

Volume
IV

**HALL OF THE HOUSE OF REPRESENTATIVES
OLD STATE CAPITOL, SPRINGFIELD, ILLINOIS**

FRIDAY, JULY 10, 1970, 8:30 A.M.

No. 82

PRESIDENT WITWER: I think we have a quorum now, and will the delegates please be seated? I have asked our distinguished fellow delegate, Virginia Macdonald, to introduce to you this morning the distinguished clergyman who will give us the invocation, Virginia?—

MRS. MACDONALD: Mr. President and fellow delegates, it is indeed a pleasure and an honor for me to be able to introduce the Reverend Samuel M. Keys, rector of my parish which is St. Simon's Episcopal Church in Arlington Heights. Father Keys is not only respected and loved by the members of his own church, but is recognized as well by the entire community for his contributions to the civic and social welfare of Arlington Heights. It is indeed a great pleasure for me to introduce my very good friend, Father Keys.

(Opening prayer by the chaplain.)

PRESIDENT WITWER: And now the roll call please. Roll call.

(Whereupon the roll was called by the secretary.)

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

Answering "present" -114

PRESIDENT WITWER: Thank you. We have a quorum. May we come to order? I am very happy to announce the presence in the gallery today of Mrs. Keys, the wife of the distinguished clergyman who gave us the invocation this morn-

ing. We are delighted to have both the Reverend and Mrs. Keys with us. They are the guests of Virginia Macdonald. We hope you will enjoy the Convention session. (Applause)

Mr. Borek?

MR. BOREK: Thank you, Mr. President and ladies and gentlemen of the Convention. The Committee on the *Journal* has not received the printed copies of *Journals* No. 79, No. 80, and No. 81, so therefore, sir, I move that we dispense with the reading of *Journal* No. 81 covering yesterday's proceedings.

PRESIDENT WITWER: Thank you. It has been moved we dispense with the reading of No. 81.

MR. MATHIAS: I second it.

PRESIDENT WITWER: It has been seconded by Mr. Mathias. Those who will favor adoption, please say aye. Those opposed, nay. It is carried. While we are on that *Journal*, Mr. Clerk—for what purpose do you rise, Mr. Davis?

MR. DAVIS: The next order of business.

PRESIDENT WITWER: Thank you. While we are on the *Journal*—may we have your attention please? While we are on the *Journal* we have an apparent omission that perhaps should be corrected before the *Journal* is printed. The clerk advises me that while we proceeded to take amendments on the minority proposal yesterday evening that we had apparently no formal motion to approve the majority proposal, and may we have the record show that you made that, Mr. Nudelman? No, the minority proposal I meant to say. The minority proposal. This has been our practice that—

MR. NUDELMAN: I submitted the minority proposal for consideration. I would, if necessary, make the motion at this point. I thought the motion would be made when the—

PRESIDENT WITWER: No, we've been following the practice of making it at the time—

MR. NUDELMAN: So be it.

PRESIDENT WITWER: —Mr. Nudelman, so we can have the record show you made it and who will we show as a seconder?

MR. STEMBERK: I second it.

PRESIDENT WITWER: Mr. Stemberk will show as a seconder, and so when you write the *Journal* in final form for last evening's session, kindly make that adjustment.

Now we are on the order of reports of standing committees. Mr. Davis?

MR. DAVIS: Mr. President, I would like to take up two of the matters shown on the report of the Committee on Rules and Credentials which was filed yesterday. Departing from the usual procedure of this Convention, I would like to take them up piecemeal rather than seriatim.

In the first instance, I would like to move the approval of item 1 of the report of the committee, which relates to the subject matter of Resolution No. 63 introduced by Mrs. Kinney. For your information, for those of you who have not preserved a copy of Resolution 63, that relates to the power of the legislature—a limitation, as a matter of fact—on the power of the

legislature to alter the provisions of public pension and retirement plans. The committee determined, by unanimous vote, that that was a subject matter germane to the report of the Committee on the Legislature and that it should be offered either as an amendment or as an addition to that report. I would move the adoption of the report of the Committee on Rules in that respect.

PRESIDENT WITWER: Thank you.

MR. COLEMAN: I second it.

PRESIDENT WITWER: Mr. Coleman seconds. Do you wish to discuss it further? Those who will favor adoption, please say aye. Those opposed, nay. It is carried.

MR. DAVIS: Now, Mr. President, number 2, we have to wait at least another day on that, because that relates to an amendment to our rules.

Number 3 relates to the matter of the formal approval of the report of the Rules Committee dated April 28, 1970, which is shown on page 3 of the *Journal* of April 29, and a copy of it is attached to this report of the committee which was put out yesterday.

You will recall that when that matter was presented it was filed but there was no formal approval of the procedure set forth in that report by this Convention. Some of the delegates have felt that we should have a formal motion to approve the report with respect to rules relating to the consideration of questions of separate submission, and the committee on rules by a unanimous voice vote yesterday morning agreed to recommend to this body that it approve those procedures by formal vote. I therefore move, Mr. Chairman, the approval of item 3 of the report of the Committee on Rules and Credentials of July 9.

PRESIDENT WITWER: Thank you. Who seconds?

MR. CONNOR: I second it.

PRESIDENT WITWER: Seconded by Mr. Connor. Any discussion? The question is called for. Those who would favor it—I beg your pardon. Mr. Lewis?

MR. LEWIS: Mr. President, I must confess when I first came here that I assumed that the matter of separate submission would be fully debated and argued along with the substance at some point, and I have a continuing feeling that we are—at least, in my own sense of how an issue should be decided—that there will be no point in this Convention at which I can address myself to the substance when compared to its manner of submission—that we will vote on everything up or down, and only after we have voted something up or down we then will determine whether or not to separately submit it. I submit that this is a basic error in preparing a constitutional package; that substantive issues deserve to be argued along with the question of submission at some point.

I am sure, at the time that I asked for an inquiry originally as to when it would be done, that I was led to believe that that would be done at second reading; and I notice that the rules would then say that it will not even be done at second reading but some time which is still indefinite—by some method which is still indefinite—between second and third reading for a period of which we do not have any rule or any procedure for calling up, there will be some consideration given for separate submission.

I know I may be in a minority of one, but I feel very strong-

ly about this. There are five or six issues that I think a difference might be made if we knew in what manner it would be submitted, and so I speak against the motion which is to put one-two-three-four-five the matter of separate submission discussions completely separate and apart from second reading and then, secondly, the motion would not give us any guidance yet. Here we are down to the last month and I still don't know—and no one has told me—when we are going to have a discussion of separate submission.

So I feel that there are powers far beyond my small knowledge, and that this decision to do this is way beyond what I can cope with as an individual delegate in representing my district, because I feel that I was first led to believe, when I made the argument on first reading of some of these issues, that it would be second reading, and I was put off because of that by saying, "Well, you will have plenty of opportunity on second reading," and now we won't even have it at second reading, and there is no real assurance that we will have it at any time, and it definitely—we will not have it in connection with deciding on substance, because after second reading then I understand third reading is not going to be a substance argument but we will have to suspend rules before we can change anything on third reading. We are only going to go into the matter of drafting and language but nothing on substance.

So, I make this plea to the Convention to not rubber stamp this report. I think we will be making a great mistake. I think that it could be crucial to the final product, because if we make two or three small mistakes and we add a few percentage of "no" votes, and we might as well forget our entire work here.

I do not think that the report gives us the care and the caution in this matter of separate submission that we are so jealously exercising in every other respect with the time-consuming and the very tedious and careful and thorough discussion of the substance; and I think the matter of separate submission can be just as important and, in fact, even more important in many cases than the substance itself.

I hope that we will have an airing of this. Perhaps I am completely wrong, but I would not want it hurried through because I think we will pay for it at a later time if we merely rubber stamp it at this time.

PRESIDENT WITWER: Mr. Davis, do you wish to respond?

MR. DAVIS: Well, I will be glad to or I'll be glad to wait until some other delegates have—

PRESIDENT WITWER: All right. I think Mr. Durr is next.

MR. DURR: Thank you, Mr. President. I am not sure that I understand what we are talking about or trying to do here. I just want to clarify in my mind, if I can at 8:30 in the morning on a Friday—do I understand that the effect of this would be that we would decide whether or not to submit a matter separately to the voters at some point in time after the last chance for amendment of substance?

MR. DAVIS: Mr. Durr, it has previously been determined, I believe, by this body that some time following second reading we would set aside a day or days for the determination of what matters should be submitted separately as separate questions.

Anything else now while we are in plenary session? If not, Mr. Cicero moves that we now resolve ourselves again into a Committee of the Whole, seconded by Mr. Shuman. Those who favor it, please say aye. Those opposed, nay. It's carried.

We are now back in Committee of the Whole, and I believe, if I understand correctly, Mr. Lewis, we are on section 3, having to do with reapportionment.

MR. LEWIS: We are, Mr. President. I would suggest we start with section 3A, and Delegate Perona will handle that.

PRESIDENT WITWER: Thank you. Did you have a question, Mr. Green? Mr. Green?

MR. GREEN: Well, you previously wanted to do that section 16 before.

PRESIDENT WITWER: I beg your pardon?

MR. GREEN: Do you want to do it, or we can wait until then.

PRESIDENT WITWER: Mr. Lewis, section 16 is a new section? What is the wish of the committee?

MR. GREEN: It's up to the Chair. We don't care, Mr. President.

PRESIDENT WITWER: All right, let's do it, and then we will have one final thing, and that will be the reapportionment, and will you make your motion, Mr. Green? Does the clerk have it?

MR. GREEN: Would the clerk please read the proposed section 16?

PRESIDENT WITWER: Mr. Green has proposed section 16, and if you will read it, please.

CLERK: Amend the report of the Committee on Legislative Article by adding a new section as follows:

Section 16, entitled, 'Pension and Retirement Rights.' Membership in any pension or retirement system of the state or any local government or any agency or instrumentality of either shall be an enforceable, contractual relationship, the benefits of which shall not be diminished or impaired.

PRESIDENT WITWER: Thank you. Is it seconded? Seconded by Mr. Coleman. Are you ready, Mr. Green, to proceed?

MR. GREEN: Yes, sir. I will be very brief about this, but basically I think we are faced in constitutional writing with either granting powers or prohibiting powers, but here we have a consideration of a legislative power that the General Assembly really hasn't adhered to for a long, long while; and it is for this purpose that this amendment is offered.

Now, at the end of 1968 in Illinois we had more than 370,000 public employees who were participating in 374 pension funds in this state. In addition, there were more than 79,000 people who were already on retirement or disability or survivor's insurance benefits from these funds. So in Illinois at the end of 1968 we had approximately 500,000 people who were relying on the public employee pension plans in Illinois for their present and future security.

Now this amendment does two things: It first mandates a contractual relationship between the employer and the employee; and secondly, it mandates the General Assembly not to impair or diminish these rights.

Now, with regard to the first point, the Illinois courts have generally ruled that pension benefits under mandatory partici-

pation plans were in the nature of bounties which could be changed or even recalled as a matter of complete legislative discretion. And as a result in Illinois today we have public employees who are beginning to lose faith in the ability of the state and its political subdivisions to meet these benefit payments. This insecurity on the part of the public employees is really defeating the very purpose for which the retirement system was established, and this is one of the reasons why I personally request that the Convention adopt the provision which will guarantee these rights and direct the General Assembly to take the necessary steps to fund the pension obligations.

Now, just a little background with regard to what the General Assembly has done. In the past twenty-two years the unfunded accrued liabilities of these pension plans in Illinois have increased from about \$359,000,000 to almost \$2,500,000,000, and the unfunded accrued liabilities are real and are not theoretical obligations based upon service already rendered.

Despite the consistent warnings from the Pension Laws Commission, the current budgeting of pension costs necessary to ensure the financial stability of these funds, the General Assembly has failed to meet its commitments to finance the pension obligations on a sound basis. In 1967 the General Assembly approved Senate Bill 515 which provided for the appropriation to one state university retirement system, to at least equal to an amount which would be necessary to fund fully the current service costs and to cover the interest on the past service; and despite this legislative mandate, the General Assembly refused to appropriate the necessary funds. Now, during this two-year period alone the appropriations under this system were \$67,000,000 less than the minimum required by the senate bill.

Now, what we are proposing is being carried out in some other states by law. Our language is that language that is in the New York Constitution which was adopted in 1938, really under a similar circumstance. In 1938 you were about at the end of the Depression, but there was a great consideration on the part of the New York General Assembly to really cut out some of the money that they were giving to the pension programs in New York; and it was for this reason that the New York Constitution adopted the language that we are suggesting. Since that time, the state of New York—the pension funds for public employees have been fully funded, and so I think we have good reason to believe that this type of language will be a mandate to the General Assembly to do something which they have not previously done in some twenty-two years.

Now, we are not in any way suggesting that this \$2,500,000,000 that they are in arrears be brought up to date at any one time. The New York Constitution mandated that state to fully fund the program in two years. This would be a physical impossibility in Illinois.

I do believe that if we could contact the actuary of the programs, it may well be in the scheduling, we could come up with a scheduling to do it. But in lieu of a scheduling provision, I believe we have at least put the General Assembly on notice that these memberships are enforceable contracts and that they shall not be diminished or impaired.

Now, I would like to yield to Delegate Kinney for any further remarks.

PRESIDENT WITWER: Mrs. Kinney?

MRS. KINNEY: Thank you, Mr. President. I was interested in initiating this amendment and did it by requesting a ruling from the Rules Committee and from this Convention as to when it might appropriately be presented. The fact that it comes up now as an amendment to the legislative article should not deter you. Delegate Davis very kindly informed me that this ruling was made to allow its presentation at the first reading stage. But I would remind you that, of course, if adopted, it can be shifted to a more appropriate section of the constitution, perhaps falling into some category such as general government proposals fall into.

To establish the record as to intent, I should just like to briefly say that the word "enforceable" is meant to provide that the rights so established shall be subject to judicial proceedings and can be enforced through court action. The word "impaired" is meant to imply and to intend that if a pension fund would be on the verge of default or imminent bankruptcy, a group action could be taken to show that these rights should be preserved. The amendment does not mention whether benefits could be increased. It is definitely the intent that an increase in benefits would not be precluded. Many states tie their pension and retirement benefits into a cost of living and raise them from time to time. It is the intent that this amendment would permit so doing if the legislature at some future time should decide to do this.

Mr. Green's interest in this matter is a little different than mine. It is cosponsored by Delegate Green, myself, my codelegate, Anthony Peccarelli, and Mr. Zeglis. It has the support of a large number of other delegates—

PRESIDENT WITWER: Just a minute, please. Let's stay in order. Mrs. Kinney has the floor.

MRS. KINNEY: —it is supported by a large number of other delegates: Mr. Bottino, Mr. Fennoy, Mr. Nudelman, Mr. Gertz, Mr. Buford, Mr. Carey, Mrs. Howard, Mr. Hendren, my seatmate, David Kenney, Mr. Friedrich, Mr. Ron Smith, Mr. Klaus, Mr. Lyons, Mr. Daley, and Mr. Brown.

My interest in this particular amendment stems from my acquaintance with police officers and firemen. In prosecuting criminal cases I have many times had the occasion to have police officers as my witnesses. As you would all be aware from your mail and mine, they were much concerned about home rule proposals. In DuPage County there are approximately thirty-two small municipalities. The police officers and the police forces range anywhere from four-men forces to very large, well organized departments, having perhaps sixty employees. Their concern in the mail and in the personal calls that I received—because, as I say, I do know many of the officers personally, and over a long period of time—was that a home rule provision, if adopted by this Convention, might allow a municipality who preferred to use retirement money to repair the streets or some other thing, to abandon a pension system.

Now, I am sure that is not at all what was intended; but in any case many police officers are most concerned, and they have said to me that their salaries are very low, their duties can sometimes be unpleasant; and if they cannot rely on their pensions, they may as well leave now. I think that this would

simply be a means of giving them assurance that these benefits will not at some future date be eliminated on the part of municipalities who do contribute to these funds. Thank you.

PRESIDENT WITWER: Thank you, Mrs. Kinney. Mr. Coleman? Mr. Coleman waives. Mr. Kemp?

MR. KEMP: Thank you, Mr. President. Mr. President, ladies and gentlemen, I rise to support this measure, and I would share with you the fact that our civil servants—either state, municipal, or county—have a vested interest in these pension plans because all of those that I know of provide joint contribution from both the employer and the employee.

I would remind some of the members of this Convention that there have been municipalities in this state that have gone bankrupt, including the city that I come from. I can remember in the city of Chicago when my father was an employee of the city of Chicago that our family subsisted on script; but that I would also call to your attention that even during those times that those civil service employes who retired never had their pension altered or amended, even during those trying times during the days of the Depression.

The kind of interest that our civil servants have shown in this problem, whether they were members of unions or not, would include—over and above firemen and policemen—teachers who belong to the teachers' union and teachers who belong to the state association; it would include clerical employes; it would include semiprofessional employes. And in keeping with Mrs. Kinney's argument, I would remind you that the government or municipal employee is not notoriously overpaid, and that these pension plans oftentimes include, not only the worker, but the spouse at the death of the worker where that spouse then receives a lesser amount than that was originally intended for the person who is the employee.

It would seem to me, in the light of the mail that some of us have received, and particularly from the firemen around the state, that we have already been made aware of the kinds of concerns. I would presume that the purpose of this proposal is to make certain that irrespective of the financial condition of a municipality or even the state government, that those persons who have worked for often substandard wages over a long period of time could at least expect to live in some kind of dignity during their golden years; and I would urge that we support this obviously nonpartisan measure.

PRESIDENT WITWER: Thank you. Mr. Parkhurst?

MR. PARKHURST: Mr. President and fellow delegates; on the face of it, this innocuous little amendment sounds a lot like motherhood and strawberry shortcake. Actually, I think it is a culmination of a kind of a running battle by a special interest group of pension administrators in the state of Illinois that has been going on in the legislature for years and years and years; and it probably should be continued in the legislature.

Now, here's—it seems to me—the fallacy of trying to constitutionalize this sort of a thing. First of all, the background in the legislature has been that many people who are entitled to a pension which is administered or given at the state level have come to Springfield and said, "Our pension is not fully funded. Our actuary tells us that you will have to have \$2,200,000,000 in state money to put into a special fund to pay off the potential claims that may now be filed to get this

particular pension or that particular pension when the benefits become due and payable to the retirees."

And the legislature has said, "For Heaven's sake, we don't have \$2,200,000,000. Why can't you let us run it like the federal government runs the Social Security program, which is to pay the benefits out of the income as they become due." And the proponents of 100 percent funding have said, "Nope, that's not good enough. We want you to put all the money there right now, and not wait until the payment comes due before you wrestle up the money to make the payment."

Now, there has been a little compromise from that 100 percent position in the last several sessions—and I am sure Delegate Elward knows more about the current situation in the last session than I do—but I think Delegate Green pointed out a moment ago that the proponents of funding these pensions have said to the General Assembly, "Well, maybe you don't have \$2,200,000,000 or whatever the magic figure is, but at least you can begin to do it, so maybe you ought to put \$60,000,000 a session into the funding of these pensions and allocate it so that we get built up to 100 percent, instead of having the various funding percentages, ranging all the way from maybe 20 percent up to around 80 percent, depending upon which pension fund you are talking about."

Now, the trouble with this amendment is, as I read it, that you would eliminate the argument constitutionally. You would mandate the General Assembly to put in 100 percent of the money to pay anybody's pension on anybody's actuarial projection right now, because it says, "the benefits of which shall not be diminished or impaired." And you can bet your life that with the intent being, as Delegate Kinney said a moment ago, to have a collective action in case of impairment, somebody would run into the General Assembly or into court—worse yet—and say, "We're only at 23 percent. That other fellow over there is at 39 percent of what his actuary says should be the funding; and neither of them are at 100 percent, and make the General Assembly put up the money." That's what impairment means in terms of money at the state level. There just isn't that much money available. There is no history in the state of Illinois of impairing or diminishing or welching on any pension plans when they come due. If we are going to get to the point in the state of Illinois where we can't pay the pensions, we're down the drain anyway; and anything you put in this constitution is not going to change that one bit.

Now, what about diminished? Let's talk about that for a minute. Somebody alluded to cost of living a moment ago. Suppose this goes in the constitution. Suppose we have more inflation. Suppose we devalue the dollar in five years or ten years. Haven't we then diminished the pension funding and the pension rights of a pensioner, based upon today's dollars? Of course we have. So this is an admonition to the courts not to let them be diminished in terms of the general level of the economy or the value of the dollar, now or in the future. I submit that that is a kind of a left-handed way to increase their pension benefits and not let them ride with the value of the dollar in years to come.

Now, that's the state level. Now, think a minute about what this would do at the local level. We're just about to talk about home rule, maybe hopefully tomorrow. And when you think about funding, not impairing, not diminishing, any of the local

pensions of which there are a myriad in Illinois, at the local government level and finding the money from every municipality and every school district and everybody else at every local level of government, to put the money in the pot right now so those administrators can have their hands on it and administer it and invest it in their own little way, it seems to me you just aren't being sensible, because there isn't enough money in home rule with income taxes and licensing for revenue and personal property tax and everything else you can conceive of to raise that kind of money in every town and municipality in the state of Illinois.

This is a terribly, terribly mischievous amendment. It is the desire of a special interest group; it should be legislative; there is no history of impairment; there is no history of welching on any contracts; and to put it in the constitution is simply pandering to a group that haven't been able to have their way in the General Assembly.

PRESIDENT WITWER: Thank you. Mr. Thompson? Mr. Thompson waives. Mr. Elward?

MR. ELWARD: I should like to associate myself completely and word for word with the remarks of Delegate Parkhurst. This amendment is, I am sure, well founded, and there is no reason certainly to question the sincerity of those who offer it; but the mischief of the language and the interpretations here—let me cite a few cases beyond what Delegate Parkhurst referred to.

One of the things that's wrong with the pension systems of this state is that there are too many of them, and the trustees of the various pension systems—and I now include the policemen and the firemen, particularly the firemen, in downstate Illinois—have stubbornly refused over the years to consider any kind of voluntary or mandatory consolidation or reorganization or union together. And in some instances, ladies and gentlemen, particularly when we get down to the municipal level, you have almost as many trustees as you have beneficiaries, which is hardly a situation that can claim much confidence on the part of the general public.

Now, I have been able so far to restrain my admiration for the governor and he for me; but if ever there was a bust-the-budget constitutional amendment, this is it; because either it means a mandatory funding up to some percentage figure way beyond what the average is now, or it doesn't. If it doesn't mean it, it doesn't do anything; it isn't in line with what the groups want. If it does mean it, it means hundreds of millions of dollars more in next year's budget with the governor having no control over it. I, for one, even though not of his party, would not want to see any chief executive mandated into that position. This would, it seems to me, prohibit consolidation which hopefully, under economic pressures in times to come, the legislature can get some of these associations together. The idea of having hundreds of pension funds running around the state without the benefit of consolidation and the benefits that can come from consolidation and proper planning of their investments are just so ridiculous that those who claim they speak for the beneficiaries of the recipients are really, in my judgment, not serving their best interests.

What about the words "impairment" or "diminishing"? Supposing the General Assembly decides they want to cut the benefit for a surviving widow of a policeman in order to in-

crease the benefits of the minor children? Under this constitutional amendment that might well be prohibited; and yet all might agree that this, in the long run, would be the best or better social policy. What you are saying is that the present structure—which admittedly is not identical in each fund and which is surely far from the ideal in terms of justice and charity—the present structure is to be frozen in for all time to come.

I pass over without further discussion the funding question, the cost-of-living question, the whole question of inflation in the future. This is well-intentioned, but like so many other things that are well-intentioned, it has consequences far beyond this afternoon and today, and I for one must oppose it.

PRESIDENT WITWER: Mr. Borek?

MR. BOREK: Thank you, Mr. President. Ladies and gentlemen, I rise to speak against this amendment. The only reason why pension and retirement rights are in the present—people today enjoy them, because the 1870 Constitution said nothing about this. I think this is strictly legislative and certainly ought to be not put in the constitution.

Let's look at it this way: We're told on this floor that one out of every seven people are public employees. By this amendment we are doing special legislation protecting one out of seven. What happens to the six out of seven that do not get this constitutional guarantee? They've got to be resentful and vote against this.

May I remind you, too, that the tremendous competition between labor and management to offer better conditions for the employees might make the words "pension" and "retirement" as anachronistic as the Model T Ford fifty years from today. There might be completely new types of systems. To freeze this in the constitution might hurt the very, very people that we are trying to help at this time.

Finally, I would like to state that "diminished" or "impaired" indicates to me somehow that the treasury of the state of Illinois would guarantee 374 pension funds; should they go broke, they will reimburse them to the extent that they can operate.

I think this is a very bad amendment, and I am certainly talking against it. Thank you, Mr. President.

PRESIDENT WITWER: Thank you, Mr. Lyons?

VICE-PRESIDENT LYONS: Mr. President, let me start out by saying that numerous members of my family are beneficiaries of the Chicago Police Department Pension Fund. I was myself at one time a member of that estimable fund. I was also a member of the Pension Laws Commission, and I have been through the upfunding argument and all this other business that Delegate Parkhurst referred to, including the movement in the 1965 session of the General Assembly by a party other than my own to fully fund all the pension funds of the state, which would have cost a couple of billion dollars, as somebody has pointed out.

But I would like to ask one of the sponsors of the amendment—I am a cosponsor of it myself—I *thought* that the purpose of this amendment was to give protection to those people who felt that they needed protection for their pension rights in the event that sweeping home rule powers were given to local governments. I recall receiving a flurry of letters and telephone calls early in the session when the local government articles began to be introduced from police and fire associations who

were very fearful that a general grant of home rule powers to local governments might in some way impair their pension rights. I thought that all that this amendment was designed to do was to cure that. Now, if it does something else, or if the language needs to be cleaned up, that's one thing. But the genesis of the amendment, I thought, was simply to protect people who up until now have felt protected. I am aware of no movement to upfund all the funds—nobody's got that kind of money.

I would just appreciate an answer from somebody who feels that he knows.

PRESIDENT WITWER: Mr. Parkhurst?

MR. PARKHURST: Perhaps I can furnish at least part of the answer. Delegate Lyons is quite right, that when the flurry of letters and messages and delegations came to the Local Government Committee, the interest of those people was, as you have described it, Tom, to be sure that home rule did not give to municipalities or anybody else that had home rule the power to invade a pension fund, change the administration system—

VICE-PRESIDENT LYONS: Or just abolish it.

MR. PARKHURST: —or abolish it completely. That was the fear that those people had.

Now, at that point we spent much time—Delegate Zeglis was involved in this and others—talking with delegations from the police and fire pensions primarily. And it was, I think, made clear to them—and there was no further contact after awhile—it was made clear to them that under the system of guaranteeing to the state, under the pre-emption system which is contained in 3.2B of the Local Government Committee report, which says:

The General Assembly may provide by general law for the exercise of any power or function by the state, and when such a law specifically provides that the power or function may be exercised exclusively by the state, units of local government shall not exercise it.

We spelled this out, talked to them about it, and indicated that this was such a power that had been exercised by the state, and all these local pensions were matters of statutory creation; and that unless the legislature decided to not make that power exclusively the state's and permit that power already exercised by statute to be exercised by the local units of government, we had nothing to worry about. And they were content that certainly the legislature wasn't going to give to City "X" or City "Y" or City "Z" or County Zilch the right to invade their pension administration and their pension systems—now—wait a minute—

PRESIDENT WITWER: Just a minute.

MR. PARKHURST: —I am answering the question, I think. And then—

PRESIDENT WITWER: Now, wait a minute. Just a minute. A point of order has been raised, and you have reached the end of a sentence now. May I hear the point of order.

MR. KEMP: Mr. Chairman, unless my hearing is faulty, I believe that Mr. Lyons asked as to whether or not the proponents of this proposal had an argument—or had an answer to his specific question. I now suggest that by his arguments—

well put before this Convention—that Mr. Parkhurst is not a proponent and is now reengaging in the argument that he made before; and it seems to me that the people who would be entitled to answer Lyon's question would either be Mrs. Kinney, Mr. Green, or some of the other people whose names appear on this proposal.

PRESIDENT WITWER: All right. Now, Mr. Kemp, may I rule on your point of order? Mr. Lyons did initially ask advise from any of the sponsors; but then he broadened his question to ask a matter of the Home Rule Governments Committee, and the impact on its initial work as evidenced by a flood of communications of concern. I think you are going to hear from both.

Now, Mr. Parkhurst, will you complete your statement, and then we will hear from the sponsor on the other branch of the question raised by Mr. Lyons, and everybody will be happy.

MR. PARKHURST: Yes, Mr. President.

PRESIDENT WITWER: Thank you.

MR. PARKHURST: The furor that descended upon the Local Government Committee was, I thought, pacified and settled and solved by the answer I have just given you. Now, this is not a proposal that goes to the local government article; this is an amendment that goes to the legislative article and covers not only local governments, but retirement systems of the state. It does refer to benefits being diminished or impaired, as many people have commented on, including myself; and it is a broader concept—much broader than that narrow concept that was brought before our committee. That, I think, is a fair answer.

PRESIDENT WITWER: Thank you. Now, if there is a sponsor that would like to respond. Would you like to repeat that question now to Mr. Kemp?

VICE-PRESIDENT LYONS: Yes, I would, Mr. President. The question is, am I wrong in my supposition that the purpose of this amendment is only to provide security to people who now feel that they are secure in the event that sweeping home rule powers are given to local governments? That's what I thought this thing was designed to do.

MRS. KINNEY: Yes, you are right, Mr. Lyons. That is what it is designed to do. Benefits not being diminished really refers to this situation: If a police officer accepted employment under a provision where he was entitled to retire at two-thirds of his salary after twenty years of service, that could not subsequently be changed to say he was entitled to only one-third of his salary after thirty years of service, or perhaps entitled to nothing. That is the thrust of the word "diminished." It was not intended to require 100 percent funding or 50 percent or 30 percent funding or get into any of those problems, aside from the very slim area where a court might judicially determine that imminent bankruptcy would really be impairment.

Now, if the word "impairment" bothers people, I suggest, if it is the wish of the Convention, that word could be deleted, and the rest of the amendment could stand. It is also not intended to get into freezing in a system of trustees or persons who would administer the various funds. That is not touched upon or contemplated in this amendment.

As I said before, it is also not intended to preclude greater

benefits for beneficiaries, pensioners, or their dependents at some future time. It is simply to give them a basic protection against abolishing their rights completely or changing the terms of their rights after they have embarked upon the employment—to lessen them.

VICE-PRESIDENT LYONS: Well, Mr. President, then I should like to speak in favor of the amendment, because I am not shocked at the notion of vesting contractual rights in beneficiaries of pension funds. As a matter of fact, in the last few sessions of the United States Congress there have been proposed numerous legislative enactments directly bearing on this subject, because there is thought to be an immense need in this country for just this kind of protection, not only in the public, but also in the field of private employees.

Therefore, I am not shocked at the notion of vesting contractual—enforceable contractual rights in these pension beneficiaries, if that is all that this thing is designed to do.

We now have heard from the proponents who have represented that that is the limit of the scope of this amendment. It does not refer to upfunding, nor does it seek to establish some sort of an administrative elite to administer these various funds. All that it seeks to do, as I read the thing, is simply to grant protection to people who feel that the protection they now feel they have might in some sense be impaired in the event that local governments move into these fields which heretofore were the preserve of the state.

PRESIDENT WITWER: Thank you, Mr. Lyons. Mr. Peccarelli is next.

MR. PECCARELLI: If I were as knowledgeable as Delegate Green, as scholarly as Delegate Kinney, or the orator as is Delegate Kemp, I would say all the things that they have said. Being none of those three things, I would just ask you to take what they have said and consider it and emphasize what they have said and ask that you vote for the amendment.

PRESIDENT WITWER: Thank you. Mr. Whalen?

MR. WHALEN: Mr. President and fellow delegates, I agree with Delegate Kinney, that as I read section 16, it doesn't require the funding of any pensions, and therefore the whole question of funding is irrelevant to the issue of whether we should adopt the provision.

One thing that does concern me, however, about section 16 is that it chooses to characterize pensions and the right to a pension as a contractual interest of the person receiving the benefit.

Under the existing Illinois law there is one line of cases which characterizes pension benefits as being contractual rights, and another line of cases which characterizes pension benefits as being proprietary rights of the person receiving the benefit.

Under section 16, what we would have done is lock in the contractual line of cases into the constitution, and I am not so sure that that in the end would benefit the people that we seek to benefit by this provision, because particularly in bankruptcy it seems to me, which was the concern of Delegate Kemp, the benefit—the person receiving the pension benefits would stand a better chance of receiving full payment if the benefit were characterized as proprietary rather than contractual; and, therefore, I think that what, in fact, we may be doing by this provision is derogating in some way the rights of pensioners.

I would add another point in response to Delegate Kemp and Delegate Lyons; and that is that section 16 in no way vests any pension rights for pensioners. All it does is say that the pension is a contractual interest which the pensioner has; and the line of cases again has repeatedly held that this is a contractual right and may be subject to any contingency built into the contract. Therefore, they can be a contractual right subject to the vestment, if you will, or any other kind of contingency. So I am afraid that in the long run that this section 16 may derogate the very rights that the proponents are trying to foster here.

I would suggest that, rather than take the approach of section 16, what we, in fact, might do is turn to section 14 of the bill of rights, which the Committee of the Whole has already passed on first reading, and that says that no ex post facto law or law impairing the obligation of contracts or making any irrevocable grant of special privileges or immunity shall be passed. It seems to me that the contract clause gives the pensioner the protection against the diminishing or impairing of his contractual rights, which the proponents of this amendment seek to achieve. But if they want to give some kind of hortatory assurance to the pensioners, the place to do it would be in section 14, just by saying no law shall be passed which shall impair the obligation of pensions; and I think that would achieve the end. Additionally, it wouldn't raise the problem of characterizing all pensions as contractual rights rather than proprietary rights; because I think in the long run it may be more advisable for the pensioner to have a proprietary right here.

Therefore, I would oppose this amendment, and I would hope that at the appropriate time in the bill of rights some amendment could be added that would just add the word "or pensions" after the word "contracts" in the contract clause.

PRESIDENT WITWER: Thank you, Mr. Whalen. I see our good friend, Bill Day, and Mrs. Day leaving the gallery, and I wouldn't want them to get away without a recognition of their presence. (Applause) As you know, Mr. Day is the long-time Chairman of the Illinois Legislative Council, and the council has been invaluable in its service to us. I am glad you were only shifting locations and that you are going to stay awhile. Thank you very much. We are delighted to have you with us.

And now we have further debate, and there are a number on the list here. Mr. Woods is next.

MR. WOODS: Mr. President, this amendment literally bristles with potential for confusion, and it has strong special-interest overtones.

PRESIDENT WITWER: Thank you, Mr. Weisberg?

MR. WEISBERG: Thank you, Mr. President. I just wanted to say briefly that I feel that the Convention is not really in a position to make a reasonable judgment about the many kinds of questions that have been raised about the proper interpretation and consequences of this amendment. It's interesting to hear the present and former members of the legislature give us some insight into the dispute that apparently has long some history in Illinois here.

I would like to echo the suggestion that Mr. Whalen made that not only that we take this up in connection with the impairment of contracts clause in section 14 of the bill of rights, but that it seems to me that before we do that, that it is very

important that we be given a definitive statement in writing by the sponsors of this proposal as to exactly what it is intended to do. To take it up for the first time in the way in which it is proposed we do it now seems to me to really invite us to walk up a swamp blindfolded.

PRESIDENT WITWER: Thank you. Now, we have been on this for quite a long time. We have three more on the list, and then perhaps we can vote. Mr. S. Johnson?

MR. S. JOHNSON: Thank you, Mr. President. I, too, got an avalanche of letters on the home rule part of this, and I looked into the problem, and as I recalled it—and Delegate Kinney mentioned that this was what she was attempting to get at—as I recall the problem, it was this: that the police and firemen pensioners have now in the statute a provision which requires or permits them to levy a tax if for some reason the pension doesn't provide enough income to pay the beneficiaries. Then they can go to the local government taxing bodies and levy a tax to make sure that the benefits are paid. Now, this is what they wish to protect, and this is what they felt the home rule provision might take away from them, as I recall the problem.

Now, maybe I am wrong about that, but that's the way it seems to come through to me. Now, if that is the case, I think we've gone into something far broader than that simple protection here, and this is what worries me a little bit about this amendment. Until such time as it can be narrowed down to that, or just discarded entirely, I think I would have to oppose it.

PRESIDENT WITWER: Thank you, Mr. Davis?

MR. DAVIS: Mr. President, ladies and gentlemen, I don't know whether I served on Pensions and Personnel in the senate for ten or twelve years, but it was one or the other. This is an extremely complex area. I think that we would be making a serious mistake to adopt this language without consulting at least with the actuary who advises the Pension Laws Commission of the state. I think that we would be far better off to reject this proposal and to place something in the bill of rights which would be hortatory in nature and perhaps give reassurance to the people who are involved here that their rights are vested and they will continue to be vested; but I think to adopt this in this language may very well, as Mr. Whalen has so well pointed out, do harm to the very people that we are attempting to protect.

PRESIDENT WITWER: Thank you, Mr. Bottino?

MR. BOTTINO: Mr. President and fellow delegates, as one of the signers of this proposal, I want to say that I think—and I believe this sincerely—that Mr. Whalen's proposal and suggestion is not only the right thing, but the thing that will satisfy a good number of people.

I, too, sat through a couple of sessions of the legislature and had these people who were concerned on pensions, and some of us are, too, as members of the teaching profession, and representative—or Delegate Parkhurst has given part of the story. I say part of it because I think it would be just as bad, you might say, to have the state fund completely all of its share of the pension systems, but the other side of it is, as Mr. Parkhurst and other members of the legislature may know, that participants in these pension systems have been leery for years of the fact that the—this matter of the amount the state has

appropriated has been made a political football, in a sense. In other words, in order to balance budgets, you see, the party in power would just use the amount of the state contribution to help balance budgets, and this had gotten to the point where many of the so-called pensioners under this system were very concerned; and I think this is the reason that pressure is constantly being placed on the legislature to at least put a fair amount of state resources into guaranteeing payment of pensions. But I just want to rise in support of Delegate Whalen's suggestion.

PRESIDENT WITWER: Thank you. Now I believe we should hear in summation from Mr. Green. Since this is a new section, I doubt that it's one that requires hearing from the committee.

MR. GREEN: Well, in tackling Delegate Elward and Delegate Parkhurst, I guess we didn't have a Charlie Coleman "merely bill" here.

In answer to the contractual status, one of the overwhelming reasons to mandate this contractual status is based on a Supreme Court decision from New Jersey in 1964 that has a very, very similar pension problem to that of Illinois.

In a Supreme Court decision, in ruling—or rejecting—an appeal to attach a contractual status to a plan of mandatory participation—and this is the interesting part—it stated that all these funds had in common the promise of inevitable doom. The reason was that the annual revenues in New Jersey were not related to the ultimate cost of pension benefits; so that while current income might suffice for the earlier pensioners, the day had to come when little or nothing would remain for others, even of their own contributions to the fund. Now this, ladies and gentlemen, is basically what the people of Illinois—or the public employees of Illinois—are very fearful of.

In answer to Delegate Parkhurst's question with regard to the diminishing aspect of it—the cost of living—any of you who know when you buy an insurance policy you're going to get back what that contract says. Now if the dollar isn't worth but twenty-seven cents when you get it back, there is absolutely no reason why you have any recourse against that insurance company.

What we are trying to merely say is that if you mandate the public employees in the state of Illinois to put in their 5 percent or 8 percent or whatever it may be monthly, and you say when you employ these people, "Now, if you do this, when you reach sixty-five, you will receive \$287 a month," that is, in fact, is what you will get.

Now, I would like to read what the General Assembly says in their laws with regard to contributions by the state, and see if you feel they have lived up to it:

The total amount of state contributions applicable to any fiscal year shall be the sum of the amounts estimated to be required on the basis of the actuarial tables adopted by the board.

Now, actuarial tables are not different in each of 374 pension plans. You can get one that will be universal across the nation. If you are eighty-seven years old an actuarial table will tell you how long you will live; and that is what these pension contributions are based on. What we are trying to do is to mandate the General Assembly to do what they have not done by statute. I would further submit that the only one of 374

pension programs that is fully funded in the state of Illinois is that of the General Assembly, and I think that's very odd. (Laughter)

Now, I think they either ought to live up to the laws that they pass or that very quickly we ought to stop when we are hiring public employees by telling them that they have any retirement rights in the state of Illinois. If we are going to tell a policeman or a school teacher that, "Yes, if you will work for us for your thirty years or until whenever you reach retirement age, that you will receive this," if the state of Illinois and its municipalities are going to play insurance company and live up to these contributions, then they ought to live by their own rules. And this is all in the world this mandate is doing.

In closing, I would further say it was done in 1938 by these exact words in the state of New York. It has worked; and you all know there is certainly a lot wrong in New York state, but from the standpoint of its public employee pension program, it is fully funded, it has not bankrupted the state to do it, and all is right with the world where this language has been used. Thank you very much.

PRESIDENT WITWER: Thank you. Now, we are on the Green-Kinney-et al. amendment, having to do with the addition of section 16. Mrs. Kinney, did you wish to be heard in summation, also?

MRS. KINNEY: Yes, I would like to, Mr. Chairman.

PRESIDENT WITWER: All right, I am sure the body would be glad to hear from you.

MRS. KINNEY: Well, I would say that I would wonder when the appropriate time to raise this in the bill of rights would be, since first reading has already come and gone and this wasn't mentioned. That is why I sought a specific ruling as to when it might be raised.

PRESIDENT WITWER: Well, Mrs. Kinney, if you are asking the Chair—

MRS. KINNEY: No, I am just commenting, Mr. President, thank you. I might say that Mr. Green and I in proposing this amendment consulted with the counsel to Mr. Whalen's committee, and the issue of proprietary rights perhaps being more advantageous was not raised at that time or not at all until it was commented upon upon the floor.

But I would say that the New York Constitution adopted such a provision in 1938, and this amendment is substantially the same language as the New York Constitution presently has. The thrust of it is that people who do accept employment will not find at a future time that they are not entitled to the benefits they thought they were when they accepted the employment.

PRESIDENT WITWER: Mrs. Kinney, may I interrupt? Gentlemen, ladies, please give Mrs. Kinney the courtesy of a full hearing.

MRS. KINNEY: Thank you. Mr. Green and I did discuss the term "vesting" with Mr. Kanter, the counsel to the Committee on Style and Drafting, and we thought that it would be quite fair if a person undertook employment under a statute that provided for a contingency for lowering the benefits at some future time, that this was, indeed, the contract that he had accepted. All we are seeking to do is to guarantee that people will have the rights that were in force at the time they entered into the agreement to become an employee, and as Mr.

Green has said, if the benefits are \$100 a month in 1971, they should be not less than \$100 a month in 1990.

I would ask for a roll call vote on this, if nine other delegates will support me, Mr. President.

PRESIDENT WITWER: There are nine who support your request. There will be a roll call. And now before we start the call of the roll, the question is whether we shall adopt proposed section 16, captioned "Pension and Retirement Rights" on the motion of Mr. Green and others. And those who will favor adoption of section 16 will answer yea or yes on the roll call. Those who are opposed to section 16 being adopted will answer nay or no. Mr. Clerk, kindly call the roll.

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

MR. BOTTINO: I would like to explain that I am voting no with the understanding that we are going Mr. Whalen's route.

MR. MAROLDA: I am going to vote yes, but I would like to say this: We are concentrating so much on pensions, I will say this, that in the next four or five years our Social Security will be better than pensions. Thank you.

MR. STAHL: My vote is "pass," Mr. President and fellow delegates. Although not currently a municipal employee, I must report that I have over \$7,000 in a municipal employees' pension fund on deposit, and therefore I pass.

MR. WEISBERG: Mr. President, I am voting no. I would like to explain that while I think that public employees are entitled to reasonable protection for the rights that are the subject of this amendment, it seems to me that it is undesirable to attempt to do this in this manner, which I think may invite a great deal of uncertainty, litigation for some years to determine its meaning and effect, and perhaps hold out the illusion of protection without the reality of protection, which I think only the legislature can give.

MR. WHALEN: Mr. President and fellow delegates, my vote is no. I voted for the right of public employees to organize. I think public employees have the right to have their pension benefits protected. I think that the majority here has unwittingly actually deprived public employees of some of the current rights that they now have.

PRESIDENT WITWER: May I have the leave of the body to explain my vote from up here, or shall I go downstairs. No objection?

VOCIES: Leave.

PRESIDENT WITWER: I am voting yes in the hope that the points which Mr. Whalen has raised will be properly protected in the work of the Style and Drafting Committee and that there will be an affirmation that this does not direct or control funding. I vote yes.

Mr. Davis?

MR. DAVIS: Mr. President, I am sorry, I was out of the room when my name was called, and I would like to vote, and I vote no, and in doing so, I sincerely believe that I am safeguarding the interests of those who are protected under public employee pension funds. I just hope that the action of this Convention in this regard will not react in a bad and serious way on those people. Thank you.

PRESIDENT WITWER: Thank you. Any other votes? Persons out of the room? Mr. Madigan? Mr. Madigan votes

yes, and Mrs. Anderson? Mrs. Anderson, no. Mr. Laurino? How do you vote, sir?

MR. LAURINO: Yes.

PRESIDENT WITWER: Yes on Mr. Laurino. Mr. Arrigo?

MR. ARRIGO: Yes.

PRESIDENT WITWER: Mr. Kenney?

MR. KENNEY: Thank you, Mr. President. I am sorry I was in the telephone booth earlier, and I wish to explain my vote. I wish to vote "pass" and explain that as a member of the State University's Retirement System I feel I should not express a yea or nay vote.

PRESIDENT WITWER: Thank you. Any others who would like to vote at this time. Mr. Kelley?

MR. KELLEY: I would like to change my vote from no to "pass."

PRESIDENT WITWER: Thank you. Mr. Cicero?

MR. CICERO: Thank you, Mr. President. Change my vote from no to "present," please.

PRESIDENT WITWER: Thank you. I guess that's it. Now, Mr. Clerk, roll call is closed. Just a minute; we haven't announced it. Mr. Stemberk, do you wish to announce your vote?

MR. STEMBERK: Yes. After a little bit of deliberation, I have considered the fact that I do have a vested interest in having a pension. I would like to change my vote from yes to "pass."

PRESIDENT WITWER: Thank you. And Mr. Alexander? I beg your pardon?

VICE-PRESIDENT ALEXANDER: No to "present."

PRESIDENT WITWER: Mr. Alexander changes his vote from no to "present." Mr. Orlando?

MR. ORLANDO: Mr. President, I, too—

PRESIDENT WITWER: Just a minute—one at a time here. I guess the clerk hasn't caught up with these rapid changes, not being a computer. Are you caught up now, Mr. Clerk? All right. Now, Mr. Orlando is next.

MR. ORLANDO: Mr. President, I wanted to change my vote from yes to "pass." I, too, have an interest in this matter and therefore feel I should not vote on it.

PRESIDENT WITWER: All right. Now, are we ready? Mr. Fogal?

MR. FOGAL: I wish to change mine from yes to "present." I have the same interest.

PRESIDENT WITWER: Mr. Fogal, yes to "present." Mr. Armstrong?

MR. ARMSTRONG: I suppose I have an interest as a teacher. My heart says I should continue to vote yes, but if my colleagues are passing, perhaps I should vote "pass" also.

PRESIDENT WITWER: All right. That is taken care of. Mr. Lyons?

VICE-PRESIDENT LYONS: Well, I am a member of a couple of pension funds, and I voted yes, and I persist in that vote. (Applause)

PRESIDENT WITWER: Now, Mr. Buford?

MR. BUFORD: Mr. President, I suppose I have been getting retirement benefits from the Teachers' Pension Fund longer than anybody, and I want to protect it. That's the reason I voted yes.

PRESIDENT WITWER: Thank you. Now, just a minute. Mr. Kemp, do you have a point of order?

MR. KEMP: I thought the polls were closed. If you will permit me, Mr. President, I thought I understood you to say that the polls were closed long before people began changing their votes from "pass" to yes and yes to no.

PRESIDENT WITWER: Now, Mr. Kemp—

MR. KEMP: I call a point of order.

PRESIDENT WITWER: All right, you made your point of order. Now, will you permit me to answer it, sir? The rule is, even though I may have made the statement informally, that the polls have closed because I thought everybody had stopped. The *Rules of Roberts*—and they bind us—permit a change of vote until such time as the roll call is announced. So your point of order is not sustained.

Mr. Woods?

MR. WOODS: Mr. President, may I thank you and Mr. Roberts, too.

PRESIDENT WITWER: Well, you don't have to thank me. You thank Mr. Roberts. Now, just a minute. Mr. Armstrong?

MR. ARMSTRONG: "Pass" to yes.

PRESIDENT WITWER: All right. The roll call has not as yet been announced. And now when I say the roll call is closed, it is with the understanding that nobody is up seeking to make a change, and that is all we had in mind, Mr. Kemp. Now, I guess nobody is up, and I am going to announce the roll call, and this locks it up.

Those voting in the affirmative were:

Armstrong	Hendren	Lennon, W.	Peccarelli
Arrigo	Howard	Lcon	Pechous
Brown	Hunter	Lyons	Peterson
Buford	Jaskula	Madigan	Pughley
Carey	Jenison	Marolda	Raby
Coleman	Johnsen	McCracken	Rachunas
Cooper	Kemp	Miska	Reum
Downen	Kinney	Netsch	Rigney
Durr	Klaus	Nicholson	Rosewell
Evans	Knuppel	Nudelman	Smith, R.
Fennoy	Laurino	Ozinga	Thompson
Friedrich	Lawlor	Pappas	Tomei
Gertz	Leahy	Parker, C.	Witwer
Gierach	Lennon, A.	Patch	Zeglis
Green			

Ayes-57

Those voting in the negative were:

Anderson	Foster	Mathias	Tecson
Borek	Johnson	Meek	Weisberg
Bottino	Kamin	Miller	Wenum
Butler	Karns	Mullen	Whalen
Canfield	Keegan	Parkhurst	Willer
Connor	Ladd	Scott	Wilson
Davis	Lewis	Shuman	Woods
Dove	Macdonald	Smith, E.	Wymore
Elward	Martin	Sommerschield	Yordy

Nays-36

Those voting "pass":

Kelley	Orlando	Stemberk	Strunck
Kenney	Stahl		

Pass-6

Those voting "present":

Alexander	Cicero	Fogal
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Present-3

PRESIDENT WITWER: This has passed. The vote was yea, fifty-seven; nay, thirty-six; three, present; and six, "pass."

Now, any further amendments on this section? If not, the motion, please. Motion, Mrs. Howard? We have a motion or we should have from Mr. Green. Mr. Green makes the motion that this now be approved at first reading and submitted to Style and Drafting. It has been seconded by Mr. Lyons. Are you ready? Those who favor it, please raise their hand. Now, if you will lower your hands, please, those who are opposed. Section 16, as heretofore voted on, is approved and submitted to Style and Drafting at first reading by a vote of yea, seventy-five, nay, four.

Now, Mrs. Howard?

May I suggest that we—we are sort of pointing toward the idea that perhaps today we can complete the report of the Legislative Committee, and this means, of course, working this evening; and the job of reapportionment is still open.

Mrs. Howard, do you have something to tell us at this point?

MRS. HOWARD: Mr. President and fellow delegates, Delegates Canfield, Fogal, Knuppel, and Kinney join me in an amendment, a new section to the legislative article, calling for a United Assembly, which is a new concept for a legislature. In view of Delegate Karns's comments earlier today of not presenting matters which stood no chance of passage, I queried quite a few of the delegates to see if there was any chance of it passing. There was great interest in the idea, but very honestly, the votes were not there for passage, so I was going to move that it just be made a part of the record of the Convention; but since that time I had five or six delegates ask me to please present it so that we can ask some questions on it and debate the issue. Now, I will take leave of the Convention as to what they want to do on this, or whether you want to take up reapportionment first, or what your feeling is on it.

PRESIDENT WITWER: Well, do you think it is going to take very long, Mrs. Howard?

MRS. HOWARD: That will depend on the questions that will be coming from the delegates.

PRESIDENT WITWER: You have the privilege, as a member of this body, to make any motion that is germane, if you care to do it; and I think we ought to get it out of the way before we go into reapportionment, which will be our final job today, and I think we ought to stay with reapportionment until we are finished. So whatever time is taken on this will by necessity have to come out of reapportionment, or we will have to lengthen the work day to make adjustments. So, what is your motion, Mrs. Howard?

MRS. HOWARD: Well, in view of the nods around the room from some of the delegates, I presume the amendment had best be presented. I have written out the arguments. They are on everybody's desk, so perhaps someone could take a few