

PROPERTY TAX CONVENTION TASK FORCE



- > [property tax home](#)
- > [task force members](#)
- > [view bill establishing task force](#)
- > [convention related press releases](#)
- > [task force background](#)
- > [task force transcripts](#)
- > [task force final report](#)
- > [hearing audio](#)

[contact the governor](#)

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1 STATE OF NEW JERSEY

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3 NEW JERSEY PROPERTY :

4 TAX CONVENTION TASK FORCE : TRANSCRIPT OF HEARING

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6 Date: November 23, 2004

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JACK DONNELLY, State of New Jersey, Office of
9 the Governor, The Statehouse, PO Box 001,
Trenton, New Jersey 08625

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PANEL PARTICIPANTS:

11

(Not introduced/identified for the record)

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13 MICHAEL R. COLE, VICE CHAIRMAN

SHERRYL GORDON

14 SENATOR LEONARD LANCE

ASSEMBLYMAN KEVIN O'TOOLE

15 MAYOR GARY PASSANANTE

ERNEST C. REOCK, JR., Ph.D.

16 ASSEMBLYMAN JOSEPH J. ROBERTS

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17 CY THANNIKARY

CARL E. VAN HORN, Ph.D., CHAIRMAN

18 SENATOR RICHARD VAN WAGNER, SR.

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1 (Tape 1, Side A)

2 MR. VAN HORN: -- seated across from

3 us -- across from me, to introduce themselves.

4 As I mentioned at the last meeting, I

5 asked the staff to be here today, and also Professor

6 Williams and Professor Tarr, to act as resources to

7 us, to answer factual questions that we may have,

8 and/or to receive requests from us to go get

9 additional information that they can't answer

10 immediately. So they are here as a resource to us,

11 to be called upon as necessary.

12 So could you introduce yourselves to

13 the task force? Ed? Starting with Ed McBride. And

14 where you're from, also please, your affiliation.

15 MR. MC BRIDE: Yes. I'm Ed McBride,

16 I'm the Deputy Chief of Management and Operations in

17 the Office of the Governor.

18 PROFESSOR WILLIAMS: I'm Bob Williams,

19 I'm a professor at the law school, Rutgers Law

20 School in Camden.

21 PROFESSOR TARR: I'm Alan Tarr, I'm

22 Director of the Center for State Constitutional

23 Studies at Rutgers Camden.

24 MR. KELLY: I'm Peter Kelly, I'm an

25 attorney with the Office of Legislative Services.

3

1 MR. PARISI: Frank Parisi, I am a

2 principal research analyst with the Office of

3 Legislative Services.

4 MS. WINTERS: Gina Winters, associate

5 (inaudible - not recorded) Office of Legislative

6 Services.

7 MR. HERMAN: Fred Herman, Election Law

8 Enforcement Commission.

9 MS. KELLY: And Donna Kelly, Senior

10 Deputy Attorney General; I handle election matters

11 for the state.

12 MR. VAN HORN: Thank you, ladies and

13 gentlemen, for being with us today.

14 There's also in front of all of you,

15 hopefully the staff has distributed the questions

16 that we're going to be considering today, as well as

17 dates for upcoming meetings, and also a chart that

18 was prepared pursuant to a request by Senator Lance

19 on constitutional conventions since 1970. And

20 that's just for your reference.

21 The purpose of today's meeting, as I

22 announced at our last session, it to begin

23 discussing some of the many issues that we have

24 heard testimony about, and to help frame the report

25 that we must make to the Legislature by the end of

4

1 this year.

2 As all of you know -- but for those of
3 you who are coming to this meeting for the first
4 time, are coming to our meeting for the first time,
5 we have had eleven public meetings so far, including
6 an organizational meeting.
7 Three public hearings, at which 500
8 people attended, and we heard from 130 of those
9 individuals. We've heard from expert witnesses
10 representing interest groups and the prospective
11 constitutional scholarship; former governors, former
12 justices of the State Supreme Court, historians, and
13 so on. And we have done so in order to further
14 enlighten ourselves about the many complex issues
15 that attend the undertaking that we are charged with
16 fulfilling.

17 And I think I can speak for all of my
18 colleagues on the task force in saying that this
19 process has been an educational and enlightening
20 one. We've heard many strong and passionate
21 opinions and many well informed opinions, sometimes
22 both passionate and well informed. And it has been
23 helpful to me, certainly, as a member, in
24 formulating my views.

25 But now we must get on to the task of

5

1 crafting a report, and so today's session is a
2 deliberative session, and my objection is to use

3 these meetings to try to build a consensus for
4 eventual recommendations. And I wanted to urge us
5 to avoid a protracted discussion about the pros and
6 cons of the convention itself, because it seems to
7 me, as was stated at the first meeting that we had
8 here, there's broad consensus, I think, in this
9 group that such a constitutional convention is
10 necessary and desirable, and that our job is to help
11 advise the Legislature about how to conduct such a
12 convention.

13 And I've had the opportunity to speak
14 to a number of meetings in between our last meeting
15 and this meeting, and many people indicated to me,
16 as some did; Dr. Reock did at the last meeting, it
17 makes no sense to us to be voting specifically on a
18 product that has yet to be completed. And that's
19 really what we're about today, is to start that
20 process; and, therefore, we should begin to
21 deliberate on these issues, and it's really
22 premature to take a vote yes or no, up or down.
23 It's my belief that, from the
24 discussions with -- amongst ourselves, in the
25 collegial manner that we have conducted ourselves so

6

1 far, that we will achieve a broad consensus about
2 how to proceed, and that we will come forth with, if
3 not a unanimous recommendation to the Legislature,

4 certainly one that has very broad support among this
5 distinguished task force.

6 Unless anyone objects, therefore, to
7 that approach, what I'd like to do is to begin with
8 the discussions of the issues put out before us for
9 today on delegate selection and campaign finance,
10 and to hear what everyone's thoughts are about those
11 issues; as I said before, probe the staff that are
12 here today as an excellent resource to help us, and
13 Professors Williams and Tarr -- Williams and Tarr,
14 to help answer questions that we have; and then task
15 them, especially under the leadership of Mr. McBride
16 to draft recommendations, draft language for us to
17 look at at subsequent meetings.

18 It is certainly not my intention in
19 doing this, in taking this approach, to close out
20 any discussion because we may revisit some of these
21 issues at later meetings. But I think we can work
22 through these questions, or many of them, today, and
23 hopefully get some point of view out; in some cases,
24 it may be multiple points of view, and then ask the
25 staff to help draft language. Then, in our

7

1 subsequent meetings, which we'll, again, talk about
2 later, we will be proceeding with the other issues
3 that have been laid out for the task force.

4 So that's my intention; and I hope,

5 hearing no objections, we can proceed along those

6 lines.

7 Okay. Let's begin with the delegate

8 selection issue. Again, we put this out in a -- I

9 thought a very useful format the staff has provided

10 to us: A set of questions with some discussion,

11 very brief discussion, that essentially lays out and

12 tries to summarize what some of the witnesses have

13 said to us, and what some of the historical

14 precedents are, and also, of course, the legislative

15 precedents; that is, the various bills that have

16 passed one or more bodies of the State Legislature

17 in recent years.

18 And the first set of questions has to

19 do with the timing of the election of delegates,

20 whether -- and, of course, the first three questions

21 are interrelated. You know, one is:

22 Should delegates be elected

23 simultaneously with the approval or disapproval

24 question about the convention itself?

25 Now, of course, depending on how we

8

1 resolve that, the next two questions may be moot.

2 But the second question is:

3 Should delegates be elected during a

4 general election, a primary election, school board,

5 et cetera? That is, if you don't have it at the

6 same time.

7 And should they be elected by some

8 other process, other than the normal, you know,

9 showing up in the voting booth, such as a mail-in

10 election, which was suggested.

11 So let me throw that question out for

12 comment because that is an issue which has been --

13 we've heard many opinions about, and I'm very much

14 interested in seeing where the task force members

15 are on that particular question. Who would like to

16 start the ball rolling? Dr. Reock.

17 DR. REOCK: In my opinion, it would be

18 best to elect the delegates simultaneously with the

19 approval or rejection, to do that at the general

20 election. And I say that for three reasons:

21 One, it would save at least \$5

22 million, from the figures I've been able to collect.

23 A special election will cost somewhere over \$5

24 million, somewhere between five and ten probably.

25 Secondly, it would allow the

9

1 convention to start its work earlier, giving them a

2 longer time period to do what is going to be a very

3 complex job.

4 And the third is that, at the general

5 election, there will be a bigger voter turnout, so

6 we'll have a better view of the -- what the voters

7 of the state want.

8 Now the argument on the other side is

9 that, by putting it at a special election, you

10 concentrate more attention on the election. I have

11 to go back to my experience in 1966, when the

12 special election drew a turnout of three percent of

13 the registered voters of the state. I'm sure we'd

14 get higher than three percent this time, but I don't

15 think it would be a lot higher.

16 So I would urge that we elect the

17 delegates at the general election, simultaneously

18 with the approval or rejection of the idea of the

19 convention itself.

20 MR. VAN HORN: Michael Cole.

21 MR. COLE: Thank you. I agree with

22 the professor that turnout is an important thing.

23 But I wonder if we can bridge that gap and still

24 avoid -- the argument on the other side, it seems to

25 me, was there would be a lot of confusion, a lot of

10

1 noise if you had to choose delegates at the same

2 time you were choosing elected officials, at the

3 same time you were deciding on the convention. And

4 I don't know, I kind of am close on that because I

5 think voters can separate out a lot of different

6 issues. They're pretty well informed.

7 But I was intrigued by the prospect of

8 doing a special election, but doing it in what is in
9 New Jersey a non-traditional way, doing a mail
10 ballot, which struck me as a way to broaden the base
11 of participation beyond the three to five percent
12 that would show up a special, which I think would be
13 a terrible thing to have delegates selected by three
14 to five percent of the people.

15 So I think you can separate them and
16 still achieve the participation by the voters that
17 you want, if you're willing to be somewhat
18 adventuresome and go to the mail ballot. And that's
19 been done in other states, so we know how to do it.

20 MR. VAN HORN: Other views? Yes,
21 Assemblyman Roberts.

22 ASSEMBLYMAN ROBERTS: Chairman, thank
23 you. I originally, in the legislation that we
24 offered, advocated the special election in the
25 spring, using the model where the election would be

11

1 in the spring and the convention would work during
2 the summer, and its end product would be on the
3 ballot the subsequent year.

4 The more I think about it, I am coming
5 down on the side of having the delegates selected
6 simultaneous with the question being on the ballot
7 on November for some of the points that have already
8 been stressed. I think that there is the ability to

9 separate this very, very important question from the
10 partisan environment of election of the Governor and
11 the Legislature. Hudson County, this past time, had
12 a nonpartisan election in Jersey City that was
13 conducted during the partisan process; it was able
14 to be separated, and we've seen that on a number of
15 occasions.

16 The advantage of maximizing turnout
17 and having this be a fully true participatory
18 process I think is really very, very valuable. We
19 have to make sure that all New Jerseyans who want to
20 participate find this to be convenient, and I think
21 that we've seen that that tends to be the November
22 election and not other dates.

23 Just I know we'll be touching on this
24 in a few moments, but I mentioned to you, Mr.
25 Chairman, before we began that some of the election

12

1 reform bills that we're beginning to talk about deal
2 with greater access by mail, advanced voting, and
3 things of that sort. And some of them, I think,
4 will be up and running in advance of next November,
5 so I think we will have a great access to the ballot
6 box in November with respect to no-fault absentees,
7 and perhaps a measured example of advanced voting,
8 as well.

9 One of the criticisms that we've heard

10 so far from the public is that -- is that we're
11 taking forever to tackle this problem, and that's
12 not the fault of this task force; it's the fault of
13 the Legislature, and I think we've already 'fessed
14 up to that and acknowledged it. And one of the
15 great advantages of having the question and the
16 delegate election simultaneously would be to allow
17 us to move more expeditiously, and I think that's an
18 asset, as well.

19 THE COURT: Yes. Assemblyman O'Toole.

20 ASSEMBLYMAN O'TOOLE: Yeah. I would
21 agree with my colleague Joe Roberts that, given all
22 the reasons cited by Ernie, that I would be in favor
23 of a general election, simultaneous with the up or
24 down on the question itself.

25 Although I am really intrigued by

13

1 Michael's suggestion of the mail-in ballot. I have
2 sponsored legislation about trying to mirror
3 Oregon's -- what they have done out there, in terms
4 of the mail-in, which you get a greater
5 participation, upwards of seventy-five, eighty
6 percent of the vote. And if there's some way that
7 we can even look at that.

8 And my question to either, I think,

9 Donna Kelly or something: Is that practically --

10 are we -- is that your area, Frank?

11 MR. PARISI: Yeah. I --

12 ASSEMBLYMAN O'TOOLE: Are we capable

13 of handling that issue, you know --

14 MR. PARISI: Currently.

15 ASSEMBLYMAN: -- here and now,

16 currently?

17 MR. PARISI: I don't think we are, and

18 I'll tell you why. We have never had a large-scale,

19 statewide mail-in voting scheme up and running.

20 And, currently, mail-in voting is really only -- the

21 only kind of mail-in voting we have is absentee

22 voting, which is typically between one and three

23 percent for any election. We do have mechanisms to

24 be able to count those and tabulate those votes,

25 usually through optical scan machines.

14

1 But the problem is, if you have

2 thousands of -- upon thousands of votes, I don't

3 know that the counties would have the capabilities

4 or the machinery currently to be able to handle

5 those the way they're set up at the present time,

6 and that would be my concern.

7 ASSEMBLYMAN O'TOOLE: Donna, do you

8 have an opinion on that? The mail-in proposal.

9 MS. KELLY: Well, it would be

10 interesting to try it in an election like this, but

11 I'm not sure that the counties could not handle it.

12 I will tell you, in Camden County, however, they
13 only count by hand, so they'd have to be counting
14 all those ballots by hand. But most of the other
15 counties do have optical scanners, and it would just
16 be a matter of, you know, taking a little bit of
17 time to do 10,000 or so at a time. But I think,
18 technically, it's feasible, except for that one
19 county, where they --

20 ASSEMBLYMAN O'TOOLE: And, Chair, I'd
21 like --

22 MS. KELLY: And actually, Burlington,
23 too, may actually only count by hand.

24 ASSEMBLYMAN O'TOOLE: I'd like to get
25 a little more feedback from -- well, ask to find out

15

1 if it's really practical.

2 And in terms of the general election,

3 I think there's an agreement that we want the

4 greatest -- I mean, that's the greatest number of

5 voters coming out currently, with the methods that

6 we have used. I've got great faith in the

7 electorate, that they can, you know, discriminate

8 between a convention delegate and an assembly or a

9 senate or a local race.

10 And I'd be very much in favor of

11 moving ahead in certainly a November election; and,

12 if we can't do the paper ballot, which I think is

13 interesting, then we certainly move ahead with the

14 more conventional method.

15 MR. VAN HORN: Yes, Mayor.

16 MAYOR SCHUBERT: Thank you, Mr. Chair.

17 I actually -- I have a question. Would it be

18 possible -- if it was determined that we could do

19 some sort of a mail-in, would it be possible to ask

20 the question on the mail-in prior -- like early

21 enough into the year, where then -- then we could do

22 the candidates in the November election.

23 Because one of the questions I have,

24 by doing them simultaneously, is: If someone votes

25 no for the convention, will they still then be able

16

1 to vote for the delegates?

2 UNIDENTIFIED PARTICIPANT: (Inaudible

3 - not recorded)

4 MAYOR SCHUBERT: Uh-huh. So, you

5 know, I would just think maybe --

6 MR. VAN HORN: The answer to your

7 second set of questions is yes.

8 MAYOR SCHUBERT: Right.

9 MR. VAN HORN: The answer to the first

10 set of questions is, theoretically, yes. Although

11 my reaction immediately, just off the top of my head

12 to that one, is that then we're talking about the

13 small electorate problem again. In other words, if

14 you had a -- and I think there's consensus about not
15 having a small electorate; and, in fact, there is --
16 and we've talked about this before, and I don't know
17 what -- if the professors want to weigh in on this
18 or not. But again, since the constitution isn't
19 clear about this, we're really following the
20 amendatory process, right? And we're saying that
21 the vote should take place at a general election,
22 correct?

23 PROFESSOR TARR: Mr. Chairman, it's
24 not that the constitution requires that for the
25 amendatory process; it requires it for any --

17

1 MR. VAN HORN: Any --

2 PROFESSOR TARR: -- statewide

3 question.

4 MR. VAN HORN: Any statewide question.

5 Okay.

6 PROFESSOR TARR: So it could also

7 apply to bond --

8 MR. VAN HORN: So that would respond

9 to the mayor's point, which was -- in other words,

10 we're trying to follow that procedure. For any

11 statewide question, it needs to be at a general

12 election. So I think, if I understood your

13 question, we would be violating that.

14 However, the second point was, you

15 definitely could vote for -- against a convention,

16 but for a set of delegates within your district.

17 Senator Van Wagner.

18 SENATOR VAN WAGNER: Mr. Chairman, I

19 apologize for being late.

20 MR. VAN HORN: That's all right

21 (inaudible - not recorded).

22 SENATOR VAN WAGNER: I take it that

23 Senator Adler's suggestion of last week has already

24 been tabled, and we're proceeding --

25 (Participants speaking simultaneously)

18

1 SENATOR VAN WAGNER: You didn't.

2 Okay.

3 (Participants confer)

4 MR. VAN HORN: Well, I don't want to -

5 -

6 SENATOR VAN WAGNER: I must be getting

7 old. Anyway ...

8 MR. VAN HORN: I don't want to go over

9 my --

10 SENATOR VAN WAGNER: No, I understand.

11 MR. VAN HORN: -- my entire preamble,

12 but I --

13 SENATOR VAN WAGNER: I heard -- yeah,

14 I heard about your preamble.

15 MR. VAN HORN: Okay.

16 SENATOR VAN WAGNER: Okay.

17 MR. VAN HORN: Thank you.

18 SENATOR VAN WAGNER: My question is

19 this. When you set up this ballot for this issue,

20 besides the mass confusion that we're going to have

21 with governors and legislators and local offices, I

22 take it that this constitutional amendment question

23 for the call of the convention will be off to the

24 side, such as other questions are positioned for

25 bond issues and things like that.

19

1 MS. KELLY: Yeah, they --

2 SENATOR VAN WAGNER: Is that pretty

3 much how you set it up?

4 (Ms. Kelly not identified for the record)

5 MS. KELLY: Yes, that's how you would

6 set it up. It has to be basically at the top of the

7 ballot, along with the other possible statewide

8 questions that you would have at the election.

9 SENATOR VAN WAGNER: Okay.

10 MR. VAN HORN: Along with the

11 delegates.

12 SENATOR VAN WAGNER: Along with the

13 delegate.

14 Now why would anybody vote against the

15 convention, and then vote for delegates anyway?

16 Could I have -- does anybody -- what would be the

17 sense of that?

18 (Mr. Cole not identified for the record)

19 MR. COLE: That would be the

20 instruction that -- the questions are separate; and,

21 even if you vote against the convention, you have

22 the right absolutely and should exercise the right

23 to choose your representative at the convention.

24 SENATOR VAN WAGNER: But you just said

25 you didn't want a convention.

20

1 MR. COLE: No, but you want to be

2 represented if you lose.

3 MR. VAN HORN: If you lose.

4 SENATOR VAN WAGNER: Oh, I see. Okay.

5 All right. That's -- okay, thank you. You know,

6 sometimes when you get older, it's hard to sort

7 through all that information. Okay.

8 (Laughter)

9 SENATOR VAN WAGNER: You can guess,

10 obviously, I think this is a terrible idea, but go

11 ahead.

12 MR. VAN HORN: Senator Lance.

13 SENATOR LANCE: Thank you, Mr.

14 Chairman. Thank you, Mr. Chairman.

15 I have a ballot from 1947. The

16 question to be voted upon for or against, and I will

17 pass this among my colleagues. And then it states,

18 Senator Van Wagner, after that question to be voted
19 upon, whether or not there will be a convention in
20 1947, quote:
21 "Regardless of how you have voted on
22 the constitutional convention above, vote below for
23 your choice of delegates to the convention if one is
24 to be held."

25 SENATOR VAN WAGNER: (Inaudible - not

21

1 recorded).

2 SENATOR LANCE: And so this is as

3 appeared throughout New Jersey in 1947. I have

4 quite a few of these because I was given them as

5 birthday and Christmas presents --

6 (Laughter)

7 SENATOR LANCE: -- throughout most of

8 my childhood.

9 (Laughter)

10 MR. VAN HORN: Thank you for sharing.

11 (Laughter)

12 MR. THANNIKARY: Christmas present.

13 (Laughter)

14 MR. VAN HORN: Mr. Thannikary.

15 MR. THANNIKARY: Thank you, Mr.

16 Chairman. Two questions. One is for the professors

17 here.

18 How did we elect delegates at the

19 previous conventions, 1947 and 1966 conventions in

20 New Jersey?

21 And the second one is for the

22 commission. Do we have capability to do electronic

23 polling, electronic voting; are we ready

24 (indiscernible) or --

25 (Mr. Parisi not identified for the record)

22

1 MR. PARISI: In regards to electronic

2 voting, it really depends upon the county. Some

3 counties currently -- I'm not quite certain what you

4 mean by "electronic voting." If you mean an

5 electronic voting machine --

6 MR. THANNIKARY: (Inaudible - not

7 recorded).

8 MR. PARISI: -- there are counties

9 that do have them. But not -- by all means, not all

10 counties. Some of the larger counties are still

11 using mechanical lever machines.

12 Now whether or not they're going to be

13 up and running by the next November election is an

14 open question, we don't know currently. Donna, you

15 may have more information than I do on that.

16 MS. KELLY: Well, all we have right

17 now is about -- only five counties in the state

18 still use the lever machine; all other counties in

19 the state use some format of electronic machinery.

20 We certainly -- if you were thinking of internet
21 voting, we certainly don't have that, you know, in
22 New Jersey. And I cannot say at this point that we
23 would not have those lever machines for November,
24 next November, as well.

25 UNIDENTIFIED PARTICIPANT: (Inaudible

23

1 - not recorded.)

2 (Professor Williams not identified for the record)

3 PROFESSOR WILLIAMS: On the first

4 question, the 1947 election, of course, was at the
5 general election, the same time the ballot question
6 was.

7 (Participants confer)

8 PROFESSOR WILLIAMS: In '47.

9 MS. KELLY: Right.

10 PROFESSOR WILLIAMS: Oh, sorry.

11 MS. KELLY: Yes.

12 PROFESSOR WILLIAMS: Because that's

13 before the constitutional provision was put in, in
14 '47, requiring it -- sorry.

15 PROFESSOR TARR: It was on June 3rd,

16 1947.

17 PROFESSOR WILLIAMS: Yeah. And it was
18 partisan.

19 In '66, it was a special election.

20 I'm not sure, Dr. Reock probably knows what date it

21 was, and --

22 DR. REOCK: It was in March, held in

23 March.

24 PROFESSOR WILLIAMS: March, okay. And

25 partisan or nonpartisan?

24

1 DR. REOCK: There were bipartisan

2 tickets that were put up in every county, and in

3 three counties, I think it was -- three or four

4 counties, there were independent tickets that ran

5 against the bipartisan tickets, and did not win, did

6 not come close.

7 PROFESSOR WILLIAMS: I can't say

8 that's my answer, but it was collective.

9 MR. VAN HORN: Senator Lance.

10 SENATOR LANCE: Yes. In 1947, there

11 were bipartisan tickets in many of the counties, but

12 not all of the counties; and, in some of the rural

13 counties, there were partisan tickets. And the

14 ballot that's being distributed is a partisan ticket

15 in Hunterdon County. But in many of the counties in

16 1947, there was an attempt at a bipartisan split,

17 although that did not occur throughout the state.

18 On another matter, if we're going to

19 go the route of combining the question and selection

20 of delegates at a general election, presumably I

21 would imagine a year from now in 2005, that would

22 mean -- and I know we're going to decide later
23 whether legislators should be permitted to be
24 delegates or not. But if they were to be permitted
25 to run for delegate, then of course you would have

25

1 assembly members on the ballot the same day; not
2 true of us in the Senate, but true of members of the
3 Assembly.

4 MR. VAN HORN: And what -- can you
5 elaborate on what you -- how you feel about that,
6 what the implications are?

7 SENATOR LANCE: Well, I'm of mixed
8 emotion of whether legislators should be permitted
9 to be delegates. I do point out, however, that if
10 we go this route, there might be some assembly
11 members who would also want to be considered for
12 delegate, and they'd be on two places of a ballot at
13 the same time.

14 MR. VAN HORN: Well, let's come back
15 to that point.

16 Any other comments on this particular
17 issue of timing and method of elections? Dr. Reock.

18 DR. REOCK: Well, this is just a
19 footnote on the '66 convention, and that is that no
20 party was allowed to elect more than half the
21 delegates from each county; so, in effect, it came
22 out as a bipartisan convention.

23 MR. VAN HORN: I would suggest that
24 perhaps on this point, we seem to have consensus at
25 least around the issue of timing; I didn't hear any

26

1 other strong opinions to the contrary.
2 And that as to the method question, it
3 seems to me that, as Assemblyman O'Toole suggested
4 and the vice chairman suggested, we perhaps need to
5 explore these issues further, also looking at
6 Assemblyman Roberts's package of legislation, and
7 come back with some more information about how those
8 would interact with each other, and whether we're
9 satisfied that this is essentially enhancing the
10 opportunity to vote in this -- for this -- these
11 issues and delegates in the general election of
12 2005.

13 So I'm going to suggest that we move
14 on then to the next set of questions with respect to
15 -- and I guess the way I would cluster them, having
16 to do with the eligibility for the election, and
17 that is the number of signatures required to get on
18 the ballot, and whether the delegates should be --
19 what are the qualifications for a delegate. So I'm
20 sort of linking these two questions together.
21 But starting with Number 4, the
22 question of how many petition signatures should be
23 required, and there are various proposals afloat.

24 And I'm interested to see whether we can reach

25 consensus on that point as well.

27

1 We'll start with Senator Lance.

2 SENATOR LANCE: Thank you, Mr.

3 Chairman. I think 500 is much too many. I believe

4 for a member of the Legislature at the moment, it's

5 100. I think for Governor it's 1,000.

6 MR. VAN HORN: I think 100 is correct.

7 SENATOR LANCE: And I would suggest

8 that delegates should be at the level of member of

9 the Legislature, which is 100 signatures.

10 And let me state, having been through

11 this seven or eight times, you go knocking on doors,

12 asking for signatures, even at the level of 100.

13 And my strong recommendation would be 100

14 signatures, and that the qualification for delegate

15 be the qualification of the lower house of the New

16 Jersey Legislature, the General Assembly.

17 SENATOR VAN WAGNER: Mr. Chairman.

18 MR. VAN HORN: Yes, Senator Van

19 Wagner.

20 SENATOR VAN WAGNER: I would agree

21 with Senator Lance on the number.

22 I would ask, since -- when the

23 Legislature turns in its petitions and the Secretary

24 of State's Office, I assume, reviews those petitions

25 for proper form and substance, et cetera, will you

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1 have the staff to review, let's see, 160 members of
2 the Legislature, and whoever else you review, and
3 then all of these delegates, all of whom will have
4 100 signatures each, depending on how the counties
5 conduct their elections?

6 MS. KELLY: Yeah. If you decide that,
7 you know, there are going to be petitions filed for
8 this convention, it would make sense that they would
9 file through the Division of Elections, which is now
10 in the Department of Law and Public Safety, with the
11 Attorney General.

12 SENATOR VAN WAGNER: Oh, okay.

13 MS. KELLY: And, yes, I mean, we will
14 provide whatever resources would be required to
15 review the petition for sufficiency, which normally
16 means you're making sure you have a sufficient
17 number of signatures, that the circulated portion is
18 filled out, the candidate's acceptance is filled
19 out. You have the opportunity to file any
20 objections, if so be it, to a petition. So that it
21 would run through the normal process that we would
22 have for any petition filed at the state level.

23 SENATOR VAN WAGNER: So you wouldn't
24 need any additional staff.

25 MS. KELLY: We may, we may. But we

29

1 would provide what would be needed.

2 SENATOR VAN WAGNER: Okay. Thank you.

3 MS. KELLY: Uh-huh.

4 MR. VAN HORN: Other comments on this

5 issue?

6 Well, I will just say that I agree

7 with what Senator Lance said. I think that --

8 again, we heard from members of the public about --

9 some of them, about their desire to participate in

10 this, and I think we want to set a bar that is

11 achievable. And I think that what the senator is

12 suggesting is definitely in line with that.

13 Okay. Hearing no objection to that,

14 I'll move on to the next question, which I jump to,

15 and that is the one that Senator Lance already put

16 on the table, and that is whether elected officials,

17 and especially and including legislators, should be

18 permitted to run as delegates; and, if so, whether

19 there should be any limitations in the number per

20 district. And we'll talk about the districts later.

21 But that's a subject that we heard

22 many opinions on already, pro and con. And I would

23 be interested in the task force's opinions on that

24 subject. We've already heard from Senator Lance on

25 that. Other views?

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1 (Participants confer)

2 MR. VAN HORN: Mayor Passanante, and

3 then Senator Van Wagner.

4 MAYOR PASSANANTE: I guess I'll be the

5 first to throw in my position. And with all due

6 respect, I believe that the Legislature should not

7 be part of the selection process. They've had their

8 opportunity to do the job, and I think that the

9 political pressures that they have to deal with

10 would make it an impossible task for them to be able

11 to do it in an unbiased fashion.

12 Although I do believe that they should

13 be part of some resource that should be made

14 available because they do bring a lot of expertise

15 to the table, and we do need to have their opinions,

16 to make sure that the decisions and the presentation

17 of a final outcome would be consistent with what we

18 would want to see for the entire state. So I think

19 that they're valuable; I just don't believe that

20 they should be in a voting block there.

21 MR. VAN HORN: Senator Van Wagner, and

22 then Mayor.

23 SENATOR VAN WAGNER: Yeah, I basically

24 agree with that. I think probably to truly have

25 what I expect everybody wants is a people's

31

1 convention. And given the fact that we've had so
2 many requests from various groups, et cetera, to be
3 delegates, and the fact that the Legislature
4 ultimately is going to have to review whatever the
5 convention comes up with, I would agree that it
6 would probably be better if legislators were
7 excluded from running as delegates.

8 MR. VAN HORN: Yes, Mayor.

9 MAYOR SCHUBERT: I agree with that
10 position, and I also want to state another reason to
11 consider. If we're going to be doing the voting
12 during the general election, wherein there will be
13 legislators on the ballot, as well, it could put us
14 in a position where they're -- they have an unfair
15 advantage against other people because they're sort
16 of looking for two-for-one.

17 MR. VAN HORN: Yes, Dr. Reock.

18 DR. REOCK: I'd like to express a
19 contrary opinion. I think it's desirable to have
20 some legislators in the convention. They bring
21 experience, they bring some expertise; and, more
22 than that, I think they bring a capacity, for some
23 of them anyway, of compromise. And I think
24 compromise is going to be essential in a convention.
25 The tendency, if you get non-legislators, I think

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1 will be to find people who come in with hard and

2 fast positions, and find it very difficult to
3 compromise when they're dealing with people of
4 differing views.
5 If you go back to the -- again, I'm
6 sorry, I keep going back to the '66 convention,
7 that's where I have had some experience. It was the
8 legislators who really brought that convention to a
9 conclusion, and brought a product out of the
10 convention. Without legislators there who had had
11 some experience of compromising, and some experience
12 of working with each other, I am not sure that
13 convention ever would have produced anything.
14 So I'd like to make a counter-
15 suggestion here, and that is -- and it goes a little
16 beyond this particular question. I'd like to
17 suggest that we have three delegates from each
18 legislative district, no more than one of whom may
19 be a sitting legislator. That will give us a chance
20 to have legislators in the convention, but not to
21 the extent of dominating the convention. Thank you.

22 MR. VAN HORN: Senator Adler.

23 SENATOR ADLER: At the risk of being
24 contrary to Dr. Reock, I think legislators can be
25 just as stubborn and just as difficult as regular

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1 people in almost any instance.

2 My own sense, maybe I'm being falsely

3 realistic, is that there weren't going to be a lot
4 of legislators who are going to want to be
5 convention delegates; that having as many people,
6 Mayor Passanante has said and others have said, as -
7 - we've shown the ability to not deal with the
8 issues as legislators. I don't think we want to
9 compound that felony to the people by having a
10 second opportunity to let them down.

11 So I think there will be very few of
12 us that want to be involved in this process directly
13 as delegates. Not that we don't have a vital
14 interest as taxpayers and as citizens to have
15 something come out of this that's better than the
16 status quo, but I think realistically you'll only
17 have a few of us -- and I don't include myself when
18 I say "us" in that regard -- want to be candidates.
19 So I think we're debating, with great
20 respect for the people who have already spoken, an
21 issue that just isn't borne out in reality. I think
22 you're not going to see enough of us want to be
23 candidates for this to matter one way or another.
24 So the couple of people that want to do it, for the
25 people that want to do it, I trust the people of

34

1 their districts to elect people to serve their
2 interests, and sometimes that will be legislators,
3 delegates; most times, I think it won't be. And if

4 legislators get the high votes as delegate-
5 candidates, they should be the delegates and
6 continue to represent the people in that capacity,
7 as well. I don't -- I think we can trust the people
8 to get this right.
9 I also tell you realistically, I'm not
10 sure delegates -- legislators are going to want to
11 be delegates because, if they run and lose, and
12 aren't elected as delegates, they will have exposed
13 themselves politically as weak people, and they'll
14 be vulnerable in a primary fight or in a general
15 election. And I think once you're in office, you
16 don't want to show a weakness, show a vulnerability.
17 So, from a practical point of view,
18 from the political side, you're not going to have
19 folks rushing to be candidates for delegates if
20 they're already sitting legislators. I think --
21 with all great respect, I think this is an issue
22 that's not the biggest one we're going to have to
23 deal with here.

24 MR. VAN HORN: Mr. Cole.

25 MR. COLE: I agree that they should

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1 not be delegates in this convention. I think Dr.
2 Reock's position is well taken, and you would want
3 them there if you were dealing with questions of
4 apportionment, because that's really their

5 bailiwick, that's really what they understand, far

6 better than anyone else.

7 But I think this is a convention

8 that's going to deal with property taxes, and I

9 think not having legislators there will save us some

10 complications when we deal with other questions like

11 whether delegates should be paid. So I would join

12 those who say they should not be delegates.

13 MR. VAN HORN: Yes, Ms. Gordon.

14 MS. GORDON: I guess my thinking is

15 there really isn't a need to exclude anyone. I

16 think that legislators, as well as other sectors of

17 our society, including government, bring various

18 skills and abilities to the table. And I think to

19 limit or exclude anyone would be doing a disservice

20 to the convention and the delegates.

21 If a particular legislator has a

22 particular skill or ability that he or she can bring

23 to the table, I don't think he or she should be

24 precluded from doing that. So it would depend upon

25 the individual circumstances in that particular

36

1 district, and that particular legislator.

2 MR. VAN HORN: Assemblyman Roberts.

3 ASSEMBLYMAN ROBERTS: Thank you. Let

4 me associate myself with Senator Adler's comments.

5 If most members of the Legislature,

6 current and former, have viewed this issue as
7 radioactive and have wanted to be as far away from
8 it as they could, the likelihood that members of the
9 Legislature will want to run in the first place, I
10 think is slim.
11 I think you -- when you begin talking
12 about who should be disqualified, should legislators
13 be disqualified, should former legislators be
14 disqualified, present company excepted, of course,
15 should other elected officials be disqualified.
16 They've had involvement in the process to one degree
17 or another as local officials dealing with property
18 taxes or county officials. If the whole driving
19 force of this process is to empower the people, so
20 that they can demonstrate their good judgment to
21 tackle this issue, shouldn't we invest our faith in
22 their good judgment to pick the people best able to
23 represent them?

24 You know, I think Dr. Reock's point is
25 interesting, and I think it was in one of the

37

1 incarnations of the legislation, where we talked
2 about no more -- if we had two delegates per
3 district, no more than one could be a legislator;
4 under his model, no more than one of three, so
5 that's thought-provoking, at least.

6 But I think that we begin to go down a

7 slippery slope when we talk about who ought to be
8 disqualified. And I don't know necessarily that
9 being a member of the Legislature ought to be quite
10 the same as having been convicted of a serious crime
11 and being disqualified in that manner. So I'd --
12 (Laughter)

13 ASSEMBLYMAN ROBERTS: So I'd be
14 hopeful that we would at least have some
15 opportunity.

16 MR. VAN HORN: Yes, Assemblyman
17 O'Toole.

18 ASSEMBLYMAN O'TOOLE: We've heard some
19 of the public comments about the worry about
20 political pressure brought to bear on either
21 legislators or delegates and whatnot. An issue
22 that comes to mind to me is that, if we have a
23 convention, delegates -- perhaps whether they're
24 legislators or they're mayors or they're local
25 officials or they're, you know, elected officials-

38

1 in-waiting, if they would use that as a soapbox to
2 grandstand for either an office, a higher office or
3 whatnot. And, frankly, I don't know if the
4 constitutionality would be met here.

5 Is there a possibility we can have
6 like a two-year ban if anybody holds a delegate
7 position from running for any position, other than

8 the one that they're holding now, so that they will
9 not use this position as a political tool, as
10 opposed to a -- you know, as a positive public
11 policy move. Just a thought that just came to mind.

12 Anybody have an idea on that?

13 SENATOR VAN WAGNER: Mr. Chairman?

14 MR. VAN HORN: I was going to say, if
15 they do their job, they will never get elected for
16 another position.

17 (Laughter)

18 MR. VAN HORN: But I don't want to
19 make light of it, but -- no, that's an interesting
20 question.

21 I think that that's something -- let
22 me ask the staff assembled here. In the history of
23 delegate selection, anyone familiar with any such
24 restrictions?

25 SENATOR VAN WAGNER: I doubt that you

39

1 could preclude someone from -- on that basis, I
2 think. I don't think constitutionally you could do
3 it. I mean, people are allowed to do what they want
4 to do.

5 The purpose, I think, of talking about
6 a legislator being -- not being a delegate -- and I
7 subscribe to what Senator Adler said and Assemblyman
8 Roberts -- is that, you know, they have kind of a

9 proprietary interest from the first instance, in
10 terms of having been the ones that are not solving
11 the problem at the moment. So why would they want
12 to climb back on the third rail? And, you know,
13 other than that, there's no reason why anyone else
14 should be excluded, including someone who may want
15 to use the delegate position for future office.

16 But that was my only reason that --

17 you know, why would you want to get on the third
18 rail? You're getting off it. You're going to have
19 to face the issue anyway, one way or the other.

20 ASSEMBLYMAN O'TOOLE: Chair, I mean,

21 we have the examples now where individuals, either
22 in the Executive Department or others, who are
23 prohibited from doing casino work or lobbying for a
24 certain amount of time, so there are those
25 exceptions currently that we have, where you are

40

1 prohibited from doing certain activities.

2 And we've heard from all of those --

3 from those of us who sat in all the public hearings,

4 there is certainly a concern out there that

5 political pressure will be brought to bear, or

6 people will, quote, "grandstand." So let's try to

7 remove as much of the politics away from this, this

8 super-sensitive, radioactive convention that we're

9 talking about, and say, look, if you're in a

10 position now, you're not going to be able to use
11 this to a political fare-thee-well, so you can
12 better yourself, so you are not allowed to go on to
13 another political office just using this. So I
14 think we'll hopefully have the more -- the purer
15 forms of ideology coming in, as opposed to the
16 political forms.
17 I just think it's something we should
18 at least talk about, explore. And maybe if it's --
19 if you're telling me it's unconstitutional, then
20 we'll stop talking about it. But I think it
21 certainly bears some exploration.

22 MR. VAN HORN: Do any of our
23 constitutional scholars have an opinion on the
24 assemblyman's question?

25 PROFESSOR WILLIAMS: I wouldn't want -

41

1 - I wouldn't want to tell you it's unconstitutional,
2 but there -- if I remember, and I'll check this, but
3 there was an attempt in the 1950s to add an
4 additional oath of office for legislators, and you
5 can imagine what it said. And the New Jersey
6 Supreme Court said, look, the qualifications for
7 running for the Legislature are established in the
8 constitution, and the Legislature can't add
9 qualifications -- that was a qualification, not a
10 disqualification, but -- and it was -- could be seen

11 as a fairly unique circumstance in the 1950s with
12 the communist scare and all that stuff. But there
13 is a case on the books that casts some great doubt
14 on what you're suggesting. But I'm happy to take a
15 look at it.

16 MR. VAN HORN: Yeah. Mr. Cole.

17 MR. COLE: The post-employment
18 restrictions that I think the assemblyman was
19 alluding to are, if you regulate casinos, for
20 example, you may not work for a casino licensee for
21 a period of years, and I guess in the Attorney
22 General's Office they have a like restriction. If
23 you are on regulatory boards, like Medical
24 Examiners, you're not to appear before those boards
25 for a couple of years.

42

1 Those of kind of targeted to defined
2 occupations. I'm not sure there's the same direct
3 relationship here, being a delegate and running for
4 other elected office.

5 MR. VAN HORN: Senator Lance -- oh,

6 I'm sorry.

7 MR. COLE: I guess that's a long way
8 of saying that it's tough to have the justification
9 for the restriction in a constitutional sense, when
10 there's no direct tie.

11 MR. VAN HORN: Senator Lance.

12 SENATOR LANCE: Yes, thank you. Thank
13 you for having the chart prepared regarding
14 constitutional conventions across America in the
15 last generation. And as I read the chart,
16 legislators were permitted to be delegates at these
17 various conventions, except for those states that
18 banned dual office-holding: Montana and Tennessee,
19 as I read this chart that has been prepared for us.
20 I would presume that municipal and
21 county officials could not have been delegates in
22 Montana and Tennessee, because dual office-holding
23 is dual office-holding. And we had not very much,
24 if any, testimony in our eleven hearings regarding
25 whether county and municipal officials should be

43

1 banned from attending such a convention. We had a
2 great deal of testimony regarding legislators.
3 And so at least the experience across
4 the country seems to be to permit legislators,
5 except where there is a ban against dual office-
6 holding, number one.
7 Number two, the experience in New
8 Jersey, in both 1947 and 1966, was that legislators
9 could participate, and did.
10 But, number three, there is a very
11 significant constitutional question raised by Vice
12 Chairman Cole, with which I agree: Arcane and

13 difficult. And I think our ultimate decision

14 regarding whether legislators should participate

15 will have to be guided to some extent by the very

16 complicated, very difficult arcane matter raised by

17 the vice chairman.

18 MR. VAN HORN: Well, let me ask the

19 staff -- and I concur with Senator Lance's point,

20 and I'm glad the vice chair raised this.

21 Rather than us punt this question to

22 the Legislature, which we certainly could do; we

23 could say we can't resolve this, how difficult is it

24 for you to render an opinion to us on that subject

25 in a timely manner, so that we can be advised as

44

1 we're thinking about that within the next few weeks?

2 UNIDENTIFIED: Mr. Chairman, could you

3 explain just what this issue is?

4 MR. VAN HORN: Absolutely. It's

5 actually described in the handout, and I'll let the

6 vice chair describe it, the ineligibility clause.

7 Do you want to do that, Michael? And then I'll let

8 you guys think about the question I had while he's

9 doing that.

10 MR. COLE: Yes --

11 (End of Tape No. 1, Side A)

12 SENATOR LANCE: (Not identified for

13 the record) -- analysis is absolutely accurate, and

14 there is a case at the Supreme Court level that
15 denied Senator Wiley from becoming a member of the
16 Supreme Court of New Jersey because, while he was
17 state senator, he had voted to increase the salaries
18 of the judiciary. He said he would not take the
19 salary increase; and, in a four-to-three decision,
20 the Supreme Court of New Jersey did not permit him
21 to go on the Supreme Court. An appalling decision,
22 from my perspective, but that is, at the moment, the
23 law of this state, and I really do think we need
24 advice from constitutional experts on that.
25 MR. COLE: Also, that there had been

45

1 legislation, I think, passed, the Senator will
2 recall, that said, even though they were voting a
3 salary increase for judges and justices; that if a
4 member, a sitting member of the Senate, I believe it
5 was, were to be appointed to that position, they
6 would not be eligible to receive the increase.
7 The Supreme Court in that four-three
8 decision said, well, that's special legislation
9 because you're excluding only one class of person.
10 And I haven't read it in years, but I think they
11 suggested, the only reason you were doing that was
12 to get around the ineligibility clause; and,
13 therefore, you can't do it.
14 I think that was a boon, as I

15 remember, to Justice Handler, who left the
16 Governor's Counsel's Office shortly thereafter to
17 take that seat. But to Senator Wiley, it was an
18 unfortunate turn of events.

19 PROFESSOR WILLIAMS: (Not identified
20 for the record) Mr. Chairman, I raised this question
21 with Mr. Peroni (phonetic), who's the Legislative
22 Counsel and Executive Director of OLS, and he agreed
23 that there is a problem here, if compensation were
24 to be paid to delegates, and some delegates are
25 legislators, and that would implicate the provisions

46

1 referred to by Mr. Cole.

2 His recommendation was that the
3 problem would best be avoided, either by determining
4 not to compensate delegates to the convention, other
5 than the payment of expenses, or to include a
6 provision in the temporary constitutional amendment
7 that would also be placed on the ballot at the same
8 time as the convention question, which would
9 authorize the convention to consider statutory
10 changes; to put in that temporary constitutional
11 amendment a provision that says, in essence,
12 notwithstanding this language in the constitution,
13 legislators who are delegates can accept
14 compensation.

15 MR. VAN HORN: Well, why could you not

16 -- I mean, again, we get into this awkward arcania

17 (sic). But why could you not create a legislator

18 class of delegate, which --

19 PROFESSOR WILLIAMS: For the reasons

20 Mr. Cole outlined.

21 MR. VAN HORN: Okay.

22 PROFESSOR WILLIAMS: It was in the

23 second part of the Vreeland decision.

24 MR. VAN HORN: All right. So the

25 simplest method, if we choose to include delegates,

47

1 in your opinion, is to -- that we could compensate

2 them for expenses.

3 PROFESSOR WILLIAMS: Yes.

4 MR. VAN HORN: Okay. Senator Lance.

5 SENATOR LANCE: I think that's a

6 debatable question, and I think it would be

7 litigated.

8 MR. VAN HORN: Yes.

9 SENATOR LANCE: As I recall --

10 litigated perhaps by a unsuccessful candidate for a

11 position of delegate.

12 I believe I have heard that, in 1947,

13 there was a ten-dollar-a-day expenses. I think

14 that's true because my father still has that \$10.

15 (Laughter)

16 SENATOR LANCE: In modern terms, that

17 would be almost \$100; \$83, I think. And that

18 borders, to me, on a salary. So I'm not sure that

19 the per diem necessarily solves the question.

20 PROFESSOR WILLIAMS: I think --

21 Senator, I believe that legislators who serve on

22 other study commissions can accept reimbursement of

23 expenses.

24 SENATOR VAN WAGNER: Am I -- Mr.

25 Chairman --

48

1 MR. VAN HORN: Yes, Senator?

2 SENATOR VAN WAGNER: -- am I wrong in

3 the understanding that, either somewhere in the

4 constitution it indicates that what a legislator

5 receives as salary shall be the full reimbursement

6 for the legislator, which kind of precludes

7 legislators from getting expenses, or is that clear?

8 UNIDENTIFIED: (Inaudible - not

9 recorded.)

10 SENATOR VAN WAGNER: It's not clear.

11 So that I'm saying, it would seem that, either way,

12 a legislator creates a dilemma, either way.

13 MR. VAN HORN: Well, I guess on this

14 particular point it seems to me that perhaps we

15 should have more angels-on-the-head-of-a-pin

16 analysis, but I don't know. I mean, I take it back

17 to the staff, if they think that they can parse this

18 further for our benefit. But if not -- and we'll --
19 subject to your doing that, we may have to make a
20 judgment call about what the implications are of
21 this issue.

22 MR. KELLY: Mr. Chairman, is there a
23 consensus in the first instance that compensation
24 should be paid to delegates?

25 MR. VAN HORN: No. No, we've not --

49

1 MR. KELLY: Because if there is not,
2 then there's no problem.

3 MR. VAN HORN: No, we have not recent
4 -- not yet, Peter. We're -- that's yet to be
5 determined.

6 MR. KELLY: Okay.

7 MR. VAN HORN: Mayor.

8 MAYOR PASSANANTE: Yeah, I just want
9 to state an observation. I believe that it was
10 mentioned before that the process here needs to be
11 kept as pure as possible, and I don't mean to go
12 back to this. But with the Legislature involved in
13 the delegate selection, then I question as to
14 whether the public is going to see this being a pure
15 process, being done truly to fix this problem. What
16 we don't want to do is have the public disengaged
17 from this process right off the get-go.

18 I also would like to say that, if a

19 legislator runs for a delegate position, they have
20 an enhanced position over anyone else running
21 against them just because of name recognition alone,
22 whether that be for or against. And does that
23 create a fair opportunity for those people who may
24 be able to run, and may do well for the -- as a
25 delegate, running against a local legislator who has

50

1 name recognition that certainly would put them at an
2 advantage.

3 MR. VAN HORN: Yes, Senator Adler.

4 SENATOR ADLER: First of all, I would

5 question the notion that legislators are well known,

6 even within their own districts. But the reality

7 is, in democracy, people get known for a lot of

8 different reason. Athletes and actors and musicians

9 have a greater opportunity to be elected to whatever

10 position in democracy because people know their

11 names and associate their names in a positive way.

12 We have a governor of the biggest state in this

13 country who had no previous governmental experience

14 and won a special election as governor, and is doing

15 a good job, and is popular there.

16 We had a not-so-great actor, who

17 turned out to be a pretty good president for eight

18 years in 1980s, having only been the Governor of

19 California, sort of a recurring pattern with

20 California.

21 I'm not so concerned, necessarily,

22 that having legislators elected as delegates somehow

23 taints the system. I think what it might reflect is

24 that the people are expressing their views in the

25 area where they're allowed to vote. Sometimes they

51

1 vote for mayors, sometimes for legislators,

2 sometimes for actors and athletes, and all that is

3 good. I think that's part of what democracy is: To

4 trust people, to elect from among the choices they

5 have presented to them, the people they want to

6 represent their interests for whatever the office

7 is: Delegate, mayor, school board, governor,

8 president.

9 And I don't think we should be so

10 worried about making such a pure process that we

11 neglect the fact that the people are the ultimate

12 purifier of the process. They get it right much of

13 the time when they're given a chance. And I think

14 in democracy, we should trust them to elect or to

15 reject those delegates who had put themselves

16 forward as -- those legislators who have put

17 themselves forward as delegates.

18 UNIDENTIFIED: (Inaudible - not

19 recorded.)

20 SENATOR LANCE: I'm in favor of

21 allowing anybody, other than, as Joe said, a felon;
22 anyone who is eligible by law to be a voter, in my
23 view, should be permitted to be a delegate.

24 A separate question about the salary
25 issue; I think the salaries would be a horrible

52

1 mistake.

2 UNIDENTIFIED: (Inaudible - not
3 recorded.)

4 SENATOR LANCE: But on the narrow
5 issue of who can be a delegate, I think absolutely
6 legislators are Americans, they are New Jersey
7 residents, they are of voting age; and, therefore,
8 they should be permitted to be delegate candidates;
9 and, if they win the first or second spot, if we
10 have two candidates per district, they should be
11 delegates. I think that would be a great thing for
12 those who want to put themselves forward.

13 I think it would be a horrible mistake
14 to exclude people. I go back to what Ms. Gordon
15 said moments ago, when she started drawing lines.
16 You start excluding entire categories of people who
17 may have something to contribute, and who may win in
18 their districts because they best represent the
19 majority of the views of the people in the district.

20 MR. VAN HORN: Senator, but let me
21 make sure I understand your last point. You believe

22 there should be some restriction per -- on a

23 district basis or not?

24 SENATOR ADLER: No, I think -- I think

25 --

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1 MR. VAN HORN: Because that's what --

2 that was what Dr. Reock suggested.

3 SENATOR ADLER: I think we should

4 trust the people completely.

5 MR. VAN HORN: Okay. No restrictions,

6 right.

7 SENATOR ADLER: I think the people are

8 pretty smart.

9 MR. VAN HORN: Okay. Any other

10 comments on this subject? Yes, Mr. Malloy.

11 MR. MALLOY: Yeah. I would just want

12 to add that I agree, once you start excluding in an

13 electoral process, that it's a slippery slope. So

14 I wouldn't see any reason to exclude someone. I

15 know there's an issue out there regarding paying per

16 diem, but I do think the legislators would have a

17 lot to contribute, those who would want to serve,

18 and there is no good reason to really exclude them.

19 MR. VAN HORN: Senator Lance, did you

20 want to make another comment?

21 SENATOR LANCE: Yes. I agree with

22 that sentiment, and I would not have any

23 restriction. However, that is outweighed, in my
24 mind, by the constitutional issues raised by the
25 vice chairman.

54

1 MR. VAN HORN: Assemblyman O'Toole.

2 ASSEMBLYMAN O'TOOLE: And just so I'm
3 clear, Chair. Are we going to get an opinion from
4 OLS as to the constitutionality issue? And if we
5 are, I'd like to get an opinion as to whether we
6 have the ability to eliminate this -- the Montana
7 experience, about eliminating all dual-office
8 possibilities, as well.

9 PROFESSOR WILLIAMS: Yeah, we can
10 prepare an opinion, Mr. O'Toole. Could you clarify
11 the second question, about Montana, though?

12 ASSEMBLYMAN O'TOOLE: Well, from --
13 apparently, according to the handout, in Montana,
14 among others, there was a convention in 1971, where
15 they selected delegates, but they excluded certain
16 individuals based on a dual office-holding
17 restriction. And I want to know if that's feasible,
18 if, in fact, we're going in that -- if this panel is
19 going in that direction about eliminating certain
20 classes of individuals, can we eliminate any elected
21 officeholder. Is that constitutional?

22 PROFESSOR WILLIAMS: You're asking if
23 in the legislation convening the convention, we

24 could have a provision that excluded either all
25 elected officials or members of the Legislature from

55

1 eligibility to be a delegate.

2 ASSEMBLYMAN O'TOOLE: Correct, or any

3 elected official; board of ed member, mayor, council

4 member, freeholder.

5 PROFESSOR WILLIAMS: Whether,

6 constitutionally we could do that.

7 ASSEMBLYMAN O'TOOLE: Right, yeah.

8 PROFESSOR WILLIAMS: Okay.

9 MS. KELLY: Just so you're clear,

10 Assemblyman, in Montana, there was a previous --

11 there was a section in their constitution that said,

12 no senator representative can be appointed to any

13 civil office under the state. And there was a court

14 case that came up, whether that meant that they

15 could not be delegates. And the Montana Supreme

16 Court agreed that that meant that they could not be

17 delegates. So it was a specific situation, having

18 to do with something that had already existed in the

19 Montana Constitution.

20 In Tennessee, I was unable to document

21 exactly where the restriction originated; I got my

22 information for Tennessee from talking to their

23 legislative librarian. I can do further research on

24 Tennessee if you'd like, to find out why that is.

25 But in pretty much every other state,

56

1 basically they either had no restrictions or an

2 explicit acknowledgement that legislators could be

3 delegates. So those are two ways of approaching it.

4 MR. VAN HORN: So we will get an

5 opinion. I think this is very important, that we

6 get an opinion, further opinion on this. And,

7 regardless of how we resolve the subsequent issues,

8 you know, we still need to have this opinion on the

9 table.

10 Senator -- I'm sorry. Senator Lance

11 wanted to say something, and then I'll recognize

12 you, Senator Van Wagner.

13 SENATOR VAN WAGNER: Senator.

14 MR. VAN HORN: Senator Lance first,

15 followed by Senator Van Wagner.

16 SENATOR LANCE: Thank you, yes. I

17 think you've explained Montana. I had presumed,

18 without your explanation, that in both Montana and

19 Tennessee, there was some sort of absolute

20 prohibition against dual-office holding; and, as

21 Assemblyman O'Toole intimates, that would apply, not

22 only to legislators, but also to members of

23 municipal governing bodies, school board members,

24 members of county boards of freeholders, et cetera.

25 And so any information you might be able to receive

57

1 in furtherance of this regarding Tennessee, I'd

2 certainly be interested in receiving.

3 MR. VAN HORN: Senator Van Wagner.

4 SENATOR VAN WAGNER: Yeah, while we're

5 getting these other questions answered, could we

6 also get some questions answered on the financing

7 side of the ledger? Because I assume later on,

8 we're going to be discussing whether or not the

9 delegates who are not legislators should be publicly

10 financed, since we don't publicly finance

11 legislators, except I understand experimentally

12 somewhere; and we don't publicly finance local

13 officials. How does this all fit into the mix of

14 financing campaigns?

15 Obviously, elected officials, those

16 who are in office are going to have a distinct

17 advantage, in terms of fund-raising and other

18 things. And I just wondered if you could get some -

19 - give us some knowledge on that issue, too, because

20 I think we have to discuss how we're going to

21 finance these campaigns.

22 MR. VAN HORN: Absolutely, Senator.

23 You're jumping a little bit ahead of the syllabus

24 here, so let me draw you back to Week 3, instead of

25 Week 7. But we absolutely will be pursuing it,

58

1 hopefully this afternoon, in detail. You know,
2 we'll be asking -- and that's why they're here, to
3 answer those questions for us; and, if they can't
4 answer them, they'll go off and get the answers for
5 us.

6 Let me just suggest that, on this
7 point (inaudible - not recorded) we go on to the
8 next question as to whether -- broadening this.
9 We've only talked about legislators. I'm interested
10 in whether people have opinions about other elected
11 officeholders and their eligibility. No one has
12 spoken to that -- well, a couple of people vaguely
13 spoke to that subject; certainly Senator Adler spoke
14 to that point, and Sherryl Gordon did. But do
15 people -- are there other opinions about that
16 subject that people want to put on the table?
17 Do the mayors want to -- I thought you
18 would, especially.

19 MAYOR SCHUBERT: I don't think we get
20 paid, no.

21 (Laughter)

22 MR. VAN HORN: Very good. Cy? Cy.

23 Mr. Thannikary.

24 MR. THANNIKARY: Thank you, Chairman.

25 I'll be the first to enter support for the mayors to

59

1 be part of the delegates because they're the --
2 they're the ones getting the dirty end of the deal
3 when it comes to property taxes.
4 I kept telling people that we're --
5 we're barking at the wrong tree, and they have no
6 control over the property tax system in New Jersey.
7 So they should have a say about how we ought to be
8 taxed, especially at the municipal -- the municipal
9 services and also the educational costs, and I
10 believe they should be a member of the delegates,
11 and at least I would recommend at least twenty-five
12 percent of the delegates should be mayors.

13 MR. VAN HORN: I'm sorry. I missed
14 your last point. That what?

15 MR. THANNIKARY: At least twenty,
16 twenty-five percent of the delegates should be
17 mayors.

18 MR. VAN HORN: Senator Van Wagner.

19 SENATOR VAN WAGNER: Well, sir, I
20 would respectfully disagree that municipal officials
21 don't have any control over property taxes, because
22 they do. They have the opportunity to cut budgets,
23 just like legislators do; decide whether or not they
24 want to have fifty policemen or thirty policemen. I
25 mean, that's a decision a mayor makes.

60

1 So, in my opinion, if you're going to

2 include everybody, include everybody. If you're
3 going to go through the process -- if we're going to
4 go through the process of exclusion, then we
5 definitely are going to need some guidance from
6 constitutional scholars. But if we're going to
7 include everybody, let's include everybody, and
8 allow everybody who wants to run, to run. And if
9 they want to put themselves out in that fashion,
10 they should be able to.

11 MR. VAN HORN: Yes, Assemblyman

12 O'Toole, and then Dr. Reock.

13 ASSEMBLYMAN O'TOOLE: Thank you.

14 Respectfully, I think that putting a twenty-five
15 percent threshold for mayors is difficult on so many
16 different fronts, and let me just give you a couple
17 of practical problems:
18 Number one, if we have a delegate
19 elected in November of '05, as a delegate, what if
20 they lose their election at the same time as a
21 mayor? Are they a delegate or not? In the
22 following May, if there's a nonpartisan election, if
23 they're mayor and they lose the election then, are
24 they considered a delegate? You may run into many,
25 many problems as to whether they're a mayor, whether

61

1 they're a delegate, whether they're not. And I

2 don't think you can have that twenty-five threshold

3 on anything, any set-aside. I think it's just

4 troubling to have that as a requirement.

5 MR. VAN HORN: Dr. Reock.

6 DR. REOCK: If I can't get my one-

7 third proposal for legislators, I'll go for one --

8 opening it up wide.

9 (Laughter)

10 MR. VAN HORN: See, you know how to --

11 you just showed us that.

12 (Participants confer - not recorded)

13 MR. VAN HORN: That's right. There

14 you go. Who said faculty members can't compromise?

15 I'd next like to move on, unless -- I

16 think we've exhausted this subject for today, at

17 least. The question of delegate pay, and as to

18 whether they should receive expenses, a payment, a

19 salary; there are various proposals floating around,

20 we've heard different opinions on this and -- from

21 the public and from others. Who would like to

22 comment on that? Yes, Mr. Malloy, and then Senator

23 Lance.

24 MR. MALLOY: Perhaps one way to work

25 around the previous issue is, if they're paid for

62

1 actual milage put in. And is there any reason why

2 meals can't be provided while they're actually at

3 the convention itself, as opposed to paying them a

4 meal allowance? Essentially, that cost would be
5 reimbursed, and there would be no pay, per se, and
6 really no reimbursement of expenses outside of true
7 milage.

8 THE COURT: Yeah, Senator Lance.

9 SENATOR LANCE: Thank you, Mr.

10 Chairman. I do not favor a salary for delegates to
11 the convention. I agree with my colleague that
12 there should be some sort of per diem, however it
13 works can be determined later; a food allowance or
14 food provided, a milage allowance, various per diem
15 expenses. But I personally oppose a salary.

16 MR. VAN HORN: Assemblyman O'Toole,
17 and then Senator Adler.

18 ASSEMBLYMAN O'TOOLE: Yeah, I agree
19 with Senator Lance. I would be against a salary for
20 delegates. And I agree with Terry that, if there is
21 an out-of-pocket dollar expense for miles incurred
22 from Cape May or Bergen County to New Brunswick,
23 that actual out-of-pocket milage should be
24 compensated. But, beyond that, I would not give any
25 other expenses.

63

1 THE COURT: Senator Adler.

2 SENATOR ADLER: I agree with the
3 evolving consensus here.

4 And I'd also want to remind people,

5 respectfully, of the political implications we have.
6 You'll recall this is a recommendation we're going
7 to give to the Legislature. The Legislature then
8 will consider it. As you can imagine, there are
9 certain various people in the Legislature who think
10 it's the Legislature's sole responsibility to deal
11 with these tax issues and the spending issues.
12 And I think every time we add an
13 additional obstacle to passage of this, and get this
14 on the ballot, it just burdens those of us who are
15 supporters of this, with this task force and in the
16 press and in the community. It makes it that much
17 difficult -- that much more difficult for all of us
18 to get this through the Legislature, which already
19 has a significant minority, plurality majority
20 that's opposed to this under any circumstances.
21 And I think adding additional costs
22 would be an easy obstacle for those who want to
23 oppose this convention under any circumstances, an
24 easy target for them and for opponents in society.
25 And so I'd urge us to try to streamline the cost

64

1 feature as much as possible. There will be enough
2 other obstacles for us to overcome without
3 overburdening it further.

4 MR. VAN HORN: Yes, Mayor Schubert.

5 MAYOR SCHUBERT: The only comment that

6 I have -- and I do agree with that, that you want to
7 try and get it through as streamlined and without --
8 with as little opposition as possible. The only
9 thing that does concern me is that you're sort of
10 cutting out a segment of society that may have to
11 take time off from their jobs, won't be getting
12 anything; maybe would be willing to do that, but at
13 least have some sort of a reimbursement. And so
14 you're cutting out a whole segment of society that I
15 think may very much want to be part of this process,
16 and may not be able to because, financially, it
17 would be impossible for them.

18 MR. VAN HORN: Yes, Mr. Vice Chairman.

19 MR. COLE: I tend to agree. If you
20 expect this convention to be virtually a full-time
21 job for a number of months, five or six months, not
22 everyone has an employer who would be willing to
23 cover them and defray the expenses of that. And I
24 think that will inhibit a lot of people who
25 otherwise might want to be delegates from being

65

1 delegates.

2 You're asking them -- in my mind,
3 anyway, you're asking them to undertake a job that's
4 going to demand their full attention for a long
5 period of time, so I think they should be paid.

6 MR. VAN HORN: Senator Van Wagner.

7 SENATOR VAN WAGNER: I would agree

8 with the vice chairman.

9 I also think that, and all due

10 respect, you're going to going to get a lot more

11 requests for appropriations attendant to this, you

12 know, as part of the process. I don't think that

13 the per diem paid to delegates for travel is going

14 to be a deal-breaker, frankly.

15 SENATOR ADLER: On that particular

16 point, Senator, just to make clear, in case I wasn't

17 clear, I wasn't speaking about the reimbursement

18 issue. I thought that we'd already had something of

19 a consensus from Assemblyman O'Toole and Mr. Malloy

20 and the Minority Leader that some sort of

21 reimbursement of actual, out-of-pocket expense was

22 appropriate, and I was subscribing to that point of

23 view.

24 I was saying, I don't think, beyond

25 that small cost, we should suggest to the

66

1 Legislature that we have enthusiasm for a salary

2 because I believe that would be an additional

3 obstacle we would be creating to the actual passage

4 through the Legislature of a bill that would put

5 this on the ballot. So that was the point I was

6 trying to make. If we -- reimbursement, good;

7 salary, bad.

8 SENATOR VAN WAGNER: I understand what
9 you were saying, and my point was that, as
10 streamlined as you may make it, in terms of
11 reimbursement, I still think there's going to be
12 requests for appropriations that will accompany this
13 recommendation when the Legislature takes it up. I
14 think you're going to hear from people who are going
15 to want more money to carry out their tasks. That's
16 the reality, I think, attendant with this.

17 MR. VAN HORN: I'd like to ask the
18 staff a factual question here. Perhaps you have the
19 answer or you can get the answer for us.
20 In viewing the history of conventions
21 in this generation, as Senator Lance put it, what is
22 the profile of delegates, in terms of -- you know,
23 there was this whole issue of what walks of life
24 they come from. I mean, I'd like to know what the
25 profile is, and whether -- and the extent to which

67

1 any of them were paid salaries.
2 Because I -- although I associate
3 myself with the sentiment of the vice chair, I'm
4 dubious that this is a real problem. In other
5 words, I'm not sure that the folks that we're
6 talking about here actually will ever get involved
7 and go around and get a hundred signatures, and so
8 on and so forth.

9 I don't know how to resolve that.

10 Obviously, that's a judgment call. But I'd like to

11 -- if you can bring any facts to bear to us for our

12 next meeting about the demographic profile of

13 delegates and whether -- and the only evidence that

14 would be persuasive to me would be if there were

15 salaries paid, if the demographic profile was

16 significantly different in those cases, as to those

17 who wasn't -- where they weren't paid.

18 So I'll ask Ed to figure out how to

19 get that done, and hopefully you'll report back to

20 us.

21 Any other comments on this subject?

22 Yes, Assemblyman Roberts.

23 ASSEMBLYMAN ROBERTS: Chairman, just

24 on that, I agree with your suggestion; I think it's

25 a terrific approach.

68

1 My gut is that we should not provide

2 compensation, and we should narrowly provide

3 reimbursements, I think as Mr. Malloy said, for

4 mileage, something specific, not a per diem that

5 would be a blanket amount of money.

6 But there are implications of that

7 decision, as I think you're alluding to. If that

8 decision drives away people we want to involve in

9 the process, and has only legislators or has only

10 professions or has only wealthy individuals, or only
11 those who are there representing special interest
12 groups and being reimbursed for their time, then
13 that's an unintended consequence that we need to be
14 aware of. So I think that information would be very
15 helpful.

16 MR. VAN HORN: Okay. I'd next like to
17 move on to the question of how many delegates should
18 be elected -- excuse me, I apologize.

19 I wanted to ask about whether there's
20 any disagreement, let me put it that way, that
21 legislative districts should be used for the basis
22 for apportioning delegates. Assemblyman O'Toole.

23 ASSEMBLYMAN O'TOOLE: I just have two
24 different options, and one is in disagreement with
25 the legislative districts.

69

1 One theory, having -- you have twenty-
2 one counties. I would have the highest elected
3 republican, democrat, and independent in the twenty-
4 one counties; or I would say, in the forty
5 districts, do the same, the highest elected
6 republican, the highest elected democrat, the
7 highest vote-getter independent would serve as the -
8 - as the delegates in -- using either twenty-one as
9 a count or forty.

10 MR. VAN HORN: Other views about the

11 delegate districts. Yes, Assemblyman Roberts.

12 ASSEMBLYMAN ROBERTS: I, frankly,

13 think it's essential to use the legislative

14 districts. They're adjusted on a regular basis and

15 provide equal representation in a way that I think

16 is important.

17 MR. VAN HORN: Yes, Dr. Reock.

18 DR. REOCK: Just to agree with Mr.

19 Roberts's recommendation to use the legislative

20 districts. They're there, and they're drawn to be

21 equal.

22 MR. VAN HORN: Yes, Ms. Gordon.

23 MS. GORDON: I guess legislative

24 district. I think that we need to be somewhat

25 consistent, although I know we're looking for some

70

1 out-of-the-box thinking and we want to empower the

2 people. But I think they need to also feel that

3 they know the process, and that they have access to

4 the process; and the more that you change things,

5 the more difficult it becomes for them to understand

6 exactly what's going on.

7 And, in terms of the legislative

8 districts, there's already a system in place that

9 people can become familiar with, if not familiar

10 with already, and kind of more immediately access

11 and plug into.

12 MR. VAN HORN: Any other comments on

13 this topic? Okay.

14 Then how many delegates per district?

15 Assemblyman O'Toole already put a point on the table

16 on that. And, Senator Lance, do you want to comment

17 on that?

18 SENATOR LANCE: Yes. Thank you, Mr.

19 Chairman. I would recommend two per district, which

20 means a total of eighty.

21 In 1947, I believe, there were eighty-

22 one delegates. And, Professor Reock, how many were

23 there in 1966?

24 DR. REOCK: A hundred and twenty-six.

25 SENATOR LANCE: Some with half-votes.

71

1 DR. REOCK: A hundred and twelve

2 votes.

3 SENATOR LANCE: And, in my opinion,

4 there ought to be eighty delegates, two from each of

5 the forty current legislative districts, each with a

6 full vote.

7 MR. VAN HORN: Senator Van Wagner.

8 SENATOR VAN WAGNER: I suggest that

9 there be three, and the delegate participation be as

10 broad as possible. So I would suggest three from

11 each district for 120, each with a full vote.

12 MR. VAN HORN: Mayor Schubert.

13 MAYOR SCHUBERT: I like the two per
14 district, but I also like some of the discussion
15 that we heard from some of the experts, recommended
16 the ability for the majority and the minority to
17 choose some additional delegates, which would ensure
18 that we would have some sort of an equal
19 representation, and some people maybe with some
20 professional knowledge that we would need there.

21 MR. VAN HORN: Yeah, I want to hold
22 the conversation about potential super-delegates
23 until after we resolve the elected delegates. I
24 maybe didn't make that clear. But we'll come back
25 to that point, certainly.

72

1 Other comments about the number of
2 elected delegates per district? Mr. Thannikary.

3 MR. THANNIKARY: Thank you, Mr.
4 Chairman. I support the idea of two delegates per
5 district for a full vote.

6 MR. VAN HORN: Thank you.

7 Other comments about the number of
8 delegates elected? Yes, Mr. Malloy.

9 MR. MALLOY: I also would agree with
10 two.

11 MR. VAN HORN: Any other comments?

12 UNIDENTIFIED: Yes, I'm in agreement
13 with two, and also the point that Sherryl made, that

14 we want to try to keep this as straightforward and
15 simple for the process, so that we can engage as
16 much of the public as possible.

17 MR. VAN HORN: Then the related
18 question as to whether there should be -- I'm sorry,
19 Senator. Did you want to say something else?

20 SENATOR VAN WAGNER: Yeah. I guess
21 I'm confused here because I'm concerned about this
22 bipartisan/nonpartisan/partisan issue. Okay. I
23 seem to be ahead of the curve on a lot of these
24 things.
25 (Laughter)

73

1 (Participants speak simultaneously)

2 SENATOR VAN WAGNER: Besides being a
3 minority of one on this task force --

4 MR. VAN HORN: Well, maybe I'm behind,
5 so ...

6 SENATOR VAN WAGNER: -- which I'm very
7 happy to be, a minority of one.

8 MR. VAN HORN: Maybe I'm behind it.

9 SENATOR VAN WAGNER: The only reason I
10 suggested three was the fact that, in the event that
11 we set this up in a certain way, it broadens the
12 participation, particularly if we're going to be
13 all-inclusive. We can almost bet in every district
14 for any legislator or elected official who chooses

15 to run, they're going to get elected. And I figured
16 at least two other people in that mix should have a
17 shot at it. You know? But I don't care whether
18 it's two or three, frankly.

19 MR. VAN HORN: Well, let me just --

20 I'll follow your lead this time, Senator, and let me
21 open that question up, about partisanship of the
22 elections; should they be partisan or not. And this
23 gets into the bracketing question and all that. I
24 mean, what are the views on that, if we -- yeah.
25 Assemblyman O'Toole.

74

1 ASSEMBLYMAN O'TOOLE: Yeah. While

2 answering that question, I just want to make the
3 last pitch about having three that go into the
4 partisan/nonpartisan.

5 We can't pretend this is a convention

6 dominated by only the Democratic Party or Republican
7 Party. There are independents/undeclared that, you
8 know, are far greater in number than the two parties
9 together. I think we have to include everybody
10 here.

11 And, Senator, I agree with you, your

12 proposal, and that's why I said, look, one

13 republican, the highest vote-getter; one democrat

14 and one independent. And that covers as broad a

15 spectrum as humanly possible.

16 We know if there's two, you're going
17 to have either the Republican Party dominate, or the
18 Democratic Party dominate in a given district. And
19 I don't think it's fair to those who are not part of
20 that political process.

21 MR. VAN HORN: Dr. Reock.

22 DR. REOCK: I was going to suggest
23 three, but not necessarily with limitations. Three
24 delegates from each legislative district, but
25 without limitations by party or independents.

75

1 (Participants confer)

2 MR. VAN HORN: Other views on this
3 matter. Yes, Assemblyman Roberts.

4 ASSEMBLYMAN ROBERTS: I'd like -- I'd
5 actually like to hear from others. But my current
6 thinking is that the delegates should run in a
7 nonpartisan election, without party identifiers,
8 without slogans, and without being able to be
9 bracketed together.

10 MR. VAN HORN: Yes, Senator Lance, and
11 then Senator Adler.

12 SENATOR LANCE: I agree with the
13 Majority Leader. No bracketing, no party
14 identification, no slogan, whether we go two or
15 three. And I certainly can be persuaded that it
16 might be more inclusive to have three than two; I
17 think that's certainly debatable.

18 But I would have the delegates chosen,
19 those who receive the highest number of votes in
20 each of the districts, regardless of their political
21 affiliation. So the two highest vote-getters, or
22 the three highest vote-getters, depending upon how
23 many delegates we choose for each legislative
24 district.

25 And I'm strongly of the belief no

76

1 party designation, no slogan, and no bracketing.

2 MR. VAN HORN: Yes. Senator Adler,

3 and then Mr. Cole.

4 SENATOR ADLER: Thank you, Chairman.

5 I'm just trying to envision 120 delegates versus
6 eighty delegates; and I think, in practical terms,
7 for those people who want to actually solve the
8 problems that are confronting them as delegates, I
9 think 120 might be an unmanageably large number.

10 I'm not saying eighty is, therefore, a manageably
11 small number. Those who have served in the Assembly
12 would say sometimes it's too large by a lot.

13 But my sense is that 120 may be

14 substantially too many people for a consensus to

15 form, for people to be able to speak calmly in a

16 reasonably sized room, rather than in a giant

17 convention hall, like an amphitheater type of thing.

18 I think you lose some intimacy when you have an

19 additional forty people.

20 I'm not, therefore, suggesting we go

21 down from eighty to a lower number. I think eighty

22 offers the opportunity for real diversity of views

23 and backgrounds and perspectives. But I'm

24 frightened that 120 might be too large a number and

25 would sort of make it unworkable.

77

1 I'm also now convinced by Leonard and

2 Joe's suggestion of non-bracketing and no labels,

3 with one possible suggestion, which I'm not sure is

4 constitutional, and I'm sort of merging issues in a

5 second. But I've spoken with Eric Schuffler

6 (phonetic) once casually on this idea, and I'm now

7 sharing it with you publicly, risking humiliation.

8 What if we allow a label for those

9 candidates who agree to limit their spending to a

10 certain amount of money? So those people get a

11 little gold star on their name saying, has agreed to

12 comply with spending limitations, and maybe they get

13 some sort of benefit; they're on NJN, they're on

14 Comcast or News 12 or some sort of public access

15 opportunity. And maybe they even -- maybe they even

16 get a paid mailing because they're not going to

17 spend a gazillion dollars or have a group on their

18 behalf spend a gazillion dollars; that they and the

19 people that are supporting them agree to comply to

20 some sort of spending limit, and give them a little
21 designation, which gives them a boost; as compared
22 to the people who, from personal wealth or from
23 group affiliation, might otherwise have a big
24 advantage.

25 I throw that out there, knowing we're

78

1 not there yet in the discussion, and knowing that
2 doesn't take away from my general agreement with the
3 Majority Leader and the Minority Leader about
4 bracketing and partisan labels, and other sort of
5 slogans. But for further discussion, assuming we
6 can somehow make it constitutional -- we've got
7 eight geniuses here. But I'm throwing that out
8 there, knowing it may be completely offensive, but
9 there it is.

10 ASSEMBLYMAN ROBERTS: (Not identified
11 for the record) May I just on that point?

12 MR. VAN HORN: Yes, Assemblyman.

13 ASSEMBLYMAN ROBERTS: To respond to
14 the senator's point, the Fair and Clean Elections
15 Act, which I was involved with, which will have the
16 legislative districts as demonstration districts
17 next year, we looked at the experience in Maine,
18 where they had -- and in Arizona, where -- and other
19 states, where they had tried to have a ballot
20 identifier, identifying someone as a clean

21 candidate, and issues were raised that prohibited
22 that in some cases. So I think we need to determine
23 if, in fact, that's possible.

24 I share the spirit of the suggestion.

25 I think it would demonstrate the manner in which

79

1 people have participated in the process. I don't
2 know that we can do it. I was advised that in the
3 clean elections project we would not be able to do
4 it.

5 But, John, to embrace the rest of your

6 suggestion, I think, as we talk about how the

7 delegate candidates communicate, I think that we may

8 want to talk about a voters guide that would be

9 distributed on their behalf through ELEC (sic) or

10 through another state entity, that there be -- to be

11 in that, there would be some compulsory

12 participation in a meet-the-candidates or debate

13 function, so that there could be broad involvement

14 on the part of the electorate. So I think I share

15 much of your suggestion.

16 UNIDENTIFIED: Maybe as part of some

17 sort of voters guide, there even be a disclosure of

18 the amount the candidate is spending on the

19 campaign. For some people, that could be a big

20 factor in selection of delegates.

21 MR. VAN HORN: Michael.

22 MR. COLE: Just coming back, I agree

23 with all of the suggestions about it being a

24 nonpartisan election; no bracketing, no slogans.

25 And coming back to the number, I --

80

1 the number three offers the chance for greater

2 inclusion, and I like that. If I had some --

3 really, to me, it depends -- whether it's two or

4 three depends on whether we're going to have a super

5 delegate, which would enable us to round out the

6 field. If we didn't -- if we didn't like the idea

7 of some super delegate group, I would be persuaded

8 to go to three, just because it's a greater chance

9 that we'll mirror the state.

10 MR. VAN HORN: Yes, Mayor.

11 MAYOR PASSANANTE: Thank you, Mr.

12 Chair. I just wanted to expand a little bit on the

13 Senator's comment about the number of delegates.

14 The Citizens for Tax Assembly held a

15 mock delegation, actually twice, and I participated

16 in both of the -- those. And just to give you an

17 idea, we had -- there were 2,000 letters sent out

18 requesting people interested in participating; 600

19 nominees; and, from that, 100 delegates were

20 actually selected and participated in this mock

21 convention that took place over about a three-day

22 period. And I can tell you that, even with 100

23 people, that there was consensus reached, there was
24 some open debate, and I thought that it was a very
25 progressive position that was taken with the group.

81

1 So I think we're in the ball park.

2 But I just wanted to let you know that we do have

3 some information concerning something that was very

4 similar to this that took place.

5 MR. VAN HORN: Any other comments on

6 this subject? Okay.

7 Now we'll go to super delegates. And

8 the question really is: Should there be any; and,

9 if so, how many, and who should select them? Any

10 opinions on that? Obviously, we've heard various

11 pros and cons already. Mr. Cole, did you want to --

12 yes.

13 MR. COLE: Yeah. Yeah, I'll start. I

14 think we should have some super delegates, only to

15 make sure that all interests are covered. And, to

16 the extent people think that there should be

17 expertise, that there's a mechanism provided to

18 allow it.

19 I was intrigued in a different context

20 on Governor's Florio's suggestion of -- if you

21 remember, he talked to us about a slate of at-large

22 delegates that would be selected through the

23 legislative leadership and the Governor, since I'm

24 always looking to involve the legislators. But I

25 could see a slate of super delegates elected through

82

1 that mechanism, where there has to be -- they have

2 to be the unanimous suggestion of the majority and

3 minority leaders of the houses, and also the

4 Governor.

5 I understand we'd have to make some

6 provision for how you do that, since we have the

7 President of the Senate, who's also the Governor at

8 -- during this time, but that --

9 MR. VAN HORN: That's another task

10 force that's going to deal with that question.

11 (Laughter)

12 MR. COLE: But that concept, I think

13 could work. So I think there should be super

14 delegates.

15 SENATOR VAN WAGNER: (Inaudible - not

16 recorded)

17 (Laughter)

18 MR. COLE: I think there should be

19 super delegates, and that method of selection seems

20 as good as having the college presidents or somebody

21 else select them.

22 MR. VAN HORN: But, Michael, just to

23 clarify. But you would like to see them slated on

24 the ballot. At least that's the implication; that

25 was what the Governor suggested.

83

1 MR. COLE: No, I don't think that --

2 MR. VAN HORN: Not necessarily.

3 MR. COLE: Not necessarily.

4 MR. VAN HORN: It could be subsequent

5 to --

6 MR. COLE: Yeah, because --

7 MR. VAN HORN: Fine. Okay. Fine.

8 MR. COLE: -- I think, if you put them

9 on the ballot, then you have to deal with --

10 MR. VAN HORN: Okay. I just wanted to

11 clarify.

12 MR. COLE: -- his further suggestion

13 of, what do you do --

14 MR. VAN HORN: Yeah.

15 MR. COLE: -- if they reject it.

16 MR. VAN HORN: Right, right.

17 MR. COLE: But I think you could --

18 you could allow that to be --

19 MR. VAN HORN: Yeah, subsequent to.

20 MR. COLE: -- a selection mechanism,

21 as opposed to another group choosing.

22 MR. VAN HORN: Yes, Dr. Reock.

23 DR. REOCK: I think the idea of super

24 delegates leads you into a quagmire because you will

25 be trying to identify groups -- and there will

84

1 always be many groups who feel that they should get

2 a slot as a super delegate, and you just won't have

3 that many places as super delegate.

4 And I think it's really a mistake, if

5 you want this to be a convention of the people, to

6 add to the people some special people and create two

7 classes of delegates.

8 THE COURT: Senator Adler.

9 SENATOR ADLER: I really have a point

10 of clarification. I'm not sure what we're

11 discussing, in terms of super delegates. Are we

12 seeking diversity for under-represented categories

13 of people? Because I think, if you look at the

14 Legislature, it's likely that women and latinos will

15 be under-legislated statistically; Asian-Americans

16 may be under-represented legislatively; white men --

17 no disrespect to myself and other white men -- will

18 probably be over-represented; African-Americans are

19 probably over-represented, given the way our

20 legislative districts are configured right now --

21 statistically, Sherryl.

22 So -- or as a goal, as our briefing

23 papers suggest, that we're looking for super

24 geniuses, you know, special delegates because

25 they're better than the rest of the delegates

85

1 somehow, they have special expertise in tax policy

2 or constitutional law or spending constraints and

3 ideas.

4 So I guess I want to know what we're

5 talking about. Are we talking about diversity super

6 delegates, which I think was the original

7 legislative concept; or are we talking about genius

8 super delegates.

9 MR. VAN HORN: Vice chairman.

10 MR. COLE: I think it could be both.

11 I think, if you left it to the legislative

12 leadership, all of those considerations, I think,

13 would come into play.

14 MR. VAN HORN: Yes, I'll get to Ms.

15 Gordon, and then Senator Van Wagner.

16 MS. GORDON: As I wave my banner of

17 inclusion, I think that there needs to be a

18 mechanism to make certain that there's a total level

19 playing field, in terms of representation, and I

20 think to exclude that or not to allow that would be

21 a mistake. I mean, if we're seriously saying that

22 we want the people represented -- and I know that

23 there's this free market system, and everything will

24 balance itself in blind faith, but I happen not to

25 believe in blind faith. And I think there needs to

86

1 be a mechanism in place to allow us to plug in the
2 holes and values, should they emerge.
3 So the idea of having some kind of
4 super delegate -- now I'm not sure who should
5 appoint those individuals, that's a big question in
6 my mind. But I do think there needs to be an avenue
7 to allow that, those adjustments, if necessary.

8 MR. VAN HORN: Senator Van Wagner.

9 SENATOR VAN WAGNER: Yeah, I have a
10 suggestion perhaps that -- I had the same question
11 that Senator Adler had, you know, just: What's a
12 super delegate supposed to achieve, diversity,
13 expertise? Who appoints them? How do we achieve
14 that, et cetera?

15 My suggestion was to have that issue
16 decided after the election of the delegates takes
17 place, and decide who, in fact, is going to make
18 that decision, in terms of -- and spell out exactly
19 what we're trying to achieve by that. Perhaps, you
20 know, diversity, make sure that proper
21 representation is accomplished.

22 The question becomes, I think, the
23 issue that Sherryl raised, is: Who makes that
24 decision? Who decides if there's enough diversity?
25 And if we do put a slate on of super delegates, how

87

1 can we be sure that's going to create diversity?

2 I think, by broadening -- and I agree

3 with Dr. Reock, I think super delegates create a

4 slippery slope. But by broadening the participation

5 to three people per district, I think that, in

6 effect, we will achieve the diversity we're looking

7 for, if diversity is the purpose of the super

8 delegate. If it has another purpose, then, you

9 know, I wouldn't be in favor of it.

10 MR. VAN HORN: Assemblyman Roberts.

11 ASSEMBLYMAN ROBERTS: Thank you. I

12 think -- I actually wish we had never started

13 calling these folks "super delegates." That's

14 probably a misleading and confusing term.

15 I think it's a desirable concept for

16 the issue of under-representation only. If the goal

17 is to have more experts, more geniuses involved, we

18 can hire them and have them come in and work with

19 the convention delegates to provide their particular

20 expertise. I don't think it's necessary that they

21 be participating in the process.

22 There may be two groups that you might

23 want to -- two inadequacies that you might want to

24 address after the election:

25 The first would be

88

1 gender/racial/ethnic under-representation, if we

2 want a real commitment to diversity.

3 The second might be an acknowledgement
4 that there are certain constituencies that need to
5 have a voice in the process, that might need to be
6 included in that process, as well.
7 I guess another question, and a thorny
8 one, is, if you decide to go -- if we decide to go
9 forward, what is the selection process. Perhaps the
10 Governor has a role; perhaps the legislative
11 leadership, both houses, both parties have to
12 achieve a consensus on an entire slate; or perhaps
13 there would be individual selections made by the
14 legislative leadership in both houses. Those,
15 obviously, would be important issues.

16 I think I would favor more a slate
17 that had to be embraced in a consensus manner by
18 everyone, so that there was an acknowledgement of
19 fairness across the board.

20 MR. VAN HORN: Any other views on this
21 subject? We won't call them "super delegates" from
22 now on; we'll call them "extra delegates." Extra
23 delegates.

24 Senator Lance.

25 SENATOR LANCE: I tend to agree with

89

1 Dr. Reock, that it is a slippery slope. And while I
2 indicated before I thought there should be two per
3 legislative district, perhaps the problem would be

4 ameliorated greatly if there were three per

5 legislative district.

6 If the Governor and the legislative

7 leaders, for example, were to choose the extra

8 delegates -- is that the phrase we're going to use -

9 - would it be the new governor, I suppose; the

10 Governor who serves in 2006?

11 And I suppose this is based upon the

12 bias of having served in the legislative body. We

13 are all equal in the legislative chambers, based

14 upon election. That's certainly true in governing

15 bodies and on freeholder boards. I'm uncomfortable

16 with a system where some are elected, and some are

17 appointed.

18 MR. VAN HORN: Any other comments on

19 this topic?

20 Okay. Now we'll go to campaign

21 finance, which is -- if you thought these subjects

22 were simple, now we get to the more complicated.

23 The issue of -- the first issue is

24 really limitations; and, if so, what kinds of

25 limitations. We have all kinds of laws in place

90

1 that govern the legislative elections, and we have -

2 - have to apply some sort of limits to the

3 delegates. What are the views on that, the same,

4 lower?

5 MR. COLE: Are you talking about

6 contribution?

7 MR. VAN HORN: Yeah, contribution

8 limits. Yeah.

9 SENATOR VAN WAGNER: I think the

10 dilemma is that, if we open the system up to

11 everyone, it's quite obvious that those that are

12 holding some type of office have committees and

13 political action committees and fund-raising

14 organizations in place, which give them a distinct

15 edge over the average person who might want to be a

16 delegate. So I think, perhaps, we'd almost have to

17 devise some type of -- how can I say it -- separate

18 fund-raising mechanism for delegates.

19 Other than that, I would say let's

20 follow what we have, in terms of the Legislature.

21 (End of Tape No. 1, Side B)

22 (Beginning of Tape No. 2, Side A)

23 SENATOR VAN WAGNER: -- to get

24 themselves elected than others.

25 MR. VAN HORN: Assemblyman O'Toole.

91

1 ASSEMBLYMAN O'TOOLE: Chair, I'd like

2 to hear from Fred Herman, if he has any opinion on

3 this issue.

4 MR. HERMAN: Well, the Commission

5 Assemblyman doesn't have any opinion, but I can give

6 you a little background, I think.

7 Under the current system, we do have

8 dual-office holding in New Jersey, so you can be a

9 senator and a mayor at the same time. The current

10 law says that, if you're in that situation, that the

11 senate committee can only give up to a contribution

12 limit to the mayoral committee, and vice-versa; so

13 that, if you have a lot of money, say, in your

14 senatorial committee, and you're also running for

15 mayor, you just can't dump it into your mayoral

16 campaign.

17 So, in the context of electing

18 delegates, if, again, you were debating whether you

19 should be -- have legislators that are not -- for

20 sake of argument, let's say that they were -- a

21 legislator would only be able to give -- if you

22 wanted to set it up like the current system, could

23 only give himself or herself up to the contribution

24 limit, which would be the same contribution limit

25 that goes from a PAC to a candidate.

92

1 ASSEMBLYMAN O'TOOLE: Chair, having

2 heard that, I'm in favor of limiting the special

3 interest dollars. I would not put it at the same

4 level as the legislative limits; I would restrict it

5 to individual dollars, 250, 500, some base level.

6 I would make sure that special

7 interests could not control, whether pro an issue or

8 against an issue.

9 I would not allow a transfer of

10 dollars from one election fund to another; I think

11 it's self-defeating for those who are running

12 against the machinery, so to speak.

13 And I would be against public

14 financing of any sort.

15 MR. VAN HORN: Other comments on the

16 financing of campaigns. Mr. Cole.

17 MR. COLE: I agree with the

18 assemblyman, if I understood him. You're saying one

19 limit of \$500 or 250.

20 ASSEMBLYMAN O'TOOLE: (Inaudible - not

21 recorded.)

22 MR. COLE: It fits all. So, no matter

23 who you are, that's all you can give, to that -- to

24 that delegate campaign. I like that.

25 MR. VAN HORN: Yes, Senator Lance.

93

1 SENATOR LANCE: A question regarding

2 the suggestions of the vice chair and of the

3 assemblyman. Would contributions at that level,

4 \$250 or \$500, come only from individuals, or could

5 it come from PACs or both, or --

6 ASSEMBLYMAN O'TOOLE: I would listen

7 to the opinion of my colleagues, but I would keep it

8 to -- much like the federal levels, have it
9 individuals; and, if you really wanted to have it go
10 into individual election funds, in terms of a
11 transfer of 200 and 500. But I would kind of like
12 to limit it to individuals only.

13 SENATOR LANCE: So, to clarify, in my
14 senate campaign account, I accept, not only
15 individual contributions, but I accept PAC
16 contributions. And you're suggesting that that not
17 occur --

18 ASSEMBLYMAN O'TOOLE: Correct.

19 SENATOR LANCE: -- regarding this
20 election.

21 ASSEMBLYMAN O'TOOLE: Correct.

22 SENATOR LANCE: So this would be
23 different from what is the current scheme in New
24 Jersey for legislative races, through the chairman
25 to Dr. Herman. Is that accurate?

94

1 MR. HERMAN: That would be correct,

2 Senator.

3 On the other hand, just as background,

4 in our gubernatorial campaigns, we do have a uniform

5 contribution limit, and it applies to all sorts of

6 entities; so an individual or a PAC or, you know, a

7 political party, for that sense, would only be able

8 to give out the same amount of money.

9 ASSEMBLYMAN O'TOOLE: I mean -- Chair,

10 I mean, the reason I have this suggestion is, we've

11 heard so much that, you know, money is -- money is

12 such an important factor in elections and, you know,

13 lobbyists and PACs have controlled elections, and I

14 think we're trying to make this the people's

15 convention. I think we need to do that.

16 You have to limit the big-dollar

17 contributions and influence that come with it. And

18 I think, making individual contributions, we will

19 know in black and white as to which individuals have

20 contributed on an individual basis, and we will try

21 to remove or eliminate any other, you know,

22 corrupting influences, political or otherwise.

23 MR. VAN HORN: Senator Adler, and then

24 Assemblyman Roberts.

25 SENATOR ADLER: I have a question and

95

1 a comment.

2 Do the -- the contribution limits

3 we're discussing, would they prohibit an independent

4 group from funding on its own, without affiliation

5 with a particular candidate, either massive mailings

6 on behalf of a candidate, or massive attacks against

7 a candidate?

8 MR. VAN HORN: Mr. Herman?

9 MR. HERMAN: You can't

10 constitutionally stop, Senator, independent

11 expenditures.

12 SENATOR ADLER: Well, so I guess the

13 point I was making with that question is that we

14 shouldn't dwell too much on this issue, as important

15 as it is symbolically, because the reality is, you

16 know, John Adler's friends could start a status quo

17 PAC and spend a lot of money mailing to all my

18 neighbors in six districts saying, vote for John

19 Adler for delegate, keep the status quo; or change

20 the status quo, they could make stuff up. And, you

21 know, I wouldn't be part of that, it wouldn't be

22 affiliated with me, it would be my next-door

23 neighbor and I wouldn't know about that.

24 And so there's -- and so the reality

25 is, while we're talking about important things,

96

1 there is a separate vehicle for achieving something

2 other than what the public might want. So I just

3 want to throw that one out there.

4 MR. VAN HORN: Assemblyman Roberts.

5 ASSEMBLYMAN ROBERTS: That was

6 precisely the point I wanted to make, that the -- if

7 we've learned nothing from the last federal

8 election, it's the power of the independent

9 expenditure entities. And you close one door, and

10 another opens, and I think we need to be cognizant

11 of that because we all know the way the real world
12 operates. So I think we should think about that in
13 the context of Kevin's very fine suggestion.
14 And, also, we need to take a look, I
15 think, at in-kind contributions and how they're
16 allocated and handled, because some of the groups
17 that might be involved in this process might have
18 access to a lot of ways to communicate that might be
19 very, very effective, but difficult to measure in
20 dollars and cents.

21 MR. VAN HORN: Senator Van Wagner.

22 SENATOR VAN WAGNER: I want to set up
23 a hypothetical, so I can understand this. And I'm
24 not very smart, so I have to do it this way.

25 Mr. O'Toole --

97

1 MR. VAN HORN: We've heard that line
2 before.

3 UNIDENTIFIED: (Inaudible - not
4 recorded.)

5 SENATOR VAN WAGNER: -- let's say you
6 decide, for whatever strange reason, you decide you
7 want to be a delegate. All right? I said "strange
8 reason." You then -- but you're running for the
9 Assembly at the same time. So in your assembly
10 campaign, you can accept, based on the rules that
11 are in place for legislators, but in your delegate

12 position, you would be limited to a two-hundred-and-
13 fifty or five-hundred-dollar individual only
14 contribution.

15 So that, if Cy here decided to run,
16 and he's organizing -- he's got an extensive
17 organization, he could not accept a contribution
18 from his organization, but the members in that
19 organization could individually contribute to him as
20 a delegate. Is that correct? Would that be --

21 ASSEMBLYMAN O'TOOLE: Individual --
22 individual contributions.

23 SENATOR VAN WAGNER: Yes,
24 individually. Even though they were members of an
25 organization --

98

1 ASSEMBLYMAN O'TOOLE: I think
2 individual contributions -- Fred, I mean, you
3 couldn't -- you couldn't stop -- individuals are
4 individuals, regardless of who they work with or who
5 they're affiliated with.

6 MR. HERMAN: Correct.

7 Maybe to back up for a second, too.

8 There was some discussion about prohibiting PAC
9 contributions. That might be a constitutional
10 problem.

11 SENATOR VAN WAGNER: Well, yes.

12 MR. HERMAN: We can ban corporations

13 and unions, but PACs are voluntary associations of
14 citizens, so it does raise some First Amendment
15 questions.
16 SENATOR VAN WAGNER: And issues have
17 been raised, if you -- I think, before, in other
18 elections, about organizations who have their
19 individual members give donations to certain people.
20 So those issues can be raised. I'm not saying
21 they're legitimate, but they kind of muddy the
22 waters. And, you know, money, in fact, does muddy
23 the waters. As Assemblyman Roberts said, we saw
24 that with the five twenty-four organizations (sic)
25 and other organizations.

99

1 So I would subscribe to Kevin's
2 suggestion. Keep it clean, individual, limited.
3 MR. VAN HORN: Senator Lance.
4 SENATOR LANCE: To continue with
5 Senator Van Wagner's hypothetical, through the
6 Chairman to Dr. Herman.
7 You're saying that, if this
8 hypothetical were to occur, there is no way at all
9 to prohibit independent groups from spending \$1
10 million in Delegate Candidate O'Toole's district to
11 promote or defeat his candidacy.
12 MR. HERMAN: That's true. And,
13 actually, it's a little bit worse than that because

14 there's another level here, the issue advocacy
15 committees.
16 A PAC can make an independent
17 expenditure, but they still have to report what
18 they're doing. If it's an issue advocacy committee,
19 which is not saying expressly, vote for or vote
20 against somebody, they can spend unlimited amounts
21 of money and not even report.
22 SENATOR LANCE: This is a very serious
23 problem, and we're going to have to discuss this at
24 some length, and I don't have an immediate
25 suggestion.

100

1 (Participants confer)
2 MR. VAN HORN: Dr. Reock.
3 DR. REOCK: I think the other side of
4 the coin on this subject is the public financing of
5 campaigns, and that might be a way to level the
6 playing field a little bit.
7 I'm not an expert on this at all. I -
8 - I read what was in Assemblyman Roberts's original
9 bill; sounds good to me. But one NJN-produced
10 television commercial, and two mailings, in return
11 for a pledge of restricting total expenditures. Now
12 I don't know whether that would be effective or not,
13 but I think it's something that moves in the right
14 direction.

15 MR. VAN HORN: Senator Lance, and then

16 Mayor Schubert.

17 SENATOR LANCE: Thank you. That is a

18 very good suggestion, based upon Senator Adler's,

19 Senator Schluter's, and Assemblyman Roberts's bills.

20 I have the greatest concern it will be overwhelmed

21 by independent expenditures by groups that are

22 passionate one way or another on several of the

23 aspects of matters to be discussed at this

24 convention. And if there is any way

25 constitutionally we can avoid me, that would be my

101

1 strong recommendation.

2 MR. VAN HORN: Yeah, Mayor Schubert.

3 MAYOR SCHUBERT: Thank you, Chairman.

4 I had thought -- and I may be incorrect -- but we

5 had heard testimony that said we can give a

6 tradeoff, but they don't have to take us up on that.

7 So that would sort of, if somebody wanted to limit

8 their spending, then they could, but if they didn't

9 want to, there was no way we could make them do

10 that.

11 MR. VAN HORN: Yeah.

12 MAYOR SCHUBERT: And I just ask

13 everybody, everybody got this handout, the ad.

14 This, I think, is what we're all afraid of, that

15 there's going to be a lot of other organizations

16 that are going to be spending this kind of money.

17 We haven't even got to the point where the

18 convention is, you know, structured and set, and

19 there's already money being spent, so ...

20 MR. VAN HORN: Well, I think this is

21 what Senator Adler was saying, you know, that -- he

22 was talking about the idea of -- or he was

23 connecting those two points about, not only having

24 people voluntarily accept certain limitations or

25 public funding, and then noting that on the ballot,

102

1 I mean, that's one way to perhaps give them an

2 advantage, if you will, in the process.

3 It seems to me that what I'd like to

4 suggest, again -- and I, again, don't want to limit

5 discussion here, but it seems to me that I'd like to

6 ask the staff to do some more thinking about this.

7 I mean, I think you understand the sentiment of

8 where the task force is. And, you know, I think

9 that you try to work with that and come back with

10 some recommendations to this. My own view about

11 this -- pardon me?

12 (Participants confer)

13 MR. VAN HORN: Yes, sure, Senator.

14 SENATOR ADLER: I wonder if staff

15 could, as part of their analysis and investigation

16 on these issues, if they could tell us whether it

17 would be constitutional to require contemporaneous
18 disclosure by issue advocacy groups of the cost of
19 their efforts --

20 MR. VAN HORN: Yeah.

21 SENATOR ADLER: -- or whatever other
22 sort of disclosure we could do, and enhance that.
23 I know Assemblyman Roberts has been
24 zealous on this issue for a number of years. Maybe
25 we could find ways to do that with separate

103

1 legislation, or as part of this package, depending
2 on what makes sense.

3 MR. VAN HORN: Yeah, yeah.

4 ASSEMBLYMAN ROBERTS: If I may, that
5 was an issue we addressed in the election reform
6 package that we did because there was activity on
7 the part of so-called "independent expenditure
8 groups" that was very much a factor in a November
9 election, not disclosed until after the November
10 election.

11 What I'd ask our experts to do, as
12 well, is -- I think it's -- there's a number of
13 elements to this, and I think Senator Lance touched
14 on it, as well -- that we can ask -- we can say to a
15 candidate, if you will limit your spending, you will
16 get certain things of value: Exposure on NJN,
17 exposure in a voters guide, and so on.

18 I wonder if there's any way for the
19 candidate also to have a role in disavowing any
20 other expenditures on their behalf. It's --
21 obviously, in a partisan environment, you can do it;
22 you can address their -- their local or county or
23 state party apparatus. It's more challenging here.
24 I don't know that it's possible at all, but I think
25 it's at least thought-provoking and would like some

104

1 background on it.

2 MR. VAN HORN: Okay. I think that's a
3 good way to proceed, and we'll be advised by the
4 staff as soon as possible as to their deliberations
5 on that point.

6 Mayor Passanante.

7 MAYOR PASSANANTE: I just had one
8 other question. And if you have a candidate who's
9 running for both the Assembly, because that will be
10 up at that time, and also a delegate, is there any
11 way -- I mean, that gives them kind of a double -- a
12 double hit out of the barrel. If someone decides
13 that they want to run for Assembly, has never run
14 before, and now they're going to have visibility
15 through a campaign as a delegate, and visibility
16 through that. I don't know if there's any
17 limitations or restrictions that can be put, if
18 they're going to try to run for both offices.

19 (Off the record. Back on the record)

20 MR. VAN HORN: I think we've gone

21 through the list of topics that I had agenda'ed for

22 today, and --

23 UNIDENTIFIED: This was the easy day.

24 MR. VAN HORN: Yeah. Well, you know,

25 give me credit. We started at the right place.

105

1 (Laughter)

2 (Participants confer)

3 MR. VAN HORN: What I'd like to

4 suggest is that we -- we not meet on Monday and

5 Tuesday of next week -- we had previously asked you

6 to hold those dates -- in order to give the staff

7 time to work through some of these questions, and

8 we've asked them a number of complicated questions.

9 So I'd like them to have some time to do that.

10 We're deleting Monday and Tuesday.

11 And I would ask you to hold the Wednesday and

12 Friday, subject to the call of the Chair, and I will

13 advise you very quickly on that.

14 The second point is, we will -- and

15 the other point I want to be able to do is to get

16 out some more materials. The staff will distribute

17 to you -- Jack, if you'll do that now, I don't think

18 you've done it yet -- the list of questions that

19 we're going to take up, and this is just a list of

20 questions. They will be subsequently distributing
21 to you something similar to what you had today,
22 which is a short and Cliff's Notes analysis of some
23 of these issues, if you will.

24 And, at the next meeting, we will be
25 handling Roman III, IV, and V; and, if possible,

106

1 beginning our discussions of VI and VII, and those
2 are the question of education around the proposals,
3 the convention operation, what happens with the
4 convention proposals, how should the vote be
5 structured, and so on and so forth; all of the other
6 -- many of the other issues we've discussed.

7 And then, the following week, the week
8 of the 8th -- and we also have dates scheduled for
9 the week of the 8th and December -- I'm sorry, the
10 date of December 8th and December 17th. Clearly, we
11 will need those meetings to -- and maybe more
12 meetings, but at least, as of this moment, we'll
13 certainly need those meetings to conclude our
14 business.

15 So, again, to repeat, Monday and
16 Tuesday are off. Please hold Wednesday and Friday
17 of next week, and December 8th and December 17th.
18 And I wish you all a very happy
19 holiday, and thank you for your diligent work today.
20 I think we have made a lot of progress. Even though

21 it was easy, Senator, it was important. And we've
22 also left, I think, a lot of tough questions for the
23 staff to deal with, and I'll talk to you --

24 MR. KELLY: In that vein, Mr.

25 Chairman, can we recap what has been asked of the

107

1 staff?

2 MR. VAN HORN: I'll meet with you

3 after, we'll do that.

4 MR. KELLY: It might be helpful while

5 the members are here, in case they have to correct

6 anything that we've taken down.

7 MR. VAN HORN: Well, why don't you --

8 why don't you -- why don't you state back to us your

9 understanding quickly, and we will clarify if

10 there's any confusion.

11 MR. KELLY: Okay. We -- number one:

12 We are to research the feasibility of using a mail-

13 in election to pick delegates for the convention.

14 Number two is a legal opinion on, can

15 legislators or other elected officials be excluded

16 from serving as delegates; can legislators serving

17 as delegates be paid; and can legislators accept

18 reimbursement of expenses for service as a delegate.

19 And number three is a profile of

20 delegates at other state constitutional conventions.

21 Gina, you might have some of these

22 down. I don't think that information exists because
23 most of those conventions were in the 1970s, in the
24 south and west, and it simply may not be available.
25 (Participants confer)

108

1 MR. KELLY: Okay. And then the last
2 issue we may need some clarification on. It had to
3 with, I believe, can candidates limit independent
4 expenditures on their behalf.

5 (Participants confer)

6 MR. KELLY: Does anybody --

7 UNIDENTIFIED: Well, I think it was
8 more, can -- is there a mechanism to have them --
9 those that accept --

10 (Participants speaking simultaneously)

11 UNIDENTIFIED: I think this is
12 Assemblyman Roberts.

13 ASSEMBLYMAN ROBERTS: This is the
14 issue that I raised.

15 MR. VAN HORN: Yeah.

16 ASSEMBLYMAN ROBERTS: If, in fact, the
17 process is providing them with public exposure,
18 printed materials, television exposure, in exchange
19 for that contribution of value of them, is there any
20 mechanism at all that could play -- have them play a
21 role in disavowing independent expenditure, PAC
22 expenditures on their behalf.

23 MR. KELLY: In return for the receipt

24 of these benefits.

25 ASSEMBLYMAN ROBERTS: Correct,

109

1 correct.

2 MR. KELLY: Okay.

3 MR. VAN HORN: Thank you, Peter.

4 And, Senator Adler, anyone else wish

5 to add to the charge?

6 SENATOR ADLER: Mr. Kelly, I have a

7 related question.

8 MR. VAN HORN: Senator Adler.

9 SENATOR ADLER: Thank you. A related

10 question on that topic.

11 Can we require some sort of disclosure

12 by issue advocacy groups on a contemporaneous basis,

13 rather than weeks or months after the election?

14 Because at the time they make an expenditure, if

15 there's an ad, if there's a TV spot, if there's a

16 mailer, can they be required to say --

17 MS. KELLY: I'll speak with you --

18 SENATOR ADLER: -- on that item --

19 MS. KELLY: There is some stuff --

20 SENATOR ADLER: -- how much it cost,

21 and how much is the spending overall.

22 MS. KELLY: -- in the Kean Feingold

23 (phonetic) on that. I can --

24 SENATOR ADLER: I'm sorry? Say it

25 again.

110

1 MS. KELLY: There is some stuff in the

2 Kean Feingold on that for certain organizations. I

3 can speak with you about that after the meeting, if

4 you'd like, Senator.

5 SENATOR ADLER: Okay. Thanks.

6 MR. VAN HORN: Senator Lance. Once

7 person at a time, please. I'm having trouble

8 hearing.

9 SENATOR LANCE: And the dual-office

10 holding situation, I think it was in Tennessee.

11 Thank you.

12 MS. KELLY: Yes, Senator. I'll have

13 that for you.

14 MR. VAN HORN: Any other question you

15 want to add? Thank you, Peter for that --

16 MR. KELLY: Okay. Thank you.

17 MR. VAN HORN: -- succinct

18 clarification.

19 And you can communicate that, if you

20 would please, directly to us. I mean, you're going

21 to collaborate, I assume, amongst yourselves in

22 whatever way you see fit, and then communicate that

23 directly to me, and I'll pass it on to the members

24 as quickly as possible.

25 Mayor Schubert.

111

1 MAYOR SCHUBERT: Mr. Chairman, would

2 it be possible for us to get that through our e-

3 mail, so that we can review it prior to getting

4 here?

5 MR. VAN HORN: Absolutely. We'll get

6 it out as quickly as we can.

7 MAYOR SCHUBERT: Okay.

8 MR. VAN HORN: And I think that,

9 whatever method of communication we're using now, I

10 assume we'll continue to do that.

11 MAYOR SCHUBERT: Thank you.

12 MR. VAN HORN: And, again, we're not

13 meeting until next Wednesday at the earliest, so

14 you'll have time to get that and look at it.

15 Assemblyman O'Toole.

16 ASSEMBLYMAN O'TOOLE: I just wanted to

17 know if we had any other correspondence that came

18 our way.

19 MR. VAN HORN: The assemblyman asked

20 whether we've had any other correspondence. I guess

21 what -- perhaps at the next meeting, I'd ask the

22 staff to summarize -- again -- and, again, this is

23 available for anyone to look at it, and we sent out

24 to you the mechanism for how you can do that on your

25 own. But I'll ask the staff to summarize that for

112

1 you.

2 SENATOR VAN WAGNER: Mr. Chairman.

3 MR. VAN HORN: Senator Van Wagner.

4 SENATOR VAN WAGNER: On the

5 information, could we ask that the staff put that

6 also on the site that you put the comments from the

7 public on?

8 MR. VAN HORN: Sure.

9 SENATOR VAN WAGNER: Because I have

10 trouble getting the e-mails directly into my system,

11 a software glitch.

12 MR. VAN HORN: We'll get it to you.

13 SENATOR VAN WAGNER: Thank you.

14 MR. VAN HORN: Any other questions or

15 comments before we adjourn today?

16 Okay. Great. Thank you very much,

17 and we'll see you next week.

18 (Participants confer)

19 (Proceedings adjourned)

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113

1 C E R T I F I C A T I O N

2

3 I, Coleen Rand, do hereby certify that

4 the foregoing transcript of proceedings by the New

5 Jersey Property Tax Relief Task Force, recorded on

6 audiotape on November 23, 2004, is a true and

7 accurate non-compressed transcript of the

8 proceedings to the best of my knowledge and ability.

9

10

11

12 Coleen Rand AD/T 419 Date

13 For Guy J. Renzi & Associates

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