

# SIXTY-FIRST DAY

## MORNING SESSION.

TUESDAY, April 23, 1912.

The Convention was called to order by the president, and opened with prayer by the Rev. Homer Alexander, of Columbus, Ohio.

The journal of yesterday was read and approved.

Mr. KILPATRICK: As a question of privilege I would like to be allowed to vote on Proposal No. 122.

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

Mr. HOLTZ: I wish to vote on that same proposal.

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

Mr. JOHNSON, of Williams: I would like to have my vote recorded on the motion of Mr. Doty last night, as I voted, but apparently was not heard.

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

## SECOND READING OF PROPOSALS.

The PRESIDENT: The next business is Proposal No. 209 by Mr. Tetlow.

The proposal was read the second time.

Mr. TETLOW: Mr. President and Gentlemen of the Convention: In speaking upon this proposal, I desire to discuss to some extent the question of an eight-hour day as applied to public works.

This proposal provides for an eight-hour day on public works, and not to exceed forty-eight hours a week on the maintenance and operation of public works, applying to laborers, mechanics, etc. It is quite evident that we desire this proposition to become a constitutional provision to safeguard this right, and to circumvent the decisions rendered by courts of this state. Many of you will remember that in 1900 a state law was passed in this state providing for an eight-hour day on public works, and also an eight-hour day on all contracts and subcontracts for and in behalf of the state and its political subdivisions. That law was declared unconstitutional by the supreme court of this state in a case arising in Cleveland, the Clements Construction Company vs. The City of Cleveland. In that case the supreme court of Ohio decided as follows:

The act of April 16, 1900 (94 Ohio Laws, 357), entitled: "An act to provide for limiting the hours of daily service of laborers, workmen and mechanics employed upon public work, or of work done for the state of Ohio, or any political subdivision thereof, providing for the insertion of certain stipulations in contracts of public works; imposing penalties for violations of the provisions of this act, and providing for the enforcement thereof," is in conflict with sections 1 and 19 of article I of the constitution of Ohio; because it violates and abridges the right of parties to contract as to the number of hours of labor that shall constitute a day's work, and in-

vades and violates the right, both of liberty and property, in that it denies to municipalities and to contractors and subcontractors the right to agree with their employes upon the terms and conditions of their contracts. Said act is therefore unconstitutional and void.

The action of our supreme court in declaring this law null and void is not in conformity with the decisions rendered on the same subject in other states and by the federal court. We have at the present time an eight-hour law in Arizona, Oklahoma, New Mexico, California, Idaho, Wyoming, New York and Massachusetts. All of those states have enacted laws or constitutional provisions for an eight-hour law on all public works and contracts and subcontracts for such public works. A case arising in Kansas, where the subcontractor was not a resident of that state, allowed a case like the one we had in Ohio, the Clements Construction Company vs. The City of Cleveland, to go to the federal court, and the federal court held that the state had a right, under its police power, to regulate the hours of labor of workmen employed upon public works. The court held:

It is within the power of a state, as guardian and trustee for its people and having full control of its affairs, to prescribe the conditions upon which it will permit public work to be done on behalf of itself or its municipalities.

In the exercise of these powers it may by statute provide that eight hours shall constitute a day's work for all laborers employed by or on behalf of the state or any of its municipalities and making it unlawful for any one thereafter contracting to do any public work to require or permit any laborer to work longer than eight hours per day, except under certain specified conditions, and requiring such contractors to pay the current rate of daily wages.

This was a decision of the United States supreme court in a case arising in Kansas which embodied the same principles as those in the Clements Construction Company case, which was carried through our circuit court and to our supreme court and there declared unconstitutional.

It seems to me that we as a state certainly have a right to establish the hours of labor for men employed by the state and for the state. Certainly we have a right, as held by the federal court, and I do not see any reason why we as a state cannot incorporate this provision into our constitution, to protect this fundamental principle, which we as a people surely have a legal right and a lawful right to do.

Now let us consider the action of the national government on this question. This movement for an eight-hour day on public works began away back in 1868, when President Grant was in office. President Grant recommended in a message to congress the enactment of an eight-hour day for the protection of men employed on public works. That didn't become a law until 1892,

## Eight-Hour Day on Public Work.

but in 1892 a law was passed granting an eight-hour day on public works and upon contracts for such public work.

Recently congress has enacted a law making broader the application of the eight-hour day. It included in the original eight-hour day such amendments as provide that all fortification work, whether done in the United States or any of its territories, shall be done under the eight-hour day, and it seems to me that with the United States government recognizing this right, and with the great number of states recognizing the right, there is no reason why this great state of Ohio cannot fall in line with the other states and with the nation and adopt this principle.

I want to quote from President McKinley, before he was president of the United States, and while he was a member of congress, on this particular subject, when the matter was under consideration by congress. He said in part, and it is found in the Congressional Record of August 28, 1890:

And the government of the United States ought, finally and in good faith, to set this example of eight hours as constituting a day's work required of laboring men in the service of the United States. The tendency of the times the world over is for shorter hours in the interest of health, shorter hours in the interest of humanity, shorter hours in the interest of the home and the family; and the United States can do no better service to labor and to its own citizens than to set the example to states, to corporations and to individuals employing men than by declaring that, so far as the government is concerned, eight hours shall constitute a day's work and be all that is required of its laboring force.

Ex-President Roosevelt made favorable mention as to the enforcement of the eight-hour day in his annual message to the 57th congress, first session, when he said:

So far as practicable, under the conditions of government work, provisions should be made to render the enforcement of the eight-hour law easy and certain. In all industries carried on, directly or indirectly, for the United States government women and children should be protected from excessive hours of labor, from night work, and from work under insanitary conditions. The government should provide in its contracts that all work should be done under fair conditions, and in addition to setting a high standard, should uphold it by its proper inspection, extending if necessary to the subcontractors. The government should forbid all night work for women and children, as well as excessive overtime work.

During the last session of congress, President Taft in his message to congress recommended further amendment to the present eight-hour law to make it more mandatory, so that it could be enforced. This movement is recognized by all men who are students of economic questions.

I want to quote also some of the conditions existing in this country affecting some of our industries. In the industry with which I am familiar, and in which I have spent all my life, I have seen some changes. There

has been an evolution that formerly was believed could not be brought about. I quote the following:

Prior to 1898 the miners in Ohio worked nine, ten and, in many instances, twelve hours a day, and I can well remember those long tedious working days, on many of which we never saw daylight, and I can remember the hope of more time for home, study and recreation that came with the shorter workday in 1898. When the change was made to an eight-hour day the pessimist was in evidence. Many of the mine owners claimed that they could not operate their mines and meet the competition of other states where the longer workday prevailed, many miners contended they could not live with the reduced earning power that must eventually follow, but what did happen? Why, the mines continued to operate, the men continued to live, and, according to statistics, the per capita production was greater under an eight-hour day than under the nine or ten; consequently all concerned with the industry were benefited.

These are facts in that particular industry. Men working an eight-hour day produced more tonnage and earned more money than under the nine, ten or twelve hours, and those facts and statistics can not be denied, because they are absolutely true, and borne out by the records submitted to the mining department by the operators themselves.

It has long been apparent to every student of our economic problems that an eight-hour workday for workmen in our industrial affairs is a necessity.

Modern inventions, wrought by the skilled hand of the mechanic or the trained mind of the scientist, have invaded every industry. We see the process of the machine either eliminating the workman or aiding him in his productive capacity, and with the productive power making more rapid strides than the consuming power we have indeed an economic problem of grave concern. Under our patent laws the patentee is protected. A patent affecting any industry naturally comes into the control of the employer, and the only logical solution of this problem for the workers lies in the reduction of the hours of labor.

I believe that intelligence will be the barometer that will measure our standard as a people. We should, I believe, give our working men time for study. In the interest of future generations we should not overtax his physical ability; in the interest of the home we should give him time to enjoy its blessings, and in the interest of a higher type of civilization this Convention should adopt this proposal and make this commonwealth a leader in a higher, broader, more humane system of government in this enlightened, progressive age.

Mr. HALFHILL: Will you permit me to ask a question, prefacing my question with a statement? Last evening at our session we passed a proposal which reads: "Laws may be passed fixing and regulating the hours of labor, establishing a minimum wage and providing for the comfort, health, safety and general welfare of the employes; and no other provision of the constitution shall impair or limit this power." I voted for that. Why does not that provision which we have adopted here cover fully the proposal on which you have just addressed the Convention?

## Eight-Hour Day on Public Work.

Mr. TETLOW: I think the proposal does not cover the question at issue. The fact that the proposal passed last night gives the legislature or the people certain power to enact laws regulating the hours of labor, establishing a minimum wage, etc., and the fact that the legislature passed a law regulating the hours of employment, do not guarantee that the courts may not declare that law unconstitutional because it is an invasion of certain fundamental rights reserved and which can not be destroyed. We had the power under our old constitution to pass a law providing for the eight-hour day on our public work, but our courts of last resort declared it unconstitutional. I claim that we ought to pass this provision and we ought not to leave it to the legislature. In this case the state and its political subdivisions are the employers and we are the employes. This is for ourselves and I think we ought not to evade the issue; we ought to say here in the interest of our own employers, who are the citizens of the state—which is the employer—that we recognize the right to an eight-hour day to men on public work, and we should not leave it to the legislature.

Mr. WATSON: I desire at this time to call attention to the special order for 10:30 o'clock a. m.

Mr. HALFHILL: Was it stated by you that a few years ago the legislature did pass a law fixing the eight-hour law for labor that was held to be unconstitutional as in conflict with section 1 and section 19 of the bill of rights?

Mr. TETLOW: Correct.

Mr. HALFHILL: Now the proposal we adopted last night expressly said at the end of it that no other provision of the constitution should impair or limit this power (referring to the power of the forepart of that proposal). Why haven't you got the best grant of power there that can be secured under a constitutional provision, and why is this necessary?

Mr. TETLOW: The question is this—we have a question here now. It is a question of constitutional provision, and the question before this Convention at this time is the recognition of the right to an eight-hour day for public work. So, I say, why leave the question with the general assembly, which may never pass the law?

Mr. HALFHILL: Is it fair to assume, if they have already passed such a law and it was held invalid as being unconstitutional, that they will not now pass the law again when we have given them the power to do so? Is it necessary to legislate on that point when they are expressly granted the power?

Mr. TETLOW: The only reason why we are putting in this organic law a statutory provision is because of the fear that we can not obtain the things we are entitled to by legislative enactment. If our courts were not setting aside the express wishes of the people in so many instances the need for specific statutory legislation in organic law would not be here.

Mr. HALFHILL: This power is granted to the legislature. Now if the legislature could not be trusted we would have the initiative and referendum, if it is adopted. Is it not a farfetched assumption to say that the legislature can not be trusted to enact an eight-hour-day law when it did that a number of years ago?

Mr. TETLOW: I contend the matter ought to be settled here now. Ought not Ohio keep pace with the eleven or twelve other states which have established this principle, and with the nation, which has established the principle? In New York they passed a law providing for a certain work day and that law was declared unconstitutional. The state of New York amended its constitution giving the state the right to enact an eight-hour day on public work. They went through the same thing we are going through here. I can not see why we can not deal with the matter the same way. Our legislature passed such a law and it was declared unconstitutional by the supreme court, and I do not see any reason why, if there is merit in the proposition, that we shall not decide the question now.

Mr. HARRIS, of Hamilton: I want to preface my question by saying that I am in thorough sympathy with your proposal, but do you not think it is belittling the cause of labor and the work of this Convention to duplicate our work as your proposal undoubtedly does? The resolution last evening absolutely gives you, as you well know, the same constitutional right as is here embodied in Proposal No. 209. Therefore the supreme court could not possibly declare a law passed under it void—assuming that the proposal of Mr. Farrell, which we passed yesterday, is adopted by the people—the supreme court could not possibly set aside on the ground of unconstitutionality any measure along these lines, limiting the hours of labor, adopted by the legislature. Your proposal gives no greater constitutional power than that proposed yesterday afternoon. It will be a stain on the work of this Convention if we go before the state of Ohio with two proposals practically the same. If your position is correct, then the proposal adopted last evening is embodied in yours, and you should embrace in your proposal as amendments all the legislative and statutory enactments you wish covered by the proposal of Mr. Farrell.

Mr. TETLOW. That is not a question and I can not answer it. You have really answered it yourself. I want to say that we must distinguish the difference between the action of the Convention last night and this question under consideration. The action of the Convention last night simply gave the legislature certain powers. We know the condition in the state at present. The people have not advanced to the stage where they are going to establish a minimum wage in all classes of industry, but we have granted power to the lawmaking body to do certain things. Here is a question that is before us. It has been up before the people and it has been passed by the legislature, and the question to decide now is, Do we recognize that principle as right at this time, or are we going to evade it and leave it to some one else to decide, when we know the substance of it is right?

Mr. HALFHILL: You concede that the proposal last night as a grant of power—

Mr. TETLOW: Yes.

Mr. HALFHILL:—to do this thing?

Mr. TETLOW: No; I do not concede that.

Mr. HALFHILL: Do you not concede it was a grant of power and is it not your objection that the legislature will not act? Is not that your position exactly?

## Eight-Hour Day on Public Work.

Mr. TETLOW: To a certain extent, yes.

Mr. HALFHILL: Would it not be more logical to combine this proposal you have here this morning with the one you had last evening and attach this to it as the expression of the Convention? Would not that be the proper way?

Mr. TETLOW: That could be done that way.

Mr. HALFHILL: Then would it not be a grant of power in certain instances and an elaboration by way of legislation on that power?

Mr. TETLOW: That is correct. It could have been done that way, but we didn't do it that way.

Mr. HALFHILL: They ought to be combined.

Mr. TETLOW: As far as I am concerned I am perfectly willing for the two proposals to be combined by the committee on Arrangement and Phraseology.

Mr. HARRIS, of Hamilton: This proposal refers only to public works and I would support that as an amendment to the other, but I do object to two separate proposals on exactly the same principle.

Mr. ROEHM: Would not this question be largely settled by the manner in which we submit the constitution? If we change our present plan would not this be desirable. It would go into the body of the constitution, but if we are going to submit these matters separately, might not that one clause relating to the minimum wage endanger the entire proposition before the people?

Mr. TETLOW: It might.

Mr. ROEHM: Would not they have a right to vote upon both propositions?

Mr. TETLOW: I don't think so.

Mr. HARRIS, of Hamilton: I may be wrong on the parliamentary law — it seems I am generally — but could not the Convention now direct the committee on Phraseology to incorporate this as a part of the proposal adopted last night? That would overcome the objections, and I would be glad to support it if it could be incorporated in that form.

Mr. STILWELL: The Labor committee has had that very matter suggested by Mr. Harris under consideration. We have no objection to doing that when the Convention decides ultimately the manner in which our work is to be submitted, but on this proposal we do insist that the state ought to recognize the principle of an eight-hour day. The complaint is made, and perhaps justly so, that it is a matter purely within the function of the legislature, but many proposals already passed could have been taken care of by the legislature, and the mere fact that they have not done it is one of the reasons why this Convention has been called. There are perhaps two or three hundred thousand workmen in the state of Ohio who are watching three or four proposals. This is one of the matters the legislature has not taken care of in the past.

Mr. KNIGHT: Was it because they could not or because they didn't want to?

Mr. STILWELL: I have not been a member of the legislature and I could not really answer the question.

Mr. KNIGHT: Was it not because they did not have the constitutional power?

Mr. STILWELL: I think probably that is true in this particular instance.

Mr. SMITH, of Hamilton: I understood the gentleman from Columbiana to say that the legislature had passed the eight-hour law some years ago?

Mr. TETLOW: In 1900.

Mr. SMITH, of Hamilton: And the supreme court declared that law unconstitutional?

Mr. STILWELL: That is true.

Mr. SMITH, of Hamilton: If the proposal we passed last night says "nothing in the constitution shall limit the power" and if the legislature were to pass an eight-hour law, would not the supreme court hold that valid?

Mr. STILWELL: That is probably true. I am not a judge of the supreme court, but I presume that is so.

Mr. SMITH, of Hamilton: I wish the gentleman would make an explanation why, after establishing the broad constitutional provision, they deem it necessary to specify on this legislative matter?

Mr. STILWELL: I simply assume it is the right of the great mass of working people in this state to insist upon the recognition of this principle in the fundamental law of this state, and it is not necessary that this campaign should be made the second time before the legislature.

Mr. PECK: Did not that proposal last night recognize it?

Mr. STILWELL: Yes, but I do not see why in this particular matter there should be any unnecessary quibbling over the mere fact that there may be some legislative characteristics in this proposal, and I believe the Convention should approve it.

Mr. KING: It is true if Proposal No. 122, passed last night, is adopted by the people and becomes part of the constitution, it includes the legislative power intended to be conferred by this proposal but it is not true that the rule vice versa prevails. It is not true that this contains all of the legislative authority conferred by Proposal No. 122. There are some objections — I don't mean fancied objections, but real objections — to Proposal No. 122 adopted last night. It possibly might not carry in Ohio, and if it did not it would not become part of the constitution, nor would it in any wise affect the labor proposition intended to be covered either in the one way or the other by these two proposals. It does not seem to me there should be any conflict over it. If the proposition contained here is good, and I think it is, I think so far as the public is concerned, both the public and the laborer is entitled to a rule laid down here positively and actually. It ought to be satisfactory. In so far as this gives power that is conferred by the other, the whole matter should be adjusted in the submission by the simple statement in the schedule or at the end of the submitting clause that if Proposal No. 122 shall be adopted and become part of the constitution of the state of Ohio the adoption of this proposal shall be treated as of no avail — null and void; otherwise, if this is adopted, it shall be a part of the constitution. In the final outcome there is no actual conflict. If the other is defeated and this is carried, it becomes part of the constitution. If the other is carried and this too, or if it is not, either way, it does not become a part of the constitution, so there is not a double grant of power. That, of course, we ought to steer clear of if we can. We do not want to be granting these powers over and

Eight-Hour Day on Public Work.

over again. They get tiresome. If we have one class of grant of power that is enough, but it may be that Proposal No. 122 is not popular.

Mr. PECK: This last clause, under consideration now, does not grant any power to the general assembly at all. It simply fixes the hours of labor. It is strictly operative.

Mr. KING: Still I would be opposed to this proposal if I knew the other would become a part of the constitution, because conferring legislative power is the duty and business of the constitution, and when they have covered it once I think once is enough. But they may not cover it even once, so I think this should be carried, and when submitted it can be taken care of in the form of submission.

Mr. McCLELLAND: As a working member of one of the largest classes of working people in the state — I am a farmer and member of a grange and so a member of one of the great labor unions of the state — and as a working man and a trade union man and as one who voted for the proposal last night, and a friend of the principle I assure you I am opposed to this proposal because it seems to me it imperils the other labor proposals, and if we go to loading up the constitution with a bunch of statutory provisions which are uncalled for, even according to the admission of their friends, we may endanger the proposal we adopted last night. The legislature has never shown an unwillingness to listen to the request of the working people. This would have passed at every session of the legislature in the last ten years if they had not been prevented from doing so by the constitution. It was thought futile for them to do it and they didn't do it, but the legislature will pass it at the next session of the general assembly if they have the chance. Don't load this constitution up. It will prejudice the whole thing in the eyes of the people of the state. It seems to me as friends of labor we ought to dispose of this proposal and as the author has asked an immediate disposition of it, I move that it be indefinitely postponed.

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

The yeas and nays were taken, and resulted — yeas 25, nays 77, as follows:

Those who voted in the affirmative are:

Antrim,	Harris, Ashtabula,	Norris,
Beatty, Wood,	Harter, Stark,	Nye,
Brattain,	Holtz,	Partington,
Brown, Pike,	Knight,	Peters,
Collett,	Kramer,	Redington,
Colton,	Mauck,	Rorick,
Elson,	McClelland,	Solether,
Fluke,	Miller, Ottawa,	Wagner.
Fox,		

Those who voted in the negative are:

Baum,	Dunn,	Harter, Huron,
Beatty, Morrow,	Dwyer,	Henderson.
Beyer,	Earnhart,	Hoffman,
Bowdle,	Evans,	Hoskins,
Brown, Lucas,	Fackler,	Hursh,
Cassidy,	Farrell,	Johnson, Madison,
Cordes,	Fess,	Johnson, Williams,
Crosser,	FitzSimons,	Kehoe,
Cunninoham,	Hahn,	Kerr,
Davio,	Halenkamp,	Kilpatrick,
Donahey,	Halfhill,	King,
Doty,	Harbarger,	Kunkel,
Dunlap,	Harris, Hamilton,	Lambert,

Lampson,	Price,	Taggart,
Leete,	Riley,	Tannehill,
Leslie,	Rockel,	Tetlow,
Longstreth,	Roehm,	Thomas,
Ludey,	Shaw,	Ulmer,
Malin,	Smith, Geauga,	Walker,
Marshall,	Smith, Hamilton,	Watson,
Miller, Crawford,	Stalter,	Weybrecht,
Moore,	Stamm,	Winn,
Okey,	Stevens,	Wise,
Peck,	Stewart,	Woods,
Pettit,	Stilwell,	Mr. President.
Pierce,	Stokes,	

So the motion to indefinitely postpone was lost.

Mr. DOTY: I now move the previous question.

Mr. SMITH, of Hamilton: I hope you won't insist on that.

Mr. DOTY: Oh, no; if anybody wants to talk I will withdraw it.

Mr. BROWN, of Lucas: I assume that the purpose of this proposal is to limit the number of hours during which one may lawfully be employed on the public work in the state of Ohio to eight hours out of twenty-four and the number of hours that one may work in a week to forty-eight. The question has been raised whether or not the grant under Proposal No. 122 is not sufficient. Clearly it is broad enough to justify the general assembly in passing any measure it sees fit regulating the hours of labor, but the bigger question involved is whether or not the state of Ohio shall declare in its fundamental law a definite policy in regard to the employment of labor on public works. That I think is the big question and I am in favor of declaring that policy in our constitution. I have, however, some misgiving as to whether the language employed in the proposal does it and I want to call attention to it particularly: "Not to exceed eight hours to constitute a day's work." That means, it seems to me, that if the laborer is employed by the day when he has worked eight hours he is entitled to his day's pay, if he was hired by the day. But I see nothing to prevent his being employed by the hour and working twenty-four hours. It seems to me that this does not prohibit a man from working more than eight hours a day or forty-eight hours a week, and I call the attention of the members to that.

Mr. FESS: I have listened with a great deal of interest to the objections owing to the duplication of this with the proposal of last night, and I believe if this Convention is in favor of the general principle of both we can obviate that seeming conflict by referring it to the committee ultimately with instructions to report it back and incorporate as a part of Proposal No. 122 the principle of the eight-hour law as defined here. I hope this Convention will put itself on record in giving its support to the eight-hour day proposition. If it meets the wishes of the members in interest, I would like to move that this proposal be referred to the committee on Arrangement and Phraseology with instructions to report back this particular part and to attach it to Proposal No. 122.

Mr. STILWELL: What is the purport of the motion? In the first place we should like to have a roll call on the proposal so that the proposal can pass. My understanding is that you can not in effect pass a proposal without a roll call and getting at least sixty delegates. It strikes me that the mere passage of this by

## Eight-Hour Day on Public Work.

a viva voce vote referring it to the Phraseology committee and instructing them to incorporate in Proposal No. 122 the principle of this proposal would be of little effect. I am agreeable to the motion of Dr. Fess, provided this proposal is first passed as the rules of the Convention require.

Mr. KNIGHT: The Convention has already adopted Proposal No. 122 and the only thing to do is to adopt this and then give instructions to the committee on Arrangement and Phraseology to combine the two.

Mr. FESS: My motion was not to include what Mr. Knight has said at all. The committee can bring back the two proposals as one without any instruction from the Convention, and then if the Convention will adopt their report all right, all well and good. Otherwise it will fail just as any other report. My motion was that this Convention perform its duty, its right, if it desires to instruct this particular committee what it wishes this committee to do. We can do that now if we want to do it. This Convention can instruct the Phraseology committee or the Labor committee to bring back a report in a certain order. I was trying to get rid of this conflict between the two proposals. This was an easy way to do it. It is favorable to both proposals, and if the Convention will adopt the motion and refer it to the Phraseology committee with these instructions that is perfectly legitimate and proper; but I would ask, as Mr. Stilwell did, that we take the yea and nay vote upon this proposal first.

Mr. HARRIS, of Ashtabula: I understood you to say that without instruction the committee on Arrangement and Phraseology might combine two proposals.

Mr. FESS: Yes.

Mr. HARRIS, of Ashtabula: I would like to know where the authority is derived from for the committee to combine two proposals that have been passed here separately?

Mr. FESS: Any matter referred to that committee can be reported back separately or reported back combined.

Mr. HARRIS, of Ashtabula: Pretty inclusive in its authority.

Mr. FESS: Yes, but it comes back to the Convention to be voted on by the Convention.

Mr. HALFHILL: The gentleman from Ashtabula [Mr. HARRIS] mentioned a question that is in my mind. We passed the other proposal and I believe a majority of the Convention is favorable to this proposal. It seems to me we are not proceeding the best way either by adopting the motion of the gentleman from Greene [Mr. FESS] or taking care of it in the schedule as suggested by the gentleman from Erie. I move as an amendment to that motion of the gentleman from Greene [Mr. FESS] that we reconsider the vote by which Proposal No. 122 was adopted last evening, so we can combine this particular proposal with that.

Mr. DOTY: A point of order.

The PRESIDENT: State the point.

Mr. DOTY: There is a matter pending before the Convention and a motion to reconsider something else is entirely out of order.

Mr. HALFHILL: You admit my heart is in the right place though?

Mr. DOTY: Your heart is right. I want to call the attention of the Convention to the fact that Dr. Fess has yielded the principle I enunciated with some vigor two or three days ago, and against the opinion of some of the members, about the power of the Convention to instruct its committees. Of course, there can be no question about the power of the Convention to instruct its committees. My notion about the present situation is that the best way to proceed is not by the present motion of the member from Greene [Mr. FESS] but by first finding out if the Convention is in favor of this particular proposal, and that can be done by calling the roll. As soon as it is passed it is referred to the committee on Phraseology, and then at any time after that we can give instructions to the committee on Arrangement and Phraseology. I will say for the information of the gentleman from Ashtabula [Mr. HARRIS] that the committee on Phraseology has the same power and only the same power that other committees of the Convention have, and the member from Greene [Mr. FEES] did not claim the committee on Phraseology has any additional power.

Mr. KNIGHT: I hope the motion in its present form will not prevail. The gentleman from Cuyahoga [Mr. DOTY] is right. Why should we not determine whether we desire to adopt this in the usual form and then we can direct the committee on Arrangement and Phraseology by definite instruction to combine the two?

Mr. WOODS: It seems to me the best way to get out of this is to take Proposal No. 122, that we adopted last night, inject it right into this proposal after line 3 and then adopt this proposal. That will take care of the whole proposition. Let it then go to the Phraseology committee, and I offer that amendment. Insert Proposal No. 122 after line 3 and change the word "not" in line 4 to "but", and then let it go to the Phraseology committee. If that motion is voted down I will offer an amendment.

The motion was lost.

Mr. WOODS: I offer an amendment.

Mr. DOTY: Let us find out whether we want this one first. We declared in favor of the other last night.

Mr. PECK: I rise to a question of order. What is before the Convention?

Mr. DOTY: The proposal—

Mr. PECK: Let the president tell me. I am not asking you.

The PRESIDENT: The member from Medina has offered an amendment to Proposal No. 209.

Mr. PECK: That is the matter before the Convention?

The PRESIDENT: Yes.

Mr. PECK: There are so many things discussed before the Convention that it is hard to tell what is before it. You rule people get to going and there is no way of telling what is going on.

The amendment offered by the member from Medina was reduced to writing and was read as follows:

After line 3 insert the following:

"Laws may be passed fixing and regulating the hours of labor, establishing a minimum wage and providing for the comfort, health, safety and general welfare of all employes; and no other provision of the constitution shall impair or limit this power."

Eight-Hour Day on Public Work—Recall of Public Officials.

Mr. WOODS: My own idea in submitting this amendment is that this matter may be put together. I can not understand why anybody should be opposed to the state of Ohio's adopting the principle of an eight-hour-day on public work. I do not think anybody has any objection to that proposition. The only argument that can be made against it is that it is a statutory matter, but this Convention has gone on record that that is not an argument against anything that is offered. I am for this proposition. In defense of labor, however, I think it is a mistake to tie the two together, but I have no objection to voting on that separately, though I think they should be in one proposition.

Mr. DOTY: There are three propositions involved now. The first one we decided last night. The second one is pending here. The third one may or may not arise, and that is whether we shall combine these two or not. Let us decide the second one before we decide the third one. Let us find out whether we want the second one or not. If we decide in favor of the second one, which is altogether likely, then the other question will come by itself. There are some persons who would like to vote on this as it is. Then that leaves the Convention to act on the consolidation matter. I move to lay the amendment on the table.

The amendment of the delegate from Medina [Mr. Woods] was tabled.

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

The yeas and nays were taken, and resulted — yeas 94, nays 10, as follows:

Those who voted in the affirmative are:

Antrim,	Harter, Huron,	Okey,
Baum,	Harter, Stark,	Partington,
Beatty, Morrow,	Henderson,	Peck,
Beatty, Wood,	Hoffman,	Pettit,
Beyer,	Holtz,	Pierce,
Bowdle,	Hoskins,	Read,
Brown, Lucas,	Hursh,	Redington,
Cassidy,	Johson, Madison,	Riley,
Colton,	Johnson, Williams,	Rockel,
Cordes,	Kehoe,	Roehm,
Crosser,	Kerr,	Rorick,
Cunningham,	Kilpatrick,	Smith, Geauga,
Davio,	King,	Solether,
Donahey,	Knight,	Stalter,
Doty,	Kramer,	Stamm,
Dunlap,	Kunkel,	Stevens,
Dunn,	Lambert,	Stewart,
Dwyer,	Lampson,	Stilwell,
Earnhart,	Leete,	Stokes,
Elson,	Leslie,	Tannehill,
Evans,	Longstreth,	Tetlow,
Fackler,	Ludey,	Thomas,
Farrell,	Malin,	Ulmer,
Fess,	Marshall,	Wagner,
FitzSimons,	Mauck,	Walker,
Fluke,	Miller, Crawford,	Watson,
Fox,	Miller, Fairfield,	Weybrecht,
Hahn,	Miller, Ottawa,	Winn,
Halenkamp,	Moore,	Wise,
Halfhill,	Norris,	Woods,
Harbarger,	Nye,	Mr. President.
Harris, Hamilton,		

Those who voted in the negative are:

Brattain,	Harris, Ashtabula,	Shaw,
Brown, Pike,	McClelland,	Smith, Hamilton,
Cody,	Peters,	Taggart.
Collett,		

So the proposal passed as follows:

Proposal No. 209 — Mr. Tetlow. To submit an amendment to article VIII, of the constitution, relative to protection and welfare of persons employed at public work.

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

Not to exceed eight hours shall constitute a day's work and not to exceed forty-eight hours a week's work, on the construction, replacement, alteration, repair, maintenance and operation of all public works, buildings, plants, machinery at which laborers, workmen and mechanics are employed, carried on or aided by the state or any political subdivision thereof, whether done by contract or otherwise, except in cases of extraordinary emergency.

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

Mr. DOTY: I now call attention at this particular time to Proposal No. 291 — Mr. Watson. There was a provision for an hour's debate. That made the debate end at 11:30. Therefore, I move that the debate on this question be limited to an hour from now.

The motion was carried.

Mr. KRAMER: As a matter of personal privilege I would like to have my vote recorded in favor of the proposal which passed last night.

The gentleman's name was called on the measure indicated (Proposal No. 122) and he answered in the affirmative.

Mr. Halfhill was here recognized.

The PRESIDENT: This is under the five-minute debate.

Mr. HALFHILL: I understood the matter was on the main argument of the report. I have not yet presented any argument on the report and I can not do it in anything like five minutes.

The PRESIDENT: The question before the house is the motion of the member from Erie [Mr. KING] to amend the minority report. The secretary will read it.

The secretary read the amendment as follows:

*Resolved,* That Proposal No. 291 and the report of the committee amending same be indefinitely postponed.

The PRESIDENT: The question is on agreeing to that amendment.

The yeas and nays were regularly demanded; taken, and resulted — yeas 57, nays 45, as follows:

Those who voted in the affirmative are:

Antrim,	Fess,	King,
Baum,	Fox,	Knight,
Beatty, Morrow,	Hahn,	Kramer,
Brattain,	Halfhill,	Lampson,
Brown, Pike,	Harbarger,	Leete,
Cody,	Harris, Ashtabula,	Leslie,
Collett,	Harris, Hamilton,	Longstreth,
Colton,	Harter, Stark,	Ludey,
Cunningham,	Holtz,	Malin,
Donahey,	Hoskins,	McClelland,
Dunlap,	Johnson, Madison,	Miller, Crawford,
Dwyer,	Johnson, Williams,	Miller, Fairfield,
Elson,	Kehoe,	Miller, Ottawa,
Evans,	Kerr,	Norris,

## Recall of Public Officials—Workmen's Compensation.

Nye, Partington, Peck, Peters, Redington,	Riley, Rockel, Rorick, Shaw, Smith, Geauga,	Smith, Hamilton, Stalter, Stokes, Taggart, Weybrecht.
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Those who voted in the negative are:

Beatty, Wood, Beyer, Bowdle, Brown, Lucas, Cassidy, Cordes, Crosser, Davio, Doty, Dunn, Earnhart, Fackler, Farrell, FitzSimons, Fluke,	Halenkamp, Harter, Huron, Henderson, Hoffman, Hursh, Kilpatrick, Kunkel, Lambert, Marshall, Moore, Okey, Pettit, Pierce, Read, Soletcher,	Stamm, Stevens, Stewart, Stilwell, Tannehill, Tetlow, Thomas, Ulmer, Wagner, Walker, Watson, Winn, Wise, Woods, Mr. President.
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So the motion to indefinitely postpone was carried.

Mr. DOTY: In order to clear the way entirely I move that the proposal and the pending report be laid on the table.

The motion was carried.

The PRESIDENT: The next business is reading of Proposal No. 24—Mr. Cordes.

The proposal was read the second time.

Mr. TANNEHILL: What became of the special order for 11:40 o'clock?

The PRESIDENT: That time has not arrived yet. The chair recognizes the gentleman from Hamilton [Mr. CORDES].

Mr. CORDES: Mr. President and Gentlemen of the Convention: Proposal No. 24 undertakes to write into the constitution of Ohio a constitutional provision making secure the workmen's compensation law passed by the last legislature, and declared constitutional by the Ohio supreme court by a vote of 4 to 2. Labor asks that this proposal be adopted, because we believe that by writing it into the constitution it will make it possible to continue this beneficial measure without any further fear of a constitutional question being raised again on this matter. It will also give an opportunity to still further improve the law to meet modern conditions of employment as they may arise.

Ten states have passed workmen's compensation laws similar to that adopted in Ohio, and the federal congress has now under consideration a bill recommended by the federal commission appointed last year on this subject to apply to interstate employes. In nearly every other state in the Union where the legislatures are in session this winter the legislators are considering similar measures of this kind and the general tendency of the time is to do away with the old, worn-out methods of compelling the worker to sue for damages, and the long incidental delays that make it impossible for the cripple, the widow and the orphans to secure justice or adequate compensation for the loss of life and limb, and to replace it with a direct compensation system, to the end that those who suffer as the result of industrial injuries may be immediately relieved from suffering, due to the want of the necessities of life. I am of the opinion there has not been a subject before this Convention that affects real humanity as this does, and I hardly think it necessary to discuss the question at length at all, as I

am satisfied that most of the delegates are in accord with this proposal. If there are any doubts in the minds of any of the members as to the merits of the proposal as submitted, I would refer them to the unqualified indorsement given to workmen's compensation laws in nearly every address that has been made to this Convention by the distinguished visitors who have been invited to address you, and I call particular attention to the addresses of Judge Lindsey, ex-President Roosevelt and William Jennings Bryan. Workmen's compensation laws will go a long way to solve the differences now existing between labor and capital, as there is nothing that tends more to create a better fraternal feeling between man and man than the fact that those who are so unfortunate in industrial life as to meet with accidents, will in the future be properly taken care of; and there is certainly no time when assistance is more needed than when the head or support of the family is unable to provide for those who are near and dear to him.

Workmen's compensation laws also provide a definite and fixed liability on the employer, so that he knows that he will have to pay, and will prevent litigation on this subject which has proven detrimental to employer and employe and a matter of enormous and needless expense to both. The real object of all liability and compensation laws against industrial accidents, however, is not simply the matter of providing for the needs of the injured and the dependents of those killed, but to prevent accidents; hence the provision in the proposal that in case accidents are caused by the wilful act or violation of law by an employer an additional penalty is added by giving the worker the right to sue for additional damages. This provision has been made a part of every compensation law so far adopted in this country, as it is of every compensation law so far adopted by foreign countries, and is necessarily attached to compensation laws so that the employer may be compelled to provide every safeguard possible against accidents, and that he may be prevented from getting careless because of the fact that he has paid the premium into the state insurance fund that will provide for the needs of his employes in case they are injured or killed.

The statistics gathered by the United States government and the American association for labor legislation show that occupational diseases are killing off and incapacitating as many employes as are accidents. Nearly every foreign country that has adopted a compensation law applies it also to occupational diseases, and it is really essential that the industries that cause these diseases and loss of life should be made to bear the burden and cost of caring for the men afflicted by any of these dread diseases rather than make them and their families a burden on the community and objects of charity.

The federal congress, within this last week or two, in passing the Esch phosphorus bill has undertaken to remove one of the afflictions with which many Ohio workers have suffered during past years, that of "phossy jaw", and organized labor secured the passage of a law last winter providing for the investigation of this whole subject in Ohio, but the effectiveness of the law was nullified by the neglect of the legislature to provide an appropriation to do this work.

I believe that it is but just and humane in this age of progress and rapidity in industrial affairs that the in-



Workmen's Compensation—Removal of Officials.

dustrial workers should be protected against accidents and occupational diseases, and that more attention should be given to human rights rather than, as we have done in the past, devote all our attention to property rights. As this measure, above every other, writes into our constitution the question of human rights and the protection of human life and limb, I am satisfied that if it is adopted it will meet with the hearty approval of the voters and prove of great benefit and relief to both employer and employe.

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

The yeas and nays were taken, and resulted — yeas 102, nays none, as follows:

Those who voted in the affirmative are:

Antrim,	Harris, Ashtabula,	Partington,
Baum,	Harris, Hamilton,	Peck,
Beatty, Morrow,	Harter, Huron,	Peters,
Beatty, Wood,	Harter, Stark,	Pettit,
Beyer,	Henderson,	Pierce,
Bowdle,	Hoffman,	Read,
Brattain,	Holtz,	Redington,
Brown, Lucas,	Hursh,	Riley,
Cody,	Johnson, Madison,	Rockel,
Collett,	Johnson, Williams,	Roehm,
Colton,	Kehoe,	Rorick,
Cordes,	Kerr,	Shaw,
Crosser,	Kilpatrick,	Smith, Geauga,
Cunningham,	King,	Smith, Hamilton,
Davio,	Knight,	Solether,
DeFrees,	Kramer,	Stalter,
Donahay,	Kunkel,	Stamm,
Doty,	Lambert,	Stevens,
Dunlap,	Lampson,	Stewart,
Dunn,	Leete,	Stilwell,
Dwyer,	Leslie,	Stokes,
Earnhart,	Longstreth,	Taggart,
Elson,	Ludey,	Tannehill,
Evans,	Malin,	Tetlow,
Fackler,	Marshall,	Thomas,
Farrell,	Mauck,	Ulmer,
Fess,	McClelland,	Wagner,
FitzSimons,	Miller, Crawford,	Walker,
Fluke,	Miller, Fairfield,	Watson,
Fox,	Miller, Ottawa,	Winn,
Hahn,	Moore,	Wise,
Halenkamp,	Norris,	Woods,
Halfhill,	Nye,	Worthington,
Harbarger,	Okey,	Mr. President.

So the proposal passed as follows:

Proposal No. 24 — Mr. Cordes. To submit an amendment to article II, section 33, of the constitution. — Relative to requiring the general assembly to pass laws relative to compensation of employes.

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

ARTICLE II.

SECTION 33. For the purpose of providing compensation from a state fund, to workmen and their dependents, for death, injuries or occupational diseases, occasioned in the course of such workmen's employment, laws may be passed establishing a fund to be created and administered by the state and by compulsory contribution thereto by employers; determining the terms and conditions upon which payment shall be made

therefrom and taking away any or all rights of action or defenses from employees and employers but no right of action shall be taken away from any employees when injury, disease or death arises from failure of the employer to comply with any lawful requirement for the protection of the lives, health and safety of employees. Laws may be passed establishing a board which may be empowered to classify all occupations, according to their degree of hazard; fix rates of contribution to such fund according to the general rule of classification and to collect, administer and distribute such fund and to determine all rights of claimants thereto.

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

Mr. Roehm arose to a question of privilege and asked that his vote be recorded on the motion of Mr. King to amend the minority report to Proposal No. 291. His name being called, Mr. Roehm voted no.

Mr. DWYER: I desire to call attention to Proposal No. 241, the special order for 11:40 o'clock a. m.

The PRESIDENT: The question before the Convention is Proposal No. 241 and the secretary will read the pending amendment.

The SECRETARY: The pending amendment is the Fackler amendment as it will appear if the amendment by Judge Nye is agreed to. The question is on the adoption of the amendment of Judge Nye which would amend the Fackler amendment. The amendment of Mr. Fackler reads as follows:

Strike out lines 11 to 16 inclusive and in lieu thereof insert the following:

"Any judge of a court of record of this state, may be removed from office by the governor, whenever after due trial as may be provided by law, it shall be found that such judge is unable to perform the duties of his office by reason of physical or mental infirmity extending over a period of more than six months or that such judge has been guilty of misconduct in office involving moral turpitude, the persistent violation of a clear mandate of the constitution, intoxication while attending to the business of the court, gross inattention to the duties of the office or conduct tending to bring the court into disrepute. Laws shall be passed providing for the creation of commissions having authority to hear and determine the truth of any such charges and prescribing the methods of procedure with reference to the same."

The Nye amendment reads as follows:

Strike out of the amendment offered by Mr. Fackler the following beginning with line 5: "such judge is unable to perform the duties of his office by reason of physical or mental infirmity extending over a period of more than six months or that."

The PRESIDENT: The question is on the adoption of the amendment.

The amendment was not agreed to.

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

Removal of Officials.

Mr. RILEY: How does that apply to the original proposal?

The SECRETARY: It strikes out lines 11 to 16. It takes out the last paragraph of the proposal.

Mr. PECK: It substitutes impeachment by commission instead of by the supreme court.

The amendment was agreed to, sixty members, on division, voting in the affirmative.

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

Mr. BROWN, of Lucas: I desire to inquire of the author of the amendment which now stands as a second paragraph of the proposal whether or not he intends the second paragraph to embrace the judges of the supreme court? In my opinion it does.

Mr. FACKLER: It does include all the judges of courts of record; therefore it would include the judges of the supreme court.

Mr. PECK: Then does it not conflict with section 1? I think section 1 does conflict with the amendment just adopted. One provides for one method and the other for another.

Mr. FACKLER: Both may exist.

Mr. PECK: There can not be two remedies.

Mr. FACKLER: Are there not two remedies provided in the present constitution, one by impeachment and one by a joint resolution of the general assembly?

Mr. PECK: Look at your amendment. The first says it takes two-thirds.

Mr. FACKLER: The second is removal procedure.

Mr. PECK: It is all the same. I submit that as you have it now this proposal ought to be rewritten and made to harmonize. It is not in condition to be passed. It would bring ridicule on the Convention to pass it in its present state.

Mr. DWYER: I suggest that the original proposal could be read in connection with the amendment. You have not read that.

The SECRETARY: That has been stricken out.

Mr. STEVENS: I desire to offer an amendment the necessity for which seems to be apparent. In the Fackler amendment it says "intoxication while attending to the business of the court." I move that we strike out "while attending to the business of the court".

Mr. DOTY: The rule provides that all amendments shall be submitted in writing.

The PRESIDENT: The secretary will reduce that amendment to writing.

Mr. WINN: I offer an amendment.

The PRESIDENT: The member from Tuscarawas [Mr. STEVENS] has the floor.

Mr. STEVENS: I do not think it is necessary to do more than state the proposition. The Convention certainly should not recognize the right of any judge to go out at night and get loaded up. I think a judge should be removed if he is intoxicated, even if he is not sitting on the bench.

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

Mr. STEVENS: And on that I demand the yeas and nays.

The amendment of the delegate from Tuscarawas was reduced to writing and read as follows:

Strike from the amendment "while attending to the business of the court."

The PRESIDENT: The motion was made to table that amendment and the yeas and nays were demanded. The question is on laying the amendment on the table.

Mr. DOTY: A point of order. There is no such a thing as a Fackler amendment.

The PRESIDENT: The question is on laying the amendment on the table.

Upon which the yeas and nays were taken, and resulted—yeas 15, nays 85, as follows:

Those who voted in the affirmative are:

Brattain,	FitzSimons,	Malin,
Davio,	Hahn,	Marshall,
DeFrees,	Holtz,	Partington,
Fackler,	Kunkel,	Peck,
Farrell,	Leslie,	Roehm,

Those who voted in the negative are:

Antrim,	Harris, Hamilton,	Pettit,
Baum,	Harter, Huron,	Pierce,
Beatty, Morrow,	Harter, Stark,	Read,
Beatty, Wood,	Henderson,	Redington,
Beyer,	Hoffman,	Riley,
Bowdle,	Hoskins,	Rockel,
Brown, Pike,	Hursh,	Rorick,
Cassidy,	Johnson, Madison,	Shaw,
Cody,	Johnson, Williams,	Smith, Geauga,
Collett,	Kehoe,	Smith, Hamilton,
Colton,	Kerr,	Solether,
Cordes,	Kilpatrick,	Stalter,
Crosser,	King,	Stamm,
Cunningham,	Knight,	Stevens,
Donahay,	Kramer,	Stewart,
Doty,	Lambert,	Stokes,
Dunlap,	Lampson,	Taggart,
Dunn,	Leete,	Tannehill,
Dwyer,	Longstreth,	Tetlow,
Earnhart,	Ludey,	Thomas,
Elson,	McClelland,	Ulmer,
Evans,	Miller, Crawford,	Wagner,
Fess,	Miller, Fairfield,	Walker,
Fluke,	Miller, Ottawa,	Watson,
Fox,	Norris,	Weybrecht,
Halenkamp,	Nye,	Winn,
Halfhill,	Okey,	Wise,
Harbarger,	Peters,	Woods.
Harris, Ashtabula,		

So the motion to table was lost.

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

The amendment was agreed to.

Mr. ELSON: I offer an amendment.

The amendment was read as follows:

In line 11, after the word "state," strike out the word "may" and insert "shall."

Mr. HOSKINS: I have been sitting here trying to keep from exposing my ignorance, but I can not do it any longer.

VOICES: Agreed.

Mr. HOSKINS: And I think some of those crying "agreed" are just as ignorant as I am. I would like to know who is sponsor for this proposition and where do you find it? I do not know who is handling this thing.

The SECRETARY: This amendment you will find on page 2 of the journal of April 18, at the bottom of the page. The Crosser amendment has been put into

## Removal of Officials—Limiting Power of General Assembly in Extra Sessions.

the proposal and that refers to the first line of the proposal.

Mr. HOSKINS: Has this ever been printed any place other than on page 2 of the journal of April 18?

The SECRETARY: No.

Mr. HOSKINS: I hope before we get through some one who has had this bill in committee will get up and tell the Convention what they want to do and explain the purpose of it. Maybe others are smart enough to know what they are doing, but I do not. Some one ought to explain it. I have not gotten a sensible word out of the whole thing from start to finish.

Mr. STOKES: I wish to offer an amendment.

Mr. ELSON: Don't we get a vote on the last amendment?

The PRESIDENT: By consent of the member from Montgomery [Mr. STOKES] we will take a vote on the amendment of the delegate from Athens.

Mr. ELSON: This takes out of the hands of the governor all discretionary power. If a judge has been tried and convicted, according to this section, the governor will have no power to leave him in office. He must remove him. When a jury pronounces a man guilty the judge has no power to let him off.

Mr. FACKLER: As I originally drew a proposal which was to be introduced, but which I refrained from introducing on account of Judge Dwyer's proposal, the governor was given when charges were filed with him the right to appoint a commission whose duty it would be to try the judge and ascertain the truth or falsity of the accusations made against him. As I see it there should be some power reserved over such a commission which may be hereafter established by the legislature under the amendment now incorporated in the proposal. The legislature should provide some means of trying the truth or falsity of the charges filed according to law against any judge of a court of record. Now it is no harm to permit the governor to have a sort of supervisory discretion over the finding of that commission. The probabilities are, if the bill were drawn creating a commission with authority to try judges against whom charges have been made, there would be no review provided, and it would leave it discretionary with the governor whether he should be removed, but he would not remove a judge unless there would be good reasons for the finding of the commission.

Mr. ELSON: If a judge has been properly tried by such commission, is there any further doubt as to his guilt? Would it be the proper thing for the governor to have discretionary power to pronounce a man absolutely innocent? There is only one of two things to be done. He must be removed or not removed.

Mr. FACKLER: There might be extenuating circumstances. For instance, it might be found that the judge is incapacitated from performing his duties by mental or physical infirmity extending over six months and the commission would not have any discretion in their finding if that were true, but the governor would have discretion to say that the man is sick of a temporary disease and we will not remove him. You give the governor a chance to relax the rigor of the law.

Mr. BROWN, of Lucas: The question is, shall the word "may" be changed to "shall"? I call the attention to the next line of the amendment: "Whereas after due

trial as may be provided by law." If the trial is in the hands of the general assembly we know it can provide for the granting of a new trial. Therefore there may be abundant safeguards, but when after due trial he has been found guilty it seems to me there is no doubt that he should be removed, and I think there should not be any discretion or any tribunal after that. But in framing the law it is possible to provide for every contingency referred to by the member from Cuyahoga [Mr. DOTY] and I hope the change will be made and made mandatory.

Now, a word in answer to a suggestion to which someone ought to say a word in response. We have voted definitely to postpone any recall. That there is great criticism of the present method of removing judges there is no doubt. We are expected to do something. Our present constitution provides two ways for removing a judge, one by impeachment substantially as here, and the other is by joint resolution, two-thirds of the general assembly concurring. We know that the general assembly is in session not to exceed four months out of each twenty-four, so that both methods for the removal of judges not fit to hold office are of little value in practice. This proposal as it now stands, when it is made mandatory, will put within the power of the general assembly the task of providing summary means by due control to remove any judge of any court of record, from the supreme court of the state down to the probate court, by a quick proceeding and an impartial trial, not by other judges unless the general assembly sees fit to so provide, but by a commission to be provided by law, which will be in harmony with the prevailing opinion of the state. It seems to me when the amendment is adopted the proposal should pass.

Mr. WATSON: I move a recess until 1:30 o'clock p. m.

Mr. DOTY: Wait a minute.

Mr. WATSON: All right.

Mr. DWYER: I move that the proposal and pending amendment be referred to a select committee of five, to be appointed by the president, with leave to report at any time.

I move this because there is so much difference among the prominent lawyers as to the best plan. We want to agree on the plan and I make this suggestion.

The motion was carried.

Mr. WATSON: I move that we recess until 1:30 o'clock p. m.

The motion was carried.

## AFTERNOON SESSION.

The Convention was called to order by the president.

The PRESIDENT: The subcommittee to which will be referred Proposal No. 241 will be constituted as follows: Mr. Dwyer, Mr. Brown, of Lucas, Mr. Hoskins, Mr. Peck and Mr. Fackler.

The next business in order is Proposal No. 7, by Mr. Nye.

The proposal was read the second time.

Mr. ANDERSON: Before we proceed, by unanimous consent I would like to vote on the proposals that were adopted last evening and this morning.

## Limiting Power of General Assembly in Extra Sessions.

The unanimous consent was given, the member's name was called, and on each of the Proposals Nos. 122, 209 and 24 he voted in the affirmative.

The PRESIDENT: The gentleman from Lorain is recognized.

Mr. NYE: Gentlemen of the Convention: Section 8, article III, of the present constitution now provides for a special session of the legislature, to be called by the governor, and when the legislature is in session under such call there is no limit to the amount or kind of business it may transact during such special session. It has been my observation for a great many years that governors have hesitated about calling a special session of the legislature because of the fact that they might go into general legislation rather than perform the duties for which they were called together and then adjourn. The purpose of the amendment is to provide that the legislature, when called together in extraordinary session by the governor, shall transact only such business as the session is called for, unless as is provided in the proposal, the governor by special proclamation—a public proclamation—shall request some other work to be done. I read the proposal for the purpose of calling attention to the effect of these provisions:

The governor on extraordinary occasions may convene the general assembly by proclamation and shall state in such proclamation the purpose for which said special session is called and no other business shall be transacted at said special session except that named in said proclamation, or in a subsequent public proclamation issued by the governor during said special session.

Of course, it is well known that when the legislature gets together in its regular session it performs such duties as it is supposed the state desires to have performed or that any member of the legislature can think of that ought to be done at that regular session. Many times, or frequently during the course of a year, when the legislature is not in session, the governor has some special matter that he thinks the legislature should enact, and he calls together the legislature for the purpose of performing those duties. Experience with legislatures heretofore has been that when they are called together in extraordinary session to perform that particular duty for which they are called together, they go forward and perform other duties and pass general laws. The object of this is to prevent that, so that the governor will not feel embarrassed by calling a special session of the legislature. It will be observed that there is a provision in this proposal that if other work is desired to be done by the legislature, and if the governor shall request it by proclamation, that work can be done. Therefore, if the legislature is called together by the governor a proclamation is issued for that purpose. After they have come together if any member of the general assembly or any citizen of the state, during the time the general assembly is in session, shall be able to convince the governor that other business ought to be transacted then this proposal is broad enough to provide for that, because in the last clause of the proposal it is provided that they may do such work as is named in that proclamation or in a subsequent proclamation issued by the governor during that special session. It

seems to me the governor should have the right to call the legislature together to perform a particular duty, and when they have done that duty they ought to adjourn unless the governor can be satisfied that there is something else for them to do. In other words, if a member of the legislature or a citizen of the state can satisfy the governor that other legislation ought to be done the governor can by a proclamation ask to have it done. That is the purpose of this amendment. I do not care to weary you with any further remarks. It seems to me this matter is one that should be passed and submitted to the people. It was submitted to the committee on Legislative and Executive Departments, and, as I understand, it was reported unanimously by the committee. I therefore ask your favorable consideration of that report.

Mr. PIERCE: I would like to inquire if the judgment of all the people of the state is not as good as the judgment of the governor?

Mr. NYE: Quite likely, but it is a question for the governor whether he will call a special session, and if the people of the state could convince the governor that a special session ought to be called he would call it for that purpose, but it ought to be left to the governor to say whether it should be called and to say what business should be done at that session.

Mr. THOMAS: As one of the members of the Legislative committee I opposed the proposal in the committee, and I am opposed to the proposal now that it has come before the Convention. It is simply another method of taking power away from the representatives of the people to legislate for their benefit and placing it in the hands of the executive department. It seems to me we need a check on the governor for calling special sessions just as much as we need a check on the legislature to prevent legislation when special sessions are called. There is not a member of the Convention here who will not admit that had it not been for the fact that the governor was afraid that by calling a special session to redistrict the congressional districts of Ohio during the last year that such a special session would have been called for that purpose. He was afraid some other legislation might be passed, and that check was a good one because it would have entailed a heavy expense on the citizens just to have a district for one more congressman from Ohio, and this can be taken care of later on. The legislature, so far as I have been able to ascertain, has never really abused the privilege of legislation when called together in special session. There has been only one time when their session extended to any great length, and that was when we adopted the new municipal code, when it was really necessary that a long session should be held. The last one held was held in 1909, and only a few bills, necessary for the welfare of the people, went through other than those which the governor called the special session to pass and I see no necessity for changing the constitution in that respect. I think the legislature should have authority in itself to determine what measures it should pass or not pass, when called together in special session, and it may be that the people through the initiative may petition for the passage of some needed legislation just at that time, and they have just as much reason and just as much right to ask for it as the governor has to call a special session

## Limiting Power of General Assembly in Extra Sessions.

for the things that he may want. I think this proposal ought to be defeated.

Mr. Hursh here took the chair as president pro tem.

Mr. WOODS: I offer an amendment.

The amendment was read as follows:

In line 11, after the word "proclamation" insert "or message to the general assembly."

Mr. WOODS: This proposal as it stands now provides that the governor may by proclamation call attention to something and ask the legislature to do it. The ordinary way of doing this is by message. It seems to me it would be foolish to issue a proclamation when a message would take the place of it.

Mr. ELSON: I think the amendment is all right, and I want to say a word upon the proposal as a whole. My friend from Cuyahoga [Mr. THOMAS] has made reference similar to references I have heard on various occasions to the effect that legislators are the representatives of the people, while the governor is referred to as if he were some higher power, entirely above the people and the legislature, and represented something else. I cannot quite imagine what he means. Does not the governor represent the people as well as the legislature represents the people? I think a little more so.

Mr. DOTY: Does the member undertake to say that the governor of the state was elected with any reference to his legislative power or ability, or was charged with any legislative function?

Mr. ELSON: I didn't say anything about that.

Mr. DOTY: That is what you were talking about.

Mr. ELSON: I am talking about his representing the people. Of course he has some legislative functions. The fact that he can make suggestions to the legislature in messages and proclamations and that he has the veto power shows that he has some legislative function.

Mr. DOTY: Outside of the veto power there is no such thing as legislative functions connected with the governor.

Mr. ELSON: He can suggest.

Mr. DOTY: If this proposal gave him legislative functions would it not be mixing the two departments?

Mr. ELSON: He can suggest—

Mr. DOTY: And that's all he can do. The legislature is not obliged to pass anything he suggests.

Mr. ELSON: But I want to refer for a moment to a subject I just mentioned, the representative feature as applied to the governor, or as applied to the legislature. Suppose the governor is elected by sixty per cent of the vote and his opponent gets forty per cent. The whole membership of the legislature may receive sixty per cent, while their defeated opponents receive forty per cent. Thus the governor represents the very same number of voters that the legislature represents. It is very seldom indeed that any measure in the legislature is passed by a unanimous vote in either house, and if a single member of either house votes against the measure, and the governor favors that measure, the governor represents more of the people than the members who voted for it. He represents the whole sixty per cent of the voters who voted for him. So you see the governor represents the people quite as fully as the legislature on the passage of any measure. Why should we speak of the legislature as being representative of the people, and

not use the same term with reference to the governor? I would like to see Judge Nye's proposal passed without any change except the amendment offered by the delegate from Medina [Mr. WOODS].

Mr. KNIGHT: It seems to me that this provision is one which should be passed. It is found in many of the constitutions of the different states, and in some of the most progressive states in the Union. It is a well-known fact that extraordinary sessions of the general assembly are called for extraordinary reasons to take care of extraordinary matters. I think it is the general opinion of the people of the state that the regular sessions of the general assembly are adequate to transact all the ordinary business of the state, but emergencies have arisen in times past when it would have been desirable, and it was generally so regarded, to call the general assembly in special session. The question, however, at once arose, Is there any way of stopping the legislators from going on indefinitely upon any and all subjects when once they are called for the purpose of legislating on the emergency measure? It seems to me that the measure should pass. There is, however, one amendment that commends itself to me, and it is one that I have drafted from the constitution of California. This proposal does not make any provision by which the general assembly can provide for the running expenses of such extraordinary session, and my amendment simply takes care of that.

The amendment was read as follows:

At the end of line 11 change the period to a comma and add, "but the general assembly may provide for the expenses of the session and other matters incidental thereto."

Mr. HARRIS, of Hamilton: I trust the proposal of Judge Nye will pass. It seems to me that the argument of the member from Cuyahoga is very wide of the mark and has no relevancy to the proposal, in so far as he seems to forget that the general assembly called in special session is for an emergency and the governor is given the power to determine when the emergency exists.

It has nothing at all to do with the functions of the general assembly in regular session. It is only when something occurs that we feel is of sufficient moment for the governor to take the great responsibility of calling a general assembly together, and there is no other power to convene the general assembly that this proposal provides for; and as the governor assumes that responsibility, and is wisely given that responsibility by the people, he ought further to determine, since the general assembly, within its power, at the regular sessions enacts all the legislation which in its judgment is proper, that that body could not at this special session, called to meet a great emergency, transact business other than that for which it was called. It seems to me that the gentleman from Cuyahoga [Mr. THOMAS] has confounded the functions of the general assembly when it is performing the routine work in regular session with the emergency session called by the governor.

Mr. THOMAS: Do you not think there should be just as great a check on the governor's calling a special session as there should be on the legislature when they are called into special session?

Mr. HARRIS, of Hamilton: Absolutely not. If a man is elected governor and is worthy to be governor,

## Limiting Power of General Assembly in Extra Sessions.

he is not an automaton or a stick. He is elected because he represents something, and that something is the great people of the great state of Ohio.

Mr. THOMAS: Is not that true also of the legislature?

Mr. HARRIS, of Hamilton: Yes, during their regular sessions.

Mr. DOTY: No, for the two years.

Mr. HARRIS, of Hamilton: Only during their regular sessions.

Mr. ELSON: Will not public opinion regulate the action of the governor above all things?

Mr. HARRIS, of Hamilton: There is no question about that.

Mr. DOTY: All of the members who are in favor of annual sessions vote for this. That is its chief merit. No general assembly would lay down its authority with any idea that it was going to turn it over to the governor, certainly not any further than it has been turned over to him up to date, namely, the mere power to call them together. Who is the governor of Ohio that he knows more what the people want than the legislature? He never was elected to legislate as the legislature was.

Mr. LAMPSON: Harmon was.

Mr. DOTY: Yes, perhaps he was; but he didn't legislate much. The governor never was elected to legislate. The only power he has is his veto, and that should be taken from him, and that is legislative in a large sense. Now you are undertaking to set the governor up to be a man who knows more about what ought to be passed in the way of laws than all of the legislature.

Mr. STOKES: Suppose that a great calamity happened in the state of Ohio, and relief was needed right then and there. Should not the power rest some place so that we could call the legislature together?

Mr. DOTY: We have that now. I don't contend that we have not.

Mr. STOKES: And should you not have the right to limit the action of the legislature?

Mr. DOTY: Not unless you want to do some safeguarding of the legislature. We have been here safeguarding things all winter. Now we are going to safeguard the legislature. We are going to put a brick wall around it, and put the governor on top of a cupola with a gun to safeguard the legislature.

Mr. STOKES: Because the governor has to safeguard the legislature in an emergency, do you want the door open so that all kinds of legislation can be entered upon?

Mr. DOTY: We have had that rule for sixty years and I defy you or any other man to show that the legislature ever abused that power.

Mr. STOKES: Don't you think this Convention ought to shut that off?

Mr. DOTY: Oh, yes; you ought to safeguard everything. All we have been doing here is to "safeguard."

Mr. LAMPSON: Please give us the definition of the word "safeguard."

Mr. DOTY: To safeguard is to let people think they are doing something, and not let them do it. Sometimes you put it in the shape of inhibitions on single tax, which doesn't amount to anything, and sometimes you limit the liquor—

Mr. LAMPSON: I thought it was an inhibition against the single tax.

Mr. DOTY: Oh, either way.

Mr. KNIGHT: Is it not true that since 1851 the governor has been clothed with the power to recommend to the legislature at its regular sessions such measures as he deems expedient, and for the last sixty-one years, whenever special sessions were called under the constitution, was it not the governor's special privilege and his duty to notify the legislature as to the purpose for which they were convened? Now the question is whether we add anything to him in that regard or not.

Mr. DOTY: He has about as much function under the constitution on legislation as those other executive officers have in making reports. All he can do is to recommend, and when he gets through with that, he is through.

Mr. KNIGHT: Have you forgotten that since you were in the legislature the governor has been given the veto power?

Mr. DOTY: Yes, and to that extent he has a legislative function; but you want to go ahead of that and have him say what the legislators shall pass. You want to set up the governor as the beginning and the end, and if the legislature gets a shot in the middle, they are lucky.

Mr. KNIGHT: It is strange how things change. A lot of us who awhile ago thought the legislature was worthless are now defending it for all it is worth, while some of us are still thinking of "safeguarding."

Mr. DOTY: There it is, "safeguarding."

Mr. KNIGHT: I am using your word.

Mr. DOTY: No, sir; you are using the word that one hundred and nineteen of us have been using all winter long.

Mr. KNIGHT: I am trying to ask a question—

Mr. DOTY: You have made an awful stab at it. I thought it was a statement, not a question.

Mr. KNIGHT: I have heard something said about men who answered questions before they were asked.

Mr. DOTY: I think I can answer yours before I hear it.

Mr. KNIGHT: Is not this in line with what we have been doing in the way of safeguarding?

Mr. DOTY: That is just the trouble with the member. He voted for the initiative and referendum because he thought he was checking somebody from doing something. I was for the initiative and referendum for opposite reasons. The trouble is that the legislature is now prohibited—prevented—from doing what it wants to. I have seen houses sit here wanting to do something and not allowed to do it, and the power that prevented it was not in this room either.

Mr. KNIGHT: Haven't we had the same difficulty here that some people have wanted to do something and somebody else has kept them from it?

Mr. DOTY: The member from Franklin has done his share, but I forgive him.

The delegate from Lucas, Mr. Ulmer, here sought recognition.

The PRESIDENT PRO TEM: Does the gentleman desire to ask a question?

Mr. ULMER: No; I want the floor.

The PRESIDENT PRO TEM: The gentleman from Cuyahoga [Mr. DOTY] has the floor.

## Limiting Power of General Assembly in Extra Sessions.

Mr. ULMER: But his time is up.

The PRESIDENT PRO TEM: No; he has seven minutes.

Mr. HARRIS, of Hamilton: Your whole argument, Mr. Doty, against this Proposal No. 7, is that it gives legislative power to the governor. Is not that it?

Mr. DOTY: Yes; in a limited way. I thank the gentleman for calling what I have said an argument. I didn't know I had gotten to any argument.

Mr. HARRIS, of Hamilton: As a matter of fact, is there any merit in your argument that the power of the governor is legislative?

Mr. DOTY: It is greater than that of the legislature.

Mr. HARRIS, of Hamilton: Is the power of the governor to legislate in a special session—

Mr. DOTY: I object to you embodying—

Mr. HARRIS, of Hamilton: Wait until I state my question. Is the power of the governor to legislate in a special session any greater than his power to legislate in a general session? Can he do more than recommend?

Mr. DOTY: Not a thing, but you want to make it that way.

Mr. HARRIS, of Hamilton: How?

Mr. DOTY: You want to have the governor set up the pins as to what you can do and cannot do. It is not so much as to what you may do in the general assembly, but as to what you may not do. If you give the governor the power to say what you cannot do, you are giving him a tremendous power.

Mr. HARRIS, of Hamilton: That has nothing to do with the main question. In a special session has the governor any greater power to legislate than in a general session?

Mr. DOTY: Yes.

Mr. WINN: We are debating under a five-minute rule, and the member from Cuyahoga has had the floor for twelve minutes:

The PRESIDENT PRO TEM: I stand corrected. I thought the gentleman had twenty minutes.

Several delegates moved to extend the time of the delegate from Cuyahoga [Mr. DOTY].

SEVERAL DELEGATES: No.

Mr. DOTY: I don't want it.

Mr. ULMER: Some one yesterday said that this Convention was costing \$300 a day.

A DELEGATE: \$600.

Mr. ULMER: That is still worse. If the general assembly is called together by the governor there is another set of gentlemen in the other room, and that makes expenses still higher, and I do not think after they have been called together by the governor, and have finished the work that they were called for, they should be given the privilege of fooling away their time as we have done, and spending the taxpayers' money.

Mr. THOMAS: Do you know the legislators get their salaries whether they meet or not?

Mr. ULMER: There are other expenses to be added.

The PRESIDENT PRO TEM: The question is on the adoption of the amendment of the delegate from Franklin.

Mr. HALFHILL: I believe this proposal ought to prevail. It is exceedingly strange to me how some members take positions against proposals here under cer-

tain conditions, and then under certain other conditions occupy an entirely different position. It seems as if the matter depends on what branch of government is before the Convention; that determines the particular denunciation. For two or three weeks we heard the legislature denounced as being unfit to be trusted with any of the rights and privileges of a legislative body. For two or three weeks we heard the courts denounced as being unfit to pass upon the rights and privileges and liberties of the citizens. Then later the gentleman from Cuyahoga appears as the champion of the short ballot in state affairs in which he desires to invest the governor with all the powers of all the present executive departments of the great state of Ohio, and put the governor up in the spotlight so that we may hold him responsible for all that occurs. In other words, put him up where he has all the power that could be conceived as being conferred upon a governor. That was the argument made at that time. Today we have the governor denounced as though there should be some other restraint or restriction extra constitutional put upon him, so that by observing the particular branch of the state government, and the particular occasion when it is up for consideration, we can find out who it is that is ready to denounce that department and for what purpose. Now, as an aphorism, this constant faultfinding is like sand in the sugar, it not only destroys the sweetness of life, but puts your teeth on edge. That is the way with these denunciations of the different departments of government. If it is right at one time to clothe the governor with all power, is it not right to dignify him with the right and privilege and prerogative in case of emergency to call the legislative branch of government together, and prescribe the limitation of what it shall do? That is all there is in it, and we know from our own past experience that often there have been times when it would have been to the advantage of the people of the state of Ohio if the chief executive could have called the legislature together to perform a particular thing, but the executive was afraid that the legislature would undertake for its own reasons to do something that was not to the advantage of the people of Ohio at that particular time. I submit, this proposal ought to prevail; and the argument made against it by the gentleman from Cuyahoga does not accord with the position which he took upon the short ballot, which combines all the executive departments in this state into the office of governor, and virtually places that official in "the fierce light that beats around a throne."

Mr. WINN: I want to say just a word in favor of this proposal, and at the same time I want to be consistent. A few days ago I was in favor of the referendum, while my friend from Allen [Mr. HALFHILL] was opposed to it. He was opposed to it because he had such unlimited confidence in the legislature. I was in favor of it because of my limited confidence in the legislature. I am still in favor of this proposition because of my limited confidence in the legislature. He is in favor of it because of his unlimited confidence in the legislature.

Mr. HALFHILL: I never was a member of that body.

Mr. WINN: Really, we are making "much ado about nothing."

## Limiting Power of General Assembly in Extra Sessions.

Section 8 of article III of the constitution reads as follows:

He [the governor] may on extraordinary occasions convene the general assembly by proclamation, and shall state to both houses when assembled the purpose for which they have been convened.

That is very simple. When he calls the legislative branch of the government together, he says to them, "I have called you together to do thus and so." Presumably when they have concluded the work for which they were convened, they will, like wise legislators, adjourn and go home. But it sometimes happens that members of the general assembly get it into their heads that after being convened in extraordinary session they will do what the governor wishes them to do, and then go ahead and do what they want to do, and the consequence has been that in almost all cases the governor has hesitated, even when the demands were strong, to convene the general assembly in extraordinary session. This proposal does nothing except to say that when they have been convened, and the governor has laid before both houses the business for which they have been called together, and they have concluded their work, they shall adjourn and go home. Pick up any newspaper in the state after the general assembly has been in session a short time and you will see them praying for the day to come when the legislature will adjourn.

Mr. ANDERSON: Was not the change providing that the general assembly meet every two years made because they were making too much law?

Mr. WINN: There is no question about that, and Mr. Doty was in the legislature at that time and supported it.

Mr. ANDERSON: And is not this proposal entirely consistent with that idea?

Mr. WINN: Altogether consistent with all the things we have been doing here. It simply means to add to this section 8 of article III a provision that when the general assembly is called the work for which it was convened shall be stated to them and it can only do the work for which it was called.

Mr. ANDERSON: The theory is that they should not be called together for making any law except in case of an emergency?

Mr. WINN: Except in some cases of emergency when the public interest demands it, and the demand is strong. Then the governor will call the general assembly together and tell the general assembly what is wanted, and if the general assembly agrees, it will simply pass the law and adjourn; otherwise, adjourn without passing it.

Mr. HARRIS, of Hamilton: Do you not think that the proposal is wise also for the reason that with the knowledge on the part of the people that the legislature can consider, when called in extraordinary session, only the things that the governor has mentioned, and there would be no outside special interest to harass the legislature, that that temptation would be removed?

Mr. WINN: That probably is true.

Mr. PECK: I think we have been spending a good deal of time about nothing. I rise to state what I recall about special sessions, and that is all. I remember but

one special session of the legislature. Ten or fifteen years ago—I think some of the gentlemen here were members—the general assembly was called in special session by proclamation of the governor to pass a law relating to the board of public works in the city of Cincinnati. They got together, and like good boys, they legislated the board of public works of the city of Cincinnati out and legislated another board in, which happened to be of different politics from the one they put out, and thereupon they adjourned; and thereupon the supreme court promptly decided that law to be unconstitutional. Mr. President I move the previous question.

The main question was ordered.

A further vote being taken, the amendment of the delegate from Franklin was carried.

A further vote being taken, the amendment of the delegate from Medina was carried.

The PRESIDENT PRO TEM: The question is on the passage of the proposal as amended.

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

The PRESIDENT PRO TEM: This is on the passage of a proposal and the roll would be called under rule.

The question being "Shall the proposal pass?"

The yeas and nays were taken, and resulted—yeas 82, nays 24, as follows:

Those who voted in the affirmative are:

Anderson,	Halfhill,	Okey,
Antrim,	Harbarger,	Partington,
Baum,	Harris, Ashtabula,	Peck,
Beatty, Morrow,	Harris, Hamilton,	Peters,
Beatty, Wood,	Harter, Huron,	Pettit,
Beyer,	Henderson,	Read,
Bowdle,	Hoffman,	Redington,
Brattain,	Holtz,	Riley,
Brown, Lucas,	Johnson, Madison,	Rockel,
Brown, Pike,	Johnson, Williams,	Roehm,
Cassidy,	Jones,	Rorick,
Cody,	Kehoe,	Shaw,
Collett,	Kerr,	Smith, Geauga,
Colton,	Knight,	Solether,
Cordes,	Kramer,	Stalter,
Cunningham,	Lambert,	Stamm,
Dunlap,	Lampson,	Stewart,
Dunn,	Leete,	Stokes,
Dwyer,	Longstreth,	Taggart,
Elson,	Ludey,	Tannehill,
Evans,	Marshall,	Ulmer,
Fackler,	McClelland,	Wagner,
Farnsworth,	Miller, Crawford,	Walker,
Fess,	Miller, Fairfield,	Weybrecht,
FitzSimons,	Miller, Ottawa,	Winn,
Fluke,	Norris,	Wise,
Fox,	Nye,	Woods,
Hahn,		

Those who voted in the negative are:

Crosser,	Hoskins,	Pierce,
Davio,	Hursh,	Smith, Hamilton,
Donahay,	Kilpatrick,	Stevens,
Doty,	Kunkel,	Stilwell,
Earnhart,	Leslie,	Tetlow,
Farrell,	Malin,	Thomas,
Halenkamp,	Mauck,	Watson,
Harter, Stark,	Moore,	Mr. President.

So the proposal passed as follows:

Proposal No. 7—Mr. Nye. To submit an amendment to article 3, section 8, of the constitution.—Relative to calling extra sessions of the general assembly.



## Limiting Power of General Assembly in Extra Sessions—Regulating State Printing.

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

## ARTICLE III.

## EXECUTIVE.

SECTION 8. The governor on extraordinary occasions may convene the general assembly by proclamation and shall state in said proclamation the purpose for which said special session is called and no other business shall be transacted at said special session except that named in said proclamation or in a subsequent public proclamation or message to the general assembly issued by the governor during said special session, but the general assembly may provide for the expenses of the session and other matters incidental thereto.

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

The president here resumed the chair.

The PRESIDENT: The next is Proposal No. 261, Mr. Halenkamp.

The proposal was read the second time.

Mr. HALENKAMP: The purpose of this proposal is to correct a seeming mistake in the old constitution. Article XV, section 2, of the constitution, reads as follows:

The printing of the laws, journals, bills, legislative documents and paper for each branch of the general assembly, with the printing required for the executive and other departments of state, shall be let, on contract, to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

The intention of the first part of the proposal is to take out of the old constitution the word "executive officers." The reason for this is that another part of the constitution specifies that the executive officers of the state shall be the governor, secretary of state, treasurer of state, auditor of state and the attorney general. They are the executive officers. The legislature has created and established a department of public printing, and at the head of that department has put a supervisor of public printing. It is his duty to attend to all the printing of the state, to test the paper and attend to other details. After he gets the bid he is required by law to take it to the printing commission, which consists of the secretary of state, auditor of state and attorney general. Now it was necessary, in order to conform to the constitution, for the legislature to establish this printing commission of executive officers, and it did establish the printing commission consisting of the secretary of state, auditor and attorney general. When the supervisor of public printing, whose duty it is to take the bids, gets the bids, he takes them to the commission. The attorney general is always busy with his law, the secretary of state is busy with his duties, and the auditor of state has his work to do; not having had any connection with the bids before they were received from the supervisor of public printing, they don't know anything about the job at all, and they have to take his word. I have it from him and them that they usually say, "Well, we will accept

your word for it." But there have been times when he has not been able to get a majority of them together. The work of the department has been crowding. Letters have been sent asking when this report and that could be had, and it was impossible to get the printing commission together.

The same has been true of bills for printing. They would all come in to the supervisor, and he must refer them to the printing commission. About two years ago the printing commission decided to hold sessions on the first and fifteenth of each month and they went on for a month or two, and then found it was impossible to hold those meetings, and the result is when the bills are received they are put in their desks, and sometimes they stay there until the end of the month, when the time for discount has gone by. The state has by reason of that, lost a thousand or so dollars every year in discounts.

Mr. WINN: Is the supervisor of printing a constitutional officer?

Mr. HALENKAMP: No, sir; I have an amendment to take care of that. I realize it is going too far to specify the duties for that officer in the constitution. The amendment is to strike out of line 4 the word "papers," and insert "supplies," and in line 7 to strike out the words "by the state supervisor of public printing," and in line 8 strike out the word "departments." Then it would read:

The printing of the laws, journals, bills, legislative documents and supplies for each branch of the general assembly, with the printing required for the executive and other departments of state, shall be let, on contract, to the lowest responsible bidder, or may be done by the state in such manner as shall be prescribed by law.

The intention of the first part of the proposal was to get away from the red tape and facilitate the matter, and let the legislature say that the department of printing shall attend to this or adopt some other means. I do not believe the legislature should be required to enact laws requiring the executive officers to do this, because the executive officers have not the time to give it the attention it requires.

I do not think the second part of the proposal requires any explanation. The idea is, when the volume of printing reaches such proportions that the state thinks it should be in the business itself, it should be able to do so. Our national government does all of its own printing. It is done under its own supervision, and it owns the plants and the machinery. Big business houses that get out a big amount of printing have their own printing departments. All over the country big concerns that get out much printing establish their own printing departments. The idea is not to establish a printing department by the state now, but only to make it possible that when the time comes and the state wants to, it may be permitted to do so.

I now offer an amendment.

The amendment was read as follows:

In line 7 strike out "by the state supervisor of public printing."

In line 8 strike out "through the department of public printing."

Regulating State Printing.

Mr. DOTY: Will the gentleman from Hamilton yield to a question?

Mr. HALENKAMP: Yes.

Mr. DOTY: What have you in mind in substituting the word "supplies" for "papers"? What supplies are there that can be printed?

Mr. HALENKAMP: Mr. Knight has just called my attention to that. The reason I inserted the word "supplies" was that I didn't think the word "papers" there included "other supplies." I have no objection to leaving the word "supplies" out, and I withdraw that much of it.

Mr. BEATTY, of Wood: In an investigation four years ago we found that the graft was all committed in the furnishing of supplies. Mark Slater is over in the penitentiary now on that very word. As Mr. Halenkamp well said the printing commission is supposed to O. K. all bills, but they don't know anything about them.

Mr. DOTY: And I want to call attention to the fact that if the gentleman put the word "supplies" in, as he said he would, he won't do what he wants to do.

Mr. BEATTY, of Wood: I move to amend Mr. Halenkamp's amendment, as follows: After the word "papers," in line 4, add "and purchase of supplies." Strike out the word "and" in line 4, and insert a comma. This is a question of graft in the state house.

Mr. HARRIS, of Ashtabula: The last point referred to by Mr. Halenkamp had considerable weight with the committee, and that is the fact that probably the state would sooner or later, perhaps sooner, have its own printing outfit. It is possible to conceive that printers might combine and put up the price. It is not very likely that they will, but as there was no provision made for this, it was thought wise that this be inserted. It met with the full approval of the committee.

Mr. PETTIT: Are you the chairman of the committee?

Mr. HARRIS, of Ashtabula: I sit at the head of the table, yes.

Mr. PETTIT: Will you tell the Convention any reason why you chose Proposal No. 261 instead of Proposal No. 160?

Mr. HARRIS, of Ashtabula: I don't think we had Proposal No. 160 before us.

Mr. PETTIT: Oh, yes you did. What did you do with it?

Mr. HARRIS, of Ashtabula: I don't think we had it.

Mr. PETTIT: I appeared before you in reference to that proposal.

Mr. HARRIS, of Ashtabula: If I am not mistaken I think we deferred action on it at your suggestion.

Mr. PETTIT: You were to report further to me about it.

Mr. HARRIS, of Ashtabula: I have no recollection of considering a proposal of yours involving those points I have an indistinct recollection of your appearing before the committee with some proposal, and then finally asking that it be deferred, and it was deferred.

Mr. DOTY: Before I offer an amendment I would like to submit it informally to see if I have met the matter that the member from Wood [Mr. BEATTY] desires. In line 4 before the first "the" insert "the purchase of stationery and supplies and," and then it goes

on this way "the purchase of stationery and supplies, and the printing of the laws, journals, bills," etc.

Mr. BEATTY, of Wood: That will cover it. I withdraw my amendment.

The amendment offered by the delegate from Cuyahoga [Mr. DOTY] was read as follows:

In line 4 before the first "the" insert: "The purchase of stationery and supplies and."  
Change the capital "T" to "t."

The amendment was agreed to.

The amendment offered by the delegate from Hamilton [Mr. HALENKAMP] was agreed to.

Mr. THOMAS: I think in line 5, the words "and supplies" ought to be added, after the word "printing."

The amendment was reduced to writing and read as follows:

Add after the word "printing" in line 5 words "and supplies."

The amendment was agreed to.

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

The yeas and nays were taken, and resulted — yeas 95, nays 2, as follows:

Those who voted in the affirmative are:

- |                 |                    |                |
|-----------------|--------------------|----------------|
| Anderson,       | Harris, Ashtabula, | Partington,    |
| Antrim,         | Harris, Hamilton,  | Peck,          |
| Baum,           | Harter, Huron,     | Peters,        |
| Beatty, Morrow, | Henderson,         | Pettit,        |
| Beatty, Wood,   | Hoffman,           | Pierce,        |
| Beyer,          | Holtz,             | Read,          |
| Bowdle,         | Hursh,             | Redington,     |
| Brattain,       | Johnson, Madison,  | Riley,         |
| Brown, Lucas,   | Johnson, Williams, | Rockel,        |
| Brown, Pike,    | Kehoe,             | Roehm,         |
| Cassidy,        | Kerr,              | Shaw,          |
| Collett,        | Kilpatrick,        | Smith, Geauga, |
| Colton,         | Knight,            | Solether,      |
| Cordes,         | Kramer,            | Stamm,         |
| Crosser,        | Kunkel,            | Stevens,       |
| Cunningham,     | Lambert,           | Stewart,       |
| Davio,          | Lampson,           | Stilwell,      |
| Donahey,        | Leete,             | Stokes,        |
| Doty,           | Leslie,            | Taggart,       |
| Dunlap,         | Longstreth,        | Tannehill,     |
| Dunn,           | Ludey,             | Tetlow,        |
| Earnhart,       | Malin,             | Thomas,        |
| Evans,          | Marshall,          | Ulmer,         |
| Farnsworth,     | Mauck,             | Wagner,        |
| Farrell,        | McClelland,        | Walker,        |
| Fess,           | Miller, Crawford,  | Watson,        |
| FitzSimons,     | Miller, Failfield, | Weybrecht,     |
| Fluke,          | Miller, Ottawa,    | Winn,          |
| Fox,            | Moore,             | Wise,          |
| Hahn,           | Norris,            | Woods,         |
| Halenkamp,      | Nye,               | Mr. President. |
| Halfhill,       | Okey,              |                |

Mr. Harter, of Stark, and Mr. Stalter voted in the negative.

So the proposal passed as follows:

Proposal No. 261 — Mr. Halenkamp. To submit an amendment to article XV, section II, of the constitution. — Relative to state printing.

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

## Regulating State Printing—Limiting Terms of County Officials.

The purchase of stationery and the printing of the laws, journals, bills, legislative documents and papers for each branch of the general assembly, with the printing and supplies required for the executive and other departments of state, shall be let, on contract, to the lowest responsible bidder, or may be done direct by the state in such manner as shall be prescribed by law.

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

Mr. DOTY: This proposal has been amended considerably and I move that it be reprinted as passed.

The motion was carried.

The PRESIDENT: The next is Proposal No. 17—Mr. Baum.

The proposal was read the second time.

Mr. BAUM: The purpose of Proposal No. 17 is so plain that it needs but little explanation. The principles involved are so simple and elementary that every delegate has probably already decided where he stands in regard to it. On this proposal, then, argument can do but little good and my remarks shall be correspondingly brief.

Let us take the first section: "No person shall be eligible for re-election for any county office to succeed himself. The term of such officer shall be four years." The language used is perhaps ill chosen, as it might be construed to mean that a county official could not hold the same office at any future time, while my intention and I think that of the committee, was that he should be ineligible only for the next succeeding four years. I shall therefore offer an amendment at the proper time to remedy that defect. What is really intended in this part of the proposal is the elimination of the second-term nuisance with its long train of evils. Long-established custom invested the second-term idea with a character and position almost sacred. Touch not the bosses anointed. He, the boss, always insists on a second term. It is regular, it is good politics, the official is entitled to a second term; but the simple reason is the party boss could scarcely get along without the second-term principle. A large part of his revenue is derived from this source, and while it is not claimed that the prohibition of a second term will take away the avocation of the boss, yet it will cripple him.

The whole theory of a second term is vicious, even though it is as wide as the nation and as old as the government. Public officials have used the power and patronage of their position to perpetuate themselves in office. In this way they have built up machines that were absolutely unbreakable and have hung on to public offices long after the second term, and long after they have ceased to be useful.

The present secretary of agriculture at Washington is a good example. His duty is to aid agriculture in every way possible. His business, as he sees it, is to build a machine that even the president of the United States dares not oppose. So Wilson has held on through three administrations and the end is not yet.

A former state dairy and food commissioner built a machine so strong that he nominated himself for a third term in opposition to public opinion and it was only by an overwhelming public sentiment that he was defeated for a fourth nomination. Under the present

system the president of the United States must descend from his exalted position to make an unseemly scramble for renomination, and the machine he has constructed to accomplish this differs only in magnitude, not the least in principle, from that known as the "organization" in nearly every county in the state.

But I submit to you, gentlemen, that a custom or system that builds up organizations to thwart the will of the people, loot the county treasuries and debauch the electorate is vicious in the extreme.

What would the single term of four years accomplish? First of all, it would improve the administration of county offices. As it is now, the greater part of a county official's first term is used in trying to secure his renomination and re-election. He must be away from his office a large part of the time, actively engaged in the work of his campaign. When in his office a great part of his time is demanded by committees, ward politicians, grafters and deadbeats. His work must necessarily be attended to by others. He becomes a mere figurehead, and by the time he is re-elected, if he is so fortunate, he feels that his deputies are more competent to run the office than he is and he acts accordingly. I have in mind a certain county official who only visited his office once or twice a month. Of course, he had efficient help, and the public business did not materially suffer, but they were not responsible to the public, and besides the public are better satisfied when they see the official himself attending to business.

Then it would reduce misappropriation of public funds. Almost every county official is guilty of the misuse of public money, but perhaps the county commissioners offend oftenest in this respect. The county commissioner, candidate for a second term, is subjected to a pressure that is almost impossible for a mere man to withstand, because the demands come from persons he can hardly afford to ignore—party boss, contractors, prominent citizens. To protect his machine the party boss demands that jobs should be given to his followers and if there are no jobs they must be provided. In this way the superintendence of a small bridge or culvert sometimes costs as much as the labor and material. Contractors are all politicians; for contracts they deliver votes. I do not refer to contracts awarded after competitive bidding, although in this there has been much cause for scandal, but to the petty contracts awarded by favoritism and where they will do the most good. Sometimes, at least, another man might have been found who would have done the work for less money. In many instances contracts that should by law have been let by competitive bidding have been so divided as to make two or more contracts. You know why. And then the "prominent citizen" wants a bridge or a road, and he controls votes—perhaps a township. Thousands of dollars in many counties of the state have been appropriated ostensibly for public roads and bridges, but in reality to insure a second term. Remove the lure of the second term and the boss, the prominent citizen and the contractor will each have only his proper influence.

Again, this proposal furnishes the means of materially shortening the ballot. The schedule can be so arranged that only one-half of the county officials are elected at the same time, and instead of twelve county officers to be voted for there will be but six, and this in turn will

## Limiting Terms of County Officials.

improve the administration of some of the offices. The auditors' and treasurers' offices are intimately connected and these offices should never both be changed the same year. And one county commissioner should always be chosen at an election different from the other two; the reasons are obvious.

The elimination of a second term will also reduce the necessity for graft on the part of the county official. The candidate for county office is generally a young man with very little money to spare. The expenses incident to the first campaign are a severe drain on his financial resources. He naturally supposes that when he begins drawing his official salary he can soon pay his debts and accumulate a campaign fund for his second term. In this he is doomed to disappointment. Hardly has his first term begun, which in most cases is nearly a year after his election, when he is asked to contribute to the city campaign fund and he dares not refuse. The subscription list for every charity must contain the names of the county officials. He has to help build or repair the churches, make good the fire loss of the improvident, buy tickets for every kind of society, lodge or church entertainment, and look pleasant while he makes innumerable short loans to deadbeats.

Then comes the second campaign assessment. He thought, perhaps, the former assessment was outrageous, but he sees now that it was very reasonable. Like the railroads, the boss always puts on all the traffic will bear, and he never uses his conscience when he makes this second assessment. By the time the official's second campaign is ended he is hopelessly in debt and can see no way of breaking even except by converting to his own use every dollar he can draw from the public treasury upon any pretext whatever. The total amount of money thus illegally drawn by the county officials in this state for the nine years from 1903 to 1911, inclusive, was nearly two and one-quarter million dollars. Every county in the state contributed to this sum. Of this amount \$833,000 was recovered during the same time. Of course, it cannot be justly claimed that all this graft should be charged directly to the account of the second term, but a large part of it should. Had it not been for the immense expenditure of money made necessary because he was a candidate for a second term, the official being absolutely held up, as I have tried to show, much of this money never would have been drawn from the treasury.

Very few county officials profit financially from the salary or income from these offices. Among my personal acquaintances perhaps nine out of ten have retired from office in a worse financial condition than they were in at the beginning. The very fact that these officials are practically bankrupt at the end of their terms proves that the graft has not gone to enrich them, and we do know that a very large sum is usually given out by them on demand because they fear defeat for re-election.

A single term of four years will reduce the corruption fund by half. There will be only half the number of candidates from whom to collect this fund. Then, as I have asserted previously, the boss always assesses the second term more heavily than he does the beginner. Why an official should get anxious and scared about re-election I do not know, but it is a fact, nevertheless. Perhaps the criticisms, the desertions of former friends

and the activity of his opponent reach his ears oftener. Two things are always impressed on him by the organization (which means the boss): "Help provide a good big campaign fund and get to work." He is in office and can get hold of the money. Some of the other candidates cannot. These and other means, fair and unfair, are used to get his money and he "comes across." He has to. Were it not for the second-term campaign pickings would be rather meager. Just let the organization of a party with no representatives in the court house try to raise a campaign fund. It is discouraging work. We all condemn the political boss; we are looking for a club, any kind of club, to swat him. Reduce his power and revenue by eliminating the second term; that will, at least, furnish us with a pretty big stick.

There is one phase of this subject that may not affect us at all as taxpayers, but should concern us greatly as citizens. What effect does this effort to be re-elected have on the character of a candidate? His contributing money to buy votes? His loafing in saloons? Making and breaking promises? Associating with dead-beats and bums? Drawing money from the public treasury he is not entitled to? He generally goes into public office a clean and ambitious young fellow; is it not remarkable that so many retain a good character after being subjected to all these temptations?

Another thing, the ordeal to which a candidate for re-election is subjected is something to be dreaded by any man. Not only is the general conduct or policy of his office severely criticised, but every act of his is given the worst possible construction and his motives impugned. A few years ago I saw the auditor of our county die. As gentle, as refined, as honest a man as I ever knew. The criticism of his official acts and the demands made upon him because he was a candidate for re-election unbalanced his mind and he ended all by a bullet. Now, a certain amount of criticism of the right kind is wholesome and necessary, but if it were intended only for the benefit of the public and not for its effect on the official's chance for re-election, it would be better for all concerned.

One objection has been urged—four years is a long time to be cursed by a bad official. Let me say, in answer to that, the bad official in almost every case is re-elected under the present system; he looks out for that; the boss helps him and they are both unscrupulous. It is the conscientious official, who gets the ill will of a certain element, who is likely to suffer.

The second section is the proposal of the member from Erie county added to Proposal No. 17 as it originally was drawn. It certainly commends itself to every one; county officials should begin their terms as soon as possible after election, and with the exception of the county treasurer, on the same date. In that way it becomes a general housecleaning period for the county officers.

Several members have inquired as to the effect this proposal, if adopted, will have on officials who are now candidates for a second term. That can, and will, be taken care of in the schedule. Candidates will all have been nominated and it would be unjust to declare these nominations void; so, without doubt, the schedule will

## Limiting Terms of County Officials.

exempt all candidates nominated at the time this constitution is adopted.

I now offer an amendment.

The amendment was read as follows:

In lines 8 and 9 strike out the first sentence and insert the following:

"No county officer shall be eligible for re-election for the next succeeding term."

Mr. FACKLER: Do you include the judge of probate?

Mr. BAUM: That was called to my attention, and I am willing to accept an amendment excepting the judge of probate.

Mr. FACKLER: Do you think when a county officer has proven his efficiency with the people that they should not be allowed to re-elect him?

Mr. BAUM: There can never be a rule to fit every case. Sometimes they ought to be continued, but nine times out of ten it is the other way, and it is our experience that not one official has been elected more than two terms. Several times they have been candidates for the third term, but they have been defeated uniformly.

Mr. DOTY: Did I understand you to say that nine times out of ten officers in Ross county are incompetent to hold public offices?

Mr. BAUM: No; I didn't say that. I said the people wouldn't return them for a third time.

Mr. DOTY: I understood you to say nine out of ten were not competent.

Mr. BAUM: You didn't understand me correctly.

Mr. OKEY: I am in favor of this proposal. I would say by way of preface that there will be an amendment offered by the gentleman from Richland [Mr. KRAMER] directly, which I approve of, taking care of county officers who are candidates the present year—nominated this spring, and those who are also in office now—and after that amendment has been offered I think this proposal will be fairly complete.

We all know that the test for electing a man to a public office should be efficiency. Under our present system a man has to make four campaigns in order to hold two terms. I believe if a man were permitted to hold for a term of four years, and only be required to make one campaign, after he got in he would only look after the public business. We all know, as a matter of fact, and no man can deny that, that when a man is in office for the first time his time is taken up to a large extent entrenching himself for a second term. I do not blame anybody for that. That is human nature. And during his first term his mind is distracted from the immediate duties of his office, while if he had a term of four years without chance of re-election, after he was elected he would only have one thing to look after, namely, the public business. If we had fewer campaigns in this country we would have better officers. The more campaigns we have the more the people are stirred up, and the more demoralizing the effect upon the people. If we had fewer campaigns and longer terms we would have better service.

It has been said that in some counties we have had men renominated time after time. I do not deny that, but that condition of affairs does not prevail all over

the state of Ohio. Moreover, I am not in favor of perpetuating men in power forever, for I believe that men who are out of office are just as competent to perform the duties of the office as those in it. And, therefore, while this rule might in some instances affect some counties in a way not desired, as a whole it is the proper thing. And you cannot adopt a rule that will meet every condition or the desires of all persons. But in the long run we want to get the best thing for the people of the whole state, and we cannot let exceptions govern us in our actions here today. Therefore, I am in favor of the proposal.

Mr. ULMER: Mr. President and Gentlemen of the Convention: I am not in favor of the proposal. It may be justified from the standpoint of politics, but it cannot be justified from the standpoint of business principles. There is no wrong in allowing a man who has performed his duty honestly and intelligently and fairly to be continued in office. It is a simple matter of business. You never see a great corporation changing their superintendents or managers as long as they know that the men they have are capable and honest and are doing their duty. The same thing should be true in public affairs, and the same principle should be applied there.

Mr. Baum spoke about graft and such things as that. If a man is elected for one term, even if for four years, is not that incentive to him to make all out of the office that he can during that four years? Will we make a man more honest or more efficient? Not for a moment.

You may have good laws and bad men in office, and you may have bad laws and good men in office. The bad men with the good laws will hurt you, but the bad laws with the good men won't. We have come to the conclusion, and the people of this country must come to it, that if we have a good government we must keep good men in office as long as they are willing to serve. We know the men who do their duty, and we respect them, and when we retain them in office we will have good government, and not until then.

Mr. KERR: Are you in favor of a political machine?

Mr. ULMER: No; it is the duty of the citizen to do away with the machine, and the citizen who follows a machine is not a good citizen. I never followed a machine in all my life. I followed principles.

Mr. PETTIT: Are you in favor of keeping a man as long as you can keep him there without regard to the rights of others?

Mr. ULMER: I am in favor of keeping a man in office just as long as he is efficient and honest and is willing to serve.

Mr. PETTIT: You would keep him in for life?

Mr. ULMER: I don't care. We all agree that the people of Switzerland today have the best government on earth. Why? Because they keep their good men in office. They have a man today in the executive department who is eighty-two years old, and who has been in that office twenty-eight years. We had a man in another branch of the executive department forty years.

Mr. PETTIT: If that is your idea about the Swiss government, why didn't you remain there?

Mr. ULMER: That is an insult. I respect your age, but that is an insult.

## Limiting Terms of County Officials.

Mr. STAMM: May I ask a question? Don't you think that Proposal No. 169 by Judge Worthington will bring about better conditions and somewhat harmonize with your views —

Mr. ULMER: I think so.

Mr. STAMM: Civil service reform?

Mr. ULMER: That is true. We should have that.

Mr. STAMM: The appointment and promotion of officers in the state without reference to political conditions, but according to merit?

Mr. ULMER: I am in favor of that. Now, gentlemen, we have some counties with great populations. Look at Cuyahoga, Hamilton, Franklin and Lucas. There you have counties with an immense population, and if a man goes into office there as a commissioner, it takes him quite a while to get acquainted with the duties of his office and the details of his business, and then, after he knows all the ins and outs, along comes another election, and he steps out and another young fellow steps in — to learn. Do you think the people are benefited by such things as that? No. I say, if you have a good honest man, keep him in office, and protect him, and you will get good government. Don't constantly be changing. It is a foolish idea to talk of letting another man have a chance. No private corporation does that. They say, when they have a good man, "As long as it is to our benefit we will keep that good man." The people should apply the same principle. Therefore I am against the proposal. It is opposed to the principles of good government.

Mr. KNIGHT: I am very glad as a member of this Convention that we have with us two gentlemen from Switzerland who are able to come to us and tell us with some authority some of the good features of the Swiss government, and I am very glad that they didn't remain in Switzerland and allow us to get along here on the principle that rotation in office is a chance for the other fellow.

Mr. STAMM: Are you not glad that we didn't settle in Adams county?

Mr. KNIGHT: No; I am rather sorry, because I suspect if the gentlemen from Switzerland had gone down there, Adams county would be a little better than it now is.

On the matter of the pending proposal it seems to me we are in danger of depriving ourselves of that which makes in private business the best administration and has the best effect. The gentleman from Lucas [Mr. ULMER] has already delivered a large part of my speech. It seems to me that we are in danger, for fear that we shall occasionally get rascals in office, of taking steps to keep good men from retaining office when we get them there. The provision for direct primaries and the impetus which it is hoped this Convention will give to good citizenship in this state will tend to the election of good men to start with, and we will not re-elect men who do not make good officers.

But without reference to any danger of a political machine, I am strictly opposed to this proposal. It seems to me that we are running the risk of depriving ourselves of vast possibilities for improvement in the governmental life.

Mr. HURSH: I am in favor of this proposal. I am not sure that I am in favor of the amendment of

the gentleman from Ross [Mr. BAUM], but what I sought recognition for is that I would like to call the attention of the Convention to line 10, "except treasurer." If we are going to change the time for the public officials to take office, and if we are going to make their terms uniform, I am satisfied that the term of the treasurer, in connection with all the other officers, can be arranged to commence in December with the other county officers. I am not sure that the language in the latter part of line 10 "on the first Monday in January" is the happiest that we could get. It might be possible that they might commence at different times in January, but I think January would be definite enough for the change.

I have become somewhat familiar with the proposals along this line. There were two or three or four of them referred to the committee that has reported this proposal, and some were referred to the Legislative and Executive committee. For that reason I was appointed on a sub-committee of the Legislative and Executive committee to give this matter some investigation, and in this county and my own county, and from inquiries in other counties, we find that the idea of fixing a definite time for all county officers to begin their terms, and fixing it in January, pretty well satisfied the auditors and treasurers. Those of you who are familiar with county machinery know the auditor's and treasurer's offices are almost inseparable. The only objection that I can possibly see why the treasurer should not take office in January is that it comes during the collection of taxes. The collection of taxes ought to close on the 20th of December, but we know it does not. I do not see why the treasurer should not take office when the auditor does. I offer an amendment.

The amendment was read as follows:

In line 10 strike out "except treasurer" and the two commas in the same line.

Mr. TANNEHILL: I am very much in favor of this proposal, especially so with the amendment offered by the gentleman from Hardin. I see no reason why the treasurer should be excepted. As to continuing men in county offices year after year, we know as a matter of fact that is not done except in rare instances. With the possible exception of the office of probate judge, if a man has served two terms that is generally an end of him. A few years ago the law was changed as to length of terms, and I think that most of us agree that two years is rather too short a term. In most of these cases we re-elect them for a second term, and they serve four years, but it is a rare exception that they are re-elected for a third term. So under the proposal they serve as long as they do under our present system, and they are saved the expense of the second campaign. There is great complaint all over the state of Ohio, as to the misconduct in office of county officials — graft and other things—and when we look at what prevails in Ohio, you don't wonder that they do graft. You almost compel them to. Let us see what they are up against. In the state of Ohio within a few weeks we will have a primary, in May, and the man who is nominated in that primary will for six months long make a campaign. It means those men are out of business; they simply lay aside their business for six long months. They have to spend their time and money in

## Limiting Terms of County Officials.

this campaign. Then they are elected in November. The treasurer, auditor, commissioner, etc., have to wait almost a year before they get their offices. They have lost all of that time. They are out of business in nearly every case.

Do you wonder that men graft and try to get back some of that money? More than that, those men wait nearly a year, and get into office the next fall, and in six months they are in another campaign. I say to you it is not fair. It is not right to drive men to corruption. I have seen young men in my county come in from the country districts. We know young men and we know what happens to them. They hardly get into office until they see, six months ahead, the primary coming on, and they have to make themselves good fellows with the others around them, and in most counties of the state there are saloons in the county seat, and they have to take their friends into the saloons and treat them. The result is a great many of the young men who come in as officers are by this political system driven from the right path and are corrupted. They go out wrecks, and not one man in ten under the present system goes out of office one dollar ahead of what he had when he went into it. It is the short term and the second election that cost so much and cause the trouble.

What is the ideal system that we are working to in Ohio and that we will come to? Four-year terms without re-election in the counties, and four-year terms in the state without re-election, and we will then so adjust it that the election for state officers does not come the same year that the election of the county officers is held. It is wrong to inject a county election into a state election. It would be infinitely better if they were connected with the township and corporation elections rather than the state elections. We are gradually working to that. This is the first move in this direction. Let us make it.

The next move is the election of state officers for four years without re-election, and then the next is the recall. Possibly the Convention did wisely in not adopting the recall, so as not to injure the initiative and referendum. But, gentlemen, you will have the recall inside of four years. It is just as logical a conclusion as anything in the world, and if you make this arrangement of county officers and the other arrangement as to state officers and then get the recall, you will have an ideal system.

Mr. KRAMER: There are a few things connected with this proposal in which I am somewhat interested, but I would think that there were other members of the Convention just as much interested as I am. I notice that the proposal provides that no person shall be eligible for re-election for any county office to succeed himself. I believe that will prevent any officer this fall from being elected to succeed himself because if our constitution is adopted in September, and this provision is adopted, it would compel all the persons who are up for re-election to quit.

Mr. BAUM: Cannot that be taken care of in the schedule?

Mr. KRAMER: I will come to that later on. I think that is a matter that we should especially take care of. I do not like to do anything that will interfere with the men who will make their canvass for office this year. If we do, you will find that there will be from five to twenty people in every county of the state radi-

cally opposed to this constitution because of that fact. I would like to see inserted right after that the language "This provision, however, shall not apply to persons elected in November, 1912, to succeed themselves." In our county we have a sheriff, a treasurer, a probate judge and one county commissioner up for re-election. They are candidates to succeed themselves, and probably every other member of the Convention has more or less of these officers in his county who are trying to succeed themselves.

Mr. ELSON: If they are up for re-election this fall at the same time that this constitution is voted for, of course it won't apply to them.

Mr. KRAMER: No, but I don't have any idea from what I hear that this constitution will be up for ratification at the regular election. It won't be if my vote can prevent it. There would not be any question about it if the constitution is submitted for adoption at the same election, but the sentiment of the Convention is that the constitution should be submitted at a separate election, and possibly long before the regular election. Now, suppose we do submit it sometime before the regular election, and it is adopted by the people?

Mr. ELSON: It wouldn't go into effect the minute it is adopted.

Mr. KRAMER: I don't know about that. I know if there were no provisions made to make it become effective at some other time, it would be effective just as soon as approved by the people. That is the danger. For my part I am somewhat interested in this amendment, more so than I have been in almost any other amendment that has been offered, because I have been importuned by persons in Richland county to protect them, and I believe that every other member ought to feel it incumbent to protect his people back home.

Mr. ANDERSON: Does this include members of the general assembly?

Mr. KRAMER: I was going to make a suggestion in regard to that too. Now, if I have made myself plain on that, there is one other thing that I am interested in. If you make the officers elected this fall begin the coming January, it will take away from the term of office of at least three or four county officials from eight to nine months of their time.

Mr. BROWN, of Highland: If this proposal is adopted, is ratified at the election and becomes a part of the constitution, will it not be at variance with what will obtain when we raise the number of years to four, and would it not prohibit the re-election of common pleas judges? That is one question, and another question is, if a common pleas judge is as a man and an official trusted by the people is it not well to allow him to succeed himself?

Mr. KRAMER: I was not speaking of the merits of the proposal. I was just saying that if we adopted this proposal we should take care of those two sets of officers, those up for re-election this fall, and those whose terms of office will not expire for eight or nine months after January 1st.

Mr. HURSH: You are assuming that the man who would be running for the second term would be beaten out of six to nine months' time. If he is re-elected would not his term be extended two years?

## Limiting Terms of County Officials.

Mr. KRAMER: I did not make myself plain on that last proposition. The last proposition is that there are a good many county officers already on their second term, and their term of office does not expire until nine months after the first of the coming January. Take the county auditor, the county commissioner and the probate judge; they would not be affected, but it would affect the county clerk and several other officers, and cut off eight or nine months of their term. I believe when a man is elected on the theory that he is to have a two-year term the Constitutional Convention should not do anything to interfere with his right to hold the full term for which he is elected. Hence, I would like to see both sets of officers protected.

Mr. BEATTY, of Wood: Did I understand you to say this would affect the members of the legislature and give them four years?

Mr. KRAMER: I am coming to that.

Mr. BEATTY, of Wood: You stated that you have an amendment to offer so that the commissioners elected this fall can succeed themselves. Does that mean that in 1916 they can succeed themselves then?

Mr. KRAMER: That is not what I meant.

Mr. BEATTY, of Wood: Why not provide that this shall not take effect until 1914? That will fix everybody.

Mr. KRAMER: I would rather allow somebody else to do the amending. I am not much on offering amendments. I don't care how it is done so we can take care of the different situations. Here is the suggestion I made with reference to those who are now in office. "The several terms of such officers shall commence on the first Monday in January next following their election." That is the proposal that came in. Here is something to be added:

But county officers who are elected at the November election of 1912 shall assume the duties of the offices to which they have been elected, and on the expiration of the terms for which those persons are now holding office, their successors shall be elected and continue in office until the first Monday in January, 1917.

This will enable the men elected this fall to know that they are going to have a little taken off of their terms.

Now, a word on the merits of this proposition. I think this amendment ought to be adopted. I do not know whether it would be in order to state before the Convention that I am a Jacksonian democrat. It is more popular, I know, for people to say that they are Jeffersonian democrats, but I rather like Jackson. And I like his ideas applicable to the situation that we are now considering. I know it would work some hardships. There is only one exception to it, as I look at it, and that is Judge Smith, of Geauga. I have no objection to Judge Smith's holding the probate judgeship as long as he wants to, but outside of Judge Smith I am opposed to re-electing and re-electing the same men to office.

I offer a substitute.

The substitute was read as follows:

Strike out all after the resolving clause and insert:

"No person shall be eligible for re-election for any county office to succeed himself. This provision, however, shall not apply to those persons elected in November, 1912, to succeed themselves.

The term of such office shall be four years. The several terms of such officers, except treasurer, shall commence on the first Monday of January next following their election. But county officers who are elected at the November election, 1912, shall assume the duties of the office to which they have been elected on the expiration of the term for which those persons now holding office were elected and continue in office until the first Monday of January, 1917."

Mr. FOX: Why except the treasurer?

Mr. KRAMER: I am in favor of cutting that out, but it was in the original and I just put it in here.

Mr. BAUM: Just a word about the treasurer. The treasurer makes a settlement at the end of his term. He could not make a settlement in the meantime. The books could not be gotten in shape to do it.

Mr. LAMPSON: This proposal seems to me to proceed upon the theory that a county office is for the individual. It is a kind of sugarcoated plum to be handed around, and is not for the benefit of the county at all. Now, for a good many years there has been coming on this country a great reform which recognizes the idea that public office is a public trust, and that men who take office do it for the purpose of serving the public and not simply for feathering their own pockets. I do not see why, when all over this country, from one end to the other, what is known as civil service reform has been adopted and has taken such a hold upon the better class of the people, that this Constitutional Convention of Ohio should go deliberately in the opposite direction. This is retrogression gone mad. Why we should one day proceed to extend the powers of the people and the next day proceed to curtail them in this proposed manner is something I cannot understand. Because the people of one county have been unfortunate in the selection of their county officers and have elected through their own fault and negligence men to office who have not given the best service, why should the people of another county be deprived of electing efficient public servants to office for more than one term? Why, in my county I cannot remember the time when there were not men serving in the county offices in the court house who had been elected more than two terms, sometimes three, four, five and six terms, not because of any machine, but because they had rendered good public service, which the people of the county recognized; and in the adjoining county ever since I can remember the gentleman sitting in front of me (until the last two years) has been probate judge of that county of Geauga, having held office for a period of forty-two years, not because he was an adept politician, for he never was. He never had a political machine, but it was because of his honest, faithful, efficient service in the office of probate judge of that county of Geauga. In my own county we have re-elected time and time again auditors for two, three, four, five, six, and sometimes seven and eight terms.

Mr. TANNEHILL: Have you in your county ever elected any of the opposition party?

Mr. LAMPSON: We never have elected any of the opposition party, and we have never had any trouble because of inefficiency, and we don't want to be deprived of the right of electing efficient officers.



## Limiting Terms of County Officials.

Mr. TANNEHILL: Is not that the reason why you have been electing people term after term, because the opposition is not strong enough to stop it, and you have built up a machine?

Mr. LAMPSON: We have no machine, and we have no inefficiency. We have clean, honest, upright public servants, who can go before the people and secure votes in the primary, but we have the hottest kind of opposition in the primaries among the republicans themselves. Why, we remominated for office for county commissioner two years ago a man for a third term, and he went into the primary and got the renomination. There were a lot of people who wanted him for a fourth term. There is a primary going on right now, and men are running for their third terms, one for county commissioner. There is a man running there now for his third term for probate judge. Whether he will get the nomination or not, I don't know, but there will be a full vote in that county at the primary, and if he gets it he will get it because the people want him, and because they think he will render more efficient service than his opponent.

Mr. TANNEHILL: Was not there an investigation in your county a short time ago?

Mr. LAMPSON: Yes, and there have been investigations in all the counties.

Mr. TANNEHILL: Was not there some money paid back?

Mr. LAMPSON: I think some, but there were no prosecutions.

Mr. TANNEHILL: Your colleague says not.

Mr. HARRIS, of Ashtabula: I did not want to be quoted. I don't know about that. I am not certain.

Mr. LAMPSON: The investigations where the money was paid back were of those offices whose terms were limited under the constitution, the offices of sheriff and county treasurer. I want to add right along that line, that the deficiencies grew out of a difference of construction of the statutes, especially the Dow law. There was no serious contention that there was real malfeasance in office, with possibly one exception.

Mr. WATSON: Is it not a fact that the salary attached to a county office is greater than the average wage-earning capacity of the people of that county?

Mr. LAMPSON: I don't think so; not the class of men we elect.

Mr. WATSON: Your county differs then from most of the other counties in the state.

Mr. LAMPSON: I have no doubt it does differ from some of the counties, and that is what I am insisting upon, and we don't want to be deprived of the right to re-elect men to offices if we want to do so.

Mr. WATSON: If the offices are a good thing, why not pass them around?

Mr. LAMPSON: They were not made for the purpose of being passed around. A public office is a public trust. We elect a common pleas judge, and it is proposed to reduce that to a county office. We elect a common pleas judge in our district so long as he wants to be re-elected, and as long as he stands for re-election, if he is an efficient common pleas judge.

Mr. BROWN, of Highland: Under this proposal there is nothing to prevent a county officer from holding four years, and then if he will build up a machine in that

time is there anything to prevent him from simply running for some other office?

Mr. LAMPSON: Not at all. But take the office of probate judge. Why, as far back as I can remember in politics we have elected a probate judge at least three times — sometimes, more. That is an office that comes directly in contact with the people. Our probate judges have a habit of trying to serve the interests of the people; the widows and orphans and others go into the probate judge's office and consult with him and advise with him so far as he can legitimately advise them. I know also that that was the policy of Judge Smith, and it was the one thing that made him one of the most popular judges in all that part of the state, and one of the most efficient. I think also, if a man has made an especially efficient public servant, there should be some opportunity for recognition of that fact on the part of the public, and if you limit the service to a single term, then they are in the same class, the efficient and the inefficient; there is no opportunity for the voters to register a verdict of approval of a public servant.

Then I don't know what effect this will have upon representatives and senators in the general assembly. In our part of the state it has been the custom, if we get an efficient man and he is willing to continue representative for us, to elect him for more than two terms. That has been the habit of our people up in that congressional district. That is one reason why the nineteenth congressional district of Ohio achieved in years gone by a great reputation. One man, Joshua R. Giddings, represented us twenty-one years. James A. Garfield represented us sixteen or eighteen years — which was it, Judge Smith?

Mr. SMITH, of Geauga: Eighteen years.

Mr. LAMPSON: E. B. Taylor represented us thirteen years. If these men had been cut off on the theory of this proposal they never would have achieved national reputation.

Mr. KRAMER: I was asked a question and I said I would come to it later, and I never did come to it. Would you consider a representative a county officer?

Mr. LAMPSON: That is a disputed question.

I have heard it a great many times. They are elected by the county, but I confess that I am not certain myself. Some people say that a representative is not a county officer, and perhaps in the sense that the auditor is a county officer he is not, and yet the representative is elected to represent a county. I don't think the people should be limited in their right to elect a representative to two or four years.

Mr. BROWN, of Highland: Were you not elected by a county?

Mr. LAMPSON: I was elected to the general assembly twenty-five years ago, and I was nominated a third time and I declined for reasons which transpired at the time.

Mr. OKEY: Is it not a fact that all the political machines that have ever existed were built up by continuation of men in office?

Mr. LAMPSON: We don't know anything about political machines in our county. We have men who give their attention to politics, but we have no corrupt political machine, as indicated on this floor. And we never have had. Simply because some counties have those

## Limiting Terms of County Officials.

machines, we don't want to be made to suffer because of it.

Mr. EVANS: This proposal assumes that the proper method of electing all county officers is by popular vote. I deny that. I say that is not the proper method in all cases. It is as to such officers as county commissioners. They ought to be elected, but when it comes to the administrative and executive officers, they should be appointed. If I were a democrat in this state of Ohio, which I do not ever expect to be, I would be in favor of Woodrow Wilson, because he is president of the short ballot organization.

Now the great mistake in the constitution of 1851 was the fact that the county officers were required to be elected for not more than three years. That has been the greatest curse that we have suffered from. The people complain of abuses and of corruption in office and with good cause, for we have been guilty of the most consummate folly in reducing some of the offices to two-year terms. The whole trouble is in the peremptory recall. You say any elector is fit for a county office, but only for two years, and in two years you make him get out even if he were an angel from heaven. I say that is all wrong. I do not wonder at the corruption in office in this country. The curse is perpetually with us, and I hope it will continue until the people of Ohio and of the other states will wake up and realize their situation. You take a corporation, and the stockholders are the voters. They elect a board of directors. What does the board of directors do? They select the employes of the corporation, and they keep them in office as long as they do their duty. I tell you until we get to that form of government in city and county affairs we will always have these troubles, and they will be greater and greater.

Look at my county! Forty men candidates for office for two-year terms! God made men to come to their efficiency, say, at about twenty-one years, and they remain efficient as long as they have their faculties, and then they go on the retired list. That is the way to do with county administrative offices — put a man into an executive or an administrative service and let him serve as long as he is efficient. What effect does that have? It crowds out all the chronic officeseekers and forces them to go into some other business where they can be useful to their communities.

Look at the various county seats! They are filled up with ex-county officers who want to get back into office. I would like to see those men go to work. I want them to be useful citizens, to go out and study expert farming and like subjects. I am in favor of some plan that will make the executive officers in a manner permanent and force these citizens who hang around the county seats and seek offices to go to work. I am tired of them. I am like that citizen of Athens when he came to mark his shell when the vote was on the expatriation of Aristides. When he came to mark his shell for or against Aristides he handed it to Aristides himself, and asked him to mark it. Aristides asked him how he wanted it marked. He said mark it for his banishment. Aristides asked him if he knew Aristides. He replied "No". Aristides then asked him why he so voted and he said, "Oh, I am just tired of hearing him called "The Just".

That is the way I feel; I am wearied with these officeseekers coming around soliciting men to vote for them.

I am tired of seeing citizens who have run the gamut of office in the county and want to get back by soliciting the people. If a man is fit for office let him stay in it and let the men who want his place go to work. If we are to elect county officers, which is supreme folly, except those who legislate, who make the tax levies and disburse the county money, I am in favor of the short ballot and I am opposed to the proposition to cut any one down to a single term. I say it is a falsehood to say if a man has served four years in office that that renders him unfit to serve any longer.

There are fifteen per cent of the people of the state who are interested directly and indirectly in office and the other eighty-five per cent are not, and I object to the eighty-five per cent having their lives ruined to help the fifteen per cent get office. I am like the citizen of Athens who wanted Aristides voted out. I am just tired of it. I have heard a lot of you talk in this body about the bosses and political corruption. How will we get rid of them and of the system? I have no sympathy for people who maintain the system and then complain of it. I shall vote against this proposal. I know that we cannot get a proposal such as I would like to have, but I can at least be consistent in voting against this proposal.

Mr. TANNEHILL: An amendment has been offered providing that the words "except treasurer" shall be stricken out. I have served as county auditor and I want to say to this Convention that in my opinion the words "except treasurer and auditor" should appear in the proposal. I can not see how in the world you can arrange the terms satisfactory unless you except those two officers.

Mr. MARSHALL: Mr. President and Gentlemen of the Convention: I believe I am in favor of the Baum proposal and I will support it if it is amended so it will take care of those officers now in the eighty-eight counties in the state of Ohio serving their first term. We have down in our county three commissioners, a probate judge, prosecuting attorney and clerk of courts who will be up this fall, and their names are now announced for a second term. I do not believe in having anything that will cut those men out of the second term, notwithstanding it would give them six years under the new proposition instead of four years under the old. I further presume there are between three and four hundred county officers in the state of Ohio that would come under this same provision and it is unfair and unjust to cut those men out of the two years. And if you do cut them out of their second term, there will be a power in the state of Ohio against us at the time we want everybody for us.

Mr. DOTY: Explain that power.

Mr. MARSHALL: Three or four hundred officials in the state of Ohio who will be working against us.

Mr. DOTY: Will they use money?

Mr. MARSHALL: No, but they will use their tongues.

Mr. MILLER, of Crawford: I am in favor of this proposal because we do not get the most efficient service under the present plan. Notwithstanding what was said by the gentleman from Ashtabula [Mr. LAMPSON], the custom does prevail over a great part of the state that we elect county officers for only two terms. In our county

## Limiting Terms of County Officials—Methods of Submitting Amendments to the Constitution.

that is the prevailing custom, and scarcely any one is ever elected more than two terms.

Mr. LAMPSON: That being the custom and regulated by the people, why are you not content with it, and why do you want to force it on other counties where that custom does not exist?

Mr. MILLER, of Crawford: I was about to state, for the reason stated by the gentleman from Morgan, that the candidates now in the campaign for nomination are elected this fall and about six months afterwards they are in another campaign and the whole thought during all that time is to secure another nomination. For that reason I think this objection at least ought to be removed. There are some other county officers—for instance, I was a member of the board of review, and the complaint has been made by those in a position to know that we don't get the very best service from the officers on the board of review, and it seems that they want them to come under this provision too.

I think the amendment offered by the delegate from Richland should be carefully considered. I think we would be doing an injustice to the county officers who have served only two years to deprive them of a chance to be elected again.

I doubt very much the feasibility of taking the word "treasurer" from the proposal. I think, as Mr. Tannehill suggested, that the auditor should be included with the treasurer, because otherwise this would bring the change of those officers right at the time when the tax collection is on. We know that the law specifies that taxes shall be paid up by the 20th of December, but that is not followed over the state. Taxes are paid way up in January and February, and it seems to me it would be very embarrassing to make a change of those two officers at the time specified.

Mr. HARTER, of Huron: How does that affect anybody up for re-election—this does not go into effect in November?

Mr. MILLER, of Crawford: If the election on the constitution is before the regular election it might affect them.

Mr. HOSKINS: I would like just a word on this proposal. I am opposed to the whole proposition. I do not believe this is of sufficient importance to put up to the people of Ohio as an amendment to the constitution. I do not know that I have heard any complaint from our section of the state about the operation of the present law. Of course I have heard complaint that men were campaigning when they should have been attending to official duties, but you will never devise any system that is perfect. I believe the best safeguard to get service on the part of the officers is to let them return to the people with reasonable frequency for re-election and indorsement. The terms under the law now are about proper. I do not think we ought to pass this proposal or anything of its kind. I am content to let the present condition remain. Therefore, I am against the whole proposition, and I move that it be indefinitely postponed.

The PRESIDENT: The question is on the indefinite postponement of the whole matter.

The motion to indefinitely postpone was carried.

The PRESIDENT: The next is Proposal No. 180 by Mr. Moore, which the secretary will read.

The proposal was read the second time.

Mr. MOORE: My object in introducing this was to get the short ballot. I believe that public affairs should be reduced to a business system. I believe that a few officers properly organized might be able to form a board of scientific management. I believe in the future we will reach that condition in society, but at present I believe it is not acceptable to a majority of the people of the state of Ohio, or even to this Convention. While I am strongly in favor of the principle enunciated in the proposal and believe it will be put in practice sometime, I move now its indefinite postponement.

The motion to indefinitely postpone was carried.

The PRESIDENT: The next is Proposal No. 309, which the secretary will read.

The proposal was read the second time.

Mr. SMITH, of Hamilton: The committee on Method of Amending the Constitution had before it thirteen different proposals affecting this portion of the constitution known as article XVI, sections 1, 2 and 3. The committee, I think, heard every one who had offered anything to the Convention on this article. The committee met very frequently and I want to take this opportunity of calling attention to the fact that this committee served you very conscientiously and faithfully. The report as finally adopted was embodied in this Proposal No. 309 introduced by Mr. Taggart. After this proposal came before the committee, and after two meetings to consider it, the proposal was changed somewhat. I want to call attention to the fact that this committee on Method of Amending the Constitution was made up of many different kinds of men. There were men of totally different types of mind. At first the committee seemed hopelessly divided. Every member was of the opinion that on this committee rested the greatest work that this Convention was called upon to do; to provide a simple and easy method of amending the constitution, because if we do that it matters not so much what else we do; the people will have the machinery whereby they can, in a simple and businesslike way, get what they want. In the committee's report, in spite of the fact that we were at first divided, we practically agreed upon this proposal introduced by Judge Taggart. The committee's report was signed by Messrs. Stokes, Kunkel, Taggart, Stamm, Brattain, Wise, Woods, Stewart, Colton, Kerr, Kehoe, Pettit, Mauck, Harter and myself. There were only two gentlemen who did not sign the report, one of them being Mr. Price, who is in the hospital, and the other Mr. Stilwell, who did not feel that he could conscientiously sign because there was one part of the report to which he could not agree.

Now I will not compare the proposal recommended by the committee with the proposal of Judge Taggart, but I will compare the proposal we recommend with the present constitution. Take your book and look at amended Proposal No. 309 and you can see where we recommend changes in the present constitution. All the changes except one or two minor ones are indicated by the italicized words. The first change appears in line 8 where the word "in" is inserted. That is a mistake in Judge Taggart's proposal. He used the word "of" and we changed it to "in." In line 9 is a substantial change. Under the present constitution the advertisement of an amendment by the general assembly in the newspapers must be for six months preceding the election. We

## Methods of Submitting Amendments to the Constitution.

recommend that amendments shall be published in at least one newspaper in each county once a week for eight consecutive weeks. We recommend cutting down the number of months from six months to two months. When the constitution of 1851 was adopted railroads were very scarce and mail was distributed by riders on horseback. Newspapers were not nearly so numerous as they are today. The committee feels that six weeks publication today is fully equal to six months publication sixty years ago.

We provided another change in lines 9, 10 and 11. The old constitution provided that this constitutional amendment must be submitted at a regular fall election when senators and representatives were elected. The committee recommends that it leave to the legislature the fixing of the time of submission, so that they may submit it at a special or general election as they may prescribe.

We provide another change in this, that an amendment submitted to the people must be on a separate ballot without party designation of any kind. The old custom, as you will remember, from 1851 up to 1891, was for the political party machine to print a separate ballot and, if it saw fit, to print the constitutional amendment right on the ballot with the party ticket. The parties did this so that a man going in to cast his vote would vote for the constitutional amendment that his political party desired. Your committee suggests and recommends that all constitutional amendments be submitted on a separate ballot without party designation of any kind, so that constitutional questions will be decided on their merits.

In line 13 you will see the greatest fundamental change. We have changed absolutely the number of votes required to pass a constitutional amendment. The constitution now requires before a constitutional amendment shall become effective in Ohio, that it be voted upon favorably by a majority of all the electors voting at the election. Your committee recommends that a majority only of those voting on the question be required to carry it.

We have adopted some constitutional amendments in Ohio, but they have been adopted because the political parties wanted them.

In giving the figures that I am about to give I am using the tabulated list of elections on amendments prepared by the member from Fayette [Mr. JONES]. As I said, up to 1891 the party managers could print the amendments on their party ballot. In 1891 the Australian ballot law went into effect. It required that each ballot should be marked by the voters. There were two amendments submitted in that year, 1891, and one of them was in regard to the holding of a constitutional convention. It received only thirty-two per cent of the votes cast. The other was a taxation amendment, looking to enlarging the powers of the general assembly in taxation matters, and that amendment was lost because it received only forty-six per cent of the votes cast at that election, although four times as many people voted for the amendment as voted against it.

In 1893 a fundamental change was made. The people of Ohio realized that they could not get their will into the constitution, that they had no power to express themselves as to amendments that our gallant forbears of 1851 had legislated not only for themselves, but for all

time in Ohio, because they had made it practically impossible to carry any change into the organic law, even if the people wanted it. So in 1893 what was known as the Longworth law was passed which permitted the party convention to declare themselves in favor of or against constitutional amendments and print the words "yes" or "no" on the party ticket, so that the voter going up to the polls, intelligent or unintelligent, marked his ballot under the rooster or the eagle and thus cast his vote for a constitutional amendment. Under the Longworth act some changes were made in the constitution. I am not going into details of what those were, but I will call your attention to one provision, which was passed in 1903 and indorsed by both of the political parties. It received ninety-eight per cent of the votes at the election. Let me call your attention to the vote of 1893, providing for municipal classification. Neither party indorsed that change. It received only six per cent of the votes cast, whereas another amendment in the same year which was indorsed by the political parties received ninety per cent of the votes cast. The Longworth act, as it was known, was repealed in 1905—at least after 1905—and in 1908 there were three measures submitted to the people, one in regard to passing a bill over the governor's veto, another fixing the time when the general assembly should meet and another with regard to taxation.

The first proposal received only thirty-four per cent, the second only thirty-four per cent and the third only thirty-eight per cent of the votes cast at the election, although all three received an overwhelming majority of those voting on the question.

Now let me call the attention of the Convention to a provision in this regard in other states of the Union.

Twenty-seven states of the United States provide that a majority voting on the amendment shall make it a part of the constitution. Three other states provide that an amendment shall be submitted at a separate election, which amounts to the same thing. So that we have the constitutions of thirty out of forty-eight states of the Union providing the method of amendment which we recommend.

It is interesting to note that several of the states which had the same provision as our constitution of 1851, requiring for decision a majority of those voting at the election, when they held a convention came over to the plan we now suggest, requiring only a majority of those voting on the question to decide it.

The next change I ask you to note is in line 20 of section 2, which provides for the calling of a convention by the general assembly. We recommend that this question of whether or not there shall be a convention to revise, alter or amend the constitution of the state must be submitted on a separate ballot without party designation of any kind. We provide in line 22 that only a majority of those voting for and against the calling of the convention shall be required to call it.

In lines 24 to 27 we make another radical departure from the present constitution. We provide that the delegates to all future conventions to revise, alter or amend the constitution shall be nominated by nominating petitions only and "shall be voted for upon one independent and separate ballot without any emblem or party designation whatever." In other words, we are so pleased with the makeup of this body that we feel it is wise to require

## Methods of Submitting Amendments to the Constitution.

the next constitutional convention to be made up of men elected as we were elected.

In section 3, which deals with the question of periodic arbitrary submissions of the question whether or not there shall be a convention, your committee recommends that the question shall first be submitted to the people in 1932 and every twenty years thereafter. This is exactly the same provision we have at present except as to adjusting the date. We provide that the question of whether a convention shall be called shall be decided by a majority of those voting for and against the calling of the convention. Your committee has tried to steer as close to the present provision as it could so that there might be as little change as is consistent with real progress.

Mr. KNIGHT: Line 21, as printed, and I find the engrossed bill is the same, reads: "election for members to the general assembly, or against the Convention."

Mr. SMITH, of Hamilton: I have looked up the original proposal and find that is a misprint. I have an amendment which I will offer to cure the error.

Mr. KNIGHT: In line 28 the language is "who shall be chosen as provided by law." What is the intent of that phrase after having specifically provided a few lines above how they shall be nominated and elected?

Mr. SMITH, of Hamilton: The members of the committee thought it might be safer to leave that language in. So if there is any election machinery needed that is not covered in the constitutional provision the legislature may provide it.

Mr. KNIGHT: Is not this the danger in that, that by party machinations we might be brought back to the same condition we were in under the so-called Longworth act? Is not this language broad enough for that? I am a little afraid of that. It seems to me unnecessary to leave a loophole for uncertainty.

Mr. SMITH, of Hamilton: The committee did not consider it so, and they certainly do not want such a thing to happen as the gentleman speaks of, but it was deemed on the whole a little wiser to put these words in.

Mr. MARSHALL: This Proposal No. 309, lines 7 and 8, reads: "entered on the journal with the yeas and nays, and shall be published in at least one newspaper in each county of the state." Who will have the authority to select that one newspaper of each county of the state?

Mr. SMITH, of Hamilton: Whoever has the authority at present. I suppose the secretary of state attends to that.

Mr. MARSHALL: There are a good many journals in the state. Won't that cause some confusion?

Mr. SMITH, of Hamilton: If you recall the present constitution you will remember it has the same language, and while I do not think any very great injustice has been done by it, we were trying to cut down expenses and we have cut them down considerably.

Mr. PECK: I do not find anything in this proposal referring to amendments by the people by way of initiative. Did you consider that?

Mr. SMITH, of Hamilton: The committee was very careful not to take final action until the committee on initiative and referendum had fully completed its work, and we continued meetings from day to day until the committee on Initiative and Referendum reported. I hope you do not find anything in this provision which con-

flicts with the initiative and referendum proposal adopted some weeks ago. This provides the machinery when the general assembly acts.

Mr. PECK: You provide that amendments to the constitution shall be made so and so, and that would exclude all other methods.

Mr. SMITH, of Hamilton: I don't think that is a fair interpretation. We provide that constitutional amendments shall be made in this way and there is another part of the constitution which deals with amendments to be made another way. I do not believe there is any conflict here.

Mr. PECK: I am not sure there is, but I want to direct the attention of the committee to it. It might be well to have a saving clause at the end "that nothing herein shall be held to prevent the people," etc.

Mr. ROEHM: In lines 12, 20 and 26 you speak of separate ballots. We have just passed Proposal No. 242, which makes voting by machine possible. What effect would that have in case the people adopted Proposal No. 242. Would not that be provided for by making it "separately"?

Mr. SMITH, of Hamilton: You could possibly adjust the difficulty if there is one.

Mr. ROEHM: How could the machine be used if you use the word "ballot," in view of what the supreme court has said?

Mr. SMITH, of Hamilton: If you think there is any danger of our preventing that, I will be glad to have an amendment offered.

Mr. ROEHM: Why not cross out the "on the ballot" and say "separately" instead of using the word "ballot" in each one of those places?

Mr. KNIGHT: That would require a separate machine for each ballot.

The vice president here took the chair.

The VICE PRESIDENT: Mr. Smith, of Hamilton, has the floor.

Mr. SMITH, of Hamilton: I am very glad to have this discussion, because it is bringing light. The committee only wanted to do what is best to secure the end it seeks.

Mr. COLTON: In line 28 you have "as provided by law." Were not those words inserted to cover such things as a detail of petitions for nominations, etc., which are not specified in that proposal?

Mr. SMITH, of Hamilton: Yes; I think so.

Mr. COLTON: That was my recollection.

Mr. ULMER: I want to offer an amendment.

The VICE PRESIDENT: Does the gentleman from Hamilton [Mr. SMITH] yield the floor?

Mr. SMITH, of Hamilton: First I want to correct a misprint and I offer an amendment.

The amendment was read as follows:

In line 21 strike out all after the comma and insert in lieu thereof "for or against a convention."

The amendment was agreed to.

The VICE PRESIDENT: Now the amendment of the gentleman from Lucas [Mr. ULMER] can be read.

Methods of Submitting Amendments to the Constitution.

The amendment was read as follows:

At the end of section 2 add the following: "No member of the general assembly shall be eligible to membership in the convention."

Mr. ULMER: There is no member in this Constitutional Convention who was a member of the last general assembly.

Mr. EVANS: What about Mr. Crosser?

Mr. ULMER: I had forgotten him. I do not think any member of the general assembly calling a constitutional convention should be eligible for membership of a constitutional convention. Members of the general assembly could agitate the calling of the convention in order to be members of the convention themselves and so do it for their own interest.

Mr. PETTIT: I move that the amendment of the member from Lucas [Mr. ULMER] be laid on the table.

The motion on a division was carried and the amendment was tabled.

Mr. DOTY: I offer an amendment.

The amendment was read as follows:

After line 21 insert: "provided, however, a convention to revise, amend or change this constitution shall be voted upon by the people whenever twelve per centum of the qualified electors of the state shall file a petition with the secretary of state calling for such a convention."

Mr. DOTY: The amendment at the desk is not exactly right, but this is what I am attempting to do: I am attempting to provide that there shall be another way of calling a convention besides through the legislature once in twenty years. I am attempting to provide by the initiative and referendum that the people themselves may call a convention at any time without consulting the legislature and without waiting for the twenty-year period. I think I have done it. I may be in error as to some of the wording of it, but that will not prevent our discussing the point that I am attempting to make.

Mr. SMITH, of Hamilton: I think we should take this matter up one point at a time. The committee was of opinion that we ought to have this legislative way of amending the constitution very distinctly separate from the initiative and referendum method, in case a majority of the people of Ohio are not in favor of the initiative and referendum. The very fact that such an amendment as Mr. Doty's has been introduced may defeat this. Therefore the committee was in favor of the proposal as reported. The question of putting some such provision as this in the constitution came up and was discussed and considered, but we thought it was best to leave this as it is and let the people through the general assembly submit their amendments.

Mr. KERR: I move to lay the amendment on the table.

Upon which the yeas and nays were regularly demanded; taken, and resulted—yeas 68, nays 29, as follows:

Those who voted in the affirmative are:

- |                 |              |             |
|-----------------|--------------|-------------|
| Anderson,       | Bowdle,      | Cordes,     |
| Antrim,         | Brown, Pike, | Cunningham, |
| Baum,           | Campbell,    | Dunlap,     |
| Beatty, Morrow, | Collett,     | Dunn,       |
| Beyer,          | Colton,      | Dwyer,      |

- |                    |                    |                  |
|--------------------|--------------------|------------------|
| Earnhart,          | Keller,            | Redington,       |
| Fackler,           | Kerr,              | Riley,           |
| Farnsworth,        | King,              | Rockel,          |
| Fess,              | Knight,            | Roehm,           |
| Fluke,             | Kramer,            | Rorick,          |
| Fox,               | Kunkel,            | Shaw,            |
| Halfhill,          | Lampson,           | Smith, Hamilton, |
| Harbarger,         | Leete,             | Stamm,           |
| Harris, Ashtabula, | Ludey,             | Stewart,         |
| Harris, Hamilton,  | Mauck,             | Stokes,          |
| Harter, Huron,     | McClelland,        | Taggart,         |
| Henderson,         | Miller, Crawford,  | Tannehill,       |
| Hoffman,           | Miller, Fairfield, | Ulmer,           |
| Holtz,             | Miller, Ottawa,    | Wagner,          |
| Johnson, Madison,  | Nye,               | Walker,          |
| Johnson, Williams, | Partington,        | Weybrecht,       |
| Jones,             | Peters,            | Wise.            |
| Kehoe,             | Pettit,            |                  |

Those who voted in the negative are:

- |               |                |           |
|---------------|----------------|-----------|
| Beatty, Wood, | FitzSimons,    | Moore,    |
| Brown, Lucas, | Hahn,          | Okey,     |
| Crosser,      | Halenkamp,     | Peck,     |
| Davio,        | Harter, Stark, | Pierce,   |
| DeFrees,      | Hoskins,       | Stalter,  |
| Donahay,      | Hursh,         | Stevens,  |
| Doty,         | Kilpatrick,    | Stilwell, |
| Elson,        | Lambert,       | Thomas,   |
| Evans,        | Malin,         | Watson.   |
| Farrell,      | Marshall,      |           |

So the amendment was tabled.

Mr. RILEY: I think if there is anything we can agree on it is that this Convention is entirely too large to transact business satisfactorily and that a much smaller body would be better.

DELEGATES: Oh, no.

DELEGATES: Agreed.

Mr. RILEY: It may be there are several who do not agree with that, but I cannot help that. I expect to be around here, but not as a member of the next Convention.

I sat in the committee presided over so ably by the gentleman from Hamilton and I was impressed with the fact that the committee handled its work so well that I believe a convention of half the number could go over the whole constitution and amend it in one-fourth of the time and much more satisfactorily than we shall be able to do, and there were only fifteen or twenty members there.

Mr. WALKER: Was the report of that committee in better shape when reported from the committee than when it was finally acted upon?

Mr. RILEY: I am not disposed to go into that very much. Of course I did not agree with the conclusions of that committee, or I would not be here talking about a smaller body. I had a proposition before the committee that I desired the opinion of the Convention upon and they did report it. I think the deliberations of that committee were conducted properly, and while I differ with the conclusion I still think a committee of that size could write a better constitution and do it more speedily for the state and much more satisfactorily than a body of this size, and it would cost only one-third to one-fifth as much. My proposition is to have two men elected from each congressional district of the state. That would make the body just a little bit bigger than the senate, but I think that is large enough, and I therefore offer an amendment.

The amendment was read as follows:

After the word "of" in line 27 strike out the words "as many members as the house of repre-

## Methods of Submitting Amendments to the Constitution.

sentatives" and insert the words "two delegates from each congressional district in this state."

Mr. DOTY: I call the member's attention to the situation that might arise over which we might not have any control. It might come about that we would only have a constitutional convention of two people. There is no provision that compels the state to divide into congressional districts. A congressional district is like a ward in the city. They are not subdivisions of any kind except for temporary purposes, from time to time, to divide up our membership in the general assembly. At the present time we have twenty-one districts, but there have been members elected to congress from the state at large. It is not impossible that we might go back to that system. I think it will be very foolish to insert this in the constitution. It might result in having two men perform the functions of these one hundred and nineteen men.

Mr. RILEY: You are supposing something that never did happen.

Mr. DOTY: But I am not supposing anything that never can happen. The mere fact that it never has happened does not prove that it may not happen in Ohio. More than that, a congressional district is not a division of any kind and it has no business in the constitution. Whether the member is right in reducing the size of the body or not, certainly his manner and method of going about it is all wrong.

Mr. STOKES: I move to lay the amendment on the table.

Mr. RILEY: I am very much enlightened by the gentleman and I want to strike "congressional" out of that amendment and make it read "senatorial districts."

Mr. STOKES: Well, I move to lay that on the table. The motion was carried.

Mr. CROSSER: I offer an amendment.

The amendment was read as follows:

In line 4 strike out the words "either branch" and change "the" to "The."

Mr. CROSSER: Reading this proposal, it occurred to me that the words "either branch of the general assembly" makes an ambiguous phrase. Does that mean that either branch must act by a general vote—

Mr. TAGGART: May I call the gentleman's attention to the fact that that is exactly the language in the old constitution?

Mr. CROSSER: I am aware of that, but because it is in the old constitution is no reason for continuing it if it is not proper.

If it is wrong in the old constitution it is wrong here. It is perfectly clear that "either branch" might be construed to mean a unanimous report.

Mr. KNIGHT: Has there ever been any question on that in the sixty years that we have been under it?

Mr. CROSSER: I don't think there has been any construction of it.

Mr. KNIGHT: All you undertake to say is that any member of the general assembly ought to be privileged to offer amendments?

Mr. CROSSER: Yes.

Mr. DOTY: Does not this sentence refer to the method of proposing amendments to the people by somebody?

Mr. CROSSER: It cannot be so, because of the very next words. Just read:

Either branch of the general assembly may propose amendments to this constitution, and if the same should be agreed to by three-fifths of the members of each house, etc.

Mr. DOTY: To get the meaning you are contending for, ought not you strike out and say "the general assembly may propose amendments to the constitution"?

Mr. CROSSER: I don't object to that.

Mr. DOTY: If you strike out "either branch of" it would be clearer, according to your contention.

Mr. CROSSER: It ought to be possible for a member of the general assembly to propose amendments just as we do.

Mr. DOTY: The next line says, "if the same shall be agreed to by three-fifths, such proposition should be spread on the journal," etc., showing that before the general assembly does it, it shall be by three-fifths vote. Therefore, one branch cannot propose as in the sense in which you contend.

Mr. CROSSER: I think it would be just as well to say "Any member of the general assembly may propose amendments," and three-fifths must vote for it.

Mr. DOTY: Won't the fact be that any member can propose an amendment to the constitution? Won't that be the way it is done?

Mr. CROSSER: Yes. But either branch must pass on it by three-fifths. You say either branch may do it, and why not say any member can do it?

Mr. SMITH, of Hamilton: I am very much afraid the gentlemen are mixing up the question of the introduction of an amendment and the proposing of an amendment. Any member may introduce an amendment, but a house must propose it to the other house.

Mr. CROSSER: Is it not true that all we can do is to propose amendments to the constitution, and that is all that the general assembly can do? We propose them to the people.

Mr. TAGGART: The constitution of 1851, in respect to amending the constitution, read as follows:

Either branch of the general assembly may propose amendments to this constitution.

Now if you strike out "either branch of," you leave it simply, "The general assembly may propose amendments to this constitution." That would mean a joint action of both house and senate. You will have both houses troubled at all times with the proposal introduced by any member of the house, and you will have both houses voting on amendments introduced by one member.

Mr. CROSSER: That is exactly the trouble that I saw in the proposal as it now stands. You seem to realize the trouble there—namely, what shall constitute an amendment to the constitution. To say that one member can do it would be all right. How many do you think it takes to do it?

Mr. TAGGART: A majority of either house.

Mr. CROSSER: How does it come about?

Mr. TAGGART: Just as any other measure brought to the house. A member in the house or in committee proposes an amendment and the house or senate adopts it, and then that branch of the general assembly presents it or proposes that amendment to both houses, and if three-fifths concur it goes to the people. This language is clear and explicit, and is not subject to any trouble if

## Methods of Submitting Amendments to the Constitution.

you simply leave it as it is. If you adopt the amendment as proposed by the gentleman from Cuyahoga, then any member can propose an amendment to the constitution, and the two houses must act on it.

Mr. CROSSER: They do it that way now.

Mr. TAGGART: After one house acts on the amendment proposed by an individual member they do, but not until that house acts on it. This provides that either branch may propose an amendment, but the house must act upon the proposal as suggested, and then it goes to the other house.

Mr. ANDERSON: It is your idea that if the Crosser amendment prevails, then if any member of the house or senate proposes an amendment there must be a joint session to act on it?

Mr. TAGGART: Undoubtedly that would be so.

Mr. ANDERSON: And under the wording of your amendment either the senate or the house would have to act on it before you could have a joint session?

Mr. TAGGART: Certainly, and that is the reason the language is used in the present constitution.

Mr. KING: I think the disturbance arises from the use of the word "propose." Members do not propose amendments to the constitution. The member introduces the resolution. That is all. He simply introduces the resolution. If you would use the word "introduce" as to the action in getting the thing started, you would not have any trouble.

Mr. TAGGART: The member from Erie is undoubtedly right. The member in either the house or the senate introduces the resolution proposing an amendment to the constitution, and then the house or senate acts upon that, and the house or senate proposes the amendment to the two houses, and therefore either branch may propose an amendment, and the language of the present constitution is eminently correct.

Mr. CROSSER: How could the house propose it?

Mr. TAGGART: By its action as an entity. The house of representatives is an entity. It proposes an amendment to both houses.

Mr. CROSSER: Does not the language indicated by Judge King show that the member introduces it?

Mr. TAGGART: The member introduces the resolution—there is no trouble about that.

Mr. DOTY: After the resolution is introduced and acted upon by both houses it then becomes a proposal by the general assembly, does it not?

Mr. TAGGART: The proposal by the general assembly?

Mr. DOTY: Now, does not the language that I offer produce the very result that the member from Erie pointed out, that what the members of the general assembly may do is to propose an amendment to the constitution? What we have done here is in the old constitution, and it says that either branch may do it all alone and yet that has never been done. But it seems to me the language makes it possible.

Mr. KNIGHT: It seems to me the amendment of the delegate from Cuyahoga [Mr. Doty] striking out the first three words and leaving it "The general assembly may propose amendments" is one that ought to be adopted. It would be absurd to say that the members of the general assembly should have a right to introduce a resolution or a bill. They have that right anyhow as mem-

bers. It seems to me that the amendment of the gentleman from Cuyahoga [Mr. Doty] covers the entire ground and removes any doubt.

Mr. COLTON: It seems to me the language here is all right and should remain as it is. Either branch of the general assembly may propose amendments to the constitution. Of course the amendment would be introduced by resolution in that branch and would be acted upon. If it is carried in that branch by a vote of three-fifths that branch proposes it to the other branch and that other branch would have to carry it by three-fifths and then it would be proposed to the people.

Mr. KNIGHT: Would not that be the final action of the general assembly and not the act of one branch?

Mr. COLTON: The final conclusion is an act of the general assembly, but the act of either branch has first to have three-fifths vote in favor of the resolution.

Mr. DOTY: Is that any different from getting up and introducing the resolution? It is only part of the machinery.

Mr. COLTON: It has the three-fifths vote in that branch.

Mr. DOTY: That is the detail of how the act is done. When it is all through, does the general assembly propose something to the people as the member from Franklin has pointed out. It does not go through until acted upon by three-fifths of each body.

Mr. COLTON: Then it is the act of the general assembly.

Mr. DOTY: Proposed to whom? Are we caring whether the senate proposes something to the house or not? This says that either branch may propose amendments to the constitution.

Mr. COLTON: It does not say to the people.

Mr. DOTY: It does not say to the people?

Mr. COLTON: No.

Mr. DOTY: Why not make it clear?

Mr. COLTON: It is to be acted upon by three-fifths of one branch and proposed to the other branch, and when the other branch acts on it by three-fifths then it is proposed to the people.

Mr. ANDERSON: For sixty years this language has stood the test.

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

Mr. ANDERSON: Yes.

Mr. CROSSER: Did not the gentleman stand on the south side of this platform here and lambast everybody connected with the initiative and referendum for having adopted language which stood in the constitution of Oregon for fifteen years?

Mr. ANDERSON: Yes; and we had to take your Crosser proposal and straighten it out.

Mr. CROSSER: I claim it was not straightened out. I claim it was made crooked.

Mr. ANDERSON: I believe the people who made the constitution in 1851 knew more about what they were doing than the people of Oregon have shown provided this proposal of yours was copied from Oregon.

Now, Mr. President and Gentlemen, this language has stood the test for sixty years. I do not know of any time or place where it has been criticised or questioned. Therefore I move that the Crosser amendment



Methods of Submitting Amendments to the Constitution.

be tabled—no, I move that both of the amendments be tabled.

The VICE PRESIDENT: There is only one. The gentleman from Cuyahoga [Mr. CROSSER] accepted the other.

The amendment was tabled.

Mr. CUNNINGHAM: I want to occupy the attention of the Convention for a moment. I think the important thing for this Convention to do, and I believe the proposal accomplishes that, is to make the constitution easily amended, not to make it easy to call a new convention, because I do not think the people of Ohio will be guilty of that offense in the next forty years. I think that is well settled in Ohio, but let us make it easy of amendment. That is my theory about it. It was a mistake in the framers of the constitution of 1851, that they made that constitution too difficult to amend, and we have had to resort to various devices to get it amended. The gentlemen who propose this amendment or this proposal I think have made it quite easy to amend the constitution, and I think if the constitution with this proposal in it is adopted by the people in a very short time they will regard it as the dearest right they have, the ease with which they can amend their constitution. Therefore I heartily agree with the proposal, because it makes it easy to get rid of a bad amendment that may be placed in the constitution. I shall heartily support the proposal as amended by the committee.

Mr. PETTIT: I demand the previous question.

The main question was ordered.

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

The yeas and nays were taken, and resulted—yeas 102, nays none, as follows:

Those who voted in the affirmative are:

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

The proposal passed as follows:

Proposal No. 309 — Mr. Taggart. To submit an amendment to article XVI, sections 1, 2 and 3, of the constitution. — Relative to amendments to the constitution.

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

SECTION 1. Either branch of the general assembly may propose amendments to this constitution; and if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be published in at least one newspaper in each county of the state, where a newspaper is published, once a week for eight consecutive weeks preceding the election at which time the same shall be submitted to the electors at either a special or general election as the general assembly may prescribe, for their approval or rejection, on a separate ballot without party designation of any kind, and if the majority of the electors voting on the same shall adopt such amendments the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment, separately.

SECTION 2. Whenever two-thirds of the members elected to each branch of the general assembly, shall think it necessary to call a convention, to revise, amend, or change this constitution, they shall recommend to the electors to vote on a separate ballot without party designation of any kind at the next election for members to the general assembly, for or against a convention; and if a majority of all the electors, voting for and against the calling of a convention, shall have voted for a convention, the general assembly shall, at their next session, provide, by law, for calling the same. Candidates for members of the constitutional convention shall be nominated by nominating petitions only and shall be voted for upon one independent and separate ballot without any emblem or party designation whatever. The convention shall consist of as many members as the house of representatives, who shall be chosen as provided by law, and shall meet within three months after their election, for the purpose, aforesaid.

SECTION 3. At the general election, to be held in the year one thousand nine hundred and thirty-two, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter or amend the constitution" shall be submitted to the electors of the state; and in case a majority of the electors voting for and against the calling of the convention shall decide in favor of a convention, the general assembly, at its next session, shall provide, by law, for the election of delegates and the assembling of such convention

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Methods of Submitting Amendments to the Constitution.

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as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect until the same shall have been submitted to the electors of the state and adopted by a majority of those voting thereon.

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

Mr. BROWN, of Lucas: I move we adjourn until tomorrow morning at ten o'clock.

The motion was carried and the Convention adjourned.