in Paragraph (E).

Mr. Chehardy Well, if it's in there, why do we need you to repeat it again here?

<u>Mr. De Blieux</u> Well, I just thought it was a better way of stating than what we already have. Now, if you don't like it, ok. But, I thought we had taken care of the situation in a much better, short-tage acevorady or ong underer, concise manner, where everybody could understand it.

<u>Nr. Enhangdy</u> Well...just one nore question. <u>Are you aware that no matter which way I read this</u>. I come up with the same interpretation as I did in your suit, which requires a hundred percent assess-ment which has necessitated this problem in this convention?

Mr. De Blieux Mr. Chehardy, you should go back and read that suit. It would help you a lot.

<u>Nr. Mire</u> Mr. De Blieux, did you know that I read it exactly as Mr. Chehardy, that this means, and does in fact say, that we'll have to list all prop-erty at its fair market value? It doesn't say anything about percents, and you delete entirely our provision that states that it will be put on the assessment roll at a percent of fair market value.

<u>Mr. De Blieux</u> No, Mr. Kire, this doesn't say any-thing about listing the property or assessing the property. This says valuation of the property--in making your valuation. That's all this section says. This doesn't say a thing in the world about assessments or listing. There's mothing here that says the assessors have to list the property for a fair market value. The only thing that they use fair market value.

Mr. Mire Which is exactly what we say, but we say that we would list it at a percent of that--you don't.

Mr. <u>De Blieux</u> So, I just leave out the word per-centage; that's all I do because you've taken care of the percentage in Paragraph (B).

Mr Mire Well, did you know that I interpret that to say that well have to list it at a hun-dred per ent of value.

Mr. e lieux No, you won't have to do that. That's taken care of, if you do that, in your present...and there's another proposal that say! that, and i don't have anything to do with that.

Mr. Ra burn - Senator De Blieux, In the o ittee proposal it said that property shall be assessed at fair variet value, is that correct?

Mr. De Blieax That's correct

Mr. Rayburn Now, you're saying here that the leg-islature shall establish unifor procedure for de-termining fair market value. In your opinion are you oong to make assessors out of legislators?

Mr. <u>De Blieux</u> No, we're going to have to do that Senator Rayburn, under the law is the

Mr. Rayburn What would be your idea then of the Tegislature establishing a uniform procedure for

Mr. Di Blieux That is to tell the asses ors so that they would be uniform throughout the state, they want a uniform manner of assessment, and so

That's what...that's all that provides for.

Mr. Rayburn I mean you have no idea what a uni-for edure ight be at this time?

Mr. We Blieux No. 1 don't, that would be deter-ined by the legislature, just so that all the asse sors will be using the same guidelines in

Mr. Hynter Here's the amendment to (A) the last pending amendment at the moment to (A) at the desk, by Delegate in the tir's about two paragraphs

Mr. 10:111 bettere that this another would be a loop way to curie any or the set which as a structure of a the set of the set or moment. Given the another that are not be a set of set of the another that has be the set of the set of the another the set of the set of the set of the set of the the set of the the set of the set of

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Mr Lanier Mr Initt, al unerten the itteeprepualing et ur A., ta a of ioure that the property be intend at its an anti-value, but that intend te at ta a et a tion, it that orner.

for the person to have his right to his appeal or to complain, it's necessary that the property be listed at the fair market value on the rolls, and also at the assessed valuation on the rolls.

Mr. Lanier Well, the point I'm getting to is this: I five fix the percentages in the constitution, does it really make any difference which way we do it because, for example, if land is listed at ten percent and it's put in the constitution "at its assessed evaluation," all you've the fair market as determined by the assessor is, would that not be correct?

<u>Mr. Schmitt</u> Yes, sir, except for the fact that when you get, to as an example, Hibernia National Bank Building, are you going to have on the assessment rolls the percentage for land at the certain amount per square foot, and at the same time, you're going to have combined with that the building itself? I think that if you actually put it down there for the actual fair market value, it would be much more easy for them to determine the tricular not it't be wild be impossible for a person to go to thermine whether on not this is being treated fairly and equitably without the fair market value actually being listed.

<u>Mr. Pugh</u> 1 notice you used the words bona fide. Did you have in mind perhaps the person or persons may derive a certain percentage of their earnings from these particular agricultural, horticultural or timber purposes?

<u>Mr. Schmitt</u> I have in mind the fact that the legislature could best statute which would define what bona fide means, in order to prevent certain people from taking advantage of this situation.

<u>Mr. Pugh</u> I didn't see anything in here about the legislature doing that, is the reason that I asked.

Mr. Schmitt They'd always have the authority to do it unless you prevent them from doing it.

Mr. Pugh All right. Would you have an objection to a rollback tax, where if, for instance, the holder of any of these lands sold them then he would be obligated to pay a tax based upon what he would have otherwise paid in the last three years, to prevent speculation in these three areas?

<u>Mr. Schmitt</u> I have no objection. In fact, that was brought before our committee by some of the actual farming interests, etc., and I don't believe they have any objection to that at all.

Mr. Pugh All right.

Mr. Schmitt And this has been enacted in several other states already.

Mr. Pugh Yes.

<u>Mr. Dennery</u> Mr. Schmitt, who determines the percentage of the fair market value under your amendment?

Mr. Schmitt Under this amendment right here, it's not determined who does it. I have later amendments where it shall be established, where it will be debated at that time.

Mr. Dennery There's no limit...your limitation on the percentage is contained-elsewhere, because the way it's written, it could be assessed at a hundred and fifty percent of its fair market value.

<u>Mr. Schmitt</u> Well, if you will note, that in the committee proposal there's no limitation on it either.

## Mr. Dennery Thank you.

### Further Discussion

Mr. Mire Chairman, fellow delegates, 1 file in opposition to this amendment, and i'm going to try to be very short. It actually confuses, or tends to confuse, our entire proposal. We've spent some nime months practically, speaking about the ad valorme tax proposal maybe like scenty-five prproposal that in concept is basically agreeable by twenty-two of the twenty-three members on the committee. Some of them don't agree on some percents, some of them don't agree on the amount of homestead exemption, but the concept statewide, the way that it's going to be applied, has been agreed upon by, committeemen on our committee. Although Mr. Schmitt's mendment done in our proposal, it tends to tave sure in limb ond just confuse the whole issue. I rise in very serious opposition to it, and would like for you to defeat the amendment, as the determination of how we are going to, in fact, implement this.

### Questions

<u>Mr. Lanier</u> Mr. Mire, for the sake of the record, could you tell us why the committee chose to list the property at the assessed valuation rather than the fair market value, as proposed by Mr. Schmitt?

Mr. Nire Yes, sir, this is to dispel the fright of a hundred percent assessment or putting a hundred percent of your property on the line to be assessed by your local governing authorities, including municipalities and also police juries and school boards. They could, in fact, by statutory law, if they could get it passed in the legislature someday, maybe assess you at one hundred percent of value. Whereas, if we pag frideen and ben or whateer percent agore, they could never go any higher than that amount.

<u>Mr. De Blieux</u> Mr. Mire, you just mentioned the word one hundred percent; can you find me any place in the law where the word one hundred percent is used with reference to the assessment of property, any place?

<u>Mr. Mire</u> Well, fair market value in my estimation would be what the property is worth, or a hundred percent of the value of the property.

<u>Mr. De Blieux</u> Well, but there's no place in the law where it states where they assess at a one hundred percent of value any place, is it?

Mr. Mire You're absolutely right, but again, l'll say that fair market value...

Mr. De Blieux Now, doesn't actual value and fair market value--aren't they just about synonymous?

Mr. Mire Yes, sir.

Mr. De Blieux Well, aren't we using the words when we use fair market value, isn't that about the same thing as what's in the present law?

Mr. Mire I have no argument with you on that.

<u>Mr. De Blieux</u> All right. Then we're usually... wherever we speak about one hundred percent of value, that's a scare tactic, isn't it?

Mr. Mire No, it's not. If you in fact list at fair market value, that is a hundred percent of the value of the property--as actual value is.

Further Discussion

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Mr. Schnitt he threat that this is a hondred per extrype of assessent is a threat. It's one which has been raise until in our close by the assessers a state is ething which as bound to pwill the threat of their false, scare ta the is proble in latin property on he state fit ariet value, and, all o, at the his would resten a great under the late is a late to be the state of the late of the state of the state of the his would resten a great under the late of the state state of the state of the state of the sta

Characteristic in Contract Contract Contraction

## Amendment

Mr. Poynter Amendment No. 1 [by Mr. De Blimma] On page 1, delete lines 18 through 25, both inclu-sive, in their entirety--matter of clarity. Sena-tor DeBlieux, add: and delete the Floor Amendment proposed by Delegate Mire and adopted today--and insert in lieu thereof the following: -(8) The classification and rate of taxation shall be uniform throughout the taxing district."

### Explanation

The Blieux Mr. Chairman, ladics and gentlemen of the convention, I would like to call to your attention that by inserting these percentages, which you are doing, into our constitution that you are completely changing all of the law with reference to taxing of property. I would wish that each and every delegate could read the re-you would understand the taxing procedure. There is nothing wrong with the law as it's presently written. What is wrong with it is that it had not been enforced. The courts are now on the verge of requiring the assessors to enforce the law. The layer: it gives him a right to protest his assess-ment. We might need a few changes in that regard. Now, I just want to call this to your attention, let you know what you are doing. I know you are not going to adopt this amendment. Therefore, right relation, taking up the time of this convention, rather than taking up the time of this convention, I'd just like to withdraw it now.

### Amendment

- Improvements for Residential Purposes--15%
- All other Property-----20%

### Evolanation

<u>Mr. Love</u> Mr. Chairman, ladies and gentlemen of the convention, this particular samedment does nothing more than sets new percentages in the orig-inal proposal-committee Proposal No. 26-that you have before you. If you look at line 23, 24, and 25 of the yellow copy of Committee Proposal No. 25 of the yellow copy of Committee Proposal No. 26, the land, improvements on residential property, and all others are set forth. This amendment merely leaves the proposal as it is, except substitutes Property--15:, and All other Property--201." Now, 1 don't have to speak a long time on this particu-lar amendment, because we have the same issues in-volved here that we have had involved in all of the other proposals. First of all, the tax base is important. That is the one thing hat I men-ber of the year of the property of the property of the property Secondly weeply rest in the property to the property ad valorem taxing system, is a system of classifi-Secondly, deeply rooted in our taxing system, our ad valorem taxing system, is a system of classifi-cations for land, residential property, and all others--the "all other" covers primarily businesses. I don't believe that we can change that concept without having a tremendous shift from one class of taxpayer to another class of taxpayer. So, we must have a proposal that is going to provide an adequate tax base. We must meet the obligations adequate tax base, where the the obligations of the endow the short hands of the must restifictor fue that we have contracted for over the periods of years-the school boards, the municipalities. We can't destroy the tax base. We must have an ade-quate tax base to meet the demands that are there. Secondly, we must continue to provide in our sys-tem of taxation those classifications that will more clearly reflect what's deeply roated in our system today. We can't send this constitution to the people of the State of Louisiana and say,

We've come up with a system of ad valorem taxes that so going to shift taxes from business to the business to the source of the source states to the that is up on the source of the source states to the that is up on the taxes from the homeowner to the business. Now, I have had, from the figure to the business in this particular field-ad valor the taxes experts in this particular field-ad valor the taxes experts in this particular field-ad valor the taxes experts of that property. So, I say the taxes are the taxes of that property. So, I say the don't business property that is at least of warder to ub the that five property. So, I say the don't business of that property. So, I say the don't business of that property. So, I say the don't business the taxes are going to have trouble. At the same time, fi ad trouble. I doubt seriors if i tar percent, the taxes the don't business the tax the same time, fi ad trouble. I doubt seriors if i tar percent, the tax the taxes and the tax percent, the taxes the don't business the taxes that with the tax the taxes are advected by the taxes the taxes the taxes. It's more than may be needed for a taxes are as the tax that the tax percent, the tax the tax the tax that the tax base that the the tax the tax that the tax base that the tax the tax the tax that the tax base that the tax the tax the tax that the tax base that the tax the tax the tax base that the tax base that the tax the tax the tax base that the tax base that the tax the tax the tax base that the tax base that the tax base that the tax the tax base that the tax base the tax base that the tax base the tax base that the tax base the tax base tax base that the tax b maintain the base that we have today.

 $H_{\rm T}$  E.J. Landry Mr. Lowe, I have been paying: very close stiention, and I can't insigne why jue a few moments ago a recorded vote was such that you voted either "yes" or "no." Do you remember what you voted a moment ago, when we voted ten, ten, and fifteen?

Mr. Lowe I voted in favor of ten, ten, and fifteen

Mr. E.J. Landry You voted ten, ten, and fifteen.

<u>Mr. Lowe</u> I believed that we were raising the tax base from what was in the proposal. I would vote for any proposition that raised the tax base, Mr.

Mr. E.J. Landry Do you remember how many people voted "yes"?

Mr. Lowe I think, probably, there was only a few votes against the proposal, Mr. Landry.

Mr. E.J. Landry Well, there were a hundred and seven people who listened fully to the arguments and voted 107 "yes." I just wanted to know if you remembered that?

 $\underline{Mr} = \underline{Lowe}$  I remember very well, and I remember why I did it. Mr. Landry, because it raised the tax base from the proposal we had before us at the time. I'm withi in favor of raising the tax base to something that I feel is more adequate.

Mr. LeBleu Mr. Lowe, how does the ten, fifteen, and twenty compare to the averages on that types of property, statewide, now? Do you have any idea?

Mr.Love Mr.LeBleu, as I mentioned earlier, J think one of our problems is not having information that we can rely on as to the tax base. I can tell you that the reason that I used the percentages in this amendment is because I believe that it closely

rese bles the statewide percentages today. Fro the surveys that have been run, professional surveys, I understand that the homesteads are probably around fifteen percent and that the buliness property is in excess-two, three, four, five percent in excess of the home teads.

Mr. Flory Mr. Lowe, lowing up to fifteen percent on residential property. If ask you the same question Mr. Chehardy asked earlier this porning. In it it true that you have to have a homestead exemption of six thousand dollars, rather than four thousand dollars?

Hr. Love Hr. Flory, a four thousand dollar homesicad exemption that's in the constitution, in this particular proposal, would exempt the homesicad of twerty-six thousand, six hundred and sixty-six dollars. I belleve that exempting a homesicad of twerty-six thousand, six hundred and sixty-six dollars is adequate. I further believe that that is going to cover homes that are not being covered today. So, we are giving the taxpayer a break, as I appreciate it. We can just go on the n-dividuals, that probably the average statewide could be set to be around twenty thousand dollars today-the average home that's being exempted. So, we are giving...if that is true, we are giving the homeowner a six thousand, six hundred and sixty-six dollar break on the homested exemption.

Mr. Flory But, you are giving him less than what the committee proposes in their proposal. Isn't that correct?

Mr. Lowe Yes, sir. But, there were many of us that when the constitute care with ten thousand at the when the constitute care with ten thousand at was too much. When they care with five thou at ten percent with fifty thousand, we thought it was too much. I'm erely saying that 1 believe that twenty-six thousand six hundred and sixty-six is a fair break for the ho meaver, and it does better than a status quo because it puts him in a little bit better position than he is in today.

Mr. Toca Mr. Lowe, are you aware that this twenty percent would almost put the small groceryman out of business? Are you aware of this on all other properties?

Mr\_ Love No. sir. I'm not aware of that, Mr. Toca. I'm a busines man yself, and I have been paying ad valorem taxes. I would tell you that, I think, the thenty percent..close to twenty percent is what he has been paying, and I think it's a status quo.

Mrs. Warren Mr. Lowe, think you care with the other all noment; it was ten, ten, fifteen. Then, you stated up there a inute ago, which concerned me, you say you were for raising it all the time. New, are you going to bring this on us now, spoonfeed us a little bit at a time, and then come back with another one?

Mr. Live Mr., Warren, yuu have been itting in thi, convention with it for nigh on nine and a half nonths nuw. You know that I have never spoonfed you or any other delegate in this unvention

Mrs. Warren I ain't never been on this either befure, neither.

Mr Lowe Well, I'm not a 'peon-feeder.

Mrs Warren ee, 1 right need poon-feeding.

Mr is we fiverything I have to all we your quetion fire (1), Mr. Warren, everything I have right nuw is on the table. If this fails, I with insthing etc. If it' parted, I' happy, and I want no more

urther 1 u tion

<u>Mr\_ur</u>on <u>Mr</u>.that , fe un e ate i e in upport f <u>Mr</u> one a and ent be ause this it i dea ing with a difficult pile rei. Usy 1 think that we are breeding irres is i ty when It is deen the above of the link is not the rest of the second se Thus, there are vasid distributions between the par-sines that are assessing at a low rate, wherever they are, to roll their millages back-awn in tey can easily do. For those of you that are not fan-iliar with it, when you pass a bond issue trags that's to be repaid with a property tax, you ven t to roll your millage back periodically, whenever the revenue you are takin in exceeds what is ne-essary to pay the principal and interest if the bonds. So, I don't see any big proble at all rolling back these tillages But, as I said earlier this roll forward business if you couple it with a high ho estead ere tion and in effect rad ate the tax back. I thin in sa endment retains the base that you need to operate for local pub provements. You know, there are two things that bother me about all this sy pathy that I have heard opnet when the one opnet wo are onparishes. I didn't do the urvey I don't in w whether the data is correct or incorrect but, it was interesting to e to note the tree endued discrepance es that you had within parl ness 's ... if you've got that bil a dirrepany within parl he today, an I going to believe that we are to turn around in and reaser all of the interty to turn around in and reaser all of the interty in fairy tale again. really dir in the tale why, when our randfather in the topti. The and public i prove ents, which I the test and public is provide for public at its and public is provide for public at its and public is prove ents, which I the reaser with we are in the fortunate eyenn and education Circumstances that we are today charact to its which going the first and which is the event which going the first and which is the event which going the first and which is the event work is an even when the and which is the event work is an even of the first and which that is not aware unsain first at the shift is not aware unsain first at the which going the first and which is the even which distributed which is an even of the the shift distributed which is a shift we are in the shift distributed which is a shift we are the shift distributed which is an even of the shift of the shift distributed which is a shift we are in the shift which going the first and which is the shift of the shift distributed which is the shift of the shift of the shift distributed which is shift which is the shift of t

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[1760]

But, I want you to notice who they put the attack on--the homeowner. The two preceding speak-ers and the man who proposed this amendment has yet to mention the fact that industry today in Louisiana has removed seven billion dollars--not million--seven billion from the reach of our taxa-Seven billion. The last four hundred miltion. lion that was removed recently in the past seven or eight months, less than seven percent of it was Gornami, industry, the majorister of the sad of addi-tions to existing industry. They don't get up here and tell when Coca-Cola builds a new syrup plant to sell your children and my children and ourselves Coca-Colas, they are exempt from taxation. That's not a new builds are induction islana. or Pepsi-Cola, or any other company. They are raping our treasury. But, these sad people who cry because of injustice never talk about the whole, about what the industrial exemption has done to Instead, they take the organization or the state organizations supported by big industry to feed organizations supported by org industry to reco pap to the people of this state, and I refer to PAR and GSRI who are the father and mother..or fathers of this pamplet that Mr. Burson has spread around. Now, I'm saying this publicly; they show in Jefferson Parish-first, let we state this-the very stuff they show here proves what will happen under reassessment: (1) every statement they have made in here in relation to Jefferson Parish is an absolute lie, and I say that to Mr. Steimel if he is in the audience, and I say it to PAR and to GSRI Now here is why. We, when they made this study, we bothered to see how they were making it. What they bothered to see how they were making it, what uses did, for example, when they say a house assessed at twenty-one hundred and sold at twelve thousand five, they don't tell you that they took an assessment, say in 1969, and a sale in 1969 and showed the as-sessment for the '69 sale. It's common knowledge sessment for the bysale. It's common nowiredge and has been done for generations. That new sale is not reassessed until the next year. So, there-fore, had hey bothered to check the particular sales in question or twelve-thousand-five-hundred dollar house, or twelve-three-hundred dollar house, dollar house, or twelve-three-hundred dollar house, the following year would have been assessed at exactly the same uniform percentage. For example, they show two houses sold for seventy-five thousand each-one assessed at forty-five hundred and one at six. What they don't do is bother to check the next year, when we actually assess these properties. The assessment they showed you may have been on have been put on depending on the year this study was made. I believe at the time it was made we had an eight percent level. They would have been put on at exactly eight percent each, which would put on at exactly eight percent each, which would have been substantially more than the figures shown Now, reassessment statewide, just as these here. low assessments reflect higher prices on sales of these properties--assessments that have been on the books for years throughout the state as property is sold or reassessed-we are going to get more and more money into this state. If we would give in to the type of percentages that are here proposed by Mr. Lowe, you would bring disaster upon the prop-erty owners, the commercial property owners, and by Mr. Lowe, you would bring disaster upon the prop-erty owners, the commercial property owners, and the homeowners of this state, the likes that have the homeowners of this state, the likes that have want to know how had the millage picture is, not only in defferson, but in about sixty-five or seventy percent of the parishes, you have only to realize that the disaster wrought in New Jersey has been worked with about a hundred mill average and maybe up to a hundred and thirty mills in some districts. Illinois has suffered. If you have bothered to read the material I gave you, you would be that it's people who make proposals such as these that have lead their states into disaster. I these that have lead their states into disaster, is und for this convention to try to make sure that we don't let disaster befall our state. We have a judgment requiring a hundred percent assessment, we have to do something to solve it. If you will just excuse me, if I see something that is going to work have to get up and say it. I urge your

defeat of this amendment.

### Questions

<u>Mr. Toca</u> Mr. Chehardy, wouldn't you agree this amendment that Mr. Lowe has would make the rich people richer and the poor people poorer?

Mr. Chehardy It would make the rich people poor and make the poor people poverty stricken.

### Further Discussion

Mr. Toomy Mr. Chairman, fellow delegates, 1 too, rise in opposition to this amendment for several other reasons than what Mr. Chehardy had just mentioned. One, 1 rise in opposition to the distinction made between the percentage evaluation for assessment valuation between all land and between reason to draw such an distinction, a different percentage figure between the two. This only favos land speculation, for one thing, as opposed to residential properties. Further, many of the people I represent, particular the young couples and even the aged are renters, and no ane has speken yet of the renters. The renters would be...rental provemor for besidential purposes that the higher taxes for residential purposes, rental facilities, would only be passed onto the renters themselves. Many of these renters not only can afford..cannot afford homes at this time or not willing to buy homes at this time. At least for the people who do own broke the renters. A distinction nere shown to for here the renters. May not only be passed onto the renters this fur his tor home the shown to not his special areas, we provide industrial exemptions. But, no one has thought of the renters. A distinction here between land and residential purposes would only porties for mid the renters. A distinction here between land and residential purposes would only porties for his first, that it encorases land speculation to the renters. Again, lasy I rise in opposition to this first, that it encorases land speculation as opposed to resident burden onto the renters who do not enjoy any exemptions at all. I'll yield to any questions, Mr. Chairman.

### Previous Question ordered.]

## Closing

<u>Mr.Love</u> Mr. Chairman, ladies and gentlemen of the convention, I want to tell you in all sincerity that I hope that today we can adopt a tax base that is adequate to meet the future needs of the State of Louisiana and the taxing authorities that spread throughout this great state. There have been many things said up here today about this particular proposal. I'm not going to try to answer all of them. But, let's just take the proposition do violence to the renters. We have no difference between this particular amendment and the proposal that we have already adopted. There's the five percent spread between residential property and business property in the proposal that we have already adopted. We have no more than a five percent on residential property and the twenty percent on residential property and the twenty protect of that we have a the collback provision will take care of any Access taxes that could come from a higher base. We have no they have already adopted. The rollback provision will take care of any Access taxes that could come from a higher base, we are a least providing a tax base for those parishes that find themselves in the position that they have been assessing homes at thirty percent, and twenty percent. Those people have been doing a good job. Those assessors have been doing a terrific job. Now, we will tell them because they have done a terrific job, we are going to penalize; we are going to take your tax

Dase away. So, now we take your tax base away, you can t service what you need to service 1 hope you take his and ent seriously, because there are any f you that will go ho e and find wit that you will tell your school board and yo r

Mr ymer Ameng ent ho. 1 [2 Mr. Am ti. n pare], delete lines [8 through 25, both inclu-lines and Ar. In its [10] the Convention of others and adopted today-in their entirety miniscrit in teu thereof the following: 8 The assistications of property subject to ad valorem taxation for the purposes of deter-ining assessed valuation are as follows: 1 Research approximation of the subject of the subject 2 Conversional property 4 An unit utural, horticultural, and timber al

Mr. ch itt he purpose of this a endment is to reart to local governing authorities the flexibil-iny which incessary for them to deal with the volte's of the future. I believe that many of us re failing to see the problems of hiplementation of this lewide fixed percentage for all purposes. which, but also for statewide purposes if the state mund de ide to get back into the property tax meases. In our discussion with the governor, it is no used to be the state of the purpose of the state meases. can be an end of the second power in the second sec

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<u>Mr. Schmitt</u> As you know, we have specifically listed them. But...I...you are correct.

<u>Mr. Mire</u> Mr. Schmitt, during our committee meetings, do you recall anybody asking for all of these particular classifications...anybody who testified?

Mr. Schmitt No.

Mr. Mire Thank you, sir.

<u>Mr. Goldman</u> Mr. Schmitt, in your delineation of classifications of property, you forgot to add in there, or did you forget to add in, "professional property"?

Mr. Mire What about "unprofessional property"?

Mr. Goldman Well, where would professional property come in under these classifications?

<u>Mr. Mire</u> I would presume it would be under "all other property". However, the specific definitions would be left up to the legislature.

> [Record vote ordered. Amendment rejected: 6-105. Motion to reconsider tabled. Motion to take up other orders of the day adopted without objection.]

> > REPORTS OF COMMITTEES [*I Journal 632*]

INTRODUCTION OF PROPOSALS [I Journal 633]

[Adjournment to 9:30 o'clock a.m., Thursday, October 18, 1973.]

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