FIFTY-FIFTH DAY

MORNING SESSION.

Columbus, Ohio, Thursday April 11, 1912.

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

The journal of yesterday was read and approved.

Mr. EVANS: Several weeks ago I introduced Proposal No. 86 and it was referred to the committee on Taxation. I now ask that Proposal No. 86 be recalled from the committee on Taxation and placed at the head of the calendar.

The PRESIDENT: The member from Scioto under the rule calls up Proposal No. 86, and the question is on the engrossment of that proposal.

Mr. WOODS: There are something over three hundred proposals and if we commence this sort of work there is no telling when matters will be considered. I think we should stop this sort of thing right here.

Mr. JOHNSON, of Williams: I am opposed to this procedure. This calendar might as well be indefinitely postponed if matters are to be taken up in this manner. I hope the proposal will not be recalled.

Mr. KING: The member from Scioto [Mr. EVANS] has a right under the rule to call for the return of Proposal No. 86 from this committee, it having been there over two weeks.

The PRESIDENT: The right has been exercised before in some other matters.

Mr. WOODS: I move that the proposal be indefinitely postponed.

Mr. JOHNSON, of Williams: I second the motion.

Mr. DOTY: I was reading over in the corner a communication from my constituents when this matter was precipitated upon the Convention. Of course, the question of indefinite postponement goes to the merits of this proposal. I want to state for the committee on Taxation, of which I have the honor of being chairman, that the committee has had as many meetings—perhaps more; certainly as many meetings—and I think more public hearings than any other committee in this Convention. I do not say that to cast any reflection on any other committee, but simply as a matter of fact. I think if I had the committee's roll call I could show that the attendance upon our meetings has been very large. Out of twenty-one on the committee the average attendance has been from fourteen to sixteen. We have met sometimes three times a day, and we have attempted to give a hearing to every member who has introduced a proposal. It is barely possible that one or two proposals introduced toward the end have not had that consideration, but we have attempted to do it for all the members. This proposal was introduced somewhat early. The member from Scioto [Mr. EVANS] had a hearing, and there was a report signed at one time upon this particular proposal by our committee to the effect that it should be reported to the Convention without recommendation. It was our purpose at that time to report this proposal back for the consideration of the Convention without prejudice to the proposal itself and without committing any of the members for or against the proposal itself. After that report was agreed to the committee took other action and agreed to report with recommendation certain other proposals with some modifications which were to be prepared by a sub-committee. That sub-committee is at work upon the proposal now. This particular proposal was looked upon by some of the members of the committee—speaking generally and not as to detail—as being the ideal proposal before our committee, but there were not enough members of the committee to agree to make that favorable report. I myself am one of those who preferred the Evans proposal to any other particular proposal, and for the reason that this proposal may be said to include every proposal that has been introduced in this Convention upon the subject of taxation, in some way or other, except two proposals, one introduced by the member from Ashtabula [Mr. LAMPSON] and one by the member from Allen [Mr. HALFHILL], which called for the inhibition of the sigle tax.

I believe there were also two others, a proposal by the member from Warren [Mr. EARNHART] and a proposal from the member from Franklin [Mr. HARBARGER] looking toward the restoration of public bonds on the tax list, and this Proposal No. 86 as it now stands does not include the principles they were advocating.

At the time we intended to bring this proposal for the consideration of the Convention to carry out the principle of it, I had in mind to offer an amendment which would take in the principle proposed by Mr. Earnhart and Mr. Harbarger and any others who desired to restore bonds to the tax list. This proposal leaves the question of taxation entirely to the general assembly. I have not the exact facts here now as to just how many states do that, but as I recall the figures of the thirteen original states eight still maintain the principle of allowing the legislature to tax in any way it sees fit, and that sort of program in those eight states has been going on for many years, over one hundred years in most of them. As I recall it, that provision comes down from the original constitution and that part of it has been perpetuated through any revisions made since that time. No person who appeared before our committee has been able to show that any legislature in any one of those states has done any particular harm or invaded the rights of the people, and some of them have made progress in tax reform and some of them have not. The power of taxation, however, is not limited in any of those states. The United States constitution only provides two limitations on the taxing power of congress. Ohio has a string of them. Now whether you believe the present system is a good system or that some other system is a better system, it strikes me that at least the best way of carrying on taxation is to make it easy to experiment. That cannot be done with an iron-clad rule, such as we have now. We call it the uniform rule. It is not uniform and it never was uniform. It never can be made uniform. It is called the uniform rule or general property tax.

Mr. LAMPSON: Don't you think it would leave every legislature open to the opportunity to make a new experiment?

Mr. DOTY: That is exactly what I do think, and I want to say if we were to pass a law providing that all the chemists in the world could experiment in only one way the chemists would never put out anything new.

Mr. LAMPSON: Would not that very fact of itself continue to affect the value of all property all of the time, fluctuating up and down according to the proposed system of taxation in the legislature?

Mr. DOTY: The fluctuation would be in proportion to how much experimenting we did. The state of Rhode Island has no limitation on taxation and the fluctuation there has not been any greater than in this city.

Mr. LAMPSON: The policy has been pretty well settled?

Mr. DOTY: Not so well settled but that they have at times proposed systems that played hob with their present system. It they had the limitations that we have they couldn't make any change, and couldn't do anything but to follow in one rut. If the chemists had had to do that we would never have had any discoveries worthy of the name in that line.

Mr. HARRIS, of Hamilton: As chairman of the Taxation committee, are you willing to agree that this proposal be taken from the Taxation committee and be discussed now in view of the fact that two sub-committees are now considering the question of uniform taxation and classification and that they are expected to report back to the full committee with instructions to report out one of those propositions?

Mr. DOTY: I do not get the specific question.

Mr. HARRIS, of Hamilton: As chairman of the Taxation committee are you willing that the proposal be taken from the committee and be discussed now?

Mr. DOTY: I have no objection individually if the Convention has none. As I understand the situation the proposal is before the Convention and a motion has been made to indefinitely postpone the proposal. I don't think this proposal should be taken from the committee. We have had no opportunity to make a report on it.

Mr. HARRIS, of Hamilton: Are you going to argue the question of taxation on the propriety of the proposal's being indefinitely postponed?

Mr. DOTY: It is not for me as chairman of the committee or for any member to discuss the action of the member from Scioto [Mr. EVANS] when he is acting in his own right. The matter is past me and it is before the Convention.

Mr. LAMPSON: And the immediate question is a motion to indefinitely postpone.

Mr. DOTY: And that brings up the whole question.

Mr. LAMPSON: To a limited extent.

Mr. DOTY: To any extent that the Convention wants to discuss it.

Mr. WOODS: What do you want to do with the proposal?

Mr. DOTY: I want to discuss it.

Mr. WOODS: You don't want to pass on it and act on it right now?

Mr. DOTY: I have no choice; the member from Scioto [Mr. EVANS] calls it up.

Mr. LAMPSON: If the Convention refuses to indefinitely postpone, certainly.

Mr. DOTY: The whole question is whether we shall call this up now and discuss it and that goes to the merit.

Mr. LAMPSON: The next question would be whether the proposal should be engrossed.

Mr. DOTY: I think this is a question that the Convention understands pretty well.

Mr. KING: Will you yield for a motion to refer to the committee on Taxation?

The PRESIDENT: I recognize the gentleman from Hamilton [Mr. PECK].

Mr. PECK: Has not the committee on Taxation reported to the Convention some other proposal involving substantially this same question?

Mr. DOTY: I think I have stated that we had a sub-committee at work on the proposal of Judge Worthington, and Judge Worthington being sick this week we did not get a report on that.

Mr. PECK: Is not the report and the discussion now, before we have a report from the committee, premature?

Mr. DOTY: That is a question of opinion. The motion before the Convention involves the subject matter of this proposal. I am not trying to precipitate it myself.

Mr. FESS: As I understand the rules of the Convention permit Captain Evans to call out this proposal from the committee. It is, therefore, before the Convention and the motion by the member from Medina [Mr. WOODS] to postpone it indefinitely must open the entire question to discussion. That is according to parliamentary law, and if the motion is carried the whole thing is defeated, and this means that this motion to postpone indefinitely supersedes all other motions, and we are in the Convention now to discuss this question simply on the opening up of the entire matter. Therefore, would it not be proper to withdraw the motion to postpone indefinitely and to refer it to the committee? We are not here now to discuss it and there is no way to avoid it.

Mr. DOTY: I can not assume in advance what the Convention is going to do, but if they are going to indefinitely postpone a proposal that has merit in it without knowing what the merit is, I think I should explain the proposal.

Mr. WOODS: If the Convention is willing to recommit, are you willing that it be recommitted?

Mr. DOTY: I am always willing. I am always willing to discuss a matter, too. I don't care much about it either way.

Mr. ELSON: We expect to spend several days discussing taxation. It is the biggest thing before us. Now shall we have two discussions, one now and another later? It seems to me that the motion to recommit is the proper thing.

Leave of absence was here granted the delegate from Erie [Mr. KING] until Tuesday.

Mr. DOTY: I do not want to do anything that will tend to put this proposal out of business. Judge Worthington's proposal is reported back to the committee and a majority have agreed to report it. Of course, that is all subject to the approval of the majority of the subcommittee. Mr. Worthington, Mr. Colton and Mr. Red-

ington are the members, and we expect to be able to sign their report. If that proposal should be defeated it may be that our committee may feel that it is our duty to bring this proposal, or some other similar proposal, to the attention of the Convention, because, as the member from Athens has said, I think we all fully agree that this question of taxation is one of tremendous importance. Our committee has given no end of time to the consideration of all these proposals, and we did not anticipate that any member would take this proposal away from the committee. We have not reported any back for indefinite postponement, as other committees have, because we did not want to put upon the record anything that they might object to, and I think nearly every member who has a proposal before the committee understands that situation. We did not know that there was any likelihood of anybody taking a proposal away from us.

Mr. COLTON: Are you willing that this motion to postpone shall be withdrawn and that a motion shall be made to recommit to the committee?

Mr. DOTY: That is a question with Captain Evans. He should answer it. I am willing to yield long enough for Captain Evans to say what he wants done.

Mr. EVANS: I have done this at this time at the request of a number of members of the Convention. I am the author of this proposal and Mr. Doty from Cuyahoga has just said that it covers and embraces every proposition which has been put in or could be put in. It covers the whole subject. It is the result of forty years' study, and it embraces what some of the most wealthy and prosperous states have and what they have flourished under. It covers the whole subject of what ought to be or may be exempted. I have not examined any other proposal that covers, in my opinion, the matter to the same extent. I have looked over the calendar and I see a number of small subjects on the calendar. It is time that we should have a great subject for next week and this is one of them. In my judgment it ought to be before the Convention at this time, and in order to have one great subject for next week I have called this proposal out, and I would like to have it brought up and placed at the head of the calendar. That was my object in making the motion.

Mr. DOTY: Does the member object to recommitting?

Mr. EVANS: I desire to have it before the Convention next week.

Mr. DOTY: Do you make that motion?

Mr. EVANS: You can make it. You understand it thoroughly.

Mr. DOTY: I wish I did.

Mr. RILEY: Does the chairman see any objection to taking up the matter now?

Mr. DOTY: I have no objection to any course. If we want to do what the members suggest, I want to carry it out.

Mr. RILEY: Both sides seem to be ready, and I don't think there is any necessity for postponing or referring. You don't think any further light will be cast on it?

Mr. DOTY: The situation to me is this: This matter is before the Convention, and while I am precipitated into this thing and haven't any written speech, I probably never would have. There are some things about this matter I am as well prepared on as I ever shall be, and the matter is before the Convention. I do not, however, seem to be able to get anybody interested in the matter.

Mr. WOODS: I said that I would have my motion withdrawn and then we could have a motion to recommit.

Mr. DOTY: The member from Scioto is the one to answer that. The matter is here and I have no control over it.

Mr. JOHNSON, of Williams: If the proposal is recommitted would it come out next week?

Mr. EVANS: I have moved to withdraw this from the committee. I wish that this proposal might come out of the committee and be placed at the head of the calendar. That was the motion I made.

Mr. LAMPSON: Before it can be placed at the head of the calendar it would have to be engrossed.

Mr. DOTY: Have I the floor?

The PRESIDENT: The member from Allen was seeking the floor. I will recognize the member from Allen.

Mr. HALFHILL: As chairman of the committee on Taxation, Mr. Doty, are you not able to commence and discuss this question now and go right on?

Mr. DOTY: About as ready and able as I ever shall be. I am willing and ready to talk taxation on very slight provocation.

Mr. HALFHILL: Our calendar seems to be increasing right along and the day of adjournment is not far off. If this matter is now before the Convention why not discuss it? Is it a discourtesy to your committee to go on into it?

Mr. DOTY: It is not a question of courtesy or discourtesy. The gentleman from Scioto [Mr. EVANS] is within his rights.

Mr. HALFHILL: If we bring up a proposal and discuss it, is it not open to amendment by your committee?

Mr. DOTY: Yes; any kind of parliamentary proposition any member may put up. The whole question is before the Convention. The question of the merits of this proposal is now before the Convention.

Mr. HALFHILL: You are agreed and the author of the proposal agrees. Don't you think that the Convention had better agree to go ahead?

Mr. DOTY: I don't know what the unexpressed opinion is.

Mr. EVANS: Will you yield to a motion to postpone until Tuesday and to make it a special order?

Mr. DOTY: I am willing to yield, but not my rights to discuss.

The PRESIDENT: The member from Scioto moves that this matter be postponed until Tuesday and made a special order for that day.

Mr. DOTY: Do I have the floor if that motion is voted down?

Mr. ANDERSON: If this is made a special order and goes on the calendar it does not mean that we have taken any action on the merits, does it?

Mr. DOTY: No.

Mr. ANDERSON: It simply means that whatever we have finally adopted will bear the name of Evans?

Mr. DOTY: Not necessarily so. If he is as smart as you are, it will. If somebody else is smarter, it won't.

The PRESIDENT: The member from Scioto moves that the proposal be engrossed and placed at the head of

the calendar and made a special order for Tuesday at two o'clock.

Mr. LAMPSON: That motion does not take precedence over the motion to commit.

Mr. DOTY: The motion to postpone does.

Mr. LAMPSON: The first part is that it be engrossed.

Mr. WOODS: I am absolutely opposed to the proposal and I do not want to do any thing to let this pass one parliamentary stage.

The PRESIDENT: If this motion is lost, the member from Medina will be recognized to renew his motion.

Mr. THOMAS: Is it in order to move to amend Captain Evans' motion? If so, I move that this proposal be recommitted.

Mr. DOTY: But that is not an amendment.

The PRESIDENT: The question is shall the proposal be engrossed and made a special order for Tuesday at two o'clock?

Mr. LAMPSON: And on that the yeas and nays are demanded.

Mr. DOTY: I didn't understand that the member made a motion to engross?

Mr. EVANS: Yes, I did.

Mr. MARSHALL: I would like to amend and make it Monday a week. I feel that I would like to hear all that is said on this taxation question and I cannot be here next week.

The PRESIDENT: The first question is on the engrossment.

Mr. LAMPSON: And on that I have demanded the yeas and nays.

Mr. DOTY: I demand a division of the two questions and upon that I have a few remarks.

Mr. FESS: I would like to know if it is necessary to involve "to engross" in that motion?

Mr. DOTY: No; of course not.

Mr. FESS: I think that is the trouble.

Mr. DOTY: I didn't understand the member to make a motion to engross.

Mr. FESS: Neither did I.

Mr. DOTY: I think the question should be divided and I would like to have it divided.

The PRESIDENT: In view of the explanation made by the vice president I think the question should be, "Shall the question of engrossment of this proposal be made a special order for Tuesday at two o'clock?"

Mr. EVANS: That is all right.

Mr. ELSON: If that carries, will the whole subject of taxation be brought before the Convention and threshed out at that time once for all?

Mr. DOTY: It may be.

Mr. ELSON: It is unusual to do that before a report from a committee.

Mr. DOTY: No, we did that on Mr. Anderson's suggestion as to the liquor proposal.

Mr. LAMPSON: Upon that question I have demanded the yeas and nays.

The yeas and nays were taken, and resulted—yeas 18, nays 80, as follows:

Those who voted in the affirmative are:

Anderson,	Beyer,	Cassidy,
Antrim,	Bowdle,	Cunningham,
Beatty, Morrow,	Brown, Highland,	DeFrees,
Evans,	Fox,	Jones,
Fackler,	Hahn,	Kerr,
Fess,	Halfhill,	Malin.

Those who voted in the negative are:

Baum,	Hoffman,	Read,
Beatty, Wood,	Holtz,	Redington,
Brown, Pike,	Hursh,	Riley,
Campbell,	Johnson, Madison,	Rockel,
Cody,	Johnson, Williams,	Roehm,
Collett,	Kehoe,	Rorick,
Colton,	Keller,	Shaffer,
Cordes,	Kilpatrick,	Shaw,
Crites,	Knight,	Smith, Geauga,
Crosser,	Kunkel,	Smith, Hamilton,
Davio,	Lampson,	Stalter,
Donahey,	Leslie,	Stamm,
Doty,	Longstreth,	Stevens,
Dunlap,	Marshall,	Stewart,
Dunn,	Matthews,	Stokes,
Earnhart,	Mauck,	Taggart,
Eby,	McClelland,	Tannehill,
Elson,	Miller, Crawford,	Tetlow,
Farnsworth,	Miller, Fairfield,	Thomas,
FitzSimons,	Miller, Ottawa,	Ulmer,
Fluke,	Moore,	Wagner,
Halenkamp,	Nye,	Walker,
Harbarger,	Okey,	Watson,
Harris, Ashtabula,	Partington,	Winn,
Harris, Hamilton,	Peck,	Wise,
Harter, Stark,	Peters,	Woods.
Henderson,	Pierce,	

The motion was lost.

Mr. DOTY: I cannot interpret just what this vote means. If I should interpret, the Convention now decides to start in on taxation and go forward. That is one thing.

The PRESIDENT: The member from Medina [Mr. WOODS] withdraws his motion with the understanding that he was to be permitted to renew it or any other motion, and the member from Medina will be recognized.

Mr. DOTY: I am willing to do this if I can maintain what few rights I have left.

Mr. KILPATRICK: A point of order. Who has the floor?

The PRESIDENT: The member from Medina [Mr. WOODS].

Mr. WOODS: I move to lay this proposal on the table.

Mr. DOTY: I demand the yeas and nays on that. That is not according to the agreement. That precipitates the whole matter.

Mr. WOODS: I don't want to precipitate it.

Mr. ELSON: May I ask a question?

Mr. DOTY: I was trying to get out of a tangle and I was interrupted with a point of order.

Mr. WOODS: So that there can be no misunderstanding I want to move to postpone indefinitely.

Mr. DOTY: Now I will explain. The vote we have had and the one we are going to have will interpret what the Convention desires. I move that this proposal be recommitted to the committee on Taxation and on that I demand the yeas and nays.

A vote being taken viva voce the president announced that the nays seemed to have it.

The PRESIDENT: Does the member insist upon his demand for the yeas and nays?

Mr. DOTY: Yes.

The PRESIDENT: It has not been seconded.

Proposal No. 86, Relative to Taxation — Compulsory Attendance at Elections.

Sufficient delegates joined in the call to make it regular.

The yeas and nays were taken, and resulted—yeas 87, nays 19, as follows:

Those who voted in the affirmative are:

Anderson,	Harbarger,	Peck,
Antrim,	Harris, Ashtabula,	Peters,
Baum,	Harris, Hamilton,	Pettit,
Beyer,	Henderson,	Pierce,
Bowdle,	Hoffman,	Read,
Brattain,	Holtz,	Redington,
Brown, Highland,	Johnson, Madison,	Rockel,
Brown, Lucas,	Jones,	Roehm,
Brown, Pike,	Kehoe,	Rorick,
Campbell,	Keller,	Shaffer,
Cody,	Knight,	Shaw,
Collett,	Kramer,	Smith, Geauga,
Colton,	Kunkel,	Smith, Hamilton,
Cordes,	Lambert,	Stalter,
Crites,	Lampson,	Stamm,
Cunningham,	Leslie,	Stewart,
Davio,	Longstreth,	Stilwell,
DeFrees,	Ludey,	Stokes,
Dunlap,	Marshall,	Taggart,
Dunn,	Matthews,	Tannehill,
Eby,	Mauck,	Tetlow,
Elson,	McClelland,	Thomas,
Farnsworth,	Miller, Crawford,	Ulmer,
Farrell,	Miller, Fairfield,	Wagner,
Fess,	Miller, Ottawa,	Walker,
Fluke,	Moore,	Watson,
Fox,	Nye,	Winn,
Hahn,	Okey,	Wise,
Halenkamp,	Partington,	Woods.

Those who voted in the negative are:

Beatty, Wood,	Fackler,	Kerr,
Cassidy,	FitzSimons,	Kilpatrick,
Crosser,	Halfhill,	Malin,
Donahey,	Harter, Stark,	Riley,
Doty,	Hursh,	Stevens,
Earnhart,	Johnson, Williams,	Mr. President.
Evans,		

So the motion was carried.

The PRESIDENT: The next thing in order is Proposal No. 211—Mr. Taggart, relative to the elective franchise.

The proposal was read the second time.

Mr. ANDERSON: Will the gentleman please yield for a second to allow me to ask for unanimous consent to move that 2,500 copies of the Peck proposal relative to the judiciary be printed as we have passed it?

Consent was given and the motion was carried.

Mr. TAGGART: Mr. President and Gentlemen of the Convention: Let me say in the outset that this proposal, although it seems to come from the committee simply for the purpose of consideration by the Convention, had a majority of the committee in favor of its adoption. The minority, not desiring to present a minority report and yet not willing to concur in the majority report, suggested that the proposal be sent to the floor of the Convention for the consideration of the Convention itself. It is needless to say that this is the most important proposal that has up to this time been before the Convention.

The constitution of the United States in its opening words declares:

> We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity do ordain and establish this constitution for the United States of America.

And the present constitution of this state, under which we have lived for sixty years, provides that "We the people of the state of Ohio * * * do establish this constitution." In section 2 of the bill of rights it is provided that "All political power is inherent in the people" and "Government is instituted for their equal protection and benefit."

In many of the states of the Union similar declarations are made in their constitutions.

Now the question occurs, who are we to understand are included in the term "the people"? For it is by these words that all conjure when they go upon the hustings. Everybody is in favor of "the people," but whom do you mean when you speak of "the people"? In whom is the sovereign power of a state reposed when it is said to be reposed in "the people"? It is not reposed, I submit, in the voters, or those designated as representatives of the people, because the people in the aggregate include male and females, infants and adults, and in this aggregation the sovereign power of the state resides. It is only a few of the whole people who are the delegated persons called on to enact the laws, or to select those who are to enact the laws, to execute the laws and to interpret the laws. So you have at the foundation a delegated portion of the people who exercise the sovereignty, but the sovereignty at all times resides in all the people.

Now it is manifestly impossible that the whole people could exercise this sovereignty, and therefore certain machinery is devised whereby certain individuals are designated to accomplish this result, and the designation of the individuals is what we understand to be the conferring of the suffrage or the elective franchise.

This selection is indeed sometimes very arbitrary and not based at all times on logical reasons. Aliens are excluded, no matter what their moral worth or intelligence may be, and although some of the greatest interpreters of our constitution are foreigners, yet they cannot at any time exercise the right of suffrage or the elective franchise. Females are generally excluded from this right of suffrage. Minors are excluded, although the War of the Rebellion on both sides was fought by boys under the age now fixed for the exercise of this right. The unfortunate, whose reason is partially clouded, for obvious reasons is excluded. So that the number in whom is reposed this trust is comparatively limited. In the state of Ohio in round numbers there are 4,700,000 inhabitants, yet the highest vote ever cast in this state was 1,123,000. Therefore there was but one-fourth of the entire people who exercised this privilege.

Now, it is too often stated that this elective franchise is a mere privilege or right, personal with the individual in whom it is reposed. But it is not a mere right or privilege. It is a trust reposed in this class of inhabitants for the benefit of all the rest of the community—all the rest of the people. There is no legal reason upon which it can be classed or denominated anything other than a trust, obligation or duty. If it is a mere personal right, if it is a mere privilege, you cannot perhaps com-

pel it. But it is more than a mere privilege or right; it is a trust or obligation for the benefit of the individual himself and everyone else concerned, within the geographical limits of the state. If it is a mere personal right it can be sold, bartered or given away at the option of the person himself. Yet every state in the Union, when an elector attempts to exercise this as a mere personal privilege by barter or sale, condemns him as a felon and incarcerates him in jails or penitentiaries. If, therefore, gentlemen of the Convention, this is a trust, obligation or duty, then every elector and voter is a trustee for the benefit of himself and everyone else. Where else, gentlemen, can you find a trustee who, violating his trust, failing to exercise his trust, is not called on and compelled to perform that trust.

A trustee of a meager, beggarly sum of ten dollars, if he fails to perform that trust, can be called before a court and compelled to perform it. But here are all the vital interests of the state and of every individual in the state involved and a failure to perform that trust may seriously affect the whole course and progress of a state. That whole course and progress may be impeded or changed by a failure to perform it. What logic is there that argues you cannot compel the performance of that trust so far as you impose it in this proposal, that the elector shall be present and in attendance at all the elections held by authority of law?

Mr. OKEY: Do you think the legislature can enact a law compelling a man to vote?

Mr. TAGGART: No, and this does not compel a man to vote. You cannot compel him to exercise the suffrage by making a choice of men or measures, but you can compel him to be in attendance at the election, and the presumption is, if he is there he will vote.

Mr. ELSON: As a punishment for non-voting, would you contemplate anything in the way of disfranchisement, temporary or permanent?

Mr. TAGGART: That is for the legislature. If you ask for my personal opinion I would have a graded disfranchisement. If a voter fails to attend at one election disfranchise him for the next. I would not fine him or visit on him any pecuniary penalties. I would not have a poll tax, but if he failed to vote at an election I would disfranchise him at the next election. That is a detail that can be worked out in the general assembly. Now, this is not the mere argument of the schools or the sentiment of a mere doctrinaire. It is of practical importance. If you will look to it, you condemn men for selling their votes and yet you can accomplish the same act of corruption by paying a man to refrain from voting or remaining away from the polls; you accomplish at least one-half of the same result. The stay-at-home vote includes largely workmen, farmers, business men and professional men, classes of our citizenship who ought to perform this duty. Professional politicians and office holders and those dependent on them always vote. Take the votes in the various cities of the state, for example. I have compiled a few of them.

In this county in 1906 the vote was 35,000; in 1908, 54,000; in 1910, 45,000. There were 9,000 trustees who failed to perform their duties.

In Hamilton county in 1906, 94,000 voted; in 1908, 114,000 voted; in 1910, 100,000 voted. There were from 13,000 to 20,000 voters who failed to register and failed to perform their duty.

In Lucas county in 1906 there were 24,000 votes cast; in 1908, 39,000; in 1910, 29,000.

In Mahoning county in 1906, 10,000 votes were cast; in 1908, 21,000; in 1910, 15,000. There were from 6,000 to 10,000 voters there who did not vote.

In Montgomery county in 1906 there were 30,000 votes; in 1908, 43,000 votes; in 1910, 37,000 votes; 13,000 votes were short there. Twenty to thirty per cent of the votes were not cast at these elections. We must presume that had the votes been cast the result might have been different and we do not know what serious effects may have resulted from the failure of these men to perform their trust.

The adoption of this proposal would remove all excuse for the use of money at election time under the pretence and guise of securing the attendance of voters, but in fact distributed as a corruption fund.

Mr. HALFHILL: What do you think is the best means to compel the attendance of the voter?

Mr. TAGGART: I think that it is within the wisdom of the legislature to compel attendance, and this will secure the largest attendance.

Mr. BOWDLE: Let us suppose that the republican organization is in charge of a community and the organization should attempt to use the courts for the purpose of disfranchising a man. Would not the republican organization be thereby manufacturing democrats?

Mr. TAGGART: I don't know. That might be a desirable result in some localities. In certain other localities it might be proper for the democrats to produce some republicans.

Mr. FESS: Is there any state in the Union where they have this requirement?

Mr. TAGGART: Not that I know of, and yet that is nothing against this reform. Every reform we have, every salutary law and every salutary constitutional enactment, had a beginning. This is no new doctrine which has suddenly come to plague us or reform this people. I see in the picture group of the general assembly of 1877 a photograph of General Aquila Wiley, one of the greatest soldiers in the state and one of the best lawyers and judges. He introduced a bill in 1872 in the general assembly for the purpose of compelling the electors to attend election. It was argued against his bill that it was unconstitutional because of a penalty fixed for the failure to attend at the election. I am attempting to meet that very objection so that the legislature of the state may and shall provide that all electors shall attend and perform their duty.

Mr. DOTY: Is not the tendency of this sort of a provision toward limitation of the franchise?

Mr. TAGGART: No.

Mr. DOTY: For instance, if we have an election tomorrow in town and sixty per cent of the voters vote and forty per cent do not; the forty percent would be disfranchised.

Mr. TAGGART: Yes.

Mr. DOTY: Then we have lessened the franchise that much. Then we have another election, and if only ninety per cent of those sixty per cent voted that would cut off over five per cent more of the original?

Mr. TAGGART: Your arithmetic is all right.

Mr. DOTY: So, is not there a tendency toward a limitation of the franchise?

Mr. TAGGART: I think not.

Mr. DOTY: You have admitted my arithmetic is correct?

Mr. TAGGART: But with this law promulgated, and known, the citizens would recognize their civic duty and would perform their civic duty. The records show that within seven or eight per cent of those under compulsory elections attend at the election. They may not vote but they attend, because every citizen will perform his civic duties better if he is compelled to than if he is not.

Mr. DOTY: Is it not a fact that every citizen will attend to his civic duties when you make it easy for him to perform those duties?

Mr. TAGGART: Does he perform his civic duties when he fails to attend?

Mr. DOTY: I mean with reference to voting.

Mr. TAGGART: Does he not perform his civic duties when he pays his taxes, when he is called on jury duty, when he is sent across the state as a witness in a criminal case or twenty or forty miles to testify in a civil case? And yet you compel him to attend, and but few citizens voluntarily pay taxes, serve on juries, or join a sheriff's posse.

Mr. DOTY: I don't deny that we may do it, but I am getting at the advisability of doing it and the effect of it. If my arithmetic is right and we keep on a few years we will cut down the franchise so that only a small part of those who now have the right to vote would still have it.

Mr. TAGGART: No, because with the graded disfranchisement those that were disfranchised the first year could be restored after one year, and having been once disfranchised they will be ready to perform their civic duties. They will not want their rights taken away from them again, and they will be more zealous to perform their duty. Your arithmetic is all right, but your deductions and conclusions are all wrong. Now I need say very little more. It seems to me this ought to receive practically the unanimous indorsement of this Convention and ought to be submitted to the electors of the state, receive their indorsement at the polls and become a part of the organic law of the state. I have trespassed as long as I should and I thank you for your attention.

Mr. WATSON: Does not the right to vote carry with it the duty to vote?

Mr. TAGGART: The right to associate with you or any other citizen carries with it the idea and duty that I shall be a gentleman, but it does not follow that I do at all times perform that duty; so the right and the duty to vote at all times may be co-existent. It is the duty of every trustee to perform his trust, and yet there are recreant trustees. There are stewards who fail to perfrom their duty.

Mr. BROWN, of Highland: I have thought for a long time that the provision in the constitution for a law to this effect would be a splendid thing, but on reading this proposal I feel that it will not cover that part of the evils which have been most practiced in my observation. Down in my county I have seen on election day scores of voters lined up along the fences and drygoods boxes the whole day long, sitting in groups to be voted. They were in attendance as required by this proposal, but they were not voting, and under this proposal they would be under no obligation to vote. They were simply holding off the whole livelong day waiting for some one. At the last minute some one appears with a bag full of silver dollars and worms his way through them; in a little while they all are voting. I have seen that done time and time again in Hillsboro, which is in Highland county, adjoining Adams county, and I have always felt the need of some provision that would cure the situation. I believe that this proposal of the gentleman from Wayne [Mr. TAGGART] does not quite reach it. The gentleman stated in his remarks that a proposal which would have for its object the coercion of voters would not be constitutional. I do not know whether it will be constitutional or not under the federal law, but I have taken the risk and I offer an amendment to that proposal.

The amendment was read as follows:

> Strike out lines 4 and 5 and insert: "The general assembly shall by appropriate legislation, compel participation of all qualified electors in all elections held by authority of law."

Mr. BROWN, of Highland: I wish to state further that those persons whom I have seen by the scores waiting all day to be purchased, and whom I have seen purchased outright, open and above board, without any disposition to hide it, year after year, would under this proposal be cut out of that nefarious method of having their votes bought. They would be compelled to vote without the persuasion of which they have usually been the recipients.

Mr. MAUCK: You suggest that the general assembly shall do certain things. How are you going to enforce your command?

Mr. BROWN, of Highland: In this case I think the demand would be made good by public opinion. I do not know of any way of compelling the legislature to do a thing, but it would be the duty, under the constitution, of the legislature to enact such laws and it would be their sworn duty. I believe public opinion would compel the legislature to enact the law.

Mr. DOTY: The action of the Convention the other day seemed to kill the short ballot proposal and that necessitates our passing this particular proposal. We have, at least so far as we can judge the action of the Convention, killed the short ballot, although the Convention may reverse the action of the other day.

Mr. HARRIS, of Ashtabula: Does referring a matter mean that it is killed?

Mr. DOTY: Sometimes.

Mr. HARRIS, of Ashtabula: Does the referring or recommitting of the taxation proposal mean that it is killed?

Mr. DOTY: Not necessarily, but it may.

Mr. HARRIS, of Ashtabula: You said that the short ballot was killed?

Mr. DOTY: No; I didn't say that. I said so far as I can judge the temper of the Convention was that the short ballot proposal was killed. I may be at least allowed to judge that, although my judgment may be poor, and for the purpose of my remarks I am still going on to judge it that way. Assuming that my judgment is

correct and if the short ballot is killed—and I am sure the gentleman has enough imagination left that he can imagine with me on that proposition—assuming that is the temper of the Convention, that the short ballot proposal is or will be killed, I think we ought to put this proposal in the constitution. If we make it as difficult as possible for the citizens to vote by making the ballot so long that it is difficult to vote, we must have a spur behind them to make them perform the duty. I am in favor of this proposal. I was in favor of the short ballot, and, speaking consistently—as we are advised once in a while—every body who was in favor of the conglomerate ballot ought to be in favor of a burr under the saddle to make people use that ballot. Whenever the city of Cleveland has an election in which the people are interested in the election of one man, even, when there is no long ballot to be voted, but the whole of it hinges upon one man, there is no trouble in getting the people out to vote. The people come out if the issues are drawn, and if they are of sufficient importance to elicit the support and antagonism of the people they will come out and vote if you make it easy for them to register their will; but when you make a ballot long and the issues are distributed all up and down the ballot, the people won't vote. The vote at the last election shows just how they varied. The majorities of the successful candidates varied from eight thousand to over one hundred thousand and they were scattered, showing a grouping on the part of the people to do something, to meet this issue here and that issue there, and select this man and that man. But it was so difficult that apparently only a few could register their desires. And so the people will stay at home when you have that kind of a conglomerate ballot. They say, "What is the use? The politicians have fixed the tickets up anyhow. We have no voice and it makes no difference who is elected and we will stay at home."

Mr. HALFHILL: Do you think there is any difference in the short ballot between a state ticket and municipal ticket which are long conglomerated ones?

Mr. DOTY: There is no difference in principle.

Mr. HALFHILL: Is there any practical difference whatever?

Mr. DOTY: In the municipality, even if you do have a long ballot, you are much more apt to know everybody on the ballot, even if there are twenty-five, than you are to know twenty-five or thirty on a party ticket when they are scattered all over the state.

Mr. HALFHILL: Do you recognize that one may favor a short ballot and object to this proposition?

Mr. DOTY: I can readily see that some citizens might have those notions, but in the matter of consistency I cannot indorse their consistency.

Mr. HARRIS, of Hamilton: I rise to a point of order. The discussion is on Mr. Taggart's Proposal, No. 211, and not on the short ballot.

The PRESIDENT: The point of order is not well taken.

Mr. DOTY: The member from Hamilton was against the short ballot and he does not like to hear it mentioned. Of course the discussion is upon this proposal, but if there is any subject in this state, whether we have considered it or not, that touches on this, it is within the province of any member to bring it up in the discussion.

Mr. BEATTY, of Wood: I rise to a point of order. We have some rules as to time and I have been watching the clock.

The PRESIDENT: The point is not well taken.

Mr. DOTY: How much time have we?

The PRESIDENT: We are talking under the fifteen-minute rule.

Mr. DOTY: If I had been let alone I would have been through now. I only want to say that we can pass this proposal and if the people adopt it you simply have another law on the book that is not worth having and we well know it. The member from Wayne may take a horse to water, but he can't make him drink. That is the way with this voting proposition. If people are allowed to exercise their privilege or right of voting in the same direct way you will find them using their power easily and certainly. But you can't get all the people to vote. There never was an election in Ohio where one hundred per cent of those entitled to vote voted. In Cleveland when we have the most hotly contested elections for president and mayor I don't recall ever seeing a vote of over ninety-five per cent. Are you going to disfranchise that five percent because they were sick or out of town or at work and not able to get to the polls? If we get the proportion we are accustomed to under the long ballot and you will shorten the ballot so that the power of the people can be used with discrimination, you will have no cause for attempting this clumsy method of producing the result the member desires to bring about.

Mr. MALIN: I move that the proposal and amendment be laid on the table.

The motion was carried.

So the proposal and amendment were laid on the table.

The PRESIDENT: The next proposal is No. 212, which the secretary will read.

The proposal was read the second time.

The PRESIDENT: The secretary will read the minority report.

The SECRETARY: It will be found on page 5 of the journal of March 4. It is as follows:

> A minority of the standing committee on Legislative and Executive Departments, to which was referred Proposal No. 212—Mr. Johnson, of Williams, having had the same under consideration, recommend the following substitute:
>
> Strike out all after the resolving clause and insert the following:
>
> ARTICLE II.
>
> "SECTION 16. Every bill shall be fully and distinctly read three different days, unless in case of urgency three-fourths of the house in which it shall be pending, shall dispense with the rule. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived, or amended, unless the new act contain the entire act revived, or the section or

sections amended, and the section or sections so amended shall be repealed."

HARRY D. THOMAS,
FRANK G. HURSH.

Mr. THOMAS: I shall take only a few minutes to add to what I said the other evening in favor of abolishing the governor's veto altogether. The argument made on behalf of the governor's veto, so far as I have heard it, is that it prevents hasty and ill considered legislation. I want to repeat, in part at least, what Judge Ranney said on this subject in the convention of 1851. I think he states the matter in a far better manner than I can. Judge Ranney said in substance:

> Now, so far as the first proposition is concerned, I will agree with the gentleman that it is most desirable that the convention should fix upon some expedient by which hasty and ill-considered legislation shall be prevented hereafter.
>
> I would concede this at once. But what is the cause of this serious evil? It arises from the fact, in my humble opinion, that the people of Ohio have heretofore delegated too much power to the departments of government.
>
> Where will you go to apply the remedy? Will you look to the nature of the disease? It has arisen from the fact that the legislature has exercised powers which never ought to have belonged to it.
>
> Therein has been found the great evil of our system. Now where shall we go to find the remedy? The remedy is found in retaining among the people very many of the powers which have been exercised by the legislature, the power to confer office.

At that time the constitution provided that the legislature elect a number of the officers. Judge Ranney continued:

> Again, sir, I would not give to the legislators the power to enact all laws until they have been submitted to a direct vote of the people. That will cut down their power again. Take from them all the power of local government, and you have left nothing for the legislature to do but make general laws to which all should be subject under such a state of things. I cannot conceive that there would be any great danger of the legislature being led into the enactment of any deleterious laws.
>
> I wish to see pursued in practice that the powers of government should be divided, that distinct branches of government should be charged with distinct duties, and I wish to see them made responsible for their exercise and their respective duties clearly defined.

Judge Ranney called attention to Mr. Jefferson's opposition to the veto, and in making reference to the dignity that belongs to executive officers, such as governor and other officials to whom the veto power might be given, said that he had not much use for dignity in any form and wound up as follows:

> I conclude by declaring here that I shall vote against all vetoes, everywhere, in every form, and upon all occasions.

At the present time there are five checks against ill-considered and hasty legislation by the legislature.

1. The constitution of the United States.
2. The constitution of Ohio.
3. Supreme court of the United States.
4. The supreme court of Ohio.
5. Division into two separate bodies of the legislature.

And it strikes me that these ought to be sufficient to prevent any hasty legislation of any character without the necessity of the governor's veto.

This state got along without the governor's veto for a period of over one hundred years and there never was any particular complaint, after the legislature ceased electing officers, that the power of the legislature was any more abused in making laws than it has been since the governor has had the veto power, and this taking away from the hands of the people through their representatives the right to legislate for their own benefit and placing it in the power of one individual, whether it be the governor or any one else, to say the people shall not have what their chosen representatives have determined they should have is entirely contrary to the declaration of independence and the powers of government that, in my opinion, the people should reserve to themselves. We have decided here upon giving the people this veto power in the future and it seems to me that is sufficient without any governor's veto.

Mr. MOORE: The veto power given to the president of the United States by a constitutional convention was merely the lingering relic of monarchy which they did not have the nerve to abolish entirely. They created a legislative department to make the laws and then the judicial department and then they seemed to fear the people would legislate themselves into trouble and they gave the president the prototype of a king, the power to veto the laws under certain circumstances. They clothed the president with power to execute the laws and to make reports to the legislative body and to advise the legislators as to the necessities based upon his experience in trying to execute the laws they had made. They did not intend that the executives should become legislators as they have become in modern times. For half a century the state of Ohio managed to drag along without the governor's veto, and that veto was given to us by the use of the Longworth law, which we all understand was an infamous law, and the people who voted to give the governor veto power did not find out—a great many of them—that they had voted to give him that power until some time afterward. I feel about giving the veto power to an executive as Abraham Lincoln did when he said, "In this I hear the footsteps of returning despotism." And with the initiative and referendum I feel as though all the people should make the laws and no one man in the commonwealth should have as much power as two-thirds of the legislative body. I trust this minority report will be carried.

Mr. CASSIDY: I move to lay the substitute on the table.

The yeas and nays were taken, and resulted—yeas 69, nays 31, as follows:

Those who voted in the affirmative are:

Anderson,	Fess,	Partington,
Antrim,	Fluke,	Peters,
Baum,	Fox,	Pettit,
Beatty, Morrow,	Halfhill,	Redington,
Beatty, Wood,	Harris, Ashtabula,	Riley,
Beyer,	Harris, Hamilton,	Rockel,
Brattain,	Hoffman,	Roehm,
Brown, Highland,	Holtz,	Rorick,
Campbell,	Johnson, Madison,	Shaw,
Cassidy,	Johnson, Williams,	Smith, Geauga,
Cody,	Jones,	Smith, Hamilton,
Collett,	Kehoe,	Stamm,
Colton,	Keller,	Stevens,
Cordes,	Kerr,	Stewart,
Crites,	Knight,	Stokes,
Cunningham,	Kramer,	Taggart,
Dunlap,	Longstreth,	Tannehill,
Earnhart,	Ludey,	Wagner,
Eby,	Malin,	Weybrecht,
Elson,	Mauck,	Winn,
Evans,	Miller, Fairfield,	Wise,
Fackler,	Miller, Ottawa,	Woods,
Farnsworth,	Nye,	Mr. President.

Those who voted in the negative are:

Brown, Pike,	Harbarger,	Pierce,
Crosser,	Hursh,	Read,
Davio,	Kilpatrick,	Shaffer,
DeFrees,	Kunkel,	Stalter,
Donahey,	Lambert,	Stilwell,
Doty,	Lampson,	Tetlow,
Dunn,	Leslie,	Thomas,
Farrell,	Moore,	Ulmer,
FitzSimons,	Okey,	Walker,
Hahn,	Peck,	Watson.
Halenkamp,		

The roll call was verified.

So the motion to table was carried.

The PRESIDENT: The question is on agreeing to the report of the committee. If there is no objection it will be considered agreed to.

Mr. JOHNSON, of Williams: I move that the report be engrossed and discussed now. Why postpone it when we are ready to discuss it?

The motion was carried.

Mr. DOTY: Has the proposal been engrossed?

The PRESIDENT: No.

Mr. DOTY: It has to be engrossed.

Mr. JOHNSON, of Williams: My motion was that it be engrossed and that we proceed with it now.

The PRESIDENT: That was the motion.

Mr. PECK: Will the gentleman from Cuyahoga [Mr. DOTY] please tell me what is engrossment. I have been trying to find out what sort of a business that is ever since I have been here. Nobody ever sees it done. You just hear a motion to do it.

The delegate from Williams [Mr. JOHNSON] was recognized and yielded to Mr. Harris, of Hamilton, for a motion to recess.

Mr. DOTY: This matter is not straight; we ought to straighten it.

Mr. JOHNSON, of Williams: The gentleman is out of order. It was decided that I have the floor.

Mr. DOTY: True, if you want to go on all wrong you may.

Mr. JOHNSON, of Williams: I have yielded for a motion to recess.

Leave of absence was granted to the delegate from Wyandot [Mr. STALTER] for Tuesday.

The motion to recess was carried and the Convention recessed until 1:30 o'clock p. m.

AFTERNOON SESSION.

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

Mr. DOTY: I have examined the journal and I find that the amendment has been engrossed. Under the rule it would not come up for two days. In order that it may come up regularly I move that the rules be suspended and the proposal be read the second time now.

The motion was carried.

The VICE PRESIDENT: It is so ordered and the secretary will read the proposal.

The proposal was again read.

Mr. Johnson, of Williams, was recognized.

Mr. DOTY: I want to make a privileged statement. It appears that some weeks ago when it was decided that we should attempt to have Friday sessions there was an implied promise not to force a vote on Friday on any matter. I want to serve notice that so far as I am concerned if there are Friday sessions I shall be here and I shall attempt to bring about a vote on any subject I can, and I shall begin tomorrow if there is a session tomorrow. I want to give notice that I withdraw from that deal.

Mr. BEYER: I wish this question might be decided.

Mr. DOTY: How can we decide it?

The VICE PRESIDENT: It is not a matter before the Convention. It was only a question of privilege and the gentleman from Williams is recognized.

Mr. CASSIDY: Will the gentleman yield for a moment? Some of our creditors are making life a burden for the members of the Convention and I would move that we suspend the consideration of the pending matter five minutes.

The motion was carried.

By unanimous consent Mr. Cassidy submitted the following report:

> The standing committee on Claims against the Convention, to which was referred Resolution No. 98—Mr. Cassidy, having had the same under consideration, reports it back with the following amendments, and recommends its adoption when so amended:
>
> In line 5 strike out the figures "$161.65" and in lieu thereof insert the figures "$135.30."
>
> In line 6 strike out the figures $168.50" and in lieu thereof insert the figures "$167.85."
>
> Strike out line 9, "T. J. Dundon & Co., labor supplies, $5.00."
>
> Add at the end of said resolution the following: "George F. Jelleff, labor and materials, $20.85."

The VICE PRESIDENT: The question is on the adoption of that report.

The question being "Shall the resolution, as amended, be adopted?"

The yeas and nays were taken, and resulted—yeas 78, nays none, as follows:

Those who voted in the affirmative are:

Antrim,	Harbarger,	Peck,
Baum,	Harris, Ashtabula,	Peters,
Beatty, Morrow,	Harter, Huron,	Pierce,
Beatty, Wood,	Harter, Stark,	Read,
Beyer,	Hoffman,	Redington,
Brattain,	Holtz,	Riley,
Campbell,	Hursh,	Rockel,
Cassidy,	Johnson, Madison,	Rorick,
Colton,	Johnson, Williams,	Shaffer,
Cordes,	Kehoe,	Smith, Geauga,
Crites,	Kerr,	Smith, Hamilton,
Crosser,	Kilpatrick,	Stalter,
Cunningham,	Knight,	Stevens,
Davio,	Kramer,	Stewart,
Donahey,	Lampson,	Stilwell,
Doty,	Longstreth,	Stokes,
Dunlap,	Ludey,	Taggart,
Dunn,	Malin,	Tannehill,
Earnhart,	Mauck,	Tetlow,
Elson,	McClelland,	Thomas,
Fackler,	Miller, Crawford,	Ulmer,
Farnsworth,	Miller, Fairfield,	Wagner,
Fess,	Miller, Ottawa,	Watson,
Fox,	Moore,	Winn,
Hahn,	Okey,	Wise,
Halfhill,	Partington,	Woods.

The resolution, as amended, was adopted.

Mr. JOHNSON, of Williams: Mr. President and Gentlemen of the Convention: I shall occupy but little of your time.

Proposal No. 212 is designed to change the veto power of the governor and make it less arbitrary than it is at present. The constitution as it now stands not only requires a two-thirds vote to pass a law over the governor's veto, but it must also have in every case as many votes as it received upon its first passage. Cases might arise in which the general assembly might repass a law by a two-thirds vote and yet the constitution as it now stands would prevent it from becoming a law. Not only that, it might repass it by a three-fourths vote and yet it could not become a law if it did not receive as large a vote as it received upon its first passage. Such a provision in the constitution gives the governor too much authority, if he desires to use it. Let me illustrate: In a house of representatives composed of 120 members and a senate of 30 members, a bill is passed receiving 110 votes in the house, and then it goes to the senate and receives 30 votes. It is presented to the governor and he vetoes it. It must then be returned to the general assembly; the house may repass it by 100 votes and the senate repass it by a unanimous vote and yet it cannot become a law. Mr. President, I do not know who wrote that constitutional amendment, but it is one of the most arbitrary and unjust provisions in the constitution of any of the states of this Union. In fact, the general assembly of this state might pass a bill unanimously in each branch and the governor might veto that bill; one member of either branch of the general assembly might become sick and, although every other member of each branch might be present and vote to repass the bill over the veto, yet it would be impossible to do so.

It is, however, unnecessary to discuss this branch of the subject more at length because during the short time that the veto power has been in existence in Ohio it has been found unsatisfactory, and on January 31, 1906, a resolution was introduced in the senate providing for the submission of a constitutional amendment which was designed to correct this evil. That resolution passed the senate by a vote of 32 to 1, and on March 6 this senate resolution passed the house unanimously, receiving 93 votes. This proposition to amend the constitution was submitted to the voters at the November election in 1908. The vote of every county in the state showed a large majority in favor of the amendment. Of those who voted more than five to one were in favor of the proposition, yet it did not carry because so many who voted for state officers neglected to vote on this amendment. A good, fair constitutional provision in regard to the veto power of the governor will not only have the merit of being just, but it will make votes for the proposed constitution among all lovers of justice and fair play.

Mr. President and Gentlemen, in this proposal I seek to make another change in the veto power. Under the present constitution it requires at least two-thirds of each house to pass a bill over the veto. I desire to change it so that three-fifths may repass a bill over the veto. Many of the states in the Union require a two-thirds vote, which I think gives the governor too much arbitrary power. In fact, it might be best to allow any bill to be repassed over the veto by a bare majority of all the members elected to each house, and perhaps the trend of modern constitutions seems to be in that direction. In my opinion, however, it is best not to make the changes too radical at present. There is a difference of opinion as to what the veto power is for. In my opinion its main use, if not its only use, should be to check hasty and ill-advised legislation. In fact, the constitution of Maryland reads as follows: The veto is given "to guard against hasty or partial legislation and encroachment of the legislative department upon the coördinate executive and judicial departments. Every bill that shall pass shall be presented to the governor."

The general assemblies of Florida, Idaho, Iowa, Minnesota, Oregon, South Dakota and perhaps some other states can pass a bill over the veto of the governor by a vote of two-thirds of those present. The Virginia constitution of 1902, provides that two-thirds of those present may pass a bill over the veto, but the two-thirds must be a majority of the members elected. In Maryland and Nebraska a bill can be passed over the veto by a three-fifths vote. In Arkansas, Connecticut, Indiana, Kentucky, New Jersey, Tennessee, Vermont and West Virginia the general assembly may pass a bill over the veto by a majority of the members elected to each house. These facts will show the modern trend in regard to the veto. As before stated, I think the main, and perhaps the only, use of the veto should be to prevent hasty or ill-advised legislation. It may be claimed that if the people approve of the initiative and referendum that we do not need the veto. In my opinion it would be as necessary then as now, and perhaps more so. The governor of a great state like this will surely possess more ability than the average legislator, and he will surely have just as sincere a desire to serve the people. In the confusion and tumult that sometimes exist in legislative bodies, is it any wonder that sometimes laws

are passed that are detrimental to the best interests of the people? Sometimes such laws may be passed by the influence of a few schemers and it certainly can do no harm to have the governor review the work. I am sure that if the work of the general assembly of Ohio were reviewed by a first-class governor there would be less likelihood of the people to make much use of the referendum, even if they had the power, as they otherwise would do.

When this proposal was reported to the Convention on March 4, it was asserted by the member from Cuyahoga county [Mr. DOTY] that it would give the governor an absolute veto. It does nothing of the kind. I will not say that he knows that it does not, but I know that when he makes that assertion he does not comprehend the scope of the proposal. A great many people take delight in setting up a straw man and then knocking it down, and I sometimes think my friend from Cuyahoga county, to whom I have just referred, likes that sort of business. No, there is nothing arbitrary about this veto unless the general assembly should rush some bill through at the end of the session so that the governor could not report it before adjournment. The general assembly has no right to rush bills through during the last days of the sessions, and if it does so it should take the responsibility. What is an absolute veto? It is one that cannot be overcome. The governor has no veto of that kind as proposed in this amendment. I hope this proposal will pass.

Mr. CUNNINGHAM: I would like to ask the gentleman a question.

Mr. JOHNSON, of Williams: All right.

Mr. CUNNINGHAM: I may be stupid—I think I am—

Mr. JOHNSON, of Williams: You can not be more so than I am.

Mr. CUNNINGHAM: The amendment in committee provided for the omission of the period after the word "governor," and the insertion of the following words: "Except that in no case can a bill be repassed by a smaller vote than is required by the constitution on its first passage." It requires a majority. Why was that put in?

Mr. JOHNSON, of Williams: This amendment was put in to make it foolproof. There are bills in cases of an emergency that require a two-thirds vote to pass in the first instance. I never believed that the supreme court would knock that out, but to please the committee, not myself, I inserted that amendment to refer to bills requiring a two-thirds vote on the first passage.

If there is a single objection to this proposition that cannot be answered, I will myself move to indefinitely postpone it.

Mr. PIERCE: Has the gentleman from Williams any good reason to assign why a bare majority should not be sufficient to pass it over the governor's veto?

Mr. JOHNSON, of Williams: I have a reason and I am afraid it is a thin one, but I would rather always expose myself than for the other fellow to do it. We had this veto proposition passed and recommended by the republican party in 1903 on its first passage and the whole republican party wanted it. I suppose there is a great demand for this proposal, but I thought when I presented it to the committee that all I dare ask for in the way of reform was the three-fifths. My own personal opinion is that it would be best to have just a majority of those elected to repass a bill over the veto, but the reason I did not provide for that was that I thought the people who do not believe in the veto would be so pleased to get this liberal provision that they would vote for it as against the veto as it now is. When we get the initiative and referendum our socialist friends can vote the whole thing out and I will be happy. If I thought it would make more votes for it I would like to have it require only a bare majority to repass it over the veto because that is my position. I believe that our first duty in submitting a constitution to the people is to submit one better than the present, and the next is to submit one that will carry. I don't think we should violate our conscience to get one adopted by the people, but if we can get one reform up to a certain point and can't do better we ought to take what we can get. I would rather take three-fifths than leave it two-thirds, and I had hard work to get three-fifths from the committee. There were several proposals and mine was the most liberal. I had a right to suppose, if the delegates represented their different sections, that this was as much liberality as I dare ask for.

Mr. DOTY: Don't you think that if we have the veto power there ought to be a provision in it that shall make it impossible for the governor to veto without a review by the legislature?

Mr. JOHNSON, of Williams: No; if the legislature, after having its attention called to any proposition, is willing to take the responsibility I don't know why it should be deprived of the opportunity to pass it.

Mr. DOTY: I agree with that, but perhaps I didn't make myself clear. I may make it clearer by an illustration: The general assembly adjourns today at noon, sine die. Up to noon today in the last three days they have made fifteen new laws. The governor has ten days from today at noon to approve or veto those fifteen laws. The legislature, having adjourned sine die, will never have a chance to review the governor's veto.

Mr. JOHNSON, of Williams: I see what you are aiming at. Why should not the legislature of the state of Ohio take a recess for a few days? What prevents it? You are assuming that the legislature wants to put something over on the people when they adjourn and the governor won't allow it. That whole thing can be handled by adjourning for a few days, so that the governor can report the bills.

Mr. DOTY: The member has inadvertently misstated what I had in mind. What I object to is the ability of the governor to put something over on the people.

Mr. JOHNSON, of Williams: Has he ever done it?

Mr. DOTY: Yes.

Mr. JOHNSON, of Williams: Do you mean to say that it has ever been done by a governor of Ohio?

Mr. DOTY: Yes.

Mr. JOHNSON, of Williams: Can you imagine a legislature of Ohio so stupid then that they would give the governor of this state another opportunity? I cannot.

Mr. DOTY: That doesn't affect the governor.

Mr. JOHNSON, of Williams: I see the point, but I don't want to put that in there. The legislature has a remedy in its hands by refusing to pass any laws during the last ten days of the session.

Mr. KNIGHT: I want to ask if most of the bills that do need careful inspection by the governor are not those that are passed in the last ten days and that they need inspection to see that there is no skullduggery.

Mr. DOTY: Yes.

Mr. KNIGHT: Is it not possible for the legislature to have stopped ten days sooner?

Mr. DOTY: Yes; theoretically it is, but practically it is not.

Mr. KNIGHT: Haven't they the power to remain in session for ten days after the last bill is passed?

Mr. DOTY: They have, but they ought not to have. I see here two former members of the legislature besides myself. Just ask them if they think such a provision would be carried out.

Mr. KNIGHT: Then it is not the fault of the people of Ohio if the legislature won't stay on the job.

Mr. JOHNSON, of Williams: I have had some little experience and I know they could always get my vote on a proposition of that kind. It might be because I am so stupid.

Mr. DOTY: I don't think so.

Mr. JONES: Why not carry into your proposal the provision now in the constitution with reference to submitting to the succeeding legislature the bills vetoed by the governor at the close of a session?

Mr. JOHNSON, of Williams: I believe it is one of the most pernicious things in the whole matter, and I think I could clearly show you why.

Mr. JONES: I would like to know what is the pernicious thing about the provision?

Mr. JOHNSON, of Williams: There might be a new legislature. Some years ago when I was in the legislature they passed a law requiring business men to file their names and addresses in the recorder's office. They got a whole lot of books for that purpose and they repealed the law next year. So the legislature might not want a law that was passed by a preceding one. The people don't suffer because the legislature doesn't pass laws; it is because they pass laws not in the interest of the people. What do you want to refer things to the next general assembly for? I don't believe in stringing it out when we don't see the necessity for it.

Mr. JONES: If this right is given to the governor to veto after the legislature adjourns, ought not the next legislature be given the power to pass the law over the veto?

Mr. JOHNSON, of Williams: I don't think we should arrange for anything like that. I believe it is more practical and sensible to have the legislature refuse to pass laws in the last few days of the session and thus obviate the whole difficulty you are talking about. From the ordinary man's standpoint I believe that is better than the provision in the present constitution.

Mr. KNIGHT: Is not the point of Mr. Jones accomplished this way: There is nothing to prevent the subsequent general assembly from introducing and passing the measure de novo.

Mr. JOHNSON, of Williams: In my opinion that is a good deal more businesslike.

Mr. KNIGHT: Sometimes we have pretty nearly a brand new legislature. Would it be wise to let them pass it by a single vote?

Mr. JOHNSON, of Williams: I think it would be wiser to pass an entirely new bill. I may be wrong, but that is where I stand.

Mr. JONES: Then in respect to those bills sent to the governor and not returned until after the legislature adjourns, do you not in effect give the governor an absolute veto?

Mr. JOHNSON, of Williams: It gives him an absolute veto if the legislature puts itself in the governor's hands, but I deny its right to do that.

Mr. JONES: Is not one of the main things that we have been seeking to provide against improper action on the part of the legislature?

Mr. JOHNSON, of Williams: If we assume it is improper action on the part of the legislature the governor ought to veto it and the legislature should not have a right to do it again. I am not assuming that we have a scoundrel in the governor's chair. If his judgment is wrong, it is better to give him the right to veto and then correct it at the polls the next election than to hook all of this on so that the interests will get together and elect another legislature for the purpose of passing the law.

Mr. KRAMER: You suggest that you are in favor of allowing the legislature to pass the law by a bare majority?

Mr. JOHNSON, of Williams: That is my personal view.

Mr. KRAMER: Do you think that would be fair, inasmuch as the people just a few years ago voted by a majority of a hunded and twenty thousand to give the governor an absolute veto, that now in a year or two you try to take it away?

Mr. JOHNSON, of Williams: It might not be fair; at any rate I am opposed to it because it may be making it too liberal for the people to satisfy the radical members of this Convention, and certainly you have seen from this discussion that this is liberal enough.

Mr. WATSON: On the matter on which Mr. Kramer asked a question is it not almost impossible to defeat any amendment to the constitution when each of the political parties puts it in its platform and it is voted for as this was?

Mr. JOHNSON, of Williams: If both political parties put it in the platform and on the ballot you can not avoid it. You take boss rule every time when both of the parties try to beat the people.

Mr. DOTY: If it is put on the ballot and we had the short ballot would not the people have a chance?

Mr. JOHNSON, of Williams: I don't know. It is hard to tell what an election will bring forth. We can have all sorts of theories as to what this or that will do but nobody can foresee exactly what will come to pass. I want this proposition to stand on its own merits. My friend from Cuyahoga [Mr. THOMAS] said that we have four or five checks now against the passing of bad laws, and we don't need another. The constitution of the United States was named as the first one, and then he spoke of the constitution of Ohio. Now I am sure that no one could suppose that the legislature came here for the express purpose of passing an unconstitutional law. I didn't know that the governor's veto was to decide the constitutionality of the laws, but whether they were first class and in the interest of the people. There are

many laws passed that are constitutional, but the people don't want them.

The time of the gentleman here expired and on motion was extended.

Mr. JOHNSON, of Williams: I am so pleased with your kindness, gentlemen. I never in my life paid much attention to kickers and have never tried to please them, but you will pardon me now if I stop to satisfy the kickers.

Mr. KNIGHT: I hope the proposal will pass as presented here. It distinctly removes from the veto power as now contained in the constitution two features which make it more drastic than in any other state in the Union. One has been referred to by the gentleman who just preceded me, and the other is the provision which allows the governor to veto any section of a bill that he pleases. You can take the life out of any bill by cutting a section out of it. That provision is contained in no other veto power in any state in the Union, so far as I know, and the proposal of the gentleman from Williams [Mr. JOHNSON] excludes that and limits the veto power to vetoing entire measures and items in appropriation bills. I think we are all agreed that it is desirable to have some sort of pruning process on some of these appropriation bills which are logrolled through usually during the last few days of the session. If we can make this veto power a moderate one that will work for the good of the people, and take out the extreme features of the present veto power, I think we shall have accomplished good for the people of Ohio, and I hope no change will be made in the substance of this proposal.

I want to suggest, with the entire consent and approval of the gentleman from Williams, that I have an amendment to restore a line or two that has been left out. And that is this: There is no provision in this for any official recording of the veto message of the governor, which message will contain the only official statement of his reasons for objecting to the measure. This provision is contained in the constitution of forty-two states of the Union and is in the veto clause of the present constitution. It seems not to be in this one, and therefore I offer this amendment to restore it.

The amendment was read as follows:

> In line 14, after the second word "which," insert the words "shall enter the objections at large upon its journal, and."

Mr. KNIGHT: The idea of that is that the veto message shall be spread at large upon the journal of the house.

Mr. THOMAS: Is not that done now?

Mr. KNIGHT: The present constitution requires it, but the pending amendment does not contain any such provision.

Mr. ELSON: I want to put a question on a subject that is long past, but I want to inquire about the governor vetoing items. Did any of you ever know of the governor tearing a bill to pieces by vetoing some sections?

Mr. KNIGHT: Yes; the corrupt practices act.

Mr. ELSON: Does not the gentleman know that in the corrupt practices act if the governor had not vetoed certain items the bill would have been absurd and absolutely unworkable?

Mr. KNIGHT: Very well, then; he had his option to veto the entire thing or send it back and let the legislature remedy it. I object to the executive having a right to tear a bill to pieces.

Mr. SHAFFER: I want to offer an amendment.

The amendment was read as follows:

> Strike out in line 15, the words "three-fifths" and insert the words "a majority."
>
> Strike out in lines 17 and 18 the words "three-fifths' and insert the words "a majority."

Mr. SHAFFER: I think the time has come when we are ready to take up the progressive idea embodied in this amendment. This preserves the governor's dignity and the right to a veto and in his veto he can state the reasons why he vetoes it. He can go upon the record and the legislature then has the additional responsibility for its action when it votes upon that matter again, but it should only require a majority of all the members elected to each branch. It seems to me it embodies all the safeguards that are necessary and will bring about just what the people desire.

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

The VICE PRESIDENT: You refer to the last amendment?

Mr. STOKES: Yes.

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

The yeas and nays were taken, and resulted—yeas 49, nays 42, as follows:

Those who voted in the affirmative are:

Anderson,	Fess,	Miller, Crawford,
Antrim,	Fluke,	Nye,
Baum,	Fox,	Partington,
Beatty, Morrow,	Harris, Ashtabula,	Redington,
Beatty, Wood,	Holtz,	Riley,
Beyer,	Johnson, Madison,	Rockel,
Brown, Pike,	Johnson, Williams,	Rorick,
Campbell,	Jones,	Smith, Hamilton,
Colton,	Kehoe,	Stevens,
Crites,	Keller,	Stewart,
Cunningham,	Kerr,	Stokes,
Dunlap,	Knight,	Taggart,
Earnhart,	Kramer,	Tannehill,
Elson,	Ludey,	Wagner,
Evans,	Marshall,	Wise,
Fackler,	McClelland,	Woods.
Farnsworth,		

Those who voted in the negative are:

Brattain,	Harbarger,	Okey,
Cassidy,	Harter, Stark,	Peck,
Cody,	Henderson,	Pierce,
Collett,	Hoffman,	Read,
Cordes,	Hoskins,	Roehm,
Crosser,	Hursh,	Shaffer,
Davio,	Kilpatrick,	Smith, Geauga,
DeFrees,	Kunkel,	Stilwell,
Donahey,	Lambert,	Tetlow,
Doty,	Lampson,	Thomas,
Dunn,	Leslie,	Ulmer,
Hahn,	Longstreth,	Walker,
Halenkamp,	Malin,	Watson,
Halfhill,	Moore,	Winn.

So the amendment offered by the gentleman from Butler [Mr. SHAFFER] was tabled.

Mr. DOTY: As the law is now, no extended reports are spread on the journal of either house. That

has been the rule. So far as the advisability of providing that the governor's veto shall be spread upon the journal of either house under the ordinary practice there are very few messages from him—

Mr. KNIGHT: Are the Doty rules to be applied to the constitution. There is nothing in the constitution to say what shall be spread?

Mr. DOTY: That is the way it is done and it is provided somewhere I think in the constitution, but not having read the constitution recently I cannot say positively—

Mr. KNIGHT: It is not in the constitution.

Mr. DOTY: It is in the constitution somewhere and it is a wise provision from a practical standpoint. Now, as to the advisability of having the governor's messages put upon the journal. Very few of those messages vetoing measures come in in time to be acted upon by the general assembly.

A word on the question of sending vetoes to the next general assembly for consideration and passage. The law requires that each bill shall be read three separate times in each house. When a vetoed bill comes to the next general assembly it hasn't been read in that house at all. So far as that house is concerned it is absolutely new matter.

Mr. KNIGHT: I wonder if the gentleman has read the amendment. It does not contain any proposition such as that. It provides that after the legislature adjourns the governor shall file them with the secretary of state, but during the session of the legislature they are to be spread on the journal.

Mr. DOTY: There is an objection to putting extraneous matter on the journal. It is a lumbering up of a matter that is already lumbered up too much. This is simply putting on a lot of material that doesn't belong there. As to sending it to the secretary of state, you will find that the secretary of state will simply deliver the messages to the next general assembly and they will go in and be piled in with a lot of other stuff.

Mr. HURSH: I move to table the amendment.

The motion to table was put to a vote and lost. A further vote being taken, the amendment offered by the delegate from Franklin [Mr. KNIGHT] was agreed to.

Mr. KNIGHT: I have a second amendment, not dealing with substance, but simply to bring the question in line with the usage in most of the states. After it is read I will explain the amendment. This also is consented to by the proponent of the measure.

The amendment was read as follows:

> After the period in line 19 insert the words, "In all such cases the vote of each house shall be determined by yeas and nays and the names of the members voting for and against the bill shall be entered upon the journal.

Mr. KNIGHT: The object of this is simply that there shall be a record by roll call of the way in which the members vote on the repassage of the bill. The journal will then contain both the governor's reason for vetoing the law and the official vote in each house. The present constitution leaves this out. Without this a viva voce vote might be taken and it seems desirable to check up the members of the legislature. Something over thirty states in the Union require this. This is not a new feature, but simply in order that the record may be complete. I can see no objection to it and the gentleman from Williams [Mr. JOHNSON] agrees to it.

Mr. ROEHM: This says that it shall be done by a three-fifths vote. Would not that absolutely require a roll call?

Mr. KNIGHT: Then it doesn't add anything, but makes it specific.

Mr. JOHNSON, of Williams: The gentleman stated the matter to me, and while I do not think there is any necessity for the amendment I knew the objection might be raised. I think as my friend from Montgomery [Mr. ROEHM] that you can't make a record except by a yea and nay vote, but I agree with the gentleman from Franklin [Mr. KNIGHT] and I have no objections to the amendment. I do not see any harm in it, although I do not think we need it.

Mr. THOMAS: It has been said that the governor never vetoes a law on account of the unconstitutionality.

Mr. JOHNSON, of Williams: I understood that; I may be wrong. I think I said it was not the special function of the governor to look after the constitutionality, but to see that the people were protected.

Mr. THOMAS: He did it two years ago.

Mr. JOHNSON, of Williams: You ought to elect a farmer governor then.

The amendment offered by the member from Franklin [Mr. KNIGHT] was agreed to.

Mr. MILLER, of Crawford: I offer an amendment.

The amendment was read as follows:

> At the end of line 10 strike out the period and insert a comma and add, "but no repeal of any law shall become operative or effective unless the statute or act sought to be repealed is specifically mentioned."

Mr. MILLER, of Crawford: I introduced Proposal No. 285 at the solicitation of some of the members of our bar in Crawford county, seeking to accomplish the purpose of preventing the legislature from enacting laws wherein they could provide that "any statute inconsistent herewith shall be repealed." They feel that that burden should be placed upon the legislature and not upon the litigants. They told me it works a hardship in many cases.

Mr. HARRIS, of Ashtabula: That is part of the proposal which just repeals the constitution as it is.

The VICE PRESIDENT: Are you asking a question?

Mr. HARRIS, of Ashtabula: I am rising to a point of order.

The VICE PRESIDENT: State the point.

Mr. HARRIS, of Ashtabula: I think this amendment put in in this way is out of order. It is new matter. The proposal does not refer to this same thing.

The VICE PRESIDENT: The presiding officer thinks the amendment is in order.

Mr. MILLER, of Crawford. The object in presenting the amendment at this time is not to show any discourtesy to the committee. I don't know how they feel about the proposal, but I do know we are endeavoring to save as much time as possible. If I can get this provision into the present proposal it will satisfy the desire of those who have asked me to introduce it, and it seems to me that it is a matter that ought to be given some careful

consideration. I believe there is considerable merit in it, and I hope the attorneys present will express themselves upon this, as I am only acting under the advice of some members of the bar of our county.

Mr. WINN: Mr. President and Gentlemen of the Convention: I have not had time to think very much about this amendment, but my attention was called to it once before, or to some proposal in our proposal book aiming at this same purpose. It will take only a moment to see the importance of it. It is not an unusual thing to find in our statutes measures concluding like this: "And all statutes and parts of statutes and all sections and parts of sections of a statute in any way conflicting herewith are hereby repealed." That is a lazy means of repealing laws. This proposal says in plain terms that no bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed. And as every conflicting section is repealed by this particular provision, it is a habit of the members of the legislature to go ahead with their bills and then say at the end, "all sections or parts of sections in conflict herewith are hereby repealed," and the lawyers that have to deal with such a law as that know how almost impossible it is to find out just what has been repealed by this language. By this amendment it is proposed to have the law say in expressed terms "and section so and so of such and such an act is repealed," pointing out which one is repealed.

Mr. PECK: I want to say that there is a practical difficulty about this which has not been touched upon. You pass a new law and you say nothing about some other law that the general assembly doesn't know about. Under ordinary construction of language as laid down in the books, whether there is any mention of a previous law or not, or whether there is any such general clause as is alluded to at the end of the bill, the former act would be held repealed by implication. The doctrine of repeal by implication is that where there is an existing act and the new act flatly contradicts it the former is necessarily repealed. Now suppose you pass this provision here and the general assembly passes a law and undertakes to say what laws it intends to repeal, but overlooks something and passes this law, and then you have on the statute books two statutes conflicting with each other. Which shall take effect? I don't think you can get away from the doctrine of repeal by implication.

Mr. WINN: I want to ask you, if sometime, somewhere, some lawyer will not have to hunt that out?

Mr. JOHNSON, of Williams: Let him do it. He is paid for it.

Mr. PECK: He can't get away from it.

Mr. WINN: This would be the result of it, unless that particular section or particular statute is set out in the act, then it is not repealed by implication.

Mr. PECK: But they both are standing.

Mr. WINN: They both stand anyway.

Mr. PECK: No. Under the law as it stands now there is a repeal by implication, and the first statute is repealed by the enactment of the last. With this you would have them both standing, conflicting.

Mr. WINN: The legislature would not pass laws of that sort.

Mr. PECK: But unfortunately they do.

Mr. WINN: If members of the legislature know that unless they were particular to point out the sections of the statute that would be repealed their work would go for nothing, the statute books would not be encumbered by a lot of conflicting statutes.

Mr. PECK: I don't think it is altogether due to their carelessness or inefficiency. There are provisions of statutes hidden away in some verbiage that nobody notices. They come to the front unexpectedly to everybody and when you come across them you have a new act on the subject which takes effect. Of course, the idea generally is, and the rule laid down by the books is, that the latest law in point of time takes effect. That is the doctrine of repeal by implication. You will find it laid down in all the books on statutory laws that where two laws conflict the latest one in point of time takes effect. I don't see how you can get rid of that by this provision, because, as a matter of fact, if you do find there is a preceding law that has been overlooked and not mentioned I believe the court would ultimately decide that it was necessarily repealed and that the latest law on the subject must take effect.

Mr. JOHNSON, of Williams: This was just what I wanted to avoid in this proposal, the lawyers getting at logger-heads. I want to say what Judge Peck said, but I can't say it nearly so well. I am going to say this; I know it won't be looked upon as bright or smart by the lawyers of the Convention, but I don't care. The constitution now says that a statute or a section to be repealed should be mentioned and it was my uniform custom when I was a member of the general assembly to do that. But we are to have a general assembly composed of all classes. If a farmer, doctor, or business man or some one who doesn't understand these things has something good for the people of Ohio, simply because he doesn't know what the law is—of course he ought to know—but simply because he doesn't know the law generally he should not be denied getting that through for the people. And yet if he would pass it without mentioning the things the whole law would be in question. This is a legislative matter. Let the legislature provide for things of that kind, if the difficulty arises, that need to be taken care of. There is nothing in the present constitution or in the new one that will prevent the thing that the gentleman from Crawford proposes, but I would rather that this would be kept out for the reason that Judge Peck has mentioned, and also for the reason that the members may be just as capable of passing a first-class law for their constituents if they are not versed in the technicalities of the law. I insist this amendment should not go in. It is said that it has been a law for sixty years, but if a law is a law for years and years and is wrong it should be repealed and a better one put in its place.

Mr. CASSIDY: I want to ask you a question on the proposal. Does not your proposal, if adopted, take away from the governor the power to veto a section of a bill?

Mr. JOHNSON, of Williams: It does, except an item in an appropriation bill. What is the use of letting him veto a section of a law? If a law is bad let

him veto the whole thing and let the legislature repass it.

Mr. CASSIDY: Do you propose to take away from the governor the power to veto a section or part of a law?

Mr. JOHNSON, of Williams: Yes.

Mr. HARBARGER: I move that the amendment offered by Mr. Miller, of Crawford, be laid on the table.

Mr. HALFHILL: On that I demand the yeas and nays. That is too important to be disposed of in that manner.

The yeas and nays were taken, and resulted—yeas 63, nays 21, as follows:

Those who voted in the affirmative are:

Anderson,	Fox,	Marshall,
Antrim,	Hahn,	Matthews,
Baum,	Halenkamp,	McClelland,
Beatty, Morrow,	Harbarger,	Nye,
Beatty, Wood,	Harris, Ashtabula,	Partington,
Beyer,	Henderson,	Peck,
Campbell,	Hoffman,	Roehm,
Cassidy,	Holtz,	Rorick,
Cody,	Johnson, Madison,	Shaffer,
Collett,	Johnson, Williams,	Smith, Geauga,
Colton,	Jones,	Smith, Hamilton,
Cordes,	Kehoe,	Stewart,
DeFrees,	Keller,	Stilwell,
Donahey,	Kerr,	Stokes,
Dunlap,	Knight,	Tannehill,
Dunn,	Kramer,	Tetlow,
Earnhart,	Lambert,	Thomas,
Elson,	Lampson,	Ulmer,
Evans,	Longstreth,	Walker,
Fackler,	Ludey,	Wise,
Fluke,	Malin,	Woods.

Those who voted in the negative are:

Cunningham,	Miller, Crawford,	Riley,
Davio,	Miller, Fairfield,	Rockel,
Doty,	Moore,	Stevens,
Fess,	Okey,	Taggart,
Halfhill,	Peters,	Wagner,
Hursh,	Pierce,	Watson,
Kilpatrick,	Read,	Winn.

So the motion to table was carried.

The VICE PRESIDENT: The vote now goes on the proposal.

Mr. HARRIS, of Ashtabula: I move the previous question.

The main question was ordered.

The VICE PRESIDENT: The motion now goes on the passage of the proposal and the secretary will call the roll.

The yeas and nays were taken, and resulted — yeas 76, nays 10, as follows:

Those who voted in the affirmative are:

Antrim,	Donahey,	Hoskins,
Baum,	Dunlap,	Johnson, Madison,
Beatty, Morrow,	Earnhart,	Johnson, Williams,
Beatty, Wood,	Elson,	Jones,
Beyer,	Evans,	Kehoe,
Brown, Pike,	Fess,	Keller,
Campbell,	Fluke,	Kerr,
Cody,	Fox,	Kilpatrick,
Collett,	Hahn,	Knight,
Colton,	Halenkamp,	Kramer,
Cordes,	Halfhill,	Lambert,
Crites,	Harbarger,	Lampson,
Cunningham,	Harris, Ashtabula,	Longstreth,
Davio,	Hoffman,	Marshall,
DeFrees,	Holtz,	McClelland,
Miller, Crawford,	Rockel,	Taggart,
Miller, Fairfield,	Roehm,	Tannehill,
Moore,	Rorick,	Tetlow,
Nye,	Shaffer,	Thomas,
Okey,	Smith, Geauga,	Ulmer,
Partington,	Smith, Hamilton,	Wagner,
Peck,	Stevens,	Walker,
Peters,	Stewart,	Watson,
Pierce,	Stilwell,	Winn,
Read,	Stokes,	Wise.
Riley,		

Those who voted in the negative are:

Anderson,	Fackler,	Ludey,
Cassidy,	Henderson,	Malin,
Doty,	Hursh,	Woods.
Dunn,		

So the proposal passed as follows:

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

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

SECTION 16. Every bill shall be fully and distinctly read three different days, unless in case of urgency three-fourths of the house in which it shall be pending, shall dispense with the rules. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived, or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed.

(a) Every bill passed by the general assembly shall before it can become a law, be presented to the governor for his approval. If he approve it, he shall sign it. If he does not approve it, he shall send it with his objections in writing, to the house in which it originated, which shall enter the objections at large upon its journal, and may then reconsider the vote on its passage. If three-fifths of the members elected to that house then agree to repass the bill, it shall be sent, with the objections of the governor to the other house which may also reconsider the vote on its passage. If three-fifths of the members elected to that house then agree to repass it, it shall become a law notwithstanding the objections of the governor except that in no case can a bill be repassed by a smaller vote than is required by the constitution on its first passage. In all such cases the vote of each house shall be determined by yeas and nays and the names of the members voting for and against the bill shall be entered upon the journal. If a bill shall not be returned by the governor within ten days, Sundays excepted, after being presented to him, it shall become a law, unless the general assembly by adjournment prevents its return; in which case, it shall become a law unless, within ten days after such adjournment it shall be filed by him, with his objections, in the office of the secretary of state. The governor may disapprove any item or items in any bill

making an appropriation of money and the item or items, so disapproved, shall be stricken therefrom, unless repassed in the manner herein prescribed for the repassage of the bill.

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

The VICE PRESIDENT: The next proposal is No. 174.

Mr. WOODS: Before we enter upon the consideration of that I want to move that when we adjourn tonight we adjourn to meet Monday evening at seven o'clock.

Mr. DOTY: I move to lay that motion on the table.

The motion to table was lost.

Mr. WATSON: I demand the roll call on the motion to adjourn.

The yeas and nays were taken, and resulted — yeas 53, nays 36, as follows:

Those who voted in the affirmative are:

Baum,	Hahn,	McClelland,
Beatty, Morrow,	Halfhill,	Nye,
Beatty, Wood,	Harbarger,	Okey,
Beyer,	Harter, Stark,	Partington,
Brattain,	Henderson,	Pierce,
Cassidy,	Hoffman,	Read,
Collett,	Holtz,	Rockel,
Cordes,	Hoskins,	Roehm,
Crites,	Hursh,	Shaffer,
DeFrees,	Johnson, Madison,	Stewart,
Donahey,	Jones,	Stokes,
Dunlap,	Kehoe,	Ulmer,
Earnhart,	Kerr,	Wagner,
Elson,	Kilpatrick,	Walker,
Evans,	Kramer,	Winn,
Fackler,	Longstreth,	Wise,
Fluke,	Ludey,	Woods.
Fox,	Malin,	

Those who voted in the negative are:

Anderson,	Halenkamp,	Moore,
Antrim,	Harris, Ashtabula,	Peck,
Brown, Pike,	Johnson, Williams,	Riley,
Campbell,	Keller,	Rorick,
Cody,	Knight,	Smith, Geauga,
Colton,	Lambert,	Smith, Hamilton.
Cunningham,	Lampson,	Stevens,
Davio,	Marshall,	Stilwell,
Donahey,	Mauck,	Tannehill,
Doty,	Miller, Crawford,	Tetlow,
Dunn,	Miller, Fairfield,	Thomas,
Fess,	Miller, Ottawa,	Watson.

So the motion was carried.

Mr. DOTY: I would like to ask as a special privilege that those who voted no, but have their grips out in the cloak room packed, be allowed to have their votes counted in the affirmative.

The VICE PRESIDENT: When we adjourn we will adjourn until Monday evening.

Mr. KERR: I now move that we adjourn.

Mr. STILWELL: I demand a roll call on that.

The VICE PRESIDENT: Are the yeas and nays regularly demanded?

A proper number joined in the demand for the yeas and nays.

The yeas and nays were taken, and resulted — yeas 21, nays 60, as follows:

Those who voted in the affirmative are:

Baum,	Evans,	Knight,
Brattain,	Hahn,	Malin,
Collett,	Harbarger,	Roehm,
Cordes,	Harter, Stark,	Ulmer,
DeFrees,	Hursh,	Wagner,
Earnhart,	Kerr,	Walker,
Elson,	Kilpatrick,	Wise.

Those who voted in the negative are:

Anderson,	Hoffman,	Peters,
Antrim,	Holtz,	Pierce,
Beatty, Morrow,	Hoskins,	Read,
Beyer,	Johnson, Madison,	Riley,
Campbell,	Johnson, Williams,	Rockel,
Cassidy,	Jones,	Rorick,
Cody,	Keller,	Shaffer,
Colton,	Kramer,	Smith, Geauga,
Crites,	Lambert,	Smith, Hamilton,
Cunningham,	Lampson,	Stevens,
Davio,	Longstreth,	Stewart,
Donahey,	Ludey,	Stilwell,
Doty,	Mauck,	Stokes,
Dunlap,	McClelland,	Taggart,
Dunn,	Miller, Crawford,	Tannehill,
Fess,	Miller, Fairfield,	Tetlow,
Halenkamp,	Moore,	Thomas,
Halfhill,	Okey,	Watson,
Harris, Ashtabula,	Partington,	Winn,
Henderson,	Peck,	Woods.

So the motion was lost.

The VICE PRESIDENT: The next thing in order is Proposal No. 174 — Mr. Mauck.

The proposal was read the second time.

Mr. MAUCK: I think this proposal justifies not only my introduction of it but also the favorable report made upon it by the committee on Judiciary. However, I shall not press it further, and for this reason: We have adopted a method of procedure by which we propose to submit all proposals to the people separately. To submit so many different proposals as are proposed here separately will create the utmost confusion. For that reason I have voted against both of the proposals submitted. In the utmost fairness, therefore, I propose to move to indefinitely postpone my own dearest proposal.

Mr. WOODS: The author of this proposal may be ready and willing to indefinitely postpone it, but I for one am not. We were sent down here to do certain work. We were not sent down here to do one or two things and then go back home. This proposal is a good one, and the proposition that the general assembly should have the right to regulate the sale and transfer of stocks and bonds of corporations that are creatures of this state should be written into the constitution, and that is one of the things we were sent here to do. Having been sent here to do these things, I for one am in favor of sitting here as long as it takes to do them. I am not going to vote against any proposal that is right because some other proposals are going to be submitted separately. I said when we decided to submit separately that it was a mistake. I said we ought first to act on the proposals and then decide how to submit them. But now let us face the music. Let us adopt these things that we ought to adopt and then if we see fit to put some of them together we can do so. Now this proposal is right. I do not believe there is a man on the floor who can say there is anything wrong about this proposal.

Mr. HOSKINS: I want to ask this question: Is it not a fact that section 1 of the bill of rights is not the proper place for a declaration of this kind? Ought it not be incorporated elsewhere? I ask that for information. I think it should be among the regulations of corporations —

Mr. WOODS: If I were writing this proposal I probably would put it in the other place in the constitution, but we have not now this provision in the constitution. I want it in there. If I can get it in this place it satisfies me and will accomplish its purpose, although I might have been originally in favor of putting it in some other place.

Mr. HOSKINS: The committee on Corporations has prepared a proposal that seems to contain everything this contains and one that takes care of some other matters, and it seems to me it goes in the regulation of corporations instead of the bill of rights.

Mr. WOODS: I don't doubt that the committee on Corporations has done wisely, but I am on this Judiciary committee. We considered this proposal and everybody on the committee was for it. It ought to be passed in five minutes. We are going to have an election where these things can be voted on. If there is anything that is important, the one thing is that the general assembly should be given the right to regulate its own creatures. There is nothing indefinite about the thing. It is plain; it means just what it says. If you adopt this proposal it will be approved by the people and will influence the people to approve some other proposals.

Mr. ANDERSON: When the question came up as to the manner in which to submit this constitution, whether each proposal should be submitted separately or the constitution as a whole, I opposed the proposition to submit separately because we were not ready, just as the delegate from Medina suggests, and we couldn't tell in advance the best course to pursue. We were then told whatever action we took could not in any way interfere with the acts of the Convention, and that after we got ready to adjourn and had completed our work we would decide what was best to do.

We were not sent down here for the purpose of determining in advance what we were to do some weeks or months hence to the exclusion of good proposals such as this. I am one who believes that when we finish our work we should submit it as a whole with "new constitution, yes" and "new constitution, no." We are not sent here for the purpose of legislating alone in favor of the great mass of people, but we are sent here for the purpose of legislating in favor of the people who need help. Proposal No. 174 is offered to extend to the legislature certain powers that it does not possess. I agree with the gentleman from Medina that this ought to be voted through imemdiately. I know the tendency — and I know why it is — that we have this rushed to get through. We have got a resolution passed that we should adjourn at a certain time and there is a disposition to slight matters. We shouldn't do it.

Mr. ELSON: If we adopt this, which we can do without much debate, and then discover afterward that it would be better to put it in another place, cannot the committee attend to that?

Mr. ANDERSON: That is the reason we have the committee.

Mr. ELSON: And it wouldn't take more than three minutes.

Mr. ANDERSON: Yes; that is the fact. The question is, Is this proposal right or wrong? But I understand that we are trying to cut out all of the minor things that may come before the Convention, although they may be right, to defeat them so we may adjourn quickly and submit everything separately. It has been suggested by the member from Medina [Mr. WOODS] if the committee on Corporations sends out something better than this proposal we could then adopt it. As a Convention we have the power to do with it as we please, but this proposal is before us now and we should properly consider it. Why, if some gentlemen have their way we would adjourn before the committee on Corporations brings in any report.

Take some of the measures that have been proposed by our labor friends. They have introduced some very important proposals. But there are certain delegates who want to adjourn. It is they who say that there are only two remaining proposals that should be submitted to the people, home rule and taxation. But there are more citizens of Ohio interested in two or three of the proposals introduced by the labor delegates than there are in home rule for cities.

Mr. WINN: I wish while you are on your feet you would explain what injury, if any, any person in Ohio has suffered, may suffer or it is possible for them to suffer because this was not heretofore in the constitution.

Mr. HARRIS, of Hamilton: I would like to supplement that inquiry too. If it is in the power of the gentlemen from Mahoning [Mr. ANDERSON], I would like for him to enlighten us. If this is a good thing I would like for the gentleman to show it to us.

The VICE PRESIDENT: The gentlemen are out of order. The gentleman from Mahoning [Mr. ANDERSON] has the floor.

Mr. ANDERSON: I am not speaking so much in favor of the proposal as in reference to the apparent desire to not give it proper consideration. My remarks are directed to another phase of the question. I am rather inclined to be in favor of the proposal, but I intend to listen to the debate and obtain light from the men who are back of it. I have received some light from members who came before the Judiciary committee and I understand that in several instances fraud has been perpetrated by means that would be prevented by the passage of this amendment. I understand the legislature has endeavored to correct that and that those laws have been declared unconstitutional, and it is now sought by this proposal to make such laws constitutional.

Now, in reference to what the other delegates have just said about adjourning, I am as anxious as anybody to finish and go home. I am sacrificing just as much by staying away from home as any delegate, but it is our duty to obtain all the information we can in reference to these proposals and do the work that the people have sent us here to do. Now let us analyze the consistency of the action of this Convention. Resolutions were adopted stating we must adjourn at a certain time. To carry them out we adopt a rule that we will have sessions on Friday. The time required offering those resolutions and adopting them was much time wasted, because we

have never observed them. Every rule adopted about holding sessions on Friday has been a pure bluff. If we want to adjourn at the time stated in the Beatty resolution, let us have sessions on Friday, let us have night sessions, let us remain here on Saturday, but let us be sure to give a full hearing and consideration to everything that comes before the Convention.

Mr. STEVENS: The matter before us is Proposal No. 174, although you would never suspect it from the remarks of the gentleman last on the floor. I simply want to read this proposal. It seems to me the mere reading of it will show we have reached the depth of the ridiculous, even if we never do get to the height of sublimity. "All men are by nature free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property, and seeking and obtaining happiness and safety." That sounds all right. Then we have, "The general assembly may, however, make such regulations as it may deem proper for the conveyance and sale of stocks, bonds, securities and other personal property." Isn't that ridiculous? Why, that last clause sounds as a calico patch would look on a pair of broadcloth trousers. I haven't a thing to say for or against the addition of those last three lines, which is the only change made in this. But if we are going to adopt it, let us adopt it in some reasonable place where it will fit the case, where it will sound right and where it will not add incongruity to an already too-much-patched-up piece of work.

Mr. ANDERSON: Will the gentleman yield for a question?

The VICE PRESIDENT: Does the gentleman yield?

Mr. STEVENS: Yes, for a real question.

Mr. ANDERSON: I don't know what you consider a real question.

Mr. STEVENS: I will be the judge of that.

Mr. ANDERSON: Is it not a part of the duty of the Convention to take the ridiculous things out of our law?

Mr. STEVENS: Well, this thing is before us now, and it certainly is ridiculous. I thought when the gentleman spoke that he didn't know what the subject was and now I am sure of it. This reminds me of a little boy saying the Lord's Prayer, when he said, "Give us this day our daily bread and cake and pie." Leave the first clause as it is. It is a hundred years old in the state of Ohio, but why do we want to nail a patch on it like this last section?

Mr. PECK: This discussion grows out of ignorance to considerable extent. The supreme court decided unconstitutional a law passed by the legislature regulating the sale of stocks of goods and similar property on account of this section 1 of article I of the bill of rights. They said that it interfered with the right of property and that you couldn't pass a law which would say to a man who was engaged in business that if he proposed to sell out his whole stock in trade and he had creditors that he must give notice before he could do it. In other words it was found that this provision of our constitution was made a frequent means of defrauding creditors. A man would have a lot of creditors for a recently bought stock of goods, and he would sell the whole lot between dark and daybreak and the creditors would have to hold the bag. The legislature tried to remedy that, and the supreme court said that that law was unconstitutional because the right to hold property included the right to dispose of it and the right to hold was guaranteed by section 1 of the bill of rights. This simply provides that a remedy may be found for the fraudulent sale of goods we have had heretofore. It is the necessary thing and is the proper thing; it is the best thing we can have to protect our people against fraudulent sales.

Mr. HOSKINS: With all due respect to the committee on Judiciary I think the speech made by Mr. Stevens was a very proper one and the criticism he made was also proper. I think we should at least attempt to avoid doing ridiculous things and to attach this proposal to section 1 of article I would be ridiculous.

Mr. PECK: The supreme court has rendered it necessary that we do attach it.

Mr. HOSKINS: If you will just wait I will be through in a little while.

Mr. PECK: I will be here when you get through.

Mr. HOSKINS: I will vote for the proposal as suggested, but I do not think it ought to be lugged in here at an improper place. It hits a wrong chord. You spoil a little the music of the constitution. You make it sound out of harmony. That provision properly belongs in article XIII of the constitution, and there is a proposal reported out here that was introduced by Mr. Stokes, Proposal No. 17, which is now on the calendar.

Mr. ANDERSON: Why not take this matter up now and discuss it and dispose of it and then recommit it to the committee, as we do practically everything else?

Mr. HOSKINS: That is acceptable. I would be glad to have it as a substitute.

Mr. ANDERSON: I object to indefinite postponement though.

Mr. HALFHILL: If I understand the statement, the purpose of Proposal No. 174 is to reach and obviate a condition declared by the supreme court to exist when it held unconstitutional the statute forbidding the sale of stock.

The supreme court said a man selling out often defrauded creditors, but you couldn't pass a statute of that kind. This doesn't have anything to do with corporations. It doesn't reach the same point at all.

Mr. PECK: That is right. There is no reference at all to corporations. That refers to the sale of personal property.

Mr. HOSKINS. I have the floor. Was that supposed to be a question?

Mr. HALFHILL: Yes; I was making a preliminary statement. Suppose we say that Proposal No. 174 reaches the sale of personal property such as I have stated, would this proposition that is objected to, Proposal No. 72, which relates only to the sale of the securities of corporations, in any way help this situation?

Mr. HOSKINS: We want to get right on this proposition. If this is not designed to cover the sale of property outside of stocks and bonds it is a different proposition from what I understand it to be. But at any rate this is the wrong place to insert it. I want to call attention to Proposal No. 72, which is intended to cover the

whole situation as to these stock and bond concerns. I understand that is what you are seeking to do.

Mr. ANDERSON: No; I don't understand that to be the aim.

Mr. HOSKINS: Then you are not getting at it right, and it is not drawn properly.

Mr. WINN: May I ask a question?

Mr. HOSKINS: Wait until I get through and I will then try to answer you. There were four or five proposals. There has been a demand for classification of corporations. There has been a demand to meet the fraudulent sale of stock of corporations and to correct the evils growing out of corporate organizations, and the power of the legislature has heretofore been limited. There were three or four proposals that the committee thought they would embody in one. There was one proposal by Judge King, one by Mr. Dunn and one by Mr. Evans, and we thought Proposal No. 72 would cover them all:

> Corporations may be classified and there may be conferred upon proper boards, commissions or officers, such supervisory and regulatory powers over their organization, business and issue and sale of stock and securities, and over the business and sale of the stock and securities of foreign corporations in this state, as may be prescribed by law.

If you are simply seeking to reach personal property you should confine it to personal property other than stocks and bonds, because before this Convention adjourns, in my judgment, we must pass something that will permit the legislature to confer upon the proper board the right to supervise not only existing corporations, but the issue of their securities and the amount of stocks and the amount of bonds they may issue and sell in the state of Ohio. In other words, you will not be able to destroy these corporate evils unless we have some power that will regulate the sale of securities and stocks by those artificial persons known as corporations.

Mr. PECK: If you will read Proposal No. 174 you will find it does regulate personal property.

Mr. HOSKINS: I have read it since I got on the floor. I had supposed the way you started out that it was to regulate corporations.

Mr. PECK: It is simply to regulate the transfer of personal property, stocks of goods, etc.

Mr. HOSKINS: If you are seeking to reach personal property other than stocks and bonds in Proposal No. 174 it ought to say so.

Mr. PECK: It does say so. That is what I wanted you to read.

Mr. HOSKINS: Will the chair please tell me who has the floor?

Mr. PECK: If you just read it you will see it.

Mr. HOSKINS: I want to know who owns this Convention. If you will just let me alone I will be through in a moment. There is no earthly use in getting technical or smart. We are just simply trying to reach the same object and I don't think because of years any man has any right to assume more privileges than any other member of the Convention.

The VICE PRESIDENT: The member will confine himself to the discussion.

Mr. HOSKINS: I wish you would confine the rest of them too.

The VICE PRESIDENT: I am doing the best I can.

Mr. HOSKINS: We tried to get a proposal similar to the Kansas blue-sky law. We have had a lot of blue sky sold in Ohio and we want to reach that. I do not think Proposal No. 174 ought to be passed in its present form. I am in sympathy with the object sought to be accomplished, but you should not pass it in its present form because it is not in proper form and is not in the proper place. When this question of corporations is reached we can then take up this whole matter.

Mr. WOODS: Are you in favor of Proposal No. 72?

Mr. HOSKINS: Yes.

Mr. WOODS: Are you in favor of doing what Proposal No. 174 provides for?

Mr. HOSKINS: If I understand it, I am, and I have so stated.

Mr. WOODS: Do you think those two conflict with each other?

Mr. HOSKINS: Yes; I think the provisions of Proposal No. 174 with reference to the power to regulate corporations are not broad enough. Your proposal is too narrow.

Mr. WOODS: Does not Proposal No. 72 apply just to corporations?

Mr. HOSKINS: Yes.

Mr. WOODS: I am for Proposal No. 72, but I don't think it takes care of all the things Proposal No. 174 takes care of.

Mr. HOSKINS: I admit that, as to your last three lines applying to personal property. When you get outside of stocks and bonds it doesn't fit the other classes of personal property and was not so intended, but the provisions of Proposals No. 72 and No. 174 would conflict on the question of stocks and bonds.

Mr. WOODS: Just another question: Does not article I of the bill of rights deal with personal rights, and when you regulate the sale of stocks and bonds, should not the regulation be handled so you could catch them even if it is an individual that is handling them?

Mr. HOSKINS: Yes.

Mr. WOODS: Then haven't you to amend article I of the bill of rights to do that? I want to take care of this matter both ways. Why not pass both of them. It certainly can't hurt anything.

Mr. HOSKINS: If you are willing to trust the committee on Phraseology to straighten it out I will be willing to trust it too.

Mr. HALFHILL: I think there has been a little misunderstanding here on the relative province of Proposal No. 174 and Proposal No. 72. Proposal No. 174, notwithstanding the rather funny remarks about pinning that last sentence on to the bill of rights, is in my judgment absolutely and legally correct, and for this reason: A few years ago the legislature of Ohio passed a law which forbade one who was conducting an ordinary mercantile business from selling out that business without certain notice to creditors, and it was an attempt on the part of the legislature to prevent a dishonest person from stocking up with a lot of goods and merchandise and then making a sale, real or fictitious, and permitting his creditors to go unpaid. In other words, it was a righteous attempt to defeat a practice that was altogether too

common and often fraudulent. But the legislature was without power to do that under the bill of rights, and it was held by the supreme court to be an interference wtih personal rights, and with the free transfer of property. Now this Proposal No. 174 is drawn, if I understand it correctly, so the last three words of it meet the very condition that the supreme court found that the legislature could not get around under the present constitution. If I am not correct on that point I want some member of the Judiciary committee to inform me.

Mr. PECK: That is the way the Judiciary committee looked at it and we adopted it for that reason.

Mr. HALFHILL: That being the situation this proposal contains a very important addition to the constitution because it relates to all personal property, whether held by an individual or corporation or partnership. Now then, to that extent Proposal No. 174 has met that condition which the supreme court of Ohio has declared to exist and unfetters the legislature so that it can proceed to pass this needed legislation. I undertake to say, and I believe it to be true, that all of this that is put in Proposal No. 174 pertaining to the regulation of conveyances and sales of stocks, bonds and securities, is not necessary in order to reach the end that is desired to be reached by what is called the "blue sky" law of Kansas which has been referred to by gentlemen in debate. I believe that that power is unquestionably found within the present constitution. But suppose it is not? Suppose the legislature were to endeavor to draw a statute which would be somewhere nearly as broad as the Kansas statute, so that these bits of paper with a gold seal on the corner that are peddled around the state as stocks and bonds could not be sold promiscuously as they have been heretofore, and suppose we should again encounter some decision of the supreme court which said the present constitution is not broad enough, then while we are amending the constitution we should put this provision into it, and I believe the Judiciary committee has combined the two features necessary to cover the entire question. I think this Proposal No. 174 should be adopted right now, because it is important, and then the committee on Arrangement and Phraseology may put it in some other place if they think it belongs there, but I think it belongs right where it is, and is properly a part of section 1 of the bill of rights.

Mr. MAUCK: In making the motion to indefinitely postpone I was sacrificing some personal and professional pride because I was giving something I thought I ought to have. Inasmuch as the question has been raised, and inasmuch as the gentleman from Tuscarawas has denounced this proposal as ridiculous and absurd, I propose to fight for it and I withdraw the motion to indefinitely postpone.

Mr. STEVENS: Then I move to indefinitely postpone it.

Mr. MAUCK: You have not the floor to make that motion. I have the floor. The supreme court of Ohio, after two general assemblies had passed an act providing that bulk sales of stocks of goods should not be made in certain ways, declared the acts unconstitutional and when I observed that the failure to enforce such acts as that had resulted in great hardship to a great many wholesalers and retailers, it struck me that it would be a wise thing to give the general assembly the power to make such a law. In connection with that it struck me, inasmuch as the general assembly of Kansas made what is called the blue sky law—an act of that state regulating the disposition of stocks and bonds and other securities—that we could not have that last thing—that is, the regulation of stocks and bonds and other securities—if we could not have the regulation of personal property generally. This proposal was therefore framed with a view to giving the general assembly all of those powers, and I am gratified that the great big lawyer from Allen county joins with me in saying this proposal does actually accomplish what I thought it would accomplish and what it will accomplish, and I therefore withdraw the motion to indefinitely postpone and insist that this proposal be passed.

Mr. FACKLER: I think with the gentleman from Allen that this proposal can be amended so as to regulate the whole matter. I am preparing such an amendment. In order to see what this seeks to accomplish, let us review the legislation relative to it. The legislature passed a law providing that a man who owned a stock of goods and kept that stock of goods for sale—a shoe-store, a dry goods store or a grocery store—could not sell that stock of goods other than in the course of trade unless he first filed with the recorder a notice of his intention to sell. That was for the purpose of protecting creditors of a man engaged in that kind of a business. It had been found that many times a man would sell out his business between sundown and sunrise, take the money and get out, and the creditors would be left without any recourse whatever. In a case from Mahoning county the law passed to correct that evil was declared unconstitutional by reason of being in violation of section 1 of the bill of rights. This proposal seeks to provide a means whereby laws may be passed that will prevent that kind of fraud upon a business community. You are going to leave the business community subject to that kind of fraud unless you take the action that is offered here. I am in favor of this proposal after taking out of it all reference to stocks and bonds and then putting it on final passage.

Mr. PECK: Why take that out?

Mr. FACKLER: Leave it to the committee on Corporations other than Municipal.

Mr. PECK: Stocks and bonds are personal property.

Mr. FACKLER: Yes. I offer an amendment.

The amendment was read as follows:

> Strike out all of line 9, after the period. Strike out all of lines 10 and 11 and insert in lieu thereof the following: "Laws may be passed regulating the transfer and sale of all personal property."

Mr. MAUCK: I would like to ask the gentleman what difference he thinks that makes in the proposal. Is there any difference in personal property of one kind or another which you seek to protect? Is the fact that I enumerate stocks, bonds and securities in order to be doubly sure something that you object to?

Mr. FACKLER: The object of this is twofold, to shorten the language and strike out "general assembly." Under the initiative and referendum proposal, submitted

laws may be passed in other ways than by the general assembly.

Mr. JONES: I am in favor of the amendment just offered, but I call attention to the gentleman of an inadvertence. There is a misuse of language. The word "conveyance" has no application to personal property. What it really means is "transfer". With this change I have no objection whatever to the proposal. I happened to be assigned on the sub-committee of the committee on Corporations other than Municipal, and drafted Proposal No. 72. Part of it covers a number of proposals before the committee, and it met with the approval of the sub-committee and of the whole committee. The objects, however, sought to be accomplished by Proposal No. 72 are similar to this, to give the legislature full power over the organization of corporations and over their issue and sale of stock, and full power over anybody who offers those stocks and securities for sale. The further purpose was to provide that anybody selling or dealing in stocks for foreign corporations should be subject to licensed regulation and control. This other object is entirely a distinct one from that, and as has been suggested this decision of the supreme court prevents the exercise of the power that was attempted by the legislature with reference to the transfer and sale of personal property. This proposal, instead of fettering the hands of the legislature, is simply to untie the hands of the legislature and give it such power that it will be possible for the legislature to exercise it for the protection of the people, and I think both of these proposals ought to pass.

Mr. COLTON: I am heartily in favor of this with the understanding that personal property includes stocks and bonds. This will prevent the sale of worthless stocks and bonds of wild-cat gold mining property and it will prevent such stocks and bonds from being placed on the market. If this be done it will give great protection to the innocent people who might otherwise be induced to invest in them. I admit it looks incongruous to attach this to section 1 of the bill of rights. I regret that somewhat, and yet I would put that calico patch on the broadcloth trousers if the calico patch is the only thing at hand to close the rent and if the rent is one that seriously needs closing.

Mr. WOODS: I offer an amendment.

The amendment was read as follows:

After the word "sale" insert "stocks, bonds and securities".

Mr. WOODS: I can not see what objection there can be to having those words "stocks, bonds and securities".

Individuals may sell them and I think the general assembly should be given this power. Certainly nobody has pointed out how the use of these three words can ever hurt anybody. I might come here from New York and undertake to sell stocks, bonds and securities of a New York corporation and why should not the general assembly have the right to regulate the manner and the way that I can offer and sell that stock to the people of Ohio? Many people here have been swindled out of all sorts of money because there was no way to get at these things. Those three words can not hurt anybody, and in my judgment it gives the general assembly power which may be used for good. I think we should leave those three words in there. I think it is a good thing, however, to change the words "general assembly" to "laws may be passed". Then adopt my amendment and the whole matter is in proper shape.

Mr. THOMAS: Then you must change the word "all" to "other".

Mr. WOODS: The Phraseology committee can straighten that out.

Mr. DOTY: We are getting familiar with that kind of talk. There are six other members of that committee, but I am on it and for the seventh member of the committee I want to say that I don't like this hop-skip-and-jump method of making a constitution by writing an amendment here and an amendment there and then leaving it to the Phraseology committee to put in shape. You complain of the legislature doing that and you want to do it yourself. It appears that if we would postpone action on this and put it on the calendar right after Proposal No. 72, with all its pending amendments, we could then consider the whole thing and dispose of it, but for heaven's sake let us have it so that some of us can know something about it and the whole thing can be kept straight. It is all very easy for you gentlemen to vote on this, that and the other thing and then say the committee on Phraseology can get it in proper form, but there is a limit to what you ought to put on that committee.

Mr. KRAMER: Oh, some of us are smarter than you think.

Mr. DOTY: I move the further consideration of Proposal No. 174 with pending amendments be postponed until tomorrow and that it be placed upon tomorrow's calendar right after Proposal No. 72 by Mr. Stokes.

Mr. KILPATRICK: I move that Mr. Doty's motion be laid on the table.

The VICE PRESIDENT: The motion was not seconded and is lost.

Mr. CUNNINGHAM: I think most of the troubles we are encountering could be obviated by adding two or three words to the present proposal. There is no question at all about the legislature of Ohio having had control of the subject, and I think they could pass a blue-sky law like Kansas, but the only question is whether the legislature can pass a law regulating the sales of bonds of foreign corporations, and I therefore move as a substitute for both amendments the insertion after the word "bond" at the end of line 10 of the words "domestic and foreign". That would give the legislature power over both sorts of bonds. There is no question that they have the power to regulate the sale of domestic bonds. The only question is whether they have the right to regulate foreign bonds too.

Mr. MAUCK: I am perfectly willing to agree to that amendment.

Mr. HOSKINS: I just want to say this: I hope the Convention will bear in mind that I am ready to vote for this proposal, but I believe three or four delegates could go out and reconcile all differences. I favor Mr. Fackler's amendment, and if you pass this I want you to remember that I am going to ask you to examine Proposal No. 72, because in my judgment the provisions of Proposal No. 174 only go half far enough; they do

not meet the situation which the committee on Corporations wanted to meet, because they leave out some vital point. However, I am not prepared on the spur of the moment to draw an amendment to cover it. We had this submitted to the sub-committee and I want to warn you that in passing this proposal you have not covered the subject; you have only gone half way; you have a whole lot left. In the end we don't want two provisions in different sections of the constitution on the same proposition. What I would like to do is to reconcile those and get them in the same proposal. I am willing to pass this if you will give fair consideration to Proposal No. 72 when we reach that.

Mr. WATSON: I hope this will pass as originally drawn without so many amendments. It is designed to cover one point and I think it covers it. There is hardly a community in Ohio that has not seen some of its members pillaged by this method. I have seen it in my community and I have seen widows and orphans robbed. I have seen property taken away from fathers and sons. Whatever we do, let us pass this.

Mr. MILLER, of Fairfield: I move the previous question on the whole matter.

The main question was ordered.

The VICE PRESIDENT: The vote is first on the substitute of the member from Harrison.

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

Mr. DOTY: The main question has been ordered. That motion is out of order.

The VICE PRESIDENT: I think not. The question is on the motion to table.

The motion was carried.

The VICE PRESIDENT: The motion goes upon the second amendment by Mr. Woods.

Mr. JONES: I move that that be tabled.

The motion was carried.

The VICE PRESIDENT: The motion now is on the amendment offered by Mr. Fackler.

Mr. WOODS: I move that that be tabled.

The motion was carried.

The VICE PRESIDENT: The motion now is upon the proposal as amended. All in favor will signify it when your name is called.

The question being "Shall the proposal pass?"

The yeas and nays were taken, and resulted — yeas 73, nays 3, as follows:

Those who voted in the affirmative are:

Anderson,	Crosser,	Fackler,
Antrim,	Cunningham,	Farrell,
Beyer,	Davio,	Fess,
Brown, Lucas,	DeFrees,	Fluke,
Campbell,	Donahey,	Fox,
Collett,	Dunlap,	Hahn,
Colton,	Dunn,	Halenkamp,
Cordes,	Earnhart,	Halfhill,
Crites,	Elson,	Harbarger,
Harris, Ashtabula,	Ludey,	Rockel,
Henderson,	Marshall,	Rorick,
Hoffman,	Mauck,	Shaffer,
Holtz,	McClelland,	Smith, Geauga,
Hoskins,	Miller, Crawford,	Smith, Hamilton,
Hursh,	Miller, Fairfield,	Stewart,
Johnson, Madison,	Moore,	Stilwell,
Johnson, Williams,	Nye,	Taggart,
Kehoe,	Okey,	Tannehill,
Kerr,	Partington,	Tetlow,
Kilpatrick,	Peck,	Thomas,
Knight,	Peters,	Watson,
Kramer,	Pierce,	Winn,
Lambert,	Read,	Wise,
Lampson,	Riley,	Woods.
Longstreth,		

Those who voted in the negative are: Messrs. Doty, Malin, Stevens.

So the proposal passed as follows:

Proposal No. 174 — Mr. Mauck. Relative to bill of rights.

Resolved, by the Constitutional Convention of the state of Ohio, That section 1, of article I, of the constitution of the state of Ohio be and the same is hereby revised, altered and amended so as to read as follows:

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are by nature free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property, and seeking and obtaining happiness and safety. The general assembly may, however, make such regulations as it may deem proper for the conveyance and sale of stocks, bonds, securities and other personal property.

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

Leave of absence until next Wednesday was granted to Mr. Evans.

Leave of absence until next Tuesday was granted to Mr. Stokes.

Leave of absence for all of next week was granted to Messrs. Marshall, Okey and Shaffer.

Mr. STILWELL: I move that we recess until 7:30 o'clock this evening.

Mr. KERR: I move that we adjourn until Monday at 10 o'clock a. m.

Mr. DOTY: You can't do that; we have already decided when we adjourned we would adjourn to meet Monday evening at 7 o'clock.

Mr. KNIGHT: I move that we adjourn.

The motion to adjourn was carried and the Convention adjourned until Monday evening at 7 o'clock.