

# SEVENTH-EIGHTH DAY

(LEGISLATIVE DAY OF MAY 28)

## MORNING SESSION.

WEDNESDAY, May 29, 1912.

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

Mr. ANDERSON: I move a call of the Convention.

The PRESIDENT: A call of the Convention is 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:

Beatty, Wood,	Harris, Hamilton,	Price,
Bowdle,	Johnson, Madison,	Rorick,
Brown, Lucas,	Leslie,	Shaw,
Cody,	Marriott,	Smith, Geauga,
Crites,	Miller, Crawford,	Stokes,
Elson,	Norris,	Tallman,
FitzSimons,	Partington,	Worthington,
Harris, Ashtabula,	Peck,	

The president announced that ninety-six members had answered to their names.

Mr. ANDERSON: I move that further proceedings under the call be dispensed with.

The motion was carried.

Mr. ANDERSON: Those of you who are opposed to the principles of the initiative and referendum and are voting with the mistaken friends of the initiative and referendum, had better take consideration of this fact, that if this amendment of Mr. Cassidy and the amendment of Mr. Stilwell became parts of the proposed organic law of Ohio, measures in which you are interested will receive thousands and thousands votes less than otherwise. In other words you jeopardize our whole work. Therefore, you had better pause and consider and not be prejudiced to the extent that you forget other things.

Can this go into effect if the amendments carry in October? I know what the other side would say and so do you. It will say that certain members of this Convention now nominated for the position of lawmakers and who are living in communities where they can receive more votes with a party emblem off used this Convention for their own selfish advantage, and who can say then nay? The evidence may be circumstantial, but it is in their favor. Why do we need wait for the constitution we are trying to make, provided it be ratified—why can we not wait a reasonable time for it to go into effect? Why all this haste and why does this question of the election of nonpartisan lawmakers become so paramount at this time? Why was it not so great before certain people were nominated as lawmakers? Why, I presume that some people had read about nonpartisan tickets before they came here. It was not an entirely new subject, and therefore I presume these men will say it is so much needed, it is the great reform and it was in their minds when the Convention convened.

Our friend Stevens told you about the calico patch

on the broadcloth trousers. Take your books and try to read this proposed amendment into the proposal and see how it fits. It is a monstrosity. It is worse than a calico patch. Some of you are voting in favor of it because you are in favor of it in the abstract, but you forget its application. I am in favor of it in the abstract, but I am not in favor of putting it in at this time and under these circumstances. What did Judge Peck tell you yesterday? He told you it had no place here, that this was not on the subject of primaries. This deals entirely with a different function of government and your answer is: "Oh, we didn't get it in before, let us put it in here because this is our only opportunity." If this be a good thing, and if it is agreed that the people all over the country are crying for it, how easy it is to obtain it through the initiative and referendum later on, and if we have the awakened conscience all over Ohio that has been so well described to us then I want to say to you that the awakened will send men to the house of representatives and to the senate who will enact this kind of a law, because a statutory law can be made complete and effective in bringing about this reform. It may be that by reason of an exaggerated idea of one's self we may think because our names as candidates for representatives and senators have to be placed on a ticket with an eagle or a rooster that we couldn't be elected, but if we can remove the eagle and the rooster from the ticket we can be elected. It may be a needed reform that will be brought in October; otherwise dire consequences might come to our grand old state of Ohio—one man might not be a lawmaker and one man might not be speaker of the house; therefore, it is better that one man be elected than that the initiative and referendum become the law of Ohio, better that one man be promoted to the highest place in the state of Ohio than it is to get the initiative and referendum, for which we have been working, oh, so many years, becoming an accomplished fact. From that viewpoint there is a needed reform. Men, do not let us put ourselves in the position that we may be criticised through the press for having used this position for personal selfish ends. I move that the Cassidy amendment and the Winn amendment and the Stilwell amendment be laid on the table and on that I demand the yeas and nays.

Mr. DOTY: I demand a call of the Convention. There are only ninety-six here and you make a fifteen minute speech and then move to table.

The PRESIDENT: A call of the Convention is demanded. The sergeant-at-arms will close the doors and the secretary will call the roll.

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

Beatty, Wood,	Harris, Ashtabula,	Rorick,
Brown, Lucas,	Henderson,	Stokes,
Cody,	Leslie,	Tallman,
Crites,	Marriott,	Worthington,
FitzSimons,	Partington,	

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

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Mr. DOTY: I move that further proceedings under the call be dispensed with.

The motion was carried.

The PRESIDENT: The question is, Shall the three separate amendments be laid on the table?

Mr. ANDERSON: Some delegates came to me and said that they would prefer that the Stilwell amendment be not included in my motion and that the Cassidy and Winn amendments be tabled, and therefore I ask unanimous consent to withdraw the Stilwell amendment from my motion.

The PRESIDENT: Does the member include in his motion only two other amendments?

Mr. SMITH, of Hamilton: I rise to a question of personal privilege. In the debate last evening Mr. Hoskins asked me if I did not know that this question on nonpartisan members of the legislature had been brought up and considered and finally laid on the table earlier in the session. I did not know that at that time.

Mr. ANDERSON: A point of order. You cannot get up here and argue under a question of personal privilege.

Mr. SMITH, of Hamilton: I was explaining my answer last night.

The PRESIDENT: The point of order is well taken.

Mr. SMITH, of Hamilton: I am making no arguments—

The PRESIDENT: The point is well taken.

Mr. DOTY: If the member from Mahoning withdraws his motion so that I can make a statement I think we can clear this matter. It appears that we have gotten into a tangle and that some think it wise when you are on a reform matter to do all the reforming you can, and others think it wise to have safeguards. It appears better perhaps to consent to the withdrawal or laying upon the table of the Cassidy and Winn amendments at this time, serving notice on you that we shall attempt to submit to the people this or some other later. This particular reform is of more importance than the initiative and referendum in many features. I therefore say that, so far as I am concerned, I shall vote for the motion of the member from Mahoning to lay the Winn and Cassidy amendments upon the table.

Mr. CASSIDY: By leave of my second I will withdraw my amendment.

Mr. DOTY: Mr. Winn must withdraw his first.

Mr. ANDERSON: If there is unanimous consent and an understanding that all amendments be withdrawn I will withdraw my motion to table.

Mr. WINN: With the permission of the Convention I am glad to withdraw my amendment offered last night.

Mr. CASSIDY: Now I will withdraw my amendment.

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

Mr. STILWELL: With the permission of the Convention I would like to withdraw my amendment.

The permission was given.

The PRESIDENT: The question is on the adoption of the amendment offered by the delegate from Cuyahoga [Mr. CROSSER].

Mr. HALFHILL: I have an amendment.

The amendment was read as follows:

Strike out the period at end of line 101, insert semi-colon and add the following words: "or to directly submit an amendment to the constitution authorizing an exercise of any powers or the passing of any law inhibited by this section."

Mr. HALFHILL: Mr. President and Gentlemen of the Convention: When this matter came up for the second reading and we had before us what we called the middle-of-the-road compromise and it was laid upon our desks here at the end of two or three strenuous days of discussion, upon a hurried examination I discovered what was apparent upon even a cursory examination, that in that compromise the people who had been contending for the inhibition against the direct establishment of the single tax in Ohio had been compromised clear out of the running; and at that time I offered an amendment which is in substance this amendment, though not exactly so, in which I proposed to the Convention that instead of doing the foolish thing of putting in an inhibition against statutory law it really proceed to close the door and put something into the constitution that meant something. In other words, I did not propose, as far as I was personally concerned, to sit here in this Convention without some attempt to properly fight to the finish what I had seriously and earnestly contended against, the single tax. At the time we had the assistance of forty-two members and we had to vote against all the rest of the Convention. Now, gentlemen of the Convention, I want you to consider what you did with reference to this section when it was brought in here. What did you do with reference to my amendment when I proposed it on second reading, and then let us see, in the light of what you have done in this Convention, whether or not you will be consistent and support this amendment and put it into the constitution, or whether or not you will be compromised out of the fruits of what ought to have been a victory at the time of the second reading of this proposal?

Mr. KING: The adoption of your amendment with the provision in the proposal would prevent the submission of a constitutional amendment authorizing the classification of property or interfering with it afterwards if hereafter presented.

Mr. HALFHILL: I shall explain that. The question of classification of property and the single tax are separate and independent propositions. The classification of property is as old as government itself. It has been tried and found to work effectively in nearly all civilized governments. It has obtained for scores of years in all civilized countries of the earth, save in the state of Ohio and a few other states. It has existed from the foundation of the Union in several of the more important states. Single tax is a matter of recent growth, comparatively speaking, a philosophy created and put into existence by Henry George and carried forward by such disciples as Joseph Fels. They are separate and distinct propositions. And I repudiate the statement made that because I am in favor of the classification of property that I have therefore taken the first step in favor of the single tax. They are separate and independent propositions, but it is true that upon the generic statement of classification there came in the vote taken on the question a coalition or rather a combination

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of those singletaxers and those who advocated the classification of property.

The PRESIDENT: The gentleman's time has expired.

Mr. DOTY: I move that this amendment be laid upon the table.

The yeas and nays were regularly demanded; taken, and resulted—yeas 69, nays 45, as follows:

Those who voted in the affirmative are:

Anderson,	Harbarger,	Peck,
Baum,	Harris, Hamilton,	Pierce,
Beyer,	Harter, Huron,	Read,
Bowdle,	Henderson,	Redington,
Brown, Highland,	Hoffman,	Rockel,
Cassidy,	Hoskins,	Roehm,
Cordes,	Hursh,	Shaffer,
Crites,	Johnson, Williams,	Shaw,
Crosser,	Kehoe,	Smith, Hamilton,
Davio,	Keller,	Solether,
DeFrees,	Kilpatrick,	Stamm,
Donahey,	Knight,	Stevens,
Doty,	Kunkel,	Stilwell,
Dunn,	Lambert,	Stokes,
Earnhart,	Leete,	Tetlow,
Evans,	Leslie,	Thomas,
Fackler,	Ludey,	Ulmer,
Farrell,	Malin,	Wagner,
Fess,	Marshall,	Walker,
FitzSimons,	Mauck,	Watson,
Fox,	Miller, Crawford,	Winn,
Hahn,	Moore,	Wise,
Halenkamp,	Okey,	Mr. President.

Those who voted in the negative are:

Antrim,	Halfhill,	Norris,
Beatty, Morrow,	Harris, Ashtabula,	Nye,
Brattain,	Harter, Stark,	Partington,
Brown, Pike,	Holtz,	Peters,
Campbell,	Jones,	Pettit,
Cody,	Kerr,	Price,
Collett,	King,	Riley,
Colton,	Kramer,	Rorick,
Cunningham,	Lampson,	Smith, Geauga,
Dunlap,	Longstreth,	Stalter,
Dwyer,	Marriott,	Stewart,
Eby,	McClelland,	Taggart,
Elson,	Matthews,	Tannehill,
Farnsworth,	Miller, Fairfield,	Weybrecht,
Fluke,	Miler, Ottawa,	Woods.

So the amendment was tabled.

Mr. LAMPSON: I offer an amendment.

The amendment was read as follows:

In line 166 strike out all after the word "express" and all of lines 167, 168, 169, 170, 171, 172 and 173 to the period and substitute "an affirmative or negative vote upon each law or proposed law or proposed amendment to the constitution."

Mr. LAMPSON: This is to straighten up the matter we had last night. If you turn back to page 3, line 60, you will find this language in the proposal:

If conflicting proposed laws or conflicting proposed amendments to the constitution shall be approved at the same election by a majority of the total number of votes cast for and against the same, the one receiving the highest number of affirmative votes shall be the law, or in the case

of an amendment to the constitution, shall be the amendment to the constitution.

That covers substantially the same question there. Now I will ask the secretary to read my amendment in the proposal where it would come, beginning back in line 164 with the word "When".

The secretary read as follows:

When competing laws or competing amendments to the constitution are submitted to the electors, the ballot shall be so printed that the electors can express an affirmative or a negative vote upon each law or proposed law or proposed amendment to the constitution.

Mr. KNIGHT: I want to call the attention of the Convention to the fact that the clause spoken of in lines 61, 62, 63 and 64 is entirely different from this contemplated here.

Mr. LAMPSON: That is true, but it announces the method or principle of determining majorities, and this amendment standing by itself would cover it.

Mr. KNIGHT: Does this amendment permit where two competing measures, one initiated by petition, and a competing measure passed by the general assembly, are submitted alongside of each other—does it permit any voter to vote against both of them by making two marks?

Mr. LAMPSON: I so understand it, and if they both receive a majority then the one which receives the larger affirmative vote would prevail.

Mr. KNIGHT: A man who wants to vote for a measure uses a cross mark, and a man who wants to vote against both measures must make two cross marks?

Mr. LAMPSON: I don't understand it that way.

Mr. DOTY: That is right.

Mr. KNIGHT: If he opposes both measures he must vote twice.

Mr. LAMPSON: Yes, and if he wants to vote for both measures he can vote for both, but the one receiving the highest prevails.

Mr. STILWELL: No.

Mr. KNIGHT: It is absurd that a man should have to go to the polls and vote in that way.

Mr. DOTY: He might be allowed to vote for either measure. It would be the same thing. He votes for the one that gets the most votes. The same thing is in the proposal now. It is a Chinese puzzle, I will admit, but this amendment, so far as I know, is all right.

Mr. LAMPSON: To use the same illustration that I used last evening, suppose the legislature submits a proposition to issue \$10,000,000 and there is a competing proposition submitted to issue \$5,000,000. The voters, under this proposition, could vote for both of those and the one receiving the larger vote would prevail. Every man who wanted the \$10,000,000 would naturally, want the \$5,000,000 if he couldn't get the \$10,000,000, but there would be a lot of voters who did not want the \$10,000,000 and whichever got the larger number of affirmative votes would prevail, and those who wanted to vote against them could vote against both.

Mr. TANNEHILL: Take the ones who wanted the \$5,000,000, they would never vote for the \$10,000,000, but every negative man will cast two votes negatively, but the affirmative people cast only one vote.

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Mr. LAMPSON: A negative vote is against each proposition separately. It is the affirmative against the negative, but if both affirmatives have a majority over the negative then the affirmative which has the larger vote will prevail.

Mr. TANNEHILL: Does not that give the negative vote the advantage?

Mr. LAMPSON: No.

Mr. STILWELL: Would you give the negative voter two votes or one?

Mr. LAMPSON: He has to vote against each proposition.

Mr. STILWELL: Would you count that two?

Mr. LAMPSON: No, sir; it counts against each proposition.

Mr. STILWELL: Against each proposition?

Mr. LAMPSON: If he negatives the five-million proposition he is against that, and if he negatives the ten-million proposition he is against that, and if he votes for the affirmative five million and for the affirmative ten million, both do not prevail, but the one that has the most votes prevails.

Mr. STILWELL: But on for-or-against bonds, how would you count his vote, two or one?

Mr. LAMPSON: One against each. The proposition is for \$5,000,000 or \$10,000,000, or against \$5,000,000 or \$10,000,000.

Mr. STILWELL: That is not fair. It is giving the opposition two votes to one. You are dividing the affirmative vote. Suppose you and Mr. Doty are both for bonds, one for \$5,000,000 and the other for \$10,000,000, and you so mark your ballot. I am against the \$5,000,000 and against the \$10,000,000 and my vote negatives your two. That is not fair, and that is what we oppose.

Mr. LAMPSON: You cast one vote on the \$5,000,000 proposition—

Mr. STILWELL: Against it.

Mr. LAMPSON: On the proposition in the negative, and you cast another on the \$10,000,000 against it.

Mr. STILWELL: Yes, and that negatives your two votes.

Mr. LAMPSON: No, sir; it does not.

Mr. STILWELL: Why not?

Mr. LAMPSON: It negatives my vote in the affirmative on the \$5,000,000 and also an affirmative on the \$10,000,000. Suppose the \$10,000,000 was to build a state house and the \$5,000,000 was to build a penitentiary—

Mr. STILWELL: But you cannot have that issue.

Mr. LAMPSON: I am using that as an illustration. The same principle prevails so far as voting.

Mr. STILWELL: You can have \$10,000,000 to build a state house and \$5,000,000 to build a state house, but the other, as you put it, is not a competing measure.

Mr. LAMPSON: It does not change the principle so far as voting.

Mr. STILWELL: Yes, it does. It changes the affirmative vote.

Mr. LAMPSON: The affirmative voter has a right to vote to issue the \$10,000,000 and the negative voter has a right to vote against it; the affirmative voter has a right to vote for the issue of the \$5,000,000 and the nega-

tive voter can vote against it, but both the \$5,000,000 and the \$10,000,000 can not prevail.

Mr. ANDERSON: Suppose thirty vote for the \$10,000,000, fifteen for the \$5,000,000 and forty vote no?

Mr. DOTY: They have to divide that up between the negatives. There are two negatives and that must be divided.

Mr. LAMPSON: Take, for illustration, Mr. Anderson's fifteen votes upon \$5,000,000 and thirty votes for the \$10,000,000. That would be forty-five in all. If twenty votes were cast against the \$10,000,000 that would defeat it, and if twenty-five votes were cast against the \$5,000,000 as against the ten million—

Mr. STILWELL: As against thirty votes, it is.

Mr. LAMPSON: That would carry.

Mr. STILWELL: That is not what you said in the first place. You said the negative voter had a right to vote no upon both propositions, and you are giving him two votes. You are dividing the affirmative vote, while the negative vote is united.

Mr. DOTY: I say you are not.

Mr. STILWELL: I say you are.

Mr. DOTY: I can show it to you on the blackboard.

[Various members of the Convention here put a number of diagrams and examples on a blackboard. Various statements were made about them by pointing to the different parts of the ballot. The discussion is absolutely unintelligible, meaningless and without point in the absence of the various diagrams and the reporter was directed to omit this part of the discussion.—THE EDITOR.]

Mr. BIGELOW: I have had in mind all along very grave feelings as to this kind of indirect initiative. I am for the direct initiative. I believed all along that this was the correct form of it. I hesitate at this late day to suggest any other form because it is too late to make a radical change in the proposal. But because we are in a tangle about the ballot I think I ought to suggest to the Convention the form of indirect initiative that I think is correct, and then, if the Convention thinks the same, it will save us from this tangle.

Now, with your attention, let me explain what the Wisconsin indirect initiative is and how it differs from this and the advantages of it as compared with this.

The Wisconsin indirect initiative does not provide for the formulation of a bill outside of the legislature and its presentation to the legislature by petition. It provides that a measure to be initiated at all must first originate in the general assembly, just as any other measure must. Now, what there is to the Wisconsin initiative is this: The people outside, after the legislature has done its work, have the right not only to get up a petition against some law that the legislature has passed, but they have a right by petition to require a direct vote upon some measure that the legislature has refused to pass after it has been introduced. They have the right not only to require a direct vote upon a measure that has been presented to the legislature by some member, but they may take that bill in any form that it takes at any stage in the legislative procedure. They may take it exactly as some member has introduced it or with some amendment, and so draft their bill as to have a referendum on any stage. It is nothing but a referendum. Now you see the great advantage of that form of the initiative over this. The trouble with this initiative is this:

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I think on the whole our legislative assemblies are going to improve and that when measures are presented to the general assembly the general assembly is going to try in good faith to improve them, and if they make any change in them at all, very well. Suppose under the indirect initiative you present something to the legislature. Six per cent of the voters have to present it, sixty thousand electors have presented it. They have been careful in drafting the bill, but it is presented to the legislature and the legislature discovers some very vital mistake in the bill and makes a change and improves it so that every one of the sixty thousand petitioners would be grateful to the legislature for having made the change. They would be glad to have their bill passed, but under this form of the initiative they must nevertheless go to the election and have a popular vote on the question of whether the bill with the mistake—and which they agree is a mistake—shall carry, or whether the other bill of the legislature shall carry. I would suggest a modification the Wisconsin plan. I would suggest that one-half of the percentage required to submit a measure to a popular vote that the measure might be presented to the legislature and then let the people wait and see if the legislature passes it, or if the legislature makes an improvement so that they are satisfied, that is the end of it; but, if they are dissatisfied, if they think that the legislature has been hostile in amendment and has injured the measure, then let them by filing an additional number of signatures, say fifty per cent more, require a popular vote on the measure as they introduced it or in any form that it may have taken. How that would work out practically would be this: If it requires six per cent for a popular vote we could submit to the legislature on three per cent, we could put our bill in the legislative hopper on that and then we would wait and see and if we didn't like what the legislature did we would file the additional three per cent and get a direct vote on it; otherwise we would let it stand. I hesitate to suggest this at this time, but I would suggest that we refer this bill to a special committee with instructions to solve that ballot if they can, and if they cannot solve it to then bring in this other form of the initiative and I so move.

Mr. CROSSER: I do not think there is anything wrong with this ballot. I think the great majority of the men here understand it as plain as noon-day sun. I do not like this eleventh-hour submission of a proposition to be sugar-coated, and I think it will result in confusion worse confounded. I wonder how far we are going with this measure? Pretty soon we will have the proposition eliminated entirely.

Mr. PRICE: What would be the situation if both the \$10,000,000 and \$5,000,000 carried under the illustrations we have heard?

Mr. CROSSER: The one receiving the highest number of votes prevails, according to the language of the proposition. I think this is really the result of a timid, weak-kneed abandonment of the pledges that we made before the election. Every man here except nine men from Cincinnati pledged themselves to the direct form of the initiative.

Mr. KNIGHT: I differ with the gentleman.

Mr. CROSSER: There are only nine men pledged to anything like this sugar-coated thing.

Mr. HARRIS, of Hamilton: Are you not aware that Matthew Arnold says that the minority is always right?

Mr. CROSSER: I know there are fifty men who are in favor of the direct initiative and who will not stand for this thing if we can help it.

Mr. HARRIS, of Ashtabula: The motion to refer back is to see if the committee can work out a solution for this proposition.

Mr. CROSSER: I don't think a great majority of us are concerned about the solution. They see this ballot as plain as the nose on your face.

Mr. HARRIS, of Ashtabula: I am greatly concerned.

Mr. STILWELL: I do not think you would doubt my sincerity in this matter?

Mr. CROSSER: Not a bit.

Mr. STILWELL: And yet I disagree with you most seriously.

Mr. BIGELOW: So do I. I think he is wrong.

Mr. CROSSER: I may be a little bit wrong, but I have had sufficient provocation. I know what we started out to do and I know with what we have ended.

Mr. FESS: I do not believe that any form of ballot that has been submitted is free of pretty serious objection, and even with the luminous explanation of the member from Ashtabula [Mr. LAMPSON] it does not clear up what appears to me an undue advantage that might be taken. He says that the voter might vote for both issues of bonds. Gentlemen of the Convention, it is perfectly rational that if the objection to the ballot that I was speaking of is a legitimate one, you have no right to count the negative vote against the sum of the other two votes on the ground that when one voted in the negative he didn't want either, and while he would vote for the one as against the other, he would still prefer the other. I say you do not have any right to sum that up as an affirmative vote. If that is a legitimate objection, I ask you whether the same objection will not lie on the affirmative vote on the first proposition of the member from Ashtabula? This is an important point. When a man goes in there to vote he is not voting on the issue of bonds, as you suggest; he is voting upon the question of issuing this or that amount of bonds. If that is what you are determining he is not going to vote for both of them. He may be opposed to both of them and will vote that way, but he may be in favor of one and not in favor of the other and there is no right to count him as in favor of both simply because he votes for one. In view of the condition this has assumed, I believe the proper thing to do is to refer this matter to a committee with instructions that if they can bring in a satisfactory ballot to do so, and if they cannot let them submit a substitute that will be satisfactory, including the Wisconsin plan or any plan they can devise, and I would suggest that that report should come out at the earliest possible moment so as not to delay us further in this matter.

Mr. BIGELOW: Since I made the motion I want to withdraw it with this explanation, that I think the question of the pending amendment offered by the member from Cuyahoga [Mr. CROSSER] as to whether we want the direct initiative should be settled by this Convention first, because it was not in my mind in suggesting this special committee that that committee should assume to prejudice in the least that issue which is before the

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Convention, and since there may be a suspicion as to the intention I suggest that my motion be withdrawn and that we vote upon the pending Crosser amendment and then the matter will be clear. I withdraw my motion.

Mr. JOHNSON, of Williams: I would like to say a few words because I have not been in conference with any member since the so-called caucus, and I never voted in that caucus but was there simply as a spectator. I have thought from the time this proposition was presented to us with alternate proposals that we could not make a ballot which would be satisfactory, and with all the explanations we have had I do not think we can do so now. Hence I dislike to hear the gentleman from Ashtabula say it will be all right to be reported a certain way. I will say now I don't want to be on that committee, because I feel confident that they can only report in one manner, and that is that we cannot make these competitive proposals satisfactory. I believed it at the start when I voted for this amendment. I am ready and I have never changed my opinion. I do not agree with the explanation of any of these ballots and I do not think they are fair in some respects, but I am against having this committee. I think we should just get out of the difficulty by proceeding at once and discussing and solving the matter right here.

Mr. KILPATRICK: I think we all appreciate the fact now that we want the vote on this question, whether the direct initiative shall go into this proposal, and if we keep on talking for the next six weeks we shall never get any further than we are now. Consequently, I move the previous question on the proposition of putting in the direct initiative.

Mr. FESS: Before you put the previous question, to bring it to a test let me move to table the Crosser amendment.

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

The PRESIDENT: The question is, "Shall debate close upon the Crosser amendment?"

The main question was ordered.

Mr. FESS: We can have the vote just as well directly and I will withdraw the motion to lay on the table.

The PRESIDENT: The question is, "Shall the amendment be adopted?" and the secretary will call the roll.

The yeas and nays were regularly demanded, taken, and resulted—yeas 40, nays 72, as follows:

Those who voted in the affirmative are:

Bowdle,	Halenkamp,	Moore,
Cassidy,	Harbarger,	Okey,
Crosser,	Harter, Huron,	Pierce,
Davio,	Hoffman,	Read,
DeFrees,	Hoskins,	Roehm,
Donahey,	Hursh,	Shaffer,
Doty,	Keller,	Solether,
Dunn,	Kilpatrick,	Stilwell,
Earnhart,	Kunkel,	Tetlow,
Evans,	Lambert,	Thomas,
Fackler,	Leslie,	Ulmer,
Farrell,	Malin,	Watson,
FitzSimons,	Mauck,	Mr. President.
Hahn,		

Those who voted in the negative are:

Antrim,	Beatty, Morrow,	Brattain,
Baum,	Beyer,	Brown, Highland,

Brown, Pike,	Johnson, Madison,	Peters,
Campbell,	Johnson, Williams,	Pettit,
Cody,	Jones,	Price,
Collett,	Kehoe,	Redington,
Colton,	King,	Riley,
Cordes,	Knight,	Rockel,
Crites,	Kramer,	Rorick,
Cunningham,	Lampson,	Shaw,
Dunlap,	Leete,	Smith, Hamilton,
Dwyer,	Longstreth,	Stalter,
Eby,	Ludey,	Stamm,
Elson,	Marriott,	Stevens,
Farnsworth,	Marshall,	Stewart,
Fess,	Matthews,	Stokes,
Fluke,	McClelland,	Taggart,
Fox,	Miller, Crawford,	Tannehill,
Halfhill,	Miller, Fairfield,	Wagner,
Harris, Ashtabula,	Miller, Ottawa,	Walker,
Harris, Hamilton,	Norris,	Weybrecht,
Harter, Stark,	Nye,	Winn,
Henderson,	Partington,	Wise,
Holtz,	Peck,	Woods.

So the amendment was not agreed to.

Mr. MILLER, of Crawford: I move that this question of the ballot be submitted to a special committee.

Mr. DOTY: There have been two amendments proposed to the present proposal and that makes three; one was introduced by the gentleman from Ashtabula [Mr. LAMPSON] and the one in the proposal. Now wouldn't it be well to submit the whole matter to the committee and let them decide?

Mr. HARRIS, of Hamilton: Limiting the action of the committee to the amendments submitted?

Mr. DOTY: No; everything.

Mr. HARRIS, of Hamilton: Why not limit the committee to what is before us?

Mr. DOTY: It would be absurd to send out a committee and tell them to bring in what we have got here and not allow them to bring in something better if it is proposed to them.

The PRESIDENT: If the motion prevails the committee will be, including myself, Mr. Stilwell, Mr. Crosser, Mr. Lampson, Mr. Doty, Mr. Knight and Mr. Cassidy.

Mr. HARBARGER: I would like to know who has the floor and by what process you can get the floor?

Mr. DOTY: I have the floor, but I will yield it if the gentleman wishes it.

Mr. HARBARGER: I have been trying to get the floor for some time and the president it seems will not recognize me. I move that the amendment be laid on the table.

The motion was lost.

Mr. DOTY: Now I submit an amendment to the proposal. It is the one that I introduced last night.

The amendment was read as follows:

Strike out all after (X) in line 167 and all the following up to and including the first "be" in line 173, and substitute therefor the following: first, for the measure proposed by initiative petition, second, for the measure substituted by the general assembly, and third, against both measures. If the number of votes cast against both measures exceeds the total number of votes cast for both, neither shall prevail; if the total number of votes cast for both exceeds the number cast against both, the measure shall prevail which receives the larger number of votes.

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

After the word "reserved" in line 181, insert the following: "All ballots cast for or against the initiative and referendum or upon any proposed or competing law or constitutional amendment submitted to the electors for a vote thereon as herein provided, shall be returned by the election officers in separate envelopes to the officers to whom returns of a general election are to be made, who shall preserve said ballots under seal for six months, and if there is no contest involving their use at the expiration of six months, said officers shall destroy the same,"

Mr. MILLER, of Crawford: I move that the proposal and pending amendments be referred to a special committee.

Mr. RILEY: I move that the whole subject be referred to a special committee.

The motion was carried.

The president appointed the following committee: Messrs. Bigelow, Stilwell, Crosser, Doty, Lampson, Knight and Cassidy.

Mr. CODY: I move to reconsider the vote by which Proposal No. 334 was defeated.

Mr. LEETE: And I move to lay that on the table.

The PRESIDENT: Mr. Jones is entitled to the floor.

Mr. JONES: Gentlemen: The vote by which this proposal was defeated was fifty-nine to forty-eight. There were a number of absent members and there are also a number of members who voted against the proposal under a misapprehension as to the probable expense involved in the system. I did not on yesterday, in view of the very large vote that the proposal received on second reading, undertake to enter into any extended discussion of the merits of the proposal and I want to ask your indulgence not for that purpose now but for a very brief statement in regard to the proposal.

Mr. ELSON: There is one thing that you should make very clear and that is, if it be optional with counties, how the county will decide to use it? I voted against it yesterday. I was inclined to vote for it, if those things were cleared up.

Mr. JONES: I am obliged for the suggestion and will answer it in the course of my remarks. In the first place, gentlemen of the Convention, this proposal is to leave things to the legislature. It does not provide for any system or any scheme of registering land titles. It just authorizes the legislature to do it. It authorizes the legislature to provide a plan for registering titles. The plan that is usually adopted in jurisdictions where this has been dealt with has been what is known as the Torrens system. It would not necessarily follow that any particular type of the Torrens system or any other system would be adopted in Ohio, although there has never been anything suggested in fifty years since the registration of land titles has been used that has been much of an improvement over the original Torrens system. Right there I desire to answer the suggestion of the gentleman from Athens [Mr. ELSON]. The legislature could provide, as in Illinois, that it could be adopted in particular counties on a vote of the people

of that county. If a people of any particular county did not want to have it in that county they need not vote for it. The Illinois law was prepared especially with reference to the city of Chicago, because in the great fire all the records of Cook county were destroyed. It therefore happens that the Illinois law has not been adopted in any of the other counties of the state of Illinois because it was prepared especially with reference to Cook county. You could have that feature in Ohio, that it could be adopted by counties on a vote, or you could do it as done in nearly all other jurisdictions, and in those jurisdictions where adopted by the counties you can have it entirely optional with the landowner to come in under the system or not. Nobody has ever been required where the system has been adopted to register titles unless he desired to. It is entirely optional.

Now, in regard to another matter. The main purpose of this system has been to do the very thing that has been urged here as an objection to it. The purpose is to simplify and cheapen and facilitate the means of transferring titles to real estate. Take a farm, and I know the delegates from the country will see the force of the illustration, although it is not necessary for those who have studied it—but if a man comes out to your farm to buy a thousand dollars worth of hogs or sheep or cattle the transaction is closed in ten minutes and the money can be paid and the whole transaction wound up. If the party has any doubt whether there are any liens on the property all he would have to do would be to go to the recorder's office to see if there were any chattel mortgages. On that inspection he could determine everything necessary to close the deal, and so in dealing with any other piece of personal property. If a man owned a note or a bond and wanted to borrow money on it or wanted to borrow money on live stock all he would have to do would be to go to the recorder's office and see if there were any chattel mortgages; but what does a man have to do if he wants to buy a house? It is not possible to close up a deal with regard to any piece of real estate without the assistance of a lawyer. Now what does a lawyer have to do? He has to go to the court house and examine the title and if the party wants to be thoroughly satisfied the lawyer has to examine the title back one hundred years. If an abstract has been made at any time the party may or may not be satisfied with the person who made the abstract, and any prudent man will at least require, unless he is thoroughly acquainted with the man who is selling it, his own attorney to verify the correctness of that abstract. Then he has to have an examination of the abstract to see whether the title shown by the abstract is good, because an abstract doesn't make a title good, but merely states what the title is. The title may be good or bad and it is necessary to have an attorney to examine it to see whether it is good or bad. Now if the attorney goes through the abstract what does he have to do? He has to go and examine for mortgages, mechanics' liens, tax liens, foreign executions and home executions and for pending suits. All of those things have to be looked after and they cannot in the nature of things be looked up by a man not familiar with that work. It necessitates an examination every time a transaction takes place in regard to real estate unless the purchaser just wants to go blindly. The object of this proposal is to cheapen and to facilitate

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and simplify transactions with reference to real estate, so that two men who want to deal with regard to real estate can go together to the recorder's office and ask him to open the page of the record on which that man's title is registered and let them see it. If they can read, if they have enough intelligence for that, they can in a minute tell whether the man proposing to sell is the owner of the property and has a good title or not, and they can tell if there are any claims against that property, because under this system, wherever adopted, every mortgage and every judgment and every pending suit and every execution, home or foreign, and every tax lien and every mechanic's lien and everything that affects that property is entered upon that one page. It will make the dealing in land property just as simple as would be the selling of a bunch of hogs or sheep or cattle or horses. All you have to do is to go to the recorder's office and ask him to open to the proper page and you can there see everything about the property and anybody who can read can turn to the page and see whether the title is good.

Now complaint has been made that there would be great expense attached to the introduction of the system and especially that it would bear heavily on small owners of land that was not very valuable.

As I have said the main purpose of the adoption of this reform every place it has been adopted has been to eliminate that expense. Now, how does it do it? A man asks to have his title registered in an addition of a town or city that was originally a one-hundred-acre tract of land. It has been laid off in five hundred lots and one of the parties owning a lot wants to register his title. The matter is referred to a referee and he traces the title back to where the addition was laid out; then he goes back to the government and he finds out whether that title is good, and the court, upon a full hearing, determines that there is a defect back of the man who laid out the addition and that the proper step to take is to clear up that defect and the title is made good. That may involve a little expense in one case but no great expense. In Massachusetts they provide for service in suit by registered letter, which makes it very cheap. After that expense is incurred there are five hundred lots that can be registered at a nominal expense, because the court has already gone over the whole matter. The same thing as to the owner of a small tract of five or ten acres carved out of a larger tract. The first man makes the application and the investigation is made and all defects cleared up, and the next man does not have to go to any considerable expense. There might be ten or twelve or two dozen small owners and the expense to them will be merely nominal, and we need not speculate about what the expense will be for the records show, and they have not been over \$25 on an average.

Now, with reference to the guaranty fund. That is provided merely as a safety fund to protect those who may be wrongfully deprived of their property. I have a letter from Massachusetts in which it is said in thirteen years nobody has been compelled to, but they gradually come in and in that thirteen years there has been only seven per cent come under the system; that the guaranty fund has gone up to \$163,000 and there has been but one case where there was a draft on the fund, so carefully has that system been administered. You can readily see that after thirteen years of experience it would have

the same result in Ohio with a merely nominal fee of one-tenth of one per cent. The legislature, with the facts before it, could say that all that is necessary is a nominal fee of one-tenth of one per cent.

I am interested in this as a reform. I have spent months and months digging into records and much of the success that I have had as a lawyer has been in a special line of real estate law. Consulting my own interest I would make more to continue my work as I have been doing, but I have learned to know the great reform permitted by the adoption of this system. The best evidence that the system is a good one is shown by the fact that it has never been abandoned any place where adopted, and it has been adopted wherever it could be. We adopted it in Ohio in 1896 by a unanimous vote of the senate and 70 to 19 in the house, but that law was declared unconstitutional, and this is an attempt to put the matter in such a state that the legislature can deal with the matter. I hope the matter will be considered and the proposal will pass.

Mr. LEETE: When I first listened to the gentleman upon this question I was rather inclined to favor it. I thought it was a good thing. At that time I had in mind dividing up large tracts of land, thinking that it would probably be a saving, but in most of our districts south of Chillicothe and along the Ohio river there are a good many counties where the land is divided into various small farms. I believe the system if allowed to be worked up by attorneys in those communities would be a great detriment to those small places, and I therefore hope that the motion will not prevail. In large cities, where the land is very valuable, I can concede that it would be an advantage to have it, but in the small counties like mine and the adjacent counties it would be a detriment, and I hope you people will vote it down. I therefore move that the motion be laid on the table.

Mr. PECK: Personally—

The PRESIDENT: A motion to table is not debatable except by unanimous consent.

Mr. PECK: This is a personal explanation. It has been stated to me that word has gone out that I had opposed this proposal and voted against it. That is a mistake. I am in favor of the proposal.

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

The yeas and nays were regularly demanded, taken, and resulted—yeas 21, nays 79 as follows:

Those who voted in the affirmative are:

Beatty, Morrow,	Evans,	Miller, Fairfield,
Brattain,	Hahn,	Norris,
Brown, Pike,	Johnson, Madison,	Peters,
Cordes,	Kunkel,	Pettit,
Dunlap,	Lambert,	Price,
Dunn,	Leete,	Smith, Geauga,
Earnhart,	Malin,	Tetlow.

Those who voted in the negative are:

Anderson,	Colton,	Farnsworth,
Antrim,	Crites,	Farrell,
Baum,	Cunningham,	Fess,
Beyer,	Davio,	FitzSimons,
Bowdle,	DeFrees,	Fluke,
Brown, Highland,	Donahey,	Halenkamp,
Campbell,	Doty,	Halfhill,
Cassidy,	Dwyer,	Harbarger,
Cody,	Elson,	Harris, Ashtabula,
Collett,	Fackler,	Harris, Hamilton,



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Harter, Stark,	Mauck,	Stamm,
Henderson,	McClelland,	Stevens,
Hoffman,	Miller, Crawford,	Stewart,
Holtz,	Miller, Ottawa,	Stilwell,
Hursh,	Moore,	Stokes,
Johnson, Williams,	Nye,	Taggart,
Jones,	Peck,	Tannehill,
Kehoe,	Pierce,	Thomas,
Kerr,	Redington,	Ulmer,
Kilpatrick,	Riley,	Walker,
King,	Rockel,	Watson,
Lampson,	Roehm,	Weybrecht,
Longstreth,	Rorick,	Winn,
Ludey,	Shaffer,	Wise,
Marriott,	Shaw,	Woods.
Marshall,	Smith, Hamilton,	
Matthews,	Solether,	

So the motion to table was lost.

Mr. HARTER, of Stark: I demand the previous question on the motion to reconsider the vote by which Proposal No. 334 failed to pass.

The main question was ordered.

The motion to reconsider was carried.

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

Mr. NYE: As I said yesterday—

Mr. WINN: I rise to a point of order. The previous question has been ordered.

The PRESIDENT: The previous question has been exhausted.

Mr. NYE: I thought, that this question was finally disposed of yesterday, but if it is not disposed of and if anybody is of a different opinion I desire to be heard further this morning. If the members of this Convention want this Torrens system then I have no objection to their voting for it, but I am personally opposed to it. I think it will impose upon the people of this state an expense, not as taxpayers but as individual property owners, almost if not equal to the amount that you have voted for good roads. The gentleman says that this system of transferring titles would make it very easy. I want to say to you if you can get your title perfected and get a certificate of title under the Torrens system for less than \$50 to \$100 in an ordinary case, and much more than that in most cases, you can get it for less than I think you will be able to do.

In the first place you have to have a lawyer to file your petition, and in the second place, if there is anyone else claiming a title, you will have to get service of some kind upon everybody that claims title to it. Under our law, passed in 1896, just such a notice is required and I went to the Ohio State Journal and ascertained that the publication of that notice would cost \$10 without any description of the property. If you want to fix a scheme of transferring your property and perfecting your title which will help every lawyer in this state then I advise you to pass this proposal, but if you want to have the same way of transferring your title as you have now then I would advise you not to pass it. The gentleman says that any place where they have adopted this scheme, they have never abandoned it. Gentlemen, you cannot abandon it. After you have your records made up that way and after you have conveyed your titles that way you have to let it remain that way and there is no other way to do it. In the first place you have to have special books for the purpose and those will cost the county something, and after you have those books you commence to fix

those titles and you change from making deeds to transferring the title and I say the transferring and perfecting of the titles will cost from \$50 to \$100.

Mr. JONES: Do you not understand that where the Torrens system has been adopted you can go on with making deeds and mortgages the same way as we have if you prefer that to the method provided by the legislature?

Mr. NYE: Not where you use the Torrens system.

Mr. JONES: Yes.

Mr. NYE: Where you use the Torrens system you transfer by this same way after you pay \$50 or \$1,000 or \$5,000 when you get the title correct.

Mr. RORICK: I would ask a question. You talk about the expense of getting a title correct under the Torrens system. No title has to be corrected that is good. When a title is not good do you not have to employ a lawyer and go on to a great big expense in court just the same as under the Torrens system? I have been in the business and I know.

Mr. NYE: If a man has a defect in his title we have a way now for quieting the title, but under the Torrens system everybody has to go into court.

Mr. RORICK: No, sir; if their title is good they do not have to.

Mr. NYE: If you have it perfected under the Torrens system you have to.

Mr. RORICK: Not a bit of it.

Mr. NYE: The Torrens system as provided for in this book covers forty-two pages and one hundred and sixty-eight sections, and you have to go through the entire process there if you have your land registered according to the Torrens system.

Mr. RORICK: Under the Torrens system?

Mr. NYE: Another thing has to be done. You have to pay one-tenth of one per cent of the value of your property when you have your title registered. That goes into a guaranty fund and that fund is provided in every county that adopts this system as a guaranty of the title of every piece of land, and if there is not money enough in that guaranty fund the county, according to this law, has to pay the balance of it. That is what this Massachusetts law provides.

Mr. JONES: There is nothing of that kind in this proposal.

Mr. NYE: I am talking about the Torrens system as adopted by every state that has used it; there is only one Torrens system and you are proposing the Torrens system.

Now I do not care to discuss this. If the people want it I have no objection to them having it. I am a practicing lawyer and I know it will make money for me and for my firm, as it will for every other lawyer in the state where it is adopted, but I want to say to you gentlemen that it will cost the people a large amount of money. Talk about a simple way! I want to say a word about that. We have now a very easy way of transferring land, but you must have a deed and it must be acknowledged and your justices of the peace throughout the state can make deeds and you go to them and you can go to them and transfer your land that way. There is no trouble about it. The gentleman says that you can transfer titles as easy as you can a promissory note. That is one of the faults about it, in my judgment, that there

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is apt to be more fraud about it. If you get a certificate and have it looked up and someone gets hold of it they may forge your name to that certificate and you could lose your property by that deed.

Here is another thing: The Torrens system is similar throughout all the states. A man has a piece of property and some one files a claim against it, or files a certificate against it, and if the court quiets title in that man's name then if you or some other person has an interest in the property you are precluded from getting the property back. You must bring suit against the person that deprived you of the title, making the treasurer of the county a party to the suit, and then if they cannot get it out of the man that defrauded them out of it they can resort to the county, but they cannot resort to the county until after they have exhausted their claim against the individual who deprived them of it.

Mr. KNIGHT: A question of privilege for a moment: I find that I cannot be here this afternoon and I will be unable to serve on that committee.

Mr. Harris, of Hamilton, was appointed to fill the vacancy.

Mr. MILLER, of Ottawa: I am intensely interested in the passage of this measure and its consideration. I think it is a duty we owe to the coming generations to fix the matter so that the expense that we are under for registering titles will be less than it is. I do not know how it is in the Ohio river counties, but in the northern Ohio counties when we wish to make a land sale or borrow money on land, abstracts of title are required, and the expense we are put to in some locations is immense. I live in a country which once was a part of Huron county. The old titles are recorded in Huron county and every time an abstract of title is required we have to pay a lawyer to go to Huron county to make the proper abstract. I believe every abstract attorney in the state is opposing this measure and I hope the farmer delegates will be for it.

Mr. PETTIT: When you get an abstract once that is all you have to do.

Mr. MILLER, of Ottawa: If I sold my farm the next fellow has to get an abstract too.

Mr. EARNHART: I hope the farmers and home owners of this Convention will study this question a little before the vote. As some of the members of the Convention know, for the last thirty-five years I have been engaged in buying and selling farms and other property, not as a real estate man but as a broker all the time. In all that time I have been forced to give but one abstract in selling property. I never demanded one in buying. The titles are so perfect that it is not necessary. We have in our county, and I think they have in other counties as well, such a system of indexing that anyone with ordinary intelligence can in a few minutes acquaint himself with the condition of a title. Anyone must know that there must be considerable expense in regard to this system.

Now it is argued that we do not have to adopt it unless we want to. Suppose something of this kind should be adopted; we know it will entail great expense and it seems to me it is altogether needless. If there were a crying need for it, it would be another thing, but such is not the case in our county and I think it is the same all over the state of Ohio. I know it will be a good thing

for the real estate men and the lawyers possibly, but let us look a little for the home owners.

Mr. JONES: A question?

Mr. EARNHART: Just a moment.

Mr. JONES: I want to ask a question.

Mr. EARNHART: I do not oppose the measure because it comes from a certain member of the Convention, but I oppose it because I think it is unnecessary and will work a hardship upon the property owners. I hope that every farm and home owner will study carefully before he votes for this proposal.

Mr. STOKES: I move the previous question on the proposal.

The main question was ordered.

The PRESIDENT: The question is, "Shall the proposal pass?"

The yeas and nays were taken, and resulted—yeas 70, nays 34, as follows:

Those who voted in the affirmative are:

Anderson,	Halenkamp,	Miller, Ottawa,
Antrim,	Halfhill,	Moore,
Paum,	Harbarger,	Peck,
Beyer,	Harris, Hamilton,	Pierce,
Bowdle,	Harter, Huron,	Read,
Brown, Highland,	Harter, Stark,	Riley,
Campbell,	Henderson,	Rockel,
Cassidy,	Hoffman,	Roehm,
Cody,	Hursh,	Rorick,
Collett,	Johnson, Williams,	Shaffer,
Colton,	Jones,	Smith, Geauga,
Crites,	Kehoe,	Smith, Hamilton,
Crosser,	Kerr,	Stamm,
Cunningham,	Kilpatrick,	Stevens,
Davio,	King,	Stewart,
DeFrees,	Lampson,	Stilwell,
Donahay,	Leslie,	Stokes,
Doig,	Longstreth,	Taggart,
Elson,	Marshall,	Thomas,
Fackler,	Matthews,	Ulmer,
Farnsworth,	Mauck,	Weybrecht,
Farrell,	McClelland,	Wise,
Fess,	Miller, Crawford,	Woods.
FitzSimons,		

Those who voted in the negative are:

Beatty, Morrow,	Johnson, Madison,	Nye,
Brattain,	Keller,	Okey,
Brown, Pike,	Kramer,	Peters,
Cordes,	Kunkel,	Pettit,
Dunlap,	Lambert,	Price,
Dunn,	Leete,	Redington,
Earnhart,	Ludey,	Shaw,
Evans,	Malin,	Solesher,
Fluke,	Marriott,	Tetlow,
Fox,	Miller, Fairfield,	Walker,
Hahn,	Norris,	Watson.
Harris, Ashtabula,		

So the proposal passed as follows:

Proposal No. 334—Mr. Jones. To submit an amendment by adding section 40 to article II, of the constitution.—Registering and guaranteeing land titles.

*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. 40. Laws may be passed providing for a system of registering, transferring, insuring and

## Registering and Warranting Land Titles—Initiative and Referendum.

guaranteeing land titles by the state or by the counties thereof, and for settling and determining adverse or other claims to and interests in, lands the titles to which are so registered, insured or guaranteed, and for the creation and collection of guaranty funds by fees to be assessed against lands, the titles to which are registered; and judicial powers with right of appeal may by law be conferred upon county recorders or other officers in matters arising under the operation of such system.

Mr. JONES: I now move that the vote whereby Proposal No. 334 was passed be reconsidered and I move to lay that motion on the table.

Motion to lay upon the table was carried.

On motion of Mr. Doty the Convention recessed until two o'clock p. m.

## AFTERNOON SESSION.

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

Mr. READ: I offer a resolution.

The resolution was read as follows:

Resolution No. 131:

*Resolved*, That the committee on Arrangement and Phraseology be instructed in their consideration of Proposal No. 331 to change the word "one" in line 7 to the word "four". The effect of this change will be to have the superintendent of public works appointed for a term of four years instead of one.

Mr. READ: I move that the rules be suspended and that the resolution be considered at once.

The motion to suspend the rules was lost and the resolution went over under the rules.

Mr. ANDERSON: I have been requested to ask unanimous consent to take up at this time the question of going to Cincinnati. It is a matter that should be decided one way or the other, and I ask that that resolution be taken up at this time.

The SECRETARY: The committee on Rules has the resolution.

Mr. ANDERSON: I ask that the committee on Rules report it out. This is a matter that should be determined now.

Mr. DOTY: As near as can be ciphered out now, it might be possible for this Convention to go to Cincinnati Saturday night. That presupposes the conclusion of work by Saturday noon. We are not in as good shape as we should be to decide that question. If we could let it go until night we would know where we were on the calendar.

The PRESIDENT: The chairman of the special committee wants to make a report.

Mr. STILWELL: Mr. President and Fellow Delegates: The committee was in session about one hour discussing the various forms of ballot that were discussed in the Convention. We fully realize the difficulty of coming to any conclusion upon the matter that will be entirely satisfactory to the Convention. During our discussion a plan to avoid this complication was sug-

gested and informally we got into a discussion of what is familiarly known as the Wisconsin plan of indirect initiative, and the committee has come back to the Convention to ask for some instructions upon this matter. We have agreed among ourselves in the committee that we should ask Mr. Bigelow to explain a little further what is meant by the Wisconsin form of indirect initiative, so that after the explanation we may ask for some instructions in order to find out what the attitude of the delegates may be toward that plan, with the purpose in view of avoiding the complicated form of ballot. So I am going to give way to President Bigelow in order that the plan may be more fully explained.

Mr. FESS: In order to make the perfectly parliamentary, I move you that this committee be instructed to bring in such reports as suggested after explanation from the president.

Mr. HARRIS, of Hamilton: I want to press the inquiry I made this morning.

Mr. BIGELOW: All of these questions will be answered in the course of the explanation.

As stated this morning, what is suggested here is not absolutely the Wisconsin plan. It is a modification which I will explain. Let me say that the attitude of the committee is this: That the committee is willing to go out and draft this amendment and bring it in for your consideration, but it does not care to do this work unless it has some assurance from you in advance that you would like to have it done.

Now, the plan to be drafted, if you vote for this motion, and which we will report to you in form of an amendment, is this: To initiate a measure under this plan the first step would be that those interested should have the measure drafted and printed in full just as under our present plan. They must get a certain number of signers, as the law may provide, to the petition asking for a direct vote upon this measure. Then they must file this measure with the secretary of state and he, when the legislature meets, transmits it to the legislature. If that bill is passed without change or amendment, then it is the law, unless someone after that gets up a referendum petition against that. Of course, it is subject to referendum. If it passes in a somewhat amended form it may be permitted to go into effect without a popular vote, reserving to the petitioners this right, that if in their judgment they think the amendments incorporated into the bill by the legislature have made the measure objectionable to them, they may on filing an additional number of signatures have a popular vote upon the measure. Now if your percentage required for this form of initiative is six per cent, as in the present measure, then the provision would be that upon filing of a bill with a three-per-cent petition it is placed before the legislature. By that three per cent the attention of the state is called to the fact that here is a measure that may be referred by an additional number of petitioners in case the legislature does not act to the satisfaction of those urging the measure. But this form makes it possible, as our form does not, that if the legislature approves the measure, it may stop there with the legislature, and we need not have the trouble of a vote upon it.

I think I had better possibly right here explain what will happen if the original three per cent of the petitioners are not satisfied with the bill as enacted by the

## Initiative and Referendum.

legislature. An additional three per cent will be sent in. If your total per cent required is six, half of that is required to present to the legislature, and another half in addition is necessary to refer—of course, with the understanding that the vote may be had upon the measure as originally presented, or with any amendment incorporated at any time or in any stage of the legislative process.

Mr. FESS: Would that plan obviate the necessity of the competing measure of voting?

Mr. BIGELOW: Yes; there would be no competing voting.

Mr. ANDERSON: Would there be under this proposed plan any referendum at all except upon those measures that were first initiated?

Mr. BIGELOW: Yes; the referendum applies to everything.

Mr. ANDERSON: First, you have to have a petition signed by three per cent?

Mr. BIGELOW: Yes.

Mr. ANDERSON: That is, before you can initiate at all?

Mr. BIGELOW: Yes.

Mr. ANDERSON: That is filed at the secretary of state's office?

Mr. BIGELOW: Yes.

Mr. ANDERSON: Afterward, it is sent from there to the lawmaking body while in session. No doubt if the lawmaking body passed that law, or substantially that law, that would end it, provided three per cent more of the petitioners were not obtained to take it on through?

Mr. BIGELOW: Yes.

Mr. ANDERSON: Now, of course, if three per cent signed the petition and the law were passed, that would be subject to referendum, or subject to referendum if six per cent signed it?

Mr. BIGELOW: Yes.

Mr. ANDERSON: That would contemplate three different sets of petitioners? The first three per cent, and then if not satisfied another three per cent more, and then if it were not satisfactory a referendum?

Mr. BIGELOW: No, sir; it would require just two. The first three per cent would present it to the legislature, and the next three per cent would get a referendum vote upon the measure passed by the legislature.

Mr. LAMPSON: Suppose the next three per cent asked for a referendum vote; could there be a referendum vote upon it under your provision?

Mr. BIGELOW: Yes.

Mr. KING: You said that applied to a bill passed. It applies to a bill that passes or that is defeated?

Mr. BIGELOW: Yes.

Mr. PARTINGTON: I want to ask a question in regard to these extra petitioners. When are those signatures secured, before the legislature acts upon it or subsequent to the action of the legislature?

Mr. BIGELOW: It could be so provided that they would have to be procured after action is taken, or it could be provided that they were invalid if there were any duplicates.

Mr. PARTINGTON: It seems to me that if those signatures were secured before the act of the legislature

no one would know whether those petitioners desired a referendum vote or not.

Mr. NYE: If you had three per cent of the original petitioners, and the petition was submitted to the legislature, and that three per cent were satisfied with it, could you get another three per cent to have it submitted to the people, or must you have the same three per cent and another three per cent?

Mr. BIGELOW: Another three per cent. It would take six per cent in all, just as the present method, only you would allow half to propose to the legislature with the chance that the legislature would act satisfactorily and you would not have to vote.

Mr. NYE: If the three per cent originally presented were satisfied with what the legislature did, could another three per cent that was not satisfied with it still refer it to the people?

Mr. BIGELOW: Yes.

Mr. HALFHILL: By what method is it to be determined that the measure passed by the legislature is satisfactory or is not satisfactory to the first three per cent?

Mr. BIGELOW: You cannot determine that. The question is, Is it satisfactory to the public? and that is determined by whether or not there is an additional three per cent filed requesting a vote.

Mr. HALFHILL: Is it not possible to create some committee or power which will determine that?

Mr. BIGELOW: No, sir; that is not contemplated in the plan. That has often been suggested and considered, but it has always been set aside on the theory that it would not do to create such an irresponsible power outside to represent anybody and say when measures should or should not be submitted. As it at present exists six per cent are necessary to initiate a measure.

Mr. HALFHILL: Could six per cent be taken up by the circulators of the petition and only three per cent filed and the other three per cent held in reserve?

Mr. BIGELOW: That could be done unless you provided in your measure that the second three per cent must be signed after such and such a date.

Mr. HALFHILL: Is it not entirely possible to frame your petition that each signer would consent to the alternative of permitting his name to be used with the three per cent initiative or the second three per cent?

Mr. BIGELOW: Yes; that would be a sort of unofficial way of creating power, to say whether or not this thing shall stop in the legislature, its action having been satisfactory, or whether or not it shall go on to the people. The practical way of doing that will be, if they get six per cent instead of three asking for a vote upon some amendment, to hold three per cent and wait and see what the legislature does, filing the other three per cent. In case the action of the legislature is not satisfactory the three per cent that is withheld can be put in for a vote. That can be done if you want to, but you can provide that the dates appear on the second section in such a way as to prevent that being done if you do not think it is advisable.

Mr. HALFHILL: This plan does away entirely with the competing measure in the legislature?

Mr. KING: I want to know why when an individual or collection of individuals, or a society or an association, conceives the idea they want a law passed, they can

## Initiative and Referendum.

not name in a petition a committee of three or four or five of the signers, and say in the petition that the undersigned are to be represented and bound by the action of the committee leaving to that committee the determination whether or not the passing of the law by the general assembly has fully carried out the purpose of the petition?

Mr. BIGELOW: The question raises a matter that has many features connected with it, but the reason it has never been proposed, as far as I know, is that it turns over to some three or four or five people the power that should be exercised by the entire public to say whether or not this measure is satisfactory. They have the power to put that on a committee of three or four or five men. That would be possible, but it would subject those men to tremendous temptation.

Mr. HURSH: What concerns me is in regard to the amendment to an initiated law that the legislature might pass. If that law were not satisfactory and the other three per cent were secured and sent to some kind of a referendum, would the entire law passed by the legislature be vitiated?

Mr. BIGELOW: If the votes were for the measure?

Mr. HURSH: Yes.

Mr. BIGELOW: Certainly; the original petition stands. It is part of the measure as a measure, and that may be referred after the action of the legislature is taken.

Mr. HURSH: Then the amendment the legislature might make would not be the law?

Mr. BIGELOW: No.

Mr. WINN: I want to see if I understand the proposition. A proposed statute petitioned for is enacted in some form by the general assembly and that is subject to referendum?

Mr. BIGELOW: Oh, yes.

Mr. WINN: It may be subject to the referendum the same as any other law that passes the general assembly?

Mr. BIGELOW: Yes.

Mr. WINN: Suppose the necessary number of petitioners asked for the enactment of some statute and the legislature enacted the statute in a modified form, and three per cent, or whatever per cent may be required, petitions to have it referred. At the same time that three per cent is asking for a referendum upon the action of the general assembly, another three per cent is asking that the original statute petitioned for be referred to the people, and then they both go to the people at the same time, one on the three per cent petitioning for the enactment of the law petitioned for by the people, and another on the referendum of the law passed by the general assembly. What will be the result?

Mr. BIGELOW: In case of a complication of that kind, you would have to have what you have in the proposal now before you—what is in the California and Oregon proposal—that in case two conflicting measures ever at any time be adopted by a direct vote, that measure receiving the larger number shall be the law.

Mr. WINN: It was suggested, if I understand that, assuming that six per cent of the electors might be required to initiate a law, that it might be so arranged that three per cent of them could start the action by the general assembly, and the other three per cent be held

back to know whether the action of the general assembly was satisfactory. Would not we then encounter the same objection that is offered to the committee's plan, that somebody must determine whether the action of the general assembly is satisfactory?

Mr. BIGELOW: That is true, but any three per cent in the state could do it.

Mr. WINN: I understand that, but can the three per cent who sign the petition before the law was enacted be used until somebody must determine whether the action of the general assembly was satisfactory? That could only be determined by the application of the first three per cent.

Mr. BIGELOW: No; the first three per cent is effective in that they can present the measure to the legislature, and that is an end of that three per cent.

Mr. WINN: And the other three per cent is only effective in case the legislature fails to enact the law satisfactory to the first three per cent?

Mr. BIGELOW: No; in case the legislature enacts the law unsatisfactory to anybody. It is a matter up to the public. No three per cent of the people have a monopoly of this.

Mr. WINN: What I am trying to find out is this: Whether or not it would be right to have the names of the petitioners obtained before the law is presented to the general assembly and part of them used as a means of initiating the law and the other part used after the general assembly has acted to get a referendum of the law.

Mr. BIGELOW: That could be framed up either way, according to how you prefer. Of course, the petition must be signed, and you could fix it so that you would have to have an entirely different three per cent obtained after the law was enacted by the legislature, if you wanted to.

Mr. WINN: It seems to me it must be an entirely new three per cent; if not, the whole thing is a farce.

Mr. BROWN, of Highland: If three per cent initiates before the legislature and gets a law and are satisfied with it, then can another three per cent file a petition for a referendum?

Mr. BIGELOW: Yes, but only on laws that are initiated by petitions.

Mr. ROEHM: What is there wrong about duplicate names provided they are gotten afterwards or supplementary to the petition? Why should not those who initiated have something to say whether or not it be referred, provided their signatures are obtained after the legislature has acted?

Mr. BIGELOW: That is the only trouble that can be raised, that you have not any official way of consulting them.

Mr. ROEHM: Why could not they be eligible to sign a second time?

The PRESIDENT: Oh, I didn't understand. I think there will be no objection to that.

Mr. HARBARGER: Does that contemplate the initiating of laws only under this plan?

Mr. BIGELOW: No, sir; both laws and constitutional amendments.

Mr. HARBARGER: And it does away with the direct initiative on constitutional amendments?

Mr. BIGELOW: No; it does not propose to touch

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anything in this proposal except to substitute one indirect initiative for another. Our report would not touch anything else in this proposal, but simply we would bring in the report on the form of indirect initiative which would avoid the ballot complications which we now are confronted with.

Mr. WOODS: I would like to ask why the way to solve this matter is not simply to provide that any bill introduced in the general assembly, say within six months after the general assembly adjourns, may be petitioned for and go on the ballot?

Mr. BIGELOW: I do not see any objection except that when you require petitions of a given number of signatures to be filed with your measure that is presented, you call public attention to that measure, and you restrict the right of initiative to those particular measures. This is a much more safeguarded form of initiative than the one you propose.

Mr. OKEY: As I understand your proposition, the minimum signatures to bring a law before the legislature is three per cent?

Mr. BIGELOW: Yes.

Mr. OKEY: Suppose in the first instance four per cent sign the petition—

The PRESIDENT: That would not make any difference. It would require three per cent afterwards just the same.

Mr. OKEY: That was my point.

Mr. PARTINGTON: Referring to what the member from Allen [Mr. HALFHILL] and the member from Erie [Mr. KING] have said in regard to a body to decide the matter of whether the petitioners are satisfied, whether the enacted laws are satisfactory, it would seem to me that the members of the legislature in the minority would be certainly a good committee to act. For instance, a petition has been presented to the legislature asking for a certain law and this law asked for has been changed by that body. The opposition by members of the legislature to the changes, if they were bitterly contested—if these members didn't want the changes made when the votes were taken—there would be a division nearly half and half, and it would seem there is a plain case of dissatisfaction.

Mr. BIGELOW: I do not think we need to open up this question for discussion. Questions are in order, of course, and a motion is before the Convention, and the purpose of this was simply to let the Convention know what they might expect if they instruct us to bring in the amendment.

Mr. HALFHILL: Is not this a result of the proposed plan, that any sort of a measure proposed may go through this channel and eventually be voted upon as a law without anything being done by the legislature?

Mr. BIGELOW: Yes, but with this advantage over the present plan, that if the legislature acts satisfactorily, although they make a change, it does not have to go to a vote at all, whereas, no matter how much the legislature may improve a bill, under our present form you have to have a vote on it.

Mr. HALFHILL: In law all conditions subsequent are looked upon with disfavor. That is a primary proposition. Now all of these conditions are not only subsequent conditions, but there is no way of determining whether definite or indefinite. You say the public is

not satisfied. That is so indefinite that it simply means that anybody who started out to submit any kind of a measure can just go on through with it and put it on the ballot. In other words, it goes around, through and above.

Mr. BIGELOW: On the six per cent it would have to go through the legislature.

Mr. HALFHILL: It circumvents the legislature in all respects.

Mr. BIGELOW: No more than the present form. It does the same thing. It goes through in spite of anybody.

Mr. HALFHILL: No, sir; the exception is in the present form, that the legislature can put in a competing measure which goes before the people. Now, in the form proposed any sort of a law framed for any purpose can, by having six per cent and passing through the legislature, go before the people, and the legislature is circumvented in its entirety.

Mr. BIGELOW: No, sir; the legislature has a chance to amend it. It goes into a deliberative assembly for discussion, an official deliberative assembly representing all of the people of the state, the greatest possible publicity, and with all of the advantage of the discussion preceding the action of the people, and also with the advantage which I fancy will occur in a great many cases, when the legislature acts satisfactorily where it approves a measure, everybody would be willing and want to have it stopped with the legislature. Now, why should we have a form of initiative that compels us to vote on a thing that nobody wants to vote on? That is the defect of our present system.

Mr. KING: The question is already saved by the present proposal, that if the three per cent asked for a given law and the legislature passes that law, that ends, of course, the effect of that petition. Of course, those opposed to the law may still go out and get a referendum petition.

Mr. FESS: As I understand the purpose of the whole thing, and I think there is a little confusion here, the work of this committee will be considerable, and they do not care to undertake their work unless instructions are given.

Mr. BIGELOW: Yes.

Mr. FESS: But there is no thought that what the committee does is final—it comes back here and everything is open to discussion on the floor?

Mr. BIGELOW: Certainly.

Mr. FESS: I think the members are confused. Now let it go to the committee.

Mr. STOKES: I move the previous question on this matter.

The main question was ordered.

The motion was carried.

Mr. LAMPSON: Now what is before the Convention?

The PRESIDENT: We will proceed to the reading of Proposal No. 261.

Vice President Fess here took the chair.

Proposal No. 261—Mr. Halenkamp was read the third time.

Mr. ELSON: The other day there was some discussion of this matter and it seemed to be understood or inferred that if this proposal passed in the form in which

## Regulating State Printing—Methods of Submitting Amendments to the Constitution.

it is now it would preclude the use of the present printed matter in the state offices generally, a thing which we do not wish to tie ourselves down to.

Mr. THOMAS: I would answer that emphatically, no! That proposal reads plainly that the state may do its own printing in a manner as may be provided by law.

Mr. ELSON: In the present form?

Mr. THOMAS: It may do it in any manner or form it sees fit.

The VICE PRESIDENT: The question is "Shall the proposal pass?"

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

Those who voted in the affirmative are:

Anderson,	Halenkamp,	Nye,
Antrim,	Halfhill,	Okey,
Baum,	Harbarger,	Partington,
Beyer,	Harris, Ashtabula,	Peters,
Brattain,	Harter, Huron,	Pettit,
Brown, Highland,	Harter, Stark,	Pierce,
Brown, Pike,	Henderson,	Price,
Campbell,	Hoffman,	Read,
Cody,	Holtz,	Redington,
Collett,	Hoskins,	Riley,
Colton,	Johnson, Madison,	Rockel,
Cordes,	Johnson, Williams	Roehm,
Crites,	Kehoe,	Rorick,
Crosser,	Keller,	Shaffer,
Cunningham,	Kerr,	Shaw,
Davio,	Kilpatrick,	Smith, Geauga,
DeFrees,	King,	Smith, Hamilton,
Donahay,	Kramer,	Solether,
Doty,	Kunkel,	Stamm,
Dunlap,	Lambert,	Stevens,
Dunn,	Leete,	Stewart,
Dwyer,	Leslie,	Stilwell,
Earnhart,	Longstreth,	Stokes,
Eby,	Ludey,	Taggart,
Elson,	Malin,	Tannehill,
Evans,	Marriott,	Tetlow,
Fackler,	Marshall,	Thomas,
Farnsworth,	Matthews,	Ulmer,
Farrell,	McClelland,	Wagner,
Fess,	Miller, Crawford,	Walker,
FitzSimons,	Milelr, Fairfield,	Watson,
Fluke,	Miller, Ottawa,	Winn,
Fox,	Moore,	Wise,
Hahn,	Norris,	Woods.

So the proposal passed as follows:

Proposal No. 261—Mr. Halenkamp, to submit an amendment to article XV, section 2 of the constitution.—Regulating state printing.

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

## ARTICLE 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 PRESIDENT: The next proposal is Proposal No. 309 which the secretary will read.

The proposal was read the third time.

Mr. MARRIOTT: I offer an amendment.

The amendment was read as follows:

Strike out all of sections 2 and 3 and insert in lieu thereof the following:

SEC. 2. Whenever two-thirds of the members elected to each branch of the general assembly shall be of the opinion that this constitution should be revised, altered or amended, they shall recommend to the electors of the state to vote, at a general or special election, for or against the appointment of a commission for that purpose; and if a majority of the electors voting at such election have voted in favor thereof, the governor of the state shall, within sixty days thereafter, appoint a commission of fifteen citizens of the state, the members of which shall meet, within thirty days thereafter, at the seat of government, for the purpose aforesaid. No revision, alteration or amendment of this constitution, agreed upon by such commission shall take effect until the same has been submitted to the electors of the state at a general or special election upon a day to be fixed by such commission and adopted by a majority of those voting thereon.

SEC. 3. The general assembly shall provide by law the method of submitting the question "Shall there be a commission to revise, alter or amend the constitution?", and the method of submitting the work of such commission to the electors for adoption or rejection.

Mr. MARRIOTT: Gentlemen of the Convention, I am sure I have no disposition to delay the business of the Convention by any extended statement of the amendment which I have offered. It is shown, I apprehend, that early in the work of the Convention I offered a proposal substantially as the amendment I offer, in article XVI, section 2. The proposal there referred to the time or manner of amending the constitution, and I was treated with the utmost courtesy by the chairman of the committee by being given the privilege of appearing before the committee to make a statement. I was not present in the Convention when the proposed amendment was reported and voted upon at the second reading. I am therefore ignorant of the reasons offered or given to the Convention why this proposal should be adopted. Have the gentlemen of the Convention considered what is proposed in the Taggart proposal now under consideration? What changes does it make in article XVI, sections 1, 2 and 3, of the present constitution? If the members will compare it with article XVI, and it is very short, you will find that there are but three very minor, and I think unnecessary, changes in the section as it now stands. One is a provision for a nonpartisan ballot. I am not seeking to change section 1 of Judge Taggart's proposal. I am leaving section 1 just as the committee on Arrangement and Phraseology has left it. The only change in that section, as you will observe, is that it provides for the election of delegates to a future constitutional convention upon a nonpartisan ballot and without party emblem, and it changes the time from six months' publication to, I believe, eight weeks. Now, I appeal to you, gentlemen of the Convention, whether or not the changes are necessary. You go to section 2 of

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the proposal and the only changes there in our present constitution is the provision that the delegates shall be nominated by petition and elected upon a nonpartisan ballot. There is not a delegate in this Convention who was not nominated by petition and elected upon a nonpartisan ballot without an emblem. Therefore, where is the necessity for this change? I am opposed to the proposal, especially sections 2 and 3, first, because the language of the present constitution is changed wherein it provides the convention shall consist of as many members as the house of representatives. The language of the present constitution says they shall be chosen in the same manner as members of the house of representatives. This proposal changes that manner and uses the following language: "As provided by law." I do not know that that would make it possible to elect every member of the constitutional convention from one county or not, but why that change, "As provided by law"?

Now, gentlemen of the Convention, I insist that this proposal does not change our present constitution in such a way that it makes it necessary to submit a proposal to the people. Let me have your attention just a moment. I recognize the fact that up to this time every proposal that has passed the second reading has been adopted upon the third reading, and with all deference to my splendid friend Judge Taggart, who is the author of this proposal, and I have no complaint to make that my child that went into the committee came out with new clothing on it—I say that there is no occasion for this proposal. I call the attention of the delegates to what the Constitutional Convention is going to cost the state of Ohio. I insist that there never will be an occasion for another constitutional convention in this state. With section 1 left in the constitution as it is left in Judge Taggart's proposal, which leaves the liberty in the general assembly to provide amendments for the constitution and to submit them to the people, why do we want another constitutional convention composed of one hundred and nineteen or one hundred and twenty men, as the case may be, from the different counties of the state when we have the initiative and referendum, through which the people may amend the constitution?

Now let me direct your attention just for a moment to another matter. For this Convention \$200,000 has been appropriated. I hold in my hand the cost to the people of the state of the submission, merely the publication of the proposals, not to include the expense of the election, or the machinery of the election. In 1875 there were two proposals submitted to the people of the state, and the publication in the newspapers of those two amendments cost the people \$21,170.37. In 1877 there was one proposal submitted to the people of the state, and the cost of publishing that proposal for the vote of the people, without including the other expenses of the election, amounted to \$38,471. Now, gentlemen of the Convention, if the publication of one proposal in 1877 cost the people \$38,471, what will forty-two proposals cost them as a result of this Convention? I have made a little calculation, and assuming that these proposals will average with that one in 1877, the forty-two proposals will cost \$1,500,000.

Mr. STOKES: This proposal does not refer to the amendment that we are passing now, does it? This has reference to future amendments to the constitution—

Mr. MARRIOTT: Yes.

Mr. STOKES: And has no reference to the forty-two we expect to put before the people now?

Mr. MARRIOTT: I agree with the distinguished gentleman that it has no reference, but I am illustrating the force of my statement. I do not believe there is a necessity, or ever will be, for another constitutional convention to cost the people of this state \$2,000,000, which will be the cost of this Convention by the time these proposals are submitted, provided we submit them at a special election.

Mr. STOKES: If we have another constitutional convention, it will be called under provisions of the constitution other than at present, if this is adopted.

Mr. MARRIOTT: Certainly.

Mr. STOKES: Is it not true that this provision makes it much cheaper to have a constitutional convention in this, that the old constitution provides for publication six months while this provides for publication in each county in only one paper for eight weeks?

Mr. MARRIOTT: That would certainly lessen the expense of publishing, but let me suggest that many proposals—I am not criticising or complaining about the number of proposals—I am trying to enforce my argument that there will be no necessity for future constitutional conventions, and that, coming to the point, if the people of Ohio or the general assembly under section 1 ever deem it important to revise or amend the constitution, instead of calling a constitutional convention the amendment should be made by a commission of fifteen men appointed by the governor.

Mr. FACKLER: Is it not a fact that the provision with reference to the publication of amendments in Proposal No. 309 applies only to such proposed amendments as shall be submitted by the legislature and not by any convention which may be called?

Mr. MARRIOTT: If you will read section 2 you will find it does not. I would like only to say, if the Convention will indulge me, that objection has been offered by one of the delegates to the commission plan. First, I am opposed to this proposal because it provides a mandatory provision for a constitutional convention every twenty years.

Mr. SMITH, of Hamilton. Does it not provide for the question of whether or not a constitutional convention shall be held—that that be submitted to the people?

Mr. MARRIOTT: Yes; it does not necessarily follow that the people will ratify it and call the Convention.

Mr. FACKLER: Point in section 2, to where the provision is that compels the publication of an amendment proposed by a convention.

Mr. MARRIOTT: There is no such provision in that section 2.

Mr. DOTY: I move that this amendment be tabled.

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

The yeas and nays were taken, and resulted—yeas 84, nays 15, as follows:



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Those who voted in the affirmative are:

Antrim,	Halfhill,	Peters,
Baum,	Harbarger,	Pettit,
Beatty, Morrow,	Harris, Ashtabula,	Pierce,
Beyer,	Harter, Huron,	Price,
Brattain,	Henderson,	Read,
Brown, Highland,	Hoffman,	Redington,
Campbell,	Hoskins,	Rockel,
Cody,	Johnson, Madison,	Roehm,
Collett,	Johnson, Williams,	Shaffer,
Colton,	Jones,	Shaw,
Cordes,	Kehoe,	Smith, Geauga,
Crites,	Keller,	Smith, Hamilton,
Crosser,	Kerr,	Solether,
Cunningham,	Kilpatrick,	Stalter,
Davio,	Kramer,	Stamm,
Doty,	Kunkel,	Stewart,
Dunlap,	Lambert,	Stilwell,
Dunn,	Lampson,	Stokes,
Earnhart,	Leslie,	Taggart,
Fackler,	Malin,	Tannehill,
Farnsworth,	Marshall,	Tetlow,
Farrell,	Matthews,	Thomas,
Fess,	Mauck,	Ulmer,
FitzSimons,	McClelland,	Wagner,
Fluke,	Miller, Crawford,	Walker,
Fox,	Miller, Fairfield,	Watson,
Hahn,	Moore,	Wise,
Halenkamp,	Okey,	Woods.

Those who voted in the negative are:

Dwyer,	Longstreth,	Partington,
Elson,	Marriott,	Riley,
Evans,	Miller, Ottawa,	Rorick,
Harter, Stark,	Norris,	Stevens,
King,	Nye,	Winn.

So the motion to table was carried.

Mr. MARRIOTT: I offer an amendment.

The amendment was read as follows:

Strike out all of sections 2 and 3 and insert the following:

SEC. 2. Whenever two-thirds of the members elected to each branch of the general assembly, shall think it necessary to call a convention, to revise, amend, or change this constitution, they shall recommend to the electors to vote on a separate ballot at the next election for members to the general assembly, for or against a convention; and if a majority of all the electors, voting for and against the calling of a convention shall have voted for a convention, the general assembly shall, at their next session, provide by law, for calling the same. The convention shall consist of as many members as there are members of congress from this state, who shall be chosen by the electors from each congressional district as provided by law, and shall meet within three months after their election at the seat of government for the purpose aforesaid.

No revision, alteration or amendment of this constitution agreed upon by such convention shall take effect until the same has been submitted to the electors of the state at a general or special election upon a day to be fixed by the convention and adopted by a majority of those voting thereon.

SEC. 3. The general assembly shall provide by law the method of submitting the question "Shall there be a convention to revise, alter or amend the constitution," the method of electing delegates and the method of submitting the work of such

commission to the electors for adoption or rejection provided that no convention shall be called oftener than once in every twenty years.

Mr. MARRIOTT: If this proposal should be adopted, gentlemen of the Convention, it will change the present constitution only that instead of the constitutional convention being elected from the counties, the same number as we have members of the house, they will be elected from the congressional districts, and you will have twenty-one members of the constitutional convention elected, one from each congressional district. The only other change from Judge Taggart's proposal is that it leaves out all about nonpartisan ballot, but provides that the general assembly shall provide the method both for submission of amendments and the manner of electing delegates. I submit that we do not know what plan the general assembly may adopt twenty years from now.

Mr. DOTY: Suppose the state of Ohio through the general assembly should exercise the right to have only one district in the state instead of twenty-one or twenty-two. How many members of the constitutional convention would you have under your amendment?

Mr. MARRIOTT: One.

Mr. DOTY: If you think that I am the one, I do not mind voting for it.

Mr. MARRIOTT: I have no doubt that whatever way I would fix it Mr. Doty would try to be the one.

Mr. HARRIS, of Ashtabula: Do you think the general assembly should consist of one member, and if not, why not?

Mr. EARNHART: I move to table the amendment.

The motion was carried.

Mr. KING: I offer an amendment.

The amendment was read as follows:

Strike out all of section 3 beginning at line 31 and ending with the word "but" in line 38.

Insert before "no" in line 38 the words and figures "Sec. 3." and capitalize the letter "N" in word "no".

Mr. KING: There cannot be any possible reason why we should incorporate in the constitution a provision that there must be a constitutional convention called in 1932 and every twenty years thereafter.

Mr. SMITH, of Hamilton: You have not stated that quite right. Do you not mean that there is not any necessity for providing that the question shall be submitted to the people whether a convention shall be held?

Mr. KING: Yes, that is it. The first two sections cover the whole question, and with the amendment on the revision of the constitution, except the last clause of section 3, which, of course, I concede ought to go into the constitution, that any revision or amendment of the constitution should be submitted to a vote of the electors, and as amended in the proposal, and as reported back it should be adopted by a majority of those voting upon the particular amendment—that should be preserved, and I have preserved it in my amendment by calling it section 3. It might just as well have been attached to and made a part of section 2.

Mr. DOTY: This is only submitted once every twenty years at a regular election for the people to say whether they want a constitutional convention. Now,

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why take that right away from the people rather than leave it as it is? It does not save any money. I do not suppose it does anything other than "safeguard" the people so that they can't vote for what they want.

Mr. KING: That right is fully preserved in section 2 of the constitution.

Mr. DOTY: I cannot keep in mind the sections technically as some of the gentlemen seem to do; but, as I remember, section 2 simply makes it possible for the legislature to say whether the people shall have the right to vote whether or not they shall have a constitutional convention. I move that the amendment be laid on the table.

The motion was carried.

Mr. FOX: I offer an amendment to Proposal No. 309.

The amendment was read as follows:

In line 11 strike out "eight" and insert "five".

Mr. FOX: Submitting these amendments is a very expensive proposition. The advertising has cost \$464,000 for the amendments we have passed during the last twenty-five years, as shown by Judge Marriott. That is a great expense. Now, if we consider that during the next twenty or twenty-five years, with the publicity that is now given to almost everything, five weeks are just as good now as six months used to be, it will save between \$150,000 and \$200,000. And it is just as good.

The amendment was agreed to.

Mr. MOORE: I move the previous question.

The main question was ordered.

The VICE PRESIDENT: The question is "Shall the proposal pass?"

The yeas and nays were taken, and resulted — yeas 105, nays 1, as follows:

Those who voted in the affirmative are:

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

Mr. Marriott voted in the negative.

So the proposal passed as follows:

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

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

ARTICLE XVI.

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

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

SEC. 3. At the general election to be held in the year one thousand nine hundred and thirty-two, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the constitution", shall be submitted to the electors of the state; and in case a majority of the electors, voting for and against the calling of a convention, shall decide in favor of a convention, the general assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amend-

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ment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state, and adopted by a majority of those voting thereon.

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

Mr. Stokes rose to a question of privilege, and asked that his vote be recorded on Proposal No. 170, by Mr. Worthington. His name being called, Mr. Stokes voted "aye."

Mr. Brattain rose to a question of privilege, and asked that his vote be recorded on Proposal No. 184, by Mr. Peck. His name being called, Mr. Brattain voted "no."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 118, by Mr. Lampson. His name being called, Mr. Eby voted "no."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 122, by Mr. Farrell. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 166, by Mr. Stilwell. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 5, by Mr. Cunningham. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 163, by Mr. Miller, of Crawford. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 169, by Mr. Worthington. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 7, by Mr. Nye. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 240, by Mr. Anderson. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 333, by Mr. Peck. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 151, by Mr. Anderson. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 96, by Mr. Fess. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 15, by Mr. Riley. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 212, by Mr. Johnson, of Williams. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 62, by Mr. Pierce. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 51, by Mr. Miller, of Crawford. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 184, by Mr. Peck. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 322, by Mr. Bowdle. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 64, by Mr. Miller, of Fairfield. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 134, by Mr. Halenkamp. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 34, by Mr. Thomas. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 93, by Mr. Earnhart. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 91, by Mr. Kilpatrick. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 331, by Mr. Walker. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 242, by Mr. Roehm. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 272, by Mr. FitzSimons. His name being called, Mr. Eby voted "aye."

Mr. Eby rose to a question of privilege, and asked that his vote be recorded on Proposal No. 170, by Mr. Worthington. His name being called, Mr. Eby voted "aye."

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

The PRESIDENT PRO TEM: The next order of business is Proposal No. 329.

Proposal No. 329—Mr. Knight, was read the third time.

Mr. KNIGHT: Owing largely, I think, to what must have been a misunderstanding of the proposal on the part of the school officials of the state, information seems to have been sent abroad over the state that this proposal undertook to place in the hands of every school district complete and absolute control over all school matters. There is not a word, letter, line or syllable in the proposal that warrants any such statement. It is just what it purports to be—direct authority, incontrovertible, in the state to control the public school and educational system of the state, provide for organization, administration and control of it, and provide a referendum in its original form only upon the subject of the size of the school board and its organization. It does not in one particle change the power of the school board when organized. When the proposal passed second reading the motive was to permit the cities of the state to determine for themselves the size and organization of the school board, an opportunity which they had long desired and long needed. It was originally in the cities proposal and was taken out because it was deemed unwise that that proposal should deal with anything like the subject

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of education, believing that the subject of education was a state and not a city question. Now, in order to provide this for the cities, the original form of this proposal provided that all school districts should have the referendum opportunity, and it seems in some portions of the state, probably due to the fact that the school board had complete control over the matter, that there is objection to its application to rural school districts. As a member of the Convention I have no desire to force a referendum on any people who do not want it. The cities do want it, and I offer an amendment which covers the last objection that there can be to it.

The amendment was read as follows:

In line 7 after the word "district" insert the word "embraced wholly or in part within any city"; also in line 10 change "the" to "such".

Mr. KNIGHT: It will read: "Each school district embraced wholly or in part within any city, shall have the power by referendum vote to determine for itself the number of members and the organization of the district board of education, and provisions shall be made for the exercise of this power by such school district." It, therefore, does not touch in any way any school district which does not lie wholly or in part in a city.

Mr. FESS: I hope this amendment will pass. It will keep faith with the committee on Municipal Government. I do not want to interfere in any way with the rural community, and this was for the purpose of giving home rule to the cities, without interfering in the matter of schools. I hope the amendment will pass. It will remove all of this fear that rural districts will go back to where they were some years before.

Mr. HARBARGER: What do you understand by district? Is it a subdistrict?

Mr. KNIGHT: No. A district, a township, a city district, and this applies to city districts.

Mr. HARBARGER: They have subdistricts in the country?

Mr. KNIGHT: There is no subdistrict lying wholly or in part in any city. It is to remove that that I am offering this amendment.

Mr. MILLER, of Crawford: I hope this amendment will pass. It will then remove all objections from the rural districts.

Mr. PARTINGTON: What is contemplated in this term "public"?

Mr. KNIGHT: Public schools of the state supported by taxation.

Mr. PARTINGTON: The State University?

Mr. KNIGHT: That is not a public school. The legislature could include any other educational system under the term. It does not make it mandatory, but simply puts it in the power of the lawmaking body of the state to have one system from top to bottom.

Mr. PARTINGTON: In the committee on Common Schools I had remarked that I would favor anything that would improve the school system of the state of Ohio, but then, as now, I am opposed to the state controlling our high schools and our common schools and then permitting separate normal schools for the state of Ohio doing as they like. If this law or this proposal contemplates or includes the whole system, I would like to know it.

Mr. KNIGHT: It is intended to provide that the lawmaking power may use it whenever the time is ripe for it. One complete educational system for the schools and all educational institutions supported by public taxation.

Mr. PARTINGTON: If such is the case, my objection to this is removed, but it still remains with me if the normal schools of Ohio are above the control and are not operated under these laws as are our common schools and high schools. We are proud of our high schools in Sidney, as is doubtless true of every other man who has the interest of his home schools at heart, and if we are to surrender—you will notice, members, if you surrender to some authority—if I understand aright—the organization of your schools—

Mr. KNIGHT: The school system.

Mr. PARTINGTON: The administration and control. If it is contemplated to build up one grand harmonious system, my objections are removed, but otherwise I am not willing, as a member from Shelby county, to surrender the organization and administration and the control. Those are pretty strong words. You will note this, that your schools, the control and organization of your schools, are taken away from you. They are lodged in the state of Ohio. Now, if you can have in the state of Ohio a man at the head of our school system that is going to build up one harmonious school system for Ohio, that will include these normal schools, and will really mean a school system for Ohio, then my objections are removed, and if it does not do that I am opposed to it, and I pause to reflect what is contemplated when you say to me that the cities, the small cities, would be benefited. We last summer sold \$100,000 worth of bonds to build a high school, and this proposal says that the organization, administration and control of those schools of ours is under the domination and control of one central body. Now, if that organization and that system and that man at the head—if it is a perfect system, and if they have the right man at the helm, we may be glad, we may feel proud that we did surrender the organization and the administration and the control of our schools to some central authority, but if that system is wrong or the central authority be not right, gentlemen, I am afraid of what the result might be.

Mr. PIERCE: I offer an amendment.

The amendment was read as follows:

In line six strike out the words "and educational".

Mr. PIERCE: If we take out those words it will read: "Section 3: Provision shall be made by law for the organization, administration and control of the public school system of the state." That simply omits the words "and educational" as they are in the proposal. It now says the control of the public schools and educational system. I am afraid that the educational system is too broad, and it might possibly include things that we do not want, and therefore I want to have it stricken out.

Mr. KNIGHT: What else might it include?

Mr. PIERCE: It might include the high schools and the parochial schools.

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Mr. KNIGHT: I have no objection to putting before the word educational the word "public". There is no intention to put anything that is not supported by taxation under this system.

Mr. PIERCE: Would you answer me a question?

Mr. KNIGHT: Yes, if I can.

Mr. PIERCE: What do you claim the phrase "and educational" means?

Mr. KNIGHT: In most states, or in many states of the Union organized like ours, as every state in the North is, the phrase "public educational system" means educational system supported in whole or in part by general and local taxation. In a majority of the states, as in this state, the general organization has been in the hands, as it should be, of a central lawmaking body. Now the import of those two words, "and educational" is this: We are reaching out at the present time and developing a normal school for the training of teachers for our public schools. We are supporting and maintaining three colleges, Ohio State, Ohio University and Miami University. The intent of that phrase "and educational" is that whenever, or if ever, it seems wise to the lawmaking body of the state to try to make a unified public educational system from the kindergarten at the bottom to the highest educational institutions supported by taxation, this proposal gives undoubted authority to do that, and there is nothing intended beyond that, and the insertion of the word "public" before educational will remove any ambiguity and all doubt about the intent to cover parochial schools in any way. That never entered the mind of anybody who had anything to do with this.

Mr. ELSON: I think the word "public" inserted would not cover the objection at all. I think a general objection is that under such educational system the public schools and universities should not be included. If there is a system for the organization, administration and control of the schools it should not include the universities. The first thing that would naturally come up would be whether to coordinate the high schools with the lower classes of the university and articulate them, which would be an exceedingly unwise thing to do. Not many months ago I attended a faculty meeting and this subject came up. The subject of articulating the high schools and the colleges of liberal arts in the universities. I made the statement there and will make it here that we cannot afford to do it. If the university wishes to modify its entrance requirements in such a way as to make it a high school, very well, but we cannot expect to modify the high schools and colleges so as to articulate them. We would simply have to choose between the two, to do away with the universities or with the high schools. It would be better to sink our universities in the sea than to give up the high schools. I said that certainly not from the standpoint of personal indulgence, because I have never been connected with high schools to amount to anything. My life is identified with university work, but I realize that high schools are of far more benefit to the state of Ohio than the universities, and if this goes through to include both, the danger will be that there will be an articulation between the two which would not be best for either.

Mr. McCLELLAND: The argument which has just been advanced by the member from Athens [Mr. ELSON]

seems to me to be one of the strongest arguments against the conclusion he reaches. One of the great things he justly complains of is the apparent dictation of the universities to the high schools in regard to what they shall do to prepare for the university, and this matter leaves it in the hands of the general assembly, which will represent the high schools rather than the universities. It seems to me it would be very unfortunate for us to accept the amendment of the delegate from Butler [Mr. PIERCE].

Mr. OKEY: I hope the amendment of the delegate from Butler will prevail. If you leave the word "educational" in this proposal it is too comprehensive. It can mean almost anything, and from my standpoint I think it has entirely too much latitude. Now, as far as I am concerned, it seems to me there has been no explanation that is satisfactory, to me at least, as to the ultimate object of this proposal. I want to vote for the proposal if it will tend to benefit the schools, but I want to know wherein it benefits them. And I want to know exactly what these very comprehensive words "organization, administration and control of the public schools and educational system" mean.

Mr. KNIGHT: It means the public school system and the educational system. That is what it means.

Mr. OKEY: What do you mean by "system"?

Mr. KNIGHT: This proposal puts in the hands of the lawmaking power unquestioned authority to organize such a system. It does not contemplate taking out of the hands of the local authorities the control and administration of their local schools, but it does give to the state, beyond any question, the right to fix the standard and the right to organize an entire system, leaving to each local community the determination of the schools in the system.

Mr. OKEY: Does it contemplate the appointment of the teachers?

Mr. KNIGHT: No, sir.

Mr. STOKES: I offer an amendment.

The amendment was read as follows:

In line 6 after "state" add "supported by public funds".

Mr. KNIGHT: I will accept that.

The amendment was agreed to.

The PRESIDENT PRO TEM: The question is on the amendment offered by the delegate from Butler [Mr. PIERCE].

Mr. KRAMER: I want to ask this question of Professor Knight: In his amendment he limits the right to control, etc., to cities. We have villages in Richland county, or one village at least, that are very near the limit of a city, and I do not see why a village that desires to change its school organization ought to be forbidden the right.

Mr. KNIGHT: Because under the present law that is likely to continue a village and not a township school district. Unless it becomes a special district by some special action it is not taken outside of the township district and that is not true in the case of a city.

Mr. COLTON: I want to call attention to a provision of the present constitution: "The general assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund,

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will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state."

Now that gives full control over the general schools, but there is doubt whether the legislature has complete control over the educational system of the state that we desire it should have. The provisions of the amendment leave to the legislature full control over the public schools and educational system of the state, and I hope this proposal will pass without the provisions proposed by the member from Butler:

Mr. HARRIS, of Hamilton: Mr. President and Gentlemen of the Convention: I trust the proposal as amended by the member from Franklin [Mr. KNIGHT] and as it stands by the acceptance of the amendment of the member from Montgomery [Mr. STOKES] will pass. The member from Franklin has stated the case as nearly as it could be stated. Instead of having three or four systems the scheme is to have one grand system under the charge of the legislature. Your committee on Municipal Government was broad enough to surrender and strike from their original proposal section 4 in which large latitude was given to the municipalities, but we wanted the whole matter of education to be under the direction and charge of the state. Our committee agreed to the elimination of section 4 and asked the committee on Education to provide one in its place and to give to the cities the right and power to designate the size of the school board for the various cities. The amendment of the gentleman from Montgomery has removed the last possible objection that could be raised by anyone, and that objection is the fear—an object never contemplated or dreamed of, and I don't think it could possibly be so interpreted—that this proposal might give the state the power to take charge of or direct the parochial schools of the state. There was nothing of that kind in our minds, but the objection is absolutely removed by the amendment offered by the gentleman from Montgomery, and I therefore move that the amendment of Mr. Pierce be tabled.

The motion was carried.

Mr. HALFHILL: Gentlemen of the Convention: I have no doubt that several gentlemen who have spoken and who claim that by virtue of this amendment every possible objection to this proposal has been removed, believe what they say, but it occurs to me that there may be some objections to this proposal that have not yet reached the ears of the gentlemen. I am perfectly willing to be convinced that this proposal is the right thing, but up to date the objections that have come to me from outside of the Convention have more convincing weight and power with me than the arguments that I have heard here. I agree that it is advisable and right for the city districts to have entire control of their boards of education so that they may limit the number or in any other way do that which seems best. That is removed from competent objection because it was argued that under this proposal as originally drawn we might go back to the old system of three directors of a sub-district and thus destroy what we have built up through the intelligent action of the legislature. But I say that is removed by this amendment introduced by the author of the proposal, so that that objection is out of the way.

But another objection that has come to me from sources outside of the Convention is to this effect, that when you read this proposal down you will find it contains within it power of creating an administrative board of officers who can usurp and take away the absolute control of the local schools to the full extent save and except a local board that will levy taxes and provide for supplies. That objection comes to me and it looks to me much like an administrative effort under the first part to take away all authority of the local board save and except the right to levy taxes. I see the author shakes his head and thinks that the objection is not good, but there is certainly another objection which was referred to in argument and which I must hurriedly scan and that is it is to be hoped at least under this we are not endeavoring to dovetail the high school into the university. I have not heard that sufficiently answered. The objection to the high school now is that it teaches too many things and puts on too many frills and fanciful things and has become a sort of preparatory school so that you can graduate from it into the college. The fact is a great majority of the children of the state never even get through the grades and only a very small per cent of them get through the high schools, and in getting through the high schools this small per cent ought to have experience and accuracy to do things brought to their attention better than they have it brought to them under the present system. Now I am not an educator, but I have great respect for those men whose life work is in that profession. I candidly believe that this proposal will meet with very grave objection even as now amended, and I would like to hear my objection as outlined answered a little further. I call on the author and would be pleased to have him answer the questions.

The PRESIDENT PRO TEM: The member from Allen has one minute. If the gentleman from Franklin wishes to occupy it with the permission of the gentleman from Allen he can do it.

Mr. KNIGHT: There are two things to be stated briefly about this proposal. The primary object is from the standpoint of the public schools. There is no man in the state of Ohio who would be less inclined than I am to do a single thing to injure the public schools. In this proposal there is not a working of the public school into the high school and of the high school into the university, but provision that there shall be on behalf of the educational authorities of the state the guiding and controlling of the educational public school system. There is not a single word in it, in my judgment, that warrants the idea that we are taking out of the hands of the local board anywhere control over the administration of the local schools. It just points the way toward the general unification of the public educational system.

Mr. ELSON: I move to take from the table this amendment. I think we voted this down without any reason and I would like to explain.

The motion was carried.

The PRESIDENT PRO TEM: The motion to take from the table the amendment of the delegate from Butler [Mr. PIERCE] is carried and the question is on the motion of the delegate from Butler [Mr. PIERCE] to amend the proposal.

Mr. McCLELLAND: I rise to a point of order. The member from Athens has spoken on that amendment.

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The PRESIDENT PRO TEM: The chair would ask the gentleman from Athens if that is so?

Mr. ELSON: I spoke on something.

The PRESIDENT PRO TEM: The chair will resolve the doubt in favor of the Convention and if anybody else wants to speak on the amendment will recognize him; if not, the chair will recognize the delegate from Athens.

Mr. ELSON: I gave one reason for securing the adoption of the amendment and I wish to give another which I hoped I would not have to mention. The reason I gave was that the danger of such a board having control of the organization of the public school system of the state is that it will articulate the high school with the university, which will be a calamity to the school districts because the high school is a place to educate the children and only a small percentage of the people that live there get into the university.

Mr. COLTON: Under our present constitution has not the legislature the power to coordinate the high schools in the university?

Mr. ELSON: I do not know.

Mr. COLTON: I think it has.

Mr. ELSON: My other reason is this: I fear it would be a source of trouble among some of the higher educational institutions. Three or four years ago there was a crusade made through the state legislature—I don't say how it originated, the object of it was to rob two of our time-honored state universities of much of their importance and prestige and to use that in building up the State University at Columbus. The idea was to degrade them to mere normal schools in order to build up the State University at Columbus. I believe the state of Ohio will not stand for anything of the sort. That movement was resisted and successfully. Now, if there was such a thing as this proposal provides for passed, I feel sure the same old trouble would arise. I do not say Professor Knight had anything of the sort in his mind, but it opens up the old fight and it is not good for higher education. We all know the universities at Athens and Oxford are old time-honored institutions, doing an immense good in the state. The Ohio University at Athens is the oldest collegiate institution west of the Alleghenies unless we except Transylvania at Lexington, Kentucky, which claims priority by about one year.

Mr. ULMER: I think the American Book Trust is behind this movement.

Mr. ELSON: I do not know. If Ohio intended to build up one single great institution as Michigan and Wisconsin have done it should have begun sooner, but Ohio has three instead of one, and while that fact may to some extent preclude the possibility of building up a great university in the center of the state, nevertheless the educational facilities of the state are doubtless better than they would be with one such central university. Go down to Ohio University and Miami University and you will find the best possible opportunities for the people to get education. They go there at little cost and it would be a calamity to the educational institutions of the state if we were to degrade them to mere normal schools.

Mr. ULMER: I move the previous question on the amendment and the proposal.

The main question was ordered.

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

The yeas and nays were regularly demanded, taken, and resulted—yeas 49, nays 54, as follows:

Those who voted in the affirmative are:

Antrim,	Farrell,	Marshall,
Baum,	Fluke,	Mauck,
Beatty, Morrow,	Fox,	Miller, Fairfield,
Bowdle,	Hahn,	Miller, Ottawa,
Brattain,	Halenkamp,	Okey,
Brown, Highland,	Halfhill,	Peck,
Brown, Pike,	Hoffman,	Pettit,
Campbell,	Holtz,	Pierce,
Cody,	Hoskins,	Read,
Crites,	Jones,	Rorick,
Dunlap,	Kehoe,	Stalter,
Dunn,	Keller,	Stewart,
Dwyer,	Kunkel,	Stilwell,
Earnhart,	Longstreth,	Stokes,
Eby,	Malin,	Watson,
Elson,	Marriott,	Woods.
Farnsworth,		

Those who voted in the negative are:

Anderson,	DeFrees,	Hursh,
Beyer,	Doty,	Johnson, Madison,
Collett,	Fackler,	Johnson, Williams,
Colton,	FitzSimons,	Kerr,
Cordes,	Harbarger,	Kilpatrick,
Cunningham,	Harris, Ashtabula,	King,
Davio,	Harris, Hamilton,	Knight,
Kramer,	Partington,	Stamm,
Lambert,	Peters,	Stevens,
Lampson,	Price,	Taggart,
Leete,	Redington,	Tannehill,
Ludey,	Riley,	Tetlow,
Matthews,	Rockel,	Thomas,
McClelland,	Roehm,	Ulmer,
Miller, Crawford,	Shaffer,	Wagner,
Moore,	Shaw,	Walker,
Norris,	Smith, Geauga,	Winn,
Nye,	Smith, Hamilton,	Wise.

So the amendment was not agreed to.

The PRESIDENT PRO TEM: The question is on the amendment offered by the delegate from Franklin.

The amendment was agreed to.

The PRESIDENT PRO TEM: The question is: "Shall the proposal pass"?

The yeas and nays were taken, and resulted—yeas 58, nays 49, as follows:

Those who voted in the affirmative are:

Anderson,	Harris, Ashtabula,	Riley,
Beatty, Morrow,	Harris, Hamilton,	Rockel,
Beyer,	Harter, Huron,	Roehm,
Bowdle,	Hoffman,	Shaffer,
Campbell,	Hursh,	Smith, Hamilton,
Cassidy,	Johnson, Madison,	Solesher,
Colton,	Jones,	Stamm,
Cordes,	Kerr,	Stevens,
Crosser,	Kilpatrick,	Stilwell,
Cunningham,	King,	Taggart,
Davio,	Knight,	Tannehill,
Doty,	Kramer,	Tetlow,
Dunn,	Lambert,	Thomas,
Earnhart,	Lampson,	Ulmer,
Fackler,	McClelland,	Wagner,
Farrell,	Moore,	Walker,
FitzSimons,	Nye,	Wise,
Hahn,	Peters,	Woods,
Halenkamp,	Redington,	Mr. President.
Harbarger,		

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Those who voted in the negative are:

Antrim,	Holtz,	Miller, Fairfield,
Baum,	Hoskins,	Miller, Ottawa,
Brattain,	Johnson, Williams,	Norris,
Brown, Highland,	Kehoe,	Okey,
Brown, Pike,	Keller,	Peck,
Cody,	Kunkel,	Pettit,
Collett,	Leete,	Pierce,
Crites,	Leslie,	Price,
DeFrees,	Longstreth,	Read,
Dunlap,	Ludey,	Rorick,
Dwyer,	Malin,	Shaw,
Eby,	Marriott,	Smith, Geauga,
Elson,	Marshall,	Stalter,
Farnsworth,	Matthews,	Stewart,
Fluke,	Mauck,	Watson,
Fox,	Miller, Crawford,	Winn.
Halfhill,		

So the proposal not having received the requisite number of votes failed to pass.

The PRESIDENT PRO TEM: The next proposal is Proposal No. 252.

Proposal No. 252—Mr. Weybrecht, was read the third time.

Mr. HOSKINS: What I desire to say is at the request of Mr. Weybrecht, who came to my desk and asked me to speak on it when the proposal was called. The section is just the same as the old one except that it adds the last sentence and permits a suit to be brought against the state in a manner to be provided by law. On the second reading the author explained that we have often had cases where by special acts of the legislature somebody was authorized to sue the state, and there is not any reason why the state should be any different from a private individual. The legislature ought to have a right to provide by law for the adjustment of controversies between its citizens and the state. That is the sole purpose of this proposal.

Mr. WOODS: I am against this proposal and I want to tell you why. If you are going to pass this proposal you ought to add an amendment to it to just about triple the force in the attorney general's office. I don't think the state can afford to throw open this door. Every time there is a flood from one of the canals the state will have a whole lot of lawsuits on its hands. Every time the general assembly meets they flock around the finance committee with all sorts of claims.

Mr. PIERCE: Would you deny the public justice because it would increase our legal force?

Mr. WOODS: They can get justice now. I don't think this door should be thrown open so wide.

Mr. PECK: Why should the state be exempt from just claims?

Mr. WOODS: The state always pays its ordinary claims.

Mr. MARRIOTT: Is not the fact you have just stated, that so many people come around the finance committee of the legislature, a great reason for the adoption of this proposal?

Mr. WOODS: No, sir; there is no trouble if you have anything like a just claim. If this door is thrown open it will be a great expense to the state. The cases will have to be tried by juries in the local county and the idea will be that "The state has a lot of money and we will make the state pay."

Mr. HALFHILL: In your judgment is there any more danger of the state's being imposed upon when the case is tried under the rules of evidence and the law than there is of the finance committee of the general assembly being imposed upon?

Mr. WOODS: Yes, I think so; and not only that, but you are putting the state to the expense of conducting a court matter. You had better pay the claims off than to fight them, and I think it would be cheaper.

Mr. ANDERSON: Consistency is a good thing to observe. This is the first time that Mr. Woods has ever said anything for the general assembly.

Mr. WOODS: I object.

The PRESIDENT PRO TEM: The objection is sustained and the gentleman from Mahoning will proceed.

Mr. ANDERSON: The gentleman's position is that it would be far safer to trust a committee of the general assembly than it is to trust any court in the state of Ohio. That is one reason it ought to be killed. The second reason that this proposal ought to be killed is because it would require more attorneys in the attorney general's office, because if a man's property is injured it is a just claim and we ought not to employ attorneys to take care of just claims and therefore it should be killed.

Mr. MARRIOTT: I move the previous question.

The question being "Shall the proposal pass?"

The yeas and nays were taken, and resulted—yeas 71, nays 12, as follows:

Those who voted in the affirmative are:

Anderson,	Harris, Ashtabula,	Peck,
Antrim,	Harris, Hamilton,	Pettit,
Baum,	Harter, Huron,	Pierce,
Beatty, Morrow,	Holtz,	Price,
Beyer,	Hoskins,	Redington,
Bowdle,	Hursh,	Riley,
Brown, Highland,	Johnson, Madison,	Rockel,
Brown, Pike,	Johnson, Williams,	Roehm,
Campbell,	Kramer,	Shaffer,
Colton,	Kunkel,	Shaw,
Cordes,	Lambert,	Smith, Geauga,
Crites,	Lampson,	Stamm,
Cunningham,	Leete,	Stewart,
Davio,	Leslie,	Stilwell,
Dwyer,	Longstreth,	Stokes,
Earnhart,	Ludey,	Tannehill,
Farnsworth,	Malin,	Tetlow,
Farrell,	Marriott,	Thomas,
FitzSimons,	Matthews,	Ulmer,
Fluke,	Mauck,	Walker,
Fox,	McClelland,	Watson,
Hahn,	Miller, Ottawa,	Winn,
Halfhill,	Okey,	Wise.
Harbarger,	Partington,	

Those who voted in the negative are:

Brattain,	Kerr,	Peters,
Doty,	Miller, Crawford,	Rorick,
Dunlap,	Miller, Fairfield,	Stevens,
Fackler,	Nye,	Woods.

So the proposal passed as follows:

Proposal No. 252—Mr. Weybrecht, to submit an amendment to article I, section 16, of the constitution.—Suits against the state.



## Suits against the State—Judge of Court of Common Pleas for Each County.

*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. 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.

Proposal No. 304—Mr. Halfhill, was read the third time.

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

Strike out the period at the end thereof and add the following: "and the additional judges, provided for herein, shall be elected at the general election in the year 1914."

Mr. HALFHILL: Gentlemen of the Convention: That amendment has been submitted to the Schedule committee and it meets with the approval of that committee and will coordinate with the general schedule. You will observe that the proposal in no way changes the jurisdiction of the court of common pleas and that the only change in the organization of the court is that there is a provision made for one judge of the court of common pleas in each county and such additional judges as may be made necessary by the size of the county and the amount of business. In other words, the legislature can decrease or increase the number of common pleas judges as it deems proper. That will make some changes. Some counties that do not now have judges will eventually receive a judge under this proposal. The original proposal provides that the judges of the court of common pleas in office elected thereto prior to January 1, 1913, shall hold their office for the term for which they were elected. That was put in so there will be no possible conflict between the operation of this constitution and the judges who would be nominated and elected at the ensuing November election. We think that this amendment just read to you, which is in these words, "and the additional judges provided for herein, shall be elected at the general election in the year 1914," would so shape this proposal that there would be no possible conflict with any existing work of the court.

Mr. WALKER: Are the salaries of these judges paid by the state?

Mr. HALFHILL: In part by the state and a certain part by each county.

Mr. WALKER: I notice that your proposal provides for the possibility of combining the work of the probate judge in the common pleas court. In my county they will not want to do that, but the proposal provides for the probate judge and that salary is now paid by the county. I was wondering how that salary would be provided for if the two are combined.

Mr. HALFHILL: We discussed that fully at the time of the second reading. The probate judge is paid by fees from those who transact business in his office,

or rather he gets the fees and covers them into the treasury and then draws back his salary, so that really he is paid out of those fees. That would be done away with and those fees would be covered into the county treasury and if the two courts were combined there would be a saving of a material amount.

Mr. HURSH: It requires some temerity for a mere farmer to enter into a discussion with the legal fraternity of this Convention, but when it comes to a matter of necessity and a matter of economy, we are surely all equally interested.

It has been urged in the former argument for this proposal that our poor common pleas judges of the state of Ohio are very much overworked. Another argument is that the cases are such that many litigants do not get a fair show because the litigants cannot get into the court often enough. I am aware that as the courts of Ohio are now constituted the common ordinary common pleas judges are not permitted to take more than five or six or seven months' vacation during the year, and I am also aware of the fact that litigants are prevented from having their cases heard because, for reasons that are urged by attorneys, cases are deferred and postponed from term to term and year to year until their cases are oftentimes put off a considerable length of time. The delay is not caused by the few terms of the court in the county each year. This proposal adds from twenty-two to twenty-five new judges of the state to be put on the payroll. What for? I say it is an absolutely unnecessary measure from the standpoint that any business man does his business or that any farmer does his business or that any laboring man does his business. Four thousand dollars a year is certainly enough to compensate the common pleas judges of Ohio for the work they do, and I want to say further that you are making a county office of this thing, and if there is such a thing as lowering the standard of the judiciary, you are doing it here and now. The better lawyers usually do not want the positions of judges. The judge will be a county official who will be seeking the job. It will generally be a one-horse lawyer who cannot make a living at his profession. Really, he does not need to be a lawyer, but only a good politician, and he can draw that extra \$4,000 for what? To do six weeks' work in the county for you and me and our farmers and laboring men pay for it. The taxes finally come down on those who produce the wealth, and they will have to produce from \$80,000 to \$100,000 every year to pay a few men to put in six weeks' work upon the bench that is already provided for. Gentlemen, I cannot see, in the face of the tendency toward economy, how you can favor this measure.

They say you can combine the common pleas with the probate judge. What do we want to do that for? We haven't elected a lawyer in a generation in my county as probate judge. We elect a big-hearted, humane man who doesn't follow all of the technicalities of the law, but who, in the goodness of his nature and the overflowing of the milk of human kindness in his soul, provides for the widows and orphans whose interests come into his court. Now, gentlemen, in all seriousness, as a member of this Convention and as a taxpayer and as a farmer, and one of the men who has every year to help to dig up this \$100,000 to help to pay this bill for law-

## Judge of Court of Common Pleas for Each County.

yers who can't make a living for themselves, I am opposed to it.

Mr. PARTINGTON: I offer an amendment.

The amendment was read as follows:

Strike out "at such election in line 22 and insert "thereon".

Strike out "at such election" in line 26 and insert "thereon".

Mr. PARTINGTON: If the members will notice, the amendment is in accord with all of the other work of this Convention. Wherever we have submitted a question we have provided that the number of votes cast on it shall control. This is in strict keeping with that.

The amendment was agreed to.

Mr. MAUCK: I agree with considerable that has been said by the member from Hardin. If the present common pleas judges were properly distributed we have an abundance to do the work. I also sympathize with the movement by Mr. Halfhill because there are some counties in the state of Ohio that ought to have common pleas and probate courts. But in the smaller counties of the state it would be a grievous wrong, as suggested by the member from Hardin, to impose upon the taxpaying public the expense of a common pleas and probate court. I undertake to say that in the majority of the counties of the state of Ohio one able-bodied man with a fair amount of intelligence can do all of the work of a judge of both courts and not consume over one-half of his time. Now the proposal as it stands provides that laws may be passed to combine these courts. In the large counties of the state there ought to be no combination, and in the smaller counties of the state there ought to be such a combination, and the possibility of effecting that combination ought not to be left to the grace of the general assembly.

The amendment I shall presently offer provides within the proposal itself the machinery by which this combination may be effected in the smaller counties of the state. I have taken counties of less than 40,000 and I have drafted an amendment that I think properly provides for the matter. I have sent it up to be read.

The amendment was read as follows:

Strike out all of section 7 after the period in line 19 and insert the following in lieu thereof:

"Whenever ten per cent of the number of the electors voting for governor at the next preceding election in any county, having less than forty thousand population as determined by the next preceding federal census, shall petition the county commissioners of any such county not less than ninety days before any general election for county offices, the commissioners shall submit to the electors of such county the question of combining the probate court with the court of common pleas and such courts shall be combined and shall be known as the court of common pleas in case a majority of the electors voting upon such question, vote in favor of such combination. Notice of such election shall be given in the same manner as for the election of county officers. Elections may be had in the same manner for the separation of such courts, when once combined."

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

Mr. NYE: I want to ask a question. Has it not been the policy of the Convention not to insert in the constitution the names of merely statutory officers? I wonder if the gentleman cannot find some way that he could not insert county commissioners, which are not constitutional officers?

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

The amendment was agreed to.

The PRESIDENT PRO TEM: The question is now on the amendment of the gentleman from Allen [Mr. HALFHILL].

The amendment was agreed to.

Mr. EBY: I offer an amendment.

The amendment was read as follows:

After the semi-colon in line 7 insert the following:

"any civil or criminal action of a general public nature, shall upon the filing of a petition signed by twelve per cent of the electors of the county in which such action is instituted, with the chief justice of the supreme court, the chief justice shall order the removal of such suit from the jurisdiction of the common pleas judges of county from said county to the county's common pleas court, which said petition shall designate;"

Mr. EBY: That language, as a member says, is not very elegant, because it was gotten up on the spur of the moment and sent out for copying, and some mistakes have been made. The object is this: We have certain places in the state where it would be impossible to get these cases of special public interest tried except before a judge who owes his election to a political machine. For instance, in New York several years ago, Governor Hughes said it was impossible to get some cases tried thoroughly before any judge who owed his election to Tammany Hall, and I have heard it repeatedly said that George B. Cox in the proceedings instituted against him before any judge down there could not have been convicted. Now this simply provides that where such condition obtains a reasonable number of the electors can file a petition before the chief justice and have the case removed to some other county. In other words, under this, twelve per cent of the electors of Hamilton county could have had those actions removed to the courts of Butler county, or over to Scioto county before Judge Blair, and given Cox a clear, clean bill of health or convicted him.

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

The motion was carried:

Mr. BROWN, of Highland: This proposal of the delegate from Allen [Mr. HALFHILL] seems to be a good thing. It was threshed out very thoroughly on the second reading and it was understood that the added expense by reason of the added number of judges might be compensated for by a reduction of the expenditures in the number of probate judges that will be taken out of office if this is carried. And, in view of that hope, that there would be a sufficient number of probate judges vacated to establish a solvent situation when it comes

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to the consideration, I think it is not a good policy to combine the counties that can take advantage of this proposal to those in which there are only a population of 40,000.

I think there are counties with 45,000 and 50,000 that may not have sufficient business for the two courts, and in case such a situation is found to be true, those that have a population of over 40,000 could not, under this proposal as amended by the gentleman from Gallia, avail themselves of the provision of this section. Therefore I offer this amendment.

The amendment was read as follows:

In line 19 strike out "40,000" and insert "60,000".

The PRESIDENT PRO TEM: The motion is out of order in the form in which it is presented. If you desire to offer an amendment to the amendment proposed by the delegate from Gallia, it will be necessary to reconsider the vote by which that was adopted and then amend it and adopt it again.

Mr. BROWN, of Highland: I will offer it as an amendment to the proposal as amended.

The amendment was agreed to.

Mr. KNIGHT: I offer an amendment.

The amendment was read as follows:

Amend Proposal No. 304 as amended as follows:

In line 19 change "county commissioners" to "judge of the court of common pleas" and in the same line change "commissioners" to "judge of the court of common pleas".

Mr. KNIGHT: The reason for that is because the county commissioner is not a constitutional officer.

The amendment was agreed to.

The PRESIDENT PRO TEM: The question is "Shall the proposal pass"?

The yeas and nays were taken, and resulted—yeas 85, nays 14, as follows:

Those who voted in the affirmative are:

- |                  |                   |                |
|------------------|-------------------|----------------|
| Anderson,        | Harris, Hamilton, | Nye,           |
| Antrim,          | Harter, Huron,    | Okey,          |
| Baum,            | Henderson,        | Partington,    |
| Beatty, Morrow,  | Hoffman,          | Peck,          |
| Beyer,           | Holtz,            | Peters,        |
| Bowdle,          | Hoskins,          | Pettit,        |
| Brattain,        | Johnson, Madison, | Pierce,        |
| Brown, Highland, | Jones,            | Price,         |
| Brown, Pike,     | Kehoe,            | Read,          |
| Campbell,        | Keller,           | Rockel,        |
| Cody,            | Kerr,             | Roehm,         |
| Collett,         | King,             | Shaffer,       |
| Cordes,          | Knight,           | Shaw,          |
| Crites,          | Kramer,           | Smith, Geauga, |
| Crosser,         | Kunkel,           | Stalter,       |
| Cunningham,      | Lambert,          | Stamm,         |
| Davio,           | Leslie,           | Stevens,       |
| Donahay,         | Longstreth,       | Stilwell,      |
| Dunlap,          | Luday,            | Stokes,        |
| Dwyer,           | Malin,            | Taggart,       |
| Earnhart,        | Marriott,         | Tannehill,     |
| Eby,             | Marshall,         | Thomas,        |
| Fackler,         | Matthews,         | Ulmer,         |
| Farrell,         | Mauck,            | Walker,        |
| FitzSimons,      | McClelland,       | Watson,        |
| Fluke,           | Miller, Crawford, | Winn,          |
| Hahn,            | Moore,            | Wise,          |
| Halenkamp,       | Norris,           | Woods.         |
| Halfhill,        |                   |                |

Those who voted in the negative are:

- |                    |                    |           |
|--------------------|--------------------|-----------|
| Colton,            | Johnson, Williams, | Riley,    |
| Doty,              | Lampson,           | Solether, |
| Dunn,              | Leete,             | Stewart,  |
| Harris, Ashtabula, | Miller, Fairfield, | Tetlow.   |
| Hursh,             | Miller, Ottawa,    |           |

So the proposal passed as follows:

Proposal No. 304 — Mr. Halfhill, to submit amendments to article IV, sections 3, 7, 12 and 15, of the constitution. — Judge of court of common pleas for each county.

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 IV.

SEC. 3. One resident judge of the court of common pleas, and such additional resident judge or judges as may be provided by law, shall be elected in each county of the state by the electors of such county; and as many courts or sessions of the court of common pleas as are necessary, may be held at the same time in any county. Any judge of the court of common pleas may temporarily preside and hold court in any county; and until the general assembly shall make adequate provision therefor, the chief justice of the supreme court of the state shall pass upon the disqualification or disability of any judge of the court of common pleas, and he may assign any judge to any county to hold court therein.

SEC. 7. There shall be established in each county, a probate court, which shall be a court of record, open at all times, and holden by one judge, elected by the electors of the county, who shall hold his office for the term of four years, and shall receive such compensation, payable out of the county treasury, as shall be provided by law. Whenever ten per cent. of the number of the electors voting for governor at the next preceding election in any county, having less than sixty thousand population as determined by the next preceding federal census, shall petition the judge of the court of common pleas of any such county not less than ninety days before any general election for county offices, the judge of the court of common pleas shall submit to the electors of such county the question of combining the probate court with the court of common pleas and such courts shall be combined and shall be known as the court of common pleas in case a majority of the electors voting upon such question, vote in favor of such combination. Notice of such election shall be given in the same manner as for the election of county officers. Elections may be had in the same manner for the separation of such courts, when once combined.

SEC. 12. The judges of the courts of common pleas shall, while in office, reside in the county for which they are elected; and their term of office shall be for six years.

SEC. 15. Laws may be passed to increase or diminish the number of judges of the supreme

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court, to increase beyond one or diminish to one the number of judges of the court of common pleas in any county, and to establish other courts, whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition or diminution shall vacate the office of any judge; and any existing court heretofore created by law shall continue in existence until otherwise provided. The judges of the courts of common pleas in office, or elected thereto prior to January first, 1913, shall hold their offices for the term for which they were elected and the additional judges, provided for herein, shall be elected at the general election in the year 1914.

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

Mr. King rose to a question of privilege, and asked that his vote be recorded on Proposal No. 252, by Mr. Weybrecht. His name being called, Mr. King voted "aye."

Mr. KING: I move that the rules be suspended and that Proposal No. 340 be taken up for the second reading.

The motion was carried.

Proposal No. 340—Mr. Taggart, was read the second time.

The question being "Shall the proposal pass?"

The yeas and nays were taken, and resulted—yeas 103, nays none, as follows:

Those who voted in the affirmative are:

Anderson,	Harris, Hamilton,	Okey,
Antrim,	Harter, Huron,	Partington,
Baum,	Henderson,	Peck,
Beatty, Morrow,	Hoffman,	Peters,
Beyer,	Holtz,	Pettit,
Brattain,	Hursh,	Pierce,
Brown, Highland,	Johnson, Madison,	Price,
Brown, Pike,	Johnson, Williams,	Read,
Campbell,	Jones,	Riley,
Cody,	Kehoc,	Rockel,
Collett,	Keller,	Roehm,
Colton,	Kerr,	Rorick,
Cordes,	King,	Shaffer,
Crites,	Knight,	Shaw,
Crosser,	Kramer,	Smith, Geauga,
Cunningham,	Kunkel,	Smith, Hamilton,
Davio,	Lambert,	Solether,
Donahey,	Lampson,	Stalter,
Doty,	Leete,	Stamm,
Dunlap,	Leslie,	Stevens,
Dunn,	Longstreth,	Stewart,
Dwyer,	Ludey,	Stilwell,
Earnhart,	Malin,	Stokes,
Eby,	Marriott,	Taggart,
Elson,	Marshall,	Tannehill,
Fackler,	Matthews,	Tetlow,
Farrell,	Mauck,	Thomas,
FitzSimons,	McClelland,	Ulmer,
Fluke,	Miller, Crawford,	Wagner,
Fox,	Miller, Fairfield,	Walker,
Hahn,	Miller, Ottawa,	Watson,
Halenkamp,	Moore,	Winn,
Halfhill,	Norris,	Wise,
Harbarger,	Nye,	Woods.
Harris, Ashtabula,		

So the proposal passed as follows:

Proposal No. 340—Mr. Taggart, to submit an amendment to Schedule No. 4.

*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:

That the several amendments passed by this Convention or any of the same when adopted at the election shall take effect on the first day of January, 1913, except as otherwise specifically provided in any of said amendments. And all laws then in force not inconsistent therewith shall continue in force until amended or repealed; provided that all cases pending in the courts at the time this amendment takes effect shall be heard and tried in the same manner and by the same procedure as is now authorized by law.

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

Proposal No. 249—Mr. Tannehill, was read the third time.

Mr. SMITH, of Hamilton: I offer an amendment. The amendment was read as follows:

At the end of said proposal add the following: "Candidates for all judicial officers of counties and candidates for members of the general assembly shall be nominated by nominating petitions only and shall be voted for upon one independent and separate ballot without any emblem or party designation whatever."

Mr. TANNEHILL: This proposal is so easily understood that I think it needs no further comment.

Mr. SMITH, of Hamilton: The proposal is an excellent one, but it could be better. The members of this Convention were nominated and elected as provided in my amendment.

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

At the end of line 16 add the following: "All primary tickets shall be placed upon the same ballot".

Mr. ULMER: I take it for granted that every member of this Convention, and I think every citizen of Ohio, is in favor of the Australian ballot system. It protects the citizen. It keeps his vote secret. He does not have to expose his political affiliation when he goes to the polls and I think if that is a good thing at a regular election it is a good thing at a primary election. I think every man here will agree with me that this secrecy is one of the fundamental principles of government. It is just as important that this selection be one of the fundamental principles of government. It is just as important to select a man properly as to elect him. After this election is made you have no other choice. If you have a ticket made up of poor men it is simply a choice between three or four poor men. In the last primary I heard a great number of complaints of citizens because they had been asked, "What kind of a ballot do you want? Are you a republican or a democrat or a socialist?" I have seen citizens walk away from the booths saying it is an outrage to compel a free man to express his political affiliation. I say it is all wrong and

## Primary Elections.

I want as much secrecy in the primary as there is in the main election.

Mr. LAMPSON: Would you think it would be entirely fair to have the members of one party determine the nominees of the other party? That would certainly be done under your amendment.

Mr. ULMER: It makes no difference who nominates the men if the men are good men. If I am a democrat and there is a good man on the republican ticket I should have a right to help nominate him.

Mr. TANNEHILL: In regard to the amendment offered by the gentleman from Hamilton county I want to say that when my neighbors start a rough house and kill the family cat, I resist with all the power I have any disposition on their part to cast the carcass over into my back yard; and if I have any friends in this Convention, and I think I have, I hope they are going to side with me and not insist on the obsequies being held on my premises. In this proposal I have one of the most necessary reforms that will go out from this Convention. It is a matter that I have given a life study to and I know we have it in good shape. It will carry by a good big majority in the state and I do not believe in this trying to cover the whole field of reform at one sweep. I think we have in this proposal all the reform that we want at this time, and I hope the Convention will stay with me as on the second reading and put the proposal through just as it is. The amendment of the gentleman from Lucas entirely vitiates the proposal as it stands. It injects politics and will endanger the passage of the proposal.

Mr. SMITH, of Hamilton: What has happened over night to make you change so completely?

Mr. TANNEHILL: I am in favor of what you are proposing, but not to fasten it onto this. My proposal deals with primaries, but not with elections. I move that both amendments be tabled.

Mr. FACKLER: I ask for a division and I demand the yeas and nays.

Mr. PECK: I have been demanding recognition for five minutes.

The PRESIDENT PRO TEM: The gentleman from Morgan had the floor and I could not recognize any other gentleman.

Mr. PECK: That is the fourth or fifth time that this has been done.

The PRESIDENT PRO TEM: I beg your pardon, I have not done it at all. The question is on laying the amendment of the delegate from Hamilton on the table and the yeas and nays have been demanded.

Mr. ANDERSON: A point of order. The amendment as it reads is meaningless.

The PRESIDENT PRO TEM: The member may be stating a fact, but it is not a point of order. As a point of order it is overruled and the secretary will call the roll on the motion to table the amendment of the delegate from Hamilton [Mr. SMITH].

The yeas and nays were regularly demanded.

The yeas and nays were taken, and resulted—yeas 57, nays 49, as follows:

## Those who voted in the affirmative are:

Anderson,	Holtz,	Partington,
Antrim,	Hoskins,	Peck,
Baum,	Hursh,	Peters,
Beatty, Morrow,	Kerr,	Pettit,
Brattain,	Knight,	Read,
Brown, Highland,	Kramer,	Rockel,
Brown, Pike,	Lampson,	Roehm,
Collett,	Longstreth,	Rorick,
Colton,	Ludey,	Shaw,
Donahey,	Marriott,	Smith, Geauga,
Dunlap,	Matthews,	Stevens,
Earnhart,	McClelland,	Stewart,
Eby,	Miller, Crawford,	Stokes,
Elson,	Miller, Fairfield,	Taggart,
Fluke,	Miller, Ottawa,	Tannehill,
Fox,	Moore,	Thomas,
Halfhill,	Norris,	Wagner,
Harris, Ashtabula,	Nye,	Watson,
Harris, Hamilton,	Okey,	Woods.

## Those who voted in the negative are:

Beyer,	Halenkamp,	Marshall,
Bowdle,	Harbarger,	Pierce,
Campbell,	Harter, Huron,	Price,
Cassidy,	Henderson,	Riley,
Cody,	Hoffman,	Shaffer,
Cordes,	Johnson, Madison,	Smith, Hamilton,
Crites,	Johnson, Williams,	Solether,
Crosser,	Jones,	Stalter,
Cunningham,	Kehoe,	Stamm,
Davio,	Keller,	Stilwell,
Doty,	King,	Tetlow,
Dunn,	Kunkel,	Ulmer,
Dwyer,	Lambert,	Walker,
Fackler,	Leete,	Winn,
Farrell,	Leslie,	Wise,
FitzSimons,	Malin,	Mr. President.
Hahn,		

So the amendment offered by the delegate from Hamilton [Mr. SMITH] was laid on the table.

The PRESIDENT PRO TEM: The question is: "Shall the amendment of the delegate from Lucas [Mr. ULMER] be laid on the table?"

The yeas and nays were regularly demanded.

The yeas and nays were taken, and resulted—yeas 69, nays 27, as follows:

## Those who voted in the affirmative are:

Anderson,	Hoskins,	Partington,
Antrim,	Hursh,	Peters,
Baum,	Johnson, Madison,	Pettit,
Beatty, Morrow,	Johnson, Williams,	Pierce,
Bowdle,	Jones,	Read,
Brattain,	Kehoe,	Rockel,
Brown, Highland,	Kerr,	Roehm,
Brown, Pike,	King,	Rorick,
Campbell,	Knight,	Shaw,
Collett,	Kramer,	Smith, Geauga,
Colton,	Lambert,	Solether,
Crites,	Lampson,	Stalter,
Cunningham,	Longstreth,	Stevens,
Dwyer,	Ludey,	Stewart,
Eby,	Marriott,	Stokes,
Elson,	Matthews,	Taggart,
Fluke,	McClelland,	Tannehill,
Fox,	Miller, Crawford,	Tetlow,
Halenkamp,	Miller, Fairfield,	Thomas,
Halfhill,	Miller, Ottawa,	Wagner,
Harris, Ashtabula,	Moore,	Walker,
Harris, Hamilton,	Nye,	Watson,
Holtz,	Okey,	Woods.

## Those who voted in the negative are:

Beyer,	Davio,	Dunn,
Cody,	Donahey,	Farrell,
Cordes,	Doty,	FitzSimons,

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Hahn,	Malin,	Shaffer,
Harter, Huron,	Marshall,	Smith, Hamilton,
Hoffman,	Norris,	Stamm,
Keller,	Peck,	Stilwell,
Kunkel,	Price,	Ulmer,
Leslie,	Riley,	Wise.

So the motion to table was carried.

Mr. JOHNSON, of Williams: I offer an amendment.

The amendment was read as follows:

In line nine strike out "two" and insert "five".

Mr. JOHNSON, of Williams: The people in my county are unanimously opposed to this proposal. We have two towns of nearly four thousand each and one of over twenty-five hundred, and I do not think there is a single person in either place that is for this proposal. I hope the amendment will be adopted.

Mr. HARRIS, of Hamilton: I move that the amendment be tabled.

The motion was carried.

Mr. STOKES: I offer an amendment.

The amendment was read as follows:

Strike out the word "shall" in line 13 after the word "delegate" and insert "may."

The amendment was not agreed to.

Mr. THOMAS: I offer an amendment.

The amendment was read as follows:

At the end of the proposal add Sec. 8, to Art. V.

SEC. 8. The candidates whose nominations for any office specified on the ballot have been duly made, and not withdrawn, shall be arranged in groups under the designations of the office for which such candidates have been nominated. To the name of each candidate shall be added his party or political designation in initials, as the same appears in the certificate of nomination or nomination papers.

The amendment was not agreed to.

Mr. PECK: I offer an amendment:

The amendment was read as follows:

In line 6 after the word "petition" insert "or otherwise".

Mr. PECK: I do not think it is wise to tie up this matter of primary election by any hard and fast constitutional rule, that can never be changed, and I want to put in words that will give the general assembly some way to change these matters if occasion requiring a change arises. All the wisdom is not in this room. I do not believe that any system of direct primaries is such a valuable thing as some people think, although it may be an improvement in some cases. I know of cases where the worst machines in this state are supported and run on direct primaries, and you cannot oust the gang, because they control the direct primaries. George B. Cox cannot be beaten in Cincinnati at a primary. Talk about direct primaries! They feed the machines right along because the machines can always get more people out to the primaries than anybody else can. Cox ordered all of his men to vote on a particular election one time and succeeded in bringing out twenty-two thousand votes when there was really no contest and only

one ticket, but he ordered his henchmen to turn out and get everybody out they could and they brought out twenty-two thousand votes, which was five times as many as anybody could bring out against him. The primary can be made a machine as well as any other sort of a machine. When you nominate men by direct primaries now the nominations are really made by a little clique meeting somewhere in a back room and selecting the men and then passing out the word that Smith and Jones are the men to be put on the ticket. That is the way it is done now.

Mr. TANNEHILL: I hope the Convention understands that these words vitiate everything that we are trying to get, and I move that the amendment be laid on the table.

On this motion the yeas and nays were regularly demanded.

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

Those who voted in the affirmative are:

Anderson,	Harbarger,	Pierce,
Antrim,	Harris, Ashtabula,	Roehm,
Baum,	Holtz,	Shaffer,
Beatty, Morrow,	Hoskins,	Stevens,
Colton,	Kehoe,	Stewart,
Crites,	Knight,	Stilwell,
Crosser,	Kramer,	Taggart,
Donahay,	Lampson,	Tannehill,
Doty,	Longstreth,	Tetlow,
Dunn,	McClelland,	Thomas,
Earnhart,	Miller, Crawford,	Wagner,
Fackler,	Miller, Fairfield,	Walker,
Farrell,	Moore,	Watson,
Fluke,	Nye,	Winn,
Fox,	Okey,	Woods.

Those who voted in the negative are:

Beyer,	Harter, Huron,	Mauck,
Bowdle,	Henderson,	Miller, Ottawa,
Brattain,	Hoffman,	Norris,
Brown, Highland,	Hursh,	Partington,
Brown, Pike,	Johnson, Madison,	Peck,
Campbell,	Johnson, Williams,	Peters,
Cody,	Jones,	Pettit,
Collett,	Keller,	Price,
Cordes,	Kerr,	Read,
Cunningham,	King,	Riley,
Davio,	Kunkel,	Rockel,
Dunlap,	Lambert,	Rorick,
Dwyer,	Leete,	Shaw,
Eby,	Leslie,	Smith, Geauga,
Elson,	Ludey,	Smith, Hamilton,
FitzSimons,	Malin,	Solether,
Hahn,	Marriott,	Stalter,
Halenkamp,	Marshall,	Stamm,
Halfhill,	Matthews,	Ulmer.

So the motion to table was lost.

The PRESIDENT PRO TEM: The question is on the amendment offered by the gentleman from Hamilton [Mr. PECK].

Mr. ANDERSON: Let us be consistent in voting upon this Proposal No. 249. With the words "or otherwise" in it, it means nothing. Let us analyze it.

Mr. PECK: It won't hurt anybody.

Mr. ANDERSON: "Or otherwise" means anything that the legislature wants to do—any old thing. It has been said here, and with truth, that sometimes bosses control at a primary. That is the exception when they do. It is the exception when they do not through the convention. A convention spells boss rule. The candi-

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dates elected in a state convention are half made by the bosses and the object of this proposal was to let the people have some chance. Could Pennsylvania have ever thrown off the shackles of the bosses if it hadn't been for the primaries? They tried it for years and years and never succeeded.

Mr. MAUCK: Didn't Pennsylvania hold a state convention—

Mr. ANDERSON: Yes, but in the state convention they didn't dare disregard the primaries.

Mr. PECK: When was it that Pennsylvania threw off the bosses? I thought they had them as bad as ever.

Mr. ANDERSON: I am rather more familiar with Pennsylvania than you are. It is true they threw off a number of bosses and took on one or two bosses, but they have gotten in the habit now of getting rid of the bosses. They couldn't get rid of all because there were some bosses on each side, but they have learned, thank God, to get rid of bosses. If you are not in favor of this proposal with "or otherwise" out of it, vote against it. With those words in it, it is absolutely worthless.

Mr. NYE: I do not care especially to speak on the subject of the amendment, but I do want to speak against the whole proposition. I believe that there ought to be in the nomination of officers consultation and conference between the best citizens of the community. You cannot have that in the proposal that was presented here because every individual can go forward and get his name put on the ticket. All he has to do is to say I nominate myself and he can get enough friends to sign the paper to put him on the ticket.

Mr. ANDERSON: Does not that give the people as much of an opportunity to pick any one candidate they please as it does letting a few of these alleged citizens pick them for them?

Mr. NYE: But there is no sort of a connection. Suppose you get ten men on a ticket; no one has a second choice as to who they will vote for, but if you have a convention of representative men from your county or your district or your state you can get together and have a conference and if you cannot get your first choice you can get your second choice. It seems to me you are putting this into the hands of the worst kind of bosses. This is bossism all of the time, but if you have a convention of the leading men of your community you can them get together and confer together and nominate good men. I do not know how it is in the cities, but I have lived in a rural district for more than forty years and we have always had good officers because the people got together and they talked the matters over and listened to objections and argument, and if they couldn't get their first choice they would take their second choice, and under this process that is proposed here you cannot have any second choice. You just vote indiscriminately. Ten men vote for one man, and ten for another, and ten for another, and eleven for another, and the one who gets the eleven votes out of the forty-one votes is nominated.

It seems to me that you are making a mistake in passing this. Read it through. How are you going to carry it out? I do not believe that you have read the proposal or considered it. I believe, as was said by the member from Auglaize [Mr. HOSKINS] last night, that the life of a country and of a state depends upon par-

ties, and if you cannot have parties you cannot be successful.

Mr. TANNEHILL: Gentlemen of the Convention: I want to ask you in all earnestness to at least vote down the Peck amendment when it comes up. Do not make a joke of the proposal. If you are like the gentleman who has just taken his seat, whom I honor, vote against the proposal. I have no objection to your voting against the proposal, but don't put in an amendment that makes a joke of the whole matter.

Mr. PECK: I do not think that my amendment makes a joke of this matter. It leaves the power plainly conferred by the constitution upon the general assembly to pass such laws as are necessary under the subject of primary elections. I think that is something more than a joke. It seems to me that that is a valuable thing if you want to have primary elections regulated by law, which is a matter of very doubtful propriety at any rate. All of us who are past middle age can remember the time when there was no such a thing as a primary under the law. We got together in a convention and had our ballot and the whole matter was voluntary. It was a meeting of free citizens attending to their public affairs, as they had a right to do, and not at the expense of the community or anybody's expense but their own. We believed that any set of men had a right to meet in any hall and discuss and determine what to do about public affairs and there was no constitutional convention or legislature that had a right to regulate that meeting. It was a thing that was guaranteed by the bill of rights. The people have a right to assemble together to freely discuss their affairs and here you propose to regulate. I say there has never been any propriety in these primary election laws, from the old Baber law down to the present time. They are frauds and humbugs and they have been going on from bad to worse, and this proposal if adopted would give the general assembly what, in my judgment, it never has had, constitutional power to regulate primary elections. I do not believe any general assembly has the right to interfere with the power of the people to come together and agree on whom they will support.

Certainly I did not intend to make any joke of this proposition. I intended it in dead earnest. I do not know how this went through on its second reading. I don't believe I was present. At any rate it had nearly a unanimous vote. But that does not affect me much. I am like the fellow was at the revival meeting. Once upon a time there was a fellow somewhat inebriated staggered into the back part of a church where there was a revival meeting going on, and he dropped down into a pew and went to sleep. After a while the minister got worked up and he was down in front of the platform walking back and forth and he said "All of you who believe in a hereafter and who want to go to Heaven stand to your feet." The congregation rose as one man. Then he requested them to sit down and he called for all who wanted to go in the opposite direction to rise. Just at that moment the inebriated individual awoke and he stumbled to his feet and said, "Mr. Chairman, I don't know just what this question here is that we are voting on, but I do know that you and I are in a very small minority."

I don't care anything about being in a minority if I

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think I am right and I believe I am right on this subject of primary elections. I have been thinking about it for years and I have never had any faith in them and the legislature should have a right to regulate them.

Mr. WATSON: I hope the amendment by my good friend Judge Peck will not prevail, as each one of us knows that it will destroy the efficacy of the proposal. I hope the proposal will go through as presented.

Mr. STEVENS: I am surprised at the statement that the member from Hamilton does not know how this proposal came to pass on the second reading. If you will turn to the journal of April 16 you will find that the name of the gentleman from Hamilton is recorded as voting for this proposal. That will probably give him some information as to how the proposal got through and there were one hundred votes for it and only two against it. If you don't like the proposal and want to beat it, vote against it fair and square, but don't kill it by amendment. Meet your enemies fair and square.

Mr. PECK: I have no enemies in this Convention. I vote on principles. I never vote for personal reasons.

Mr. WINN: I just want to say a word about the proposal. I have for a good many years hoped to see the day when elective officers of the state, district, county and municipality would all be chosen at primary elections. I believe that is the only fair way, and I have hoped, as many of us have, against hope that sometime the legislature would see fit to enact a statute by which all of those officers would be nominated at primaries. But the legislature has refused, as you know, time and again to make a provision through which senators might be nominated that way, so that we have this peculiar situation: We go to primaries to nominate members of the house of representatives but always go to a convention to nominate senators because there are always so many men in the senate who know they could not get back if they were to depend upon primaries.

Now I hope that this proposal will be adopted. I am not going to be a candidate for anything, but I want this proposal to be adopted nevertheless. If this amendment offered by the gentleman from Cincinnati [Mr. PECK] is adopted it means that the whole proposal is absolutely nothing.

Mr. STOKES: I move the previous question on the amendment of the gentleman from Hamilton and on the proposal itself.

The main question was ordered.

Mr. TANNEHILL: I demand the yeas and nays on the passage of the amendment offered by Judge Peck, of Cincinnati.

The yeas and nays were taken, and resulted — yeas 34, nays 68, as follows:

Those who voted in the affirmative are:

Bowdle,	Hahn,	Malin,
Prattain,	Halfhill,	Marshall,
Brown, Pike,	Hoffman,	Matthews,
Campbell,	Johnson, Madison,	Mauck,
Cody,	Johnson, Williams,	Miller, Ottawa,
Collett,	Keller,	Norris,
Cordes,	Kerr,	Nye,
Cunningham,	King,	Peck,
Dwyer,	Ludey,	Price,

Read,	Shaw,	Stalter,
Rockel,	Smith, Geauga,	Stamm.
Rorick,		

Those who voted in the negative are:

Anderson,	Harris, Ashtabula,	Peters,
Antrim,	Harris, Hamilton,	Pettit,
Baum,	Harter, Huron,	Pierce,
Beatty, Morrow,	Henderson,	Roehm,
Beyer,	Holtz,	Shaffer,
Brown, Highland,	Hoskins,	Smith, Hamilton,
Colton,	Hursh,	Solether,
Crites,	Kehoe,	Stevens,
Crosser,	Knight,	Stewart,
Davio,	Kramer,	Stilwell,
Donahey,	Kunkel,	Stokes,
Doty,	Lambert,	Taggart,
Dunn,	Lampson,	Tannehill,
Earnhart,	Leete,	Tetlow,
Eby,	Leslie,	Thomas,
Elson,	Longstreth,	Ulmer,
Fackler,	Marriott,	Wagner,
Farrell,	McClelland,	Walker,
FitzSimons,	Miller, Crawford,	Watson,
Fluke,	Miller, Fairfield,	Winn,
Fox,	Moore,	Wise,
Halenkamp,	Okey,	Woods.
Harbarger,	Partington,	

So the amendment was not agreed to.

The PRESIDENT PRO TEM: The question now is "Shall the proposal pass?"

The yeas and nays were taken, and resulted — yeas 78, nays 23, as follows:

Those who voted in the affirmative are:

Anderson,	Harbarger,	Peters,
Antrim,	Harris, Ashtabula,	Pettit,
Baum,	Harris, Hamilton,	Pierce,
Beatty, Morrow,	Harter, Huron,	Read,
Beyer,	Henderson,	Rockel,
Bowdle,	Hoffman,	Roehm,
Brown, Highland,	Holtz,	Shaffer,
Brown, Pike,	Hoskins,	Smith, Geauga,
Colton,	Hursh,	Smith, Hamilton,
Cordes,	Jones,	Solether,
Crites,	Kehoe,	Stamm,
Crosser,	King,	Stevens,
Davio,	Knight,	Stewart,
Donahey,	Kramer,	Stilwell,
Doty,	Kunkel,	Stokes,
Dunn,	Lambert,	Taggart,
Earnhart,	Lampson,	Tannehill,
Elson,	Leete,	Tetlow,
Fackler,	Leslie,	Thomas,
Farrell,	Longstreth,	Ulmer,
FitzSimons,	McClelland,	Wagner,
Fluke,	Miller, Crawford,	Walker,
Fox,	Miller, Fairfield,	Watson,
Hahn,	Moore,	Winn,
Halenkamp,	Okey,	Wise,
Halfhill,	Partington,	Woods,

Those who voted in the negative are:

Brattain,	Keller,	Norris,
Campbell,	Ludey,	Nye,
Cody,	Malin,	Peck,
Collett,	Marriott,	Price,
Cunningham,	Marshall,	Riley,
Dunlap,	Matthews,	Rorick,
Dwyer,	Mauck,	Shaw.
Johnson, Williams,	Miller, Ottawa,	

So the proposal passed as follows:

Proposal No. 249 — Mr. Tannehill, to submit an amendment by adding section 7, to article V, of the constitution. — Primary elections.

*Resolved, by the Constitutional Convention of*



## Primary Elections—Organization of Board of Education.

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

## 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 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.

Mr. MARRIOTT: When Proposal No. 329—Mr. Knight, was before the Convention for final passage, I voted against it and the proposal failed. Since that time I have been reliably advised that the American Book Trust has been for weeks lobbying against this proposal. There must be something good in it if the American Book Trust opposes it. I have known a little of the blighting effects of that monopoly upon the people of this state and I move to reconsider the vote by which this Proposal No. 329 was lost.

Mr. LAMPSON: I now move that we recess until eight o'clock tonight.

The motion to recess was carried.

## EVENING SESSION.

The Convention met pursuant to recess and was called to order by the president pro tem [Mr. Dory].

The PRESIDENT PRO TEM: The question is on the motion to reconsider the vote whereby Proposal No. 329 was lost.

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

The PRESIDENT PRO TEM: A call of the Convention is demanded. The sergeant-at-arms will close the doors and the secretary will call the roll.

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

Beatty, Wood,	FitzSimons,	Redington,
Bowdle,	Hahn,	Rorick,
Brown, Lucas,	Henderson,	Shaffer,
Brown, Pike,	Kilpatrick,	Stamm,
DeFrees,	Leslie,	Tallman,
Dwyer,	Matthews,	Weybrecht,
Evans,	Miller, Fairfield,	Worthington,
Farnsworth,	Partington,	Mr. President.
Fess,	Peck,	

The president pro tem announced that ninety-three members had answered to their names.

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

The sergeant-at-arms appeared at the bar of the Convention with Mr. Partington and Mr. Shaffer.

Their names being called they answered "here."

Mr. TAGGART: I move that all further proceedings under the call be dispensed with.

The motion was carried.

The PRESIDENT PRO TEM: The question is on the motion of the delegate from Delaware [Mr. MARRIOTT] to reconsider the vote by which Proposal No. 329 was lost.

Mr. KNIGHT: Personally I regret extremely that the motion to reconsider has brought into discussion a factor which, as one interested in this proposal, I had purposely avoided introducing. Sometime before this amendment was proposed and offered in this Convention I had been aware of the fact that there were three kinds of opposition to it that might be looked for. I was notified by some of my colleagues and by gentlemen of long acquaintance upon the street, with whom I had talked over the proposal, that as soon as it was introduced it would receive the active opposition of a very large concern interested in the publication of public school books. No sooner was the proposal introduced than that statement seemed to be verified. There have been three kinds of opposition. One entirely honest opposition, as I am glad to believe, from those interested in the rural schools in the state of Ohio, and that opposition I believe has been entirely removed by the amendment, which was offered by myself and accepted and adopted this afternoon, confining the referendum vote to city school districts alone and leaving the rural districts entirely untouched.

The second form of opposition came from an unexpected quarter because it was farthest from the minds of any that it would be involved here and that seemed to hint at suppressing or crippling the good work or life or activity of two old colleges in the state of Ohio, the Ohio University and the Miami University. The proposition has nothing of that sort in view and that opposition may easily be allayed if there is any longer an idea that the proposal has any such purpose, by the acceptance of the amendment of the gentleman from Butler. I cannot speak for anyone else, but I am so interested in two features of this proposal that I am willing, for the sake of having those two main features adopted, so far as I am personally concerned, to have the amendment adopted striking out the words "an educational," making it applicable to the public school system.

The third opposition has come from those who feared that the proposal would in some way take out of the hands of all school districts and centralize in the state control of every school and the management of the school system of the state of Ohio. As to the last I have given a most careful examination of the proposal and compared it with similar proposals in other states that are now upon the statute books, and I am unable to find anything in the proposal which will warrant, in the least degree, any fear on that ground. If there be anything in it that does it, I shall be extremely glad to have it pointed out so that I can take away that feature. What this tries to provide for is what we have never had—a head of the public school system, a supervisory

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power, and without doubt control in the lawmaking power over the educational public school system as a unit.

The third opposition came also—and I can see why it came—from a large body of citizens of this state who are interested not only in the public schools, but in the private parochial schools, and the objection from that source was relieved by the acceptance of the amendment of the delegate from Montgomery, which makes it clear that this proposal touches no schools except those supported by public funds. The state has been circularized from one end to another by circulars which are absolutely untrue as to the contents of this proposal. These circulars have stated that the adoption of this proposal would place in the hands of each school district in the state the power to defeat the compulsory education law and would leave to each district to decide whether we would have the schools a minimum length of time, and it would conflict with the state requirement as to the minimum wage scale for teachers, and all that. That statement is false from start to finish. It was furnished to the newspapers of the state to be sent over the state, and but for the kindness of one newspaper man it would not have come to my notice until it was spread over the state. There is not now and never has been in the proposal a thing to warrant any such statement. I know, and other members of this Convention know, that for the last four weeks there have been constantly in the galleries and in the lobbies of this building and in the lobby on this floor those who have been working against this proposal, and I might say incidentally that among those is at least one person who within the last year has been actively working against the initiative and referendum in the state of Ohio and still is. This does not bear on this proposal, but it is information worth while. I regret that this was brought in here. Personally I have no idea that any gentleman who voted against the proposal this afternoon was influenced thereto by any such matter. I have learned that every one of my hundred and eighteen colleagues is here doing what he feels individually to be best for the state of Ohio, and I am very certain that the gentleman who moved the reconsideration has no such feeling with reference to any of our colleagues; but facts are facts, and I feel that no one who voted against the proposal this afternoon should feel that he is under an imputation personally. I desire that this proposal, if it is reconsidered, shall stand or fall upon its own merits, but I do believe that we ought to know, since the subject was raised here these facts. I think that the proposal is necessary for two reasons:

1. Because the municipal home rule proposal which we have passed is so broad that there is a possibility that unless this is adopted the city of Columbus might have power to do a good deal more in the way of control of its educational system than is desirable it should have. It would be inconsistent with the unified public school system of the state. As I stated on second reading, I was convinced more than ever before of the necessity of the first part of the proposal and the second part deals solely with the referendum, the right of the cities to decide the size of their school board. I hope the motion to reconsider will be adopted and if adopted, as I have already stated, so far as I am personally concerned, the

amendment of the gentleman from Butler will be satisfactory to me.

Mr. HOSKINS: I have been in doubt about this proposal and I have been opposed to it. Nobody has put up any argument to me, but I should like to know the specific things which the educators have in view in the public school system.

Mr. KNIGHT: There are no present specific changes of any kind, but simply unquestioned authority on the part of the lawmaking power of the state to make such changes from time to time, under state control and under state centralized legislation, as the advancing of the state education and the demands of education in the state require. I have absolutely nothing up my sleeve.

Mr. HOSKINS: I did not insinuate you had anything up your sleeve. I supposed you had an idea of what you wanted to do.

Mr. KNIGHT: Personally I had an idea that we need in this state two things which we have never had. The best proposal that has been adopted by this Convention takes care of one of those, namely, it does provide for a head supervisor of the entire public school system and practically compels the legislature to provide for that. This one which we are now considering provides for all authority to the legislature to enact such legislation as shall under his guidance and direction make that school a real system. Now I speak as one who has come in contact with education, and while I am interested in higher education I am not entirely a university man. My entire life and education has been in the public schools supported by public taxation. All of my teaching has been there. While it is admitted that we have in Ohio the making of a good school system we have lacked that recognition of it outside of the state which has come from the fact that we have not a head of it as more than half of the states of the Union have provided in their constitutions and that the legislature has never had the power to do those things necessary, nor has the school commissioner, because he is a statutory officer and might be legislated out of office at a moment's notice at any time he urged anything contrary to the desires of the legislature.

Mr. HOSKINS: Is it the intention of the proposal to confer any power of any sort to do anything except the management of public schools, and are all colleges and universities excluded from the operation of this proposal?

Mr. KNIGHT: What do you mean by all colleges?

Mr. HOSKINS: Does this proposal affect Miami or Athens?

Mr. KNIGHT: Not with the amendment of the gentleman from Butler, which, so far as I am personally concerned, I am willing to put in.

Mr. HOSKINS: It would not have in contemplation the creation of power to create a state board of regents to have supervision?

Mr. KNIGHT: This proposal does not give it unless it exists now.

Mr. HOSKINS: Do you think there is anything in this proposal that does not already exist in the legislature?

Mr. KNIGHT: In view of what is in the home rule proposal, I will have to answer this way: I feel that this proposal is necessary to make sure that the power hith-

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erto exercised by the general assembly may not be split up into pieces among the various municipalities.

Mr. PIERCE: You have already heard the statement of the gentleman from Franklin [Mr. KNIGHT] and, so far as I am personally concerned, I trust the Convention will look at it in the same light. I would like to see the reconsideration ordered and thereupon I shall offer my amendment.

Mr. WINN: I shall vote against this proposal and I want two or three minutes to tell why. I shall vote against it because there is not a single thing that can be accomplished under this proposal that cannot be accomplished under existing constitutional provision. I forget what section it is, but one provision of the bill of rights—I think it is the seventh section—enjoins upon the general assembly of the state of Ohio the duty of establishing public schools. Section 2 of article VI provides in general terms that the general assembly shall make provision by taxation or otherwise for the establishment of a system of public education. Now go back with me to the old case of State vs. Cincinnati, decided in 19 O. S., away back before the colored men were enfranchised. Under existing provisions of the constitution Cincinnati provided for a special district to be presided over by a board of education of colored people to be chosen at the ballot box by the colored people. That was the case that first made Judge Foraker famous or infamous, whichever it may have been. It was maintained that inasmuch as the colored men were not citizens they could not be members of the board of education, yet the supreme court said if the legislature saw fit to create that special district of colored people, and to provide that the colored people should choose their own officers, they had a right under the constitution to do it. Just turn to one case decided by our supreme court. It is in the case of the State vs. McCann:

The system of public education in Ohio is the creature of the constitution and statutory laws of the state. \* \* \* It is left to the discretion of the general assembly in the exercise of the general legislative power conferred upon it [by article II, section 1] to determine what laws are suitable to secure the organization and management of the contemplated system of common schools without expressed restriction except that no religious or other sect or sects shall ever have any exclusive right to or control of any part of the school funds of this state.

So you see the general assembly is left to do as it sees fit to do except that it cannot require any religious tests. Now, what can the legislature do under this Proposal No. 329 that cannot be done under the present constitution?

Mr. KNIGHT: Was it not the gentleman from Defiance [Mr. WINN] who introduced—and subsequently drafted an amendment—a complete substitute for section 7 of the municipal home rule proposal in place of the one drafted by the committee?

Mr. WINN: Yes, I did.

Mr. KNIGHT: That was adopted?

Mr. WINN: Yes, it was adopted.

Mr. KNIGHT: And it is because of that amendment so drafted that it becomes now questionable

whether the power he has referred to in the constitution of 1851 is still such as to keep the cities from punching holes in the state educational system.

Mr. WINN: And do you claim that this Proposal No. 329 was drafted with reference to that amendment? I think the proposal was introduced long before the amendment.

Mr. KNIGHT: At the time it was on second reading was it not expressly stated that an additional strong reason for this was the adoption in the forenoon of the same day, at the instance of the gentleman from Defiance, of an amendment or substitute?

Mr. WINN: That may have been stated. I would not undertake to say what was said that day by the gentleman from Franklin. He may have said it on the floor or in the hall or in the smoking room.

But let us read this. I regard it as just that much reading matter of no importance. No person has asked me to vote for it or against it and outside of what I read in the paper, which you all read and which was to the effect that there was a movement on foot to defeat the proposal, I know nothing about the opposition. I read that in the paper the day after we voted on it on second reading.

“Provision shall be made by law for the organization, administration and control of the public schools and educational system of the state.” This is already in the constitution. Now, there is just this much in the proposal that has some merit in it: “Provided, that each school district shall have the power by referendum vote to determine for itself the number of members and the organization of the district board of education.”

But that also can be done now under existing provisions of the constitution.

Mr. STALTER: I desire to ask the member from Franklin [Mr. KNIGHT] if there is any difference between the language used in the present constitution which provides for an efficient system of common schools, and the language used in the proposal for the control of the public schools and educational system of the state. And then, inasmuch as the question has been raised about the American Book Company, I believe the information ought to be made known to this body whether the American Book Company has a registered lobbyist here, and if the company has not it would assist me to learn if the party making the charge about the American Book Company is registered. That would give me information.

Mr. ELSON: May I at this time make a reference to the statement of Mr. Stalter?

The PRESIDENT PRO TEM: The gentleman has five minutes, if he can do it in that time.

Mr. ELSON: When I heard the gentleman from Delaware [Mr. MARRIOTT] I felt absolutely sure, as I still feel, that he was entirely sincere in what he said, but that he was altogether mistaken. Soon after that vote was taken this afternoon the air was full of rumors about the American Book Company and it was hinted that a certain person was lobbying for the American Book Company. I knew who was meant and I felt I was well enough acquainted to go to headquarters and make inquiries and I did so. I think it is perfectly proper for me to say about whom I am talking, Mrs.

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Mary Lee. I went to Mrs. Lee and I said, "Answer me this question directly and frankly: "Are you employed by the American Book Company?" She said, "On my honor I am not, and I never was for a single hour of my life. I have never received a dollar from that company." I said, "Whom do you represent as lobbyist here?" And she took two documents from her pockets and proved to me—I have them both here—whom she represented. One is signed by the master and secretary of the grange at Westerville, showing that she is representing them before the Fourth Constitutional Convention of Ohio. The other is from the Ohio School Improvement Federation, which she has labored for for several years and is laboring for now. I think those are the institutions she represents. I have not the slightest doubt of her statements. She is a woman of absolutely irreproachable and unimpeachable character. She is a public-spirited woman who takes an interest in public questions, and would that we had thousands of other such women in Ohio as Mrs. Mary Lee. She was also accused some time ago of representing the Chamber of Commerce—the Ohio State Board of Commerce. I am absolutely sure that she never did anything of the sort. She opposed the initiative and referendum proposal and had as much right to do that as any one else had to be for it. She did it because she is in sympathy with a large class of farmers who oppose the initiative and referendum. I think it is due to the character of this excellent woman to say on the floor of this Convention what I have said, for if any one thinks she has done anything in the nature of work for the Chamber of Commerce or the American Book Company this explanation refutes it.

Now Professor Knight has agreed to take out the two words mentioned in the Pierce amendment. I have no personal reason to object to the reconsideration of this proposal, and if I do not vote for it in the end it will be because I believe with Mr. Winn, of Defiance, that it is covered entirely now by present provision. It seems to me a proposal providing for a school superintendent with powers to be defined by law would cover the whole ground, and that as far as the number of members of school boards in cities is concerned it seems to me that ought to be taken care of in the home rule proposition.

Mr. MARRIOTT: Gentlemen of the Convention: I think I should state, in justice to myself, my reasons for having made the motion to reconsider, and in corroboration of the statements just made by the gentleman from Athens [Mr. ELSON] I would state that I do not know if I ever saw a lobbyist. I would not know one if I was to see him. Information came to me after the vote was had upon Professor Knight's proposal that the American Book Company was interested in its defeat and that it had a lobbyist here lobbying against the adoption of that proposal. Members of this Convention in whom I had and have the most implicit confidence—as I have in every member of this Convention—gave me that information. Among other things that were stated it was said that the American Book Company had a lobbyist here in the person of a lady whose name has been mentioned by Professor Elson. I had never met this lady. She has never spoken to me nor had anyone else, before the vote was taken, either for or against this proposal. I had the pleasure of meeting that lady as I left the

hall and I asked her the same question that Professor Elson has just said that he asked her. I am very sure if she were here she would give her consent that I state that she disclaimed representing the American Book Company and handed me a circular letter which had been sent out over the state, and probably to numerous delegates to this Convention, in opposition to the Knight proposal. She stated that she was interested in its defeat and had spoken to members of this Convention. I have no reason in the world to doubt the statement of the lady when she stated that she was not in the employ of the American Book Company but with the information that came to me I was unwilling to go upon record as voting for this proposal with the word going out that the American Book Company had employed a lobbyist here to lobby against this proposal, and I therefore made the motion to reconsider. I hope very much the matter will be reconsidered and that we may have another vote upon the proposal.

Mr. PARTINGTON: Members of the Convention: When I talked this afternoon I stated then that if the purpose and object of this proposal was to make for Ohio a unified system of public schools and place at its head the very best and brightest and most progressive school man that can be found anywhere in Ohio or outside, I would not object to it. After the amendment had been made this evening you will notice that the proponent has personally said that he is willing that the words "and educational" shall be taken out. That was my objection this afternoon and I want to say to you now that I have served on the educational committee in the legislature and every time that any system of schools was attempted to be worked out by the educational committee in the legislature we had this contest on between the Ohio State University and the other universities of the state. Now, if we are going to have a unified system of education, I ask you, when you reconsider this vote and when the question is before you again, if you can have a unified system of education in Ohio if Miami is absolutely independent and has a board of its own, if the same thing is true of Athens and with the Ohio State University and if it will be true of the normal schools? If these words are taken out those are outside of the unified system of education in Ohio. I state this not to injure the educational institutions of Ohio. I am in favor of them and they ought to be under the system if Ohio is to have a system of education just as well as any schools in the state of Ohio. They want to be independent. The gentleman from Athens [Mr. ELSON] knows that his opposition will cease if this institution can remain independent and run its own affairs as its own board sees fit. That is the question before the Convention tonight, and I say to you now, and I repeat, if Ohio wants to build up a system of public schools of which we and the people of Ohio can be proud, we cannot have half a dozen different boards; we must have one. Nobody from whatever source has any influence with me on this question. No American School Book Company or its agents would swerve me one tittle from my own purpose. I am not wishing to cripple or interfere with in any way Miami or Athens or any other school in the state, but this question is simply, Shall Ohio have a system of public schools with some individual at the head with an office at the

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state house at Columbus, or will we have half a dozen heads? That is the question, whether we shall have one system or half a dozen.

Mr. HURSH: I just want to say a word in conjunction with what the gentleman from Athens [Mr. ELSON] said. It was said that there was a lobbyist before this Convention for the Grange. I belong to four granges and no person who represents the Grange ought to leave the impression that the Grange is against the initiative and referendum. I am sure that the great majority of the granges in Ohio are in favor of the initiative and referendum.

The motion to reconsider was carried.

The PRESIDENT PRO TEM: The question now is, "Shall the proposal pass?"

Mr. PIERCE: I offer an amendment to strike out the words "and educational".

The PRESIDENT PRO TEM: The only way to do that is to move to reconsider the vote by which that amendment was lost.

Mr. PIERCE: I make that motion.

The motion to reconsider was carried.

The PRESIDENT PRO TEM: The question is now on the amendment, which reads, "In line 6 strike out the words 'and educational'."

The amendment was agreed to.

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

Mr. HOSKINS: If we had a resolution prepared we would introduce it now to recall you if you do not stop running this Convention too fast.

The PRESIDENT PRO TEM: The point of order is well taken.

Mr. HOSKINS: This proposition is in much better shape than it was before this amendment was consented to. I was opposed to the proposition, and, with the gentleman from Defiance, I yet fail to see any necessity for it. But there is one word of protest I want to utter. I do not like to hear charges that sinister influences are at work in this Convention and that some awful crime against the common people is about to be committed by some poor lone woman on a hundred and nineteen able-bodied men and that some poor woman from somewhere has made her appearance here for the purpose of influencing the gentlemen from Cuyahoga and Ashtabula and all the other provinces of the northeastern part of the state. It is unbecoming to even make such a charge on the floor of the Constitutional Convention. No one has ever approached me upon this proposition. I do not think that I am any better than any other member of the Convention.

DELEGATES: Agreed.

The PRESIDENT PRO TEM: The Convention will be in order and not interrupt the member.

Mr. HOSKINS: I am very glad to have this matter cleared up. I do not like to have a charge made at any time. I will tell you what I am afraid of in the proposal and if the proposal has been cleared up so that it relates only to unification of the public schools, I have no objection to it, but I do want to say to you that there has been a persistent effort in the state of Ohio for ten years past on the part of certain educational forces of the state to crush out the life of the weaker and smaller

colleges in the interest of some larger colleges, and they have been laying their grip upon the life and vitals of some of the best educational institutions of the state, and some of the best educational institutions of the state are right now up against the power and influence of a certain college that would choke out their lives. And, when they come to provide the public educational system of the state, I fear that it will extend to the appointment of a board of regents or something of that sort who would have the supervision of the college affairs of this state and the power to grant degrees and the power to describe conditions on which degrees should be granted by different colleges. I want to say to you that I am a believer in the small educational institutions, in the diversified education that brings it nearer to the doors of the people, and I do not want to see anything adopted by this Convention that would militate against that, and that is the reason why I have looked with suspicion on this proposition and the reason why I failed to vote for it when it was up for passage. I have no objection as long as it relates to the unification of the public schools of the state.

As I say, I have been at a loss to see what purpose could be accomplished by the provision of the proposal contained in the first two lines, and not being able to see what purpose could be accomplished except the one I have mentioned, I have been disposed to be against it.

It is a fundamental proposition in constitutional law that the legislature has all legislative power that is not denied it. Now what legislative power has it on the school question under the present constitution?

Another fundamental principle is that if any constitutional provision is to be effective with reference to legislative power it must do one of two things: It must either restrict or deny power or it must regulate or control already existing power.

Now let us see what the present power is. The present power is unqualified except in one respect. There is one thing enjoined upon the legislative power now with reference to the public schools and that is solely to raise enough revenue to provide for those schools. In every other respect the legislative power over schools now is absolute and complete. What can be the effect of this proposed amendment? It is not a grant of power. It does not curtail power and it does not deny the power to act upon any subject, but it is solely an attempt to restrain the exercise of power, to guide or control the exercise of power. Now, the query with me was, What is to be the effect? In what way is it to be guided or controlled? In what way is it to be exercised? The language of this proposal is, "Provision shall be made by law for the organization, administration and control of the public school system of the state." It therefore follows, this being not a denial of power, that it is a simple provision prescribing the manner in which the power shall be exercised. Not just as with the taxation question. The power of the legislature is complete over taxation now with the provision that laws shall be passed levying, etc. That is simply a regulation of the manner of the exercise of that power. Applying that principle to this proposal, it amounts to a restriction of the manner in which the power may be exercised. It therefore follows that legislation now can be enacted and restricted to what is herein provided. What would that

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be? Provide for the organization and control of the public school system. Control by whom — by what? If by some central power, what central power? Controlled by this new constitutional officer created by this other provision referred to.

Mr. ELSON: I want to make an answer to a statement by Mr. Partington. He seems to be greatly distrustful from the fact that the universities are not dependent upon one another. Is the work that they are doing coordinate and equal work? Is there any possibility of their being dependent on one another? Are our high schools dependent upon one another?

Mr. ROEHM: I move the previous question on this matter.

The main question was ordered.

The PRESIDENT PRO TEM: The question is "Shall the proposal pass?"

The yeas and nays were taken, and resulted — yeas 71, nays 26, as follows:

Those who voted in the affirmative are:

Anderson,	Henderson,	Peters,
Beatty, Morrow,	Hoffman,	Pettit,
Beyer,	Hoskins,	Pierce,
Bowdle,	Hursh,	Read,
Cassidy,	Johnson, Madison,	Riley,
Cody,	Kehoe,	Rockel,
Colton,	Kerr,	Roehm,
Crosser,	King,	Shaffer,
Davio,	Knight,	Smith, Geauga,
Donahey,	Kramer,	Smith, Hamilton,
Doty,	Lambert,	Solether,
Dunn,	Lampson,	Stamm,
Earnhart,	Leete,	Stilwell,
Fackler,	Leslie,	Stokes,
Farrell,	Marriott,	Taggart,
FitzSimons,	Marshall,	Tannehill,
Fluke,	McClelland,	Tetlow,
Fox,	Miller, Crawford,	Thomas,
Hahn,	Moore,	Ulmer,
Halenkamp,	Norris,	Wagner,
Halfhill,	Nye,	Walker,
Harbarger,	Okey,	Wise,
Harris, Hamilton,	Partington,	Woods.
Harter, Huron,	Peck,	

Those who voted in the negative are:

Baum,	Elson,	Miller, Ottawa,
Brattain,	Jones,	Price,
Brown, Highland,	Keller,	Rorick,
Brown, Pike,	Kunkel,	Shaw,
Collett,	Longstreth,	Stevens,
Crites,	Ludey,	Stewart,
Dunlap,	Malin,	Watson,
Dwyer,	Mauck,	Winn.
Eby,	Miller, Fairfield,	

So the proposal passed as follows:

Proposal No. 329 — Mr. Knight, to submit an amendment by adding section 3 to article VI, of the constitution. — Organization of boards of education.

*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. 3. Provision shall be made by law for the organization, administration and control of the public school system of the state supported by public funds: provided, that each school district embraced wholly or in part within any city

shall have the power by referendum vote to determine for itself the number of members and the organization of the district board of education, and provision shall be made by law for the exercise of this power by such school districts.

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

Mr. KNIGHT: There was a motion passed the other day that all proposals amended be referred to the committee on Arrangement and Phraseology. I now move that all proposals be referred to that committee in order that they can bring in the grand resolution at the end

The motion was carried.

Mr. HALFHILL: I move that one thousand copies of Proposal No. 304 as passed be printed.

The motion was carried.

Mr. PECK: I desire leave to call attention of the Convention to the matter of the invitation from Cincinnati. It is about time that we should make answer. If we are going down there Saturday they ought to know it.

However, the president suggests that we wait until we are through with this initiative and referendum proposal and I will defer.

Mr. CROSSER: I submit the following report:

The report was read as follows:

The special committee 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:

In line 17 strike out the word "twelve" and in lieu thereof insert "ten".

Strike out lines 28 to 50 inclusive and in lieu thereof insert the following:

"SECTION 1b. When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by three per centum of the electors and verified as herein provided proposing a law, the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. If said proposed law shall be passed by the general assembly, either as petitioned for or in an amended form it shall be subject to the referendum. If said proposed law shall not be passed, or if it shall be passed in an amended form, or if no action be taken thereon, within four months from the time it is received by the general assembly, the same shall be submitted by the secretary of state to the electors for their approval or rejection at the next regular or general election if such submission shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those signing the original petition, which petition must be filed with the secretary of state within ninety days after such proposed law shall have been rejected by the general assembly or after the expiration of such term of four months in the event no action has been taken thereon or after the law

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as passed by the general assembly shall have been filed by the governor in the office of such secretary. Such proposed law shall be submitted in the form demanded by such supplementary petition which shall be either in the form as first petitioned for or after there shall have been incorporated therein any amendment or amendments thereto introduced in the general assembly. In the event that a proposed law so submitted is approved by a majority of the electors voting thereon, it shall be the law and shall go into effect, as herein provided, in lieu of any amended form of said law which may have been passed by the general assembly, and such amended law passed by the general assembly shall not go into effect until and unless the law proposed by supplementary petition shall have been rejected by the electors."

In line 52 strike out "in the case of proposed laws" and insert period after "petition".

In line 53 strike out words "or in case of proposed amendments".

In line 107 after "initiative" insert ", supplementary".

In line 110 after "initiative" insert ", supplementary".

In line 131 after "initiative" insert "and supplementary".

In line 135 after "initiative" insert ", supplementary".

In line 149 strike out all after the comma (,).

In line 150 insert after "any" the word "proposed".

In the same line strike out "initiative" and in lieu thereof insert "supplementary".

In line 164 strike out all after the period (,).

Strike out all of lines 165, 166, 167, 168, 169, 170, 171, 172 and to and including the period in 173.

In line 173 after "initiative" insert the words "and supplementary".

Strike out all of lines 53, 54 and 55 up to and including the period.

The committee further recommends that all pending amendments be indefinitely postponed.

Mr. CROSSER: Mr. President and Gentlemen of the Convention: The committee's report simply carries into effect that which the president suggested as a good compromise this morning. Of course, it is unnecessary for me to say it is not entirely pleasing to me. At the same time I presume it is equally as good or better than what was there before.

The only thing that needs explaining is in the solid type on the first page. The other amendments were to take care of the changes made by that. The provision for competing measures had to be cut out. I suppose in strict justice I ought to say that Mr. Cassidy could do more toward answering questions than I can.

Mr. CASSIDY: The object of the committee was to get rid, if possible, of the form of ballot which gave us so much trouble this morning. In order to do that we had to remodel entirely section 4, lines 28 to 50, inclusive. The committee struck out entirely the indirect initiative on constitutional amendments. That goes out entirely. We have recommended in place of that the di-

rect initiative on constitutional amendments, reducing the percentage on direct initiative from twelve to ten. That is the change made in line seventeen. We suggest that "twelve" be stricken out and "ten" be inserted, reducing it two per cent on the direct initiative on constitutional amendments.

With regard to conditions for legislation, in the original proposition as passed on second reading, there was the indirect initiative on constitutional amendments on eight per cent. Striking that out as we did, we recommend to reduce the direct per cent from twelve to ten. With regard to petitions to be filed to secure legislation, we applied, to distinguish all of the way through from initiated petitions, what we call supplemental petitions or referendum petitions. This suggestion of the committee would require a petition signed by three per cent of the electors of the state. This percentage must be distributed over the state in the different counties just the same as the percentage required in the original proposal. When the petition filed by three per cent of the electors is presented to the secretary of state or filed with him ten days before the opening session of a general assembly, he transmits the proposed bill so petitioned for to the general assembly just as in the former proposal. The general assembly can either fail to take any action on it, amend it and pass it in its amended form or pass it just as proposed. If the general assembly enacts the proposal as asked for, that is an end of it all, unless six per cent ask for a referendum under the referendum section, which is left intact, just as it was.

Mr. BROWN, of Highland: After that law is passed according to the initiative petition, then six per cent refers it?

Mr. CASSIDY: Yes.

Mr. BROWN, of Highland: The three per cent that has already been used, does that count in the six per cent?

The PRESIDENT: Go on with your explanation.

Mr. CASSIDY: Let me continue and I will come back to that point a little bit later. When a bill has been petitioned for by three per cent of the electorate the general assembly can either pass it as it was proposed or in an amended form, or can reject it or take no action on it. If it is passed as proposed or petitioned for, that is the end of the whole matter, unless action is taken under the referendum section, which is left intact as it was in the original proposal.

If they amend it and pass it in the amended form then it becomes a law unless an additional three per cent — not the same petitioners in the first petition, but an additional three per cent, making it altogether six per cent. Unless this additional three per cent file a petition within ninety days afterward for an election, asking to have that proposed law, either in the form in which it was petitioned originally or containing any amendment which may have been offered thereto while in the general assembly, submitted in that form at the next regular or general election. If such petition is filed within ninety days after the bill has been passed or filed with the secretary of state, then the bill as petitioned for in that supplementary petition is submitted to the voters to be voted on. If a majority vote against it then the amended bill as passed by the general assembly remains the law, but if a majority vote in favor of that bill as

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asked for in the supplemental petition, then it takes the place of the bill as passed by the general assembly and becomes the law. If the general assembly fails to take action on the proposed bill for four months, then, within ninety days after the expiration of that four months, an additional three per cent to the three per cent originally petitioning can present a petition for that measure and that also is submitted to the voters; or, if the bill has been rejected by the legislature and voted down by the legislature, then within ninety days after it has been so rejected, if an additional three per cent petitions for it, it is also in that case submitted to the electorate, requiring a total percentage of six, the same as in the original proposal, to put any measure to a vote of the electors. The requirements for this supplemental petition, as far as being verified, and all others, are the same as for the petition in the original proposal.

The only other change made was the inserting of the word "supplementary" where it was necessary all through the proposal. We leave out entirely the lines referring to the former ballot. Now, if any one has any question I shall be glad to answer.

Mr. HALFHILL: I would like to inquire when the signers must put their names upon that additional three per cent called the supplementary petition?

Mr. CASSIDY: There is no specific requirement in the report saying when they shall put their names to it. The presumption would be that they would not be called upon to prepare this supplementary petition until it is evident that it will be needed.

Mr. HALFHILL: Why not make that clear by the language, "which petition must be filed with the secretary of state ninety days after the proposal shall have been rejected"? Why not make it read this way: "Which petition must be signed and filed—

Mr. CASSIDY: I had not thought myself that those supplementary petitions would ever be gotten up until they were evidently necessary.

Mr. HALFHILL: Don't you know that six per cent could be taken at the time the petitions were circulated and three per cent could be filed and the other three per cent held as a club to compel the general assembly to do what was wanted?

Mr. CASSIDY: The present proposal requires an election on six per cent, but the proposal also provides for a competing measure. This proposal takes out all question, and there is no competing measure here that goes to the people.

Mr. HALFHILL: Have you any objection to inserting the words that the petition must be filed and signed with the secretary of state, etc.?

Mr. CASSIDY: Speaking as one member of the committee, I would have to think of that. I cannot answer for the whole committee. The point was not discussed.

Mr. HALFHILL: What do you think about it?

Mr. CASSIDY: I do not think I would personally want to vote for that.

Mr. HALFHILL: Why not?

Mr. CASSIDY: I would not without further consideration.

Mr. HALFHILL: What objection have you to it personally?

Mr. CASSIDY: It might be that ninety days would

prove a mighty short time to get three per cent of the voters of the state. If I were preparing a bill I might want to work longer than that. We have only three months after the bill is rejected.

Mr. HALFHILL: Suppose you make it one hundred and twenty days; would you have any objection?

Mr. CASSIDY: Not so much as to ninety.

Mr. HALFHILL: Is there any objection in your mind against having these signatures taken at a date subsequent to the first signatures?

Mr. CASSIDY: Not if the time is long enough.

Mr. KNIGHT: May I ask you right there: Is it not true that in the case of a pure referendum you have only ninety days to get the per cent?

Mr. CASSIDY: That is true.

Mr. KNIGHT: Would there be more objection here to getting three per cent in ninety days than getting six per cent in ninety days?

Mr. CASSIDY: The point is novel to me. I hadn't thought of it.

Mr. KNIGHT: I would like to ask what, if anything, in this proposal would prevent—assuming the general assembly has not passed the measure, but that several different amendments have been offered in the general assembly—what prevents two three-per-cent petitions?

Mr. CASSIDY: There might be something.

Mr. KNIGHT: One would embody a certain amendment, and the other would embody a certain other amendment.

Mr. CASSIDY: Yes.

Mr. DOTY: That thing has happened in the general assembly itself in some years.

Mr. CASSIDY: And the result would be taken care of by lines 60 to 64 of the original proposal.

Mr. KING: You have all of those made pretty short. I do not know a state in the Union that has a system like this that doesn't give much longer time. Wisconsin requires those petitions to be filed four months before the next general state election, giving ample time, and the period of four months after the legislature looks to me that you might find it was too short.

Mr. CASSIDY: But the reason why I personally adhere to four months and ninety days provided the measure was introduced in the legislature on the first of January is in order to get the law before the people in time for the November election—that would be seven months.

Mr. HARRIS, of Hamilton: As a member of the committee, I feel like answering Mr. Halfhill's question myself, to say that it is a simple, practical, common-sense proposition. Why should we go to great expense and trouble to get the six per cent petition until after the legislature had refused to enact the law? We always have to furnish that additional three per cent. The whole object of the general underlying principle of this proposal is to avoid as many elections on questions submitted back to the people as possible. If the legislature appreciates the wisdom of the proposed law and enacts it, that ends it, and we are satisfied. Now, if the legislature refuses to do it for good reasons, then we have to furnish three per cent more, making a total of six per cent before we can get it before the people.

Mr. HALFHILL: I understand, but I do not know



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whether you understand fully what I had in mind. I want that extra three per cent signed within ninety days after the bill is passed on by the legislature. In other words, I object to getting six per cent and then presenting three to the legislature and holding the other three back to present at a later time.

Mr. HARRIS, of Hamilton: It is a self-evident proposition that the securing of the three per cent when one-half of them have to be secured in not less than one-half of the counties of the state, is an expensive sort of a proposition, and nobody would try to get six per cent in the first throw out of the box because of its enormous expense and trouble. This thing is not a spontaneous proposition and there is no necessity for that additional expense and trouble until after the legislature has refused to accept the bill. Then the greater burden is put upon those who advocate the bill by having to go out again to get the additional three per cent. And yet they will do it in ninety-nine out of a hundred cases on account of the first initial charge of getting the six per cent.

Mr. HALFHILL: Would you personally as a member of the committee, object to inserting the necessary words to have it read—"which petition must be signed and filed with the secretary of state within ninety days" and so forth?

Mr. HARRIS, of Hamilton: That question did not come up in the committee while I was there. Now permit me to ask a question. Assuming, for the sake of argument, we will agree to do that, will you agree to support this proposal?

Mr. HALFHILL: Not until I look over it and find out what it means. I do not know whether I shall support it or not. It is a wide departure from what it was before.

Mr. HARRIS, of Hamilton: I think it is conservative.

Mr. ANDERSON: I want to ask Mr. Cassidy a question. To get a law initiated there must be three per cent and then we will say that the legislature refuses to pass the law. Then on supplemental petition of three per cent it could be submitted to the voters?

Mr. CASSIDY: Yes—six per cent in all.

Mr. ANDERSON: But if the legislature passed it in an amended form—assuming, for the sake of argument, that in its amended form it would be entirely satisfactory to all the people who signed the first petition, that would not in any way prevent its enemies from getting up another petition of three per cent. Then, as a matter of fact, haven't you left the door wide open so that the enemies of any measure can have full power to nullify practically everything the friends of the measure have done?

Mr. CASSIDY: You cannot close the door against enemies and leave it open to friends.

Mr. DWYER: You strike out in line 17 the word "twelve" and insert "ten"?

Mr. CASSIDY: We suggest that.

Mr. DWYER: This says, "If said proposed law shall be passed by the general assembly either as petitioned for or in an amended form, it shall be subject to the referendum." Why do you put that in?

Mr. CASSIDY: If any person wants to defeat the

measure entirely he can exercise the powers under the referendum at six per cent.

Mr. SMITH, of Hamilton: I take it that under this proposed plan it is probable that any one seeking to submit a law will usually try to get the six per cent while they are on the job, and that they could use the three per cent to bring it to the attention of the legislature and hold the other three per cent in reserve. Now the question is, after the legislature has amended the proposal and passed it, who are we going to have determine whether this three per cent is satisfied or dissatisfied with the amendment? I do not know whether the committee has considered that, but if you have let me have an explanation.

Mr. MILLER, of Crawford: In case the measure is initiated and the legislature passes it just as presented could it be referred by three per cent more or would it require six per cent?

Mr. CASSIDY: It would require six per cent.

Mr. DOTY: I would like to say that the committee that had charge of this work delegated to a subcommittee the actual drafting of the report. This subcommittee has worked very hard all afternoon and the total output is upon one sheet of paper. I only call your attention to that to show you that while their work took a long time the net output of words is comparatively small. Every word there has been carefully considered. I am speaking about this with special reference to the inquiry of the gentleman from Allen as to whether the members can answer all questions, and if not whether they will admit one word or two. The putting in of those one or two words might unbalance some other part. The other suggestion he makes I cannot answer, and I doubt whether the subcommittee which has been working on this matter this afternoon can do it. Now, I suggest this, that we vote upon receiving and agreeing to the report of the committee and when we have done that we can offer amendments. When we have done that, we are then in a position where it would be possible to amend if there is any part of the report you desire to amend further. It is not possible to amend the report of the committee. I suggest that we get it in the shape of a proposal so that we can proceed in regular order in the way that we are familiar with.

Mr. KNIGHT: Would not the committee consent to the change of one word in line 20?

Mr. DOTY: The committee might agree to make the change, but the Convention cannot.

Mr. KNIGHT: I suggest that the committee change the word "such" to "the".

Mr. DOTY: If there is no objection the secretary can incorporate that. Now I trust that we may at this time adopt the report, and then we have the proposal in engrossed shape so that we can proceed in regular order if we desire.

Mr. PETTIT: I move that the report of the committee be agreed to.

The report of the committee was agreed to.

The PRESIDENT: The question now is "Shall Proposal No. 2 pass?"

Mr. STILWELL: I offer an amendment.

The amendment was read as follows:

Strike out of lines 65 and 66 the words "and approved by the electors".

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Mr. STILWELL: The sentence will then read, "No law proposed by initiative petition shall be subject to the veto power of the governor".

The purpose is that after the law has been initiated and passed by the general assembly it may not be vetoed by the governor, and if that is left in as it is the veto power of the governor extends to initiated legislation, which in my judgment is wrong. That was not the intention of the framers of this proposal.

Mr. WOODS: You want to amend this so that the governor cannot veto a bill which the electors of the state have not voted upon?

Mr. STILWELL: Yes.

Mr. WOODS: The three per cent may petition now and the general assembly may enact the bill into law and the people never vote on it.

Mr. STILWELL: That is true.

Mr. WOODS: Do you not think that if the people have not voted upon it that the governor should have the right to veto it?

Mr. STILWELL: Not if it has been initiated by the people. Not after going to the trouble of petitioning for the bill and it has been taken to the general assembly and the general assembly has passed it. I do not think that should be open to the veto power of the governor.

Mr. WOODS: I do not think that the three per cent influence should be so great as to override the ninety-seven per cent.

Mr. STILWELL: But it should be sufficient in this instance to overpower the governor after it is approved by the general assembly.

Mr. COLTON: What would be the case as to the veto power of the governor if the bill submitted by the initiative has been amended so that it comes from the legislature practically a different bill from that initiated by petition?

Mr. STILWELL: In my judgment the veto power of the governor even in that instance should not be applicable. After a matter has been thoroughly threshed over by the general assembly the governor should not be allowed to veto it. It has not been long that the governor had any veto power at all.

Mr. ULMER: Would not the veto power rest in the people when they can change it by three per cent? When we have the referendum the governor would have no veto power at all. It is with the people.

Mr. STILWELL: If there were such serious objection as to require the veto power of the governor it could be beaten by a referendum.

Mr. KING: About one-third of the way down, after having spoken about the three per cent—about the middle of the proposal—it says, "shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those signing the original petition, which petition must be filed with the secretary of state within ninety days after such proposed law shall have been rejected by the general assembly or after the expiration of such term of four months in the event no action has been taken thereon or after the law as passed by the general assembly shall have been filed by the governor in the office of such secretary." Does not that admit the power of the governor to pass upon the bill and veto or approve by filing it in the office of the secretary of state

and does not your amendment conflict with that of your colleague [Mr. CROSSER]?

Mr. KEHOE: Might not the governor's veto be an advantage sometimes when the proposed measure was amended to such an extent as to justify the veto? Would it not save the expense of a referendum?

Mr. STILWELL: I hardly think so. Personally I would not expect the general assembly to emasculate a bill petitioned for by the people. The referendum will always operate as a veto if it is seriously objectionable to any considerable number of people.

Mr. KEHOE: Would it not save the trouble if a measure was mutilated and the governor's veto could be effective?

Mr. STILWELL: Personally I would not expect him to do that.

Mr. MOORE: If they mutilate by amendment would not the three per cent come in on the original proposed law and the governor's veto become null and void?

Mr. NYE: Would you not be taking away from the governor the power to protect the people?

Mr. STILWELL: That protection is still there with the three per cent additional as provided for or the six per cent upon the referendum, if there is any serious objection to it.

Mr. NYE: Then with the three per cent of the electors are you not taking away from the ninety-seven per cent the right of the governor to protect the rest of the people?

Mr. STILWELL: No, I don't think that way, for the very reason that if there is any merit in the veto it can be accomplished by an additional three per cent of the electors.

Mr. NYE: Suppose the people wanted this and you are depriving the people of the right to ask the governor to veto it?

Mr. STILWELL: But that can be done with the additional three per cent.

Mr. NYE: But you have to vote on it?

Mr. STILWELL: Yes; you have to vote, of course.

Mr. NYE: Would it not be better to leave this in as it is?

Mr. STILWELL: I do not think so. That is simply my opinion. They have gone to the expense of initiating legislation and it has been approved by the general assembly and I maintain that the governor ought not to have the power to veto legislation of that character.

Mr. NYE: In the case you are speaking of you have the petition only.

Mr. STILWELL: That is true and the legislature might amend it to the disadvantage of those who had petitioned for it and still the governor could not veto it. That is true.

Mr. NYE: And the legislature might amend it to the disadvantage of those who had petitioned for it and still the governor could not veto it; doesn't that put it in bad shape?

Mr. KING: Do you understand that your amendment taking away the veto power only applies to those bills passed as petitioned for?

Mr. STILWELL: Yes.

Mr. MOORE: Suppose the bill as petitioned for by three per cent of the electors has passed the general as-

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sembly precisely as the petition was and the governor sees fit to veto that; what happens?

Mr. STILWELL: The bill fails.

Mr. MOORE: How would you get it before the people?

Mr. STILWELL: A referendum on six or eight per cent.

Mr. FLUKE: There is a part of this proposed amendment that provides for a petition, but it must be by three per cent of the voters of the state. That is purely an initiative petition?

Mr. STILWELL: Yes.

Mr. FLUKE: Is there anything in this amendment that would interfere with getting six per cent of the voters and using one-half of them to initiate and reserving the other one-half to secure the referendum?

Mr. STILWELL: That question was asked and answered by Mr. Cassidy a while ago.

Mr. FLUKE: It seems to me that the three per cent should be obtained after the action of the legislature.

Mr. STILWELL: Yes.

Mr. FLUKE: It seems to me that the three per cent to initiate should be first secured and then the additional three per cent obtained in the way of a referendum petition after the action on the bill. Is not that right?

Mr. STILWELL: No; the three per cent is additional and added to the original three per cent.

Mr. ROEHM: Suppose a law is initiated and there should be a number of amendments proposed in the legislature and those amendments should be voted down and possibly a substitute amendment adopted. Then upon a three per cent petition of signatures could any subsequent amendment go right directly to the people?

Mr. STILWELL: Yes.

Mr. BROWN, of Highland: It was suggested here this evening that those interested could in securing the three per cent with which they expected to initiate a law, get an additional three per cent to hold in readiness as an additional requirement to refer with. If that could be done how is it to be decided which half of the six per cent would be used for the initiative and which for referendum? In other words, would it not be obtaining signatures under false pretenses and would it not be better to put in this proposal that the subsequent three per cent must be secured at a date later than the time when the legislature acted?

Mr. STILWELL: That same question has been asked and has been answered.

Mr. BROWN, of Highland: I was called out of the room and I don't know what the answer was.

Mr. STILWELL: The last three per cent must be secured after the legislature has acted.

Mr. WOODS: I want to call attention now to this proposed amendment. This amendment strikes out words from lines 65 and 66 and if you adopt the amendment it will read, "No law proposed by initiative petition shall be subject to the veto power of the governor." Now a bill may be petitioned into the general assembly and that general assembly may strike out everything except the title and insert something else. Now that something else may be something that the people do or do not want and you have it so that the governor cannot veto it. It seems to me if the governor is to have the veto power at all it is for that very proposition. I think we want to

be careful. I do not think that this amendment should go in and I move to lay it on the table.

The motion to table was carried.

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

Mr. SMITH, of Hamilton: I offer an amendment. The amendment was read as follows:

Insert after "signed" in line 17 of section 1b as shown in the journal "subsequent to actions on the proposed law by the general assembly or in case the general assembly fails to act then subsequent to four months after the proposed law shall have been transmitted to the general assembly by the secretary of state".

Mr. SMITH, of Hamilton: I am not quite sure where I want that to go in, but it is in the committee's report and it is after the word "signed" in line 17.

Mr. HALFHILL: I have an amendment.

Mr. SMITH, of Hamilton: Do you not think it would be best to handle one amendment at a time?

Mr. HALFHILL: Mine is on the same subject.

The PRESIDENT: The member from Allen offers this as a substitute.

The substitute was read as follows:

In line 19 of section 1b as shown on the journal insert "signed and" after "be".

Mr. SMITH, of Hamilton: If it saves time I will accept that amendment in lieu of mine.

Mr. READ: I offer an amendment:

Strike out all of section 1e, beginning with line 96 and ending with line 101 inclusive.

Mr. LAMPSON: I move to lay that amendment on the table.

The PRESIDENT PRO TEM: Does the member from Summit yield to the motion?

Mr. READ: No.

The PRESIDENT PRO TEM: Then the member has five minutes.

Mr. READ: Mr. President and Gentlemen of the Convention: The amendment I have offered proposes to strike out the section from the initiative and referendum proposal which reads as follows:

The powers defined herein as the "initiative" and the "referendum" shall never be used to enact a law authorizing any classification of property for the purpose of levying different rates of taxation thereon or of authorizing any single tax on land or land values or land sites at a higher rate or by a different rule than is or may be applied to improvements thereon or to personal property.

In requesting the Convention to eliminate that section I am only asking you to remove the barrier which prevents this body of constitution framers from recognizing the unlimited and sovereign power of the people in government.

If the American citizen is a sovereign he has a right to express his will at the polls upon any measure he wishes to approve or reject. In other words, the principle of the initiative and referendum, from its very

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nature and purpose, inevitably implies that in the enactment of governmental or economic laws, there can be none in the whole category of statutes or parts thereof upon which the will of the people shall not be supreme. We have claimed for it undeniable right to be used everywhere, by anyone, rich or poor, for any purpose, sectional or state wide, firmly relying on the justice and wisdom of the popular verdict.

Now, when we come to crystallize it into practical form what do we find in that provision? A denial of its essential features, a limitation of its application. That is what an exception to the use of the initiative and referendum means. If direct legislation is a practical means of having government by the people, then there should be perfect freedom to use it on every question affecting the welfare of man.

In the concrete case before us there is an inhibition against its use for ascertaining the popular judgment on a certain phase of tax problems. It is not because the inhibition applies to a taxation question that I object to it. I would deplore it just as much if the ban were placed on bond issues, on good roads, on the liquor traffic, or on any question which might come up for popular decision.

The only correct conception of a true initiative and referendum proposal is that it must have universal and uniform application to all questions alike, and that any and all persons with remedies to propose, whatever be their merits or demerits, if there is a sufficient demand for a popular verdict thereon, they should be considered and disposed of by the electorate.

Take away from direct or indirect legislation its unlimited and its unqualified use to the needs and desires of man and you destroy its fundamental principle. Restrict it in application and you repudiate its crowning virtue. Deny its right to be used on one economic question and you grant the right to deny its use on others, or on all questions, and thus undermine the whole principle. These are the reasons why that restrictive and prohibitory section should be stricken out. It is irrelevant and repugnant to the doctrine of popular government.

There is an old maxim which says: "We need not fear error so long as reason is left free to combat it."

No agency ever devised by man affords a more candid exercise of sincere individual opinion than the referendum. And if error stands no show of success with truth in a free, fair contest, why should any one fear that an economic fraud might be foisted on the people by such means? Calm your perturbed spirit; there is no such peril pending. Under the referendum, right alone will conquer, intelligence reign and justice prevail.

I do not accuse those delegates of sinister motives who succeed in placing this handicap on the referendum. I do not challenge their honesty nor their sincerity. I believe they were prompted by an honest desire to checkmate a supposed contemplated movement to get the single tax by that means. I do not believe they realize how vitally they were affecting the efficiency of the initiative and referendum by their action. And again, I do not believe they realize how very remote is the possibility of getting single tax by that means. You can never fasten anything on the people by their own consent that they do not want. And they do not want the single tax

now and maybe never will. But whether they ever shall or shall not want it, we have no moral or constitutional right to say they shall not have the opportunity of securing it for themselves if they ever should want it.

Another argument used by some of those favoring the inhibition in the proposal was that if the people were assured that the single tax would not be voted upon under the referendum the initiative and referendum proposal would be adopted at the constitutional election and otherwise it would fail to meet approval at the polls. What is our duty in this matter, our obligation as constitution framers? To circumscribe and weaken our propositions merely to catch votes, or to perform our work with fidelity and courage regardless of consequences?

Having enlisted in the cause and pledged our honor, will we falter and surrender without giving battle? The citizens of Ohio expect us to "hew to the line, let the chips fall where they may." They expect us to have the courage of our convictions, to be true to ourselves and trust in them.

This imaginary fear of a single-tax blight is ridiculous in the extreme. Do we underestimate the judgment, the intelligence and the common sense of the average Ohio citizen that we fear he would deliberately put his neck into the yoke of bondage on the one hand, while on the other he asks for a fair and just provision in our constitution for the referendum? Do you not think he wants an opportunity of expressing himself against certain propositions as well as for others? To view the voter from any other standpoint is to deny his independence of thought and freedom of the ballot. What does experience teach on this point? When Oregon adopted a direct legislation amendment to her constitution ten years ago by a vote of over ten to one there were many more singletaxers in Oregon in proportion to the population of the state than there are in Ohio at the present time. What has been the result? After ten years of voting, on nearly one hundred propositions, about one-third of them being adopted, a single-tax measure was placed before the people once, and what was the result? Why, it was voted down at the polls by a decisive majority. There being less of the single-tax sentiment in our state comparatively than in Oregon, do you think there is any danger from this source in Ohio? No, no, my friends, there is no ground for alarm; simply be candid and honest and the referendum itself will be your safeguard. It is the only safeguard you can give the people and it is the only safeguard they want; but they want it in its purity and fullness and in its unqualified use.

You have heard and read individual protests against the introduction of foreign matter and incoherent ideas into the initiative and referendum proposal. Now let me quote some brief comment from newspapers which appeared shortly after said proposal had passed second reading in this Convention. A part of the comment editorially of the Ohio State Journal was as follows:

It does not seem illogical to adopt a plan directly appealing to the people and then declare there are two subjects the will of the people shall not control. In other words, the Convention, which affects so much devotion to the popular will, declares that on two questions the popular will is

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no good—that its own opinion is wiser and safer than that of the people.

We make no objection to these exceptions, for it is the duty of a constitutional convention to place restrictions on the popular will. Its duty is to say to the majority—"you must behave yourself; you must not tramp on the rights of the few." And yet, these two exceptions come so close to legislative control that it looks very inconsistent for a body in love with the people to deny them the exercise of their judgment upon these subjects.

Another editorial about the same time appeared in the Cleveland Plain Dealer under the caption of "Limiting the Initiative." After a few introductory words it said:

Opponents of the initiative and referendum are taking the wholly unsound position that these legislative devices should be circumscribed in such a way as to prevent their use to secure certain proscribed statute alterations. Had this unexpected argument not been forced to the front it is probable that the direct legislation mandate voted by the people last fall would have been written into the constitution before this.

The machinery of direct legislation was devised to give the people better facilities to secure the kind of laws and constitutional amendments they desire. It is merely a measure of popular rule, designed to facilitate majority control.

What these opponents of the initiative suggest, then, is that the people of Ohio shall be permitted the laws they want so long as they do not seek laws covering a few forbidden subjects. That reads like popular rule with a string tied to it. It is proposed to trust the majority—if. Direct legislation should not be arbitrarily limited in any such way.

Delegates cannot safely play horse with any popular issue. In regard to this particular branch of its endeavor, the duty of the Convention is as plain as its ultimate intention. Nothing, certainly, is gained by senseless controversy.

Such is the trend of thought expressed by other leading papers over the state, and such is the opinion of fair-minded men generally. What will we think of ourselves in after years by giving our sanction to such an incongruity in this proposal? Our constituents expect a comprehensive frank declaration of this principle; nothing more, nothing less. We are in honor pledged to give them a definite, consistent, coherent and effective direct-legislation provision. Shall we keep faith with them?

Down with the idea that the people have so little confidence in themselves and are so fearful of their future fate that they want this Convention to insure them against self-destruction, or that they would have us blunt the instrument of progress we hand them lest they harm themselves therewith.

Fellow delegates, I appeal to you in the name of fairness and popular rights to lay aside all fear of chicanery in the free use of the referendum. There can be no wiles successfully practiced under it and no frauds perpetrated by it. It is a veritable citadel of liberty founded

on the integrity and sovereignty of American citizenship.

Its chief virtue rests in its full guardianship of all legislative propositions. Question this unlimited right and you manifest distrust in self-government.

We are on the crest of an advancing wave, a popular uprising, that demands honesty of action. The temper of the times has placed the stamp of condemnation on all tricks and on all delusive movements as well as on all big schemes of plunder. In these days of trial, of readjustment and testing of men, if there is one thing Ohio demands of us more than another, it is that we be frank, fearless and honorable in all our conclusions. Why should we hesitate or shy at an imaginary lion in the way? Was there ever a noble purpose attained by this halting and turning aside?

Tell me, fellow delegates, is there one among you who regards his honor so lightly as to place his plighted faith on the bargain counter? Then, whatever we do, let us do it so well that no flaw can be found therein. In all events let us have the courage and firmness to rise above any possible breach of trust.

Better never to have raised the banner of pure democracy than to permit it to be marred and struck down in our hands.

Better never to have waged battle in the cause of human rights than to compromise the principle upon which those rights are founded.

Mr. LAMPSON: I move that the amendment be tabled.

The motion to table was carried.

Mr. PECK: I move the previous question on the proposal.

The main question was ordered.

Mr. KING: This is in awful shape to pass. There should be some provision in here as to when it takes effect.

The PRESIDENT PRO TEM: The question is "Shall the proposal pass?"

The yeas and nays were taken, and resulted—yeas 85, nays 14, as follows:

Those who voted in the affirmative are:

Anderson,	Hoffman,	Peters,
Baum,	Holtz,	Pettit,
Beatty, Morrow,	Hoskins,	Pierce,
Beyer,	Hursh,	Price,
Bowdle,	Johnson, Madison,	Read,
Brown, Highland,	Johnson, Williams,	Rockel,
Brown, Pike,	Kehoe,	Roehm,
Cassidy,	Keller,	Rorick,
Cordes,	King,	Shaffer,
Crites,	Knight,	Shaw,
Crosser,	Kramer,	Smith, Geauga,
Davio,	Kunkel,	Smith, Hamilton,
Donahey,	Lambert,	Solether,
Doty,	Lampson,	Stalter,
Dunn,	Leete,	Stamm,
Dwyer,	Leslie,	Stevens,
Earnhart,	Longstreth,	Stewart,
Elson,	Ludey,	Stilwell,
Fackler,	Malin,	Tannehill,
Farrell,	Marshall,	Tetlow,
FitzSimons,	Mauck,	Thomas,
Fluke,	McClelland,	Ulmer,
Fox,	Miller, Crawford,	Wagner,
Hahn,	Miller, Fairfield,	Walker,
Halenkamp,	Moore,	Watson,
Harbarger,	Okey,	Wise,
Harris, Hamilton,	Partington,	Woods,
Harter, Huron,	Peck,	Mr. President.
Henderson,		

## Initiative and Referendum.

Those who voted in the negative are:

Brattain,	Dunlap,	Miller, Ottawa,
Cody,	Halfhill,	Nye,
Collett,	Harris, Ashtabula,	Riley,
Colton,	Jones,	Taggart.
Cunningham,	Kerr,	

The roll call was verified.

So the proposal passed as follows:

Proposal No. 2—Mr. Crosser, to submit an amendment to article II, section 1, of the constitution. — Initiative and referendum.

*Resolved, by the Constitutional Convention of the state of Ohio,* That a proposal shall be submitted to the electors to amend article II, section 1 of the constitution as follows:

## ARTICLE II.

SEC. I. The legislative power of the state shall be vested in a general assembly consisting of a senate and house of representatives but the people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any law or any item in any law appropriating money passed by the general assembly, 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. The limitations expressed in the constitution, on the power of the general assembly to enact laws, shall be deemed limitations on the power of the people to enact laws.

SEC. 1a. The first aforestated power reserved by the people is designated the initiative, and the signatures of ten per centum of the electors shall be required upon a petition to propose an amendment to the constitution. When a petition signed by the aforesaid required number of electors, shall have been filed with the secretary of state, and verified as herein provided, proposing an amendment to the constitution, the full text of which shall have been set forth in such petition, the secretary of state shall submit for the approval or rejection of the electors, the proposed amendment, in the manner hereinafter provided, at the next succeeding regular or general election in any year occurring subsequent to ninety days after the filing of such petition. The initiative petitions, above described, shall have printed across the top thereof: "Amendment to the constitution proposed by initiative petition to be submitted directly to the electors."

SEC. 1b. When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by three per centum of the electors and verified as herein provided proposing a law, the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. If

said proposed law shall be passed by the general assembly either as petitioned for or in an amended form it shall be subject to the referendum. If said proposed law shall not be passed, or if it shall be passed in an amended form, or if no action be taken thereon, within four months from the time it is received by the general assembly, the same shall be submitted by the secretary of state to the electors for their approval or rejection at the next regular or general election if such submission shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those signing the original petition, which petition must be signed and filed with the secretary of state within ninety days after such proposed law shall have been rejected by the general assembly or after the expiration of such term of four months in the event no action has been taken thereon or after the law as passed by the general assembly shall have been filed by the governor in the office of such secretary. Such proposed law shall be submitted in the form demanded by such supplementary petition which shall be either in the form as first petitioned for or after there shall have been incorporated therein any amendment or amendments thereto introduced in the general assembly. In the event that a proposed law so submitted is approved by a majority of the electors voting thereon, it shall be the law and shall go into effect, as herein provided, in lieu of any amended form of said law which may have been passed by the general assembly, and such amended law passed by the general assembly shall not go into effect until and unless the law proposed by supplementary petition shall have been rejected by the electors.

All such initiative petitions, last above described, shall have printed across the top thereof: "Law proposed by initiative petition." Ballots shall be so printed as to permit an affirmative or negative vote upon each measure submitted to the electors. Any proposed law or amendment to the constitution submitted to the electors as provided in Section 1a and Section 1b, if approved by a majority of the electors voting thereon, shall take effect thirty days after the election at which it was approved and shall be published by the secretary of state. If conflicting proposed laws or conflicting proposed amendments to the constitution shall be approved at the same election by a majority of the total number of votes cast for and against the same, the one receiving the highest number of affirmative votes shall be the law, or in the case of amendments to the constitution shall be the amendment to the constitution. No law proposed by initiative petition and approved by the electors shall be subject to the veto of the governor.

SEC. 1c. The second aforestated power reserved by the people is designated the referendum, and the signatures of six per centum of the electors shall be required upon a petition to order the submission to the electors of the state for their

## Initiative and Referendum.

approval or rejection, of any law, section of any law or any item in any law appropriating money passed by the general assembly. No law passed by the general assembly shall go into effect until ninety days after it shall have been filed by the governor in the office of the secretary of state, except as herein provided. When a petition, signed by six per centum of the electors of the state and verified as herein provided, shall have been filed with the secretary of state within ninety days after any law shall have been filed by the governor in the office of the secretary of state, ordering that such law, section of such law or any item in such law, appropriating money be submitted to the electors of the state for their approval or rejection, the secretary of state shall submit to the electors of the state for their approval or rejection such law, section or item, in the manner herein provided, at the next succeeding regular or general election in any year occurring subsequent to sixty days after the filing of such petition, and no such law, section or item shall go into effect until and unless approved by a majority of those voting upon the same. If, however, a referendum petition is filed against any such section or item, the remainder of the law shall not thereby be prevented or delayed from going into effect.

SEC. 1d. Laws providing for tax levies, appropriations for the current expenses of the state government and state institutions, and emergency laws necessary for the immediate preservation of the public peace, health or safety, shall go into immediate effect. Such emergency laws upon a yea and nay vote must receive the vote of two-thirds of all the members elected to each branch of the general assembly, and the reasons for such necessity shall be set forth in one section of the law, which section shall be passed only upon a yea and nay vote, upon a separate roll call thereon. The laws mentioned in this section shall not be subject to the referendum.

SEC. 1e. The powers defined herein as the "initiative" and "referendum" shall not be used to pass a law authorizing any classification of property for the purpose of levying different rates of taxation thereon or of authorizing the levy of any single tax on land or land values or land sites at a higher rate or by a different rule than is or may be applied to improvements thereon or to personal property.

SEC. 1f. The initiative and referendum powers are hereby reserved to the people of each municipality on all questions which such municipalities may now or hereafter be authorized by law to control by legislative action; such powers shall be exercised in the manner now or hereafter provided by law.

SEC. 1g. Any initiative, supplementary or referendum petition may be presented in separate parts but each part shall contain a full and correct copy of the title, and text of the law, section or item thereof sought to be referred, or the proposed law or proposed amendment to the

constitution. Each signer of any initiative, supplementary or referendum petition must be an elector of the state and shall place on such petition after his name the date of signing and his place of residence. A signer residing outside of a municipality shall state the township and county in which he resides. A resident of a municipality shall state in addition to the name of such municipality, the street and number, if any, of his residence and the ward and precinct in which the same is located. The names of all signers to such petitions shall be written in ink, each signer for himself. To each part of such petition shall be attached the affidavit of the person soliciting the signatures to the same, which affidavit shall contain a statement of the number of the signers of such part of such petition and shall state that each of the signatures attached to such part was made in the presence of the affiant, that to the best of his knowledge and belief each signature on such part is the genuine signature of the person whose name it purports to be, that he believes the persons who have signed it to be electors, that they so signed said petition with knowledge of the contents thereof, that each signer signed the same on the date stated opposite his name; and no other affidavit thereto shall be required. The petition and signatures upon such petitions, so verified, shall be presumed to be in all respects sufficient, unless not later than forty days before the election, it shall be otherwise proved and in such event ten additional days shall be allowed for the filing of additional signatures to such petition. No law or amendment to the constitution submitted to the electors by initiative and supplementary petition and receiving an affirmative majority of the votes cast thereon, shall be held unconstitutional or void on account of the insufficiency of the petitions by which such submission of the same was procured; nor shall the rejection of any law submitted by referendum petition be held invalid for such insufficiency. Upon all initiative, supplementary and referendum petitions provided for in any of the sections of this article, it shall be necessary to file from each of one-half of the counties of the state, petitions bearing the signatures of not less than one-half of the designated percentage of the electors of such county. A true copy of all laws or proposed laws or proposed amendments to the constitution, together with an argument or explanation, or both, for, and also an argument or explanation, or both, against the same, shall be prepared. The person or persons who prepare the argument or explanation, or both, against any law, section or item, submitted to the electors by referendum petition, may be named in such petition and the persons who prepare the argument or explanation, or both, for any proposed law or proposed amendment to the constitution may be named in the petition proposing the same. The person or persons who prepare the argument or explanation, or both, for the law, section or item, submitted to the

## Initiative and Referendum— Invitation for Convention to Visit Cincinnati.

electors by referendum petition, or against any proposed law submitted by supplementary petition, shall be named by the general assembly, if in session, and if not in session then by the governor. The secretary of state shall cause to be printed the law, or proposed law, or proposed amendment to the constitution, together with the arguments and explanations, not exceeding a total of three hundred words for each, and also the arguments and explanations, not exceeding a total of three hundred words against each, and shall mail, or otherwise distribute, a copy of such law, or proposed law, or proposed amendment to the constitution, together with such arguments and explanations for and against the same to each of the electors of the state, as far as may be reasonably possible. Unless otherwise provided by law, the secretary of state shall cause to be placed upon the ballots, the title of any such law, or proposed law, or proposed amendment to the constitution, to be submitted. He shall also cause the ballots so to be printed as to permit an affirmative or negative vote upon each law, section of law, or item in a law appropriating money, or proposed law, or proposed amendment to the constitution. The style of all laws submitted by initiative and supplementary petition shall be: "Be it enacted by the people of the state of Ohio," and of all constitutional amendments: "Be it resolved by the people of the state of Ohio." The basis upon which the required number of petitioners in any case shall be determined shall be the total number of votes cast for the office of governor at the last preceding election therefor. The foregoing provisions of this section shall be self-executing, except as herein otherwise provided. Laws may be passed to facilitate their operation, but in no way limiting or restricting either such provisions or the powers herein reserved.

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

Mr. HALFHILL: I want to make an explanation more in sorrow than in anger of my vote. I wanted to vote for the indirect initiative somewhat along this line and with proper percentages, but after the sixth attempt and at the eleventh hour not to have had this printed and laid before us so that we could understand it, was wrong. I think there was ample time to have this report printed so that we could examine it and I voted against it because I did not have that opportunity.

Mr. PECK: I voted for this proposal because I think it is the right thing and the best form of the initiative and referendum I have ever seen. Now I want to ask the Convention to give me answer to the invitation of the Business Men's Club for the Convention to come there, and fix the time. I suggest that the Convention can go down Saturday afternoon and take dinner easily with the club that evening and they will be delighted to see us though the notice is a little delayed. I would like to have an answer so that they could make proper arrangements.

Mr. ANDERSON: I move that the invitation be ac-

cepted and that we leave here on the two o'clock train Saturday afternoon.

The PRESIDENT: The president would like to state that he has been informed that one railroad is willing to provide the best Pullman equipment and a special train to go and return at the pleasure of the Convention and that at no extra cost.

Mr. DOTY: I move that we strike out the word "extra". Would it not be well for us to have the roll call and let those indicate who will go?

Mr. PECK: It would be desirable to know how many will accept.

Mr. STILWELL: I am not accustomed to riding in Pullman's and I would like to know the actual cost.

Mr. ANDERSON: It is necessary, of course, as you can easily understand that those who invite us should know the number that are coming, and if we have only a few we ought not to go. We ought not to go if we cannot make a good showing. I move that this Convention when it adjourns Saturday afternoon adjourn to meet that evening in Cincinnati.

Mr. HALFHILL: I would like to impress upon you in a very few words how very gracious this invitation is from the people of Cincinnati. I know somewhat of their hospitality. I attended law school there and have had many pleasant professional engagements there and this club extending the invitation is composed of some of the very best men in the state of Ohio. It is a very gracious invitation, and I wish that we might go to a convention and hold a session there even though it might be somewhat of disadvantage.

The PRESIDENT: If the Convention meets there in regular session the fare will be paid out of the Convention fund.

Mr. CUNNINGHAM: I asked one of the Hamilton county delegation if he really expected us to go there and he said that he didn't know, that if we were fools we would.

Mr. FOX: Many of us could not go. I would not like to see delegates go and have me stay in the rear. I wish they would arrange for some future time.

Mr. DOTY: I am in favor of going to Cincinnati. I always have a good time when I go there, but I am opposed to this Convention going to Cincinnati and taking the money out of the treasury to pay our expenses. If we are going to accept this very gracious invitation, we ought to accept it because we want to go and not because the state is going to pay for it.

Mr. MARSHALL: I am in hearty sympathy with the gentleman from Cuyahoga and I suggest that we finish our work.

Mr. DOTY: I move that we accept the invitation to go to Cincinnati to visit the Business Men's Club and to take dinner with them on Saturday evening.

Mr. ANDERSON: I had already made that motion.

Mr. DOTY: That is so.

The motion was lost.

Mr. KING: I move that the committee on Arrangement and Phraseology be instructed to amend Proposal No. 340 by providing that Proposal No. 2 shall take effect on September 25, 1912.

The motion was lost.

Mr. DOTY: I move that the committee on Arrangement and Phraseology, after it has amended Proposal



## Printing of Additional Copies of Proposal No. 2—Petitions and Memorials.

No. 2 and concluded its report upon the proposed amendment, have enough copies printed to allow the secretary to send twenty-five copies to each member by mail and five hundred additional copies.

Mr. PARTINGTON: The time is coming when we shall have the whole constitution printed.

Mr. DOTY: The time is coming when all the resolutions will be put in, but some of the members have suggested that they would like to have this proposal reprinted just as it is, and I make the motion to carry that out.

Mr. PARTINGTON: I do not see the necessity for that.

Mr. DOTY: If there is objection I shall not insist.

Mr. HALFHILL: Why do you say that the proposal should be referred to the committee on Phraseology?

Mr. DOTY: The Convention has already done that to every proposal that has been amended.

Mr. HALFHILL: Proposal No. 2—do you refer to that?

Mr. DOTY: Yes.

Mr. HALFHILL: It was referred to the committee on Phraseology.

Mr. DOTY: And they have not reported on it.

Mr. HALFHILL: Was this reading tonight the second reading or the third reading of the proposal or the final reading, and if so, why was it done before the committee on Phraseology has reported?

Mr. DOTY: The committee on Phraseology had it after second reading and it was accepted by the Convention and it was amended and passed on third reading, and turned back to the committee on Phraseology just as was done with every other proposal.

Mr. HALFHILL: What I cannot get through my head is why, when this report of the subcommittee came in and we considered that, the thing was not printed and sent to the committee on Phraseology and returned to the Convention to be amended and passed.

Mr. DOTY: Personally, I do not care to go into that, but if there is any objection to my motion I will withdraw it. If you don't want it vote it down.

Mr. HALFHILL: I want to get this thing straight. It is most unusual. I supposed the committee on Phraseology had this to pass on and bring it back to the Convention.

Mr. DOTY: We did.

Mr. HALFHILL: Then it was passed on, and no chance given to amend it.

Mr. DOTY: Yes, there was chance to amend it and there is chance to amend it in the grand resolution.

Mr. HALFHILL: This was the third reading tonight?

Mr. DOTY: Yes; the proposal had its third reading.

Mr. HARRIS, of Hamilton: What we did tonight was not unusual. We simply amended Proposal No. 2.

Mr. WOODS: I think, gentlemen of the Convention, we ought to have some of these proposals printed. This is so changed that we cannot get exactly what it is unless we have it printed. Let us have some of these printed so that the people can know what we have done.

The motion of the delegate from Cuyahoga [Mr. Doty] was carried.

Mr. PECK: In view of the fact that only fifty-three members of the Convention have expressed their willingness to accept the invitation to go to Cincinnati, I think it probably better that the Convention should send its regrets to the members of the Business Men's Club, saying that the condition of business is such that the Convention cannot find opportunity to accept their invitation, and I move that the secretary be directed accordingly.

The motion was carried.

Mr. READ: I would like to call up Proposal No. 331 and move to instruct the committee on Phraseology to make a change by inserting the word "four" in lieu of the word "one". The effect of that is to give the superintendent of public works a term of four years instead of one.

Mr. DOTY: Well, if that is it, I move to lay it on the table.

The motion was carried.

Mr. ANDERSON: I move that ten thousand copies of the finished work of this Convention be finished in such manner that the constitution of 1851 will be on one side and on the other side the work that we have done.

Mr. DOTY: That will cost more money than it is worth. I suggest that this matter of printing copies for future use can be decided Friday.

## PETITIONS AND MEMORIALS.

Mr. Bigelow presented the memorials of the Rev. W. H. Sauder, of Ravenna; of the Rev. Clarence A. Gibson, of Camden; of the Rev. W. J. Venen, of Youngstown; of Ira M. Rickett, of Troy; of M. J. Walters and other citizens of Chagrin Falls; of H. A. Reaster and other citizens of Defiance; of M. C. Kinker and other citizens of Toledo; protesting against the passage of Proposals Nos. 65 and 321; which were referred to the committee on Education.

Mr. Bigelow presented the petition of the city council of Cleveland requesting the Constitutional Convention to designate the day known as Good Friday and the day set aside for general elections throughout the state of Ohio, as legal holidays; which was referred to the committee on Miscellaneous Subjects.

Mr. Bigelow presented the memorials of F. T. Moreland, of Portsmouth; of C. A. Loehmann, of Cincinnati; of O. K. Hewes, of Medina; of Wm. J. Seelye, of Wooster; of F. C. Bond, of Cleveland; of Howard M. Holmes, of Cleveland; of Frank W. Mariner and many other citizens of Ohio asking for the adoption of Ohio Federation of Labor amendments to the initiative and referendum proposal; which were referred to the committee on Initiative and Referendum.

Mr. Stilwell presented the remonstrance of F. Burgdorff, of Euclid Heights, protesting against the passage of Proposal No. 170—Mr. Worthington; which was referred to the committee on Taxation.

Mr. HOSKINS: I move that the Convention adjourn until Friday morning at nine o'clock.

The motion was carried and the Convention adjourned accordingly.