

SEVENTY-FIFTH DAY

MORNING SESSION.

FRIDAY, May 24, 1912.

The Convention met pursuant to adjournment, was called to order by the president and opened with prayer by Rev. Dr. McClelland, delegate from Knox.

The journal of yesterday was read and approved.

Mr. LAMPSON: I demand a call of the Convention.

The PRESIDENT: A call of the Convention has been demanded, the sergeant-at-arms will close the door and the secretary will call the roll.

The roll was called; when the following members failed to answer to their names:

| | | |
|---------------|-----------|-----------------|
| Anderson, | DeFrees, | Fess, |
| Brown, Lucas, | Dunlap, | Keller, |
| Brown, Pike, | Earnhart, | Miller, Ottawa, |
| Cody, | Eby, | Pettit, |
| Collett, | Elson, | Worthington. |
| Crites, | | |

The president announced that one hundred and three members had answered to their names.

The PRESIDENT: The sergeant-at-arms will dispatch his messengers for the absentees.

Mr. LAMPSON: I move that the sergeant-at-arms be instructed to send for the absentees.

The PRESIDENT: The sergeant-at-arms is instructed to dispatch his messengers for the absentees.

Mr. LAMPSON: And the secretary will furnish him with the list.

Mr. DOTY: I would like to inquire if the sergeant-at-arms has found the vice president? And, Mr. President, I am informed that some members of the Convention have gone out of the room. The members of the Convention have no right to go out.

The PRESIDENT: I instructed the sergeant-at-arms to close the doors.

Mr. DOTY: But members have been going out and we do not know where we are. I move that all further proceedings under the call be dispensed with.

The motion was carried.

Mr. DOTY: I desire to make a report at this time. The report was read as follows:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 331—Mr. Walker, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

Strike out title and insert: To submit an amendment to article VIII, section 12, and to repeal section 13.—Abolishing board of public works.

In line 4 strike out comma and "sections 12 and 13" and insert a period.

Strike out lines 5 and 6.

In line 7 before "So" insert "Sec. 12."

In line 7 change "requires" to "require."

Strike out lines 8 and 9 and insert: "a superintendent of public works shall be appointed by the governor for the term of one year, and his

duties and powers shall be defined by law."

After line 9 add:

"Resolved further, That section 13 of article VIII is hereby repealed."

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Knight submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 242—Mr. Roehm, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

In the title strike out all after the dash and insert: "Use of voting machines."

Between lines 3 and 4 insert subhead ARTICLE V.

In line 4 before "all", insert "Sec. 2."

In line 4 insert "by" after each word "or" and insert comma after "device" and after "both".

In line 5 strike out "The general assembly may" and insert "Laws may be enacted to".

In line 6 insert "to" before "determine".

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Knight submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 272—Mr. FitzSimons, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

Strike out the title and insert:

"To submit an amendment to the constitution by adding article XVIII.—Municipal home rule."

In line 6 change "section" to "Sec."

In line 7 change "5,000" to "five thousand".

In line 10 change "section" to "Sec."

In line 11 change "enact" to "pass".

In line 14 strike out comma.

In line 16 change "Section" to "Sec."

In line 17 change "enact" to "adopt".

In line 20 change "Section" to "Sec."

In line 22 after "is" insert "or is to be".

In line 25 insert a comma after first "of" and after "to".

In line 28 change "Section" to "Sec."

In line 29 insert a comma after "utility" and after "therefor".

In line 38 change "Section" to "Sec."

In line 44 change "Section" to "Sec."

In line 49 insert a comma after "electors".

In line 50 insert a comma after "question".

In line 56 insert a comma after "designation" and change "provisions" to "provision".

In line 47 change "Section" to "Sec."

In line 57 strike out "thereof."

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In line 62 change "provisions" to provision".

In line 69 change "Section" to "Sec."

Strike out line 71 after "and", all of line 72 and all of line 73 to and including the period, and insert: ", upon petition signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority."

In line 78 strike out "so submitted" and insert "such" before "amendment."

In line 80 insert after "thereto," the words: "shall be certified to the secretary of state,".

In line 81 strike out ", shall be certified to the secretary of state," and insert a period.

In line 82 change "Section" to "Sec."

In line 84 insert a comma after "improvement".

In line 87 insert a comma after "acquired".

In line 91 change "Section 10-a" to "Sec. 11".

In line 92 change "therefore" to "therefor".

In line 97 change "Section 11." to "Sec. 12.".

In line 100 strike out the comma.

In line 107 change "Section 12" to "Sec. 13.".

In line 108 insert a comma after "purposes".

In line 113 change "Section 13" to "Sec. 14".

In line 115 change "signing" to "required to sign".

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Knight submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 334 — Mr. Jones, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

Strike out title and insert:

"To submit an amendment by adding section 40 to article II of the constitution.— Registering and guaranteeing land titles."

Between lines 3 and 4 insert subhead "ARTICLE II."

In line 4 change "Section 33." to "Sec. 40.".

In line 5 between "counties" and the comma insert "thereof" and before "counties" insert "by the".

In line 6 strike out "the"; strike out "determination of * * *" and insert "determining".

In line 7 insert "to" after "claims"; insert a comma after "in"; strike out "and to the".

In line 8 strike out comma after "insured".

In line 10 strike out "to effect and carry out said purposes,".

In line 10 strike out comma after "powers".

In line 11 strike out "to the common pleas court,".

In line 12 strike out "respect to".

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Colton submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No.

261 — Mr. Halenkamp, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

In title change "II" to 2 and strike out all after dash and insert: "Regulating state printing."

Strike out lines 4 to 8 inclusive and insert:

ARTICLE XV.

Sec. 2. The printing of the laws, journals, bills, legislative documents and papers 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 done directly by the state in such manner as shall be prescribed by law. All stationery and supplies shall be purchased as may be provided by law.

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Antrim submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 309 — Mr. Taggart, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

In title strike all after dash and insert: "Methods of submitting amendments to constitution."

Between lines 3 and 4 insert subhead "ARTICLE XVI."

In line 4 change "Section" to "Sec."

In line 5 insert a comma after "and".

Strike out, in line 7, all after "nays," and all of lines 8, 9, 10, 11, 12 and the word "and" in line 13, and insert: "and shall be submitted to the electors, for their approval or rejection, on a separate ballot without party designation of any kind, at either a special or general election as the general assembly may prescribe. Such proposed amendments shall be published once a week for eight consecutive weeks preceding such election, in at least one newspaper in each county of the state, where a newspaper is published."

In line 13 strike out "if" and insert: "If".

In line 17 change "Section" to "Sec."

In line 30 change "Section" to "Sec."

In line 32 after "constitution" insert a comma.

In line 33 after second "electors" insert a comma.

In line 34 after first "convention" insert a comma.

In line 36 after "delegates" insert a comma.

In line 36 after "convention" insert a comma.

In line 38 after "effect" insert a comma.

In line 39 after "state" insert a comma.

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Antrim submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No.

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329 — Mr. Knight, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

In title after "amendment" insert: "by adding Section 3 to".

In title strike out "Section 3,".

In title strike out all after dash and insert: "Organization of boards of education."

Between lines 3 and 4 insert subhead "ARTICLE VI".

In line 4 insert "Sec." in lieu of "Section".

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Nye submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 252 — Mr. Weybrecht, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

In title strike out all after dash and insert: "Suits against the state."

Strike out all after line 3 and insert:

ARTICLE I.

Sec. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay. Suits may be brought against the state, in such courts and in such manner, as may be provided by law.

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Nye submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 304 — Mr. Halfhill, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

Strike out the title and insert:

"To submit amendments to article IV, sections 3, 7, 12 and 15, of the constitution. — Judge of court of common pleas for each county."

Between lines 3 and 4 insert subhead ARTICLE IV.

Strike out line 4.

In line 5 before "One" insert "Sec. 3".

In line 6 change "of" to "or".

In lines 9 and 10 eliminate paragraph.

In line 10 strike out "such a" and insert "the".

In line 13 correct spelling of "disqualification".

At the end of line 13 insert a comma.

Strike out lines 14 and 15 and insert: "and he may assign any judge to any county to hold court therein."

Strike out line 16.

Insert in line 17 before "There" "Sec. 7".

In line 18 change "voters" to "electors".

In line 21 strike out: "But the general assembly may provide by law" and insert: "Laws may be passed".

In line 22 after the second "the" insert: "probate court with the".

In lines 22 and 23 strike out "and probate court".

In line 23 insert a comma after "county"; after "and" insert "to".

In line 24 change "where" to "if".

In line 24 insert "voting" after "electors".

In line 24 strike out "so" and insert between "vote" and the period the word "therefor".

In line 24 strike out "And provision" and insert "Provision".

In line 25 change "similar" to "the".

In line 26 strike out "where the same may" and insert: "in which they".

In line 27 strike out second "such" and insert "the".

In line 27 strike out "shall so vote." and insert: "voting at such election shall vote therefor."

Strike out line 28.

In line 29 insert "Sec. 12" before "The".

In line 29 insert comma after "office".

In line 31 strike out "(6)".

Strike out line 32.

In line 33 insert "Sec. 15" before "The".

In line 33 strike out "The general assembly may" and insert: "Laws may be passed to".

In line 34 change "may" to "to."

In line 35 change "or" to "and".

In line 35 change "may" to "to".

In line 38 strike out "the general assembly" and insert "law".

In line 39 strike out "by law." and insert a period after "provided."

In line 40 strike out "continue to".

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Colton submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 249 — Mr. Tannehill, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

Strike out the title and insert:

"To submit an amendment by adding section 7 to article V. — Primary elections."

Strike out lines 4 to 16 and insert:

ARTICLE V.

Sec. 7. All nominations for elective state, district, county and municipal offices shall be made at direct primary elections or by petition as provided by law, and provision shall be made by law for a preferential vote for United States senator; but direct primaries shall not be held for the nomination of township officers or for the officers of municipalities of less than two thousand population, unless petitioned for by a majority of the

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

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Doty submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 2—Mr. Crosser, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

Strike out title and insert:

"To submit an amendment to article II, section I, of the constitution.— Initiative and referendum."

Strike out lines 2 to 7 inclusive and insert: "A proposal shall be submitted to the electors to amend article II, section I, of the constitution as follows:"

Strike out lines 197 to 211 inclusive.

In line 9 change "Section" to "Sec."

Except in line 65 change all capital letters of words that do not commence sentences or are not enclosed in quotation marks, to lower case.

In line 11 after "propose" insert "to the general assembly".

In line 12 strike out all after "polls" and insert: "on a referendum vote as hereinafter provided;"

In line 13 strike out "general assembly, and" and insert: "They" and strike out ", at their own option,"

In line 14 strike out "appropriating money".

In line 15 after "law" insert: "appropriating money".

In line 15 strike out the period and insert ", except as hereinafter provided; and independent of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls."

In line 16 insert a comma before "on".

In line 18 change "Section" to "Sec." and strike out "Initiative."

Eliminate paragraph in lines 21 and 22.

In line 22 strike out all after "when" up to and including "State" and in line 23 after "electors," insert: "shall have been filed with the secretary of state,"

In line 24 insert a comma after "constitution" and in lines 24 and 25 strike out "proposed amendment to the constitution."

In line 26 insert a comma after "electors".

In line 27 insert a comma after "amendment" and strike out "to the constitution".

In line 29 strike out "All such" and insert "The".

In line 33 change "Section" to "Sec."

In line 35 insert comma after "state".

In line 44 change "approved" to "passed" and insert a comma after "assembly".

In line 46 insert a comma after "assembly".

In line 48 insert a comma after "thereon".

In line 51 change "decline" to "omit" and strike out "any".

In line 52 before "constitutional" insert: "omit or refuses to submit such proposed".

In line 52 strike out "adopt" and insert: "may pass or submit".

Eliminate paragraph in lines 56 and 57.

In line 57 insert a comma after "petitions".

In line 58 insert a comma after "thereof".

In line 58 strike out "the following".

In line 59 strike out the comma and insert a semi-colon after the quotation mark.

In lines 59 and 61 strike out "to be" and insert "to be" after "First" in each case.

Eliminate paragraph in lines 61 and 62 and in lines 63 and 64.

In line 65 strike out "it is".

In line 67 change "is" to "was".

Eliminate paragraph in lines 67 and 68.

In line 71 insert a comma after "law".

In line 74 strike out "power".

In line 75 change "Section" to "Sec." and strike out "Referendum".

In line 79 insert "in any law" after "item" and strike out same words after "money".

Eliminate paragraph in lines 79 and 80.

In line 81 change "the same" to "it".

Eliminate paragraph in lines 82 and 83.

In line 87 insert "in such law," after "item" and strike out same words after "money".

In line 89 change "item" to "section" and in line 90 change "section" to "item".

In line 91 strike out "at a time".

In line 92 change "item" to "section" and change "section" to "item" and strike out the comma after "section".

In line 94 change "item" to "section" and change "section" to "item".

In line 96 change "Section" to "Sec." and strike out "Emergency measures." and change "Acts" to "Laws".

In line 98 insert a comma before "and" and change "measures" to "laws".

In line 99 strike out ", if" and insert: "shall go into immediate effect". Change "such" to "Such" and change "measures" to "laws".

In line 100 change "shall" to "must".

In line 101 strike out all after the first comma and in line 102 strike out "stituting" and insert "and the reasons for".

In line 102 change "act" to "law".

In line 104 change "acts" to "laws" and "never" to "not".

In line 105 change "Section" to "Sec".

In lines 105 and 106 change capitals "I" and "R" to lower case "i" and "r".

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In line 106 change "never" to "not" and "enact" to "pass".

In line 108 insert "the levy of" after "authorizing".

In line 111 change "Section" to "Sec." and strike out "Local initiative and referendum".

In line 112 strike out "of the people" and change "electors" to "people".

In line 114 change comma to semi-colon and change the last "to" to "shall".

In line 116 change "Section" to "Sec." and strike out "General provisions."

In line 122 strike out "In the case of a" and insert "A".

In line 123 strike out "he" and insert a period after "resides"; strike out remainder of line and insert "A".

In line 124 insert after first "municipality" "shall state" and after second "municipality" insert a comma and strike out "he shall".

In line 125 strike out "state".

In line 127 strike out "Each" and insert "To each".

In line 128 change "have" to "be" and strike out "thereto".

In line 130 after first "such" insert "part of such".

In line 132 change "to" to "on".

In line 136 change comma to semi-colon.

Eliminate paragraph in lines 136 and 137.

In line 139 insert "the" before "election" and strike out "proven and" and insert "proved".

In line 140 change comma to period; strike out "and no" and insert "No".

In line 142 insert a comma after "thereon" and strike out "ever".

In line 144 change "shall have been" to "was".

Eliminate paragraph in lines 146 and 147.

In line 149 insert a comma after "state".

Eliminate paragraph in lines 150 and 151.

In line 155 insert comma after "petition".

In line 156 change "arguments" to "argument".

In line 157 strike out the first "s".

In lines 163 and 164 eliminate paragraph.

In line 164 change "have" to "cause to be" and insert a comma after each word "law".

In line 165 insert a comma after "constitution".

In line 166 insert a comma after "each" and strike out the remainder of line.

In line 167 insert a comma after "explanations".

In line 168 insert a comma after "each"; strike out "of the same," and insert a comma after "mail" and after "distribute".

In line 169 insert a comma after each word "law" and after "constitution".

In line 171 insert "may be" before "reasonably".

Eliminate paragraph in lines 171 and 172.

In line 173 strike out "official" and insert a comma after "ballots" and each word "law".

In line 174 insert a comma after "constitution".

In line 175 insert "so" after "ballots" and strike out "so" after "be".

In line 176 insert a comma after "law" and after "money" and insert "in a law" after "item" and strike out "in a law".

In line 177 insert a comma after "law" and eliminate paragraph in lines 177 and 178.

In line 178 insert a comma after "laws" and after "constitution", and after "electors" in line 179.

In line 180 change the second comma to a colon.

In line 181 strike out the comma after the second "measure" and insert a semi-colon after the last quotation mark, and strike out "and secondly" and insert "second".

In lines 185 and 186 insert a comma after "law" and after "constitution".

Eliminate paragraphs in lines 186 and 187, in lines 189 and 190, and in lines 192 and 193.

In line 194 change "Legislation" to "Laws" and change "enacted" to "passed".

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Lampson submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 333 — Mr. Peck, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

Strike out title and insert:

"To submit an amendment by adding section 2 to article XV, of the constitution. — Outdoor advertising."

Between lines 3 and 4 insert subhead "ARTICLE XV."

In line 4, insert "Sec. 2" before "Laws".

In line 4 change "adopted" to "passed".

In line 5 insert "for erecting bill-boards thereon and" after "grounds"; and strike out "bill boards."

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. Lampson moved that the rules be suspended and Proposal No. 333 be considered at once.

The motion was carried.

MR. LAMPSON: This is a simple proposal of three or four lines, known as the bill-board proposal, and I move that it be taken up and placed upon its passage now.

The motion was carried.

The proposal was read the third time.

The question being "Shall the proposal pass?"

The yeas and nays were taken, and resulted — yeas 85, nays 16, as follows:

Those who voted in the affirmative are:

| | | |
|------------------|----------|-------------|
| Anderson, | Cordes, | Evans, |
| Antrim, | Crites, | Fackler, |
| Baum, | Crosser, | Farnsworth, |
| Beatty, Morrow, | Davio, | FitzSimons, |
| Beatty, Wood, | Donahey, | Fluke, |
| Beyer, | Doty, | Fox, |
| Bowdle, | Dunn, | Hahn, |
| Brown, Highland, | Dwyer, | Halenkamp, |
| Colton, | Elson, | Halfhill, |

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| Harris, Hamilton, | Leete, | Roehm, |
| Harter, Huron, | Leslie, | Rorick, |
| Harter, Stark, | Longstreth, | Shaffer, |
| Henderson, | Malin, | Smith, Geauga, |
| Hoffman, | Matthews, | Smith, Hamilton, |
| Holtz, | Mauck, | Solether, |
| Hoskins, | McClelland, | Stamm, |
| Hursh, | Miller, Crawford, | Stevens, |
| Johnson, Williams, | Miller, Fairfield, | Stewart, |
| Jones, | Miller, Ottawa, | Stilwell, |
| Kehoe, | Moore, | Stokes, |
| Keller, | Nye, | Tannehill, |
| Kerr, | Okey, | Tetlow, |
| Kilpatrick, | Peck, | Thomas, |
| King, | Peters, | Ulmer, |
| Knight, | Pierce, | Watson, |
| Kramer, | Read, | Weybrecht, |
| Kunkel, | Redington, | Wise, |
| Lambert, | Rockel, | Mr. President. |
| Lampson, | | |

Those who voted in the negative are:

| | | |
|--------------|-------------------|----------|
| Brattain, | Johnson, Madison, | Riley, |
| Brown, Pike, | Ludey, | Taggart, |
| Campbell, | Marriott, | Tallman, |
| Collett, | Norris, | Wagner, |
| Cunningham, | Price, | Walker. |
| Harbarger, | | |

So the proposal passed as follows:

Proposal No. 333 — Mr. Peck. To submit an amendment by adding section 2 to article XV, of the constitution. — Out-door advertising.

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 XV.

SEC. 2. Laws may be passed regulating and limiting the use of property on or near public ways and grounds for erecting bill-boards thereon and for the public display of posters, pictures and others forms of advertising.

Mr. Harter, of Huron, arose to a question of privilege, and asked that his vote be recorded on Proposal No. 54, by Mr. Elson. His name being called, Mr. Harter, of Huron, voted "aye".

Mr. Leslie arose to a question of privilege, and asked that his vote be recorded on Proposal No. 54, by Mr. Elson. His name being called, Mr. Leslie voted "aye."

Mr. Leslie arose to a question of privilege, and asked that his vote be recorded on Proposal No. 72, by Mr. Stokes. His name being called, Mr. Leslie voted "aye."

Mr. FitzSimons arose to a question of privilege and asked that his vote be recorded on Proposal No. 54, by Mr. Elson, and Proposal No. 72, by Mr. Stokes. His name being called, Mr. FitzSimons voted "aye."

Mr. Lampson submitted the following report:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 151 — Mr. Anderson, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

- In title strike out "XXX" and insert "XV."
- In title strike out "18" and insert "9".
- In title strike out "of Schedule".

In title strike out all after dash and insert: "License to traffic in intoxicating liquors."

In lines 2 and 3 strike out "the constitution by substituting for section 18 of the schedule the following:" and insert "Article XV, Section 9, of the constitution and that:"

In lines 3 and 4 eliminate paragraph.

In line 4 strike out "Section 1. At" and insert "at".

In line 6 change "article" to "section".

In line 9 strike out "FOR LICENSE".

Insert subhead "ARTICLE XV."

In line 10 before the word "License" insert "Sec. 9".

In line 10 strike out the word "hereafter".

In lines 12 and 13 strike out "the general assembly may provide, and the general assembly shall authorize" and insert: "may be provided by law and".

In line 13 after "corporations" insert: "shall be authorized by general laws".

In line 14 after "saloons" change the comma to a period and strike out "under general laws applicable thereto; provided" and in line 15 strike out "that".

In line 15 before "where" insert: "Laws shall not be passed authorizing more than one license in each township or municipality of less than five hundred population, or more than one license for each five hundred population in other townships and municipalities."

In line 15 change "where" to "Where" and insert "the" after "where".

In line 19 change "law" to "laws".

In line 20 after "now" insert "in force".

In lines 21 and 22 eliminate paragraph.

In line 22 strike out "No license shall" and insert: "License to traffic in intoxicating liquors shall not".

In line 22 strike out "such".

In line 23 after "application" insert "therefor".

In line 24 strike out "No license shall" and insert: "License shall not".

In line 24 strike out "or manner".

In lines 25 and 26 strike out "beverages" and insert "liquors".

In line 26 strike out the comma after "sale" and insert "as a beverage".

In line 27 strike out "or manner".

In line 28 strike out "asked to be licensed, and that" and insert "for which the license is sought; and".

In lines 28 and 29 strike out "in any manner whatsoever".

In line 30 change the first comma to a semi-colon, and strike out "and".

In line 30 strike out "be made to" and insert: "shall".

In line 30 strike out "said".

In lines 31 and 32 eliminate paragraph.

In line 33 strike out "the license of said licensee" and insert: "his license".

Traffic in Intoxicating Liquors.

In lines 34 and 35 strike out "such convicted licensee" and insert: "him."

In lines 35 and 36 eliminate paragraph.

Strike out lines 36 to 39 inclusive and insert: "License to traffic in intoxicating liquors shall not be granted unless the place of traffic under such license shall be located in the county in which the person or persons reside whose duty it is to grant such license, or in a county adjoining thereto."

Strike out lines 40, 41 and 42.

In line 43 strike out "Section 2. At" and insert: "Resolved, further, that at".

In line 47 strike out "Section 3."

In line 53 strike out "Section".

The report was agreed to. The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. DOTY: This a large attendance and as this question has been talked about and discussed more than any thing else, I think we should get rid of this proposal now, and I move that it be read the third time now.

The motion was carried.

Proposal No. 151 as amended by the committee was read the third time.

Mr. WEYBRECHT: I offer an amendment.

The amendment was read as follows:

In line 18 after the word "districts" insert the word "now."

Mr. DOTY: I move to amend Mr. Weybrecht's amendment.

The amendment was read as follows:

At the end of the amendment add: Strike out the word "similar" in line 22.

Mr. KING: I offer an amendment.

The amendment was read as follows:

In lines 14 and 15 strike out the words "license" and insert in lieu thereof the words "saloon".

Mr. KING: It was evident enough when the amendment was originally proposed by the gentleman from Ashtabula [Mr. LAMPSON] and the proposal as amended was passed that the understanding of all the delegates was that that particular limitation of the number of licenses rated as to the population should be applied by the legislature and this Constitutional Convention to those engaged in the retail business only.

Now the word "retail" placed before the word "license" would no doubt accomplish that and would be no doubt as good or better than the word I propose, but the proposition as passed provided two sources or two kinds of limitations of the number:

1. The proposition first originally read contained almost in the first clause these words which are now in it, beginning in line 11, "And municipal corporations shall be authorized by general laws to provide for the limitation of the number of saloons".

That is as it was passed. The Lampson amendment came in after certain other limitations had been introduced and passed as amendments. The committee on Arrangement and Phraseology has taken the Lampson amendment and the five hundred proposition, that being

the minimum, and put it up with the statement in the proposal that municipal corporations may limit, and their right to limit as well as the right of the legislature anywhere to limit is governed by the latter clause, that no more shall be authorized than one to five hundred population or one in a township or in a municipality having less than five hundred and then one for each five hundred beyond that.

Now the reason I offer this amendment in this form is because with the clause authorizing the municipal corporations to limit the number of saloons—that is good work—it is understood, as all Americans do understand it, to mean a retail dealer in liquor. Then it should be carried to the next limitation with that same understanding; that is, that the number of saloons shall be limited to one to each five hundred of population. Now with this limitation upon the retail dealer, which I say was understood to apply, would be very unfair to say that that should include all dealers in these articles.

Mr. ELSON: Will you please define a saloon?

Mr. KING: A place where liquor is sold to be drunk on the premises.

Mr. ELSON: It does not include a jug-house?

Mr. KING: There are none of these in my community and I do not know anything about them. Do you know what they are? There are a good many retail dealers where I live, but there are also in our section of the country a large number of manufacturers of distilled liquors, and if those were to be counted as well as the wholesalers the limitation is valueless. It is practical prohibition of the retail traffic in the large communities where the sentiment permits it.

Mr. ELSON: I do not think there was any intention of limiting the manufacturers by this at all. So far as the jug-houses are concerned might not this limitation call into existence a number of houses where they would sell, not to be drunk on the premises, but a small quantity, a quart or a pint, to be carried off.

Mr. KING: I cannot define in a word the difference between a retailer and a wholesaler, but the law of Ohio has rightly defined it and the decisions of the court are abundant, and the whole tenor of that is that a wholesaler is one who sells to a retailer and a retailer is one who sells to a consumer.

Mr. ANDERSON: Has the law interpreted "wholesaler" and "retailer" and made a distinction as to whether or not the liquor is consumed on the premises? Has not the distinction been made that a retailer is one who sells where the liquor is to be consumed on the premises, and the wholesaler where it is not to be?

The PRESIDENT: The questions come out of the time of the speaker and if the speaker yields to the questions he must understand that they are consuming his time.

Mr. ANDERSON: Well, I do not wish to take his time.

Mr. KING: Then I will repeat: I think we understood that this limitation of five hundred should apply to those who get license to traffic as retailers to sell to consumers and to be drunk on the premises. I do not say that that is universal. Under the state law a retailer is one who sells in quantities of less than a gallon; for instance, to the man running through the country with his automobile or otherwise who goes in and buys

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a pint of whisky and goes off. It is not intended to say that every drop sold is to be drunk on the premises either, but it is to be sold in retail quantities. I do not know what a jug-house is.

Mr. ELSON: Suppose a dealer sells nothing to be drunk on the premises, but he would sell as low as a pint or a quart, would that be called a wholesale house?

Mr. KING: It would not be a wholesale house.

Mr. ELSON: Would that be a saloon?

Mr. KING: Yes.

Mr. ELSON: If that were understood I suppose we can all agree.

Mr. ANDERSON: Will the gentleman yield?

Mr. KING: If my time is not up, but I hope it is.

The PRESIDENT: The member's time is up.

Mr. WINN: Gentlemen of the Convention: If this Convention will write into this proposal the definition of a saloon and if that definition conforms to the one given here by the gentleman from Erie [Mr. KING], I have no objection to it, but if we are to pass it leaving it to the court to fix the definition it is most mischievous indeed. If we may say that the word saloon as herein used means a place where intoxicating liquors are kept for sale and sold as a beverage otherwise than in quantities of one gallon or more, then we have the definition of a saloon as given by the member from Erie. If that is added I shall offer no objection.

Mr. KING: I agree to that.

Mr. WINN: "And the word saloon as herein used means a place where intoxicating liquors are kept for sale and sold for beverages otherwise than in quantities of one gallon or more"; if that is added, all right.

"A hall or state department, a large reception room or fine arts exhibition, a bar room or grog shop"—that is the definition, and it is very indefinite, so I say again to the gentleman from Erie, so far as I am personally concerned, if his definition of the word saloon may be added in his amendment I shall make no objection to it.

Mr. KING: There is no objection to that.

Mr. DOTY: I think if the Convention will allow us to recess for five minutes we can put this matter into shape. I move that we take a recess for five minutes.

The recess was ordered.

10:30 o'clock a. m.

The Convention met pursuant to recess.

Consideration of Proposal No. 151 was resumed.

Mr. KING: I desire to withdraw the amendment I just offered and offer another.

Consent was given.

The amendment was read as follows:

In line 14, strike out the word "license" and insert in lieu thereof the word "saloon".

In line 15, strike out the word "license" and insert the word "saloon".

In line 38, after the period add the following: "The word saloon as used in this section is defined to be a place where intoxicating liquors are sold, or kept for sale, as a beverage in quantities less than one gallon."

The amendment was agreed to.

Mr. ANDERSON: I offer an amendment.

The amendment was read as follows:

In line 42 between the words "for" and "license" insert "restricted".

In line 43 between "against" and "license" insert "restricted".

Mr. ANDERSON: I do not suppose there will be any objection to that as it simply makes the form of the ballot correspond with the body of the proposal.

In the King proposal it was unrestricted license. Therefore it was "For or against license," but by the time we got through it was restricted license.

It means tens of thousands more votes in that case than in its present shape. Now on the question of "now" and "similar," it is marching up the hill and marching down again if you take out the word "similar". Judge King, shortly after this proposal passed, came to me and stated that there had been a mistake at the desk and by reason of that the word "now" was scratched out and that it should appear and would appear if it hadn't been erased by mistake at the desk. I told him if it was a mistake of one of the secretaries I would offer no objection to putting the word "now" in. I find it was a mistake, if a mistake it be, of the gentleman offering the amendment, and that has been demonstrated here by an examination of the original paper where it shows his pen went through the word "now". I grant you that there is not very much substantive value in leaving the word "similar" in or putting the word "now" in or out, but it seems apparently, from the numerous letters I have received, that others think there is something in it. They think with the word "similar" in or the word "now" not in that this license proposal will receive thousands of votes more than it would otherwise. Now let us analyze the difference between putting the word "similar" in and taking it out, the word "similar" applied to the prohibitory and regulatory temperance laws. There cannot be any other kind except prohibitory and regulatory. Consequently the word "similar" in no manner affects the descriptive part of the law, but with the word "similar" in and the word "now" in, it would prevent the legislature from permitting any larger unit than the county to vote on the wet or dry question. Now, mark it, it would prevent the legislature from passing laws that would permit a wet or dry vote upon any larger unit or political subdivision than a county. In other words the legislature—I don't think the legislature ever would—is prevented from giving us as a legislative enactment statewide prohibition. It never has in sixty years. In connection with this I want to read a letter from a man with whom a number of the delegates are acquainted, the superintendent of the schools at Youngstown, Mr. N. H. Chaney:

Hon. D. F. ANDERSON,
Constitutional Convention,

Columbus, O.

My Dear Mr. Anderson: The congregation at Trinity church last Sunday morning passed a resolution to request the Constitutional Convention to strike out the word "similar" in the Anderson proposal for the regulation of the liquor traffic, and appointed me to memorialize the Convention in its behalf and to that end. Therefore I am sending you this statement praying your careful and

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favorable attention to this point, hoping that the removal of the word will clarify and strengthen the measure among those who seem to feel that the word causes quibbling that tends to weaken rather than strengthen the public mind in regard to the whole splendid proposal. In fulfillment of my appointed duty and in full assurance of our hearty support of the proposal in form as it may finally issue to the people, I am, on behalf of the congregation, most sincerely yours,

N. H. CHANEY.

Dr. Chaney is not a minister, but he is a broad, liberal, educated, cultured gentleman. It merely shows that with the word "similar" out we will get thousands of more votes for this excellent proposal. That comes from the Trinity M. E. church, with a membership of over two thousand. You note that Dr. Chaney says they intend to support it. Now if those who represent the wets, and who have for years and years been clamoring for regulation and limitation, will do half as much as the church members have indicated for this measure there will be no question about the passage of this proposal.

Mr. KING: I want to say a few words on the question when you reach the point where that question is up to be voted on, but I rise for the purpose of objecting to the change in the title of this proposal as it goes on the ballot. It has been passed and the committee has reported it back, and therefore I move to lay the amendment of the gentleman from Mahoning on the table.

Mr. ANDERSON: May I ask you a question?

Mr. KING: Yes.

Mr. ANDERSON: What harm can the word "restricted" do in the form of the ballot so long as the proposal itself is for restricted license provided those who represent the wets really are in favor of restricted license?

Mr. KING: I hope that we can get through this without getting excited.

Mr. ANDERSON: I demand the yeas and nays.

The PRESIDENT: The question is shall the amendment of the delegate from Mahoning, inserting the word "restricted," lie upon the table.

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

Those who voted in the affirmative are:

| | | |
|-------------------|-------------------|------------------|
| Bowdle, | Harter, Stark, | Peck, |
| Brattain, | Henderson, | Pierce, |
| Brown, Pike, | Hoffman, | Price, |
| Cordes, | Hoskins, | Redington, |
| Crosser, | Hursh, | Riley, |
| Cunningham, | Johnson, Madison, | Roehm, |
| Davio, | Keller, | Shaffer, |
| Donahay, | King, | Smith, Hamilton, |
| Doty, | Kunkel, | Stalter, |
| Dwyer, | Leslie, | Stamm, |
| Earnhart, | Ludey, | Stilwell, |
| Farrell, | Malin, | Stokes, |
| FitzSimons, | Marriott, | Tallman, |
| Fox, | Marshall, | Thomas, |
| Hahn, | Matthews, | Ulmer, |
| Halenkamp, | Mauck, | Weybrecht, |
| Halfhill, | Moore, | Wise, |
| Harris, Hamilton, | Norris, | Mr. President. |
| Harter, Huron, | Partington, | |

Those who voted in the negative are:

| | | |
|------------------|--------------------|----------------|
| Anderson, | Harbarger, | Okey, |
| Antrim, | Harris, Ashtabula, | Peters, |
| Baum, | Holtz, | Read, |
| Beatty, Morrow, | Johnson, Williams, | Rockel, |
| Beatty, Wood, | Jones, | Rorick, |
| Beyer, | Kehoe, | Shaw, |
| Brown, Highland, | Kerr, | Smith, Geauga, |
| Campbell, | Kilpatrick, | Solether, |
| Cassidy, | Knight, | Stevens, |
| Collett, | Kramer, | Stewart, |
| Colton, | Lambert, | Taggart, |
| Crites, | Lampson, | Tannehill, |
| Dunn, | Leete, | Tetlow, |
| Elson, | Longstreth, | Wagner, |
| Evans, | McClelland, | Walker, |
| Fackler, | Miller, Crawford, | Watson, |
| Farnsworth, | Miller, Fairfield, | Winn, |
| Fess, | Miller, Ottawa, | Woods. |
| Fluke, | Nye, | |

The roll call was verified.

The motion was lost.

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

The yeas and nays were regularly demanded, taken, and resulted—yeas 51, nays 60, as follows:

Those who voted in the affirmative are:

| | | |
|------------------|--------------------|----------------|
| Anderson, | Harris, Ashtabula, | Okey, |
| Antrim, | Holtz, | Peters, |
| Baum, | Johnson, Williams, | Read, |
| Beatty, Morrow, | Jones, | Rockel, |
| Beatty, Wood, | Kehoe, | Rorick, |
| Beyer, | Kilpatrick, | Shaw, |
| Brown, Highland, | Knight, | Smith, Geauga, |
| Campbell, | Kramer, | Solether, |
| Cassidy, | Lambert, | Stevens, |
| Colton, | Lampson, | Stewart, |
| Crites, | Leete, | Tannehill, |
| Dunn, | Longstreth, | Tetlow, |
| Elson, | McClelland, | Wagner, |
| Farnsworth, | Miller, Crawford, | Walker, |
| Fess, | Miller, Fairfield, | Watson, |
| Fluke, | Miller, Ottawa, | Winn, |
| Harbarger, | Nye, | Woods. |

Those who voted in the negative are:

| | | |
|-------------------|-------------------|------------------|
| Bowdle, | Harter, Huron, | Partington, |
| Brattain, | Harter, Stark, | Peck, |
| Brown, Pike, | Henderson, | Pierce, |
| Collett, | Hoffman, | Price, |
| Cordes, | Hoskins, | Redington, |
| Crosser, | Hursh, | Riley, |
| Cunningham, | Johnson, Madison, | Roehm, |
| Davio, | Keller, | Shaffer, |
| Donahay, | Kerr, | Smith, Hamilton, |
| Doty, | King, | Stalter, |
| Dwyer, | Kunkel, | Stamm, |
| Earnhart, | Leslie, | Stilwell, |
| Fackler, | Ludey, | Stokes, |
| Farrell, | Malin, | Taggart, |
| FitzSimons, | Marriott, | Tallman, |
| Fox, | Marshall, | Thomas, |
| Hahn, | Matthews, | Ulmer, |
| Halenkamp, | Mauck, | Weybrecht, |
| Halfhill, | Moore, | Wise, |
| Harris, Hamilton, | Norris, | Mr. President. |

The roll call was verified.

The amendment was disagreed to.

Mr. BROWN, of Highland: I ask leave of absence—
Mr. DOTY: Regular order.

The PRESIDENT: If there is objection the leave cannot be granted.

Mr. DOTY: I object.

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

In line 42 after "License" insert the words "to traffic in intoxicating liquors."

In line 43 after "License" insert "to traffic in intoxicating liquors."

Mr. BROWN, of Highland: I move that the rules be suspended and that I be granted leave of absence for—

The PRESIDENT: The delegate from Ashtabula [Mr. LAMPSON] has the floor.

Mr. LAMPSON: I have offered this amendment to make it correspond with the action already taken by the Convention in adopting the report this morning, which will be found on your pink slip where it reads "in the title strike out all after dash and insert "License to traffic in intoxicating liquors". That is adopted and is decided, and the report will be made by the committee on Submission recommending the title for every proposal, together with the article and section that it is supposed to amend, and the supposition is that if it is adopted that the article and the section, together with the title, will go upon the ballot. I think there should be no exception made in this case.

The amendment was agreed to.

The PRESIDENT: The question is on the adoption of the amendment offered by the member from Cuyahoga [Mr. DOTY] to an amendment offered by the delegate from Stark [Mr. WEYBRECHT].

Mr. COLTON: I call for a division of the amendment offered by Mr. Doty.

Mr. DOTY: That is a subject by itself and you cannot divide it.

The PRESIDENT: The secretary will read the amendment.

The amendment was read.

The amendment was agreed to.

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

Mr. WINN: Relative to the vote just taken on the adoption of the amendment offered by the member from Cuyahoga [Mr. DOTY] let us understand what it means. I will read it lest some of you may not have your books before you, that part of the paragraph to which the amendment of the member from Stark [Mr. WEYBRECHT] applies:

Where traffic is or may be prohibited under laws applying to counties, municipalities, townships, residence districts, or other districts now prescribed by law; the traffic shall not be licensed in any such local subdivision while any prohibitory law is operative therein.

Now it can be seen by what has already been said that by adding the word "now," as is proposed by the original amendment, the general assembly will be prevented from making any different regulatory or prohibitory laws as they may apply to any different districts from those which now exist. The word "similar", it is agreed all around, should be stricken out, but I do not believe that the word "now" should be inserted and the word "similar" stricken out at the same time. An amendment has been prepared to strike out the word "similar" only, so I trust that

friends of this measure, and I mean those who would have it adopted at the polls and those who would have it made effectual, as it was designed to be when it was passed on second reading, will now vote against this amendment and vote it down, and when it is voted down an amendment will be immediately offered striking out the word "similar" and doing nothing more than that. Then we shall have this whole proposal in what I believe to be first-class shape. I hope this amendment will be voted down.

Mr. KING: When this proposal was adopted on second reading I know it was the general understanding of most of the delegates who voted for the proposal, and they, I think, were all of those who were present, that this word "now" at the place where it is now asked to be inserted was then in the proposal. This was adopted the last day of the discussion of the question and motions were made rather rapidly. But the amendment finally adopted with the proposal as it now is, was one offered by the gentleman from Huron [Mr. HARTER]. He had prepared it rather hurriedly and dictated a part of the amendment to the clerk at the desk. He asked the clerk to strike out certain words which I think were "or hereafter", or he thinks he did, and the clerk struck them out and also struck out the word "now", and it was not until after it was printed that anybody saw that the "now" was out. I agree with the gentleman from Mahoning that it perhaps does not make much difference whether either word is in or out, but at the same time I disagree with him when we come to this proposition that as to the wording of both propositions the word "now" ought to be there. The friends of temperance, if they are honest, in my judgment ought to be satisfied with the local option laws of the present day, which include every possible district up to and including the county line. If they want any broader districts they can have state prohibition by submitting by a petition through the initiative an amendment to the constitution to be voted upon, and also by applying to the legislature, and that will always permit that question to be submitted, but as to local subdivisions the county is the largest division we have in the state and this amply protects that. Why should the word "now" honestly be written in this proposal unless the question whether we shall have state-wide prohibition or not, is squarely and honestly presented to the people of the whole state? I am not opposed to submitting the question to the vote of the people, but I am opposed to putting any subterfuge in here by which somebody is to be cajoled into voting for this license proposal without understanding its whole tenor and effect. Therefore the word "now" should go in, and if that goes in I do not care whether the word "similar" goes out or not.

Mr. ANDERSON: I do not believe I have spoken upon this particular part of this matter and I would like to have a little fairness extended to me even if it is painful. This whole thing is a trick hatched up premeditatedly and presented here upon the floor of the Convention. The gentleman from Cuyahoga [Mr. DOTY], the eminent "dry" advocate, is so anxious to do that which the drys seem to want done that he moves to strike out the word "similar" and he becomes the champion of that side and draws up an amendment to take out the word "similar", but with the distinct understand-

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ing with the president that Mr. Weybrecht was to be recognized first and then Mr. Doty, so that the situation can be a sort of nunc pro tunc.

Mr. PRICE: Why doesn't the gentleman come to his point? I cannot understand what he is driving at.

Mr. ANDERSON: I am not responsible for your understanding.

Mr. PRICE: It doesn't seem to me that the gentleman is in order.

The PRESIDENT: The member is in order.

Mr. ANDERSON: And I do not want that taken out of my time. I want this Convention to have an opportunity of voting separately upon taking "similar" out of this proposal. I do not want any trickery or chicanery hatched up and foisted upon this Convention by any set of men. We have got along with the liquor question splendidly and it is too near adjournment to resort to trickery. Therefore I demand a separation and I call for the yeas and nays, so that we may have an opportunity of voting upon taking the word "similar" out of the proposal and then determining in a fair and honest way whether we shall put the word "now" in it.

Mr. FESS: The only regular way that I can see is to vote on it, and I hope every temperance man will vote against this amendment as amended. Then an amendment can be introduced to strike out the word "similar". I think Mr. Doty very well understood that this was a very crude move. I saw it at once and I called the attention of the members to it. I do not find any fault with Mr. Doty. I would have done it if I had wanted to defeat this thing. It seems to me the temperance people should stand together and vote down this amendment as amended and then let the word "similar" be stricken out. I do not want to get into any controversy where ultimately we won't know what we have done when we are through doing it.

The PRESIDENT: The amendment can be divided in any way the Convention desires. If the Convention desires to vote as to whether "now" shall be inserted they can do that, or they can vote on taking the "similar" out first.

Mr. PECK: Why don't we take a vote in the order in which they come.

The PRESIDENT: There is an amendment pending before the Convention. The amendment provides for the insertion of the word "now" and the striking out of the word "similar." A request has been made that this amendment be divided and the president has ruled that it is susceptible of division. If the Convention is willing to have the question put it will be first upon the motion to insert the word "now" and the yeas and nays are demanded.

Mr. MARRIOTT: I move that the proposed amendment and the amendment to it be laid on the table.

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

The yeas and nays were taken, and resulted—yeas 58, nays 54, as follows:

Those who voted in the affirmative are:

| | | |
|-----------------|-------------|--------------------|
| Anderson, | Cassidy, | Farnsworth, |
| Antrim, | Colton, | Fess, |
| Baum, | Crites, | Fluke, |
| Beatty, Morrow, | Cunningham, | Harbarger, |
| Beatty, Wood, | Dunn, | Harris, Ashtabula, |
| Beyer, | Elson, | Holtz, |
| Campbell, | Evans, | Hoskins, |

| | | |
|--------------------|--------------------|----------------|
| Johnson, Madison, | McClelland, | Smith, Geauga, |
| Johnson, Williams, | Miller, Fairfield, | Solesher, |
| Jones, | Miller, Ottawa, | Stevens, |
| Kehoe, | Norris, | Stewart, |
| Kilpatrick, | Nye, | Taggart, |
| Knight, | Okey, | Tannhill, |
| Kramer, | Partington, | Tetlow, |
| Lambert, | Peters, | Wagner, |
| Lampson, | Read, | Walker, |
| Leete, | Rockel, | Watson, |
| Longstreth, | Rorick, | Winn, |
| Marriott, | Shaw, | Woods. |
| Mauck, | | |

Those who voted in the negative are:

| | | |
|------------------|-------------------|------------------|
| Bowdle, | Halfhill, | Peck, |
| Brattain, | Harris, Hamilton, | Pierce, |
| Brown, Highland, | Harter, Huron, | Price, |
| Brown, Pike, | Harter, Stark, | Redington, |
| Collett, | Henderson, | Riley, |
| Cordes, | Hoffman, | Roehm, |
| Crosser, | Hursh, | Shaffer, |
| Davio, | Keller, | Smith, Hamilton, |
| Donahey, | Kerr, | Stalder, |
| Doty, | King, | Stamm, |
| Dwyer, | Kunkel, | Stilwell, |
| Earnhart, | Leslie, | Stokes, |
| Fackler, | Ludey, | Tallman, |
| Farrell, | Malin, | Thomas, |
| FitzSimons, | Marshall, | Ulmer, |
| Fox, | Matthews, | Weybrecht, |
| Hahn, | Miller, Crawford, | Wise, |
| Halenkamp, | Moore, | Mr. President. |

So the motion was carried.

Mr. WINN: I offer an amendment...

The amendment was read as follows:

In line 22 strike out the word "similar".

Mr. WINN: I believe that the members all understand what this is and I shall not consume time in debating it. The amendment strikes out, and does not do any more than strike out, the word "similar".

Mr. PECK: Was not that involved in the amendment just voted on?

Mr. WINN: No; not exactly in that form, and I now move the previous question on that amendment.

Mr. TALLMAN: I would like to talk on the question.

Mr. WINN: The gentleman is out of order. I have demanded the previous question and it was seconded by not less than thirty or forty.

The PRESIDENT: The previous question was regularly demanded.

Mr. TALLMAN: I ask unanimous leave of the Convention, without being cut off in this way, to present the other side.

DELEGATES: Objection.

The PRESIDENT: Objection is made. The question is, Shall the debate close?

Mr. DWYER: Does that embrace the entire proposition?

Mr. WINN: On the amendment only.

The previous question was ordered.

The PRESIDENT: The question now is, "Shall the amendment prevail?"

The yeas and nays were regularly demanded, taken, and resulted—yeas 65, nays 46, as follows:

Those who voted in the affirmative are:

| | | |
|-----------|-----------------|------------------|
| Anderson, | Beatty, Morrow, | Brown, Highland, |
| Antrim, | Beatty, Wood, | Campbell, |
| Baum, | Beyer, | Cassidy, |

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| | | |
|--------------------|--------------------|----------------|
| Collett, | Johnson, Williams, | Partington, |
| Colton, | Jones, | Peters, |
| Crites, | Kehoe, | Read, |
| Cunningham, | Kilpatrick, | Rockel, |
| Doty, | Knight, | Rorick, |
| Dunn, | Kramer, | Shaw, |
| Elson, | Lambert, | Smith, Geauga, |
| Evans, | Lampson, | Solether, |
| Fackler, | Leete, | Stevens, |
| Farnsworth, | Longstreth, | Stewart, |
| Fess, | Ludey, | Taggart, |
| Fluke, | Matthews, | Tannehill, |
| Halfhill, | Mauck, | Tetlow, |
| Harbarger, | McClelland, | Wagner, |
| Harris, Ashtabula, | Miller, Crawford, | Walker, |
| Holtz, | Miller, Fairfield, | Watson, |
| Hoskins, | Miller, Ottawa, | Winn, |
| Hursh, | Nye, | Wise. |
| Johnson, Madison, | Okey, | |

Those who voted in the negative are:

| | | |
|-------------------|----------------|------------------|
| Bowdle, | Harter, Stark, | Price, |
| Brattain, | Henderson, | Redington, |
| Brown, Pike, | Hoffman, | Riley, |
| Cordes, | Keller, | Roehm, |
| Crosser, | Kerr, | Shaffer, |
| Davio, | King, | Smith, Hamilton, |
| Donahay, | Kunkel, | Stalter, |
| Dwyer, | Leslie, | Stamm, |
| Earnhart, | Malin, | Stilwell, |
| Farrell, | Marriott, | Stokes, |
| FitzSimons, | Marshall, | Tallman, |
| Fox, | Moore, | Thomas, |
| Hahn, | Norris, | Ulmer, |
| Halenkamp, | Peck, | Weybrecht, |
| Harris, Hamilton, | Pierce, | Mr. President. |
| Harter, Huron, | | |

The amendment was agreed to.

Mr. WATSON: I offer an amendment.

The amendment was read as follows:

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

"The manufacture, sale and free distribution of intoxicating liquors as a beverage shall never be permitted in this state."

Mr. WATSON: Mr. President and Gentlemen of the Convention: This is the greatest question of the age. It is the great question in this Constitutional Convention, the question whether or not the great state of Ohio shall put her seal of approval upon that which leads men and women down into degradation, misery, want and woe. I hope, gentlemen of the Convention, that you will realize that there is a power above that is greater than all earthly power and that is He whose spoken words were that righteousness exalteth a nation, but sin is a reproach to any people. He will stand as judge over this Constitutional Convention and the seat which He occupies to pass judgment upon the members of this Convention is high above the dais where the president of this Convention presides. I look to Him as the one who possesses judgment in all things. You may talk about doing this for the interest of labor, for the interest of the farmer, for the interest of society, but no one thing can you do that will benefit the laboring man, the farmer and society at large as much as the striking down of this accursed liquor traffic in the state of Ohio.

We are told that Haman offered the king ten thousand talents if he would give him the privilege of killing the Jews. That sum of ten thousand talents would be \$5,-

383,000. The liquor traffic would offer millions to destroy this posthumous babe of ours. I ask you in all seriousness, gentlemen of the Convention, are you going to put the seal of your approval on this father of crime, mother of shame and the child of the devil?

How can you kneel around your sacred altars and offer up your prayer, "Thy kingdom come, Thy will be done, on earth as it is in Heaven," and then vote for this monster to be turned loose upon the state? Day after day from that dais has prayer gone up to God to guide the work of the Fourth Constitutional Convention of Ohio, and if you start out to license this accursed evil you are not approving by your actions the prayers that have been offered up. I ask for the yeas and nays on this and I demand the previous question.

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

The PRESIDENT: The question is on the motion to table.

Mr. EVANS: I rise to a point of order. My point of order is that the amendment is not germane and is out of order.

Mr. WATSON: I insist that the question is germane and is in order.

The PRESIDENT: The question is on the motion to table the amendment.

The yeas and nays were regularly demanded; taken, and resulted—yeas 87, nays 24, as follows:

Those who voted in the affirmative are:

| | | |
|------------------|--------------------|------------------|
| Anderson, | Hahn, | Miller, Ottawa, |
| Antrim, | Halenkamp, | Moore, |
| Baum, | Harbarger, | Norris, |
| Beatty, Morrow, | Harris, Ashtabula, | Nye, |
| Beyer, | Harris, Hamilton, | Okey, |
| Bowdle, | Harter, Huron, | Partington, |
| Brattain, | Harter, Stark, | Peck, |
| Brown, Highland, | Henderson, | Pierce, |
| Brown, Pike, | Hoffman, | Price, |
| Campbell, | Holtz, | Redington, |
| Cassidy, | Hoskins, | Riley, |
| Collett, | Hursh, | Rockel, |
| Colton, | Johnson, Madison, | Roehm, |
| Cordes, | Jones, | Rorick, |
| Crites, | Kehoe, | Shaffer, |
| Crosser, | Keller, | Shaw, |
| Davio, | Kerr, | Smith, Hamilton, |
| Donahay, | King, | Stamm, |
| Doty, | Knight, | Stilwell, |
| Dwyer, | Kunkel, | Stokes, |
| Earnhart, | Leete, | Taggart, |
| Elson, | Leslie, | Tallman, |
| Evans, | Ludey, | Tetlow, |
| Fackler, | Malin, | Thomas, |
| Farnsworth, | Marriott, | Ulmer, |
| Farrell, | Marshall, | Weybrecht, |
| FitzSimons, | Matthews, | Winn, |
| Fluke, | Mauck, | Wise, |
| Fox, | McClelland, | Mr. President. |

Those who voted in the negative are:

| | | |
|--------------------|--------------------|------------|
| Beatty, Wood, | Lambert, | Solether, |
| Cunningham, | Lampson, | Stalter, |
| Dunn, | Longstreth, | Stevens, |
| Fess, | Miller, Crawford, | Stewart, |
| Halfhill, | Miller, Fairfield, | Tannehill, |
| Johnson, Williams, | Peters, | Wagner, |
| Kilpatrick, | Read, | Walker, |
| Kramer, | Smith, Geauga, | Watson. |

So the motion to table was carried.

Mr. WATSON: I offer another amendment.

Traffic in Intoxicating Liquors.

The amendment was read as follows:

In line 43 strike out "against license" and insert "for prohibition to traffic in intoxicating liquors."

Mr. DOTY: I rise to a point of order. That amendment is not germane.

The PRESIDENT: The amendment is out of order.

Mr. KING: I offer an amendment.

Amend Proposal No. 151 as follows:

In line 18 after the word "districts" insert the word "now". I move the previous question on the proposal and the pending amendment.

Mr. WINN: I demand the yeas and nays on the amendment.

The PRESIDENT: The question is, Shall debate close on the amendment and proposal?

The motion for the previous question was carried.

The PRESIDENT: The question is on the adoption of the amendment, to insert the word "now" in line 18.

Mr. PECK: I thought we were through with that an hour ago.

The PRESIDENT: The proposition we are now voting upon was virtually laid on the table.

Mr. KING: We have not had a vote on this question yet.

Mr. PECK: Your amendment was an amendment to an amendment.

Mr. KING: Yes.

Mr. FESS: The other amendment was to line 22 by striking out the word "similar".

Mr. DOTY: Mine was on the word "similar" in line 22 and Mr. Weybrecht's was in line 18, and they were coupled together and laid on the table.

Mr. PECK: And now we start it all over again.

Mr. DOTY: No.

Mr. FESS: Was not yours an amendment to an amendment?

Mr. DOTY: Yes.

Mr. FESS: Was that amendment to the proposal?

Mr. DOTY: Yes.

The PRESIDENT: The question is on the amendment and the yeas and nays have been demanded and the secretary will call the roll.

The yeas and nays were taken, and resulted — yeas 60, nays 51, as follows:

Those who voted in the affirmative are:

| | | |
|------------------|-------------------|------------------|
| Beyer, | Harris, Hamilton, | Peck, |
| Bowdle, | Harter, Huron, | Pierce, |
| Brattain, | Harter, Stark, | Price, |
| Brown, Highland, | Henderson, | Redington, |
| Brown, Pike, | Hoffman, | Riley, |
| Collett, | Hoskins, | Roehm, |
| Cordes, | Hursh, | Rorick, |
| Crosser, | Johnson, Madison, | Shaffer, |
| Davio, | Keller, | Smith, Hamilton, |
| Donahey, | Kerr, | Stalter, |
| Doty, | King, | Stamm, |
| Dwyer, | Kunkel, | Stilwell, |
| Earnhart, | Leslie, | Stokes, |
| Fackler, | Ludey, | Tallman, |
| Farrell, | Malin, | Tetlow, |
| FitzSimons, | Marshall, | Thomas, |
| Fox, | Matthews, | Ulmer, |
| Hahn, | Miller, Crawford, | Weybrecht, |
| Halenkamp, | Moore, | Wise, |
| Halfhill, | Okey, | Mr. President. |

Those who voted in the negative are:

| | | |
|-----------------|--------------------|----------------|
| Anderson, | Harris, Ashtabula, | Norris, |
| Antrim, | Holtz, | Nye, |
| Baum, | Johnson, Williams, | Partington, |
| Beatty, Morrow, | Jones, | Peters, |
| Beatty, Wood, | Kehoe, | Read, |
| Campbell, | Kilpatrick, | Rockel, |
| Cassidy, | Knight, | Shaw, |
| Colton, | Kramer, | Smith, Geauga, |
| Crites, | Lambert, | Solether, |
| Cunningham, | Lampson, | Stevens, |
| Dunn, | Leete, | Stewart, |
| Elson, | Longstreth, | Taggart, |
| Evans, | Marriott, | Tannehill, |
| Farnsworth, | Mauck, | Wagner, |
| Fess, | McClelland, | Walker, |
| Fluke, | Miller, Fairfield, | Watson, |
| Harbarger, | Miller, Ottawa, | Winn. |

So the amendment was agreed to.

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

The yeas and nays were taken, and resulted — yeas 91, nays 18, as follows:

Those who voted in the affirmative are:

| | | |
|------------------|--------------------|------------------|
| Anderson, | Harbarger, | Miller, Ottawa, |
| Antrim, | Harris, Ashtabula, | Moore, |
| Baum, | Harris, Hamilton, | Norris, |
| Beatty, Morrow, | Harter, Stark, | Nye, |
| Beyer, | Henderson, | Okey, |
| Bowdle, | Hoffman, | Partington, |
| Brattain, | Holtz, | Peck, |
| Brown, Highland, | Hoskins, | Pierce, |
| Brown, Pike, | Hursh, | Price, |
| Campbell, | Johnson, Madison, | Redington, |
| Collett, | Johnson, Williams, | Rockel, |
| Cordes, | Jones, | Roehm, |
| Crites, | Keller, | Rorick, |
| Crosser, | Kerr, | Shaffer, |
| Davio, | King, | Shaw, |
| Donahey, | Knight, | Smith, Geauga, |
| Doty, | Kramer, | Smith, Hamilton, |
| Dwyer, | Kunkel, | Stalter, |
| Earnhart, | Lambert, | Stamm, |
| Elson, | Lampson, | Stilwell, |
| Evans, | Leete, | Stokes, |
| Fackler, | Leslie, | Taggart, |
| Farnsworth, | Longstreth, | Tallman, |
| Farrell, | Ludey, | Tetlow, |
| Fess, | Malin, | Thomas, |
| FitzSimons, | Marriott, | Ulmer, |
| Fluke, | Marshall, | Weybrecht, |
| Fox, | Matthews, | Winn, |
| Hahn, | McClelland, | Wise, |
| Halenkamp, | Miller, Crawford, | Mr. President. |
| Halfhill, | | |

Those who voted in the negative are:

| | | |
|---------------|--------------------|------------|
| Beatty, Wood, | Mauck, | Stevens, |
| Cassidy, | Miller, Fairfield, | Stewart, |
| Colton, | Peters, | Tannehill, |
| Cunningham, | Read, | Wagner, |
| Dunn, | Riley, | Walker, |
| Kilpatrick, | Solether, | Watson. |

So the proposal passed as follows:

Proposal No. 151 — Mr. Anderson. To submit an amendment to article XV, section 9, of the constitution. — License to traffic in intoxicating liquors.

Resolved, by the Constitutional Convention of the state of Ohio, That a proposal shall be submitted to the electors to amend article XV, section 9, of the constitution and that at the time

Traffic in Intoxicating Liquors—Question of Personal Privilege.

when the vote of the electors shall be taken for the adoption or rejection of any revision, alterations, or amendments made to the constitution by this Convention, the following section, independently of the submission of any revision, alteration or other amendments submitted to them shall be separately submitted to the electors in the words following, to-wit:

ARTICLE XV.

SEC. 9. License to traffic in intoxicating liquors shall be granted in this state, and license laws operative throughout the state shall be passed with such restrictions and regulations as may be provided by law and municipal corporations shall be authorized by general laws to provide for the limitation of the number of saloons. Laws shall not be passed authorizing more than one saloon in each township or municipality of less than five hundred population, or more than one saloon for each five hundred population in other townships and municipalities. Where the traffic is or may be prohibited under laws applying to counties, municipalities, townships, residence districts, or other districts now prescribed by law, the traffic shall not be licensed in any such local sub-division while any prohibitory law is operative therein, and nothing herein contained shall be so construed as to repeal, modify or suspend any such prohibitory laws, or any regulatory laws now in force or hereafter enacted, or to prevent the future enactment, modification or repeal of any prohibitory or regulatory laws. License to traffic in intoxicating liquors shall not be granted to any person who at the time of making application therefor is not a citizen of the United States and of good moral character. License shall not be granted to any applicant who is in any way interested in the business conducted at any other place where intoxicating liquors are sold or kept for sale as a beverage nor shall such license be granted unless the applicant or applicants are the only persons in any way pecuniarily interested in the business for which the license is sought and no other person shall be in any way interested therein during the continuance of the license; if such interest of such person shall appear, the license shall be deemed revoked. If any licensee is more than once convicted for a violation of the laws in force to regulate the traffic in intoxicating liquors, his license shall be deemed revoked, and no license shall thereafter be granted to him. License to traffic in intoxicating liquors shall not be granted unless the place of traffic under such license shall be located in the county in which the person or persons reside whose duty it is to grant such license, or in a county adjoining thereto. The word saloon as used in this section is defined to be a place where intoxicating liquors are sold, or kept for sale, as a beverage in quantities less than one gallon.

Resolved further, That at said election a ballot shall be in the following form:

INTOXICATING LIQUORS.

| | |
|--|---|
| | For License to Traffic in Intoxicating liquors. |
| | Against License to Traffic in Intoxicating Liquors. |

The voter shall indicate his choice by placing a cross-mark within the blank space opposite the words "For License" if he desires to vote in favor of the article above mentioned and opposite the words "Against License," within the blank space if he desires to vote against said article. If a cross-mark is placed opposite both phrases or neither phrase, then the vote upon the subject shall not be counted.

If the votes for license shall exceed the votes against license, then the article above mentioned shall become section 9 of article XV of the constitution, and the present section 9 of said article, also known as section 18 of the schedule shall be repealed.

Mr. KING: I move that the vote by which Proposal No. 151 was passed be reconsidered and I move to lay that motion on the table.

The motion was carried.

The proposal was referred to the committee on Arrangement and Phraseology.

Mr. HARRIS, of Hamilton: I rise to a question of personal privilege, especially as the Convention seems to be in such a good humor. Yesterday afternoon during a controversy of the most pleasant character between Damon and Pythias of the Convention, Judge Peck and Judge Dwyer, on one side and myself on the other—

Mr. DOTY: I rise to a point of order. He has not stated his question of personal privilege.

The PRESIDENT: He has stated it to the president.

Mr. HARRIS, of Hamilton: I have the floor.

Mr. PECK: I have a more personal question than that; I want my dinner.

Mr. HARRIS, of Hamilton: The question, in the most diplomatic manner imaginable, was that I was mistaken in some statements that I had made.

Mr. PECK: State the parliamentary language you used to us.

Mr. HARRIS, of Hamilton: I desire the record to show that the mistake was not on my part and therefore I read a clipping from a Columbus paper of this morning:

DON'T LIKE SETTLEMENT—BRITISH MINERS ILL-
PLEASED WITH WAGE COMPROMISE—FEDERA-
TION TO INTERVIEW GOVERNMENT.

London, May 23.—The national conference of the National Federation of Miners late yesterday passed a resolution indicating that the miners are dissatisfied with the settlement of their difficulty with the mine operators and are apparently ready

Question of Personal Privilege—Report of Standing Committee—Resolution for the Payment of Claims.

for another strike. This action was taken after an all-day session devoted to discussion of the recent strike and its settlement. The resolution strongly protests against the awards which are being made by the district wage boards. These boards, the resolution declares, fix the minimum wage for miners at a figure below the reasonable living wage which the government led the men to expect. The executive committee of the federation was instructed to interview the government at once for the purpose of securing immediate action on this point and to report to the national conference.

As I forgave the gentlemen yesterday I also forgive them today.

Mr. DOTY: Inasmuch as there is no question of privilege I move that all reference to that matter be stricken from the record.

Mr. HARRIS, of Hamilton: I mentioned the question of privilege. I said that my statements had been impugned, and I refer to this to show that the questions of fact were just as I said they were and just as they were impugned.

Mr. DOTY: In the interest of peace and harmony in the Cincinnati delegation I withdraw my motion.

Mr. FESS: I offer a report.

The report was read as follows:

The standing committee on Arrangement and Phraseology, to which was referred Proposal No. 170—Mr. Worthington, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended:

In title strike out all after dash and insert: "Taxation of state and municipal bonds, inheritances, incomes, franchises and production of minerals."

Between lines 3 and 4 insert subhead: ARTICLE XII.

In lines 4, 7, 21, 23, 30, 34 and 36 change "Section" to "Sec".

In lines 4 and 5 strike out "The levying of taxes by the poll is grievous and oppressive; therefore"; capitalize "n" in "no" in line 5.

In line 5 strike out "therein," and change "nor" to "or".

In line 9 after "money" insert a comma.

In line 10 change capital "S" to lower case "s".

In line 17 insert a comma after "dollars" and insert a comma after "may".

In line 23 change "enacted" to "passed".

In line 24 insert a comma after "receive".

In line 24 insert "to" before "succeed".

In line 24 insert a comma after "to" before "estates".

In line 24 change "tax" to "taxation".

In line 25 insert a comma after "receive".

In line 25 insert a comma after "to" before "estates".

In lines 26 and 27 eliminate paragraph.

In line 27 strike out "a"; strike out "or higher"; change "rate" to "rates".

In line 28 strike out "inheritance than" and insert "and".

In line 28 insert a comma after second "inheritances".

In line 29 change "tax" to "taxation".

In line 30 change "enacted" to "passed".

In line 31 change "which tax" to "and such taxation". Strike out "either general or confined" and insert "may be applied to".

In line 32 change comma to semicolon.

In line 32 insert "annual" after "each".

In line 33 strike out "in any one year".

In line 33 change "tax" to "taxation".

In line 35 after the second "and" insert "other".

In line 36 insert comma after "state".

In line 37 strike out comma after "legislation".

In line 37 insert a comma after "unless".

In line 38 after "payment" insert "each year".

In line 40 change "same" to "outstanding principal".

In line 40 strike out "each year".

The report was agreed to.

The proposal was ordered to be engrossed and read the third time tomorrow.

Mr. DOTY: I now move that we recess until 1:45 o'clock p. m.

Mr. KNIGHT: I move to amend that by making it 2 o'clock p. m.

The amendment was accepted.

The motion was carried.

AFTERNOON SESSION.

The Convention met pursuant to recess and was called to order by the president.

Mr. CASSIDY: I offer a report.

The report was read as follows:

The standing committee on Claims Against the Convention, to which was referred Resolution No. 115—Mr. Cassidy, having had the same under consideration, reports it back with the following amendment, and recommends its passage when so amended:

Add thereto the following:

"Carl A. Mutschler, postage, \$15.00."

The report was agreed to.

Mr. LAMPSON: I offer an amendment to that resolution as follows:

At the end of the resolution add the following items: Andrew Earl, supplies, \$17.40.

T. J. Dundon & Co., supplies and hauling \$5.00.

Mr. LAMPSON: At the time one of our invited guests was here, Colonel Roosevelt, a reception committee was appointed consisting of Mr. Brown, of Lucas, and myself and perhaps one other member. I am not certain who it was, but I think it was Mr. Beatty, of Wood. Mr. Brown and myself acted and we were to make arrangements in this hall for the more comfortable seating of our guests. Tickets had been issued to the guests and we authorized the sergeant-at-arms to make

Resolution for the Payment of Claims—Resolution of Congratulation.

arrangements to put in benches so that the guests back of the railing could see over the railing and so that the speaker could see the guests and thus avoid confusion and it operated to the entire satisfaction of everybody. There was a bill for that work of \$22.40, which I personally feel under obligation to see paid, but I do not think any one or two delegates to the Convention ought to be responsible for that kind of a bill.

The amendment was agreed to.

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

The yeas and nays were taken, and resulted—yeas 76, nays 4, as follows:

Those who voted in the affirmative are:

| | | |
|--------------------|--------------------|------------------|
| Anderson, | Harter, Huron, | Peters, |
| Antrim, | Henderson, | Pierce, |
| Baum, | Hoffman, | Price, |
| Beatty, Morrow, | Holtz, | Read, |
| Beatty, Wood, | Hursh, | Redington, |
| Beyer, | Johnson, Williams, | Riley, |
| Brown, Highland, | Jones, | Rockel, |
| Brown, Pike, | Knight, | Roehm, |
| Campbell, | Kramer, | Rorick, |
| Cassidy, | Lampson, | Shaffer, |
| Collett, | Leete, | Shaw, |
| Colton, | Leslie, | Smith, Geauga, |
| Crites, | Longstreth, | Smith, Hamilton, |
| Davio, | Ludey, | Stalter, |
| Doty, | Marshall, | Stamm, |
| Dwyer, | Mauck, | Stevens, |
| Farnsworth, | McClelland, | Stewart, |
| Farrell, | Miller, Crawford, | Stilwell, |
| Fess, | Miller, Fairfield, | Stokes, |
| FitzSimons, | Miller, Ottawa, | Taggart, |
| Fox, | Norris, | Tallman, |
| Hahn, | Nye, | Tetlow, |
| Halenkamp, | Okey, | Thomas, |
| Halfhill, | Partington, | Ulmer, |
| Harbarger, | Peck, | Winn. |
| Harris, Ashtabula, | | |

Those who voted in the negative are: Partington, Wagner, Walker, Watson.

The resolution was adopted.

Mr. STOKES: I ask unanimous consent to offer a resolution.

Consent being given the resolution was offered as follows:

Resolution No. 130:

WHEREAS, This Convention on the 2nd day of February, 1912, passed a resolution of tribute and respect to Judge Dennis Dwyer of Montgomery county, the dean of the Convention, on reaching the eighty-second milestone of his life; and

WHEREAS, On the first day of May, 1912, this Convention paused one minute in its deliberations in deference to the gentleman from Ashland, Mr. Fluke, and his bride; and

WHEREAS, There was born to the gentleman from Hamilton, Mr. Starbuck Smith and wife, on the 8th day of May, 1912, a bouncing baby boy; now therefore,

Be it resolved, That this Convention extends its congratulations to the parents, and adopts this Buckeye boy as its ward, and will ever watch his course in life with continued interest.

Mr. STOKES: I move a suspension of the rules, to consider this resolution at once.

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

The rules were suspended.

The resolution was adopted.

Mr. BROWN, of Highland: I move that this Convention remain in session over tomorrow.

Mr. HALFHILL: I move that when we adjourn today it be until two o'clock p. m. Monday.

Mr. DOTY: I move that when we adjourn we adjourn until nine o'clock tomorrow and on that I demand the yeas and nays.

The PRESIDENT: The president would like to depart from custom and make a speech from the stand upon this question. He very much hopes that the amendment of the delegate from Cuyahoga will be carried and that the Convention will remain and continue its work the rest of the week.

The yeas and nays were taken, and resulted—yeas 47, nays 59, as follows:

Those who voted in the affirmative are:

| | | |
|--------------------|--------------------|------------------|
| Antrim, | Harris, Hamilton, | Peck, |
| Beatty, Morrow, | Hoffman, | Rockel, |
| Beyer, | Hoskins, | Rorick, |
| Colton, | Johnson, Madison, | Shaw, |
| Cunningham, | Johnson, Williams, | Smith, Geauga, |
| Davio, | Kerr, | Smith, Hamilton, |
| Donahay, | Kilpatrick, | Stamm, |
| Doty, | King, | Taggart, |
| Dwyer, | Lambert, | Tannehill, |
| Fackler, | Lampson, | Tetlow, |
| Farnsworth, | Leete, | Thomas, |
| Fess, | Marshall, | Ulmer, |
| FitzSimons, | Mauck, | Walker, |
| Hahn, | Miller, Crawford, | Winn, |
| Halenkamp, | Miller, Ottawa, | Mr. President. |
| Harris, Ashtabula, | Partington, | |

Those who voted in the negative are:

| | | |
|------------------|--------------------|------------|
| Anderson, | Harter, Stark, | Nye, |
| Baum, | Henderson, | Okey, |
| Beatty, Wood, | Holtz, | Peters, |
| Brattain, | Hursh, | Pierce, |
| Brown, Highland, | Jones, | Price, |
| Brown, Lucas, | Kehoe, | Read, |
| Brown, Pike, | Keller, | Redington, |
| Campbell, | Knight, | Riley, |
| Cassidy, | Kramer, | Roehm, |
| Collett, | Kunkel, | Shaffer, |
| Crites, | Leslie, | Solether, |
| Dunn, | Longstreth, | Stevens, |
| Earnhart, | Ludey, | Stewart, |
| Evans, | Malin, | Stilwell, |
| Farrell, | Marriott, | Stokes, |
| Fluke, | Matthews, | Tallman, |
| Fox, | McClelland, | Wagner, |
| Halfhill, | Miller, Fairfield, | Watson, |
| Harbarger, | Moore, | Wise. |
| Harter, Huron, | Norris, | |

So the motion of the delegate from Cuyahoga [Mr. Doty] was lost.

Mr. HALFHILL: Now I move that when we adjourn we adjourn until Monday at two o'clock p. m.

Mr. DOTY: I move that when we adjourn we adjourn until 10 o'clock Monday morning.

Mr. KNIGHT: The motion just voted down was Mr. Doty's motion and the motion of the delegate from Allen is still pending.

Mr. DOTY: The motion to adjourn to a special time takes precedence over the motion of the gentleman from Allen.

Creating the Office of Superintendent of Public Instruction.

The PRESIDENT: The question is on the adoption of the amendment of the member from Allen that when the Convention adjourn it adjourn until Monday at two o'clock p. m.

Mr. DOTY: A motion to adjourn to a time previous to that takes precedence to that under the rule.

Mr. PECK: You have had your say and lost.

Mr. DOTY: But this is another one.

Mr. HALFHILL: A point of order.

Mr. DOTY: All right; I will see if you can make a point of order.

Mr. HALFHILL: The gentleman from Cuyahoga is debating a motion to adjourn.

The PRESIDENT: Well that motion is debatable.

Mr. DOTY: And I demand the yeas and nays on my motion to adjourn until 10 o'clock Monday. I am willing to withdraw that motion and take a division as between ten o'clock Monday and two o'clock. All I ask is a division.

Mr. BROWN, of Highland: I do not consent to withdraw. I want to see how long Mr. Doty will obstruct the Convention.

Mr. PECK: That is what he is doing.

Mr. DOTY: I rise to a question of privilege. I want to say without egotism that I have done as much as any member in the Convention and far more than the member from Highland to keep the work of the Convention going.

DELEGATES: Agreed.

Mr. DOTY: You will never find any obstruction coming from the members from Cuyahoga. All I want is a division upon the question, whether we shall meet at ten or two. It is simply gaining two hours' more time for work.

The PRESIDENT: The president will put it that way. First, Shall we meet at ten o'clock?

The motion was lost.

The PRESIDENT: The question now is, "Shall we meet at two o'clock?"

The amendment was agreed to.

The motion as amended was carried.

The PRESIDENT: The next matter of business is reading of Proposal No. 96 as amended by the committee.

The proposal was read the third time.

Mr. TAGGART: I offer an amendment.

The amendment was read as follows:

SCHEDULE NO. 5.

That in the event the above proposal passed by the Convention, be adopted by the electors of the state it shall take effect and become a part of the constitution on the second Monday of July, 1913."

Mr. TAGGART: Mr. President and Gentlemen of the Convention: There is nothing in the proposal that fixes the time when this is to go into effect. It was the desire of the Convention that the present incumbent should not be legislated out of office and the committee on Schedule, or a portion of them, presents an amendment that has been read from the secretary's desk that this article should go into effect on the second Monday of July, 1913, at the expiration of the present in-

cumbent's term of office. That was somewhat arbitrary. It was thought that perhaps the different political parties might make nominations at the approaching convention for election this fall if this part of the constitution would not go into effect until 1915, but we call the attention of the Convention to that to let them settle the question whether it shall go into effect on the second Monday of July, 1913, or the second Monday of July, 1915, thus giving the nominees at the approaching Convention an opportunity to be elected to serve their term.

The amendment was agreed to.

The PRESIDENT: The question is on the proposal.

Mr. FESS: I offer an amendment.

The amendment was read as follows:

In line 8 after "as" insert "are or".

Mr. FESS: The proposal as it was written here would necessitate legislation before the commissioner or superintendent would have any power at all, and it was suggested by some of our legal friends that we ought to put in here that the powers shall be what are now given to the commissioner of common schools, and such other powers, etc. I hope this amendment will carry because we want to have some powers without resorting to the legislature.

Mr. HARRIS, of Ashtabula: I would ask the author of the proposal if it contemplates that the legislature must repeal the law providing for the school commissioner?

Mr. FESS: This provision repeals it.

Mr. HARRIS, of Ashtabula: Not necessarily; it suggests it. I think the suggestion is an excellent one, but at the same time it must be conceded that if the office created by statute known as the school commissioner, which has been for so many years in Ohio an elective office, is not distinctly repealed, while those duties might be assigned to some other office, still that office might remain.

Mr. FESS: In line 4, a superintendent of public instruction to "replace" the state commissioner of common schools. You cannot have both of them.

Mr. HARRIS, of Ashtabula: Then you intend by your amendment to take care of that?

Mr. FESS: That is the way it was passed originally.

Mr. HARRIS, of Ashtabula: You mean in line 5 instead of line 4?

Mr. KNIGHT: The text of that amendment as first read simply covers the intent to transfer the duties of commissioner of common schools to the superintendent of public instruction when appointed, but a careful reading will disclose the fact that it would tie up in the constitution so that it could not change by law all the duties that are now by statute exercised by the state commissioner of common schools. It provides that the superintendent of public instruction shall have all of those present duties and such additional ones as may be conferred, but it would not leave it within the power of the lawmaking body to take away or change in any particular the powers and duties now by statute enjoyed and exercised by the commissioner of common schools. I have not had time to formulate the change of phrasing, but it seems to me what was intended must have been this: That the

Creating the Office of Superintendent of Public Instruction.

powers now exercised by the state commissioner of common schools, until otherwise changed by law, and such other powers as may be prescribed by law.

Mr. KING: Does not the expression "and such powers as may be prescribed by law," cover all the power which the present commissioner has or that can be given?

Mr. KNIGHT: But would it leave operative the laws now imposing the duties on him?

Mr. KING: The laws now enforced shall remain and apply to this office.

Mr. KNIGHT: But you would lock it up in the constitution.

Mr. KING: Until amended.

Mr. FESS: I think we can meet this difficulty by using the phrase, "such laws as are or may be prescribed." Would not that do? The point is I want to allow the superintendent of public instruction to have the power that the commissioner now has.

Mr. PECK: That will do it.

Mr. ANDERSON: I move that we take a recess for five minutes to permit the professors to fix up the phraseology of this their proposal.

Mr. FESS: I move to amend Proposal No. 96 as follows:

In line 8 after "as" insert "are or".

Mr. PECK: That is all right.

Mr. MAUCK: What powers are now prescribed by law for superintendent of public instruction? I don't think you have corrected it.

Mr. FESS: Where we speak of replacing the school commissioner.

Mr. MAUCK: It replaces the officer, but it does not replace his power. It seems to me the amendment of the gentleman from Franklin is entirely necessary to accomplish the purpose desired.

Mr. Leete, the delegate from Lawrence, here took the chair as president pro tem.

The PRESIDENT PRO TEM: The gentleman from Greene has not withdrawn his other amendment.

Mr. FESS: I ask the privilege of withdrawing the other amendment and offering this one.

The PRESIDENT PRO TEM: The question is on the amendment of the member from Greene.

The amendment was agreed to.

Mr. READ: I offer an amendment.

The amendment was read as follows:

In line 7 strike out the word "two" and in lieu thereof insert the word "four."

Mr. READ: This amendment simply restores to that original proposal by the gentleman from Greene the word "four," which was amended out and very hurriedly carried. I think it should be inserted. The office we have here created is as important an office as can be held by anyone in the state of Ohio. No man can lay his plans and perform his work properly if he feels that he is only going to hold the position for two years. This is work that strikes at the very vital interest of the state, and I therefore hope that this word "four" will be reinserted where it was originally.

Mr. DOTY: I trust this amendment will not prevail. The term of office of the governor of Ohio is two

years. If this is made four years every once in a while we will have a man charged with responsibility of the common school system with a subordinate that somebody else appointed. That is a very bad situation.

Mr. READ: If the governor is not re-elected the appointment of the superintendent of instruction will hold, and thus the office will be above politics.

Mr. WINN: I hope that the amendment will prevail and the argument of the distinguished gentleman from Cuyahoga should impress upon all of us the importance of the amendment. He would have a two-year term to the end that every time we have a new governor there will be a vacancy in this important office and filled by political appointment by the governor. If there is any reason in the world why the term should be longer than two years it is that we may take the office as far as possible out of politics. I wish it were longer. I wish it were so that when the governor comes into office he would not look at the office of the commissioner of public schools to see whether he can appoint a democrat or a republican, as the case may be, to repay him for political work.

Mr. HARRIS, of Ashtabula: I would like to have the view of the proponent as to what influenced him in fixing that time?

Mr. FESS: I made it four years for the purpose that was suggested a while ago. I thought it would be a pretty good thing not to have the term of office expiring at the same time as that of the appointing power, and I desire this to avoid possible political influence in the appointment. That is one reason, and then another reason—and this is the supreme one—I believe two years is a little too short to develop any definite constructive policy in the school department, and I really think we do not need to fear the political phase of it, for I do not think any governor would regard any advantage in the appointment of any political head because of his politics. I hope the Convention will adopt the amendment.

Mr. ELSON: I have just come in and did not hear the early part of the debate. I want to say it is very desirable that the term of appointment shall be four years instead of two. It is very important. Here is one argument that seems to me is absolutely conclusive in itself, although it may have been offered before I got in. Presumably the governor will want to appoint the best school man he can find, and for the brief period of two years he cannot secure the best talent. Very few men who would adorn the place would accept an appointment for two years, but if the appointment is for four years he can get the best. It seems to me that almost any school man in the state, or even out of the state, could be induced to accept the position, and I would say that by all means we should not confine ourselves in such appointments to men who live in the state. Such an appointment will be attractive to any school man. I suppose we all know that the governor of New Jersey has appointed a man from Indiana at a salary of \$10,000 to be the head of the public schools in New Jersey. They have a man they are proud of and they went out of the state to get him. We cannot do that unless we make the term sufficiently long to make it attractive to a first-class man.

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The amendment was agreed to.

Mr. MAUCK: I offer an amendment to make it clear, as explained by the member from Franklin, that the powers of the present commissioner shall devolve upon this new officer. I am satisfied under the provision as it now stands no such powers will be granted.

The amendment was read as follows:

Strike out line 8 as amended and insert: "with the powers and duties now exercised by the state commissioner of common schools until otherwise provided by law, and with such other powers as may be provided by law".

Mr. ANDERSON: I hope the amendment will prevail.

Mr. ELSON: I do too.

Mr. ANDERSON: The professors could not get it into proper shape and an attorney has got it in proper shape for them.

Mr. KNIGHT: I think the object that we are trying to get at is that the office of superintendent shall carry with it these duties until the time comes that the legislature shall act.

The amendment was agreed to.

Mr. HOSKINS: Just a word: I do not know the status, but I think we are approaching a vote on the main proposition. Has the Convention stopped to realize what we are doing? You are creating a constitutional office that has never been anything but a statutory office. The present constitution does not provide for any such state officer as commissioner of the common schools. This office was created by the legislature pure and simple and we are attempting to write into the constitution an office that has never been a constitutional office heretofore. My point is that, laying aside the question of whether it should be called commissioner of common schools or superintendent of public instruction or whatever you may call it, it is purely a legislative matter and legislative business can be corrected from time to time. I am opposed to legislating into the constitution a matter which should be taken care of by the legislature. I have no objection to this amendment. I believe that the term should be two years instead of four, but that is a matter that ought not to go into the constitution. Many of us have believed that we should submit as few amendments as possible, so that the people may have a clear understanding of every amendment that goes before them. Every amendment that is unimportant or that could be taken care of in the legislature should be left out. It does that much more to complicate matters, and as it is purely legislative it should not be written into the constitution.

Mr. FESS: Just a word in reference to Mr. Hoskins' remarks: It was for the purpose of making this a constitutional office instead of a legislative office that I offered this proposal. I do not understand why any member here would want to regard the most important function of government outside of that of the governor himself as a matter to be left in the legislature and not a good one to go into the constitution. I do not know whether the member knows anything about the sentiment in the state in comparison with other states in regard to the way this matter has been left, but my under-

standing has been that it is considered that the department of education should be next to that of the governor. There is no department equal to it outside of the governor's. Why should you ignore the development of education in the state and say it must go along with the board of public works and such things? I think it is little short of an outrage to so regard the department of education. The department of education ought to be in the constitution and that is the whole purpose of this.

Mr. HOSKINS: I do not know whether I know or not—I say I do not know what the sentiment is outside of Ohio, but are the public school people here—not the college professors, but the public school people of Ohio—in favor of writing this in the constitution?

Mr. FESS: Almost to an individual they are asking that this be done. The department now headed by Frank Miller wants it done and so far as I know the people who are directly interested in the welfare of the schools are asking for this change. That is the one reason why it is offered. I am getting tired of hearing references to college professors as if they were the butt end of ridicule. My friend from Mahoning has made such a remark three or four times and I am getting weary of it. The amendment of Mr. Mauck was originally as I desired it. It was suggested in order to make it iron-bound and I am willing to take that and then I hope you will adopt the proposal. I ask for a vote.

Mr. MARSHALL: I would like to vote intelligently on this question and in order to do that I ask the gentleman who introduced this proposal to explain to the Convention what defects it will cover and in what way these defects will be remedied by the change. If I am convinced there are defects in the present school system and that they can be remedied by the professor's proposal I am going to vote for it, and if I cannot I will not. I want to be convinced what is right and just and what is for the betterment of every man, woman and child in the state of Ohio—

Mr. DOTY: White or black?

Mr. MARSHALL: Will the gentleman from Greene [Mr. Fess] point out the defects in the system?

Mr. DOTY: A point of order. The gentleman from Greene has spoken once and he can't speak again.

The president resumed the chair.

Mr. FESS: The only thing I wanted to do was to give the present head of the school department more power than simply to be a statistician. Our school head has done a great amount of work with very little authority. We want to give him authority commensurate with the office. I am sure you would be in favor of this if you knew what it is.

Mr. HOSKINS: Why do you use the expression "superintendent of public instruction" instead of retaining the title commissioner of common schools?

Mr. FESS: That was done because Ohio is the only state in the Union that uses this term in connection with the head of the school department. It is superintendent of public instruction everywhere else, which means superintendent of instruction, including public schools, normal schools and any school supported by taxation.

Mr. HOSKINS: What would be his authority over the State University?

Mr. FESS: None whatever. This refers to public

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schools. He is the superintendent of public instruction. He hasn't any jurisdiction over the university.

Mr. FOX: Just a word in reply to what the professor said. I thought everybody was in favor of this system, but we had an ex-school commissioner at our place last Tuesday and he talked very strongly against this. He said all the people of the state of Ohio were opposed to it and he asked that we vote this down. I don't understand where the good points of it are.

Mr. WINN: Is the gentleman you refer to a candidate for renomination to that office?

Mr. FOX: No, sir.

Mr. WINN: Is he not?

Mr. FOX: I do not know.

Mr. FESS: Do not ask that question, it is delicate. But that is the situation exactly.

Mr. WINN: Do you know whether or not he is an agent for the American Book Company?

Mr. FOX: No.

Mr. MARRIOTT: I move the previous question.

The main question was ordered.

The PRESIDENT: The question is on the amendment of the delegate from Gallia.

The amendment was agreed to.

The question being "Shall the proposal pass?"

The yeas and nays were taken, and resulted—yeas 84, nays 17, as follows:

Those who voted in the affirmative are:

| | | |
|--------------------|--------------------|------------------|
| Anderson, | Harter, Huron, | Peters, |
| Antrim, | Harter, Stark, | Pierce, |
| Baum, | Henderson, | Read, |
| Beatty, Morrow, | Hoffman, | Redington, |
| Beatty, Wood, | Holtz, | Riley, |
| Campbell, | Hursh, | Rockel, |
| Cassidy, | Johnson, Madison, | Roehm, |
| Colton, | Johnson, Williams, | Rorick, |
| Crites, | Jones, | Shaffer, |
| Crosser, | Kehoe, | Shaw, |
| Cunningham, | Kerr, | Smith, Geauga, |
| Davio, | Kilpatrick, | Smith, Hamilton, |
| Donahey, | King, | Solether, |
| Doty, | Knigh, | Stamm, |
| Dunn, | Kramer, | Stewart, |
| Elson, | Lambert, | Stilwell, |
| Evans, | Lampson, | Stokes, |
| Fackler, | Leete, | Taggart, |
| Farnsworth, | Marriott, | Tannehill, |
| Farrell, | Marshall, | Tetlow, |
| Fess, | Matthews, | Thomas, |
| FitzSimons, | Mauck, | Ulmer, |
| Fluke, | McClelland, | Wagner, |
| Hahn, | Miller, Crawford, | Walker, |
| Halenkamp, | Miller, Fairfield, | Weybrecht, |
| Harbarger, | Miller, Ottawa, | Winn, |
| Harris, Ashtabula, | Nye, | Wise, |
| Harris, Hamilton, | Peck, | Mr. President. |

Those who voted in the negative are:

| | | |
|------------------|-------------|-------------|
| Brattain, | Keller, | Partington, |
| Brown, Highland, | Kunkel, | Price, |
| Brown, Pike, | Longstreth, | Stevens, |
| Collet, | Ludey, | Tallman, |
| Fox, | Malin, | Watson. |
| Halhill, | Okey, | |

So the proposal passed as follows:

Proposal No. 96—Mr. Fess: To submit an amendment by adding section 4 to article VI, of the constitution.—Creating office of superintendent of public instruction to replace state commissioner of common schools.

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 VI.

SEC. 4. A superintendent of public instruction to replace the state commissioner of common schools, shall be included as one of the officers of the executive department to be appointed by the governor, for the term of four years, with the powers and duties now exercised by the state commissioner of common schools until otherwise provided by law, and with such other powers as may be provided by law.

SCHEDULE NO. 5.

That in the event the above proposal passed by the Convention, be adopted by the electors of the state it shall take effect and become a part of the constitution on the second Monday of July, 1913.

The proposal was referred to the committee on Arrangement and Phraseology.

The PRESIDENT: Proposal No. 15 is next in order.

The proposal was read the third time.

Mr. THOMAS: I offer an amendment.

The amendment was read as follows:

Strike out all after the semi-colon in line 17 and all of lines 18, 19, 20, 21 and 22.

Mr. PECK: I hope this will not prevail. These depositions should be taken and this was all discussed and determined on the second reading.

Mr. MARRIOTT: I move to table the amendment.

The motion to table was carried.

Mr. READ: I offer an amendment.

The amendment was read as follows:

In line 8, strike out the words "a capital" and insert the word "homicide".

Mr. READ: This does not in any way change the sense, but it takes out the words "a capital" and inserts "homicide." If capital punishment is abolished we will have no capital crimes.

Mr. PECK: These words that you want to strike out have been in the constitution for fifty years.

The amendment was disagreed to.

Mr. KERR: I offer an amendment.

The amendment was read as follows:

Strike out beginning with the word "but" in line 24 to and including the word "counsel" in line 25.

Mr. KERR: I claim that that is in contradiction to line 23. When he does not testify, to allow comment to be made on it compels him to testify or the fact that he fails to testify will be taken against him and that is not according to the spirit of our constitution.

Mr. TALLMAN: It is well known to everybody that where the prisoner goes upon the witness stand the prosecuting attorney comments upon his interest in the

Deposition by State and Comment on Failure of Accused to Testify in Criminal Cases.

case. If the accusation against him involves imprisonment in the penitentiary and they are allowed to comment upon the fact that he does not go upon the witness stand, it is equivalent almost to a conviction whether he is guilty or innocent. If he is guilty he should be allowed to stay off the witness stand. He has a right to be convicted upon the testimony of the state outside of himself without the temptation to commit perjury being put before him. It will only lead to two crimes instead of one in a majority of the cases. I insist that the prisoner at the bar should not be placed under that handicap, that the temptation to commit perjury on the one hand or go to the penitentiary on the other should not be submitted as an alternative. If he chooses to stay off he has a right to be convicted upon outside testimony, but if he goes upon the witness stand and testifies in nine cases out of ten his testimony goes for nothing with the jury because the court charges that they are to look to the interest that the prisoner has in the case, hear his testimony and view his interest in the result of the trial. His testimony, if he goes upon the stand, will count but for little, and if he stays off the stand it counts for absolutely nothing at all. If they are allowed to comment upon that the same as in civil cases, in all these cases we lay before the unfortunate prisoner one of two things—he goes to the penitentiary or goes on the witness stand and commits perjury. Those are the only two alternatives offered, and I submit it is unfair to the prisoner and it will lead in nine cases out of ten to the commission of two crimes instead of one.

Mr. JOHNSON, of Madison: Did you ever in your experience find any innocent man who was afraid to go upon the witness stand?

Mr. TALLMAN: Sometimes circumstances are such that an innocent man cannot go upon the stand.

Mr. PECK: We had a great deal of discussion on this and this is the same speech that was made by the gentleman on the second reading. Certainly it was made by others also. His whole view of the matter is from the standpoint of the criminal. I think this Convention is here in behalf of the state of Ohio and in behalf of the people of Ohio and in behalf of the society of Ohio. We want to make our laws so as to prevent crime.

Mr. HALFHILL: That is the same speech made two or three times by Judge Peck.

Mr. PECK: Yes, and I am following the same habit that somebody else has and I am having the same idiotic interruptions. The quickest way to get through with me is to let me alone. We want to have this matter viewed from the standpoint of the people and not from the standpoint of Mr. Halfhill and other professional defenders of criminals. That is the kind of speech we have just heard made. It is the poor criminal, but you never have any sympathy for the poor victim. Your misplaced sympathies are always for the poor fellow in jail, who should be punished, and not for the victim. I sympathize with the victim and society is the victim. I would like to have this fixed so that we could not have this lagging and delay in criminal jurisprudence, so that matters can be brought out properly and promptly on the trial.

Mr. HALFHILL: I want to ask a question.

Mr. PECK: I decline to answer. I move the previ-

ous question on this amendment. We are all talking over the same thing that we talked on the second reading.

The PRESIDENT: The question is, Shall debate close?

Mr. FESS: I move to lay the amendment on the table before the motion for the previous question is put.

Mr. PECK: Then I withdraw the motion for the previous question.

Mr. FESS: The motion to lay on the table takes precedence on the motion for the previous question, and I hope the Judge will not withdraw the motion for the previous question.

Mr. PECK: All right, I won't then. The motion to lay on the table takes precedence anyway.

The motion to lay on the table was carried.

The motion to close debate was agreed to.

Mr. HALFHILL: I desire a question of privilege, and I desire to put it to the gentleman from Hamilton. Did I understand you to remark that I was either a professional criminal or professional criminal lawyer?

Mr. PECK: I said you were a professional defender of criminals.

Mr. HALFHILL: I deny the charge anyway.

The PRESIDENT: The question is, "Shall debate close?"

The SECRETARY: No, the question is on the proposal.

Mr. FESS: The Convention has ordered the main question. That was done just after my motion to table was carried. The motion to table was carried and then the previous question was carried. If the previous question had been voted on the motion to table would have been out of order.

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

The yeas and nays were taken, and resulted—yeas 66, nays 30, as follows:

Those who voted in the affirmative are:

| | | |
|--------------------|--------------------|------------------|
| Anderson, | Harris, Hamilton, | Okey, |
| Antrim, | Harter, Huron, | Partington, |
| Baum, | Hoffman, | Peck, |
| Beatty, Morrow, | Johnson, Madison, | Peters, |
| Beatty, Wood, | Johnson, Williams, | Redington, |
| Beyer, | Jones, | Riley, |
| Bowdle, | Kehoe, | Rockel, |
| Brown, Highland, | King, | Roehm, |
| Cassidy, | Knight, | Shaw, |
| Colton, | Kramer, | Smith, Geauga, |
| Crites, | Lambert, | Smith, Hamilton, |
| Cunningham, | Lampson, | Stamm, |
| Dwyer, | Leete, | Stevens, |
| Elson, | Longstreth, | Stewart, |
| Evans, | Ludey, | Stilwell, |
| Farnsworth, | Marriott, | Stokes, |
| Fess, | Mauck, | Taggart, |
| FitzSimons, | McClelland, | Tannehill, |
| Hahn, | Miller, Crawford, | Wagner, |
| Halenkamp, | Miller, Mairfield, | Walker, |
| Harbarger, | Miller, Ottawa, | Watson, |
| Harris, Ashtabula, | Moore, | Wise, |

Those who voted in the negative are:

| | | |
|--------------|-----------|-------------|
| Brown, Pike, | Farrell, | Kerr, |
| Campbell, | Fluke, | Kilpatrick, |
| Collett, | Fox, | Malin, |
| Crosser, | Halfhill, | Marshall, |
| Davio, | Hoskins, | Matthews, |
| Doty, | Hursh, | Norris, |
| Dunn, | Keller, | Nye, |

Deposition by State and Comment on Failure of Accused to Testify in Criminal Cases—Limiting Veto Power of Governor.

Pierce,
Price,
Read,

Solether,
Tallman,
Tetlow,

Thomas,
Weybrecht,
Winn.

So the proposal passed as follows:

Proposal No. 15.—Mr. Riley. To submit an amendment to article I, section 10, of the constitution.—Depositions by state and comment on failure of accused to testify in criminal cases.

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 I.

SEC. 10. Except in cases of impeachment, cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and cases involving offenses for which the penalty provided is less than imprisonment in the penitentiary, no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury and the number of persons necessary to constitute such grand jury and the number thereof necessary to concur in finding such indictment shall be determined by law. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed; but provision may be made by law for the taking of the deposition by the accused or by the state, to be used for or against the accused, of any witness whose attendance can not be had at the trial, always securing to the accused means and the opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face as fully and in the same manner as if in court. No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be made the subject of comment by counsel. No person shall be twice put in jeopardy for the same offense.

The PRESIDENT: Proposal No. 212 is next in order.

Proposal No. 212—Mr. Johnson, of Williams, was read the third time.

The question being "Shall the proposal pass?"

The yeas and nays were taken, and resulted—yeas 98, nays none, as follows:

Those who voted in the affirmative are:

| | | |
|------------------|-------------|-------------|
| Anderson, | Collett, | Dwyer, |
| Baum, | Colton, | Elson, |
| Beatty, Morrow, | Crites, | Farnsworth, |
| Beatty, Wood, | Crosser, | Farrell, |
| Beyer, | Cunningham, | Fess, |
| Bowdle, | Davio, | FitzSimons, |
| Brown, Highland, | Doty, | Fluke, |
| Campbell, | Dunn, | Fox, |

Hahn,
Halenkamp,
Halfhill,
Harbarger,
Harris, Ashtabula,
Harris, Hamilton,
Harter, Huron,
Henderson,
Hoffman,
Holtz,
Hoskins,
Hursh,
Johnson, Madison,
Johnson, Williams,
Jones,
Kehoe,
Keller,
Kerr,
Kilpatrick,
King,
Knight,
Kramer,
Kunkel,
Lambert,
Lampson,

Leete,
Leslie,
Longstreth,
Ludey,
Malin,
Marriott,
Marshall,
Matthews,
Mauck,
McClelland,
Miller, Crawford,
Miller, Fairfield,
Miller, Ottawa,
Moore,
Norris,
Nye,
Okey,
Partington,
Peck,
Peters,
Pierce,
Price,
Read,
Redington,
Riley,

Rockel,
Roehm,
Rorick,
Shaw,
Smith, Geauga,
Smith, Hamilton,
Soletther,
Stamm,
Stevens,
Stewart,
Stilwell,
Stokes,
Taggart,
Tallman,
Tannehill,
Tetlow,
Thomas,
Wagner,
Walker,
Watson,
Weybrecht,
Winn,
Wise,
Mr. President.

So the proposal passed as follows:

Proposal No. 212—Mr. Johnson, of Williams. To submit an amendment to article II, section 16, of the constitution.—Limiting veto power of governor.

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.

SEC. 16. Every bill shall be fully and distinctly read on three different days, unless in case of urgency three-fourths of the house in which it shall be pending, shall dispense with the rule. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived, or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed. Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor for his approval. If he approves, he shall sign it and thereupon it shall become a law and be filed with the secretary of state. If he does not approve it, he shall return it with his objections in writing, to the house in which it originated, which shall enter the objections at large upon its journal, and may then reconsider the vote on its passage. If three-fifths of the members elected to that house vote to repass the bill, it shall be sent, with the objections of the governor, to the other house, which may also reconsider the vote on its passage. If three-fifths of the members elected to that house vote to repass it, it shall become a law notwithstanding the objections of the governor, except that in no case shall a bill be repassed by a smaller vote than is required by the constitution on its original passage. In all such cases the vote of each house shall be determined by yeas and nays and the names of the members voting for and against the bill shall be entered upon the journal. If a bill shall not be returned by the gover-

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nor within ten days, Sundays excepted, after being presented to him, it shall become a law in like manner as if he had signed it, unless the general assembly by adjournment prevents its return; in which case, it shall become a law unless, within ten days after such adjournment, it shall be filed by him, with his objections in writing, in the office of the secretary of state. The governor may disapprove any item or items in any bill making an appropriation of money and the item or items, so disapproved, shall be void, unless repassed in the manner herein prescribed for the repassage of a bill.

The PRESIDENT: The next is Proposal No. 62, by Mr. Pierce.

Mr. PIERCE: I desire to have that proposal laid over for the reason that there are some twenty-two or twenty-five members absent and a good number of men tell me that they expect to go within a few minutes.

The PRESIDENT: Without objection the proposal will be informally passed. The next is Proposal No. 51—Mr. Miller, of Crawford.

Mr. STEVENS: It is my intention when this matter comes up to introduce the amendment referred to as the state insurance proposition. The Convention will recollect that there were fifty-four to forty-seven against it, a total vote of one hundred. I think the same reason that Mr. Pierce suggests applies to this and I move that it be informally passed.

The PRESIDENT: Without objection that will be done.

Proposal No. 184—Mr. Peck, was informally passed.

Mr. MARRIOTT: In view of the fact that we are going to adjourn until Monday at noon and some of the gentlemen who want to go home want to leave on the 4:30 and 4:40 trains, I move that the Convention do now adjourn.

Mr. FESS: I understand the Judge wants to adjourn for the 4:15 train. There are one or two here that we can get through before that easily.

Mr. MARRIOTT: Then I withdraw the motion to adjourn.

The PRESIDENT: The next proposal is Proposal No. 322, by Mr. Bowdle.

The proposal was read the third time.

Mr. HOSKINS: I would like the privilege of asking Mr. Bowdle a question. The point is not that I have any opposition to it, but I wish somebody would tell me why a constitutional provision of this sort is necessary. It does not provide anything to regulate a certain class of testimony by witnesses. Is not that matter entirely within the discretion of the legislature and haven't they as full power as they will ever have if this is passed? I do not see any reason for it at all. I wish some one would tell me.

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

Mr. HOSKINS: I would ask that the author would explain that.

Mr. FESS: I did not know that there was any opposition to it. I think it would be entirely wrong to vote upon this when Mr. Bowdle is absent.

Mr. HOSKINS: I will not say that I am opposed

to it, but we are doing a number of things or a good many things that some members think unnecessary. There is no use of crowding the ballot and I am in favor of a short ballot.

Mr. DWYER: I agree with the member from Auglaize that the courts have now the power that is provided here. I have seen a number of cases where expert witnesses were limited.

Mr. HOSKINS: Do you know of any limitation on the present authority of the legislature to do just what this says it can do?

Mr. DWYER: No; the courts exercise that power now.

Mr. KNIGHT: Is not there some doubt on this point? At the present time is not there a doubt as to whether the courts will not hold that the courts and the courts only have the right to determine that and that it is not within the power of the legislature to regulate? In other words, it is a judicial question. I know some courts have held that the legislature cannot touch it. Is not that the motive of this?

Mr. DWYER: I agree with you thoroughly that the legislature can fix and control the introduction of expert testimony.

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

Mr. ELSON: I have been waiting for many days to come up to something where the gentleman from Auglaize was on the right side and I think he has finally got on the right side.

Mr. DOTY: That's not so sure just because you are on the same side.

Mr. ELSON: I do not see the necessity of this and if we can cut down forty-two proposals to a smaller number it would be a right thing to do. Of course we do not wish to keep out anything that should be placed in, but for my part I would like to see this kept out.

Mr. MAUCK: I do not think it is clear, as the member from Athens and the member from Auglaize assume, that the general assembly has the power to provide against such testimony as we at present use expert witnesses in criminal cases. Section 1 of the bill of rights provides that any one accused of crime may have compulsory process of witnesses. If that means anything it means that it may not only compel the attendance of the witnesses, but that those witnesses may be compelled to testify to any question raised by the indictment or plea thereto. I doubt very much whether under the existing constitution a man accused of crime has the power under the bill of rights to compel the attendance of expert witnesses, say upon the question of insanity, or could be prevented from using those witnesses to establish the fact that the accused was at the time the offense was committed insane, not because it may not be necessary, but for an entirely different reason. It limits the regulation of expert witnesses' testimony to criminal trials and proceedings. In other words, if we had a civil will case, where the question was as to the capacity of the testator, those interested in that question could bring in all sorts of experts to establish simply the fact, but when it came to something that was far more important, as to whether or not a will was a forgery, you would limit the accused to such experts as the court by appointment of a commission or other-

Petitions and Memorials.

wise might provide. In other words, you are throwing an obstacle in the way of a man defending his life or liberty that you do not throw in the way of a man who is merely defending his property rights. I see no reason why experts should be eliminated from criminal prosecutions and continued in civil cases.

Mr. SMITH, of Hamilton: I am as anxious as any member of the Convention to expedite the work of the Convention, but I believe it is a discourtesy to my colleague [Mr. BOWDLE] and I move that the matter be informally passed.

The motion was carried.

Mr. DOTY: I move that further consideration be postponed until tomorrow and that it retain its place on the calendar.

The motion was carried.

Mr. LAMPSON: Here is Proposal No. 331 to abolish the board of public works, passed by practically a unanimous vote, and I now call that up.

The PRESIDENT: Without objection Proposal No. 331 will be called up.

Mr. TAGGART: I have no particular objection, but I am prepared to present an amendment and the Convention will have to decide whether to legislate one member of the board of public works out of office or to legislate two in, and that is a question that has not been before the Convention yet.

Mr. LAMPSON: I withdraw the request then.

PETITIONS AND MEMORIALS.

Mr. Bigelow presented the petitions of H. C. Smith and eighty other citizens of Liberty Center; of E. J. St. Clair and ten other citizens of Dresden; of the Rev. Frank Hall and twenty-three other citizens of Columbus; of E. E. Ditch and forty-five other citizens of Mansfield; of P. L. Snyder and fifty other citizens of Springfield; of J. M. Anders and seventy-five other citizens of Leesburg; of P. P. Schell and one hundred forty other citizens of Cleveland; of Florence Hartsock and fifteen other citizens of Alliance; of A. C. Gray and fifty other citizens of Coshocton; of C. W. Penn and sixty-five other citizens of Fredericktown; of F. R. James and fifty other citizens of Franklin county;

of C. G. Atterholt and forty other citizens of Youngstown; of T. Myers and twenty-five other citizens of Lorain county; of Park A. Soule and twenty-five other citizens of Ashland county; of B. Gilson and fifty other citizens of Lorain county; of C. A. Beebe and fifty other citizens of Norwalk; of J. B. Poole and fifty other citizens of W. Clarksfield; of Al Gibson and sixty-five other citizens of Wakeman; of Wm. Thorton and ninety other citizens of Washington C. H., protesting against the passage of Proposals No. 65 and 321; which were referred to the committee on Education.

Mr. Bigelow presented the remonstrances of the Rev. W. J. Young, of Piqua; of the Rev. John Montgomery, of Piqua; of F. B. Neel and many other other citizens of Piqua, asking that the word "similar" be stricken from the liquor proposal; which were referred to the committee on Liquor Traffic.

Mr. Bigelow presented the petitions of the Rev. Oliver L. Utter, of Eaton; of the Rev. M. I. Comfort, of Eaton; of the Rev. McD. Howard, of Eaton, asking the Convention to carefully consider home rule Proposal No. 272, section 3, relative to temperance laws; which were referred to the committee on Liquor Traffic.

Mr. Bigelow presented the petitions of H. J. Perks, of Toledo; of Frank E. White, of Salem; of George Wilson, Akron; of Geo. Van Atten, of Newark; of O. M. Corson, of Middletown; of M. T. Evans, of Youngstown; of J. C. Unzicker, of Hamilton; of F. W. Flowers, of Columbus, asking the delegates to secure the Ohio Federation of Labor amendments to the initiative and referendum proposal; which were referred to the committee on Initiative and Referendum.

Mr. Bigelow presented the petition of Jacob Katz and eighty-five other citizens of Cleveland, relative to a weekly pay day clause in the new constitution; which was referred to the committee on Labor.

Leave of absence for Monday, Tuesday and Wednesday was granted to Mr. Tallman.

Indefinite leave of absence was granted to Mr. Cordes and Mr. Eby.

Mr. MARRIOTT: I now move that we adjourn.

The motion was carried and the Convention adjourned until two o'clock Monday, May 27, 1912.