IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

JOHN HOOKER, et al.,

Plaintiffs,

vs.

ILLINOIS STATE BOARD OF ELECTIONS, et al.

Defendants,

and

SUPPORT INDEPENDENT MAPS,

Intervenor-Defendant.

Case No. 16 CH 06539

Hon. Diane J. Larsen,
Judge Presiding.

EXHIBITS TO MEMORANDUM OF INTERVENOR-DEFENDANT SUPPORT INDEPENDENT MAPS IN SUPPORT OF ITS MOTION FOR JUDGMENT ON THE PLEADINGS

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Dated: June 3, 2016

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Exhibit A

Constitution of the State of Illinois

ARTICLE XIV

CONSTITUTIONAL REVISION

SECTION 3. CONSTITUTIONAL INITIATIVE FOR LEGISLATIVE ARTICLE

Amendments to Article IV of this Constitution may be proposed by a petition signed by a number of electors equal in number to at least eight percent of the total votes cast for candidates for Governor in the preceding gubernatorial election. Amendments shall be limited to structural and procedural subjects contained in Article IV. A petition shall contain the text of the proposed amendment and the date of the general election at which the proposed amendment is to be submitted, shall have been signed by the petitioning electors not more than twenty-four months preceding that general election and shall be filed with the Secretary of State at least six months before that general election. The procedure for determining the validity and sufficiency of a petition shall be provided by law. If the petition is valid and sufficient, the proposed amendment shall be submitted to the electors at that general election and shall become effective if approved by either three-fifths of those voting on the amendment or a majority of those voting in the election.

(Source: Illinois Constitution.)

Exhibit B

Illinois State Board of Elections

Support Independent Maps / May 2016

Estimate of the Number of Unique, Valid Signatures

5% Sample

May 23, 2016

The population consists of all lines on the petition pages that contain a signature.
The sample is a random sample without replacement.

Population:	563,974
Number of lines sampled:	28,199
Valid signatures sampled:	20,518
Sample valid ratio:	0.7276144544
Point estimate:	382,355
Standard error:	4,098.6025370500

Maximum unique valid signatures (99.9% confidence level):	**395,021**
Minimum unique valid signatures (95% confidence level):	**375,613**
Unique, valid signatures required:	**290,216**

The minimum estimate is greater than or equal to the number of valid signatures required.

Exhibit C

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FRANK CLARK, President and Chairman of the Business Leadership Council, *et al.*,

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS, *et al.*,

Defendants.

No. 14 CH 07356

Judge Mary L. Mikva

Calendar 6

ORDER AND OPINION

Plaintiffs are proceeding, with leave of court, as private taxpayers seeking to enjoin the expenditure of the public funds needed to place on the November 2014 ballot two initiatives proposing amendments to Article IV of the Illinois Constitution of 1970. *See* 735 ILCS 5/11-301, 11-303. One of the initiatives, the "Term Limits Initiative," proposes amendments to Sections 1, 2, and 9 of Article IV. The other initiative, the "Redistricting Initiative," proposes to amend Section 3 of Article IV. Plaintiffs allege that both initiatives are unconstitutional and request declaratory and injunctive relief. The Committee for Legislative Reform and Term Limits ("Term Limits Committee") and Yes for Independent Maps intervened, with leave of Court, to defend these initiatives. Intervenor-Defendants, both well represented by talented lawyers, have strong feelings on the wisdom and desirability of the initiatives, but recognize that those merits are not currently at issue. The sole question before this court is whether these initiatives meet the constitutional requirements for placing a proposed amendment to the Illinois Constitution on the November 4, 2014 General Election ballot.

Plaintiffs, the Term Limits Committee, and Yes for Independent Maps each filed a Motion for Judgment on the Pleadings. Judgment on the pleadings is proper when the pleadings disclose no genuine issue of material fact and the movant is entitled to judgment as a matter of law. 735 ILCS 5/2-615(e); *Pekin Ins. Co. v. Wilson*, 237 Ill. 2d 446, 455 (2010). The constitutionality of these two initiatives is a legal question appropriate for determination based on the pleadings. For the reasons that follow, Plaintiffs' Motion is GRANTED and Intervenor-Defendants' Motions are DENIED.

Background

The text of both proposed initiatives are appended to this Order. As stated in its "Explanation of Amendment," the Term Limits Initiative seeks:

> (1) to establish term limits for members of the General Assembly, (2) to require a two-thirds vote in each chamber of the General Assembly to override the Governor's veto of legislation, (3) to abolish two-year senatorial terms, (4) to change the House of Representatives from 118 representatives to 123 representatives, (5) to change the Senate from 59 senators to 41 senators, and (6) to divide legislative (senatorial) districts into three representative districts rather than two.

These changes would amend Article IV, §§ 1, 2, 9.

The Redistricting Initiative proposes significant changes to Article IV, § 3. The current "Legislative Redistricting" section provides that the General Assembly will redistrict the Legislative Districts and Representative Districts after the decennial census. If the General Assembly fails to adopt a plan, it must appoint an eight-member Legislative Redistricting Commission. If deadlocked, a ninth member is appointed by random selection. Section 3 requires that the Legislative and Representative Districts be "compact, contiguous and substantially equal in population." The Illinois Supreme Court has original jurisdiction over actions concerning redistricting plans and the Attorney General is charged with initiating such actions.

The proposed Redistricting Initiative begins the redistricting plan with an Independent Redistricting Commission. The initiative creates an Applicant Review Panel to facilitate the selection of the eleven Commissioners on the Independent Redistricting Commission. If the Commission fails to enact a plan, a Special Commissioner will be appointed by the Chief Justice of the Illinois Supreme Court and the most senior Justice of the Court who is not affiliated with the same political party as the Chief Justice. The Redistricting Initiative includes qualifications for those who serve on the Applicant Review Panel and the Commission or as Special Commissioner. These include a prohibition on serving as a Senator, Representative, Officer of the Executive Branch, Judge, or any state office subject to confirmation by the Senate for ten years after service as a Commissioner or Special Commissioner. The Redistricting Initiative contains additional criteria for Legislative Districts, including not diluting the political power of racial minorities, respecting geographic integrity of units of local government and communities, and not purposefully favoring either political party. The Redistricting Initiative also provides the Commission with resources to defend any plan it adopts.

Requirements for Constitutional Amendment by Ballot Initiative

Until the Illinois Constitution was amended in 1970 there was no provision for constitutional amendment by ballot initiative. *See Coalition for Political Honesty v. State Bd. of Elections*, 65 Ill. 2d 453, 467 (1976) ("*Coalition I*"). Section 3 of Article XIV of the Illinois Constitution of 1970 provides a limited mechanism for amending Article IV, the Legislative Article, directly by the voters:

> Amendments to Article IV of this Constitution may be proposed by a petition signed by a number of electors equal in number to at least eight percent of the total votes cast for candidates for Governor in the preceding gubernatorial election. Amendments shall be limited to structural and procedural subjects contained in Article IV. . . .

Ill. Const. 1970, art. XIV, § 3.

The Official Text with Explanation of the Proposed 1970 Constitution explained why it allowed for amendments to Article IV only:

> Amendments to the Article on the Legislature of a structural or procedural nature, may be proposed by petition, with signatures at least equal in number to eight percent of the total vote for Governor in the preceding election. Thus a reluctance on the part of the General Assembly to propose changes in its own domain can be overcome.

7 Record of Proceedings, Sixth Illinois Constitutional Convention 2677–78 (hereafter cited as "Proceedings").

At the 1970 Constitutional Convention, the Committee on Suffrage and Constitutional Amendments declined to propose a general initiative that would have allowed broader amendments to the Constitution. The Committee was concerned that a general initiative would be subject to abuse by special interest groups and result in "ill-conceived attempts to write what should have been the subject of ordinary legislation into the Constitution." *Coalition I*, 65 Ill. 2d at 467 (citing 7 Proceedings 2298). The Committee also believed that a broader initiative provision was unnecessary in light of the other avenues for amending the Illinois Constitution, particularly the automatic periodic question on the ballot allowing the voters to call for a new constitutional convention. *Id.* (citing Ill. Const. 1970, art. XIV, § 1).

Much of the history of Article XIV, § 3, that has been cited by the Illinois Supreme Court comes from the statements of Delegate Louis Perona, the spokesman for the Committee on the Legislature at the 1970 Constitutional Convention. He was also a plaintiff in *Coalition I*, the first taxpayer case seeking to enjoin the expenditure of public funds on the basis that the proposed

amendments were outside of what was permitted by Article XIV, § 3. In *Coalition I*, the Court quoted Delegate Perona extensively as to the intended purpose and limited role of Article XIV, § 3. The Court noted that Article XIV, § 3, was designed to address only "subjects contained in the Legislative Article, namely matters of structure and procedure and not matters of substantive policy." *Id.* at 468 (quoting 6 Proceedings 1400–01 (Committee on the Legislature's explanation that accompanied the originally proposed initiative process)). Specific examples included the "structure, makeup, and organization, and details concerning it," 4 Proceedings 2711 (statements of Delegate Perona); "size [and] procedures," 6 Proceedings 1401 (Committee on the Legislature's explanation); "composition, cumulative voting and even a change to a unicameral legislature," *Coalition I*, 65 Ill. 2d at 470 (citing 4 Proceedings 2711–12 (Delegate Perona answering questions of Delegate John Tomei)).

There are only five reported cases involving challenges to initiatives under Article XIV, § 3. *Coalition I,* the first case, involved three proposed amendments to Article IV aimed at tightening conflict of interest laws for General Assembly members by limiting other compensation, disqualifying voting for members with a conflict, and prohibiting payments of members' salaries in advance of the performance of duties. *Id.* at 458. Holding that "structural and procedural" was to be read in the conjunctive, the Court struck down the three proposed amendments because they failed to meet these "dual requirements." *Id.* at 471–72. Part of the Court's rationale for this conjunctive reading was its conclusion that "any change in [Article IV] would be either structural or procedural in character," and, consequently, if it were not read conjunctively then any matter within Article IV would be appropriate for an amendment by initiative. *Id.* at 466. The Court also held that it was appropriate to bring a taxpayer suit, as Plaintiffs have done here, to enjoin the expenditures necessary to put an Article XIV, § 3, initiative on the ballot. *Id.* at 461–62.

Coalition for Political Honesty v. State Board of Elections ("*Coalition II*") involved a proposed amendment that sought to reduce the size of the House of Representatives from 177 to 118 members, provide for the election of one Representative from each of the 118 districts, and abolish cumulative voting for Representatives. 83 Ill. 2d 236, 239 (1980) (per curiam). The Court upheld the initiative, noting that the proposed amendment "relate[d] directly to the ultimate purpose of structural and procedural change in the House of Representatives." *Id.* at 275.

Lousin v. State Board of Elections, an appellate court decision from the First District, involved a proposed amendment to Article IV that would have allowed voters to introduce bills on any subject to the General Assembly by initiative. 108 Ill. App. 3d 496, 498 (1st Dist. 1982). Emphasizing the narrowness of Article XIV, § 3, the court held that allowing voters to introduce bills would be a substantive rather than a structural or procedural change, because it shifts legislative power from the General Assembly to the voters. *Id.* at 503–04. Therefore, the proposed amendment failed to meet the precepts of Article XIV, § 3. *Id.* at 504.

Chicago Bar Association v. State Board of Elections ("*CBA I*") involved a proposed "Tax Accountability Amendment" that would have required a three-fifths majority vote of the members in each house of the General Assembly to approve any bill that increased taxes. 137 Ill. 2d 394, 397–98 (1990) (per curiam). The Court noted that the "most significant" aspect of the discussion in the 1970 Constitutional Convention was the concern that "the limited initiative *not be used to accomplish substantive changes* in the constitution." *Id.* at 403 (citing 6 proceedings 1401) (emphasis in original). The Court found the proposed amendment outside of what was permitted by Article XIV, § 3, stating, "Wrapped up in this structural and procedural package is a substantive issue not found in article IV—the subject of increasing State revenue or increasing taxes." *Id.* at 404.

Chicago Bar Association v. Illinois State Board of Elections ("*CBA II*"), the last occasion the Court addressed a proposed constitutional amendment by initiative, involved an amendment that would impose an eight-year limit on service in the General Assembly under Article IV, § 2(c). 161 Ill. 2d 502, 504–05 (1994) (per curiam). The Court found this initiative to be invalid on the basis that term limits involved eligibility or qualifications and that these were neither structural nor procedural. *Id.* at 509–10. The Court held, "The eligibility or qualifications of an individual legislator does not involve the structure of the legislature *as an institution*," because the "General Assembly would remain a bicameral legislature . . . with 177 members, and would maintain the same organization." *Id.* at 509 (emphasis in original). In addition, the Court concluded that the eligibility or qualifications of General Assembly members were not procedural because "[t]he *process* by which the General Assembly adopts a law would remain unchanged." *Id.* (emphasis in original).

These cases have provoked spirited discussion among the Justices of the Illinois Supreme Court. Justice Schaefer dissented vigorously in *Coalition I*. He argued that the majority had lost

sight of the fact that the initiative process had primarily been limited so that it could not be used to accomplish a substantive change—like abolishing the death penalty or prohibiting abortions. *Coalition I*, 65 Ill. 2d at 474–75 (Shaefer, J., dissenting). Justice Schaefer accused the majority of rewriting Article XIV, § 3, to make it narrower than it was intended, leaving out of the initiative process things that were clearly intended to be included. *Id.* at 475–76 (Schaefer, J., dissenting). Justice Schaefer also argued that the function of *and* in "structural *and* procedural" was more naturally read as a disjunctive conjunction and that the majority's statement that any change in the legislative article would be either structural or procedural in character was "erroneous." *Id.* at 473 (Schaefer, J., dissenting).

Justice Harrison's dissent in *CBA II* echoed Justice Schaefer's dissent in *Coalition I*. Justice Harrison advocated for a disjunctive reading of "structural and procedural," *CBA II*, 161 Ill. 2d at 519 (Harrison, J., dissenting), and he repeated Justice Schaefer's assertion that Article XIV, § 3, was designed to prevent initiatives as a means to add substantive matters to the Constitution, *id.* (Harrison, J., dissenting) (citing 6 Proceedings 1401, 1561; *CBA I*, 137 Ill. 2d at 403–04). He concluded that "[t]he proposed term-limit amendment . . . would in no way produce a substantive change in the constitution." *Id.* (Harrison, J., dissenting).

The Court has also ruled that the Free and Equal Clause of Section 3 of Article III of the Illinois Constitution of 1970 is a limitation on initiatives. The Court has held that the Free and Equal Clause prohibits the combination of separate and unrelated questions in a single proposition on any initiative, including an initiative to amend the Illinois Constitution brought under Article XIV, § 3. *Coalition II*, 83 Ill. 2d at 253–54. The Free and Equal test articulated in *Coalition II* is that "[i]f there is a reasonable, workable relationship to the same subject, the proposal may be submitted for approval or rejection by the voters." *Id.* at 258.

As these cases illustrate, there has been but one initiative that has survived challenge and four that have failed. *Coalition II*, the lone survivor, contains no discussion of what was substantive or procedural; the decision instead focused on the sufficiency of the petition signatures and a finding that the initiative met the requirements of the Free and Equal Clause. In all, precedent dictates a very narrow provision for allowing the voters to directly enact amendments to the Illinois Constitution of 1970.

The Term Limits Initiative

The eight-year term limit that is at the heart of the Term Limits Initiative runs headlong into *CBA II*. There, the Court held that the proposed eight-year term limit did not meet the structural and procedural requirement of Article XIV, § 3. *CBA II*, 161 Ill. 2d at 509. "The eligibility or qualifications of an individual legislator does not involve the structure of the legislature *as an institution*." *Id.* (emphasis in original). And "the eligibility or qualifications of an individual legislator does not involve any of the General Assembly's procedures." *Id.* As the Court made clear in *CBA II*, not even a disjunctive reading of Article XIV, § 3, would save term limits. *Id.* at 510.

The Term Limits Committee attempts to distinguish this case from *CBA II* on two bases. First, the initiative at issue here puts the term limits in a new subsection, proposed Article IV, § 2(f), rather than amending existing Article IV, § 2(c), which begins "To be eligible to serve as a member of the General Assembly . . . ." Second, this proposed initiative includes additional components that the Term Limits Committee argues are both structural and procedural.

Neither of these differences can overcome *CBA II*. The Term Limits Committee is correct that under the Term Limits Initiative, unlike *CBA II*, term limits are not in Subsection 2(c), the eligibility subsection of Article IV, § 2, on "Legislative Composition." But *CBA II* ruled that term limits are matters of eligibility or qualifications and that eligibility or qualifications for legislators are neither structural nor procedural. *Id.* at 509. There is simply nothing in *CBA II*'s holding or reasoning that would depend on whether Subsection 2(c) was being amended or new Subsection 2(f) was being added.

The addition of other components, like changing the number of Legislative Districts and Representative Districts and the number of votes necessary to override a Governor's veto, which may well be structural or procedural, cannot save this initiative because any initiative under Article XIV, § 3, must be "'*limited* to structural and procedural *subjects contained in Article IV*.'" *CBA I*, 137 Ill. 2d at 403 (quoting Ill. Const. 1970, art. XIV, § 3) (emphasis in original).

The Term Limits Committee argues that, unlike the attempt to affect State revenues in *CBA I*, the Term Limits Initiative makes no attempt to include anything within the initiative that is plainly substantive in nature. This is true, but including matters the Court has ruled are neither structural nor procedural renders the initiative beyond what is permitted under Article XIV, § 3. Though the Court in *CBA I* was most concerned with ensuring that Article XIV, § 3, not be used

to enact substantive legislation outside of Article IV, both that case and the plain language of Article XIV, § 3, make clear that the initiative must be limited to structural and procedural subjects.

The inclusion of these other components also puts this initiative in conflict with the Free and Equal Clause in Article III, § 3. As *Coalition II* makes clear, separate questions in an initiative must be "reasonably related to a common objective in a workable manner." 83 Ill. 2d at 256. The components of a proposed referendum must "relate directly to the ultimate purpose of the structural and procedural change" that is being proposed and be "compatibly interrelated to provide a consistent and workable whole in the sense that reasonable voters can support the entire proposition." *Id.* at 260.

Term limits may reasonably be related to the elimination of staggered two- and four-year senatorial terms. Yet term limits do not appear to have any direct relationship either to increasing the size of the House of Representatives and decreasing the size of the Senate or to the vote threshold needed to override a Governor's veto. While the Term Limits Committee argues that all provisions are directed to an increase in legislative responsiveness and a reduction in the influence of narrow, partisan, or special interests, these objectives are so broad that they cannot be viewed as bases to bring these component parts into a consistent, workable whole. Thus, the Term Limits Initiative is in conflict with the Free and Equal Clause.

Plaintiffs raise additional arguments for granting their Motion. Some, like the argument that this initiative undermines the right to vote, are, in this Court's view, strained; but they are also unnecessary. In light of the clear precedent under Article XIV, § 3, and the Free and Equal Clause, there is no need to reach those arguments.

The Redistricting Initiative

Unlike the Term Limits Initiative, a redistricting initiative has never been proposed or challenged. Thus, there is no precedent squarely on point. Yes for Independent Maps urges this court to begin this analysis by looking at the Redistricting Initiative's overall purpose. Plaintiffs stress that various details of the initiative are not limited to structural and procedural subjects contained in Article IV. It does not matter where this court starts, however, because the initiative's purpose and details must fit within the Article XIV, § 3, requirements. Nevertheless, to put these details in context, this court begins with the purpose of the Redistricting Initiative.

Yes for Independent Maps contends that the initiative is at the very core of what the Delegates envisioned when they provided a limited amendment mechanism in Article XIV, § 3. Yes for Independent Maps cites a colloquy between Delegates Tomei and Perona in which Delegate Tomei asks, "power, structure, composition, and apportionment . . . is that the kind of thing, also, that would be subject to initiative . . . ?"; Delegate Perona responds, "Yes. Those are the critical areas, actually." 4 Proceedings 2712 (colloquy of Delegates Perona and Tomei). Plaintiffs respond that "apportionment" is not the same as redistricting, citing *Department of Commerce v. U.S. House of Representatives*, in which the U.S. Supreme Court distinguished between the calculation of numbers necessary to apportion representation and drawing district lines. 525 U.S. 316, 328 (1999). Regardless of how the U.S. Supreme Court uses these two terms, the 1970 Illinois Constitutional Convention legislative history clearly used "apportionment" to mean "redistricting." 6 Proceedings, Committee on the Legislature, Committee Proposal 1298–99 (providing a section titled "Apportionment" setting forth standards, methods, and post apportionment residency requirements for defining districts). "Legislative Redistricting," moreover, is a specific subject contained in Article IV. Accordingly, redistricting appears to be fair game for amendment by Article XIV, § 3, initiative.

Plaintiffs' argument that any redistricting initiative is impermissible relies on *CBA II*'s rejection of term limits. Plaintiffs contend that the only permissible subjects of an Article XIV, § 3, initiative involve the "structure of the legislature *as an institution*" or the "*process* by which the General Assembly adopts a law." 161 Ill. 2d at 509 (emphasis in original). The court agrees with Yes for Independent Maps that *CBA II*'s references are best understood in context as examples of permissible Article XIV, § 3, initiatives, rather than a description of the entirety of permissible subjects. Article IV, titled "The Legislature," contains fifteen sections, all of which deal with the legislative branch. Thus, the structural and procedural subjects of Article IV, § 3, titled Legislative Redistricting, could be the basis of a valid Article XIV, § 3, initiative.

Plaintiffs are correct, however, that the Redistricting Initiative contains provisions that are neither structural nor procedural under *CBA II* and, therefore, the initiative is not limited to the structural and procedural subjects in Article IV. The clearest example of an impermissible subject is the inclusion of eligibility or qualification requirements for Commissioners, including a prohibition on any Commissioner or Special Commissioner serving as a legislator or in various appointed or elected offices for ten years after serving as a Commissioner. Though the

Redistricting Initiative does not speak directly to eligibility or qualifications of legislators, the ten-year bar on any Commissioner or Special Commissioner serving in the General Assembly effectively adds the qualification that a legislator not have served as a Commissioner in the past ten years. This qualification renders some potential candidates ineligible and might, in effect, bar as many individuals from serving as legislators at any given time as do term limits, depending on how many potential legislative candidates have already served two terms. Furthermore, the service ban is not limited to legislators, but applies to positions outside of Article IV.

Yes for Independent Maps responds that the ten-year ban is intended as a means to avoid conflicts of interest, not as a qualification. It also argues that the ban is really a qualification for Commissioners, not legislators. But these distinctions are not helpful. Whatever the intent, the ban's effect is the disqualification of otherwise eligible candidates. Further, there is no reason to assume that the eligibility or qualifications of Commissioners is a permissible subject. If eligibility or qualifications is neither structural nor procedural, then it would appear improper for an initiative to describe eligibility or qualifications for any positions defined in Article IV.

Plaintiffs make additional, less compelling arguments that this court rejects. They argue that, like the initiatives at issue in *Lousin* and *CBA I*, the Redistricting Initiative seeks to take power from the General Assembly to enact substantive laws. But nothing in the initiative limits the General Assembly's power to enact substantive laws; rather, it limits redistricting power that derives from Article IV. Plaintiffs also argue that the Redistricting Initiative removes the Governor's veto power over any proposed redistricting plan and the Attorney General's responsibility to initiate actions concerning the redistricting plan, and neither of these state officers are part of the legislative branch. Yes for Independent Maps counters that the Redistricting Initiative is limited to Article IV subjects and eliminating the Governor's right to veto a plan or the Attorney General's role in redistricting litigation does not take this initiative outside of Article IV. This court agrees.

Plaintiffs also contend that the Redistricting Initiative violates the Free and Equal Clause. The Redistricting Initiative contains a complicated and detailed plan for redistricting, yet the plan appears to have "a reasonable, workable relationship to the same subject." *Coalition II*, 83 Ill. 2d at 258. While Plaintiffs are correct that some voters might like certain aspects of the plan and dislike others, that was equally true in *Coalition II*, where the initiative reduced the size of the legislature, abolished cumulative voting, and adopted single member districts. *Id.* at 239. The test

is whether the proposal provides a "consistent and workable whole in the sense that reasonable voters can support the entire proposition." *Id.* at 260. The Redistricting Initiative meets this test because the entire proposition is a new redistricting approach that is focused exclusively on addressing perceived problems in the current Article IV, § 3.

Conclusion

Neither of these initiatives survives the Plaintiffs' challenge. Any term limits initiative appears to be outside of what is permissible under Article XIV, §3, and the Term Limits Committee has said it intends to ask the Illinois Supreme Court to overrule *CBA II.* In contrast, a differently drafted redistricting initiative could be valid, but, for the reasons stated, the proposed Redistricting Initiative is not.

For these reasons,

I. The Term Limits Initiative is declared invalid;

II. The Redistricting Initiative is declared invalid;

III. Defendants Illinois State Board of Elections, the State Comptroller, the State Treasurer, the Board of Election Commissioners for the City of Chicago, and the Secretary of State are permanently enjoined from expending any public funds or taking any further actions connected to placing these initiatives on the November 4, 2014 General Election ballot.

This order is final and appealable.

ENTERED
JUDGE MARY LANE MIKVA - 1890
JUN 27 2014
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

IT IS SO ORDERED.

Mary L Mikva 1890

Judge Mary L. Mikva, #1890
Circuit Court of Cook County, Illinois
County Department, Chancery Division

PETITION FOR AMENDMENT TO THE CONSTITUTION OF THE STATE OF ILLINOIS

We, the undersigned, being qualified electors of the State of Illinois, who have affixed our signatures in our own proper person to this Petition after July 1, 2013, do hereby petition, pursuant to Section 3 of Article XIV of the Constitution of the State of Illinois, that there be submitted to the qualified electors of this State, for adoption or rejection at the General Election to be held on Tuesday, November 4, 2014, in the manner provided by law, a nonseverable proposition to amend Sections 1, 2, and 9 of Article IV of the Constitution of the State of Illinois, the amended Sections and the Transition Schedule applicable thereto to read as follows:

ARTICLE IV SECTION 1. LEGISLATURE - POWER AND STRUCTURE

The legislative power is vested in a General Assembly consisting of a Senate and a House of Representatives, elected by the electors from 41 Legislative Districts and 123 Representative Districts, with such numeration to become effective on January 1, 2023. These Legislative Districts and Representative Districts shall be drawn as provided by law following each decennial census.

ARTICLE IV SECTION 2. LEGISLATIVE COMPOSITION

(a) One Senator shall be elected from each Legislative District. Immediately following each decennial redistricting, the General Assembly by law shall divide the Legislative Districts as equally as possible into three groups. Senators from one group shall be elected for terms of four years, four years and two years; Senators from the second group, for terms of four years, two years and four years; and Senators from the third group, for terms of two years, four years and four years. The Legislative Districts in each group shall be distributed substantially equally over the State. Notwithstanding the foregoing, effective January 1, 2023, all Senate terms will be for four years.

(b) Each Legislative District shall be divided into three Representative Districts. In 1982 and every two years thereafter one Representative shall be elected from each Representative District for a term of two years.

. . .

(f) No person may serve more than eight years in the General Assembly. No person may be elected or appointed as Senator or Representative if upon completion of the term of office that person will have been a member of the General Assembly for more than eight years. Time served in the General Assembly before the session beginning in January 2015 does not count toward the eight-year service limitation.

ARTICLE IV SECTION 9. VETO PROCEDURE

(c) The house to which a bill is returned shall immediately enter the Governor's objections upon its journal. If within 15 calendar days after such entry that house by a record vote of two-thirds of the members elected passes the bill, it shall be delivered immediately to the second house. If within 15 calendar days after such delivery the second house by a record vote of two-thirds of the members elected passes the bill, it shall become law.

TRANSITION SCHEDULE

This Amendment takes effect upon adoption by the electors at the general election on November 4, 2014.

We also petition that, to the extent permitted by law, this proposition be submitted on a separate blue ballot and that the proposition and the related explanation be printed in substantially the following terms:

PROPOSED AMENDMENT TO THE CONSTITUTION OF THE STATE OF ILLINOIS, ARTICLE IV, SECTIONS 1, 2, AND 9

Explanation of Amendment.

The purpose of this amendment is: (1) to establish term limits for members of the General Assembly; (2) to require a two-thirds vote in each chamber of the General Assembly to override the Governor's veto of legislation; (3) to abolish two-year senatorial terms; (4) to change the House of Representatives from 118 representatives to 123 representatives; (5) to change the Senate from 59 senators to 41 senators; and (6) to divide legislative (senatorial) districts into three representative districts rather than two.

Place an "X" in the blank box opposite "Yes" or "No" to indicate your choice.

YES		For the proposed amendment to the Constitution of the State of Illinois, Article IV, Sections 1, 2, and 9
NO		

Illinois Independent Redistricting Amendment

Section 3. Legislative Redistricting

(a) The Independent Redistricting Commission comprising 11 Commissioners shall adopt and file with the Secretary of State a district plan for Legislative Districts and Representative Districts by June 30 of the year following each Federal decennial census.

Legislative Districts shall be contiguous and substantially equal in population. Representative Districts shall be contiguous and substantially equal in population. The district plan shall comply with federal law. Subject to the foregoing, the Commission shall apply the following criteria: (1) the district plan shall not dilute or diminish the ability of a racial or language minority community to elect the candidates of its choice, including when voting in concert with other persons; (2) districts shall respect the geographic integrity of units of local government; (3) districts shall respect the geographic integrity of communities sharing common social and economic interests, which do not include relationships with political parties or candidates for office; and (4) the district plan shall not either purposefully or significantly discriminate against or favor any political party or group. In designing the district plan, the Commission shall consider party registration and voting history data only to assess compliance with the foregoing criteria, and shall not consider the residence of any person.

The Commission shall hold at least one public hearing in each Judicial District before, and at least one public hearing in each Judicial District after, releasing the initial proposed district plan. The Commission may not adopt a final district plan unless the plan to be adopted without further amendment, and a report explaining its compliance with this Constitution and the criteria applied, have been publicly noticed at least seven days before the final vote on such plan. An adopted district plan shall have the force and effect of law and shall be published promptly by the Secretary of State.

The State Board of Elections shall provide the Commission and the public with complete and accurate census information and technology sufficient to propose district plans. The Commission shall adopt rules governing its procedure and the implementation of matters under this Section.

(b) The Commission shall act in public meetings by affirmative vote of six Commissioners, except that approval of any district plan shall require the affirmative vote of at least (1) seven Commissioners total, (2) two Commissioners from each political party whose candidate for Governor received the most and second-most votes cast in the last general election for Governor and (3) two Commissioners not affiliated with either such political party. The Commission shall elect its chairperson and vice chairperson, who shall not be affiliated with the same political party. Six Commissioners shall constitute a quorum. All meetings of the Commission attended by a majority of its quorum, except for meetings qualified under attorney-client privilege during pending litigation, shall be open to the public and publicly noticed at least two days prior to the meeting. All records of the Commission, including communications between Commissioners regarding the Commission's work, shall be open for public inspection, except for records qualified under attorney-client privilege during pending litigation. The Commission may retain assistance from counsel, technical staff and other persons with relevant skills and shall be provided with adequate resources to complete its work.

(c) For the purpose of conducting the Commissioner selection process, an Applicant Review Panel comprising three Reviewers shall be chosen in the following manner in the year in which each census occurs. Beginning not later than January 1 and ending not later than March 1 of the year in which the census occurs, the Auditor General shall request and accept applications to serve as

Reviewers. By March 31, the Auditor General shall appoint a Panel of three Reviewers, selected by random draw from eligible applicants.

The Panel shall act in public meetings by affirmative vote of two Reviewers. All meetings of the Panel shall be open to the public and publicly noticed at least two days prior to the meeting. All records of the Panel, including applications to serve on the Panel or the Commission, shall be open for public inspection, except private information about applicants for which there is no compelling public interest in disclosure. The Panel may retain assistance from counsel, technical staff and other persons with relevant skills and shall be provided with adequate resources to complete its work.

(d) A Commission shall be chosen in the following manner in the year in which each census occurs.

Beginning not later than January 1 and ending not later than March 1 of the year in which the census occurs, the Auditor General shall request and accept applications to serve as Commissioners.

By May 31, the Applicant Review Panel shall select 100 eligible applicants based on their relevant analytical skills, impartiality, and ability to contribute to a fair redistricting process, and shall ensure that such applicants reflect the demographic and geographic diversity of the State. The Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate each may remove up to five of the applicants selected by the Panel.

By June 30, the Panel shall publicly select seven Commissioners by random draw from the remaining applicants; of those seven Commissioners, including any replacements, (1) the seven Commissioners shall reside among the Judicial Districts in the same proportion as the number of Judges elected therefrom under Section 3 of Article VI of this Constitution, (2) two Commissioners shall be affiliated with the political party whose candidate for Governor received the most votes cast in the last general election for Governor, two Commissioners shall be affiliated with the political party whose candidate for Governor received the second-most votes cast in such election, and the remaining three Commissioners shall not be affiliated with either such political party, and (3) no more than two Commissioners may be affiliated with the same political party. The Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate each shall appoint one Commissioner from among the remaining applicants on the basis of the appointee's contribution to the demographic and geographic diversity of the Commission.

(e) To be eligible to serve as a Reviewer, a person must have education and experience in the examination and assessment of personnel, records, systems, or procedures for ten years preceding his or her application, must have demonstrated understanding of and adherence to standards of ethical conduct, and must not have been affiliated with any political party within the three years preceding appointment. To be eligible to serve as a Commissioner, Special Commissioner, or Reviewer, a person must (1) be a resident and registered voter of the State for the four years preceding appointment, (2) within the three years preceding appointment, must not have been the holder of, or a candidate for, any public office in the State, an employee or officer of the State or a unit of local government or a political party, registered as a lobbyist anywhere in the United States, or party to a contract to provide goods or services to the State or a principal, officer, or executive employee of such a contractor, and (3) within the three years preceding appointment, must not have resided with any person described in clause (2) of this subsection. For ten years after service as a Commissioner or Special Commissioner, a person is ineligible to serve as a Senator, Representative, officer of the Executive Branch, Judge, or Associate Judge of the State

or an officer or employee of the State whose appointment is subject to confirmation by the Senate. A vacancy on the Commission or Panel shall be filled within five days by an eligible applicant in the manner in which the office was previously filled; with respect to the Commission, the replacement Commissioner shall be drawn where possible from the remaining applicants previously selected by the Panel.

(f) If the Commission fails to adopt and file with the Secretary of State a district plan by June 30 of the year following a Federal decennial census, the Chief Justice of the Supreme Court and the most senior Judge of the Supreme Court who is not affiliated with the same political party as the Chief Justice shall appoint jointly by July 31 a Special Commissioner for Redistricting. The Special Commissioner shall design and file with the Secretary of State by August 31 a district plan satisfying the requirements and criteria set forth in subsection (a) and a report explaining its compliance with this Constitution and the criteria applied. The Special Commissioner shall hold at least one public hearing in the State before releasing his or her initial proposed district plan and at least one public hearing in a different location in the State after releasing his or her initial proposed district plan and before filing the final district plan with the Secretary of State. The district plan shall have the force and effect of law and shall be published promptly by the Secretary of State.

(g) The Supreme Court shall have original jurisdiction in cases relating to matters under this Section. The Commission shall have exclusive authority, and shall be provided adequate resources, to defend any district plan adopted by the Commission.

Exhibit D

ILLINOIS GENERAL ASSEMBLY
RESEARCH RESPONSE
PATRICK D. O'GRADY, EXECUTIVE DIRECTOR

ILLINOIS REDISTRICTING HISTORY SINCE 1970

Overview

Illinois has never enacted a law redrawing General Assembly districts by the deadline set in the 1970 Constitution (June 30 of each year ending in "1"). Instead, redistricting commissions, appointed under the Constitution, proposed redistricting plans—all of which were challenged in court. In 1971 the Illinois Supreme Court held that the way some members of the commission had been appointed was unconstitutional, but the court nevertheless adopted the commission's plan for the 1972 election only. (The General Assembly later adopted it for the rest of the decade.) In 1981 the courts held the commission plan valid except in two House districts, which it ordered redrawn to fulfill the constitutional requirement of compactness. In 1991 the Illinois Supreme Court ordered the commission to reconsider several districts in its original plan, and later approved (by a slim majority) the resulting modified plan. In 2001 the Illinois Supreme Court upheld the commission's plan over dissents by two members.

The Illinois Constitution does not mention Congressional redistricting; but federal law gives each state's legislature initial responsibility for Congressional redistricting. The General Assembly did not enact Congressional redistricting laws in 1971, 1981, or 1991. In each of those years a three-judge federal district court in Chicago adopted a Congressional redistricting plan for the state from proposals given to it. The General Assembly redrew Illinois Congressional seats in 2001.

Appendix A to this Research Response lists deadlines for action on Illinois General Assembly redistricting in 2011. Although federal law sets no specific deadline for redistricting Congressional seats, any bill to do so presumably would need to be passed by the end of the regular spring session in 2011.

1970 Illinois Constitution

The Illinois Constitution says that in the year following each decennial Census, the General Assembly is to redistrict Illinois Legislative (Senate) and Representative districts.[1] Each kind of district must be "compact, contiguous, and substantially equal in population."[2] Deadlines for Illinois legislative redistricting are set forth below and in Appendix A to this report.

Prepared by Robert M. Rogers, Staff Attorney
File 11-079,May 28, 2008, supersedes File 10-956

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Under the Constitution's provision on effective dates, as amended in 1994, the General Assembly must pass a redistricting bill by May 31, 2011 for it to take effect before 2012—unless such a bill is approved by three-fifths of the total membership of each house (36 in the Senate and 71 in the House).[3] Even if a redistricting bill is passed by May 31, it could still miss the deadline if the Governor vetoes it and there is not time to override.

If no redistricting plan takes effect by June 30, 2011, a legislative redistricting commission must be appointed by July 10. The commission will have eight members, with no more than four from any political party. The Speaker and Minority Leader of the House will each appoint one House member and one non-legislator; the Senate President and Minority Leader will similarly each appoint one member of the Senate and one non-legislator.

The commission is to issue a redistricting plan approved by vote of at least five members, and file it with the Secretary of State by August 10, 2011. If it fails to do so, the Illinois Supreme Court by September 1 is to send the names of two persons of different political parties to the Secretary of State. By September 5, he will randomly select one of those persons as the ninth member of the commission. (Some delegates to the 1970 constitutional convention saw this tie-breaking mechanism as likely to force the parties to compromise on a redistricting plan rather than take the risk that the other party's plan will be adopted.[4]) The expanded legislative redistricting commission will then file a redistricting plan by October 5. The Illinois Constitution says it is to be presumed valid, has the force of law, and must be promptly published by the Secretary of State.

The Illinois Supreme Court has original and exclusive jurisdiction of suits involving redistricting of the General Assembly.[5] Thus any suit on that subject (if filed in an Illinois state court) is to be filed directly with the Illinois Supreme Court.

Congressional Redistricting Law

The U.S. Constitution says that representatives are to be apportioned among the states every 10 years by population.[6] A federal law says that after each decennial Census, the President must send Congress a report showing the number of persons in each state (except Indians not taxed) and the number of House seats to which each state is entitled. This report goes to Congress during the first week of the first regular session of Congress after each Census. The report is to show apportionment of seats by the "equal proportions" method, with each state to have at least one seat.[7] The U.S. Supreme Court discussed the history of and various methods for apportioning seats among the states in a 1992 case in which it upheld the "equal proportions" method.[8]

Within 15 days after receipt of the report, the Clerk of the U.S. House of Representatives is to send each state's Governor a certificate showing the number of House seats to which it is entitled.[9] Due to the 2000 Census, Illinois lost one Congressional seat, reducing its number to 19.[10]

Federal law also says that each state entitled to more than one House seat is to enact a law creating one district for each seat.[11] Decisions by the U.S. Supreme Court say that if a state legislature fails to redistrict, a federal court should adopt or fashion a plan to redraw the state's U.S. House districts.[12]

Another federal law requires the Census Bureau to provide Census data to state Governors, and bodies or officials charged with legislative redistricting, by April 1 after each Census (thus April 1, 2011). That report must include population data for the various geographical areas within the state, including the smallest areas (Census blocks or tracks).[13]

1971 Redistricting

General Assembly

The 77th General Assembly failed to pass a redistricting bill by the June 30, 1971 deadline. Thus a legislative redistricting commission was established. The House Speaker and Minority Leader, and the Senate President Pro Tem, each appointed himself to the commission and appointed one of his legislative aides as a non-legislative member. The Senate Minority Leader appointed another senator to the commission and appointed another person as the non-legislative member. The resulting commission approved a plan by vote of 6-2,[14] and filed it with the Secretary of State before the August 10, 1971 deadline.[15]

Various lawsuits contesting the redistricting plan were consolidated and heard by the Illinois Supreme Court in *People ex rel. Scott v. Grivetti*. That court made these rulings:

- Creation of a legislative redistricting commission did not violate the U.S. Constitution on First Amendment or Equal Protection grounds.
- The Illinois Constitution's delegation of redistricting authority to the commission was not an improper delegation of legislative power, because it was contained in the state constitution—not a statute.
- The three legislative leaders mentioned above violated the public policy against self-appointment by naming themselves to the commission, and violated the intent of the Constitution to have half of the commission consist of public members by appointing their legislative aides to the commission.
- However, the commission's plan met federal and state constitutional requirements of substantially equal populations in compact, contiguous districts.[16]

Because the commission's composition violated the Illinois Constitution, the court held that the commission's redistricting plan had no legal effect. But finding the plan itself constitutionally acceptable, the court adopted that plan as a "provisional redistricting plan" for the 1972 election only.[17] In 1973 the General Assembly enacted an identical districting plan for legislative districts for the rest of the decade.[18] In 1974 the Illinois Supreme Court held that senators elected in 1972 for 4-year terms need not run again in 1974; they could finish the 4-year terms for which they had been elected under the 1971 redistricting.[19]

A parallel case was filed in federal district court in Chicago. A three-judge panel[20] of the district court abstained from deciding issues involving the Illinois Constitution, since those issues were being heard concurrently by the Illinois Supreme Court. But the federal panel did rule on the federal constitutional questions—after consultation between one judge of the panel and the Chief Justice of the Illinois Supreme Court to ensure that both courts would reach the same conclusion. The panel said that the population figures for legislative districts indicated "a scrupulous regard for equality of population . . . ."[21] It also rejected a claim that the plan unnecessarily divided municipalities and disenfranchised independent voters. The court stated: "[I]t is inconceivable that a state-sponsored plan with near-absolute equality could be considered constitutionally infirm, with the possible exception of one incorporating flagrant racial gerrymandering."[22] Finally, the panel held that the principle of one person, one vote did not apply to appointive bodies such as the legislative redistricting commission, even though it exercised a special legislative function.[23]

Congressional

The General Assembly also failed to enact a Congressional redistricting law before adjourning its spring session. Thus a three-judge panel of the federal district court assumed that task as provided by federal law.[24] The panel considered four redistricting plans presented to it for consideration, and chose one that was submitted by Speaker Robert Blair and Representatives Henry Hyde and Edward Madigan (both later to become members of Congress).[25] The panel's majority said that plan not only met the primary consideration of equality of district populations, but also achieved that goal "without substantially impairing recognized political boundaries and communities of interest."[26] The dissenting judge preferred a plan submitted by Illinois' Congressional delegation.[27] Two suits contesting the resulting plan were filed in the Illinois Supreme Court; but a majority of the three-judge federal panel enjoined the parties from contesting the plan in the Illinois Supreme Court.[28]

1981 Redistricting

General Assembly

The 82nd General Assembly did not enact a state redistricting plan based on 1980 Census data. A legislative redistricting commission was therefore appointed, but its eight members could not agree on a redistricting plan by the June 30 deadline. The Illinois Supreme Court then sent to the Secretary of State the names of former Governors Richard B. Ogilvie and Samuel H. Shapiro. By random selection the Secretary of State drew the name of ex-Governor Shapiro, who became the ninth member of the commission and cast the deciding vote for the Democratic plan. Supporters of the plan then filed a suit in the Illinois Supreme Court for a declaration that it was constitutionally valid. Representative Judy Koehler filed a counterclaim challenging the constitutionality of the plan's boundaries for the 89th Representative District.[29]

Since the only attack on the redistricting plan was Representative Koehler's, the Illinois Supreme Court said that it need address only her claim regarding the 89th District. She alleged that the district as drawn by the redistricting commission violated the compactness requirement of the Illinois Constitution. Regarding its boundaries, the court said:

> As presently drawn, the district would stretch through seven counties and more than 60 towns, and would cover parts of four congressional districts, two Illinois Appellate Court districts, and five (pre-1981 apportionment) Illinois House of Representative districts. The proposed district would not be served by either a single common television station, or a single common newspaper.[30]

The court said the constitutional requirement of compactness means that the parts of a district must be closely united territorially.[31] It found the 89th District to be "a tortured, extremely elongated form which is not compact in any sense."[32] The court ordered the boundaries of the 89th and 90th Districts redrawn to achieve compactness.[33]

The commission's plan was also challenged in federal court by three separate groups: one headed by Chester Rybicki, a second by Miguel del Valle, and a third by Bruce Crosby. The three-judge panel that heard those cases rejected claims by the Rybicki plaintiffs on behalf of Republican and suburban interests claiming noncompactness, partisan unfairness, and impermissible division of counties and suburban communities. It accepted the Crosby plaintiffs' claims that the commission plan unconstitutionally diluted black voting strength, and adopted several adjustments to the plan to counter such dilution. The federal panel also accepted a settlement agreement between the del Valle plaintiffs and the commission as to districts representing Hispanic voters.[34]

Congressional

The 1980 Census caused Illinois to lose two U.S. House of Representatives seats, requiring the number of districts to be reduced from 24 to 22. The General Assembly did not enact a bill to redraw the state's Congressional districts. Two suits were filed challenging the constitutionality of the state's existing Congressional districts. Federal District Judge Frank McGarr refused to convene a three-judge panel to hear those cases, but the U.S. Court of Appeals in Chicago ordered them referred to a three-judge panel.[35] That panel considered three different redistricting proposals and, after a trial, selected (with slight modifications) a plan proposed by Earl Neil Otto.[36]

1991 Redistricting

General Assembly

Following the 1990 Census, the General Assembly in 1991 passed a bill to redistrict itself.[37] The bill was passed by both houses on June 30, but was vetoed by Governor Jim Edgar and the veto was not overridden. The legislative leaders then appointed an eight-member legislative redistricting commission.[38] It was unable to agree on a redistricting plan by the August 10 deadline,[39] so the constitutionally required tie-breaking member was added.[40] The Illinois Supreme Court submitted the names of Albert R. Jourdan (Republican Party state chairman) and Daniel P. Ward (a retired justice of that court). The Secretary of State randomly drew Jourdan's name. The resulting nine-member commission filed a redistricting plan with the Secretary of State on October 4. The Illinois Attorney General, as authorized by the Constitution, then filed an original proceeding in the Illinois Supreme Court challenging that plan.[41]

The Illinois Supreme Court in a December 13 opinion stated that it had insufficient information to determine the constitutionality of the districts in the commission's plan. The majority opinion raised questions about the constitutionality of a number of those districts,[42] and recommended that the commission follow the guidelines in a case described later,[43] which had recently been decided by the federal district court in Chicago.[44] The court said that unless a constitutional redistricting plan was proposed by early January 1992, it would have to order an at-large election for the General Assembly that year.[45] The court remanded the issues to the commission, directing it to hold hearings on its plan. Chief Justice Benjamin Miller, joined by Justice Thomas Moran, dissented. They thought the court should proceed to decide the validity of the commission's plan based on the record already before it.[46]

The commission in early January 1992 held hearings, at which it considered both its own plan and an alternative plan proposed by a group of intervenors. The commission then sent the Illinois Supreme Court a revised plan.[47] The court's second opinion in the case reluctantly approved that plan. The court said that it lacked the staff and budget to draft its own redistricting plan; the public interest required holding primary elections on schedule; and an at-large election would burden the state budget and impose time constraints on the State Board of Elections.[48] It added that compromise is necessary in redistricting, especially in a diverse state such as Illinois with many interests to balance.[49]

The court said challengers of the commission plan would have to show not only that their plan was better, but also that the commission's plan failed legal tests.[50] It listed four tests it had used in considering the commission's plan:

- substantially equal population in each district;
- adequate representation of minorities and other interests;
- compactness of each district; and
- legal requirements for political fairness.[51]

The court concluded that both the commission plan and the challengers' plans met the compactness requirement to similar degrees. It added that the commission plan met all four requirements. For those reasons, the court adopted the commission's revised plan for legislative seats.[52]

Three justices dissented. Two of them (William Clark, joined by Charles Freeman) criticized both the commission's and challengers' plans on compactness, saying they did not preserve communities of interest (communities sharing the same values, ethnicity, or economy).[53] The other dissenter (Michael Bilandic), in an opinion in which the first two dissenters joined, also argued that the random selection of a tie-breaking member of the commission was arbitrary and against fundamental fairness, and thus violated the due process requirement of the U.S. Constitution's 14th Amendment.[54]

Supporters and opponents of the redistricting plan sought review of it in the federal district court in Chicago under the federal Voting Rights Act of 1965 and the 14th and 15th Amendments to the U.S. Constitution.[55] The single federal district judge who decided that case noted that section 2 of the Voting Rights Act[56] prohibits redistricting plans that have the effect of denying or abridging minority voters' ability to participate in elections.[57] He added that three preconditions must be met in Voting Rights Act challenges:

- the challenging minority group must be large enough to have a majority in a single-member district;
- the group must be politically cohesive; and
- racial bloc voting must typically prevent the group from electing candidates of its choice.[58]

The judge allowed the challengers to present their claims that the redistricting plan fractured or diluted minority voting strength in some districts. The challengers claimed that a number of House and Senate districts on the south side of Chicago with 65% African-American populations split black communities of interest such as city wards and their political organizations, community groups, and

church congregations. They argued that this splitting of such communities of interest would likely result in multiple black candidates in those districts, allowing white bloc voting to elect white candidates in the Democratic primary—tantamount to election in Chicago.[59] The judge rejected this argument, saying that a 65% African-American population in a district met the requirements of the Voting Rights Act and that increasing that percentage would run the risk of "packing" black voters into fewer districts—itself violating the Voting Rights Act.[60]

The challengers also argued that a 50% Hispanic district could have been created in Chicago by putting some Hispanic neighborhoods that were in the 3rd and 4th House districts into the 33rd House district. But the judge said voting-age population is a more significant factor than total population in determining whether a minority can elect candidates of its choosing. He said no evidence was presented that the 33rd district could be given a Hispanic voting-age majority while retaining Hispanic supermajorities in the 3rd and 4th districts.[61]

The challengers further argued that black and Hispanic communities around the state had been divided among several districts, rather than kept together where they could exert influence on the outcome despite lack of majorities. The judge said so-called "influence" districts had been recognized by very few courts, primarily because of the lack of an objective limit to these claims. He said that whether raising minority voting strength in these districts would result in greater minority electoral influence is speculative. As an example, he said the challengers had not shown that a 13.0% minority population in a Springfield district would be significantly more influential than the 12.7% minority population that the plan provided; or that a 12.8% minority population would be significantly more powerful than the 11.9% in a Champaign-Urbana district.[62]

The judge stated that racially motivated drawing of district lines, if intended to minimize or cancel the voting strength of a racial minority, violates both the 14th Amendment's Equal Protection clause and the 15th Amendment. But he held that the commission plan did not weaken or cancel black or Hispanic voting strength, and was not racially motivated or drawn along racial lines.[63] He therefore upheld the plan.

After the 1992 primary election, challengers to the redistricting plan sought a new trial on its validity, contending that the primary election results should be considered.[64] The judge who had heard the federal suit noted that every district in which the challengers claimed that a supermajority black population was insufficient to nominate a black candidate held a primary contest in which a single white candidate ran against multiple black candidates. He said the results did not show that African-Americans were denied a meaningful opportunity to elect their candidates—merely that their candidates were not guaranteed election.[65] He denied a new trial.[66]

Congressional

The General Assembly did not enact a law to redraw Illinois Congressional districts. Several groups filed suits asking the federal district court in Chicago to adopt a redistricting plan for those districts.[67]

A three-judge panel of the federal district court adopted a plan proposed by Representative Dennis Hastert and other Republican members of the Illinois Congressional delegation as the one best meeting the legal criteria for Congressional redistricting.[68] The panel stated several points about the legal criteria for Congressional redistricting plans.

First, the panel noted that the U.S. Supreme Court in *Wesberry v. Sanders* (1964)[69] said that Congressional districts must be drawn so that as nearly as is practicable, one person's vote is worth as much as another's in a Congressional election.[70] The panel added that the Supreme Court in *Kirkpatrick v. Preisler* (1969)[71] said the "as nearly as is practicable" standard required a good-faith effort to achieve precise mathematical equality, requiring justification for any variance—no matter how small.[72] The panel concluded that because the Hastert plan had the smallest total deviation, the opposing plan's supporters could not claim a good-faith effort to achieve precise mathematical equality, so they must justify each variance.[73]

The panel then examined the competing plans for their fairness to the voting rights of racial and language minorities. Finding no discriminatory motive in either plan, they turned to discriminatory impact—which they said can occur in either of two ways:

- fragmenting large concentrations of minority voting strength among several districts; or
- "packing" minorities into fewer districts where they constitute an excessive majority.[74]

The opinion said that although the U.S. Supreme Court has held that courts can hear and decide political gerrymandering claims, only a plurality of the Court agreed on what is required to prove such a case. That plurality said that challengers must prove an intent by plan drafters to discriminate against an identifiable political group, and an actual discriminatory effect on that group.[75] On that point, the panel found the Hastert plan somewhat fairer to both major political parties.

The panel also rejected a nonconstitutional argument—that four districts in Southern Illinois had not been drawn to reflect their communities of interest—commenting:

> The community of interest concept could be employed in every congressional district across the country in which a congressional incumbent feels threatened by an impending redistricting. We need

> look no further than the present case for evidence that supports this conclusion. We have received affidavits from most members of the Illinois congressional delegation asserting, in essence, that their districts possess unique characteristics that deserve special consideration in the redistricting process. No doubt this is true for each district in Illinois and across the nation. We believe that there is a place where particular nonconstitutional communities of interest should be considered in the redistricting process. That place is the halls and committee chambers of the state legislature. The courtroom is not the proper arena for lobbying efforts regarding the districting concerns of local, nonconstitutional communities of interest.[76]

Another case, *King v. State Board of Elections*,[77] addressed challenges to the constitutionality of a Hispanic-majority district created by the Hastert plan. The plaintiff alleged that Illinois' 4th Congressional District was unconstitutional because its lines were based predominantly on race, and that no compelling state interest justified this race-based redistricting.[78] A three-judge panel of the federal district court that heard the case agreed with the plaintiff that race was the predominant factor in drawing the district's lines; but it said the race-based redistricting was justified by compelling state interests.[79]

The panel said the 4th District's "uncouth configuration . . . cannot be understood as anything other than an effort to separate voters into different districts on the basis of race."[80] They said this configuration stemmed from efforts to maintain three supermajority black districts, and to create one Hispanic district where the two densest areas of Hispanic population were separated by an expressway and by medical and educational institutions.[81] The panel said the redistricting survived strict scrutiny because it served the compelling interest of remedying a violation of the Voting Rights Act and was narrowly tailored to achieve that remedy.[82]

The U.S. Supreme Court vacated that decision and remanded for reconsideration in light of two intervening Supreme Court redistricting decisions.[83] After reconsideration, the three-judge panel reaffirmed its previous decision.[84] The panel said those two cases established the following criteria for determining whether a plan is narrowly tailored to achieve the objectives of section 2 of the Voting Rights Act:

> A § 2 district is narrowly-tailored if (1) at a minimum, the district remedies the anticipated violation or achieves § 2 compliance, and (2) its consideration of race is no more than reasonably necessary to fulfill its remedial purpose.[85]

But the panel added that a redistricting plan cannot be held to remedy a violation of section 2 if the minority group contained in it is not (1) geographically compact, (2) politically cohesive, and (3) potentially barred by majority bloc voting from electing its preferred candidate without such redistricting.[86] The panel concluded that the 4th District's boundaries met the requirement of being narrowly tailored to avoid a violation of the Voting Rights Act, and thus were valid.[87]

2001 Redistricting

General Assembly

The General Assembly did not pass a redistricting bill. A legislative redistricting commission was named, but as in earlier decades did not agree on a redistricting plan. The Illinois Supreme Court nominated two of its former members, Michael Bilandic and Benjamin Miller, to be the tie-breaking ninth member of the commission. The Secretary of State drew the name of Bilandic, a Democrat.[88] The enlarged commission filed a redistricting plan, which was challenged in the Illinois Supreme Court. That court upheld the plan over dissents by two members, who faulted the procedures used by the commission and the shapes of some resulting districts.[89] Challengers attacked the constitutionality of the tie-breaking procedure in a suit in federal district court, but the court held that this plan (said to be unlike that of any other state) was not unconstitutional. The U.S. Supreme Court affirmed without issuing an opinion.[90]

The Illinois Republican Party and some voters filed suit in federal district court, alleging that the redistricting plan drawn by the commission violated section 2 of the Voting Rights Act by failing to have enough districts in which the candidate elected would be the choice of either African-American or Latino voters. On a motion by the League of United Latin American Citizens, defendant-intervenor, the judge issued a directed verdict against the claim with respect to Latino voters. As to districts for African-American voters, the plaintiffs argued that to be "effective" a district must have at least a 60% minority voting-age population or 65% total minority population under a "rule of thumb" stated by the U.S. Court of Appeals in Chicago in *Ketchum v. Byrne* (1984).[91] The district court added that using total minority population was inappropriate if voting-age population numbers were available, and that using a "rule of thumb" of 60% voting-age population was not appropriate if actual vote totals from elections in the districts were available.

Expert witnesses for both the plaintiffs and the intervenor-defendants disavowed use of the "rule of thumb" and offered statistical analyses of related elections on the issue whether the districts were "effective" majority-minority districts. With credible statistical evidence to support the plan drawn by the commission, the court held that the plaintiffs had failed to carry their burden of proving that the plan did not provide African-Americans effective opportunities to elect candidates of their choice.[92]

Congressional

The General Assembly passed a Congressional redistricting plan in 2001, which the Governor signed into law.[93] Congressman David Phelps unsuccessfully challenged it in state court on the grounds that it (1) violated the Due Process and Equal Protection clauses of the Illinois Constitution,[94] and (2) violated the Illinois Constitution's

requirement that "Legislative Districts shall be compact, contiguous and substantially equal in population."[95] He also alleged that the plan was a result of political gerrymandering and/or collusive bipartisan gerrymandering, and that it failed to preserve communities of interest. The Sangamon County trial court stated that the Illinois Constitution does not require Congressional districts to be compact. The judge also held that political factors are legitimate legislative concerns in redistricting, and dismissed the complaint.[96]

The federal district court in Chicago initially assumed parallel jurisdiction over the dispute, on the basis that it retained jurisdiction over Illinois Congressional redistricting efforts after a settlement in the 1991 federal redistricting case.[97] But the federal court later concluded that due to Illinois' new Congressional redistricting plan, the 1991 redistricting order no longer applied. It released all parties from the 1991 judgment and terminated the case.[98]

Notes

1. Ill. Const., Art. 4, subsec. 3(b).
2. Ill. Const., Art. 4, subsec. 3(a).
3. Ill. Const., Art. 4, sec. 10.
4. See, for example, Record of Proceedings, Sixth Illinois Constitutional Convention, vol. V, p. 4077 (remarks of Delegate Perona).
5. Ill. Const., Art. 4, subsec. 3(b).
6. U.S. Const., Art. 1, sec. 2, cl. 3 and Amdt. 14, sec. 2.
7. 2 U.S. Code subsec. 2a(a).
8. *United States Dept. of Commerce v. Montana*, 503 U.S. 442, 112 S. Ct. 1415 (1992).
9. 2 U.S. Code subsec. 2a(b).
10. U.S. Department of Commerce, Bureau of the Census, "Apportionment Population and Number of Representatives, by State, Census 2000" (table, downloaded January 11, 2001 from Census Bureau's Internet site).
11. 2 U.S. Code sec. 2c.
12. *White v. Weiser*, 412 U.S. 783 at 794-795, 93 S. Ct. 2348 at 2354 (1973) (quoting *Reynolds v. Sims*, 377 U.S. 533 at 586, 84 S. Ct. 1362 at 1394 (1964)); *Hastert v. State Bd. of Elections*, 777 F. Supp. 634 at 640-641 (N.D. Ill. 1991).
13. 13 U.S. Code subsec. 141(c); see National Conference of State Legislatures, *Redistricting Law 2000* (February 1999), p. 7.
14. *Grivetti v. Illinois State Electoral Board*, 335 F. Supp. 779 at 782 (N.D. Ill. 1971). See also Illinois Legislative Council, *Redistricting in Illinois* (File 9-171, April 1981).
15. *People ex rel. Scott v. Grivetti*, 50 Ill. 2d 156 at 158, 277 N.E.2d 881 at 883 (1972).
16. 50 Ill. 2d at 159-167, 277 N.E.2d at 884-888.
17. 277 N.E.2d at 884-888.

18. P.A. 78-42 (1973).
19. *People ex rel. Pierce v. Lavelle*, 56 Ill. 2d 278, 307 N.E.2d 115 (1974).
20. Federal law calls for a three-judge district court to be impaneled in Congressional and statewide redistricting cases, or if required by another act of Congress (28 U.S. Code subsec. 2284(a)). At least one member of the three-judge panel must be a U.S. Circuit Court of Appeals judge (subsec. 2284(b)(1)).
21. *Grivetti v. Illinois State Electoral Board*, 335 F. Supp. 779 at 786-787 (N.D. Ill. 1971).
22. 335 F. Supp. at 789.
23. 335 F. Supp. at 790-791.
24. See 28 U.S. Code subsec. 2284(a).
25. *Skolnick v. State Electoral Board of Illinois*, 336 F. Supp. 839 (N.D. Ill. 1971).
26. 336 F. Supp. at 846.
27. 336 F. Supp. at 856 (Campbell, J., dissenting).
28. 336 F. Supp. at 860-863 and 869-876 (orders dated November 5 and 15, 1971); see also National Legislative Conference and Council of State Governments, *Reapportionment in the States* (June 1972), p. 48.
29. *Schrage v. State Board of Elections*, 88 Ill. 2d 87 at 92-93, 430 N.E.2d 483 at 484 (1981).
30. 88 Ill. 2d at 94, 430 N.E.2d at 485.
31. 88 Ill. 2d at 95, 430 N.E.2d at 485-486.
32. 88 Ill. 2d at 98, 430 N.E.2d at 487.
33. 88 Ill. 2d at 105-109, 430 N.E.2d at 491-494.
34. See *Rybicki v. State Board of Elections*, 574 F. Supp. 1082 at 1084 (N.D. Ill. 1982).
35. *Ryan v. Otto*, 661 F.2d 1130 at 1132-1133 (7th Cir. 1981).
36. *In re Congressional Districts Reapportionment Cases*, 704 F. 2d 380 at 381 (7th Cir. 1983) (citing *In re Congressional Districts Reapportionment Cases*, No. 81 C 3915 (N.D. Ill. Nov. 23, 1981) (unpublished)).
37. 1991 H.B. 1354 (M.Madigan—Rock) (vetoed).
38. Ill. Const., Art. 4, subsec. 3(b), second and third paragraphs.
39. See Ill. Const., Art. 4, subsec. 3(b), fifth paragraph.
40. See Ill. Const., Art. 4, subsec. 3(b), sixth and seventh paragraphs.
41. See Ill. Const., Art. 4, subsec. 3(b), last paragraph. These events are described in more detail in *People ex rel. Burris v. Ryan*, 147 Ill. 2d 270 at 275-280, 588 N.E.2d 1023 at 1025-1027 (1992).
42. *People ex rel. Burris v. Ryan*, 147 Ill. 2d 270 at 285-286, 588 N.E.2d 1023 at 1030 (1992).
43. *Hastert v. State Board of Elections*, 777 F. Supp. 634 (N.D. Ill. 1991).
44. 147 Ill. 2d at 286, 588 N.E.2d at 1030.

45. 147 Ill. 2d at 287-288, 588 N.E.2d at 1031.
46. 147 Ill. 2d at 288-293, 588 N.E.2d at 1031-1033 (Miller, C.J., joined by Moran, J., dissenting).
47. See *People ex rel. Burris v. Ryan* (second opinion), 147 Ill. 2d 270, 588 N.E.2d 1033 (1992).
48. 147 Ill. 2d at 293-295, 588 N.E.2d at 1035.
49. 147 Ill. 2d at 294, 588 N.E.2d at 1035.
50. 147 Ill. 2d at 296, 588 N.E.2d at 1035.
51. 147 Ill. 2d at 296, 588 N.E.2d at 1035-1036.
52. 147 Ill. 2d at 296, 588 N.E.2d at 1036.
53. 147 Ill. 2d at 303-308, 588 N.E.2d at 1039-1041 (Clark, J., joined by Freeman, J., dissenting).
54. 147 Ill. 2d at 308-314, 588 N.E.2d at 1041-1044 (Bilandic, J., joined by Clark and Freeman, JJ., dissenting).
55. *Illinois Legislative Redistricting Comm'n v. LaPaille*, 786 F. Supp. 704 (N.D. Ill. 1992).
56. 42 U.S. Code sec. 1973.
57. 786 F. Supp. at 710.
58. 786 F. Supp. at 711.
59. 786 F. Supp. at 712.
60. 786 F. Supp. at 713.
61. 786 F. Supp. at 713-714.
62. 786 F. Supp. at 713-716.
63. 786 F. Supp. at 717.
64. *Illinois Legislative Redistricting Comm'n v. LaPaille*, 792 F. Supp. 1110 (N.D. Ill. 1992).
65. 792 F. Supp. at 1112.
66. 792 F. Supp. at 1113.
67. *Hastert v. State Board of Elections*, 777 F. Supp. 634 at 638-639 (N.D. Ill. 1991) (3-judge court).
68. 777 F. Supp. at 662.
69. *Wesberry v. Sanders*, 376 U.S. 1, 84 S. Ct. 526 (1964).
70. 777 F. Supp. at 642 (citing *Wesberry v. Sanders*, 376 U.S. at 7-8, 84 S. Ct. at 530).
71. *Kirkpatrick v. Preisler*, 394 U.S. 526, 89 S. Ct. 1225 (1969).
72. 777 F. Supp. at 642-643 (citing *Kirkpatrick v. Preisler*, 394 U.S. at 530-531, 89 S. Ct. at 1228-1229).
73. 777 F. Supp. at 644.
74. 777 F. Supp. at 645-646.
75. 777 F. Supp. at 656.
76. 777 F. Supp. at 660.
77. *King v. State Board of Elections*, 979 F. Supp. 582 (N.D. Ill. 1996).
78. 979 F. Supp. at 586-587.
79. 979 F. Supp. at 605 and 616-617.
80. 979 F. Supp. at 606.

81. 979 F. Supp. at 607-610.
82. 979 F. Supp. at 611-617.
83. *King v. Illinois Board of Elections*, 519 U.S. 978, 117 S. Ct. 429 (1996). The two intervening decisions were *Shaw v. Hunt*, 517 U.S. 899, 116 S. Ct. 1894 (1996) and *Bush v. Vera*, 517 U.S. 952, 116 S. Ct. 1941 (1996).
84. *King v. State Board of Elections*, 979 F. Supp. 619 (N.D. Ill. 1997).
85. 979 F. Supp. at 623.
86. 979 F. Supp. at 624.
87. 979 F. Supp. at 624-627.
88. Finke, "Democrats win remap draw: Take control of legislative redistricting panel," *State Journal-Register*, Sept. 6, 2001, News section, p. 1.
89. *Cole-Randazzo v. Ryan*, 198 Ill. 2d 233, 762 N.E.2d 485 (2001) and *Beaubien v. Ryan*, 198 Ill. 2d 294, 762 N.E.2d 501 (2001).
90. *Winters v. State Board of Elections*, 197 F. Supp. 2d 1110 (N.D. Ill. 2001) (three-judge court), aff'd without opinion 535 U.S. 967, 122 S. Ct. 1433 (2002).
91. *Ketchum v. Byrne*, 740 F.2d 1398 at 1415-16 (7th Cir. 1984).
92. *Campuzano v. Illinois State Board of Elections*, 200 F. Supp. 2d 905 (N.D. Ill. 2002).
93. P.A. 92-4 (2001).
94. Ill. Const., Art. 1, sec. 2.
95. Ill. Const., Art. 4, subsec. 3(a).
96. *Phelps v. Illinois State Board of Elections*, No. 01-MR-440 (7th Jud. Circ., Sangamon County, Oct. 10, 2001).
97. *Hastert v. Illinois State Board of Elections*, No. 91 C 4028 (N.D. Ill. 2001) (minute order, Aug. 21, 2001).
98. *Hastert v. Illinois State Board of Elections*, No. 91 C 4028 (2002 U.S. Dist Lexis 27818 at *6 (N.D. Ill. 2002).

Appendix A: Deadlines for Next Redistricting of General Assembly Seats

2011

Month	*Day*	
April	1	Census-tract data to be sent to state officials
May	31	Last day for General Assembly to pass redistricting bill by less than three-fifths majority in each house
June	30	Redistricting law to take effect
July	10	If no redistricting law takes effect, legislative redistricting commission to be named
August	10	Commission to file plan approved by at least five members
September	1	If no redistricting plan was filed by August 10, Illinois Supreme Court to submit two names to Secretary of State
September	5	Secretary of State to select ninth commission member by lot
October	5	Expanded commission to file redistricting plan
October November	31- 7	Candidates for General Assembly must file petitions
December	8	Last day for State Board of Elections to certify candidates for primary election ballot to county clerks

Exhibit E

SIXTH ILLINOIS CONSTITUTIONAL CONVENTION

COMMITTEE ON LEGISLATIVE ARTICLE PROPOSAL #1

George J. Lewis, Chairman

Lucy Reum, Vice Chairman

SYNOPSIS:

Proposed Article on the Legislature.

DATE AND TIME PRESENTED:

SIXTH ILLINOIS CONSTITUTIONAL CONVENTION
COMMITTEE ON THE LEGISLATURE

DATE: June 30, 1970

TO: Sixth Illinois Constitutional Convention

RE: Article on the Legislature (Article IV)

Ladies and Gentlemen:

The Committee on the Legislature wishes to submit Committee Proposal Number 1 which proposes revision of the Legislative Article of our present Constitution.[1]

In addition to our committee report, the committee has prepared for your assistance a comprehensive appendix, in a separate volume, entitled "Legislative Article: Comparative Information". The comparative information will assist you in the following ways:

(1) Providing comprehensive information on legislative article provisions in other states;

(2) Summarizing major testimony and commentary on our Illinois Legislative Article;

(3) Comparing the language of our Legislative Article to several other legislative articles;

(4) Presenting in question form the issues considered by the Legislative Committee;

(5) Providing a synopsis of the nearly 90 member proposals considered by the Legislative Committee;

[1] Signatures on this letter of transmittal are intended to certify that this report reflects the consensus of the majority of the Committee on the various sections. While all members have so signed, each member has reserved the right to submit minority reports, dissents, and amendments.

(6) Providing additional research material on important legislative article issues; and

(7) Listing the nearly 150 witnesses who appeared before the Legislative Committee.

Minority reports are also contained in a separate volume to assist you in locating and coordinating the minority reports with relevant sections of the committee report.

Proposed revisions in the Legislative Article include major substantive changes, procedural and technical improvements, and stylistic changes in the language. Moreover, the Legislative Committee proposes a more coherent and unified organization of the article than the existing one.

Major substantive changes proposed by the Committee include:

Cumulative Voting -- retains cumulative voting in the General Election, but eliminates cumulative voting in the Primary Election (Section 2 b);

Numerical Size -- reduces the numerical size of the General Assembly from 177 House members and 58 Senate members to 153 and 51, respectively (Sections 1 and 2 b and c);

Coterminous Districts -- creates coterminous House and Senate districts (Section 1 and 2 b and c);

Residency Requirements -- reduces state and district residency requirements for General Assembly membership from 5 and 2 years, respectively, to 2 years in the district (Section 2 c);

Dual Office Holding -- clarifies and tightens the dual office holding provision (Section 2 c);

General Assembly Vacancies -- streamlines the filling of vacancies through providing for an appointment method rather than the cumbersome and expensive special election method (Section 2 d);

Bill Passage Requirement -- eliminates the automatic "no" vote problem caused by death and resignation through changing the majority necessary for bill passage from a majority of members elected to a majority of members elected and serving (Section 8 b);

Conflict of Interest -- provides that a member shall abstain from voting on a bill if he has a personal or private conflict of interest in the measure, but that his vote shall not be counted as an automatic "no" vote (Section 8 b);

Sessions -- provides for annual sessions of the General Assembly, and also for special sessions to be called not only by the Governor but also by the legislative leadership (Section 5);

Legislative Procedures -- modernizes several constitutionally imposed legislative rules of procedure such as journal entry, single subject, revival and amendment and reading at large (Sections 8 b and c);

Effective Date for Laws -- requires, with exceptions to be made at the discretion of the General Assembly, that laws passed at each session have a uniform effective date and that laws be published at least 30 days before they become effective; requires that a 3/5 vote be obtained to make legislation immediately effective;

requires that laws passed after June 30 cannot become effective until the next calendar year unless passed by a 3/5 vote; exempts revenue and appropriation laws from the publication requirements (Section 9);

Compensation and Allowances -- modernizes the compensation and allowance provision governing salaries and reimbursement for expenses (Section 10);

Special Legislation -- eliminates the obsolete "laundry list" prohibitions on special legislation (Section 12);

Lieutenant Governor -- removes the role of Lieutenant Governor as presiding officer in the Senate (Section 6);

Legislative Investigations -- clarifies the legislative investigatory role (Sections 7 a and c, and Section 13);

Constitutional Initiative for Legislative Article -- provides that the people of Illinois can propose amendments to the Legislative Article through the Constitutional Initiative, but limits that right to specific subject matter in the Article which prevents the initiative from being used for other than amendments on the structure, size and procedures, etc., of the General Assembly (Section 15);

Apportionment -- (1) Standards - creates five apportionment standards for legislative districts: compact, contiguous, substantial equality of population, municipal and county boundaries to be followed where possible, and a modified form of the existing tripartite division (Section 3a); (2) Method - submits to the Convention under Rule 24 alternative apportionment methods, each of which received 5 votes in committee (Section 3b); (3) Post Apportionment

Residency Requirement - makes apportionment less perplexing through allowing a candidate during the election following apportionment to run in any district which contains a part of his former district (Section 2 c).

Several sections of the existing 1870 Article on the Legislature have been subject matter for other committees of this convention.

The Revenue Committee has had responsibility for the subject matter contained in Section 16 - Appropriations; Section 17 - Treasury Warrants; Section 18 - Appropriations for State Expenditures; Section 19 - Unauthorized Compensation and Payments Prohibited; Section 20 - Assumption of Debts Prohibited; and Section 23 - Release of Non-State Debts Prohibited.

The General Government Committee has considered the subject matter in Section 5 - Oath of Office; Section 26 - Suit Against State Prohibited; Section 27 - Lotteries Prohibited; and Section 33 - State House Expenditures.

The Local Government Committee, of course, has jurisdiction over local government matters which are included in Section 34 - City of Chicago.

The Legislative Committee proposes to eliminate the following sections of the existing 1870 Legislative Article: Section 25 - State Contracts; Section 28 - Extension of Term of Office Prohibited; Section 29 - Protection of Miners; Section 30 - Establishing Roadways and Cartways; Section 31 - Drains and Ditches; and Section 32 - Homestead and Exemption Laws.

A cross-reference table is provided for your assistance in comparing the present and proposed Legislative Articles. The table may be found in Schedule C of the Appendix in this volume.

While our Committee often experienced frustrations resulting from disagreement on issues, we are solidly unified in our appreciation for the unusually helpful participation in our deliberation by past and present members of the General Assembly, many of our fellow and lady delegates, and innumerable other witnesses.

We are equally unified in our gratefulness for the high degree of excellence in the manner in which we were assisted by our Committee Counsel, Charles W. Dunn, our Secretary, Mrs. Irene M. Randolph, and our Administrative Assistant, John Bayalis.

The Legislative Committee now welcomes your considered judgments and constructive suggestions for improving this work product submitted to you.

George J. Lewis
Chairman

Lucy Reum
Vice-Chairman

Section 15. Constitutional Initiative For Legislative Article.

Amendments to this Article on the Legislature may be proposed by a petition signed by electors of this State equal in number to at least eight percent of the total votes cast for all candidates for Governor in the preceding gubernatorial election. Amendments shall be limited to structural and procedural subjects contained in this Article on the Legislature. A petition shall contain the text of the proposed amendment and the date of the general election at which the proposed amendment is to be submitted, shall be signed by electors not more than twenty-four months preceding the general election at which the proposed amendment is to be submitted, and shall be filed with the Secretary of State at least six months before such election. The procedure for determining the validity and sufficiency of a petition shall be provided by law. If the petition is valid and sufficient, the proposed amendment shall be submitted to the electors, and shall become effective if approved by either three-fifths of those voting on the amendment or by a majority of those voting in the election.

EXPLANATION

The primary reason for offering a limited constitutional initiative proposal for the Legislative Article is quite simple: members of the General Assembly have a greater vested interest in the legislative branch of government than any other branch or phase of governmental activity.

Cognizant of this fundamental fact of life, the Legislative Committee proposes that the people of the State of Illinois reserve the right to propose amendments by the initiative process to the Legislative Article. Any amendment, so proposed, would be required to be limited to subjects contained in the Legislative Article, namely matters of structure and procedure and not matters of substantive policy.

In addition to this primary reason for proposing a limited form of Constitutional initiative, the Legislative Committee believes:

--(1) the greatest virtue in having this provision rests in the potential for keeping the General Assembly more responsive on matters directly and vitally affecting them;

--(2) voters can better decide on the merits of proposals suggesting changes in the Legislative Article since they are not directly and personally involved; and

--(3) this is a method to circumvent a legislature which might be dominated by interests opposing legislative changes.

Debate in this Convention on the Constitutional Initiative revealed two serious weaknesses in the Constitutional Initiative process found in several states: (1) it permits legislation by constitutional amendment; and (2) it allows the consitutional amending process to become embroiled in highly emotional and complex issues which often cannot be adequately and clearly explained to the voters.

Neither of these two serious weaknesses can be attributed to the proposed Constitutional Initiative for the Legislative Article. All proposed Constitutional amendments submitted through use of this proposal would be expressly limited to subject matter specifically contained in the Legislative Article. The subject matter contained in this proposed Article pertains only to the basic qualities of the legislative branch - namely structure, size, organization, procedures, etc.

Section 15 specifically limits amendments to "structural and procedural" subject matter. Clearly the subject matter of the proposed article could not be construed to permit initiative amendments of a statutory nature. Clearly, the subject matter of the proposed article is not laden with the highly complex and emotion-charged issues which have plagued the constitutional initiative process in other states.

Section 15 requires that the number of petitioners must represent at least eight percent of the total gubernatorial vote at the previous election. The Legislative Committee believes this is a sufficient percentage to insure that a suggested amendment possesses significant support. "Structural and procedural" amendments of the nature envisioned here would be of a less emotional character and, hence, greater difficulty would probably be encountered in acquiring signatures on petitions. Eight percent seems to be a safe requirement which is neither too restrictive nor too lenient.

The Constitutional Initiative for the Legislative Article represents a way to allow the people to propose procedural and structural changes in the General Assembly. Time and circumstance may necessitate such changes, and this proposal provides a sound framework for focusing public debate on matters which may not otherwise have an opportunity to be thoroughly and clearly discussed.

Exhibit F

PRESIDENT WITWER: Thank you very much, Mr. Tomei. Now, the Chair recognizes Delegate Sharpe, who will make the presentation of the minority proposal and the minority report. Mr. Sharpe.

MR. SHARPE: Mr. President, would you like for us to come up there?

PRESIDENT WITWER: Yes, I wish you would—you and Mr. Shuman, who, I believe, is sharing with you in this presentation. Will you come forward, please, gentlemen? Mr. Sharpe.

MR. SHARPE: Mr. President, and members, I would like to give you a little explanation about a proposed substitute. For the reason ascribed to the minority in section 1E of the committee report, the minority believes that provisions for popular initiative of changes to the constitution should be added to section 2 of the proposed articles on constitutional revision. The minority, therefore, recommends a substitute section 2.

These sections are essentially the same as section 2A and 2B that the committee proposed. The proposal with language changes is necessary to reflect the addition of popular initiative in the other section of the minority's proposal. The publication and voter approval requirements for amendments proposed by initiative are the same as for amendments proposed by the legislature.

Section 2B. This section provides an alternative to initiation of amendments by the legislature by permitting amendments to the proposed, by petition signed by electors equal in number to at least 12 per cent of the total votes cast for governor in the last preceding gubernatorial election.

Under the minority proposal, a petition must be set forth, the full text of the proposed amendment must be circulated and signed no longer than an eighteen-month period, and must be filed with the secretary of state at least six months before the general election at which it is to be submitted.

Procedure for determining the validity and sufficiency of signatures, compliance with time requirement, and the like, is to be prescribed by law. If the petition is valid and sufficient, the proposed amendment shall be submitted to the electors.

Any questions that you would like to ask, you would ask Mr. Shuman.

PRESIDENT WITWER: Thank you. Thank you, Mr. Sharpe. Mr. Shuman, do you have a further statement to make before fielding questions or do you wish now to receive questions?

MR. SHUMAN: Thank you, Mr. President, and Mr. Sharpe, with your indulgence, Joe, I would like to elaborate just a little bit on some of the remarks that you made. And I would also like to point out that at the appropriate moment in the debate of the majority report, the minority will move that the majority report be amended by the language that you have before you in the minority report, which—in effect—substitutes two sections, or inserts two paragraphs between paragraphs A and B of section 2 of the minority report.

At this time then, I would like to proceed with the presentation of this report. First, I would point out that this minority report is agreed to by four of the nine members of the committee—Mr. Tomei, Mr. Hendren, Mr. Sharpe, and myself—and the substance of this report, as I pointed out, is to add a third method of amending the constitution of the state of Illinois.

We suggest—the minority suggests—that in addition to the Convention method, and in addition to the legislative method, that this Convention recommend to the people that the initiative constitutional amending method be a part of our document.

At the present time, thirteen states in their constitutions provide for the initiative amending—for some kind of initiative amending provisions. However, there is no single procedure common to all of these states; in fact, their initiative requirements vary quite considerably. So, in making the following recommendations, the minority then has studied these thirteen states, as well as the recommendations of several other groups, both in Illinois and in this country. And the substantive suggestions that we make for inclusion in an initiative provision are as follows:

First, our minority suggestion would require that a petition containing the language of the amendment be signed by a number of electors equal to 12—at least 12 per cent of the total votes cast for all candidates for governor in the last gubernatorial election.

Of the thirteen states that used the initiative method, the range of this percentage figure varies from 3 per cent to 15 per cent, and the 15 per cent figure is used in two states, Oklahoma and Arizona; and these two would then be the only two states that have a higher percentage requirement than Illinois would have, if the minority report prevails.

In causing or in requiring a 12 per cent figure to be used for —in getting the number of signatures to be figured on the vote cast for governor, we are doing what—or suggesting—the same thing that eight other of the thirteen states do. The other five use some other officer, or they merely say the total vote cast in the last general election.

And now, I would like to point out, before we proceed, just exactly how many signatures 12 per cent of the votes cast for governor would be. By actual count in the last three races for governor, this would require something on the order of 550,000 signatures before the initiative petition could be put on the ballot. This is a little over a half million signatures, and just exactly how many signatures it is, is hard for me to realize. So, I took the sheets that we all used in arriving at—in getting our names placed on the ballot for election to this Convention. They contained twenty-five names each, and it would take 22,000 full sheets to get the required 550,000 signatures. And if these full sheets with twenty-five names each were bound together as a new document would be—assume this one—it would require a stack of petitions approximately fourteen feet high. So this demonstrates the volume that would be required to get this job done; and it also points out the massive effort that would be required—the massive statewide effort that would be required—to successfully present an initiative petition.

Of course, another way to look at it would be that the number of signatures would be approximately equal to the entire number of signatures that all of the candidates for delegate to the Constitutional Convention solicited in getting on the ballot last September.

Another substantive requirement that the minority proposes

is that the full text be printed on each petition. This is the same requirement that most of the other thirteen states have, except that some apparently allow a synopsis. The minority feel that it is in order to require that each petition have the full text printed on it, so that all of those signing the petition will know exactly what they are signing.

A third requirement of the minority, as far as the initiative is concerned, would be the eighteen-month time period in which these petitions must be circulated.

Some states have a time period, but most are silent in this regard; the time period varies from three months to a longer period, but most of them are silent in this area. Again, this provision, we feel, would point to the need for a massive statewide cooperative effort conducted by various civic organizations before the required number of signatures could be solicited in the time required. We feel that no small special-interest group could get the job done.

A fourth provision of this minority report is similar to the other time requirements and the other sections of the committee report, in that we require a six-month time period in which the petition must be filed before the next general election. This, we feel, would allow ample time for public review in consideration of the amendment that is being proposed by the initiative. This would also give the media a chance to focus on the provisions of the amendment, and it would give the opposition ample time to organize and to present its case before the proposition would be decided by the electorate.

I might point out in passing, that no other state at this time has such a long requirement as far as filing date prior to election is concerned for initiative petitions. Most that do have such a requirement require 120 days or four months.

The fifth specific requirement that the minority is proposing in connection with the initiative, has to do with the legislative review of the proposed initiative amendment. We give the legislature an opportunity, according to the language of the proposal, to examine this initiative amendment. And if the legislature concurs or agrees, then they can approve it in the same way that a legislatively proposed amendment is approved and, so to speak, give their—enter their agreement with this proposition and submit it to the electorate as a combination initiative and legislatively proposed amendment.

The minority feels that this opportunity for legislative review would be another way in which public examination of the proposition would be afforded, and it would be a big factor —the action the legislature would take on the amendment— would be a big factor in the fate of the proposal at the polls.

These five provisions, then, are basically the—make up basically—the initiative proposal that we are presenting. I would point out that four states—Michigan, Missouri, Ohio, and Oklahoma—have the initiative provision similar to the one that we have outlined, in addition to allowing automatic Constitutional Convention Calls.

Another sidelight—or another point that the minority considered in presenting this report—is that recently Michigan, which has had the initiative for some time, retained the initiative after considering it in the Constitutional Convention. In 1945, Missouri did the same thing. They had had it before, they liked it, and they kept it.

California is another interesting history for the initiative. Many people point to California and say, "This is a terrible example of the initiative," and, granted, they have had problems. However, in 1966, Judge Sumner's Constitutional Revision Commission examined and made recommendations for change in one-third of California's constitution, and they, too, recommended—although they made some changes in the legislative initiative in California—the California Constitutional Revision Commission recommended that the initiative be kept in California.

Three brief reasons then I would like to bring out, in addition to the ones detailed in the report that you have before you, that the minority feels the initiative should be a part of the amending process of the constitution of the state of Illinois.

One, we feel that it would—it is a way to overcome any unforeseen problems that might occur in any new constitution that we might construct in this chamber. These would be technical problems that a change in practice or a change in future interpretation might cause.

The second reason that the minority urges that the initiative be a part of our constitution is that it could be used as a way to suggest constitutional change that a legislature or that a legislative body by its very nature might be unable to accomplish; and, of course, the most ready example of these two—two ready examples of these or cases or of this type might be reapportionment or the adoption of a bicameral—or a unicameral —legislative body.

The third reason that I would like to bring up, in addition to the ones outlined in the report, would be that the initiative would be useful in the few cases where a General Assembly might not meet the needs of the state. This unresponsiveness might be caused by constitutional technicalities, and the Peabody Petitions in Massachusetts point to where the initiative was used in that state in this effect to a good end.

In closing, then, or before we go into the question period, I would encourage you to consider the initiative, to read the report, and to give it your ample consideration.

Now, Mr. Chairman—or Mr. President—if there are any questions, we would be glad to try to answer them.

PRESIDENT WITWER: Thank you very much. Now we are going to have questions on the minority proposal, understanding that when we get to the perfection of the majority proposal, seriatim, we will, when we reach section 2 thereof, understand that the minority proposal is a pending amendment to section 2, and there will be the opportunity then to debate that amendment.

The Chair recognizes Mr. Parkhurst, and I will endeavor to list those who are standing, so will you continue to stand, until I make my list? Mr. Parkhurst, go right ahead.

MR. PARKHURST: I am interested in the statistics of these initiative proposals across the country in the thirteen states that do have them. Did your committee or your staff put together any kind of survey of how many initiative proposals have been introduced in the thirteen states over some reasonably short period of time and how many were successful and how many were supported by the legislative concurrence to put it on the ballot and similar background data? Could you fill us in a little bit on what happens in the other states which have the initiative propositions?

MR. SHUMAN: Thank you, Mr. Parkhurst. Yes, I

can. Would you like to have it state by state? How would you like to have your information?

MR. PARKHURST: Well, my question is general rather than specific. I just—maybe, could you tell us how many of these animals have been put on the ballot, say, in the last ten years in the thirteen states that have such a provision and how many of them have carried? Start with that.

MR. SHUMAN: Because of the difference in the requirements between the states—every one of them is absolutely different—it probably would not be too meaningful to have a total number, but I can give you ones that would be similar to the requirements that we are suggesting. And I have these broken down on this paper here before me in two periods, one—kind of ancient history—goes back prior to World War I—or World War II, excuse me—and the other one is more recent, the last three elections prior to the 1968 election.

In the states that would have a similar requirement that we are proposing, these would be Oklahoma, Arizona, and Nevada, and I say similar in that they have—Oklahoma and Arizona require 15 per cent of the highest vote for governor in those states, and Nevada requires 10 per cent.

In the period '64 to '66, two initiatives were presented in Oklahoma and two failed. In the same period in Arizona, six—at least one initiative made it. The details there were inconsistent. It was hard; we haven't been able to pick them out yet. And in Nevada they have voted on only two amendments and they both passed in that time period.

Now, looking at the whole spectrum, we find that the initiative is not used as much as the legislative amendment process is used, and further that the initiative has a poorer record of adoption than the legislative method of amending has. This is looking at all thirteen states, the whole history of the thing.

MR. PARKHURST: All right.

PRESIDENT WITWER: Thank you. Mrs. Anderson?

MRS. ANDERSON: I have two questions. One, did the committee, or subcommittee consider the possibility of a time lapse before the initiative method could be used, say, following the Constitutional Convention where many of the proposals adopted would be highly controversial, and where there might have been a close vote, and whether there would be any time lapse there, that is one example.

MR. SHUMAN: Yes, this was considered an, in fact, this was one of the strong considerations of the majority in opposing this—that the work of the Convention may be undone by hasty initiative action.

MRS. ANDERSON: Was the time lapse as a constitutional provision discussed?

MR. SHUMAN: This was considered, but we rejected it because we thought this might get too detailed, and we found trouble in relating it to future Constitutional Conventions that might be called.

MRS. ANDERSON: Now, the second question I had was regarding your 12 per cent. And I know you quoted the number of signatures and all that would be needed. Do you have any rationale in Illinois for such, what seems to me like a rather low percentage—I mean over and above—why didn't you choose the 15 per cent, for example? Was it just compromise, or what?

MR. SHUMAN: This, of course, was a compromise. The original proposal that was made to the committee called for 15 per cent. There was some discussion of the whole committee—this was before there was any division of the question, before the minority-majority was apparent—and the percentage figure was brought down to 12. As I pointed out, only two states have a higher requirement than this. All the rest have a lesser requirement from 10—the next lowest requirement would be 10 per cent.

PRESIDENT WITWER: Thank you. The Chair recognizes Mr. Garrison.

MR. GARRISON: Mr. President. Mr. Chairman, I would like to ask, you made reference in your presentation to the Peabody Petitions in Massachusetts without elaborating upon them. Would you define what you were referring to?

MR. SHUMAN: Well, very briefly—and I will get the year—very briefly, there was circulated in Massachusetts an attempt to amend the constitution—four amendments, I believe. Mr. Peabody was responsible—was the leader of the effort there—and these then, through their indirect route, later caused the legislative amendment process to take action in the state of Massachusetts. Now, I don't have with me the specific details of those—of that action—but I can get them for you if you would like them.

MR. GARRISON: Very well, then. The next question: I notice that the majority report indicates that they fear the initiative process will lend itself to abuse by special-interest groups. Could you tell us whether any special-interest group appeared before your committee and testified in favor of the initiative device?

MR. SHUMAN: I will let you define whether it is a special-interest group or not. I can tell you who appeared before our committee and testified in favor of it.

MR. GARRISON: Would you do that?

MR. SHUMAN: The American Association of University Women and the State League of Women Voters were the two organizations that testified.

MR. GARRISON: In support of it?

MR. SHUMAN: In support of it.

MR. GARRISON: Did you have any groups testify in opposition to it—groups?

MR. SHUMAN: No, no organized groups testified in opposition.

MR. GARRISON: Now, would the rationale regarding the fear that the initiative process might lead to an attempt to undo the work of the Convention before it is fully tested—would that same rationale apply to legislatively originated amendments that were hastily conceived?

MR. SHUMAN: I personally—I believe that it would.

MR. GARRISON: It would. Now, there is a reference in the majority report about the initiative being popular in the early part of the century. And you referred to the re-adoption of it in Michigan and Missouri. Are there other states—the new states, for example—that have adopted the initiative device in recent years?

MR. SHUMAN: My understanding of the Alaskan Constitution, as I read it, is that they had the initiative legislative route open to them, and I think it's up to court interpretation for that to apply to the constitution. Now there has been no constitutional amendment by the initiative route used yet in

Alaska.

MR. GARRISON: But the new Alaskan Constitution, it is your understanding, adopted the constitutional initiative device?

MR. SHUMAN: They adopted the legislative initiative.

MR. GARRISON: The legislative initiative. Now there is a reference in the majority report to the use of the initiative device in Missouri to establish the appointive system of the election of judges and in Michigan to ease the requirements for the approval of a Convention that ultimately paved the way for the new constitution in Michigan. Do you know what groups circulated the petitions in those two states?

MR. SHUMAN: Well, in Michigan it was a combination of groups, the State Junior Chamber of Commerce in cooperation with the State League of Women Voters and a statewide citizen's group that circulated the petitions there, that caused the initiative to become effective or caused the initiative to change the constitution to allow the Constitutional Convention to be held in Michigan. In Missouri, I don't have such detailed information, but I understand it was the State Bar Association that had some—had a hand in that effort there.

MR. GARRISON: One final question. Would it be your observation if 550,000 good bona fide signatures had to be submitted that in fact the petitions would actually have to have approximately 700,000 or so in order to insure that many of the signatures would be lacking in genuineness, authenticity, and so forth?

MR. SHUMAN: I think this would be very good judgment on the part of those circulating the petitions.

MR. GARRISON: Very well, thank you.

PRESIDENT WITWER: Mr. Jenison?

MR. JENISON: Mr. Chairman, I wonder if your committee, in considering this matter, had given any thought to the mechanical division of the signature requirements as is common in present petitions for candidates versus an independent party? What I mean by that, the requirement that a certain percentage of them come from a certain number of counties or fifty counties or one county, or if you are leaving it as a flat number percentagewise, indicating that they could all conceivably come from one county.

MR. SHUMAN: Yes, we did look into this. Some states, in fact, do require such a distribution system in the use of their initiative for constitutional amending. The reason we did not include this—the reason the minority did not consider this—was the fact that there is some suggestion that this type of requirement may be unconstitutional under the one man-one vote issue.

PRESIDENT WITWER: Mr. Lewis?

MR. LEWIS: Delegate Shuman, you have answered my question in part. I think Delegate Parkhurst asked how many animals there were; I would like for you to further identify the animals as to what issues actually have been brought up by popular initiative. You have named two that apparently were somewhat constructive and one from California that might have been somewhat destructive, and what are the other types of issues that have come up in the other states in this manner?

MR. SHUMAN: They cover the waterfront, so to speak. You have all kinds. One study of California and Oregon, in fact, said that the language of the study read that, in fact, like the legislative initiative—like the legislative amendment route—there is much chaff in the initiative amendment route; but every now and then you find a gem, and that would really speak for the whole thing. If you would like details on a specific state, I could give you this, but they are so broad—they cover everything. Apportionment is one that has had—that has had some use.

PRESIDENT WITWER: The Chair recognizes Mr. Thompson.

MR. THOMPSON: Yes. Mr. Shuman, I was wondering if section C, which is the concurrence of the legislature, if that is the standard section in the constitutions where initiative is provided for? This is my first question.

MR. SHUMAN: Mr. Thompson, there is no standard language that we could find. This is an indirect method of asking legislative review of initiative. And that would be the best answer I could give you.

MR. THOMPSON: My following question on the same subject would be: Would not the legislature, under the legislative initiative—if there was a popular initiative movement afloat—would not they have all the power granted them in section C if that were not included?

MR. SHUMAN: They would have, but—they could propose their own legislative amendment, but they could not, so to speak, put their rubber stamp on it. In other words, if this section C was not there, it would not formally—it could not formally, as I see it—get the approval of the legislature.

MR. THOMPSON: Thank you.

PRESIDENT WITWER: Mr. Gertz?

MR. GERTZ: Thank you, Mr. President. Mr. Shuman, what safeguards, if any, have you put into this proposal that would make certain that nothing federally unconstitutional like article XIV in California or something which you might describe rather loosely as "crack-pot" is submitted?

MR. SHUMAN: The only safeguards put into this are the ones that we enumerated. I think that we are going to have to do this—put these initiative amendments to the same tests that you would put the legislative amendments to. In other words, the supreme court would probably have to rule on them just as they would legislatively initiated amendments.

MR. GERTZ: In other words, there is nothing like the Legislative Reference Bureau or any other screening process?

MR. SHUMAN: No, there is—in that language, there's not, and not concerning the legislative amendment either.

MR. GERTZ: Now, with respect to the number of votes, I realize that there is some doubt as to the constitutionality of the requirement of a certain number of signatures from each county. But how would you prevent a purely sectional proposal, one that might, say, emanate from all the downstate area or from Cook County, from being submitted? How would you have some assurance that this is something which the people of the state as a whole might have some great concern about?

MR. SHUMAN: The two requirements that there be a petition containing 12 percent of the electors signed to it would have this effect. And the fact that it must stand the three-fifths test when it is on the ballot would also, I think, do this. We feel that if there is—the minority felt that if there is enough support to change the constitution so that three-fifths of those voting on it would approve it, then the constitution

should, in effect, be changed. In fact, we have no fear of the intelligence of the people in making a constitutional change.

MR. GERTZ: Thank you.

PRESIDENT WITWER: The Chair recognizes Mr. Downen.

MR. DOWNEN: Mr. Vice-Chairman, I believe this is substantially what Delegate Jenison—and perhaps Delegate Gertz—was questioning. I am wondering what consideration was given to spreading this 12 percent over the state as a whole, as to Congressional districts or as to legislative districts or even to counties, to insure that this would not be a localized situation where you would have a race in the metropolitan areas and the rest of the state would be left out.

MR. SHUMAN: This, as I tried to indicate a while ago, was one of the considerations of the committee, but the minority felt that there was enough question about the constitutionality of requiring this kind of thing that we did not include it in the language of the minority report.

PRESIDENT WITWER: Mr. Perona?

MR. PERONA: Mr. Shuman, do you believe, or apparently the committee did believe, that the 12 per cent requirement would permit—would reasonably permit—amendments to be suggested to the constitution. Is there experience in the other states that have the initiative that would lead us to believe that meaningful amendments would be suggested by this many required signatures?

MR. SHUMAN: You mean, in other words what is the requirement, what is the experience in other states that have this same requirement?

MR. PERONA: Yes, insofar as the content of the suggested amendments.

MR. SHUMAN: All right. As I pointed out, only two other states have a higher requirement than we have. This is a very high requirement, and very few initiatives are proposed under this process. Now, with a little time here, I could look them up and tell you exactly what the languages were on those proposals, and I will do that for you, but they were broad. It would be an argument between you and I before—to have to decide whether they were substantive or not.

MR. PERONA: I will talk to you personally about it then.

MR. SHUMAN: Fine, unless this is a general question.

PRESIDENT WITWER: I beg your pardon. Mrs. Netsch?

MRS. NETSCH: Mr. President. Mr. Shuman, my question was a particularization of the more general question Mr. Lewis asked earlier about the subject matter. I was particularly interested in those three states that you suggested had provisions most comparable to those that are included in your own proposal. I don't—I'm not going to ask you to go through all of those initiative proposals in those three states, but could you take for example, one of the three, perhaps Arizona, which had the most experience, and give us an idea of the subject matter?

MR. SHUMAN: I would be most happy to. Okay, in that period of time we are talking about there were three elections—they held three elections—and nine propositions were submitted. Six were adopted. Three of these amendments dealt with fiscal matters. Three of the amendments dealt with fiscal matters. Now we would have to go into the revenue article of that state and determine its need. Now I would point out —let's talk about Arizona—we're talking about Arizona—and Arizona's constitution is approximately the same size as ours. So I would guess that we might assume that their revenue article was similar to ours, to the one we have in Illinois. So you can imagine what kind of fiscal matters they might have.

One dealt with taxes. Would you like for me to just read this report here that details these?

MRS. NETSCH: I don't know what I am asking you to read—whether it's too detailed or not. Is it possible just to do as you have just done to this moment—describe the subject matter—three dealt with the amending process and three with —that's what I mean.

MR. SHUMAN: Three dealt with fiscals. One dealt with the reorganization of the State Board of Education to consist of the superintendent of education and eight members appointed by the governor—this was an educational reorganization. Local reform or local government was affected by another amendment; and another one reduced the requirement of freight train crews. One reduced the requirement of freight train crews. So this shows you the detail that they go into.

MRS. NETSCH: Thank you.

PRESIDENT WITWER: Mr. Kemp?

MR. KEMP: Thank you, Mr. President. Mr. Shuman, in the listing of subject matter covered by those states that have a referendum, did it include Oklahoma's open-shop proposal, and did it include California's housing issue?

MR. SHUMAN: Proposition 14, in California, was one of the most notorious ones, yes. Now the Oklahoma issue you brought up, Mr. Kemp, I would have to check.

MR. KEMP: I wish you would.

MR. SHUMAN: What year was that?

MR. KEMP: I couldn't tell you.

PRESIDENT WITWER: While Mr. Shuman is checking on that, may I state that some inquiries have been received concerning the likely time of adjournment. We have but a few more names on the list for questions; the Chair would hope that perhaps we at least could complete the questions on the minority report by five o'clock tonight, and I think then it will be a decision for the body to determine when you would like to get into the actual amending stage on first reading of the majority proposal—whether we will do that tomorrow, and if so, will that collide with too many committee commitments. If not, are you prepared to do it Friday afternoon after we have our little ceremony, which is to be relatively brief, or if not, is it your view that having started this matter, it will break for the better part of the week until we come back next week, which is just before the Easter break?

You might give thought to these matters while Mr. Shuman is preparing to answer the question and as we approach the time of a proposal for adjournment. Mr. Kamin, do you wish to be on the list? Thank you. Mr. Lewis, did you wish to be on the list? No. Mrs. Pappas? Are you ready, Mr. Shuman?

MR. SHUMAN: Yes.

PRESIDENT WITWER: Will you proceed?

MR. SHUMAN: I will read the whole paragraph, Mr. Kemp. You probably know the answer,

but I will read it. Other ballot propositions since '63 in this state, Oklahoma, included the '66 amendment that repealed the requirement that separate schools with like accommodations be maintained for white and colored children, an unsuccessful '64 constitutional initiative which would have added a right to work section to the constitution, and an unsuccessful '66 referendum which would have restricted congressional districts.

So apparently there was an initiative attempt to include right to work and it was defeated.

MR. KEMP: Thank you.

PRESIDENT WITWER: Very well. Mr. W. Lennon?

MR. W. LENNON: Vice-Chairman Shuman, in your proposal, there is, in fact, no limitation as to the number of proposed constitutional amendments that could be on a ballot at any one time. Is that correct?

MR. SHUMAN: This is true. The only limitation is in the majority—on the majority side of the proposal as far as legislative proposals.

MR. LENNON: The majority is limited—the legislators—to three at any one time, but the initiative has no limitation whatsoever?

MR. SHUMAN: In this regard, no.

PRESIDENT WITWER: Mr. Linn?

MR. LINN: Mr. Shuman, I take it in your joining with the unanimous approval of the proposal as originally submitted without the initiative, you too, felt that there were adequate—at least adequate—standards for revision by amendment relating to the flexibility and the stability that we are seeking?

MR. SHUMAN: I am not sure that I understand your question. I feel that we need all three, if that is—all three ways.

MR. LINN: But when you signed as one of the sponsors of the proposal—and it was unanimously approved, as I understand it—you did take that into consideration. I take it that you felt that under the circumstances it did provide for the—adequately at least—for the changes that would reflect the stability and the flexibility that were desired.

MR. SHUMAN: The minority felt that there should be a third way to amend the constitution and that would be through the use of the initiative amendment. We also—all four of us in the minority—agreed with the two methods of constitutional amendment outlined in the majority proposal.

PRESIDENT WITWER: Mr. Wenum?

MR. WENUM: Thank you, Mr. President. Mr. Shuman, in the deliberations of your minority group, I wonder how much consideration was given to the—in effect, the redundancy of having simultaneously an automatic Call for a Convention every two decades and an initiative provision, especially in light of the fact that two decades is a relatively short period of time. You partially explained that in your opening remarks, but I wonder if you would elaborate a bit further?

MR. SHUMAN: Yes. This was a consideration by both members of the minority and the majority, in fact. I would only point out that there are four states that do have this provision, one with a sixteen-year automatic Con-Con call and the majority would agree to the inclusion—I mean the minority—would agree to the inclusion of both a Con-Con Call—an automatic Con-Con Call—and the initiative provisions. Now that didn't answer your question, except to say that Hwe did consider it. There was a difference of opinion, and this was the prevailing view of the minority.

PRESIDENT WITWER: Mr. Kamin?

MR. KAMIN: In subparagraph D there is a provision, similar to provision B in the majority report, which provides for the publication again of the language with explanations. My question is, in a situation like this, who has the right to draft the official explanation? Did you give consideration to that?

MR. SHUMAN: This, of course, is a consideration. This is something that you would have to probably decide—probably, in my opinion, would be decided by law—the only way that could be determined. This is going to be something that is probably of some controversy in this arrangement. Our language doesn't say who would do it, and we don't think that would be the proper place—the constitution would not be the proper place—to so decide.

MR. KAMIN: You did not determine that in your group?

MR. SHUMAN: No, we thought that this should be left to law.

PRESIDENT WITWER: Mrs. Pappas?

MRS. PAPPAS: Thank you, Mr. President. Delegate Shuman, was there any consideration given by your—by the proponents of your group as to the right of the petitioners to have a certain period of time within which to withdraw their petition?

MR. SHUMAN: Yes, this was considered. We considered the requirement that some states have that there be sponsors named that would have the right to withdraw the petition. We thought that the complications of spelling this out constitutionally might make the document considerably longer than it was needed to be, and we thought that we could follow the experience of some of the other states that don't have this type of requirement. We felt that the legislative review the indirect review by the legislature—might, in effect, effect the same result—in other words, be an albatross around the neck of one that should not be passed.

MRS. PAPPAS: So there is no right to withdraw the petition then? Is that correct?

MR. SHUMAN: Not under this language, no.

MRS. PAPPAS: Which leads me to my next question. Apparently, if I understand this correctly, if a petition is valid and sufficient, then this must be placed on the ballot. Is that correct?

MR. SHUMAN: That is correct.

MRS. PAPPAS: It is mandatory that it be placed on the ballot?

MR. SHUMAN: If it fulfills all the requirements of the law.

MRS. PAPPAS: Yes. It is not necessary for the legislature to act on it?

MR. SHUMAN: No, it is not.

MRS. PAPPAS: However, the legislature has an opportunity if it wishes to act on it?

MR. SHUMAN: That's right.

MRS. PAPPAS: May it amend the substance of the text?

MR. SHUMAN: Our language would not permit such amendment.

MRS. PAPPAS: It would not. So if it approves the petition, it will be exactly in the same language in which the petition is now—was originally—submitted?

MR. SHUMAN: That is correct.

MRS. PAPPAS: The legislature, however, can reject the petition or vote it down and not join in joint submission?

MR. SHUMAN: This is right.

PRESIDENT WITWER: Thank you, Mrs. Pappas. Mr. Kemp, do I understand you wish to be recognized again?

MR. KEMP: Yes, sir, thank you, Mr. President.

PRESIDENT WITWER: Yes, Mr. Kemp.

MR. KEMP: Mr. Shuman, would you read again the subject matter in Oklahoma's in reference to the education of children?

MR. SHUMAN: What did I do? Did I read it wrong or something?

MR. KEMP: No, I just wanted to understand it.

MR. SHUMAN: Oh, yes, that was the one—this isn't indexed and it is a little—take one ballot provision in '63 included—one other ballot proposition since '63 included a 1966 amendment "which repealed the requirement that separate schools with like accommodations be maintained for white and colored children." It repealed this constitutional requirement, apparently, that they had.

PRESIDENT WITWER: Thank you very much, Mr. Shuman. Mr. Shuman, Mr. Sharpe, I want to thank you for your excellent presentation. (Applause)

And I want to thank the staff counsel, Mr. Gratch, for his assistance, and my thanks to all the members of this committee. I think thanks are also in order to the body for the excellent order in which we remained throughout the afternoon and the excellent questions which were asked and which were answered.

Now, I think before we rise as a Committee of the Whole, we need your guidance whether you would like to proceed at this time and turn to the actual perfection of the majority report, or whether you would prefer that this next stage in the procedure be deferred until we next meet again as a Committee of the Whole. This is not a motion for adjournment; the problem now is whether we rise at this time, leaving the date for our next sitting to the adjournment resolution. Mr. Lewis?

MR. LEWIS: Mr. President, I too, join with, I think, all of the delegates in commending the presentation that has been made.

The Legislative Committee has given consideration to this report. We believe that probably our committee—more than any of the other committees—are interested in doing some correlation and some coordination with this particular report as compared with our duties as we see them in the Legislative Committee.

Therefore, the committee has determined that we did not want to delay or postpone or put off the very excellent presentation that we have witnessed, but that we would like to be able now, to go back to our committee and reflect, and perhaps do some constructive—make some constructive efforts of coordination and observation that I believe would be helpful in the final debate.

Recognizing that each question that was asked here today very well may be a tip-off as to each issue that will be debated, and realizing that the debate no doubt could go into the wee hours of the night, I therefore would suggest—and this would be the request of the Legislative Committee—that we rise at this time and then take up the debate and the decisions, the voting, after the plenary session on Friday.

PRESIDENT WITWER: Very well. I think the matter is not a matter of our adjournment at this time but the sense of the body that we rise and then determine in plenary session where we go from here. Is it the sense of the body? Do I hear any objection to a resolution at this time that we rise? I hear no objection. By unanimous consent may it be understood that we have resolved to rise as a Committee of the Whole? It is so ordered.

Now, we are back in plenary session, and we'll follow the regular order. New Business? Any new business? Announcements? I do have an announcement.

Ladies and gentlemen, you are all requested to take with you tonight—certainly tomorrow—your personal papers. Assuming that we do not meet here tomorrow, but we meet the next time in the old house chambers in the old State Capitol, we have been requested to ask you to take along, when you make your final departure—at this time at least—to take along your personal papers.

I would also like to announce that the Chair has re-referred a proposal. Mr. Wood's Proposal No. 375, which heretofore was sent to the Revenue Committee, is being re-referred to the Local Government Committee.

Are there any other announcements? Mr. Foster?

MR. FOSTER: I am correct in assuming that the staff will take care of the signs?

PRESIDENT WITWER: I guess we can depend on the staff to take the signs over and put them up on the desks in the other place, Mr. Foster. Thank you. Mr. Gertz?

MR. GERTZ: May I inquire, I understood we were going to take action to formalize our move to the old State Capitol.

PRESIDENT WITWER: I think that will be and should be in the adjournment resolution, and I expect we will hear from Mr. Davis on that. I would hope that we might, after we have had a little bit of a sensing of opinion concerning our next meeting, yield to Mr. Davis the privilege of submitting a resolution on that subject. The Chair recognizes Mr. Raby.

MR. RABY: Mr. Chairman, on Saturday I had the honor of being with several of our members, in particular Mr. John Alexander, who called to my attention that on March 24 throughout much of the country, and in Springfield as well, there is a documentary—a movie or documentary—on the life and struggles of Dr. Martin Luther King which serves—which is going to serve—several purposes: (1) to document his life, and (2) to help raise funds to continue some of the work that he began.

Now, I—neither John nor I—do not know the details other than that there will be two movie houses in the city of Springfield. We are going to check out the time and other things, and then we would be willing to get tickets for anyone or take names on Friday from anyone who might be interested in

can wind up our deliberations of the Proposal No. 1. Section 2 involves many of the principles that we have gone over already insofar as the committee report is concerned. The only innovation that will really be before us and now involve new principles, if I am correct, Mr. Chairman, will be the minority report which we had contemplated we would take in as soon as we had perfected the majority report's provisions of section 2. Is it feasible, Mr. Tomei, to go ahead for the next hour with the idea that perhaps by 1:00 or 1:15 we might adjourn?

MR. TOMEI: Mr. President, the major matter before us is the question of whether or not we adopt initiative. If it's adopted, I've heard of some potential amendments to some of the provisions there; I think some people had a quarrel with the 12 percent signature requirement. I'm just not aware of any specific amendments to be able to gauge that one. I am aware of only one other proposal dealing—or amendment rather—dealing with section 2, and that is Mr. Cicero's proposed language to prohibit the General Assembly from submitting amendments during the period of a Constitutional Convention. Beyond that we had section 3, which deals with the federal amending process. I am not aware of any controversy or amendments with respect to that one. I think it really depends upon the mood of this body. If we are prepared to devote another hour and a half or so, I think the initiative and referendum arguments have been pretty well lined up—people speaking both for and against—and I would hope that the people who we know want to speak would be able to cover most of the ground. But it would take about an hour or an hour and a half or so, I would expect.

PRESIDENT WITWER: What is the wish of the body —that we plow through for awhile or that we now recess and come back at 1:30? Let's test this out. Those who would recess now and come back at 1:30, please raise the hands. Those who would like to keep plowing for awhile? I think that the plowers have it. Don't tell me you want a roll call on that one now. Let's proceed. Now, Mr. Tomei, then I will recognize you in just a moment unless a point of order, Mr. Foster.

MR. FOSTER: It's a privileged motion, Mr. President.

PRESIDENT WITWER: A privileged motion? You may proceed.

MR. FOSTER: I move you that this Committee of the Whole rise.

PRESIDENT WITWER: Very well, this is not debatable. Those in favor say aye. Those opposed, nay. It has failed. Now, Mr. Tomei?

MR. TOMEI: Mr. President, I think at this time, if I understand our rules correctly, the appropriate thing is to entertain the motion to substitute or a motion to substitute. I would only like to point out that the substitute in fact has one objective, that is, adding on the initiative to the other provisions. So I think that if we do that, we can debate the question of initiative, get through that, and then if there are any perfecting amendments on either the initiative side or the original committee report, we can do that.

PRESIDENT WITWER: Mr. Tomei, I think that we had contemplated earlier that we would move into the portions of section 2 that represent the committee report and perfect them, and then we would accept the minority report as a substitute at that point. And so would you present, please, those portions of section 2 which represent the committee report and see whether we are going to be hung up on these; and if not, we can move promptly then into the minority report as a substitute. But let's perfect the majority report on section 2 first.

MR. TOMEI: All right, Mr. President. Section 2A is—or tracks the present language of section 2 in allowing amendment to the constitution to be proposed in either house. It adds a requirement for reading three days in each house and printing before vote on final passage. That's the current requirement for bills—ordinary legislation—and one of our legislative members, Mr. Elward, suggested that the—and, indeed, other people did as well—that at least there ought to be the same reading requirement for constitutional amendments as there is for ordinary legislation. The next sentence proposes approval of amendments by a three-fifths vote of the members. You remember we went through this at some length on section 1 a reduction from the present two-thirds of the members elected—simply a three-fifths of those people who are actually members who have not died, resigned, been expelled or disqualified or what have you. We have added in a six-month requirement that the legislature in an even-numbered year, for instance, could not adopt and submit to the people an amendment within the six-month period preceding the general election. It was felt that amendments adopted by the legislature ought to be able to be exposed to public criticism and comment, and that this was one small check on precipitous action. This again was a suggestion; it was a compromise, as a matter of fact, between a longer period we originally were considering and no limitation and it was again suggested by our fellow delegate, Mr. Elward. We retain the present limitation on three articles to be amended at any one general election. We remove the present limitation on repeat amendments; we do not wait and require a four-year interval. That, I believe, explains the proposal. We would commend it for the body's consideration.

PRESIDENT WITWER: Thank you. Now are there any amendments? The Chair recognizes Mr. Cicero.

MR. CICERO: Mr. President, I move to amend section 2A by adding a sentence. I will add to the end of paragraph 2A —I think the proposed language has been distributed, and I would ask the clerk to read that amendment.

PRESIDENT WITWER: Very well. Mr. Clerk, would you read the Cicero amendment to section 2A?

CLERK: Amendment to Committee Proposal No. 1 submitted by Delegate Cicero. Section 2A shall be amended by adding the following language to the end of paragraph 2A: "The General Assembly shall not propose or submit any amendments to the constitution from the time of approval of the Call of the Constitutional Convention by the electorate until after the electorate has voted on any revision or amendments proposed by such Convention."

PRESIDENT WITWER: Thank you. Is there a second? It has been seconded by Mr. R. Johnsen. Now, Mr. Cicero.

MR. CICERO: Mr. President, I submit this amendment because I view the matter that is dealt with in this amendment as a most important matter substantively affecting and concerning the work of any Constitutional Convention. The purpose of the amendment, as I hope is apparent from the language, is to prevent any amendment initiated in the legislature

you proceed, Mr. Butler?

MR. BUTLER: Mr. President, experience has shown that for an amendment to the constitution in this state to obtain approval of the electorate, it must have substantial support throughout the entire state. This amendment to the minority proposal is offered with this fact of life in mind. It is not too difficult to visualize a time in the future when one political party may be somewhat dominant to some one of the 102 counties that has a large population in this state. We might take Cook as an example, and we must have an example if our discussion is to be meaningful. Perhaps the leaders of the dominant party at some time in the future in such a county as Gook would believe that a given proposal for constitutional change is worthy of submission to the people. Yet this may never come to pass, even if the proposal be a truly good one, because again we may visualize a situation where the other political party may hold sway in the legislature and would greet such a proposal with the same warmth and ardor as an Eskimo at the North Pole might welcome the presence of an ice-making machine.

Consequently, it's conceivable that a good proposal for constitutional change could never get off the ground, either because of the source from which it emanates or because of the hands in which it must be placed for action. This is one of the reasons I support a proposal for petition and initiative with this amendment. But still even with initiative there must be, as noted, substantial support for constitutional change on a given subject throughout the entire state. It is with this in mind that I propose the amendment which would limit the number of signatures on a petition for initiative to 50 percent from any one county. Such a provision would, in effect, guarantee the circulation of petitions in more than one county. The publicity attendant to such circulation would not then be isolated to one corner or one particular area of the state. The people generally would be better informed. Then if the petition fails to receive at least half of its signatures from outside one county, it may not have been so worthy as thought. If this should occur, we might then say a political party or its leaders were in error, although we are aware this is seldom the case. If, on the other hand, the petition received sufficient signatures in the rest of the state, there would seem to be strong belief that the proposal is worth considering and that the electorate should be entitled to voice its opinion at a referendum thereon. Thank you.

PRESIDENT WITWER: Thank you, Mr. Butler. Mr. Shuman, do you have any comment on behalf of the proponents of the minority report?

MR. SHUMAN: Thank you, Mr. President. I would like to ask you to recognize Mr. Tomei to answer this.

PRESIDENT WITWER: Thank you. Mr. Tomei?

MR. TOMEI: Mr. President, fellow delegates, I think we recognize—that is, the proponents of this proposal—the problem to which you address yourself. However, I think we have a serious constitutional concern about the validity of such a geographic requirement. It was just about a year or perhaps two years ago, in the case of *Moore* v. *Ogilvie* which went to the United States Supreme Court, where a similar requirement for petitions to put a candidate on the ballot was held unconstitutional. There—if you remember—that state officers must secure 25,000 signatures on petitions and with a further requirement that at least 200 of those signatures come from at least fifty counties in the state. And the United States Supreme Court held that that area requirement for signatures to put a man on the ballot was invalid and struck it down so it's no longer a part of Illinois law. I am somewhat afraid that this area requirement here for a constitutional proposition might meet the same objection. Also you remember that, in our discussion of the three-fifths majority vote requirement, we mentioned a case in New Mexico, State v. the *State Canvassing Board,* a 1968 case where again approval of constitutional amendments which had to be done across the state and then within each county was also struck down by the state court in New Mexico. So we felt that the—as desirable as it would be to have broad base support for a proposed amendment might be, that the constitutional validity of it was such that it was open to serious question, and we attempt to preserve that broad base of support which you desire and which we desire for constitutional change by writing in that the approval of an amendment must be by three-fifths of the voters across the state. So therefore I think it would be our feeling that this particular amendment is subject to some serious question, and the better way to get the broad base of support is not at the initiating end of it, necessarily, but at the wind-up end. At the wind-up end, if you have to have a three-fifths support throughout the state you, in effect, have achieved something that couldn't be simply the godchild of Cook County or indeed of any other area of the state. So I would have to say that I would personally vote against this amendment as being subject to severe question.

PRESIDENT WITWER: Thank you, Mr. Tomei. Any further debate? Are you ready on Mr. Butler's amendment? Mr. Butler?

MR. BUTLER: If I may reply briefly to Mr. Tomei's remarks, I think of course he must have reference to the one man-one vote ruling of the United States Supreme Court. I think the only time that would be applicable to this particular situation envisioned by this proposal would be in the event that more than 50 percent of the population resides in one county. Now I don't believe that that is the case today; and if all of the reports that we receive are correct, this is not going to be the case. In fact, the case will be reversed. I think that this is the sole leg that Mr. Tomei's argument would have to stand on; and I really don't see how it's valid, where you have the population distribution such as it is today and as it will be in the future.

PRESIDENT WITWER: Thank you. Any further debate on the amendment? Are you ready? We are voting now on Mr. Butler's amendment, which would insert the following words after the period in line 21: "No more than 50 percent of the signatures on such petition may be by electors residing in any one county." Are you ready? Those who will adopt, please say aye. Those opposed, nay. It's pretty close. I will ask you to raise your hands. Those who will favor the adoption of the Butler amendment, please raise the hand. All right, will you lower your hands? Now those who oppose the Butler amendment, please raise the hands. Thank you, sir. You may lower the hands. The amendment has failed. The yeas were thirty-two, the nays were forty-six. All right, we're back on the main motion, and that is the minority report. Is there any

further debate? Yes, indeed, Mr. Kemp?

MR. KEMP: Thank you, Mr. President.

PRESIDENT WITWER: Yes, Mr. Kemp.

MR. KEMP: Mr. President, ladies, and gentlemen, it is more than passing regret that this delegate finds himself in opposition to the thinking of the two principal proponents of this proposition, my colleague from Moultrie County, Delegate Shuman, and my Cook County neighbor, member of the cloth, the Reverend Joseph Sharpe, with whom I have obvious and mutual interests.

Proponents to initiative and referendum usually cite as their basis for such opposition that this device in states that provide it has been used to the disadvantage of minorities which includes the labor movement. This delegate believes this to be true as evidenced by the California housing issue and the Oklahoma open shop issue, both of recent vintage. My identity and interest in these matters is obvious and without apology. Whenever the issue of minorities is raised many of us automatically assume that the subjects of the discussion must be black, the Spanish speaking, the American Indian, or citizens persuaded to the Catholic and Jewish faiths. But I would recite to my fellow delegates that out of my experience of nine continuous years as a commissioner of the Illinois Fair Employment Practice Commission, that depending upon where you are—who and when—all citizens at one time or another in this state are members of a minority and therefore subject to economic and social prescription. An examination of the commission's records, which are by state statutes subject to public scrutiny, will show that citizens of this state have filed complaints under oath alleging initial employment or upgrading discrimination against them because they were German, Irish, Puerto Rican, Bohemian, or Mexican, foreign-born Protestant, Jewish, or Roman Catholic, black and white men and white women. Indeed, one pending matter before the commission is the case of an Anglo-Saxon Protestant applicant who appears to be No. 1 on a Civil Service list and alleges that he has been denied employment opportunity with that municipal agency as an investigator. The Fair Employment Practice staff investigation shows that the employing officer of that municipal agency has stated that since the majority of the subjects to be investigated are black and normally live in all-black communities, that in his opinion this position would place this Anglo-Saxon Protestant applicant's life in jeopardy. Therefore the employing officer, being in full possession of all his faculties, has unilaterally decreed, Civil Service examination notwithstanding, that the duties of this investigative position can only be performed by a black investigator. I therefore then repeat that none of our citizenry are entirely free from potential unfairness and illegality.

Permit me to call to your attention some of the history of the late United State Senator Norris from Nebraska about whom seasoned political observers have reported to me the following:

(1) The state constitution of the State of Nebraska then, and may possibly even now, permits initiative and referendum.

(2) Whenever a group or a segment of that state's citizenry politically offended the senator or appeared to be considering offending him, he then either threatened to or initiated such a referendum which, if successful, would threaten their economic and social provisions.

(3) The senator, operating from his prestigious position, threw a long shadow and exerted an undue amount of influence far beyond what one man should have been able to exert.

In the light of the limited number of black and Spanish-speaking residents of that state, I trust that you will concede that the senator's efforts were hardly pointed in their direction.

The frightening aspects of our acceptance of this proposal is that it would say in effect, that any determined wealthy person or a small group so financed and so minded could mount by way of public media advertisement, both written, spoken, and visual, a campaign that, if successful, could result in everlasting disadvantages to some of our people or compel them to be involved in costly combat. The advantage of state legislative initiated proposals is that it affords free and open testimony before established legislative committees which provides the following things:

(1) Public questioning in an arena of orderliness.

(2) It provides the opponents of such a proposal the same opportunity, and,

(3) Public and reported voting on the part of each individual legislator, who—ostensibly, at least—must then stand on his voting record on that and other issues at next election time.

It is hardly necessary for me to distinguish the difference between that procedure and one which might apply under the sacred cover of the ballot curtain where irresponsible and reprehensible action could take place. The cold clear light of public scrutiny is the proper prohibition and certainly so in these emotionally packed times that no one here can foresee will immediately be alleviated. I therefore respectfully urge this proposal's defeat.

PRESIDENT WITWER: Thank you, Mr. Kemp. The Chair recognizes Mr. Woods.

MR. WOODS: Mr. President, fellow delegates, first I would like to express appreciation to the distinguished Delegate Shuman for his compilation of the very fine study on constitutional amending by the initiative procedure. This study of the use of the initiative in many states demonstrates very clearly, I feel, that a wide range of political interests have found the initiative a useful instrument for change. It affords an opportunity for a proposal with substantial support to present their case to the people and the people are allowed to accept or reject the proposal. The provision for legislative review will insure adequate scrutiny, public debate, and afford sufficient protection against hasty or ill-conceived measures.

If we have faith in the good faith and the sound judgment of the citizens of the state of Illinois—and I do—we will adopt this important measure.

PRESIDENT WITWER: Thank you, Mr. Woods. Mr. R. Smith?

MR. R. SMITH: Mr. Chairman, I rise to speak in favor of the initiative. There is a rhetoric which I have heard in this Convention from the first day and that is let the people do the electing, let the people elect their state offices, let the people elect their judges; and I would say that if we really want the people to have a voice in state government, then let the people of this state initiate propositions to appear on a ballot. Thank you.

PRESIDENT WITWER: Thank you. Mr. J. Parker?

MR. J. PARKER: Mr. President, I rise again on one of the few occasions because, as I have said previously, I feel that —kind of a practical aspect in getting up and arise on so many of these issues. I arise primarily on this issue to express disapproval of the initiative, primarily from—I feel—from a practical aspect. I feel that the initiative—or the amendment provision of the constitution—could be one of the most important provisions of the whole constitution because it needs to have opportunity to correct problems that come up in the future. However, I must direct the attention of the body that we have approved on the first reading go around the twenty-year automatic recall. And I do not feel it is absolutely necessary that we have both automatic recall and initiative, primarily because if an issue is so great that the people are worked up enough that it would prompt an issue, I believe there would be enough pressure that you could put on your legislature—or the various members—to bring it up as a legislative amendment, or if it's close enough to the twenty-year calling, you can get out and work for the recall. Therefore, I do not feel it is necessary to have both from a practical matter, and I think it would just open the door for too many ill-advised possible amendments that wouldn't be necessary. Thank you.

PRESIDENT WITWER: Thank you. Mr. Foster?

MR. FOSTER: I have kind of a question for Mr. Shuman. If I remember the mayor's license number, the number of signatures that would be required under this provision are greater than the highest vote ever received by anybody for mayor of Chicago, and I can't think of even Daley and Ogilvie together getting 800,000 signatures for anything. Has any consideration been given to, say—to 10,000 or 50,000 signatures or some other flat sum, rather than this percentage which turns out to be, to me, an impossible figure?

PRESIDENT WITWER: Mr. Shuman, do you wish to answer the delegate's inquiry?

MR. SHUMAN: The inquiry, as I understood it, was, "Did we consider a flat figure inclusion?" Yes, we looked at the one state that does have a flat figure. This is—North Dakota requires 20,000 signatures. We felt that a percentage figure would be much more realistic in that it would change as the population of the state of Illinois changed. The percentage was arrived at—we arrived at the 12 percent percentage figure. We struck, I guess, a medium between the two states that have a 15 percent percentage figure and, I believe, four states that have a 10 percent percentage figure. Frankly, this would be one of the more difficult initiative processes that we find among the fifty states in the Union.

PRESIDENT WITWER: Mr. Kamin?

MR. KAMIN: This is half debate and half a question to Mr. Shuman. When he made his initial explanation of this article, I asked the question with regard to paragraph D as to who had the right to make the explanation—which explanation was to be published along with any such referendum? You said at that time it would have to be left to law. I'm afraid that that's leaving it a little too much open, to my way of thinking, because what troubles me about initiative—what troubles me about the whole proposition—is precisely that it is not subject to the very scrutiny which we are here giving this language. We all know that the debate that we carry on here with regard to all proposals is the gloss which ultimately is the explanation for the language, what this language actually means; and in the absence of understanding, who has the right to truly come out and explain this language to the people—what it really does mean? I find that I have to vote against it, but I would be willing to listen further if there is an explanation as to who makes the explanation.

PRESIDENT WITWER: Thank you, Mr. Kamin. Any further discussion? Mr. Miller?

MR. MILLER: Mr. President, ladies and gentlemen of the Convention, I arise to speak this afternoon on behalf of the majority report wherein the initiative process was rejected. In considering the initiative process of amending our constitution I believe we must first take a look at the overall amendments article that has been proposed. A great stumbling block over the past 100 years in attempting to revitalize and modernize our constitution has been the extremely rigid specifications that we have placed in the amending process. Based on the first reading of the amendments article that took place about two weeks ago, we have now simplified the amending process in two major areas. First, we have relaxed the criterion of a two-thirds vote to three-fifths, and second, in a very important step we have assured the people of Illinois an opportunity to express their satisfaction or dissatisfaction with our constitution by assuring them the opportunity once every 20 years or more to decide whether or not a Constitutional Convention should be held. The proposed amendments article provides that revision of the constitution may be introduced by either a legislative proposal or by a Constitutional Convention, thus assuring a careful deliberation and study by a General Assembly or by a Convention body.

Our constitution is a very important document, and any consideration for its change should take place in an atmosphere of careful study. The signatures required for amendment by initiative, by the very nature of the process, are highly susceptible to be secured in an atmosphere of haste. It opens the door to decision-making based on impulse and emotion and not in an atmosphere of careful study. The General Assembly and Constitutional Convention probably are as near as we can come to the popular control of the constituent power or the power to define the law. Both bodies consist of members chosen directly by the people for the expressed and limited purpose of reviewing the statutory and fundamental law of the state. They are the agents through which the people exercise their sovereignty. The initiative process does not permit focussed debate upon the issue nor compromise on the proposal.

Another factor to take into consideration is that the initiative process as proposed makes it imperative that some large interest group support the movement because of the many signatures required and the financial cost. Thus a determined minority which has failed to carry their cause to the legislature can often use initiative to further their own ends. A study of amendments introduced by the initiative in other states clearly documents the case that large interest groups are required to introduce initiative. Why shucks, if somebody would give me fifty cents for every vote I could get under the initiative process, I bet you I could go out and get people to sign a petition to shoot the governor. Only thirteen states presently have constitutional amendment by initiative, and where it is used it is

frequently for the purpose of inclusion of statutory detail in the constitution.

There is another very graphic statistic to point to in considering this. It is shown in Mr. Shuman's report. He outlines the eleven states that have the initiative process. And let's compare Illinois with four other major industrial states, California, Michigan, Missouri, and Ohio. In each of those cases where an amendment is introduced by the legislature in those four states, 59.3 percent are approved in California; in Michigan, 52 percent; in Missouri, 57 percent; in Ohio, 46 percent. Let's take a look at where a constitutional amendment has been introduced by the initiative. In California, 29 percent have succeeded; in Michigan, 31 percent, in Missouri, 21 percent; and in Ohio, 28 percent. Clearly a two-to-one majority of amendments being passed by—where they have been introduced by the legislature over the initiative process.

By voting against the initiative process for constitutional amendment, we will assure that careful planning and study of proposed changes will prevail. Mr. President and fellow delegates, we are not taking away the voice of the people by not adopting the initiative process, for it is the voice of the people that determines what our constitution will embrace. By our actions in this hall over the last few days we have removed the shackles placed upon our constitution by the present amendments article. We have walked in the direction of giving the citizens of Illinois an opportunity to assure that our constitution can be amended to meet the needs of the times. I urge your support of the majority report of the committee and to vote against the initiative process of constitutional amendment.

PRESIDENT WITWER: Thank you, Mr. Miller. Mr. Hendren?

MR. HENDREN: As a member of the committee on the minority report, I would have to say that my thinking was largely influenced by Charles Shuman. I, too, am a farm boy, and I think his thinking reflects a sort of down to earth thinking that we commonly find among men like Mr. Shuman. I have no trouble then in following his advice. I would like to point out that this does not offer an advantage to any particular group, because it still takes 60 percent to approve an amendment approached in this manner. I would also like to say, too, that since this came out—came to the floor—I have talked to several people concerning this—I'm talking about the man on the street now, the small business man, the farmer, the teacher, the worker—and I have had a lot better response then I thought I was going to get. As a matter of fact, the typical response is, "I think that's all right. You know, you fellows *may* just make a mistake." Thank you.

PRESIDENT WITWER: Thank you, Mr. Hendren. Anyone else wish to discuss the pending motion? Yes, Mr. Alexander?

VICE-PRESIDENT ALEXANDER: I rise to speak in opposition to the concept of the initiative, Mr. President and members of the Convention, and I would like to—I'll try not to reiterate some fine points that have already been made in opposition. I may touch on them just briefly here, but I feel compelled, in part, to speak as a political scientist. My profession is sometimes accused of being the champion of the initiative process, and I'd like to suggest to the fellow delegates that that is true only in part. There are a good number of us in the profession who do not view this as a progressive step. Let me suggest the following as—for instances.

First I would suggest to you that, as Senator Percy indicated to us, the initiative is largely a product of an era of distrust of government. After 1917, only Alaska, upon its admission to statehood, has made constitutional provision for the initiative; otherwise in a period of some fifty-three years no state—again, other than that single exception—has seen fit to adopt this so called progressive idea.

I would submit also in this light that the initiative encroaches upon legislative authority and weakens legislative responsibility. Our early inclusion of the initiative suggests, to me anyway, that we might create an unresponsive legislative institution, one that might fail in its efforts to propose amendments to the constitution. I would like to think that we would create a more responsive legislative institution than this concept suggests.

Furthermore, I would like to point out that the initiative, in my own mind, serves to burden an already burdened electorate; it elongates an already long ballot. California voters, for instance, have been faced with an average of some twenty propositions per general election, and I would suggest to my colleagues that maybe the initiative has reinforced in the minds of many, "When in doubt, vote 'no.' " Lastly, I would like to suggest this as an argument against the initiative: I think others have mentioned this, but in so doing I would like to quote from a fine gentleman I had the pleasure of taking a graduate course in state and local government from at the University of Illinois, Dr. Clyde F. Snider, a recognized authority on Illinois government. Dr. Snider, in talking about the initiative in his book on state and local government, said and I quote him at some length:

> The devices were instituted in the hope of breaking the power of selfish interest groups which frequently dominate legislative bodies and placing control over legislation directly in the hands of the people. That hope has not been realized. Experience has shown that most initiative and referendum petitions originate with pressure groups representing special interest. Groups of this nature ordinarily have the organization and funds necessary to circulate petitions to the placing of measures on the ballot, whereas spontaneous citizen groups interested in good government usually lack those facilities. Organizations exist which, at so much per signature, will secure signers to any petition, and interest groups without sufficient organization of their own, if well financed, can readily secure the devices of such professional petition pushers, as we call them.

I would submit, in closing, that proposed constitutional amendments to the Illinois Constitution should not be placed on sale. Thank you.

PRESIDENT WITWER: Thank you. Mr. Davis?

MR. DAVIS: Mr. President, ladies and gentlemen of the Convention, I hadn't intended to speak on this, but there is one matter that has not been mentioned which I think bothers me more than anything else about this proposed amendment to the majority report. I can't help wondering what would happen tomorrow if someone started circulating three peti-

tions for constitutional amendment—one to eliminate the income tax, another to eliminate the personal property tax, and a third perhaps to eliminate the sales tax. (Laughter)

PRESIDENT WITWER: As strongly as the delegates feel, will you kindly restrain yourselves so that Mr. Davis can goon?

MR. DAVIS: Do you really think that it would be very difficult—and I wonder even more at this point—to get the signatures necessary for the petition or to get the votes necessary for the passage of the adoption of such a constitutional amendment in either of those three cases? And if that sort of thing can be produced by the initiative method—and I see no reason why it could not—isn't this a very dangerous situation to create? Particularly isn't it dangerous, when we already have the provision which will give the people the right, at least once every 20 years, to create a body to look at their constitution and to propose sound and judicious—as I hope we will—amendments or changes in the constitutional structure? Thank you, Mr. President.

PRESIDENT WITWER: Thank you, Mr. Davis. Mr. Perona?

MR. PERONA: Mr. President, ladies and gentlemen, I would like to ask Mr. Shuman a question and then, depending on the answer, elaborate on it. Mr. Shuman, is it possible to limit the subject matter of the constitutional initiative to a particular article or particular portion of the constitution?

PRESIDENT WITWER: Mr. Shuman?

MR. SHUMAN: Mr. President. Yes, this would be possible through—by an amendment to the constitution. Many states, in fact—or some states—do limit the use of the initiative to various areas of their constitutions. Does that answer your question, Mr. Perona?

MR. PERONA: Well, I would feel, from hearing some of the objections to the initiative, that it does or could cause many problems. However, one important area in which I think it would be very beneficial would be in regard to the legislative article. I am convinced, from serving on the Legislative Committee, that neither by the process of legislative amendments or by the process of a Constitutional Convention are we going to get any substantial change in our present legislative article. Now whether we need change or not, I am not arguing that point. But sometime, possibly, in the next 100 years, we may need some change in the legislative article; and if we are dependent upon an amendment suggested by the legislature to reduce its size or to abolish cumulative voting or possibly to change to a unicameral legislature, I don't think we are going to get it done. I would also feel that it is unlikely that the Constitutional Convention—because of its ties, in many cases, or obligations to members of the legislature and in saying these things, I am not being critical of the legislature or of any of its members; I just think we have to recognize that all of us are affected by our point of view, and that this is a necessary and inherent ingredient in human nature. And so if we are to leave open the possibility of effective change in the legislative article, I think we have to have something like the initiative; and although I am not prepared to make an amendment at this time for the purpose of limiting this question to the legislative article, I think this is something that could be given some thought.

PRESIDENT WITWER: Thank you, Mr. Perona. Mr. Hutmacher? Mr. Hutmacher.

MR. HUTMACHER: Mr. President, members of the Convention, I hadn't intended to say anything on this particular issue. However, after Senator Davis made the comments about the state income tax and the other taxes in Illinois, I observed some of the literature that Mr. Shuman has provided us with. I note that in the state of Arkansas in 1948 there was a provision for the abolition of the state property tax; and there evidently the people, on the surface, voted against their pocketbooks, because this particular abolition failed. I also note that in California in 1920 and 1944 and 1946 they voted for provisions which would increase aid for schools, again some evidence that people on occasion will vote against their pocketbooks. So I do think that the argument Senator Davis gives might not really reflect the situation in Illinois.

PRESIDENT WITWER: Thank you. Yes, Mr. Garrison?

MR. GARRISON: Mr. President and delegates, I have used this microphone most infrequently, but now that we have reached a very important subject I would like to speak at some length in support of the minority report. In this country there are two principal methods by which the states initiate amendments to the state constitutions—through legislative action and through formal initiative petitions. The majority report would provide us with only one of these methods. Under the minority report, the people of Illinois would have available both methods. I say we must have both methods available to us if we are to have a workable amending provision, instead of a strait jacket like that in our present constitution.

We need only to refer to the history of constitutional change in Illinois during the past 100 years for proof that we need both methods. During the past 100 years the Illinois Legislature has proposed only thirty-six constitutional amendments. This is an average of three and six-tenths amendments per decade. Ten of these thirty-six proposed amendments came during the ten-year period from 1946 to 1956. This was the greatest number of amendments ever proposed by the Illinois Legislature in a given decade. During this same ten-year period, the other forty seven states in the Union proposed a total of 1,574 constitutional amendments. This was an average of thirty-three and five-tenths amendments proposed per state. History, therefore, clearly shows that the Illinois Legislature has been too inactive in proposing constitutional amendments. In fact, during the ten-year period from 1946 to 1956 only nine of the forty eight states proposed fewer constitutional amendments than did Illinois. If we are to have meaningful constitutional change in this state by constitutional amendment, history clearly tells us that we must look somewhere other than the state legislature for proposing constitutional amendments.

Now there has been reference to the Constitutional Convention every twenty years. Well, the amendment method of constitutional revision is something different, the revision by a Convention. The amendment method is like the common law; it grows and evolves over a gradual period. Now as Delegate Thomas Miller of the Constitutional Amendment Committee told this Convention on March 25, and I quote him:

> I submit to you that the amendment process over the years has not worked in Illinois, and I submit that the people of Illinois have said it has not worked

> because that is why we are having a Constitutional Convention today.

Delegate Miller was correct in that statement. We live in a world of change. I ask you, can we continue to depend solely upon only one method for proposing constitutional amendments, especially when that method has yielded only three and six-tenths proposed amendments per decade, far less than the number of amendments proposed per decade in the other forty-seven states? Can we afford the danger of continued constitutional stagnation in Illinois? What assurance do we have that the Illinois Legislature will propose, during the next 100 years, any more amendments than they proposed during the last 100 years? Obviously we have no such assurance. There is, instead, every reason to conclude that this pattern will continue, unless this Convention provides for the constitutional initiative.

In 1919 the voters of Illinois, choosing Convention delegates to the Fifth Illinois Constitutional Convention, approved a referendum instructing the delegates to provide for the separate submission of the popular initiative as a provision in the constitution. The vote was overwhelming. The voters of Illinois, therefore, spoke decisively in favor of the popular initiative when given the only opportunity ever provided them. You know the history of that. Despite the voters' instructions, that Convention voted not only to include—not to include—the initiative provision in the constitution. The Convention was so startling, that one Chicago delegate immediately moved that the Convention adjourn sine die, claiming that this Convention has failed in its purpose. The following day the Chicago *Herald and Examiner* reported, and I quote, "It is generally conceded in Springfield that when the Convention buried the initiative it ended all hope for the new constitution." You, of course, know what happened to the document proposed by that Convention. It was emphatically rejected by the voters.

Fellow delegates, shall we in this Convention repeat the mistakes of that Convention? I should hope not. Shall we at this Convention deny to the people of this great state the right to directly effect constitutional change? I should hope not. The adoption of the initiative method for constitutional amendments in the United States, as has already been pointed out, has coincided with the great progressive movement. The initiative method has been fostered by such great progressive leaders as Theodore Roosevelt, Woodrow Wilson, Hiram Johnson, Robert M. LaFollette, Professor Charles E. Merriom, former Governor Edward F. Dunn of Illinois, and more recently by Governor Richard J. Hughes of New jersy.

The National Municipal League, a nonprofit and a nonpartisan educational association dedicated to the cause of good government, gives the constitutional initiative a prominent place in its Model Constitution. The league concludes, and I quote, "There is ample reason to support the constitutional initiative."

In 1965, United States Senator Clifford P. Chase of New Jersey, a very progressive leader in Congress, stated with respect to the constitutional initiative, and I quote:

> Rights are meaningful only as there is opportunity and a way to exercise them. As I see the initiative, it would be a protection of the ultimate rights of the people which would enchance the effectiveness of our political structure.

In testimony before this Convention, William Rutherford, former director of the Illinois Conservation Department, called, and I quote, "...for a constitutional philosophy of the petition for initiative."

The AFL-CIO United Steel Workers of America, local 1115, of Waukegan, by resolution has called upon this Convention to provide for the constitutional initiative. Representatives in the Illinois Division of the American Association of University Women and from the League of Women Voters testified in favor of the constitutional initiative before this Convention. As I brought out in questioning Mr. Shuman, when the report was first presented to this body, no person testified at this Convention in opposition to the constitutional initiative.

Fellow delegates, I am deeply honored to have my name added to the roster of this distinguished list of progressive leaders and organizations favoring adoption of the constitutional initiative. Due to the enormous number of signatures required, the initiative would probably use—be used very sparingly in Illinois. Nevertheless, it would be an important power for the people to have. As Delegate W. Lennon put it so aptly, and I quote him, "Is it better to have the initiative and not need it or not to have the initiative and need it?"

The initiative would provide a safety valve through which the people may act directly if sufficiently aroused. It would furnish a salutary effect on the legislature. For example, we could hardly expect the legislature *ever* to propose a Constitutional amendment to reduce the size of its membership, to establish a reapportionment commission comprised entirely of nonlegislative members, or perhaps even to establish single-member districts. The availability of the initiative device would tend to lessen the citizen's fears about this Convention authorizing a strong legislature, and certainly we need a stronger legislature here in Illinois.

We have heard a great deal in recent days about distrust of the legislature. By supporting the initiative we do not show distrust of the legislature; we instead show trust in both the legislature and the people. If we do not adopt the initiative, we show our distrust of the people.

All about us today we hear protests about the denial to the individual of his rights of self expression and about his inability to effect change. We hear demands for more participatory democracy as citizens' apathy grows in many communities. If you will recall, Senator Percy pointed out how citizen participation was going down. The initiative educates the electorate and is therefore an effective answer to those who protest about our political system and its failure to provide meaningful response to the right of petition guaranteed by the Bill of Rights.

I need not remind you that large numbers of the poor in this state are trapped in desolate rural areas and in urban ghettos. They have virtually no voice in deciding anything important and little control over their lives. If the poor are to become active participants in the economic and political life, they must be encouraged to mobilize themselves and work their way out of the status in which they have become imprisoned. The initiative device will provide still another vehicle through which the poor can free themselves.

Now we have heard references during the debate here to

vested interest groups. History clearly shows that the vested interest groups are opposed to the initiative. Vested interest groups do not circulate petitions. You will recall, we pointed out, that the Jaycees and the League of Women Voters circulated the petitions in Michigan. Would we call them vested interest groups? Hardly not. The majority report recommending against the constitutional initiative is based upon fear. We know that the Illinois Legislature has, on occasion, submitted hasty and ill-conceived proposals. I need only to refer to the socalled continuity of government amendment or the amendment involving the personal property tax that will be on the ballot this fall. If the argument in the majority report about hasty and ill-conceived proposals has any validity whatever, then logically the legislature also would have to be denied the power to propose constitutional amendments.

Fellow delegates, fear dominated the 1870 Convention, and we have had to endure for many years the rigidities born of that fear. What have we to fear with the initiative? Do the proponents of the majority report fear the very people who called this Convention—do they fear the very people who elected them as delegates? The people made a wise decision when they called this Convention, and they can be trusted with decisions again. Proposals initiated by petition of the people would have to be ratified by 60 percent of those voting on the proposition. Can we not trust three-fifths of our people? Can that many people be fooled? As Lincoln said, you may fool all of the people some of the time, you can even fool some of the people all of the time, but you can't fool all of the people all of the time. Fear, my fellow delegates, is not a valid basis upon which to predicate constitutional judgment. In the dark days of the depression, Franklin Roosevelt prophetically told us that we have nothing to fear but fear itself. Now if there is anything to fear, it would be the consequences of not adopting the initiative.

The constitutional initiative, fellow delegates, is an idea whose time has come in Illinois. Let us now put our faith and trust in the sovereignty of the people, so that when our work is done the people of Illinois may say, "God gave us delegates who were tall men, men who were not afraid, and men who stood above the fog in public duty and trusted us." Thank you very much. (Applause)

PRESIDENT WITWER: Thank you, Mr. Garrison. Any further debate? I have heard the call for the question. Mr. Shuman, would you like to conclude?

MR. SHUMAN: If there is no further debate, Mr. President, I would like to conclude.

PRESIDENT WITWER: I wish you would, sir.

MR. SHUMAN: Thank you, Mr. President. Members of the Convention, I came to this group knowing little or nothing about the initiative. And since I have been here, I have devoted quite a bit of time to looking into the specific details and the use of this method of constitutional revision in the other states, and you have before you—I hope, now—a copy of as detailed a presentation as I could present, or as I could find, of all the activity that has been proposed, as far as constitutional changes are concerned, in each of the thirteen states. And so, in conclusion, I would like to first quote from one of the authors of the—one of the supporters of the initiative—he points out in a book about the California initiative that nothing can give a clearer estimate of the contribution of the initiative than to enumerate the outstanding amendments to the fundamental law put into effect by that process. And so if you will bear with me for just a few minutes I would like—I wish you would turn through this page—this report, page by page, and look at some of the amendments, some of the suggestions for change that have been proposed by the initiative in these states. And I would point out that on the very first page, that dealing with Arizona, the first initiative amendment passed in Arizona gave the right to the women in the state of Arizona—the right to vote—and that was in 1912. So, ladies, we might have had—you might have been voting sooner if Illinois had had the initiative. Then you see they dealt with prohibition to quite some extent in Arizona; and then, turning the page, we find that in 1918 an initiative means or an initiative proposed amendment of apportionment was passed in the state of Arizona. And now let's flip on to the next page which continues some more on Arizona, and these are—the list I am reading from now is the current constitution—the amendments to the current constitution of Arizona that are—that were put into effect by the initiative. And you see No. 3 at the top of the page—in 1960 Arizona revised and modernized their state court system by introducing a new judicial article through the initiative. And then dropping on down, we see that item No. 8, home rule, was adopted through the initiative in Arizona in 1940. And then we go on down—and I will point out the real bad ones with the good ones—article 13 *was* the right-to-work provision adopted by the people of Arizona and proposed through the initiative. But I would point out to Mr. Kemp and some of the members of the Convention that have strong feeling about the initiative because they are afraid that such legislation—such constitutional change—might be proposed by the initiative in Illinois, I would point out the record of this type of constitutional change in all states that have used it. Since—in the 1940's, three states did adopt right-to-work propositions through the initiative—Arizona, Arkansas, and Nebraska—but since that time *no* state has proceeded in this direction; and in fact, if I might correct Mr. Kemp, in fact in 1964 Oklahoma rejected—the people of Oklahoma *rejected* an effort to include a constitutional requirement for a right-to-work section. Now Arkansas has a similar record. The first item listed up there was a significant change in 1912, a significant improvement in their legislative article. And then we find—item No. 11 under Arkansas—the people decided the legislature should not pass special acts dealing with local government. They enacted homestead—or they voted on homestead proposals and adopted one in 1936. They apportioned themselves through the initiative also in '36. In '38 they adopted a state workmen's compensation provision. We can go on and on down through a Fish and Game Commission which would have to do with conservation and was adopted in 1944. And again Arkansas used the initiative method in reapportioning their state legislature in 1956. I would also point out that they eliminated their poll tax through the initiative method of constitutional revision. And the items go on and on and on, and if you would turn with me to the section on California at the bottom, and I would like to read this and you can follow along with me. I am quoting directly from a book written by one of the leading authorities on constitutional revision by the initia-

tive, Mr. Winston W. Crouch. And he says, speaking about the California constitutional change through the initiative:

> Of the twenty-four constitutional amendments, proposed by the initiative petition and adopted since 1911 (and he is writing this in 1964) several are of prime importance to state government. One, adopted in 1922, established the present state executive budget method, centering upon the governor the authority and responsibility of preparing a comprehensive state budget.

I would suggest to you that is one of the problems that we are dealing with at this very Convention in Illinois in 1970.

> Another installed our extensive state civil service system replacing a weak legislatively established law that had been patched and amended several times. Another amendment extended the powers of the attorney general to make him the head of the state law enforcement and prosecution.

And then two others—and I will paraphrase here—two others dealt with the judicial system and were recognized by the people of California as a step forward in their judicial system. The state financial support of the public school system is largely based upon constitutional sections that were proposed by the initiative—by initiative petitions—sponsored by school and parent organizations. And amendments approved in '20, '44, '46, and '52 spell out the formula for distributing state aid to the school districts in California. They abolished the poll tax through the initiative; and another significant amendment gives the state power to regulate the distribution and sale of intoxicating liquor. In California when they repealed prohibition they did not merely say, "We can sell liquor," they said, "We will give to the state the power to control liquor rather than giving it to each local government." Now, the last paragraph there—I point out that two much-discussed initiative constitutional amendments have been struck down by the state supreme court because they were in conflict with the Federal Constitution. The first one was the reapportionment section of their constitution adopted in 1926 which stood for thirty-nine years until the one man-one vote ruling of the Federal Supreme Court struck it down, just as it hurt us or changed our method of representation here in Illinois. And the other is a much-discussed Proposition 14 which was ruled unconstitutional as it was adopted in 1964. I would point out, though, that this one bad proposition—if you consider Proposition 14 bad—does not weigh the scales against the initiative in California or against the many progressive types of amendments that have been proposed and adopted through the initiative. Now without belaboring the situation—this point—I would suggest that you thumb through and look at some of these amendments that have been proposed by the initiative, and in state after state where I have been able to find the information, the same thing is true. Significant—very significant—changes in the state constitutions have been proposed through the initiative. Now, Mr. President, before I go any further I want to thank Delegate Hendren for his suggestion that he and I are down to earth. Thank you very much, Henry. I don't know whether you got your fruit trees sprayed this weekend or not, but I didn't get mine done, so I am not quite down to earth enough, I guess. But I would like to make two other points in closing, Mr. President. First, I would like to point out the record of voter interest in the initiative proposed articles—initiative proposed amendments to the constitution—that has been demonstrated in other states. First, without exception, in every state that has the initiative, the vote is higher on the initiated amendments to the constitution than it is on the legislatively proposed amendments to the constitution. Oregon is a very good example. And Oregon, like California, is one that many people point to and say how terrible the initiative is and what a rotten situation we have gotten into because of the initiative. But I would point out that the people of Oregon, like the people of California and like the people of all the other states that use this type of constitutional change, are better informed and participate to a larger percentage in the election—or in the adoption of initiated provisions—than they do in the legislative provisions. The voters are *not* fooled; the voters *are* informed and *are* intelligent and make intelligent decisions. And this is probably no more—or no better illustrated than what happened in Oregon at the time of prohibition when there were six separate constitutional amendments proposed to the people of Oregon, three of them for prohibition and three of them against prohibition; and everyone said—threw up their hands and said, "The people of the state of Oregon are going to be in a terrible mess, because they will probably adopt two that are for the initiative—or for prohibition—and two that are against it, and we won't know where we're at." But, ladies and gentlemen, the people of Oregon selected very carefully, and they voted for prohibition every time and against it in every case. They *are* selective, the people *are* informed, and the people know what they are voting on on these issues.

Then the charge was also made, or the suggestion was made, that there seems to be more legislative—that the legislature would not be responsible, that the legislature would not submit constitutional changes if we had the initiative. The facts do not support this suggestion. I would point to Michigan as one very close to us, not only geographically but as far as economic situation is concerned, and point out that in the state of Michigan the initiative proposed amendments have received approximately 74 percent of the total vote while legislative amendments have only received 56 percent of the total vote. And in state after state that has the initiative, the legislature submits more constitutional amendments, if you're counting numbers, than they do in states that don't have the initiative.

Two real important changes, I feel, that have been brought about through the initiative deal with judicial reform and reapportionment. Of eleven states that have effective—or that use the initiative now—two of them are rather inactive because of their indirect provisions—but of the eleven remaining states, five of them—Arizona, Arkansas, California, Colorado, and Michigan—have adopted judicial reform through the initiative. And as far as reapportionment is concerned, five states also have adopted—have reapportioned their legislative bodies through the initiative. This is, I think, a good record for the initiative.

Now all through the arguments—or all through the debate this afternoon—I've picked up or it seems to me the people—the members of the convention—seem to fear or are afraid of

what is going to happen if this proposal is adopted—that the people of the state of Illinois are too dumb, the people of the state of Illinois aren't intelligent enough to know what they are voting on. Someone suggested that they did not like the idea of the initiative because they didn't know who was going to be describing the proposals, who was going to be interpreting this for the voters. I would submit that the people of Illinois know more about what they are voting on than many of us would give them credit for. In fact, I think it's probably an easier task for the voters of the state of Illinois to determine the merits of a written word than it is to determine the merits of an individual running for an elective office. And so I have no fear of what the people of Illinois will do with the initiative. I have no fear that it will not—I have absolutely *no* concern that it will not be used as it should be, and I would hope that the people of this Convention would vote favorably for the minority report and that the people of Illinois would at last have a way in which they can directly change their state constitution. Thank you very much, Mr. President.

PRESIDENT WITWER: Thank you, Mr. Shuman. Now we are ready to vote. Well, I guess we have ten who desire a roll call. Let's see the hands, please. Yes we do. All right. The call now is on the main motion, the main motion being the minority report—to add two paragraphs to the article which we have already adopted at first reading and which would provide the initiative procedure. So those that would favor that will vote aye on roll call. Those who will oppose this proposal will vote nay. Mr. Clerk, will you call the roll?

(Whereupon the roll was called.)

Those voting in the affirmative were:

Anderson	Garrison	Marolda	Shuman
Bottino	Gertz	Martin	Smith, R.
Buford	Hendren	Mathias	Thompson
Canfield	Hutmacher	Netsch	Tomei
Cicero	Jenison	Ozinga	Wenum
Downen	Johnsen	Parker, C.	Whalen
Dunn	Johnson	Peccarelli	Willer
Durr	Kenney	Perona	Woods
Evans	Leahy	Raby	Wymore
Foster	Lennon, A.	Rachunas	Yordy
Friedrich	Macdonald	Rigney	Young

Ayes-44

Those voting in the negative were:

Alexander	Elward	Kinney	Pappas
Armstrong	Fay	Klaus	Parker, J.
Arrigo	Fennoy	Ladd	Parkhurst
Borek	Fogal	Laurino	Patch
Brannen	Gierach	Leon	Pechous
Brown	Green	Lewis	Reum
Butler	Howard	Lyons	Rosewell
Carey	Hunter	Madigan	Scott
Coleman	Jaskula	McCracken	Smith, E.
Connor	Kamin	Meek	Stahl
Cooper	Karns	Miller	Stemberk
Daley	Keegan	Mullen	Strunck
Davis	Kelleghan	Nicholson	Tecson
Dove	Kelley	Nudelman	Tuchow
Dvorak	Kemp	Orlando	Wilson

Nays-60

Those voting "present":

Witwer

Answering "present"-1

PRESIDENT WITWER: I have the result of the roll call. The minority report has failed of adoption. There were forty-four, yea and sixty, nay; and so I guess that disposes of the minority report. We have no other amendments pending to the majority report. There were several amendments adopted in connection with the submission of that report. The parliamentarian advises me that now that we have concluded all of our work—at this level, at least—the first reading on the majority and minority reports—that it would be in order now to adopt the majority report as amended—for purposes of first reading, of course. It's been moved and it's been seconded by Mr. R. Johnsen. The vote on this is a majority of those present. I think we will just show the hands. Those who will favor adoption, please say aye. (Laughter) I am sorry. I'm getting confused. Maybe at this point I should yield the gavel. Mr. Shuman? Just a minute before we conclude this roll call —I mean this vote—

MR. SHUMAN: Mr. President, I think the language is supposed to be worded to exclude that which was referred back to the committee.

PRESIDENT WITWER: Yes, you are correct. There was one sentence that was referred back to the committee and —on a re-reference—and that's coming back to us after the report of the Legislative Committee has been prepared. With that one exception now, we will try this again, and those who will favor—just a minute—Mr. Elward has a question.

MR. ELWARD: A point of order, Mr. President. I understand that we are now on a motion to send this from the Committee of the Whole to the Style and Drafting Committee —the whole of the amendments article?

PRESIDENT WITWER: Yes. I think we did this the other day, but the parliamentarian is of the opinion that now that we have concluded with the minority report we should do it again.

MR. ELWARD: Would I be—I would like to suggest, Mr. President, that as I understand the rules, and I would ask for clarification, this does take an absolute majority of all the members of the Convention.

PRESIDENT WITWER: No, it's my understanding that at first reading it takes a majority of those present and voting. I think so, but we will look at it. Mr. Elward, would you hold, please, for just a moment? The question raised by Delegate Elward has to do with consideration of proposals in the Committee of the Whole and I think it's governed by rule 28, Mr. Elward.

MR. ELWARD: No. 32 was the rule I was asking for an interpretation on, which is that the vote of a majority of members is necessary to approve a proposal and refer it to the Committee on Style; and as I read majority of members under rule 1, third paragraph, means a majority of the members elected and for which no vacancy exists.

PRESIDENT WITWER: Mr. Tomei, are you speaking on the point raised by Mr. Elward? Would you proceed?

Amending. You will recall that while this is denoted a minority report, it is not contrary to or in derrogation of the majority report on which we acted prior to the recess. It has to do with the addition of two paragraphs to section 2 of the proposed amending article which was the subject of the majority report. This will now be introduced by Mr. Shuman, and because several weeks have intervened since Mr. Shuman last addressed us with respect to this report, I am going to ask whether he will briefly bring us up to date, renew his motion, and then we will proceed with debate.

MR. SHUMAN: Mr. President, ladies and gentlemen of the Convention, I guess the formal thing for me to do is to at this time acknowledge that the minority accepts the amendments made to section 2 of the majority report and move that the minority report, which would include then these amendments to section 2, be in effect substituted for—or be added to and be a part of all of section 2 of the majority report.

PRESIDENT WITWER: Thank you. Is it seconded? Seconded by Mr. Cicero. You understand the nature of the motion. It's picking up the amendments which were adopted by this body on the majority report. So it leaves to you now the further decision whether you will add the two subparagraphs pertaining to initiative. If you do, those other amendments will automatically be carried. If you do not, we will bank on the majority report. Now, Mr. Shuman, would you proceed?

MR. SHUMAN: Thank you, Mr. President. Since it has been some time since we formally discussed the minority report—that report dealing with the initiative—I would like to take a few minutes to bring us up to date on exactly what this report entails, what it proposes, and what it's effect would be if adopted.

The minority report, as you are aware, is contained in the last five pages of the committee report. It contains one, two, three, four paragraphs to replace the two paragraphs of the original section 2. Really, in effect, it inserts two paragraphs between the two ones that we adopted for section 2. The language that we are proposing would add a third way of amending the constitution of the state of Illinois, and this would be a method of changing our constitution through an initiative petition. Before an amendment would be placed upon the ballot that would be brought by the initiative, a petition would have to be signed by 12 percent—or by a number of voters or a number of electors equal to 12 percent of all the votes cast for all candidates for governor in the last election. Now the original text of our report said that this would be over a half a million signatures. I see in the issue of the *Illinois Constitutional Convention Summary* that was placed on our desks today, issue No. 11, that in fact in 1968 there were 6,700,000 votes cast for governor in Illinois, so this would raise the requirement—the 12 percent of that figure would be that 814,000 signatures would be required before an amendment could be brought to the people through the initiative route. And then after the petition is certified—after the document that is presented to the secretary of state has been ruled to be sufficient—then the amendment goes to the people of the state for their acceptance or rejection. And the test here is the same as for any other amendment; it must be approved by 60 percent of those voting on the issue. In addition, we are suggesting a modified indirect route that this petition might take, in that if the General Assembly would agree to the adoption of this amendment or if the General Assembly sees merit and wants to support this initiatively proposed amendment, then they can agree to it and so indicate then—it would be so indicated when the measure is presented to the people. Another important or another significant part of our minority report involves a time element that these signatures must be collected in. We specifically say—or we are proposing—that these signatures must be gathered within an eighteen-month period, starting two years before the proposal would be put to the people and ending six months before the election. So these 800,000 signatures must be obtained then in that period of eighteen months. This, then, briefly outlines the specific details of the report—or of the minority report.

I would call your attention—and I must apologize for the delay in getting this circulated—I intended to have it submitted to you and mailed out early in the Easter recess so that you could study it, but in fact I think most of you just got it today—but I would call your attention to a complicate—or a report, I guess, a state by state report of all of the facts and figures and, in several cases, every amendment that I could come up with in all thirteen of the states that now have and use the initiative method of amending their state's basic document. And I would hope that during the course of this debate—and I know there's twenty some pages there, and I know you're not going to have time to review it all, but I hope that you would refer to it—that you would check some of the percentage figures there and look at some of the significant means—some of the significant constitutional changes and revisions that have been proposed and adopted by the initiative. As a matter of review, the thirteen states that use the initiative as far as a means of changing their constitution range all the way from Massachusetts on the east coast to California on the west coast. They include Arizona, Arkansas, California, Colorado, Massachusetts, Michigan, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, and Oregon. I would also point out that four of these states very recently have gone through constitutional change in their states and have agreed—or have retained the initiative as a means of changing or of amending their state document—of their state constitution. In addition, four other states—four other states—had the initiative and an automatic Call for a constitution. So the states that have it like it and are keeping it; the states that have it use it for significant constitutional change; and the states that have it, in four cases, also have the automatic Constitutional Convention Call.

With these brief remarks, then, I would still like to reserve, Mr. President, the opportunity to sum up the arguments on behalf of the proponents of this minority report at the conclusion of the debate. I thank you for the time and turn the chair back to you.

PRESIDENT WITWER: Thank you, Mr. Shuman. I believe that Mr. Butler has an amendment. Mr. Butler, do you have an amendment to propose? Will you proceed?

MR. BUTLER: Mr. President, this is an amendment proposed by adding the following sentence after the period in line 21: "No more than 50 percent of the signatures on such petition may be by electors residing in any one county."

PRESIDENT WITWER: Thank you. Is there a second to Mr. Butler's amendment? Seconded by Mr. Hendren. Will

MR. KNUPPEL: We appreciate the additional comments, and at least I wasn't aware of it. There may have been other members on the committee that were. I appreciate the additional information. Mr. Meek?

VICE-PRESIDENT ALEXANDER: Delegate Meek?

MR. MEEK: From the standpoint of retailing, the matter of these holidays is quite well known. I didn't realize the dilemma, but the federal government set them and we acquiesced and Illinois passed the laws: and I'll be happy to get for you the data covering these holidays, if you'd like it immediately—if you'd care to have it. The Monday holiday deal has swept this country, and we knew all about that part of it. I'm surprised you didn't, John.

MR. KNUPPEL: Well, I work Sundays as well. I don't take any holidays, and naturally, I wouldn't know about it, Joe.

MR. MEEK: Thank you, Annonius.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Knuppel, for your presentation of sections 13 and 14, and now we're down to the last section, and the chairman informs me that the members of his committee, namely, Delegates Perona and Pappas will present the majority and minority positions on section 15 regarding constitutional initiative. Delegate Perona?

MR. PERONA: Mr. Vice-President and fellow delegates —such as you are—thank you for remaining loyal—for remaining at all, George said. (Laughter)

Section 15 provides for the constitutional initiative limited to the legislative article. We feel that this variation in the usual constitutional initiative serves two purposes. It introduces the initiative into the area of government where it probably would be most needed because of the vested interest of the legislature in its own makeup. We feel that it's unlikely that the legislature would propose an amendment reducing the number of legislators or in changing from cumulative voting as we have today to single-member districts. I'm not saying whether these issues might be better or not, but I'm saying that they're not likely to present these issues to the voter.

Also, we feel that this variation in the usual constitutional initiative eliminates the major problem that has existed in some states with the use of this vehicle. In some states it has been used as a device to introduce legislation into the constitution—or the equivalent of legislation—in which someone had a particular interest or in attacking some emotional or particular interest. We feel that limiting it in this fashion will reduce and eliminate those possibilities, and we feel that it will open up—you've heard previously the advantages and disadvantages of a general constitutional initiative, so that I won't go into any of those at this point in time.

I think I'll just let Mrs. Pappas make her presentation, and then if you have any questions, I'm sure we'll both still be here to answer them.

MRS. PAPPAS: Thank you, Delegate Perona. The minority proposes the deletion of section 15, the constitutional initiative, from the legislative article—from the proposed article 4—for the following reasons—that's on page 70 of the minority report, and I will, in this instance, quickly go through the reasons stated in this report in order to facilitate and be as brief as possible.

We believe that resort to the use of the initiative in referendum as a method by which to revise the Illinois Constitution has been acted upon and turned down by the Constitutional Convention. The Convention was called by the people of Illinois to provide the best possible framework within which our legislature can function for a long time to come.

The implication of section 15 is that this will not be done by this Convention, especially with regard to the legislative article. We humbly submit that the Legislative Committee is proposing a better legislative article, as it will be perfected by this Convention, and is proposing the adoption of much of the 1967 COOGA report with regard to improving the state legislature. Of the eighty-seven recommendations of that report, about forty-five have been implemented by the legislature in the '67 session, and by means of the adoption of its own rules. Those recommendations requiring constitutional revision are, in part or in whole, being adopted by the Legislative Committee of this Convention and other committees of this Convention.

Moreover, this Convention has proposed a more liberalized and wholly adequate amending article, both as to legislative initiative referenda and to the Call for a Constitutional Convention. The Convention has also adopted the further provision for automatic placement on the ballot every twenty years of the question for the Call for a Constitutional Convention.

We submit no further or additional method for revision of our constitution is necessary or desirable. We submit that if legislators consistently do not respond to the reasonable will of the majority, the voters have recourse at the polls to vote them out of office. We also submit that it is psychologically bad for the electorate to sense that the Constitutional Convention does not have faith in itself to do the job now or in the legislature, in the future, to respond to the wishes of the people to change the legislative article wherever it is deemed necessary. We also submit that the citizens will be further plagued with additional referenda which have not had the benefit of the deliberation or study of our elected representatives and their opinion as to the necessity of these referenda, thus circumventing the legislature, the very body that has been elected and constituted to act on such matters of public policy.

Repeated abuses have been documented in the use of the initiative, and we submit others can arise. Groups in opposition to a Constitutional Convention or to any legislative-initiated amendment to the constitution or to any legislation implementing the legislative article can use the initiative to place conflicting issues on the ballot, thus causing further confusion for the voter and playing havoc with the legislative process, the referendum process, and the legal status of the amendments in question at the same time.

Some highly objectionable features of the initiative provision as proposed in this section in question are the following: A. The required percentage of signatures—8 percent—is lower than the minority proposal of the Constitutional Amendment and Suffrage Committee, this Convention considered and rejected, namely, 12 percent.

Of the thirteen states having the constitutional initiative—which is applicable in those states to each and every section of the constitution, not solely and exclusively to the legislative—in those thirteen states the percentage of required signatures is

at 15 percent in two states, 10 percent in six states, 8 percent in two, 5 percent in one, and 3 percent in another. In North Dakota, 20,000 signatures of the electors are required; I was unable to determine the electors, but it's 20,000 signatures of the electors in North Dakota. The lower the percentage, we submit, of required signatures, the more easily the initiative is susceptible to abuse.

We also object to this particular provision of the majority in that the legislature is not given an opportunity to review and perhaps join in the adoption or refusal of the petition, and thereby deprives the public of the benefit of the views of its elected representatives with regard to the particular amendment which the petition seeks to have adopted.

Moreover, no method is provided for withdrawal of the proposal if subsequent events make it inadvisable or inappropriate. For example, subsequent legislation or court action may obviate the necessity for presenting such a proposal to the people. This omission can result in legal and voter confusion as a result of conflicting or inconsistent actions.

No state which has the initiative referendum makes it applicable solely to the legislative article as is proposed by the majority report.

The legislature has acted in areas immediately affecting its powers, structure, procedure, and legislative process, time and time again, by rule, statute, and by submission to the people of amendments to the Constitution. There has been much procedural improvement by rule or statute in adoption of the COOGA recommendations, as referred to above. The annual sessions have become a reality without constitutional revision and in spite of the refusal of the people to accept annual sessions at the '64 general election under the difficult amending process that we have presently, although a majority of those voting on the proposition did support the annual sessions.

The legislature placed the question for the Call for Con-Con on the ballot as it has done on two other occasions in the past seventy years, subjecting the entire legislative article to revision. The legislature submitted to the people a reapportionment amendment that was adopted in 1954 restructuring the size and basis of representation. The legislature submitted to them and the voters approved the veto of appropriation items in 1884, only fourteen years after the present constitution was adopted.

Other constitutional amendments proposed by the legislature over the years effected changes on its powers, its structure, and its legislative process and procedure. Further changes that may not be desirable today may be tomorrow. There is no reason, the minority submits, to believe that the legislature will not act if the voters make their position clear.

And for these reasons, the minority submits that section 15 is unnecessary and inadvisable and should be deleted from the proposed legislative article. Thank you.

VICE-PRESIDENT ALEXANDER: Are there questions? Delegate Mathias, and then Delegate Connor.

MR. MATHIAS: I should like to ask a question of Mr. Perona. Is this section 15 intended to be exclusive? Is this the only way in which the legislative article might be amended, and if it is not so intended, then might it not be well to state that it is not exclusive?

MR. PERONA: It is not intended to be exclusive, and it might be better to state that. I'd have to think that through a little bit before giving you a definite answer.

VICE-PRESIDENT ALEXANDER: Delegate Connor?

MR. CONNOR: Delegate Perona, the first few words say, "Amendments to the legislative article." How does one describe what an amendment to the legislative article is? Additions would be amendments—new sections, and so on—how do you limit what can be amended by this route? Somebody describes by petition that this is an amendment of the legislative article; who says it isn't?

MR. PERONA: That's a good question. We attempted to limit the legislative article—as you have seen now by the fourteen sections that have preceded this one—to the legislature itself, to its structure, makeup, and organization, and details concerning it. Are you specifically referring to the possibility of adding sections similar to those in the 1870?

MR. CONNOR: Well, lots of things have sailed under the colors of being legislative article additions, and I just wonder what meaning then it has to say, "additions to the legislative article."

MR. PERONA: Well, the report indicates that we intend to limit this to the sections—to the sections presently—the type of sections presently in the legislative article. We toyed with the idea or considered the idea of naming the specific sections and limiting it to those; but you run into problems with that, also. We felt that although this was somewhat of a risk—there are risks in everything you do in life, of greater or lesser degree—although this may be somewhat of a risk, we felt that we were willing to take the risk in exchange for the greater benefit of having the initiative available in that area. I think the courts could iron out those questions and protect against abuse.

MR. CONNOR: Well, was there any discussion in the committee, then, on whether this might become generally a constitutional initiative as opposed to a legislative initiative?

MR. PERONA: We did not intend it as such, and we tried to structure it so that it could not, as much as possible. Did you read the explanation? I didn't want to read it all here, but—

MR. CONNOR: I read the words of the article. I think they're more important—that the words—

MR. PERONA: The explanation on page 100, I think, is rather definite that it's to be limited to the makeup—the organization and the makeup of the legislature itself, and not—it's on 100, 101, 102, and 103; I don't want to read those four pages.

VICE-PRESIDENT ALEXANDER: Delegate Tomei?

MR. TOMEI: Thank you, Mr. Vice-President. I had a question for Delegate Perona on the language of this proposal. With respect to this limitation, that I think has just been discussed, on structural and procedural subjects contained in this article, I take it it is not the intention of the committee to limit the initiative just to those things presently contained in the legislative article.

MR. PERONA: Yes. That's correct. We—that's the problem. If you get too specific with the limitation, you inhibit the possibility of change within the legislative setup; and if you leave it broad, of course, they say, "Well, you might be able to bring in something else under it." So we've attempted to do it

by the explanation as to what our purposes are, and then to leave the question of abuse to the courts.

A unicameral legislature would be an area where you'd have to change many things that would be in here if anyone would ever want to go to that. John is sitting over there, nodding his head.

MR. TOMEI: So, in other words, that's a change in—that's a structure, a particular structure not contained in the present article but one which would be a proper subject for initiative under this clause, that is, unicameral—

MR. PERONA: That is correct. That is the major reason that we could not limit it to certain sections.

MR. TOMEI: All right. And would the same be true for questions of election? And I amplify that by saying that you refer to structure, size, et cetera; and under the pertinent sections of this proposed article, the first grouping of them—power, structure, composition, and apportionment—you do deal with size and with elections. You deal with cumulative voting—matters of that nature—and is that the kind of thing, also, that would be subject to initiative under this proposed section 15?

MR. PERONA: Yes. Those are the critical areas, actually.

MR. TOMEI: Would the language—in view of that, would the language read more clearly if it stated, "limited"—"The amendments shall be limited to structural and procedural matters pertaining to this article on the legislature"?

MR. PERONA: This is in line 6 and 7? Is that where you're reading from?

MR. TOMEI: Yes. That's correct.

MR PERONA: And your suggestion is what?

MR. TOMEI: Strike the words "subjects contained in," and substitute for it, "matters pertaining to." Or perhaps leave the word "subject," but just say—instead of "contained in," say, "subjects pertaining to this article."

MR. PERONA: I couldn't shoot off the hip and give you an answer, Peter.

MR. TOMEI: All right. I'm not sure that's right, but I do have trouble with the language contained in it because it might be construed that some data is limiting except, perhaps, for the explanation you've given.

MR. PERONA: The committee has no vested interest in this language. We're trying to effectuate an idea, and if you can help the language we'd appreciate your help.

MR. TOMEI: Thank you.

VICE-PRESIDENT ALEXANDER: Delegate Netsch, unless your question raises another, you shall have the honor of asking the last one of the day.

MRS. NETSCH: It's not unrelated to the preceding questions, but it explores a slightly different aspect of it. You have a sentence, "The procedure for determining the validity and sufficiency of a petition shall be provided by law." If we assume that the provision of law would be that these petitions will be presented to some state election authority, or if there's a state electoral board, or whatever it may be, to determine their validity and sufficiency, I wonder whether the determination of validity and sufficiency of the petition would give that agency the right, also, to make a determination as to whether or not the proposed amendment was within the substantive context of this section; in other words, whether it was, in fact, one that dealt with the structural and procedural subjects of the legislative article. In other words, let me put it more bluntly—

MR. PERONA: I think I understand the question. We didn't intend that.

MRS. NETSCH: You did not?

MR. PERONA: We did not intend that, no. We felt that—at least, I didn't intend that—I don't remember that point being specifically discussed and agreed upon, but I don't think that was my intention.

This was the sufficiency of the petition insofar as signatures—insofar as compliance with the number required and whether they were obtained in a proper time sequence in order to be valid—I think that was the type of thing we had in mind when we included this provision.

MRS. NETSCH: Then whatever agency is created by law with the authority to test those, it would be limited to the technical requirements; and would that, then, mean that any inquiry into whether or not the proposed amendment was within the subject matter of the constitutional initiative—that is, one dealing with structural and procedural requirements—would be determinable, if at all, only by the courts? It could not be determined by an election agency. Is that correct?

MR. PERONA: That was my intention, yes.

MRS. NETSCH: Fine. Thank you.

VICE-PRESIDENT ALEXANDER: We shall not bestow you with that honor I talked about, Delegate Netsch. Delegate Tomei has a question.

MR. TOMEI: This is a dubious distinction, but thank you, Mr. Vice-President. I just wanted to confirm what Delegate Perona just said when the minority of the Suffrage and Amending Committee presented a similar proposal to this body, we also intended that there would be a clear distinction between "petition" and "proposed amendment", and I would agree with the explanation advanced by Delegate Perona that this determination of validity and sufficiency goes only to petition, and that "proposed amendment" and whether or not it's covered under this language or authorized under this language would probably be a matter for the courts.

VICE-PRESIDENT ALEXANDER: Delegate Arrigo?

MR. ARRIGO: I wanted to compliment Mrs. Pappas and her cosigners, Mr. Kelley, Mr. Laurino, Mrs. Reum, and Mr. Stemberk, for the confidence that they have displayed by this minority report in the responsiveness of the legislature. After many months in sitting here, I wasn't aware of the fact that people recognized that the legislature is responsive and will act if the voters make their position clear; and I wish to thank the minority for this marvelous compliment that they have paid to the elected representatives of the state.

MR. PERONA: In answer to that question—(Laughter)—I'd like to say that we trust the legislature, but only so far.

VICE-PRESIDENT ALEXANDER: Delegate Coleman, do I hear a motion?

MR. COLEMAN: Mr. Vice-President and fellow delegates, I move we rise.

VICE-PRESIDENT ALEXANDER: You have heard the motion, seconded by Delegate R. Johnsen, that we rise from the Committee of the Whole. Those in favor, indicate by

saying aye. Those opposed, nay. The ayes have it, and we are back in plenary session.

Thank you, Chairman Lewis and the members of your committee, for a fine explanation and fielding the questions today.

We are not entertaining yet a motion to adjourn. There are some announcements.

MR. LEWIS: On behalf of the Legislative Committee, I want to thank the Convention for the attentiveness and the interest in the report. I think we have now performed a record of getting through this many sections in this short a time. We realize it was in haste. We realize that perhaps the debate will need to bring out a lot of other matters, but at least we are now finished and ready for the amendments. We now hope—at least, the Legislative Committee is in the real sincere hope—that all of you amendment-writers will go to the ball, and that this will then reduce the number of amendments tomorrow, and we'll be ready to go. Have a ball at the ball! (Applause)

VICE-PRESIDENT ALEXANDER: Is there new business? Are there announcements? Delegate Nicholson?

MISS NICHOLSON: Mr. Vice-President and ladies and gentlemen of the Convention, on behalf of the special committee to implement section 13 of the Enabling Act, I want to call your attention to three resolutions and a report or explanation from our committee which we will ask—by leave of the Chair and this Convention—you to adopt tomorrow morning. I would ask that you read all of these documents. We believe they are self-explanatory and it will cut down on your questions, since this is truly a noncontroversial matter, and hopefully we can get it passed promptly. Thank you very much.

VICE-PRESIDENT ALEXANDER: Thank you. Are there other announcements? Because of the night's activities, do I hear a motion that we adjourn until an unusual hour, Delegate Foster?

MR. FOSTER: Mr. Vice-President, not only because of the night's activities, but because of the diligence of this Convention last week and this, I move that we stand in adjournment until nine o'clock tomorrow morning.

VICE-PRESIDENT ALEXANDER: You have heard the motion, seconded by Delegate Laurino, that we adjourn until nine o'clock tomorrow morning. Those who favor that will indicate by saying aye. Opposed, nay. The ayes have it, one to zero, and we stand adjourned.

(Whereupon an adjournment was taken until 9:00 A.M., July 16, 1970.)

PRESIDENT WITWER: And now do I hear the usual motion that we resolve ourselves into a committee of the Whole?

I'ts been moved by Mr. Scott and seconded by Mr. Green, that we now resolve ourselves into a Committee of the Whole for further work on the proposal of the Committee on Legislature, No. 1 and Minority Proposals 1A through 11. Those who favor this motion, please say aye. Those opposed, nay. It's carried.

We are now sitting as a Committee of the Whole, and, Mr. Lewis, will you advise the body where we are on your report?

MR. LEWIS: Yes.

PRESIDENT WITWER: Before we start, it is my high privilege to announce the presence in the gallery of some very dear friends of some of our distinguished delegates. We have from Morton, Illinois, Mrs. William Martin, a friend of Clarence Yordy, and we also have from Eureka, Richard Benner, and from Secor, Mr. Pete Rehmert. We're delighted to have you folks indeed. (Applause)

Then we have also in the gallery from Evergreen Park, Mr. and Mrs. Phil Gusick and a friend, Bernadette Yarrah, friends of Delegate Ozinga. We welcome you folks. Hope you'll enjoy the Convention. And to all the others in the gallery, you are equally welcome; even though we haven't mentioned your names, we're delighted to have you here. We hope you'll enjoy the afternoon.

Now, Mr. Lewis, on the initiative.

MR. LEWIS: Mr. President, we are going to proceed with section 15, and Delegate Perona will handle that.

PRESIDENT WITWER: Thank you. Delegate Perona?

MR. PERONA: Mr. President, fellow delegates?

PRESIDENT WITWER: Mr. Perona.

MR. PERONA: We are now considering section 15 which provides for constitutional initiative limited to the legislative article. The purposes of this provision that were sought by the committee were basically these: One, to give the people an opportunity to participate in government, but on a limited basis in an attempt to prevent some of the abuses that have occurred in some areas. I think one of the most important things today is to give the common individual—the average person—a right—the right to feel that he has a purpose and a part in government, and the feeling that he can bring about change without resorting to some of the more extreme methods that have been used in recent times. I think that this initiative provision is a small step in that direction.

This provision has been structured to apply only to the legislative article and to be limited to the area of government which it is most likely will not be changed in the constitution by amendment. The legislature, being composed of human beings, will be reluctant to change the provisions of the constitution that govern its structure and makeup, the number of its members, and those sort of provisions.

Because of this basic inherent facet of human nature, this provision will work in two ways to help bring about desired changes. One would be that it will—that the people can file the initiative petition and thereupon obtain a vote on changes in the legislative article which they suggest or request be submitted to the voters, and also I think the General Assembly will be more—have its ear tuned to a greater degree as to what the people desire, because they will know that if they do not suggest amendments that the people would desire, that it can be done in another manner, and I think that the General Assembly—as all organs of government—wants to do the right thing. They want to do what the people want, and I think that this will then act as a spur, to some extent, to them to submit to the voters those changes in the constitution which the people may desire—at least, to test these questions out in the areas of the legislative article.

In other areas of the constitution I think it has been demonstrated that the General Assembly has and will submit changes without the concern of their vested interest in the situation. As I indicated preliminarily in my remarks, I think the limitation on this initiative eliminates the abuse which has been made of the initiative in some states. The attempt has been made here to prevent it being applied to ordinary legislation or to changes which do not attack or do not concern the actual structure or makeup of the legislature itself.

There is no feeling by the committee that this section is perfectly constructed, it is—it does not exist in the form suggested here in any state of the United States—

PRESIDENT WITWER: Mr. Perona, may I interrupt a minute? Please give attention to Mr. Perona. He has the floor. If you have conversations that are important, please take them out in the hall.

MR. PERONA: Thank you, Mr. President. It does not exist as structured here in any state in the United States. We feel the changes made here improve the initiative. We feel that it limits it to the area most needed; we feel that it limits it from getting into areas where it could be abused; and we feel that it gives the people a limited degree of participation in government which will be attractive to them and which may be of some help in obtaining their approval of the constitution that we adopt here. Thank you.

PRESIDENT WITWER: Thank you. Now, Mr. Perona, you move the adoption of section 15, do you?

MR. PERONA: Yes, sir.

PRESIDENT WITWER: Is there a second? Seconded by Mr. Knuppel. Now, are there any amendments to section 15? It's in the perfecting process. There is a minority report which we will take up only after perfection of section 15. Mr. Whalen?

MR. WHALEN: I don't have an amendment, Mr. President. I do have a question, if Mr. Perona would yield.

PRESIDENT WITWER: Will you state it?

MR. WHALEN: Mr. Perona, how do you determine that an amendment that has been filed by petition will be ger-

mane to the legislative article? Wouldn't it be possible to get nongermane amendments, and just under the heading, "Legislative Article," be able to amend the constitution by initiative in any manner?

MR. PERONA: We attempted to indicate the intent of the committee in the explanation, which I think is around page 100 in the report. It is difficult to word the provision in any manner other than which we have worded it here, in our opinion.

We state that it shall be limited to structural and procedural subjects contained in this article on the legislature, and it is the position of the committee, of course, that if some provision were enacted under this section that it would basically become a question for the court to determine whether it was constitutionally done, whether it was a matter of structural or procedural subjects, and if the court would eventually hold that it was within that framework, then it would be approved, and if it was not, I think it would be held to be unconstitutional.

MR. WHALEN: Thank you.

PRESIDENT WITWER: Thank you. Mr. Cooper?

MR. COOPER: Thank you, Mr. President. I have a couple of questions for Mr. Perona. Mr. Perona, in line 3 of this particular section you use the word "electors." Now, what is your definition of electors? Are they registered voters, or persons who are just eligible who may or may not vote?

MR. PERONA: Mr. Cooper, I am not certain. I recall that this point was discussed in some detail at the time that the Amendment Committee reported an initiative proceeding, and I think that it was decided upon that this was the term of art in the field—that it refers to people that are eligible to vote. I don't think they necessarily have to be registered, but they have to be eligible to vote.

MR. COOPER: Well, of course, being eligible to vote and being eligible to register are two different things, wouldn't you say, Mr. Perona? A person can't vote—a person is not eligible to vote unless he's registered; but a person could be eligible to register. Now, which of the two would be counted as an elector?

MR. PERONA: I have been informed by the chairman of the suffrage and Amendments Committee that it refers to registered voters.

MR. COOPER: Registered voters. Now, in line 4 you say, "Votes cast for all candidates for governor." I take it to mean that that word "all" means votes cast for the winner and the loser in that gubernatorial election. Is that correct?

MR. PERONA: That's right.

MR. COOPER: Thank you.

PRESIDENT WITWER: Thank you. Any further questions? Mr. S. Johnson?

MR. S. JOHNSON: Delegate Perona, you mentioned it should be limited to structural and procedural. But did you intend that structural would include size?

MR. PERONA: Yes.

MR. S. JOHNSON: Thank you.

PRESIDENT WITWER: Thank you. I understand we have no amendments, and therefore, the perfecting process has been completed. We'll turn now to the minority report. Who will present the minority report on the initiative? Mrs. Pappas?

MRS. PAPPAS: Thank you, Mr. President, fellow delegates. The minority, which consists of five of the eleven members of the committee, propose the deletion of section 15. We have many, many reasons for this posture.

The constitutional initiative has been rejected by this very Constitutional Convention. This Convention furthermore has proposed a more liberalized and wholly adequate amending article, both as to amendments which can originate in the legislature and as to the call for a Constitutional Convention to revise the constitution. The Convention has also adopted the automatic placement on the ballot of the Call for a Constitutional Convention every twenty years.

The Convention, we submit, was called by the people of Illinois to provide the best possible framework within which our legislature can function for time to come. The implications of section 15 are that this will not be done by this Convention. We submit that the Legislative Committee is proposing an improved legislative article, as is being improved and perfected by this Constitutional Convention.

This committee is proposing many of the proposed changes for improvement of the state legislature which have been suggested by COOGA. Much of that is being implemented, not only by this committee, but by other committees of this Constitutional Convention. We submit that it is psychologically bad for the electorate to sense that the Constitutional Convention does not have faith in itself to do the job now or in the legislature in the future to continue to respond to the wishes and demands of its people.

We submit that the citizen will be plagued—if this proposed section 15 is adopted—will be plagued with additional referenda, which referenda have not been subjected and exposed to review and study by the elected representatives of the people—the very representatives whom we have elected for the very purpose of determining policy and reflecting the philosophy and political thinking of the people of the state of Illinois. Repeated abuses have been documented in the use of the initiative. Groups in opposition to a Constitutional Convention or to any legislative initiative amendment to the constitution or to any legislation implementing the legislative article can use the initiative to place conflicting issues on the ballot, thus causing further confusion for the voter and playing havoc with the legislative process, the referendum process, and the legal status of the amendments in question.

Some highly objectional features of the proposed section 15 are that the required percentage of signatures, 8 percent, is lower than the minority proposal that was already defeated by this Constitutional Convention, which was reported out by the Suffrage Committee. The Suffrage Committee had recommended 12 percent. This proposal of the Legislative Committee proposes only 8 percent of the electorate. The lower percentage of required signatures will allow more easily the initiative to be more susceptible to abuse.

No state which has the initiative referendum makes it applicable solely to the legislative article as is proposed by the majority report, and the questions that have developed today and earlier this week when we presented this material and answered your other questions—all this discussion does bring up the question, "What does this section 15 mean when they use the words, 'structural and procedural matters'?

The courts will have to decide, and we submit that every initiative proposal may have to be reviewed for constitutionality before it can even become effective. This is not good for the state and the people of Illinois. It's a very expensive proposition and can cause a great deal of confusion in our laws.

If the legislative article is amended by means of this initiative—the initiative which will not have the due deliberation of our legislators—our elected representatives—it is conceivable that this may have an effect—adverse effect—on other provisions of the constitution. One does not know what the impact may be on these other issues—these other articles.

I would like to read to you excerpts from a letter from the National Municipal League over the signature of William J.D. Boyd, the assistant director, as you well know, of the National Municipal League, this outstanding organization which has done a tremendous, tremendous work in the field of research and study in the area of constitutional revision and improvement; and of course, it is the National Municipal League which is responsible for the Model State Constitution. But this letter is directed to the chairman of the Committee on Constitutional Revision of the Women's Bar Association of Illinois, dated February 19, 1970, and I read in part:

> One reason for the rather strict restrictions on the initiative contained in the Model State Constitution is the feeling that this device has been overutilized in the state of California. With one or two notable exceptions, it is true that the people in the state have generally exercised remarkably good judgment in rejecting some highly questionable matters.
>
> Nonetheless, the California electorate is exposed to an extremely long ballot each year, and it is developing a rather negative attitude on the part of the voters—the old saying, "If you have any doubts, vote no." It is certainly true that many good proposals have gone down in defeat in the public's general rejection of all the many confusing items presented to them. It goes on to also state It is common practice in California and I hope you will listen carefully to this actual example of abuse, responsible by the initiative. It is common practice in California for people seeking signatures to approach certain public relations firms that make a practice of guaranteeing a sufficient number of signatures to get a measure on the ballot. These are not the exact current going rates, but at one time it was claimed the companies would charge the parties interested in getting a measure on the ballot $1 per signature, and men would pay the people who circulated the petitions for them fifty cents a head.
>
> In the election of 1958 a right-to-work law as a constitutional amendment had been placed on the ballot. Therefore, as part of their campaign to defeat that measure, a labor union got up a petition that was a clearly anti-big-business proposal. It would have eliminated the state sales tax and substantially increased the income tax and placed a severe capital gains tax on business. When comparisons of the two petitions were made, it was found that a spectacularly large number of people had signed the antilabor and antibusiness proposal. Since this same corporation had circulated the petitions for both groups, it was rather obvious what had happened. It is this type of purchase and they put that in quotes—the National Municipal League does. It is this type of "purchase" of an amendment that has led many people to lose faith in the initiative process. And then Mr. Boyd puts in parentheses (both measures lost.)

Our legislature has acted in areas immediately affecting its powers, its structure, its procedure and legislative processes time and time again by rule, by statute, and by submission to the people of amendments to the constitution. It has done a great deal to implement the important COOGA report, and over half of the proposals of the COOGA report were implemented—have been implemented—by our legislature; and this Convention—it will implement further recommendations—noteworthy recommendations—of the COOGA.

I need not go over some of these amendments that have been adopted and proposed by the legislature, but you do recall the reapportionment amendment; they did submit to us annual sessions; they did put Con-Con on the ballot; many such changes, we submit, have been proposed—some adopted, some not, by the people in their wisdom.

Further changes, we submit, that may be necessary in the future if this constitution is adopted can be made by means of the more liberalized amending article which we have. We do not need any other special provisions in this—in the legislative article. We do not need to single out the legislative article for amendment.

Mr. Perona stated that one of the areas where the legislature would not act would be in the area reducing the size of the legislature. I submit to you that in—not in Illinois, but in 1968 the Iowa Legislature was reduced in size from 124 to 100 in the house, and the senate was reduced from sixty-one to fifty members; and this was part and parcel of the reapportionment amendment approved by the voters in November of '68. It originated in the legislature. Iowa, incidentally, does not have the initiative in its—in that state. I urge the deletion of section 15. Thank you, Mr. President.

PRESIDENT WITWER: Thank you, Mrs. Pappas. All right. Now, we're on the minority proposal. It has been moved by Mrs. Pappas. Who seconds? Seconded by Mr. Stemberk. Further debate? Mr. Knuppel?

MR. KNUPPEL: Mr. Chairman, ladies and gentlemen of this convention, as a practicing trial lawyer for over twenty years and engaged in choosing jurors, I would never choose a man to sit in judgment on his own case.

What we have done with our Amending and Suffrage is that we have provided that the legislature shall initiate amendments. We sat for five months in the Legislative Committee and listened to members of the legislature appear there and admit freely and openly that the legislative branch of government was the weakest of the three branches and that it was no longer effective.

We have sat in these chambers, and we have totally failed in the last week to produce a legislative article that will restore the legislature to its full partnership in the tripartite form of government.

Now I submit we have a duty here to write a document which we can at this time get the people to adopt; and it is very possible that this may call for us to put into our constitution a watered-down legislative article. Nobody ever sees his own faults; he looks at himself subjectively. Neither will the legislature fully appreciate, as was exhibited by these legislators who appeared before us, the failings, the ignominy of the adjourned sessions that we have witnessed in the last two sessions.

The legislature is still a part of the government of the people and by the people and for the people. We only ask in this initiative that the legislative branch of government be subject to this initiative. We are satisfied that the legislature will see the faults in the other branches of government and will introduce proposals which will correct those faults and will submit them to the people.

But I submit that they cannot and will not see their own failings—this is only human—and that this privilege be allowed the people. It was pointed out—and I will not review the arguments made in favor of a unicameral house on this floor last Thursday morning—if the people of this great state of Illinois should find that the legislative article which we have passed is not adequate to meet the needs of the Space Age into which we enter, then they would still have within their hands the reins with which to determine their own destiny and to change the composition—the districts—we're trying to go from cumulative to some other form of voting for and electing our legislators, which may not prove effective. It may not prove to be what we need. It may not meet the needs of the future. So I would ask you all: This is nothing more or less than to repose in the people that one small quotient of power that may be necessary to achieve and maintain the tripartite form of government which we have chosen.

We have all witnessed what's happened to the judiciary and its Courts' Commission in the short space of eight years since we adopted the Judicial Article; and I don't think that the vast majority of people in the state of Illinois are very happy with what they have witnessed in the way the Courts' Commission has acted, witnessed what happened a year ago with respect to our two supreme court judges.

I say that you cannot leave the entire future of the legislative branch solely and exclusively in the hands of the legislature. It would be wise to leave some of it in the hands of the people. Thank you.

PRESIDENT WITWER: Thank you. Now are you ready? We're on the minority report, which is to delete the entire section 15 of the majority proposal providing for initiative. If you are ready, we will hear in summation a final statement from the majority; and then who will speak for the minority, Mrs. Pappas?

MRS. PAPPAS: Well—

PRESIDENT WITWER: In summation. Do you care to speak, Mr. Lewis?

MR. LEWIS: Pardon?

PRESIDENT WITWER: Do you care to speak in closing in summation?

MR. LEWIS: I would if Perona does not.

PRESIDENT WITWER: Well, you gentlemen decide. Mr. Perona, will you conclude for the committee?

MR. PERONA: Yes. Mr. President, fellow delegates, I would like to briefly answer some of the points raised by Mrs. Pappas.

One of her points concerned the fact that this Convention has already voted against a general constitutional initiative. That is true. I think the vote of many of the delegates was based upon objections which have been cleared up in this provision. I think the limitations placed in this provision have cleared up in many delegates' minds the problems and objections they had.

I think we prevent the incursion of this type of proceeding into areas of civil rights and into areas of emotional issues that many delegates felt strongly about, so that I think that that—the fact that we acted in that way before I don't think should at all be conclusive on this provision.

I don't think that we have any assurance that the legislative article that is structured by this Convention and approved by the voters will necessarily be the perfect legislative article for all times in the future. Having served in this Convention, it is doubtful in my mind that the people will approve the calling of a Convention within our generation, regardless of what happens on the vote on our product.

This being so, I think that the only reasonable methods of amending our constitution for the forseeable future will be by amendment by the legislature or by this initiative procedure, if it is approved. It is true that the amending procedure has been liberalized, but I don't believe this reaches the point of the matter that has been made here before.

There is no attempt here to circumvent the legislature, as I indicated before; I think this will act as a spur on the legislature to do those things that the people want. I think the fact that Mrs. Pappas devoted so much of her argument to the abuses that occurred in California is indicative of the—because of its inapplicability to this situation—is indicative of the fact that there are not very many arguments against this provision.

She also took the position that the legislature has acted, and I believe the minority report indicates that they have acted in forty-five of the areas—forty-five of the eighty-seven areas suggested by the COOGA report. Now, these are basically all areas in which they could act without constitutional change, and I don't think that since 1967, assuming that the COOGA report which was structured by the legislature—assuming that those suggestions were valid and proper suggestions—I don't think that forty-five out of eighty-seven is a very particularly good batting average in that regard. I would request your support of section 15 of the legislative article suggested by the Legislative Committee.

PRESIDENT WITWER: Thank you, Mr. Perona. And now, Mrs. Pappas, will you conclude for the minority?

MRS. PAPPAS: Thank you, Mr. President. I don't think that I would like to repeat myself. I would just like to say in response to Mr. Perona that the—of the eighty-seven proposals of the COOGA, the forty-five were adopted; twelve of those—of the proposals—pertained to the revisions of the constitution. One of those was implemented by the legislature itself, namely, annual sessions.

Furthermore, it sought to legalize the status—

PRESIDENT WITWER: May I interrupt, please, Mrs.

Pappas? We will have to come to order. Mrs. Pappas has the floor, and she is giving her summation now. May we please remain in order and extend every courtesy to Mrs. Pappas?

MRS. PAPPAS: Thank you. The legislature sought to further constitutionalize annual sessions, and although under the present difficult amending article it failed of adoption, it did receive 63 percent of the vote of those voting on the proposition. Under our proposed amending article, it would have been adopted.

The proposed provisions of the majority is worse and more subject to abuse than the initiative and referendum submitted by the Amending Article Committee which this Convention rejected. Not only do I sincerely submit that we will produce a better legislative article by the time we're through with second reading, but I might reply to Mr. Knuppel and say that I disagree with him; we have done a very good job, we continue to perfect this article and will continue to do so.

I regret, Mr. Knuppel, that we have not adopted unicameralism which you so dearly have fought for in our Legislative Committee, and which, I submit, perhaps is the reason for your insistence that this body adopt the initiative. I submit that—the state of Illinois is not ready for unicameralism at this time. When the time comes and there is a demand and a swell of opinion in favor of unicameralism, we can have unicameralism, but the time is not here, and we can have it pursuant to the amending article which is being proposed by this Convention.

Not only will this Convention produce a better article, but I submit, even more important than that, that this Convention has taken and removed many of the shackles, the limitations and restrictions on the legislature, and I submit that the substantive committees and their reports as adopted by this Convention will give the legislature the power to implement the—and effectuate the wishes of these people and to adopt programs which we need in this state. It is these restrictions and limitations on the power of the legislature to act which have been restrictive. The article—the other substantive articles which we have adopted will give the legislature these needed powers in revenue and so forth.

I submit that the people should be assured some assurance and some security that the substantive law of this change cannot be changed from time to time, willy-nilly. We have the necessary machinery; this added machinery that is proposed by the majority is unnecessary. I solicit your support in defeating and deleting section 15. Thank you.

PRESIDENT WITWER: All right, thank you. Now, the motion before us is in substitution. The question is whether you will substitute the minority report which is a motion to delete completely the provisions of the initiative in 15—in the majority—and those who will favor substitution will please say aye. Those opposed, nay.

We will have to have a division. Those who will favor substitution, please raise their hand. Thank you. Now, those—will you lower your hands? Those who are opposed to substitution and who would support the majority proposal. The motion to substitute has failed, the vote was fifty-one, nay; forty-seven, yea.

Any further motions? Any amendments? If not, the usual motion on the majority report would be in order. Mr.—Mr. Perona, will you make the motion?

MR. PERONA: Yes. I would like to move that section 15 be sent to Style and Drafting.

PRESIDENT WITWER: Mr. Perona moves, Mr. Sommerschield seconds, that section 15, the majority proposal, be now approved at first reading and submitted to Style and Drafting. Those who will favor it, please lift the hand. Now, those who are opposed. Was that the opposition vote? Yes. —all right. I lost track. That was the vote "for." Now, those who are opposed. All right, it has been approved at first reading, submitted to Style and Drafting by a vote of yea seventy-eight, nay seven.

Now, with the leave of the body, the Chair would welcome an opportunity to return to plenary session to take up a matter I think is of importance to this Convention.

It's been moved that we now rise as a Committee of the Whole—moved by Mr. Meek, seconded by Mrs. Howard, that we rise as a Committee of the Whole. Those who favor it, please say aye. Those opposed, nay. It's carried.

And now we're back in plenary session, and with your leave we should like to take up the order of communications, or reports of committees—either one, we can deal with this, either way. And preliminary to inviting Mr. Miller and Mr. Raby and Mr. Karns to come forward, I would like to say to you, ladies and gentlemen, that we all know that for some time this Convention has been under a bit of a cloud—under a cloud as to when we can finish our work and whether we can conceivably finish by August 8.

This is a matter that concerns not only us, but I think of all the inquiries that I receive when I go home on week ends, that the most frequent question of the citizens of the state seems to be, "Are you folks going to make it before the money runs out and before time runs out; and if not, what's going to happen?" And I think there is a genuine concern on the part of the people of Illinois over the question of whether we're going to be able to wind up our work soon after August 8.

And I think there is an almost instinctive feeling that, should we fail to do it within a period soon after August 8, that we might, indeed, be in very serious trouble. And so I have asked three committees to study this matter and to come and present to you various aspects of this problem; and I am going to ask first of all that Mr. Miller, who is chairman of our Budget Committee, give you some sort of an overview concerning the financial situation of the Constitutional Convention. Mr. Miller?

MR. MILLER: Mr. President, fellow delegates, ladies and gentlemen. It has been our practice on about the fifteenth of every month to place before you a statement of financial condition of this Convention, and up until the fifteenth of last month I can honestly say that each and every budget item that we had set up—the expenditures have been—or had been—within the proposed budget.

We are in a position now to take a more close and careful reading of our posture. There will be placed before you by no later than tomorrow a printed report of the—a financial report of the Convention, but let me offer to you some preliminary highlights of it.

As you recall, the appropriations for the Convention have been split into two line items. The first item called for

Brown	Jaskula	Mathias	Smith, E.
Buford	Jenison	Meek	Smith, R.
Butler	Johnsen	Miller	Sommerschield
Canfield	Johnson	Miska	Stahl
Carey	Kamin	Netsch	Stemberk
Coleman	Karns	Nicholson	Strunck
Connor	Keegan	Nudelman	Tecson
Daley	Kemp	Orlando	Tomei
Downen	Kenney	Ozinga	Wenum
Dunn	Kinney	Pappas	Whalen
Durr	Klaus	Parker, C.	Willer
Elward	Knuppel	Parker, J.	Wilson
Evans	Laurino	Parkhurst	Witwer
Fay	Lawlor	Patch	Woods
Fennoy	Leahy	Peccarelli	Wymore
Foster	Lennon, W.	Pechous	Yordy
Friedrich	Leon	Perona	Young
Garrison			

Ayes—93

Those voting in the negative were:

Cicero Weisberg

Nays—2

PRESIDENT WITWER: I guess that's it. Section 6 on "General Elections" of article III, as set forth in the Style, Drafting, and Submission Committee Proposal No. 15, as perfected, has been approved at third reading for final passage and enrollment by a vote of yea, ninety-three; nay, two.

Now, I have talked with Mr. Knuppel about the order of bringing up the section in which he has an interest, and it is agreed that we will bring it up after we have completed work on article XIV. Article XIV is in your book as article XV, but you will recall that the numbering was changed with the elimination of one article; and so now we are on the amending article, and Mr. Tomei—this is the constitutional revision article, on page 155. Mr. Tomei for the Committee?

MR. TOMEI: Yes, Mr. President, I would like to note one typographical correction on page 68 of your book, line 34, after the word "provides" there should be a comma.

PRESIDENT WITWER: Thank you. Line 34.

MR. TOMEI: Aside from that, Mr. President, I find the stylistic changes in agreement with what the Convention has done, and I now move for final approval at third reading of this article on constitutional revision.

PRESIDENT WITWER: The constitutional revision article. All right. Now you have heard the motion of Mr. Tomei to make a stylistic change by inserting a comma after the word "provides" on line 34 of section 68. Is there a second? Seconded by Mr. Lewis. May we do this by common consent? Those who will favor it, please say aye. Those opposed no. There is no adverse vote, so that change will be made. It's a perfecting amendment.

Now, I understand we have an amendment by Mrs. Evans, Mr. Ladd, and Mr. Dunn. Will you read the amendment, please, Mr. Clerk? And then we will hear from Mrs. Evans.

CLERK: Amendment no. 1 to article XV, "Constitutional Revision," of Style, Drafting, and Submission Committee Proposal No. 15, submitted by Evans, Ladd, and Dunn:

Amend section 1 (c) of article XV, page 67, by changing the first sentence on lines 11 and 12 to read: 'The vote on whether to call a Convention shall be submitted on a separate ballot or as a separate question.'

Amend section 1 (g), page 68, lines 36 and 47: 'The vote on the proposed revision or amendments shall be submitted on a separate ballot or as a separate question.'

Amend section 2(b), page 69, lines 13 through 15: 'The vote on the proposed amendment or amendments shall be submitted on a separate ballot or as a separate question.'

PRESIDENT WITWER: Now, Mrs. Evans, do you rise to move suspension of the rules?

MRS. EVANS: I believe I do, sir. I would like to move suspension of rule no. 49 in order to consider this amendment to the constitutional revision section.

PRESIDENT WITWER: Thank you. Who seconds? Mr. Ladd? Mr. Dunn, do you second? Who seconds? We have a second from Mr. Cicero. Now you may speak in support of your motion for suspension of rule no. 49 to permit consideration of your amendment.

MRS. EVANS: Thank you, Mr. President. Fellow delegates, this is one of those that we have laughingly called "merely" amendments, and I do really consider it that.

But in a sense it is important because—I feel it is important —because I believe that we should leave our constitution as flexible as possible so that as many people who are voting in any election which has a constitutional amendment or constitutional revision as a part of it may be sure that they take part and participate in the voting on that constitutional amendment or revision.

I feel that it is important to leave—to add these words, "or as a separate question," here so that as our voting techniques and machinery become more sophisticated in future years, the courts will not be bound by their present decision, which is that the words, "a separate ballot," mean a separate paper ballot. It would be terribly anachronistic if in some year we were voting on some kind of a telephonic or electronic device which did away with paper altogether, perhaps, that we would also have to send in by mail or go to some spot separately to vote on constitutional matters.

I propose this amendment because I feel it is very important that we encourage and make as convenient as possible the voting on constitutional matters, and to make them as clear as possible. I do underline the word "separate." I believe this is very important. As our president himself mentioned in first reading on this matter, the separation of this from amy party circle type of thing or any other type of conjunction with other matters unrelated to constitutional questions is vital—the separation is vital.

I think that, however, we should leave the proposition as flexible as possible so that the General Assembly may be able to authorize and the courts approve methods of voting on constitutional matters which will be consonant with the changes made in other methods of voting.

I wish to urge your support for suspension of the rules in this matter so that we can consider this.

PRESIDENT WITWER: Thank you. This is not a debatable motion beyond the preliminary statement of Mrs. Evans. Now, we will take it on division?

VOICES: Roll call, roll call.

PRESIDENT WITWER: How many desire roll call? I don't see enough. There will be a division. Will the doorkeeper close the doors, please? And I will ask the delegates to take their seats, please, so that we will have an orderly division.

Now, on this, as you know, we require a vote of fifty-nine or two-thirds of those present and voting, and if you favor suspension of rule no. 49 in order to permit the receipt and consideration of Mrs. Evan's amendment, please raise the hand. Are you folks being counted back there? We are on a division. Will you lower the hands? Now those who are opposed to suspension of the rules, please raise the hands. Now, Mr. Doorkeeper—will the newly arrived delegates remain in the rear of the room until we ask your votes? We are on a division on the question of whether rule no. 49 shall be suspended to permit consideration of an amendment proposed—whether we shall permit consideration of an amendment proposed by Mrs. Evans and others, which would provide that the vote whether to call a Convention shall be submitted on a separate ballot or a separate question, and similarly with respect to piecemeal amendments.

If you favor suspension, please raise the hand. Now you may lower them. Those who are opposed. The motion to suspend the rules has failed. The vote was forty-three, yea; thirty-two, nay.

Now are there any other amendments on article XIV, as presently renumbered? If not, we have before us a motion by Mr. Tomei, seconded by Mr.—is Mr. Shuman in the room? Mr. Shuman? He's not in the room. Who will second it? Mr. Miller will second it—that we approve at third reading article XIV as renumbered, the constitutional revision article, as perfected by the inclusion of that comma—

MR. LEWIS: I have a question, please, Mr. President.

PRESIDENT WITWER: Let me state this, please, Mr. Lewis, without interruption—for purposes of third reading and final passage and enrollment. Now what is your question?

MR. LEWIS: I have a question of Delegate Whalen, and perhaps Delegate Tomei could also give his opinion. On page 69 of section 3, we state: "Amendments shall be limited to structural and procedural subjects." There was some feeling by some of the staff that perhaps those things ought to be itemized. Do either or both of them feel that those words are sufficiently descriptive to restrain constitutional initiative to the matter of function and not to the matter of substance or change in other articles?

PRESIDENT WITWER: May we come to order, please? Do you care to answer, Mr. Whalen?

MR. WHALEN: I think so. We had a proposed recommendation, if you recall, on second reading that wasn't adopted, that would further limit this, but I think this still accomplishes the result.

PRESIDENT WITWER: Thank you.

MR. LEWIS: Peter, do you also agree?

MR. TOMEI: Yes, I don't think this extends to substantive legislation. I think that's your question.

MR. LEWIS: That is my question, I wanted it on the record. Thank you. Mr. President.

PRESIDENT WITWER: All right, are we ready now? This will be a roll call and those—yes, Mr. Elward?

MR. ELWARD: I request a division—that sections 1, 2, and 4 be voted on first, and section 3 separately.

PRESIDENT WITWER: All right. This is the privilege of any member. We will have a roll call on 1,2, and 4, with the understanding that there will be a separate division on 3.

MR. GERTZ: Will it follow immediately, Mr. President?

PRESIDENT WITWER: It will follow immediately. All right, are you ready? Let's have the roll call. Those who, on this roll call, will favor the adoption of the constitutional revision article XIV, sections 1, 2, and 4, will vote yea or yes; those who are opposed, nay or no. Call the roll.

(Whereupon the roll was called by the clerk and the following delegate gave an explanation of his vote.)

MR. GARRISON: I am going to pass. I think it is an excellent article, except I have some reservations about section 1(b); and, therefore, I pass.

Those voting in the affirmative were:

Alexander	Gierach	Madigan	Rigney
Anderson	Green	Marolda	Rosewell
Arrigo	Howard	Martin	Scott
Borek	Hunter	Mathias	Sharpe
Bottino	Hutmacher	McCracken	Shuman
Brannen	Jaskula	Meek	Smith, E.
Brown	Johnsen	Miller	Smith, R.
Buford	Johnson	Miska	Sommerschield
Canfield	Kamin	Netsch	Stahl
Carey	Karns	Nicholson	Stemberk
Cicero	Keegan	Nudelman	Strunck
Coleman	Kelley	Orlando	Tecson
Connor	Kemp	Ozinga	Tomei
Cooper	Kenney	Pappas	Tuchow
Daley	Kinney	Parker, C.	Weisberg
Davis	Klaus	Parker, J.	Wenum
Dove	Knuppel	Parkhurst	Whalen
Downen	Ladd	Patch	Willer
Dunn	Laurino	Peccarelli	Wilson
Durr	Lawlor	Pechous	Witwer
Elward	Leahy	Perona	Woods
Evans	Lennon, W.	Peterson	Wymore
Fay	Leon	Pughsley	Yordy
Fennoy	Lewis	Raby	Young
Foster	Lyons	Rachunas	Zeglis
Gertz	Macdonald	Reum	

Ayes—103

Those voting in the negative were:

None Nays—0

Those voting "pass":

Garrison "pass"—1

PRESIDENT WITWER: That will close it.

Sections 1, 2, and 4 of article XIV renumbered, the constitutional revision article, as set forth in the report of Style, Drafting, and Submission Committee No. 15, have been adopted at third reading for final passage and enrollment by a vote of yea, 103; no nays; one, "pass."

Now we will go into a roll call on section 3. Those who will favor it will please say aye or yes; those opposed nay or no.

MR. ELWARD: Mr. President?

PRESIDENT WITWER: Mr. Elward?

MR. ELWARD: I just wanted to be sure—this is the one that appears on page 69, and it is headed, "Constitutional Initiative for the Legislative Article." That's what we are voting on now?

PRESIDENT WITWER: That is correct, sir.

MR. ELWARD: Thank you.

PRESIDENT WITWER: Now we are voting on section 3, and those who on this roll call will approve at third reading for final passage and enrollment section 3 of that article, will please say aye or yes; those nay or no, who are opposed. I beg your pardon?

The people in the back row are having a great deal of difficulty even hearing the Chair with the loudspeaker, and I do think we ought to stay in order now. Let's be quiet.

The vote—I'll repeat it—the vote is another roll call on section 3 which under Mr. Elward's division request is taken up separately, having to do with the constitutional initiative for the legislative article. Those who favor it will vote yea or yes; those who are opposed, nay or no. Call the roll.

(Whereupon, the roll was called by the clerk and the following delegates gave an explanation of their vote.)

MR. COLEMAN: I'd like to explain my vote. I vote no, and in explaining it, Mr. President, I would like for all the delegates in the room to please listen to this explanation.

This is the only place, to my knowledge, in this proposed document that we have singled out any—*any*—provision on any section for an initiative process.

Now, I don't think that the structure of the legislature is that important. I do think this: If we are going to single out special provisions for legislative—for amendment by the initiative method, I think that we should go back and reconsider our action on other articles.

Now I am not one for delaying the time and the processes of this body, but I urge all of you to consider how you'll vote on this particular section. I don't think we are being consistent if we say that the structure of the legislature is any different from any other section or any other branch of government that we are proposing to the people. Therefore, I vote no and urge the others who follow me to do likewise.

MR. CONNOR: Definitely yes for the same reasons advanced by Mr. Coleman. To expect the "physician to heal himself" and the legislature to reform itself is to indulge in the most fantastic of pious hopes, and I think we need this.

MR. ELWARD: Mr. President, I hesitate to disabuse Delegate Connor in his ideas that to expect the physician to heal himself is the most outrageous or astounding or impossible thing—I forget the exact words that Delegate Connor used.

I would point out, however, that in 1953 the General Assembly did adopt a massive change in the legislative article, which was submitted to the people of this state in November of '54, approved by them, implemented in '55, and went into effect in the elections of '56 when I was first elected to the Illinois General Assembly.

So to say that the General Assembly does not have the will or the desire or the ability to handle a reform of itself, simply, Delegate Connor, with all due respect to your great erudition, is simply not so.

MR. FRIEDRICH: Mr. President and delegates, I was a member of the General Assembly in 1953, and I remember full well why the legislature reapportioned. In the first place, it hadn't been reapportioned in fifty years, and Mr. Elward knows that. He knows that both political parties in the campaign of 1952 had that as their first target—was reapportionment of the state of Illinois.

It was the first order of business that we took up. It was a compromise, as he knows, and as all of you know, as far as it made the senate districts on an area basis and the house districts on a population basis, with mandatory redistricting of the house. I am sure he is fully aware of that.

They did not, however, cure the abomination of cumulative voting and three-member districts, which has enabled this state to be without proper representation since that time. Whereas, this day, the legislature has refused to cure the situation which they could do by law, and you know half the elections for the house are over right now for this year. He knows that, and you know that.

If there is any single thing that's good in this package, this is it, and I vote aye.

MR. JASKULA: My vote is no. This was not a committee recommendation. This came off the floor. In committee we felt that we loosened up the amending article sufficiently by reducing the vote from two-thirds to three-fifths. We furthermore put in a new section whereby there is an automatic call, and I don't think this is necessary. My vote is no.

MR. LEWIS: Mr. President, I vote yes, and in doing so respectfully must on this issue dissent from the distinguished Delegate Elward and my good friend, Delegate Coleman. It was a committee recommendation, and this is why I asked the questions to make certain that it is just restrained to the structure and procedure, and would then remind the Convention that it was the Legislative Committee report that the size of the house be modestly reduced. This was dropped on the way because of the very difficult subject we had on single-member districts and cumulative voting. It may very well be that some day the people will want to accomplish that revision which I think this Convention was in the mood to do, but we were unable to do so because of the problems in working out these two separately submitted issues. So, I think this is an excellent provision. It is very conservative and is restrained to just those two areas, and I believe it would be good for the constitution.

MRS. PAPPAS: Mr. President, fellow delegates, as you know, I was one of the—on the minority report of our Legislative Committee which opposed this provision. I might point out that the committee was divided down the middle as far as this, and we thought we had merit in our opposition to this provision, primarily because we think that this Convention has provided a better legislative article; we have provided al-