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JOURNAL

OF THE
1973 CONSTITUTIONAL CONVENTION

Vol. 1, No. 7.

Thursday, September 27, 1973

SEVENTH DAY
THURSDAY, SEPTEMBER 27, 1973
THE CONVENTION CALLED TO ORDER
AT 7:30 P. M.

The Chairman: The Convention will please come to order. Each of us at some time has been affiliated with a religious, charitable or civic organization that has been working on a project dedicated to the betterment of mankind. Invariably when associated in such work, we have come into contact with the now Vicar General of the Roman Catholic Diocese, Monsignor Daniel P. Reilly. He is with us tonight to help us in our search for divine guidance, and I ask Monsignor to deliver the invocation.

(Invocation by Monsignor Daniel P. Reilly
Vicar General of the Roman Catholic Diocese of
Rhode Island.)

The Chairman: That brings us to a calling of the roll.

(The following delegates were absent:)

Anthony J. Brosco
Joseph A. Caliri
Guistina Colafrancesco
Arthur DiSalvo
John E. Small
Paul O. Vadenais
David Veloso, Jr.

The Chairman: The secretary informs the chair there are 93 delegates present, there is a quorum and so declared.

Are there any errors or omissions? Hearing none, the minutes of the previous session stand approved as printed.

The Chairman: Delegate John Capaldi asked for recognition at this time.

Mr. Capaldi: John Capaldi, District 36. At this time I move for a recess of the convention.

Mr. Coleman: Seconded.

The Chairman: It is being regularly moved and seconded that the convention be recessed for one hour. I want to explain to all the delegates that this is at the request of committee members and committee chairmen who feel they have proposals that are within a very short period of time of being reported to this convention.

It is for that purpose that the recess is being sought, and for that purpose the question is put.

(Rising vote.)

The Chairman: The chair is informed that the motion for recess has affirmative votes of 55 delegates, and a negative vote of 33 delegates. The convention stands in recess for one hour.

The Chairman: We proceed with the next order of business which is report of standing committees, and the report of the first committee to be received is that of the Committee on Administration: The chair recognizes Committee Chairman Joseph H. O'Donnell, Jr.

Mr. O'Donnell: Mr. Chairman, the Committee on Administration presents the following figures as expenditures to date:

Personnel

Director of Administration	\$1350.00
Secretaries (4)	750.00
Research Director	1140.00
Research Assistants (6)	2097.00
Pages (7)	330.00
Sergeant-at-Arms	125.00
Ass't Sergeant-at-Arms	80.00

\$5872.00

Payroll taxes 587.00

\$6459.00

Contract Services

Stenographic — 6 sessions	\$2665.00
Equipment Rental	135.00
Supplies	150.00
Printing — Six (6) Journals	1545.00

Total contract services \$4545.00

TOTAL EXPENDITURES \$11004.00

55% of appropriation

That is a report from the Committee on Administration, Mr. Chairman.

The Chairman: Thank you, Mr. Chairman. Are there any comments or questions? Hearing none, the report of the Committee on Administration is received and approved as read.

The Chairman: The next standing committee is the Committee on Legislative Compensation. Before the chair recognizes the chairman of that committee, Lottery Committee members have informed the chair that they are within five minutes of drafting a proposal, so pursuant to the rule the chair authorizes the members of the Lottery Committee to leave the floor. The chair recognizes the chairman of the Committee on Legislative Compensation and the report from that committee.

(Members of the Lottery Committee leave the floor.)

Mr. Friedemann: Thank you, Mr. Chairman, delegate Friedemann.

(See transcript for committee reports.)

The Chairman: Are there any comments or questions? Hearing none, the report of the committee is received as reported.

The Chairman: We will turn to the Committee on Elections. The chair recognizes delegate Murphy.

Mr. Murphy (Providence): Mr. Chairman, the Committee on Elections held a committee meeting at the last adjournment, and it decided very little on its agenda. It will hold another meeting immediately following tonight's session in Room 203.

The Chairman: Thank you. Are there any comments? Hearing none, the report of the Committee on Elections is received and noted as such on the minutes of this session.

The Chairman: The chair recognizes the chairman of the Committee on Grand Jury revision. It recognizes the Chairman, Delegate John Folcarelli.

Mr. Folcarelli: Mr. Chairman, the Committee on Grand Jury has not met since we held the last meeting.

The Chairman: Are there any questions or comments? Hearing none, the report is received and so noted.

The Chairman: The chair recognizes the chairman of the Committee on Style and Drafting.

Mr. Taylor: Erich O.D. Taylor, District 49. The entire committee is in agreement and we signed what we are reporting, and it will be here as soon as we can put copies through.

The Chairman: The chairman of the Committee on Style and Drafting reports that that committee will be reporting on Proposal 19 shortly.

We will move to the Committee on Public Information. Now the chair wishes to announce

with regard to the Committee on Public Information before recognizing the chairman of that committee, that, exercising the prerogative that the chair has under the rule, I am relieving Delegate Vadenais of his duties as a member of the Committee on Public Information, and in his stead naming Barbara Williams.

The chair recognizes the chairman of the Committee on Public Information, Delegate O'Hare.

Mr. O'Hare: John O'Hare, District 37.

(See transcript for committee report.)

The Chairman: Thank you, Mr. Chairman. Are there any questions or comments? There appears to be none; there being no questions or comments, the report is received as read.

The Chairman: Is the chairman of the Committee on Lotteries ready to report?

Mr. Gagnon: Ronald Gagnon, District 37. We are presently prepared to submit a proposal to the convention, the proposal is being assembled and is recommended by the Committee on Lotteries.

The Chairman: The chair is informed that the Resolutions Committee is now ready, and recognizes the chairman of that committee.

Mr. Caprio: Thus far, Mr. Chairman the Committee on Resolutions has received 20 proposals and 6 resolutions. We have acted on all 20 proposals and on all 6 resolutions. We have tonight two proposals which we are desirous of reporting out, and we have recommended that all of the other proposals and resolutions either be tabled or continued indefinitely.

The proposals which we are desirous of reporting out tonight, first Proposal Number 68, which is a proposal calling for a Constitutional Convention. In effect, Mr. Chairman, this proposal calls for the General Assembly to provide a Constitutional Convention by submitting that question to the voters and if it is not done by members of the General Assembly within a ten year period, the Secretary of State shall propose such question to the people.

After the committee unanimously voted to report this, Mr. Chairman, it was discovered that there is a similar proposal before the Elections Committee, Proposal Number 48, which concerns itself with the same subject matter, but is much more comprehensive, and it was the feeling of the Committee on Resolutions that rather than have this referred to Special Orders of the Day, we would like to have Proposal 68 referred to the Elections Committee, so that they may act on it in conjunction with Proposal 48.

The Chairman: Is there objection to the recommendation of the committee being followed, that is referring Proposal 68 to the Committee on Elections? No objection, so referred.

Mr. Caprio: The second proposal the committee is desirous of reporting out, Mr. Chairman, is Proposal Number 56 as amended.

Proposal Number 56 originally called for a four-year term for Governor and Lieutenant Governor, and originally provided for the appointment of the other general offices.

The committee amended Proposal 56 and in effect the proposal as amended provides for a four-year term for all general officers, Governor, Lieutenant Governor, Secretary of State, Attorney General, and General Treasurer, and provides that they shall run separately, the Lieutenant Governor and Governor not being bracketed and after much consideration and deliberation, the committee reported this favorably and we request this be placed on General Orders of the Day for next Tuesday night.

The Chairman: It will be printed and distributed and it is placed on General Orders of the Day for Tuesday, October 2.

Mr. Caprio: That concludes the report of the Resolutions Committee. We have presently no business pending before our committee.

The Chairman: Thank you, Mr. Chairman. Are there any comments? Hearing none, the report of the Committee on Resolutions is received.

The Chairman: Are there any communications?

Mr. Conley: Yes, there is, Mr. Chairman, one communication. "Dear Mr. Chairman: On behalf of the Legislative Compensation Committee, I would like to express our deepest appreciation and official commendation to Professor Elmer E. Cornwell of Brown University and his staff for their laborious efforts connected with conducting research, rendering advice, and drafting proposals on the subject of legislative compensation, which have facilitated the operations of the Committee in all phases. Respectfully yours Zygmunt J. Friedemann, Chairman, Legislative Compensation Committee."

The Chairman: We will turn to introduction of proposals. This is the last session at which proposals will be accepted unless there is unanimous consent.

Mr. Conley: The following is a list of proposals submitted indicating the name of the delegate who introduced each proposal, the subject, the number assigned, and the committee to which it was referred:

	Res. No.	Comm.
Delegate Byrnes (with many of the women delegates): Accountability: Recording yeas and nays	76	Resolutions
Delegate D'Amico: Legislative	77	Leg. Comp.
Delegate Jenkins: Lotteries	78	Lotteries
Delegate Kaufmann: Legislative Pay	79	Leg. Comp.
Delegate Kaufmann: Repeal of Lottery Ban	80	Lotteries
Delegate Kaufmann: Legislative Pay	81	Leg. Comp.
Delegate Kaufmann: Terms of General Assembly	82	Resolutions
Delegate Kaufmann: Legislative Pay	83	Leg. Comp.
Delegate Kilmarx: Qualification of Electors	84	Elections

	Res. No.	Comm.
Delegate MacLaughlin (at request of a voter): Residency of elected officials	85	Elections
Delegate Malinou: Damages in eminent domain	86	Resolutions
Delegate McIntyre (with Delegates Kilmarx and Baker): Suffrage	87	Resolutions
Delegate Summer: Lotteries	88	Lotteries
Delegate Williams: Lotteries	89	Lotteries
Delegate Williams: Terms for General Assembly and General Officers	90	Elections
Delegate Williams: Elections to fill vacancies in General Assembly	91	Elections

The Chairman: That completes the receipt of proposals. We will return to resolutions.

Mr. Conley: The first resolution is by delegate Patrick Conley. "BE IT RESOLVED that it is the sense of this Convention that the charge to the General Assembly to enact a financial disclosure statute for general officers contained in the proposed amendment on Elections is mandatory and not discretionary." Patrick T. Conley, Delegate, District 15. (Resolution No. 13).

The Chairman: The Committee on Resolutions.

(So referred.)

Mr. Conley: The next resolution is by Wilfrid Godin.

Mr. Godin: District 32. This resolution concerns final adjournment of this convention and the recommendation of calling a subsequent convention. (Resolution No. 14).

The Chairman: We will put it on Special Orders of the day for Tuesday, October 2.

(Placed on Special Orders of the Day for Tuesday, October 2.)

The Chairman: The chair recognizes Delegate Malinou.

Mr. Malinou: I have a resolution, Mr. Chairman with reference to the funding of this convention. I would like the Secretary to read it.

The Chairman: The Secretary will read it.

Mr. Conley: Motion that the Convention adopt the following resolution. "BE IT RESOLVED that this Convention appoint a select committee to make application to the Ford Foundation for funding all future expenses, except delegate compensation, of this Convention, and for carrying on a post-convention public education program concerning the work of the Convention in order to fully inform the electorate with reference to the proposals which will be submitted for ratification. Martin S. Malinou, Delegate, District 1." (Resolution No. 15).

The Chairman: It seems to the chair that we could dispose of this now and not clog the files or docket for future sessions. The chair will rule that that resolution is in order for a second.

Mr. Kenny, District 20: I second the motion.

Mr. Taylor, District 49: I would move that this be tabled: The state is in no position to take money from Mr. Ford.

Mr. Principe: I second the motion, Mr. Chairman.

The Chairman: Delegate Taylor moves that the motion to create the special select committee be tabled. The chair will call for a vote on the motion to table. As many as are in favor of the motion to table please rise.

(Rising vote.)

The Chairman: The motion to table receives 29 votes; opposed, 54. Motion to table failed.

The Chairman: The chair understands that this Committee will seek assistance from foundations, Ford being targeted as prime, to make money available at least for publicizing the work of the Convention.

The Chairman: Ready for the question: As many as are in favor, say Aye? Opposed, No. The Ayes appear to have it. The Ayes have it. The chair will appoint a bipartisan select committee for the purposes expressed in the resolution.

Mr. Cavanagh: Speaking on behalf of the Lottery Committee. "The Committee on Lotteries extends its deepest gratitude and warmest appreciation to Paul Breault of Pawtucket, R. I. for his outstanding services as Research Aide to the Committee on Lotteries and for his exhaustive preparation of materials from all sources." (Resolution No. 16).

The Chairman: You have heard the motion and there being no objection, it is seconded by every delegate. As many as are in favor, say Aye? Opposed, No? The Ayes do have it.

Special Orders of the Day, of which there is but one, and that is the vote on the main question of Senator Taylor's resolution, namely, that when this Convention adjourns its October 4, 1973 session, it shall stand adjourned sine die.

(There was discussion of the resolution with delegates Malinou, Kaufmann and O'Donnell speaking in opposition, and delegates Garan and Folcarelli in favor.)

(Roll call vote on Taylor Resolution No. 6 to adjourn.)

The following delegates voted, "Aye."

Ann R. Baker	Emmett J. Cotter
Arthur G. Capaldi	Alice E. D'Alessio
John F. Capaldi	Ethel L. DeAngelis
Frank Caprio	Virgil H. Dutra
Salvatore R. Cesaro	Giovanni Folcarelli
John R. Cioci	James J. Federico, Jr.
John A. Coleman	Zygmunt J. Friedemann
Patrick T. Conley	Mary Kathleen Furtado
Leo T. Conners	John Paul Garan
Richard W. Costantino	Wilfred L. Godin
Edward Denis Costello	Raymond E. Grimes

Janet A. Hartman	William T. Murphy, Jr.
John Hines	George Ogley
Steven B. Kenny	John M. O'Hare
Mary N. Kilmarx	Adrian J. O'Rourke
M. Louise King	Robert J. Paci
Domen co Manfredo	James A. Petros'nelli
Robert A. Mauro	William E. Powers
Richard McAllister	Anthony F. Principe
William J. McAttee	Rob Roy Rawlings
Robert J. McKenna	Laurant L. Rousseau
Ann M. McQueeney	Robert V. Salvatore
Helen Migliaccio	Edward J. Slattery
Michael W. Miller	Arthur Spingarn
Arthur F. Mitchell	Barbara Summer
William F. Murphy	Erich A. O'D. Taylor
	Marilyn A. Thetonia

The following delegates voted, "Nay."

Alfred A. Almonte, Jr.	Arthur A. Kidder
Martha R. Bailey	Walter M. Kimball
Joseph Borges, Jr.	Donald Large
Manuel Botelho, Jr.	Donald W. Lister
Robert H. Breslin, Jr.	Gerald R. Lynch
M. Christine Byrnes	Edward R. MacLaughlin, Jr.
Roderick A. J. Cavanagh	Martin S. Malinou
N. Jameson Chace	Jerry L. McIntyre
John D'Amico	Ilse I. Messina
J. Colin Dawson	Arthur W. Murphy
Ronald R. Gagnon	Joseph H. O'Donnell, Jr.
Alan P. Gelfuso	John J. Partridge
Charlotte M. Gleeson	William J. Peotrowski, Jr.
Kathleen J. Hawkins	Herbert G. Rock
Mary R. Hiltz	Albert D. Saunders, Jr.
Charles Hooper	Edward H. Torgan
Stephen A. Jenkins	Robert B. Tucker
Robert K. Kaufmann	Milton Wallace
Mary S. Kessler	Barbara Williams

Mr. Conley: The tally was 53 in favor, 38 opposed.

The Chairman: The convention will note that it's adopted a resolution.

(So voted.)

The Chairman: The chair recognizes the Chairman of the Committee on Style and Drafting to make the report and appropriate remarks.

Mr. Taylor: The copies of our report are being passed out. The report is in form for you. It is signed by every member of the committee.

Now, this report is a very careful going-over of the committee of Proposal Number 19. I believe that it would not probably be acted on to-

night because I think there are things in it that require study by everybody.

I would like to make note of one or two changes that have been made concerning it. The most important of these are the suggestion by several members of the committee that it is possibly questionable whether the notes about the "contributions and expenditures made by any person to or on behalf of such candidate, provided however that the General Assembly may limit such disclosure of contributions or expenditures in excess of such an amount as the General Assembly shall specify as necessary or advisable.

It seems to me a hypocrisy. General contributions are not made to candidates; there are sometimes, certainly bigger contributions going to parties. In no place are party contributions mentioned.

It is a very clever dodge, and it is found to be a problem in national affairs. It is a problem too, where the committees do not turn anything over to it; that should be looked at. The other really serious change in this is the prison sentence concerning people who have committed a felony of some kind and should not be allowed to vote. The question has been brought up that after a plea of "nolo" a man really receives a sentence and is declared guilty.

Now, then, should he be excluded or should he not from the right to vote? This language that is provided here takes care of a man who has been convicted and is serving a sentence, and him only.

There was a question, also, brought up to us about guardianship. Guardianship is a very difficult thing. We all know that guardianship was a problem some years ago, not so much now because an eighteen-year-old is no longer under guardianship, and this would make a great difference.

So that has been taken care of.

I noticed one problem here that I think should be studied carefully in the form it came from the committee where it says, "The General Assembly

may provide by law for shorter state and local residence requirements to vote for electors for President and Vice President of the United States.

“Section 2. The General Assembly shall provide by law for the nomination of candidates; for a uniform system of permanent registration of voters; for the exemption from such registration of persons in the active service of the nation and members of the United States Merchant Marine and their families if otherwise qualified; for absentee and shut-in voting.”

This apparently does not include families of the Armed Services the way it is written, “if otherwise qualified.”

My committee has some difficulty in understanding that. With that, I would move that it be placed on the docket for the next meeting.

The Chairman: The chair recognizes delegate Hines.

Mr. Hines: Delegate Hines, District 29; I second the motion.

The Chairman: The chair recognizes delegate Murphy?

Mr. Murphy (Providence): On behalf of the Elections Committee I would like to thank Chairman Taylor and the other members of the Style and Drafting Committee for the excellent revision of some of the minor questions that were created in the Elections Committee, and I will take up a suggestion which we probably brought up as an amendment after discussion on line 7 of page 2 dealing with Section 2 of the proposal and insert the words, “shall require each candidate or party presenting a candidate.”

I think that will probably answer Chairman Taylor’s objection to the language as presently constituted.

The Chairman: Does the chair understand that you are offering that as an amendment now?

Mr. Murphy: If it is in order.

Mr. Taylor: I think it is inappropriate.

The Chairman: It is appropriate.

Mr. Taylor: We have asked to have it transferred to the next session.

The Chairman: It is appropriate.

Mr. Murphy: I would like to have one additive to make, “political party.”

The Chairman: Do you have it in writing?

Mr. Murphy: No, sir. It was just at the suggestion of Senator Taylor that it is a much better interpretation of the proposal than we already have.

The Chairman: Delegate Cavanagh?

Mr. Cavanagh: I would like to pose a question to Mr. Murphy about that.

The Chairman: You may be heard.

Mr. Cavanagh: What is the purpose of that?

Mr. Murphy (Providence): Of adding the amendment?

Mr. Cavanagh: Yes, sir.

Mr. Murphy (Providence): To make the amendment that more complete to include political parties, and, also, contributions to be made to the party.

The Chairman: The chair recognizes delegate Breslin.

Mr. Breslin: I am just asking a question. Are you saying, “or” the party.

Mr. Murphy (Providence): Yes.

Mr. Breslin: If you are saying, “or,” you are creating some doubt as to whose responsibility it is, whether it is the candidate’s responsibility or the party’s responsibility.

Mr. Murphy (Providence): There was a feeling all along that this is directed to the General

Assembly, if the appeal was in a statutory manner.

Mr. Breslin: I am not sure that answers the question I have. Shouldn't the responsibility be defined rather than diffused by suggesting that there can be an alternative.

Mr. Taylor: Point of order.

The Chairman: Point of order; the chair recognizes delegate Taylor.

Mr. Taylor: The request of the committee is that a chance to study this be given before we vote on it. I believe the discussion on this thing should be put over.

The Chairman: Delegate Murphy.

Mr. Murphy (Providence): The language is substantially the same as the language on Tuesday night with the stylistic improvements that Senator Taylor brought to us. We approved it 77 to one Tuesday night. I think most of the delegates are ready to deal with it this evening.

The Chairman: The vote on Tuesday night was to refer to Style and Drafting. It was not on the final approval. The delegate's point is well taken. It would serve the purposes of this convention and the people better if we placed Proposal 19 as reported on the calendar for Special Orders of Tuesday with every delegate taking a careful look at it and having such amendments as he or she might think advisable ready for Tuesday night at which time it will be up for final approval.

Mr. Murphy (Newport): Delegate Murphy from District 50 Vice Chairman of the Style and Drafting Committee.

The Chairman: The chair recognizes delegate Murphy?

Mr. Murphy (Newport): I want to go on the record as saying all members of the Committee on Style and Drafting are in accord with the chairman's motion. This is a comprehensive amendment. We worked very hard on the language, and it does deserve study.

I would like to point out one thing to some of the delegates, and that is, an amendment that we made concerning disenfranchisement of convicted felons.

This has become quite constricted in our present constitution, and it requires before disenfranchisement that you would have to be serving a prison sentence or be convicted of any felony.

I just wanted to add that; but I want to go on record saying we are all in favor of the chairman's motion.

The Chairman: It is on Special Orders for Tuesday, and that is for final approval.

(Placed on Special Orders on Tuesday, October 2, 1973.)

The Chairman: There is something on the second reading remaining, and we will return to General Orders for today, and the first order of business is the recommendation of the Committee on Grand Jury revision for discussion now and referral to the Committee on Style and Drafting. The chair recognizes the Chairman of the Committee, delegate Folcarelli.

Mr. Folcarelli: Mr. Chairman, Proposal Number 21, as amended, was presented last Tuesday and placed on today's calendar. This proposal has been recommended by the Committee on Grand Jury by a vote of 17 to one. The present article in the constitution of the State of Rhode Island states that a person shall not be held to answer for capital or other infamous crime unless on presentment or indictment by a Grand Jury. That is, all felonies have to go through the Grand Jury procedure.

With the proposed amendment to the constitution and in answer to some of the questions in the past regarding delays of trials, regarding people who have to spend some time in prison awaiting a Grand Jury or Grand Jury action, and many other problems that modern times have faced with the Grand Jury provision in the constitution, the proposed amendment would, in fact, retain the Grand Jury system for those

capital crimes such as murder, arson, and two or three others, and on other felonies which are punishable or usually punishable by more than \$500 fine or one year in prison. There would be an option to be exercised by the General Assembly that would in fact make charging either through presentment or indictment by a Grand Jury or by information in writing signed by the Attorney General or one of his designated assistants. I think that the committee has heard all of the testimony that it can possibly hear. We have had the privilege and the benefit of a commission report that has extensively researched this particular issue. Our own vice-chairman was a member of that distinguished commission, and we had a great deal of help from the inside with the experience that he had on the commission.

I believe that the proposal is in final form. It is ready for consideration and passage by this body, and I, Mr. Chairman, move that the proposal be adopted upon recommendation of the Committee on Grand Jury:

Mr. Garan: I second the motion.

The Chairman: The report of the committee is before the convention for consideration on reference to the Committee on Style and Drafting to be reported back for final adoption.

Mr. Torgen: I have an amendment I would like to propose, Mr. Chairman.

The Chairman: The chair would like to state at this time that amendments are in order if there are any. Before it goes to Style and Drafting, it's highly desirable that when it is known there are substantive changes they should be made before it's referred to the Committee on Style and Drafting; so properly before us now are any suggested amendments.

Mr. Conley: Mr. Torgen moves to amend Proposal 21 by adding after the word, "assistance," on Line 8 the following: "as the General Assembly may provide and in accordance with procedures to be enacted by the General Assembly," we have added here, "provided, however, that

until such procedures are adopted prosecutions of all felonies shall be as presently provided."

Mr. Folcarelli: I second that motion.

Mr. Gelfuso: I second the motion.

Mr. Capaldi (Coventry): I second the motion.

Mr. Godin: I second the motion.

The Chairman: The motion to amend as read has been duly seconded. Are you ready for the question?

The Chairman: The chair recognizes delegate Saunders.

Mr. Saunders: I would like to speak very briefly as a member of the Grand Jury Committee. The amendment seems appropriate, but I would like to clarify its intent. The basic premise from which the committee worked was that the proposed constitutional amendment would effect a substantive change in the Constitution, that is, that following its adoption the criminal matter might be brought on either by way of information charged by the Attorney General or by presentment for indictment by the Grand Jury as concerns all those felonies other than those punishable by life imprisonment or death.

In order to effect that type of change, it seems to me that the constitutional provision must incorporate in it a provision allowing the Attorney General at his election to take either of those routes during the period the General Assembly does not act and specify which group must be taken as concerns a particular crime.

Now this amendment would have the opposite effect. It would maintain the status quo until such time as the General Assembly changed that status quo, and I think — and on a very practical plane that if we make that type of change in the Constitution and then in effect say to the General Assembly, "But you really don't have to change anything," that's just what we're going to get, "No change." I would suggest that the clarifying language should place the discretion with the Attorney General until such time

as the General Assembly moved in an affirmative way to specify that a particular charge had to be brought either by information or by presentment or indictment by the Grand Jury, and for that reason I would urge the rejection of this amendment.

The Chairman: Any further statements?

Mr. Garan: In response to delegate Saunders remarks, I would like to say that the intent of the Committee on Grand Jury at the time it voted on this proposal, was that it would leave to the discretion of the General Assembly to specify which crimes would be chargeable through information or through indictment by the Grand Jury, and I think that was the basic idea with which we voted for this proposal.

The Chairman: Are you ready for the question? As many as are in favor, say "Aye"; opposed "No." The "Ayes" do have it and the proposal stands amended.

(Proposal Number 21 stands amended.)

Mr. Dawson: I have an addition to Proposal 21 as amended and it is endorsed by 14 delegates.

This is in addition to Proposal Number 21 as amended and to be added before the last sentence on Line 12. It states the following: "The scope of the powers of the Grand Jury shall be such that the Grand Jury may inquire into crime on its own motion and any citizen may present evidence of crime." This is sponsored by myself, and thirteen other delegates.

The Chairman: Now you may certainly be heard on it, but the minute the words "Grand Jury" appear in the constitution, they come with a built-in meaning. The common-law power of the Grand Jury remains intact so long as you preserve the Grand Jury system, but you have thoughts and you wish to be heard, and you have the floor.

Mr. Dawson: There are many of us here that feel that this may be redundant and this is an inherent right of the citizens of Rhode Island, but our knowledge is such that in this state there

is crime of which the average citizen may be reluctant to go to the local police department or authorities.

We feel that by including this in the constitution, informing the citizenry that they have the right to go before the Grand Jury in secrecy, it will help the moral climate in Rhode Island.

Dr. Rock: Seconded

Mr. Folcarelli: Mr. Chairman, I think that the committee, or rather the delegates, that proposed that amendment have stated that they realize that this may be an inherent power on the Grand Jury. I don't know who said it, but I am sure it was one of the people who probably worked on the first Constitution when they said if you try to make a Constitution specific and if you try to put specificity in the Constitution's provisions, then you are going to lose many more rights that you want to have.

Mr. Garan: To continue with Mr. Folcarelli's remarks, I would say that the committee has already hashed over this language, and it is pretty much decided that they are inherent in the powers of the Grand Jury and we don't feel this language should be added to the Constitution as such.

Mr. Cavanagh: I will agree with Mr. Folcarelli, however, as the chair well knows when Grand Juries first came about, there were 13 good and true men in common-law England. Everyone in the community knew of this assembly, approached these 13 men and told them of wrong-doing.

Today's society is much more complex, and much more sophisticated, and in point of fact, I think if a poll was taken, most everyone in the community would be unaware of their right to so present to the Grand Jury and come before a Grand Jury. I don't think that it harms anyone by having informed the citizenry. On that basis, I think the amendment is informative and proper.

The Chairman: I trust that the delegates will indulge the chair in this. I had nine years experience in the office of Attorney General. Be-

lieve me, the citizenry was not shy about making known grievances to the Grand Jury, but if you were to put anything in the constitution that could be possibly construed as permitting every citizen to go to the Grand Jury when he felt he should be heard, you will have chaos.

The Grand Jury receives these requests from the citizenry and they pass on them and in instances they decide they want to hear them, and other instances they decide against. It would be dangerous to tamper with that; it is only an observation of the chair.

Mr. Cavanagh: Can I ask for your suggestions along those lines, after all you are probably more experienced at that procedure than any other single member of this convention.

The Chairman: No rule is more firmly established as you are probably aware than that when the people use common-law phrases, refer to common-law instrumentalities, they build them into the Constitution.

This retaining of the Grand Jury system by the proposed amendment to our constitution retains the Grand Jury system, and with it goes all of the common-law inherent rights, so that it is the thinking of the chair that while it does not always work serious harm to put in redundant language, it sometimes does and no one knows that better than the Justices of the Supreme Court who sometimes find they said too much, and on other occasions find they didn't say enough.

So, it is the feeling of the chair that you don't need this, but clearly it would do no harm in the chair's mind, if this proposed amendment were simply that the inherent common-law rights of the Grand Jury shall be preserved.

Now, you see, it is not the right of the citizen, it is the right of the Grand Jury to entertain grievances made to the Grand Jury, so that if you put a phrase in there that the inherent common-law rights of the Grand Jury are preserved, you have done it.

Mr. Dawson: If I may explain, one point, that is it was the feeling of those that signed

this addition that we do it in the interest of informing the citizens of Rhode Island, who in many instances in various towns and cities, are reluctant to report evidence of knowledge of crime to local police departments. It was along these lines that we wanted to publicize this.

Ms. Baker: I think there must be better ways to inform the citizens of their rights to go to the Grand Jury than by putting something in the constitution. I really question how many voters and citizens of Rhode Island read their constitution thoroughly and often; therefore, there have got to be better ways.

I would also say that the judge, when he swears in a jury, instructs them exactly as to the powers that they have.

Mr. Torgen: This matter was discussed at great length in the committee, and I feel that Your Honor's points are well taken, and I would like to make a motion to lay this on the table.

Mr. Capaldi: Seconded.

Mr. Caprio: Seconded.

The Chairman: We have a motion to lay the proposed amendment on the table.

Mr. Dawson: I would like to withdraw the motion and go along with your wording that you suggested that the Convention follow.

The Chairman: The phrase that, "The inherent common-law rights of the Grand Jury are preserved"?

Let's do it expeditiously. The motion to amend is moved to be tabled, and this is seconded. The intention of the chair is to take a vote on the motion to table, and then to give the delegate an opportunity to offer the shorter amendment. Is that satisfactory?

Motion to table, as many as are in favor say, "Aye;" opposed "No." The "Ayes" have it and the amendment is tabled.

(Motion to table passes.)

Mr. Cavanagh: May I suggest, "The inherent common-law powers of the Grand Jury are preserved" as the language of the amendment.

The Chairman: Is that satisfactory? Put it in writing so the secretary will have it. Do you so move?

Mr. Dawson: So moved.

Mr. Taylor: Seconded.

Mr. Rock: Seconded.

Mr. Torgen: I also move to second that amendment.

(Language of amendment so moved and seconded.)

Mr. Folcarelli: Giovanni Folcarelli, District 22. I really don't think this amendment is necessary. I urge a vote against it.

The Chairman: Amendment is moved and seconded. Are there any questions? Are you ready for the question? As many as are in favor will say, "Aye;" opposed, "No." The "Ayes" appear to have it. The "Ayes" do have it.

The Chairman: Are there any further amendments? The question before the house is shall Proposal 21 as amended by this convention be referred to the Committee on Style and Drafting? As many as are in favor will say, "Aye." Opposed, "No." The ayes have it. It is referred to the Committee on Style and Drafting.

(So referred.)

The Chairman: The next order of business is the report of the Committee on Lotteries which has reported out a proposal for consideration and reference to the Committee on Style and Drafting. The chair recognizes the Chairman of the Committee on Lotteries, Ronald Gagnon.

Mr. Gagnon: The amendment would read as follows:

"All lotteries shall hereafter be prohibited in the State except those already authorized by the

General Assembly and except lotteries operated by the State as may be authorized and prescribed by the General Assembly." (Proposal 35 as amended).

Mr. Kimball: I have a question on the proposed amendment. It says, "All lotteries shall be prohibited except those already authorized."

Mr. Gagnon: The language which has been proposed is exactly the same language as in the present section of the Constitution. Quite frankly, we don't know how that originated. We don't know what type of lotteries were in effect in the 1840's. However, at the present time there are at least what the chairman personally considers many lotteries operating, for example bingos — this would simply approve the existing legislation which permits bingos for charitable purposes and some other forms of gambling which I'm not particularly familiar with:

Mr. Rousseau: Could I ask the chairman on lotteries a question? You have a one sentence amendment to the title. It indicates Article IV, Section 12, is amended, but there is nothing in the body of the amendment which specifically repealed the present Article IV, Section 12. Is it your understanding that the title communicates this or should there be an additional section that the present Article IV, Section 12, is repealed?

Mr. Gagnon: We are not repealing IV, Section 12. We're amending it in part.

Mr. Rousseau: Should you not have another section?

The Chairman: The chair understands either it will be done here on the floor of this convention or it will be done by the Committee on Style and Drafting that there would be added a sentence, "The proposal shall be substituted for Section 12 of Article IV which is hereby annulled." This is a substitution of the language of Section 12 of Article IV, correct?

Mr. Gagnon: Correct, Mr. Chairman.

The Chairman: As the chair commented earlier, it would be advisable and indeed desir-

able that the convention add to any proposal before it goes to Style and Drafting those matters of which the convention becomes cognizant that are necessary, and so the chair thinks it would be advisable if the motion were made to add that "This proposal shall be substituted for the provisions of Section 12, Article IV, which is hereby annulled."

Mr. Gagnon: Mr. Chairman, I would so move.

Mr. Grimes: I second the motion.

The Chairman: As many as are in favor of adding that clause will say, "Aye." Opposed, "No." The ayes do have it.

(So voted.)

The Chairman: The question is shall Proposal 35 as amended here on the floor be referred to the Committee on Style and Drafting? As many as are in favor will say, "Aye." Opposed, "No." The ayes have it. It is referred to the Committee on Style and Drafting.

(So voted.)

The Chairman: Is there any further business to come before you?

Mr. O'Donnell: Mr. Chairman, O'Donnell, District 30.

The Chairman: Yes?

Mr. O'Donnell: I would like to announce there will be a meeting of the Committee on Administration at 7:00 p.m. Tuesday next.

The Chairman: At the rise of the convention tonight?

Mr. O'Donnell: At 7:00 o'clock, sir, Tuesday evening.

The Chairman: Are there any other announcements?

Mr. Murphy (Providence): Yes, Mr. Chairman, Chairman of the Elections Committee. I would like to remind the members of the Elec-

tions Committee there will be a meeting in Room 203 immediately upon the rise of tonight's session.

Mr. Gagnon: There will be a meeting of the Lotteries Committee following the adjournment.

Mr. Taylor: Style and Drafting will meet right now in the chamber of this room.

Mr. Friedemann: The members of the Committee on Legislative Compensation will meet for a few minutes in the lobby on my right.

Mr. Gelfuso: I move we adjourn.

Mr. Federico: I second the motion.

The Chairman: As many as are in favor will say, "Aye." Opposed, "No." We're adjourned to October 2, 7:30 p.m.

(Adjourned to Tuesday, October 2, 1973, at 7:30 p.m.)

PATRICK T. CONLEY, *Secretary*

ELLIOTT E. ANDREWS, *Recorder*