

PUBLIC HEARING ON
PROPOSED REVISED CONSTITUTION (1944) PENDING BEFORE JOINT LEGISLATIVE
COMMITTEE TO FORMULATE A DRAFT OF A PROPOSED REVISED CONSTITUTION
FOR THE STATE OF NEW JERSEY CONSTITUTED UNDER SENATE CONCURRENT
RESOLUTION NO. 1, ADOPTED JANUARY 11, 1944

HELD BEFORE SUBCOMMITTEES ON
Tuesday, February 1, 1944

(Legislative)

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SPEAKERS - MORNING SESSION

February 1, 1944

F. S. Kellogg, Manufacturers' Association of New Jersey, for modification of Article III

Mrs. F. W. Hopkins, Consumers' League of New Jersey, for modification of Article III

Dr. R. L. Geittings, President, N. J. State Chiropractors Association, wants to present an addition to ARTICLE I of the proposed Constitution.
(Also Dr. Powell and F. W. Poppy, same as above).

John F. O'Brien, N. J. Association of Real Estate Boards, for modification of ARTICLE VII

Carl Holderman, N. J. CIO, for modification of ARTICLE III

John Beblut, N. J. Committee for Constitutional Revision, for modification of ARTICLE III

Senator Pascoe:

You folks here assembled know and appreciate the Legislature now has the responsibility of preparing a revised constitution for the State of New Jersey. The unofficial committee appointed by the Governor made a report and submitted it to the Legislature. Copies have been printed and distributed widely to the public of the state in order that the public themselves might have an opportunity to express their views on the proposed constitution and the official committee of the two houses of the Legislature have arranged for a series of public hearings. The first of these is taking place in the State House today, divided into three sections, Legislative, Executive and Judicial. The committee here assembled are the ones charged with the Legislative Section.

In addition to that we have been assigned the Suffrage or Election Section and the Financial Section, as well as the section on part of the schedule in the back of the pamphlet that applies to sections that are assigned to us.

For the purpose of orderly procedure each of the three groups have agreed to follow the rules which I would like to read primarily to make it a matter of stenographic record.

The hearings of the three sub-committees of the Joint Committee on Constitutional Revision are being held to afford all the people of our state who so desire an opportunity to be heard on the draft of the proposed Revised Constitution pending before the Joint Committee so that the Legislature will have the benefit of all suggestions and criticisms.

RULES

1. The hearings will begin at 10:00 A. M., continue until 1:00 P.M., resume at 2:00 P.M., and continue until 4:00 P.M. On the day of each hearing all persons desiring to be heard are requested to register their names, the organizations represented, if any, and the classification under which they wish to speak, namely: whether opponents, modificationists, or proponents. Such registration shall be made with the official stenographer before the beginning of the morning or afternoon session.

2. The order of speaking, so far as practicable, shall be, first, the opponents, second, those for modification or addition, and third, the proponents.

3. At the beginning of each day of the hearings a spokesman for each sub-committee will give a brief summary of the particular Article under consideration and will also inform the audience when other Articles are to be considered.

4. Each speaker, before being heard, is requested to submit a written statement to the Chairman of the sub-committee, before the hearing, if possible, out-lining his position and covering the points he intends to speak upon. If a speaker appears without a written statement, it is requested that he forward such a statement to the Chairman of the Joint Committee as soon as possible thereafter. If any speaker attending the hearings wishes to supplement any remarks made at the hearing, he may do so by filing a written statement with the Chairman of the Joint Committee.

5. Each speaker shall be limited to fifteen minutes on each Article. If an organization is represented by more than one spokesman, it is suggested that the subject matter be divided among such spokesmen.

6. All suggestions for modification and addition shall be submitted in writing and shall contain specific language to accomplish the suggested result.

7. Any person attending the hearings, who does not desire to present his views orally, may record his position by filing a written statement with the Chairman.

We will try to follow those rules as closely as possible during the balance of the hearing.

As to the Section which will be heard today it is Article III which is a Legislative Article. That has been assigned for today beginning on Page 3. The reason for assigning these different Articles on different days is so as not to get a conglomeration of records which we will have to weed out. That is the purpose of assigning the article in question.

Tomorrow this committee will take up the question of Suffrage or Elections, which is Article VIII on Page 20. On Thursday by request of those

who want to appear on the Financial Article we will have the Financial Article. We expect there will be considerable discussion on the Article and we gave them two extra days.

As stated by the President or leaders of the Senate there is no intention to close out consideration of the constitution in these three hearings if there is sufficient interest or the necessity for subsequent hearings. They will be announced in the public press after a decision is made by the committee.

This Article III is one of the three component parts of our Government in the State of New Jersey and deals primarily with members of the Legislature of both the House and the Senate, qualifications for members therein, the salaries and terms of office of those particular officers, the type of legislation that can be considered by the Legislators and various phases of veto power, except as referred to in the Executive Article. It is an important part of our Government but one that will probably receive the least consideration on the part of the general public, except as it may have definite interest for some particular group within our State, as we feel sure will be the case.

We will proceed with consideration of Article III. The first name on the list is Mr. F. S. Kellogg speaking in behalf of the Manufacturers Association of New Jersey.

Mr. Chairman and Members of the Committee:

The draft of the Proposed Revised Constitution published by your Committee is, in the opinion of the management of the Manufacturers' Association of New Jersey, a distinct improvement over the proposal made in 1942.

We do not abandon any objections, stated on behalf of this Association before the 1942 Legislative Committee, as to certain provisions which have been carried over from the 1942 proposal. At this time, however, we wish to emphasize our objections to one provision. It is in Article III, Section VI, Paragraph 2, and reads:

"2. The right of labor to organize and bargain collectively shall not be impaired."

This clause is identical with that contained in the 1942 proposal. Some of our views in respect to it are stated at pages 149 and 150 of Part I of the Record of the 1942 Hearings. For convenience, we annex a copy of those statements.

The last word, "impaired," is the key to the public danger involved in this paragraph. If any one will take a look at the dictionary definition of the word it will be evident at once that such a paragraph with that word would mean that no future Legislature could constitutionally diminish, lessen or weaken, or otherwise control or regulate, the manner, means or power of labor unions or their agents in organizing workers or collectively bargaining.

If it is the purpose of labor unions and the accepted understanding of the 1944 legislators in revising the organic law of the State to take labor unions and their agents completely out of the orbit of any form of legislative control or regulations, even where the public interest may require the same, then the present language is successful.

This proposed immunity of labor organizations from legislative action would provide special privilege to a particular class. Organized labor, however, is no more entitled than is any other class to privileges denied to business, agriculture and like organizations, to say nothing of the millions who belong to no group but who are entirely dependent upon a well-balanced economy with class distinction and prejudice eliminated entirely. Such a clause would leave labor organizations free to exert compulsion requiring membership therein in order to obtain employment. Production, whether in time of war or in time of peace, is the basis of the well-being of all the people of the State. It is vital that the legislature retain power to prevent any action by any class which threatens either the safety or the livelihood of the people.

We believe that labor has a right to organize and to bargain collectively and we do not desire to see that right

taken away from them. On the other hand, we believe that the rights of labor to organize and bargain collectively should be used and should be compelled to be used in such a manner as not to deny to others and to the people at large the rights which belong to them. We are sure that labor can organize and bargain collectively without trampling on the rights of others in the same manner that business or any other enterprise of our economy can be so conducted, but, unfortunately, this has often not been the case.

The Constitution should permit the Legislature from time to time to determine for itself the necessary legislation to protect labor in their rights, to protect all other classes of citizens and their businesses in their rights and to control or regulate labor as well as any other branch of our economy or any other class of citizens.

With so many of our men away and in the armed services, we have a special duty, in their absence, to preserve their liberties, their freedom of choice and their right to work without union restrictions or compulsion.

We urge, therefore, that the clause proposed should find no place in the Constitution and that the matter is one which should be regulated from time to time by the Legislature in a way consistent with the bill of rights and in the light of existing circumstances.

Respectfully yours,

(signed by) Henry W. Johnson

HENRY W. JOHNSON
PRESIDENT

Senator Pascoe: In order to break into this I think I will go down to the bottom of the list and ask Mr. John Bebout of the New Jersey Committee for Constitution Revision for modification of Article III to speak.

Mr. Bebout: Members of the Legislative Committee: The New Jersey Committee has, as you know, been in operation now for three years in advocacy of a substantial revision of our constitution. The committee feels that your draft embraces many of the most important objectives which it and practically a score of affiliated state organizations have been hoping for as a result of a Constitution Revision. We appear, therefore, in a sort of dual

role. We are really proponents of a substantial part of Article III and we are modificationists of some particular details, most of which are in the nature of additions which we would like to see made to Article III, rather than actual changes in what has been written. In view of the necessity for haste, however, I will outline the modifications or additions which we would like to see made.

We do believe in general your Article could go a long way toward creating more effective and responsible legislative powers which is the general objective of our committee as far as Constitution Revision is concerned. We are very glad you have decided to go for Biennial election with two-year terms for Assemblymen and four-year terms for Senators. Our Committee advocates the holding of State elections in odd years on the ground that it would make it possible for the voter to make a complete separation in his mind between the State and National issue. We understand perfectly well the legitimate and commendable reason why you changed to the even year arrangement and we are glad you don't make a Gubernatorial election fall in Presidential election years but we might suggest in order to get the odd year requirement it would be possible to provide that the next Governor, the present one is still adamant about having his term extended, serve for only three years, thus making it work out after the next term.

The Committee for Constitution Revision has personally felt that the provisions of Section II, Paragraph 3 which has been handled by the courts in the State vs. Wrightson making it impossible to have assembly districts or provisions for election of county delegates in circumstances known as suspensional representation should be eliminated. There are a half dozen words which, if eliminated, would leave an opening if at some future time it is desired to establish assembly districts or some other method of selecting county delegates. The words would be in the second line of paragraph 3, Section II: "...by the legally qualified voters of the counties, respectively" That language handled by the courts requires that all assemblymen be elected by all the voters.

The Committee is very glad to see you have voted to raise the salaries of the legislators and I am sure no member of our Committee feels the amount

you have put in is excessive. Although the Committee took no definite stand I might say quite a number of the members feel there should be no specific amount put in the Constitution but that the Legislature should be free to set the salaries of the legislators from time to time, with a further provision that no Legislature could raise salaries for its own term.

Now Section III, Paragraph 3. We are glad to note you have strengthened the present provisions concerning eligibility of members of the Legislature to appointments to civil offices in the State by extending that to include any position of any kind created during the term of the members and also prohibiting members from accepting appointments during the regular ninety-day session. Our Committee, however, would go somewhat further, although not so far as the Hendrickson Commission's proposal. We propose that the legislators and the Governor be prohibited from receiving any State appointments during their terms, and also prohibited from receiving appointments to positions created during their term for one year thereafter.

Now turn to Section V, Paragraph 3. We note that you provide that all bills and joint resolutions shall be read three times in each House before the final passage thereof. Our Committee advocates a provision similar to the one in New York State requiring more deliberate procedure and putting an end to legislation under suspension of rules which sometimes occurs near the end of the Session in New Jersey. We propose no bill could be passed unless it had been in printed form on the desks of the members for three days, unless the Governor certified to an emergency. This is found in the New York Constitution.

Our Committee approves the provision guaranteeing that the rights of labor shall not be impaired.

There are a number of additional limitations of the legislative power which we have proposed. We are glad that the Tax Clause of the New Jersey Constitution has been clarified. We will leave John O'Brien, a member of our Committee to elaborate on that, which I'm sure he'll be glad to do. I am glad to see the words "True Value" which have been meaningless in practice have been omitted. We are also delighted to see that the provision in the

Hendrickson Report providing for adequate investigational powers has been included.

Now for some additional limitations. We advocate that the Legislature be prohibited from prohibiting a candidate for public office - - -

SENATOR PASCOE:

Wouldn't that come under Suffrage?

MR. BEBOUT:

It would be.

SENATOR PASCOE:

I would rather you discussed it under Suffrage out of deference to that committee. They are expected to take that up Thursday.

Elections is tomorrow.

MR. BEBOUT:

I would also like to say something on mandatory legislation. Perhaps that also - - -

SENATOR PASCOE:

That is under consideration.

MR. BEBOUT:

One item which municipal and county officials have been suspicious of for years is the requirement by State Law that a certain number of officials or employees be employed in a particular category at particular salaries and for certain terms. The problem, of course, is which is mandatory legislation, which is objectionable, and which is beneficent legislation, and we believe we have a clause which we will submit which will distinguish between the objectionable and the beneficent, such as the general Civil Service laws which we approve of.

We would also like to see incorporated in this article a provision on Home Rule, guaranteeing counties, cities and other local units the right to choose their form of government.

I am not certain what Article this would best fit in. I mention

it at present to get it on the record. We have a proposal which may seem very novel in this State which was advanced a good many years ago by one of the leading founders of legislative procedure, Professor Freund of Chicago. This is the proposal. When a bill has passed one House, and after a reasonable period of time has failed of passage by the other, the Governor might, under certain circumstances, order that bill to be submitted to the people at a referendum vote. We suggest a good many different safeguards which could be thrown around this. It could be required that such submission not occur until the bill was passed the second time, or until it had passed the first House by a three-fifths or two-thirds vote.

Those are a few of the proposals. We will submit a memorandum. On the whole I think it fair to say the vast majority of the members of the committee feel this Article, as drafted, represents distinct advantages over the present Constitution, and in a number of respects over the Constitution proposed by the Legislative Commission two years ago.

SENATOR PASCOE: I do think it would help the Committee out if you would submit a brief on the remarks you made, particularly where you submit suggestions for modifications or revisions; otherwise, we would be trying to put in our thoughts and you know better about it than we do.

MR. BEBOUT: We have drawn a draft of most of the proposals but haven't had time to integrate them clearly with this particular draft. That is why I'm not submitting drafts today.

ASSEMBLYMAN LEONARD:

Mr. Bebout through the Chairman. In the early part of your remarks you made reference to Section II, Paragraph 3, with reference to representation by election districts rather than by counties.. May I ask the question - does your association believe that would be possible in the light of the Feller Bill?

MR. BEBOUT:

I am sorry I don't have the Feller Bill with me. It specifically mentions the language of the constitution but it does not say how members shall be elected. It does not refer to the way of electing them within each county. We are sure of no difficulty on that score.

ASSEMBLYMAN STEPP:

Did I understand you to say you approved the paragraph on Labor?

MR. BEBOUT:

Yes.

SENATOR TOOLAN:

What is your attitude on a proposed salary of \$2,000.00 for members of the Senate and General Assembly. Do you think that an adequate amount in the light of the proposed considerable change in the value of the dollar and when we are going to operate under an economic strain where we will have a three billion dollar debt?

MR. BEBOUT:

I don't think it is and that is why I and a good many members of the Committee have expressed the opinion they would rather see no specific salary put in the Constitution. I think the majority would be delighted to go along with the elimination of the salary provision altogether, leaving that to - -

SENATOR PASCOE:

You remember the so-called Hendrickson Draft put in a salary of \$1,500.00. We felt that if we took it out altogether there would be suspicion on the part of the public that we might want to make it like Congressmen and would have raised it to \$20,000.

MR. BEBOUT:

I can understand the squeamishness of the Legislators on that point but perhaps if the public expressed it

it would relieve you people of any onus in the matter..

SENATOR TOOLAN:

What do you think of the idea of putting in the constitution in order to get around the squeamishness of our members, a provision saying: "Members of the Legislature shall receive a salary not in excess of (blank) dollars."

MR. BEBOUT:

In view of the point made a little while ago I think it would be necessary to make it fairly high in order to meet further contingencies.

SENATOR TOOLAN:

Possibly so.

MR. BEBOUT:

I think it would be better than \$2,000 if you put the upper limit higher than \$2,000.

MRS. F. W. HOPKINS,
Consumer's League of New Jersey

Mr. Chairman and Members of the
Committee:-

The Consumers League of New Jersey is a member of the New Jersey Committee for Constitutional Revision. Through its representative it participated in the formulation of that Committee's proposals for changes in the Constitution of New Jersey. We subscribe entirely to these proposals, which have been placed in the hands of the Governor and of the Legislative Committee.

At present the Legislative Committee is concerned with public reaction to a draft of a proposed Constitution. The views of the Consumers League thereon will, we believe, be found to be in harmony with those of the Committee on Constitutional Revision.

We are submitting a statement of our position on each article of the proposed draft to the proper sub-committee of the Legislative Committee.

CONSUMERS LEAGUE OF NEW JERSEYARTICLE III - Legislative.

The Consumers League considers that in general the provisions of Article III are excellent. We commend in particular the two-year term for members of the General Assembly and the four-year term for Senators; the increase of salaries to \$2000 per annum; and the removal of all appointing power, except for three fiscal officials, from the Legislature.

We wish to recommend three modifications in Article III.

(a) Section V, paragraph 3, we would add this provision:- A bill or joint resolution may not be considered on second reading until at least one day after the first reading thereof, or on third reading until at least one day after the second reading thereof, unless the Governor shall certify that an emergency exists, whereupon this provision may be suspended by unanimous vote of the members present. All bills must be printed before they are considered on third reading, unless the governor shall certify to an emergency.

The reason for these provisions is obvious. They would prevent hasty, ill-considered action, and the too-common resort to "suspension of the rules" which now occurs.

(b) Add to Article III provision for a Legislative Council, to be composed of members of the Legislature, whose duty shall be to prepare a program of legislation for each legislative session. Also, a permanent research and bill-drafting bureau to be maintained for the convenience of members of the Legislature.

These are efficiency measure, and designed to insure well-drawn laws, which will not need revision in the next legislative session.

(c) Section II, paragraph 3. Add a sentence making it clear that nothing in this paragraph shall be construed to prohibit assembly districts, if the Legislature desires to create such districts.

MR. PASCOE:

I have a Mrs. Maxwell Barus, President of the New Jersey League of Women Voters, who wishes to speak on modifications.

MRS. BARUS:

The New Jersey League of Women Voters is a member organization of the New Jersey Committee on Constitutional Revision. We wish to record our agreement with the statement made by the Committee's representative, Mr. John Bebout.

We wish especially to support the modifications proposed in regard to forbidding legislation under suspension of rules, and in regard to the elimination of words preventing the establishment by law of single member Assembly election districts.

We also wish to record our gratification at the excellent draft made by the Committee of the Legislature, and we commend it as a great improvement over the provisions of the present constitution.

We will submit a formal report.

MR. PASCOE:

I think it would save us a lot of time if you submitted a written report. Just give us a prepared report of your suggestions.

We have a Miss Emma Dillon of the New Jersey Federation of Business and Professional Womens' Clubs. Is she present?

(Miss Dillon was not present at this time.)

The next name I have is Mr. Carl Holderman, representing the New Jersey C. I. O. for modification of Article III.

MR. HOLDERMAN:

Mr. Chairman, and members of the committee, I want to say for the record, first that we are and have been advocates for a new Constitution. We believe that considerable progress has been made in the suggested changes in the Constitution or in the suggested

MR. HOIDERMAN (cont'd):

changes that have been made by the Legislature. We want to go on record as saying, however, that while the changes are to the credit of the committee, we believe that the most important change in that before the sub-committee - the proposals that have been made under Article III. We feel these should be modified, principally Section 2, and Paragraph 3. We subscribe to the position taken by several other speakers in suggesting that it be modified to read that nothing in this paragraph shall be construed as preventing the establishment of some assembly districts established upon a pro rata population. We believe that people should be given a more representative voice in the making of the laws for the State.

Section 5, Paragraph 1. We subscribe to the idea that salaries should be limited. Changes in our economy that take place at various intervals should make it necessary for the Legislature to deal with the question of salaries for the Legislature as conditions exist at that particular time, provided, however, that no Legislature may increase its own salary. In other words that a Legislature in session during the year 1945 could increase the salary to begin with the incoming Legislature.

Paragraphs 3, 4, and 5 of Section 3. We think should include safeguards against the appointment of individuals to jobs during the time when they are members of the Legislature or holding public offices.

Section 5, Paragraph 3. We suggest that the provision be changed to read that "All bills and joint resolutions must be printed and placed upon the desks of each legislator at least three legislative days before the final passage thereof". We have, on occasions, been faced with the suspension of rules by the Legislature at which time bills have been rushed through without the careful consideration that they deserve. This provision will prevent that practice in the future.

Section 6, Paragraph 2. The right of labor to organize and bargain collectively shall not be impaired.

MR. HOLDERMAN (cont'd):

We believe the right of labor to organize and bargain collectively is a basic civil right. We believe it should be incorporated in the Constitution. We believe that it should be incorporated, because we believe the workers should be protected against the exploitation of industry and that their right of organizing and bargaining collectively provides for a more prosperous state. We do, however, believe that it should be included, because of the fact that it is a basic civil right in Article I, under Rights and Privileges, rather than in Section 6, Paragraph 2.

We would also like to suggest an additional paragraph to Section 6, prohibiting the Legislature from passing any legislation that will prevent a duly qualified citizen from appearing in no more than one place upon a ballot, or from having the total of such candidate's votes credited to him. We believe that it will improve the representation of the public if the present two-party system has a little competition. We believe that the minority groups who perhaps cannot have the endorsement of their candidates by the majority groups should be given the privilege of endorsing and having their own candidate upon their own ticket, and that the votes that are cast for him be credited to that particular candidate.

We also urge that an additional paragraph on "Home Rule" be put into this section so that no legislation may be passed that will prohibit a community from establishing a form of local government desired by the people of that community. We believe that the people of a community should be given the privilege of deciding upon their own particular form of government without any restraining by the Legislature.

We feel that with these changes under Article III we could endorse that section of the Constitution.

I should like to ask for the privilege of filing an additional statement on these articles.

MR. PASCOE:

That will be granted under the rules read at the beginning of these hearings.

Mr. Holderman, you make reference to the inclusion of a clause under the Bill of Rights -- what do you mean, a different type of government?

MR. HOLLERMAN:

We feel that they ought to be given no legislation that would prevent the establishment of a form of democracy of government that is entirely consistent with our democracy.

MR. TOOLAN:

You stated you believe Section 6, Paragraph 2, should be included under Rights and Privileges.

MR. HOLLERMAN:

Unfortunately, with respect to the State of New Jersey, the record of industry is not a very good one -- where workers have been forced to work for \$3, \$4, \$5, or \$6 per week. We believe these workers should be granted the privilege of collective bargaining as a safeguard that permits them to secure a decent standard of living. Even during these times, the record of the Labor Department shows the great mass of these people are not given the proper kind of protection against exploitation.

MR. TOOLAN:

Mr. Holderman, do you think it is necessary to give that right by the constitution, or by legislation?

MR. HOLDERMAN:

According to our experience, there are instances in the State of New Jersey where the authorities have effectively prevented the organization of these collective bargaining agencies-- they have been either successful in preventing or completely disorganizing groups of this kind who would like to raise their standards of living. That is an established record, and it, therefore, becomes apparent that there must be an amendment to safeguard that right.

MR. TOCLAN:

Don't you think, Mr. Holderman, in taking such action that you are going to force a reaction?

MR. HOLDERMAN:

I am not in a position to determine that, but we do feel that because of our experience that we have had in the past that the workers in the State, upon whom our whole economy depends, certainly ought to be given this basic civil right to organize themselves without interference. When efforts have been made to organize, our record of experience is very bad, and that has caused us to ask for this right to be inserted in the Constitution.

MR. TOCLAN:

Do you think it wise to insert it in view of the fact that this kind of a clause gives to a particular class a certain specific right?

MR. HOLDERMAN:

Lawyers, doctors and other professional people have the right to organize. However, I am not sufficiently familiar with the law to answer that question.

MR. PASCOE:

Do you recommend any change in the wording?

MR. HOLDERMAN:

No, we do not recommend any change in that

MR. PASCOE:

Will you submit to us a written statement of the opinions you have stated here?

MR. HOLD ERMAN:

We will.

MR. PASCOE:

Next is a Mrs. Parsonette representing the New Jersey State Conference, National Council of Jewish Women.

MRS. ISSERMAN:

Mr. Pascoe, may I make a substitution for Mrs. Parsonette. I am Mrs. Dorothy S. Isserman to replace Mrs. Parsonette. I am speaking in her place. I am speaking on behalf of the New Jersey State Conference of the National Council of Jewish Women. We feel that we haven't had the opportunity of discussion, so far as our organization is concerned, and we would like to be given the opportunity of discussion for the next two or three weeks. We are not prepared at this time to make a specific statement. All that we can say is we have been working for more than two years within our study groups.

What I can say today is that we are most anxious to see a twenty-year convention to make changes or revisions in the Constitution - if these changes should become necessary in twenty years.

MR. PASCOE:

Evidently you were not present when we laid down the rules of the day. We are considering this morning only Article III, which is the article dealing with the Legislative Section of the Constitution. I am sorry, but there are other days being set aside.

MRS. ISSERMAN:

So far as we are concerned, we just want to feel free to submit a formal statement of our own ideas about a proposed Constitution, and we do also ask that rather than go on with these hearings as originally stated, namely, Tuesday, Wednesday, and Thursday, that organizations who are associated, as we are, that we be given the privilege of not only submitting a formal statement, but also the privilege of being publicly heard at a future time so that our organization can do a good job. There are certainly other organizations such as ours that would want to have more time to consider these things. We cannot get our organization together at all times, because our membership is mostly volunteers, and they cannot all be taken out of their households. Their time is naturally limited. We feel this thing is too hurried and we

MRS. ISSERMAN (cont'd):

are asking that you let us recess the hearings until some future date, and give us an opportunity of really being publicly heard.

MR. PASCOE:

The rules established here indicate there will be other hearings, and we have a limited period of time. However, Mrs. Isserman, because we seem to have a new kind of Governor, he wants us out of here within a reasonably quick time. As to not having sufficient time to consider the Constitution, it is a subject that has been thoroughly discussed for over twenty years and I have had personal experience with it for over ten years as a member of the Legislature. You must have your opinions pretty well fixed in your minds as to the kind of a Constitution you would like to have. The members of this committee, as well as the other members of the Legislature have other things to do too. We are anxious that this job shall be done thoroughly -- not too hastily - but certainly in such time to have the question placed on the ballot. It would seem to me, and I say this in the most kindly spirit, if you are definitely interested in this particular subject, your organization will get on the job immediately. You will be given ample opportunity to be heard if your suggestions are presented, within the prescribed time.

MRS. ISSERMAN:

We are perfectly well aware of this whole thing, but you will have to admit, Mr. Pascoe, that it has only been one week since this revised Constitution has been in printed form. What we ask is that we be given a public hearing at a later date. There are other organizations such as ours, and I know they feel the same as we do. Certainly, three or four days are not sufficient time to consider such an important issue as we have before us.

MR. PASCOE:

The proposed Constitution appears in the newspapers. We tried to keep it secret, but it came out. If you will follow the newspapers you will be all right. My suggestion to you is that your group get busy immediately.

MRS. ISSERMAN:

Thank you very much, Mr. Pascoe.

MR. PASCOE:

Is Miss Emma Dillon here? Has she returned?

(Miss Dillon had not returned at this time)

I see Mr. O'Brien here. Mr. O'Brien, have you registered to be heard today? You are registered as #7.

MR. O'BRIEN:

We are particularly interested in the tax clause, and I came here today merely to ask that we be permitted to appear later in the week.

MR. PASCOE:

In setting up these rules, we appreciated the fact that some parts of it would not be as controversial as others, and we have tried to arrange our hearings along those lines. We feel that the hearing on finances will be quite controversial, and for that reason it has been put off until the last day of this week. If you do not get here this Thursday, I am satisfied the committee will be glad to receive your brief and allow you to speak at some subsequent hearing.

We have been notified by the Freeholders and the League of Municipalities that they are interested in these financial clauses, and they expect to be here next Thursday morning. Has Miss Dillon arrived yet. If not, we have reached the point where we will ask if there is anybody else in the audience who would like to be heard on Article III this morning.

(Mr. Leon Milmed asked to be heard at this time.)

MR. MILMED:

Mr. Chairman and members of the Committee,
I would like to speak on behalf of the modification.

MR. PASCOE:

Mr. Milmed, do you represent any organization?

MR. MILMED:

I represent no organization.

MR. PASCOE:

Will you kindly give the stenographer your name.

MR. MILMED:

Leon S. Milmed. I would like to speak on behalf of the modification of Paragraphs 6 and 7 of Section 6 of the Proposed Constitution.

MR. PASCOE:

What page is that on?

MR. MILMED:

Page 74

MR. PASCOE:

All right. That is all right.

MR. MILMED:

Section 6, Paragraph 6 states: "The Legislature may enact general laws under which municipalities, other than counties, may limit and restrict to specified districts and regulate therein, buildings and structures according to their construction, and the nature and extent of their use and the nature and extent of the uses of land. Such law shall be deemed to be within the police power of the State and shall be subject to repeal or alteration by the Legislature." I am concerned only with the modification of this section as pertains to limit of use, and suggest that the phraseology be as follows: Instead of as it is presently in the first draft -- the proposed draft applying to property to be taken over in Paragraph 7 -- that is the one taking property over -- the suggestion is that the Legislature may enact general laws in which the municipality may limit and restrict to specified districts and regulate the land uses -- whether it is the use of buildings and structures -- according to their construction. My proposed modification is that the Legislature may similarly limit the use of lands for any public highway, parkway, other

MR. HILMED (cont'd)

public improvement or public place for the protection and conservation thereof. My reason for this modification is, first of all, "land uses", at the present time is pretty vague, and secondly, that there is some doubt as to the ability on the part of a municipality to even understand the present Constitution as pertains to the zoning of buildings and structures. Now, in order to clear up any doubt, I am submitting to this committee this proposed draft as to a law pertaining to land uses and also to allow the construction of buildings and structures according to their uses. I think the language of Paragraph 6 should be amended or changed so that there will be no question in the future as to the ability on the part of a municipality to zone for use either vacant land or buildings and structures. Now, with respect to Paragraph 7 of that section ---

MR. PASCOE:

With respect to that paragraph on zoning - that is practically a re-write of the zoning amendment to the Constitution which was adopted a few years ago, and extended to include the use of land. You said you wanted the municipalities to be able to zone the use of vacant land.

MR. HILMED:

That is right, and I would suggest that we add the words "uses of land". Now I think we added, prior to 1928, an amendment pertaining to the zoning of buildings and structures; that was considered to be unreasonable. The provisions to the effect that "buildings and structures according to their construction, and the nature and extent of their use" has raised some doubt as to the ability on the part of the municipalities to zone for use buildings and structures because of the fact there is no specified provision wherein the uses of buildings and structures may be permitted. In the last provision, I would suggest the exception of "use" -- that it be stricken out, and in its place, prior to the words "buildings and structures" there be inserted the words "the uses of the buildings and structures".

DR. LEON MILMED:

The proposal that I make in reference to paragraph 6, in order to clarify the language therein so that there would be no doubt as to the right of municipalities to zone both vacant land and buildings and structures, is as follows:

That paragraph 6 be re-written to provide: That the Legislature may enact general laws under which municipalities may limit and restrict to specified districts and regulate therein land uses, the uses of buildings and structures, and buildings and structures according to their construction. The Legislature may similarly limit and restrict the uses of property adjacent to public highways, public parkways, other public improvements or public places for the protection and conservation thereof. Such laws shall be deemed to be within the police power of the State and shall be subject to repeal or alteration by the Legislature.

With respect to paragraph 7, dealing with excise condemnation, my recommendation is that the provision should read as follows:

Any agency of the State, or any political sub-division thereof, which is empowered to take, or otherwise acquire, private property for any public highway, parkway, other public improvement, or other public place, may be authorized by law to take or otherwise acquire the fee or any lesser interest, and the Legislature may authorize cities and counties to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating of parks, public places, highways or streets, provided, however, that the additional land and property so authorized to be taken shall be no more than sufficient to form suitable building sites abutting on such parks, public places, highways or streets, after so much of the land and property has been appropriated for such park, public places, highways or streets as is needed, and therefore the remainder may be sold or leased.

Senator Pascoe: Is there anyone else who wants to be heard? You understand we are discussing only Article 3.
(Mr. Wm. O. Hursey, representing a group of colored citizens of Atlantic City, N.J., spoke as follows:

Mr. Hursey: Mr. Chairman and Members, I was asked to speak on Article 3, particularly Section VI, Paragraph 2, which says, "The right of labor to organize and bargain collectively shall not be impaired". It happens that most of the colored people are laboring people and are very much interested in the constitutional provision covering labor. They wish to reserve the right to protest or make recommendations. That is all. I want to reserve the right for future day to make recommendations concerning that Paragraph 2, Section 6.

SENATOR PASCOE: Whom do you represent?

MR HURSEY: Various organizations, not one, and when I come again I will bring the names.

SENATOR PASCOE: Not organized labor?

MR HURSEY: No.

SENATOR PASCOE: Individual groups in the city? You want to speak in their behalf?

MR. HURSEY: That is right.

SENATOR PASCOE: You weren't here when I spoke of the rules of the Committee for today?

MR. HURSEY: No.

SENATOR PASCOE: The rules of the Committee were that we would take up a certain article today, another tomorrow, and one on Thursday. If subsequent hearings are necessary we will let anybody speak on any part of the Constitution in order to get them all in, and in addition if you want to you can present a brief to the Committee on any part. You can do that now or later.

MR. HURSEY: All right, later.

SENATOR PASCOE: It should be soon because the Legislature wants to get out of here within a reasonable time. I guess

the first part of April, or shortly after.

MR. HURSEY: Do you mean next week?

SENATOR PASCOE: We have not set a date. However, the time will be advertised in the press, and you will be given an opportunity to be heard by the Committee.

MR. HURSEY: Thank you, very much.

SENATOR PASCOE: We can't guarantee we are going to carry this on endlessly, and we intend to get it to the Legislature to get it enacted in November.

MR. HURSEY: I might say it was advertised in the papers possibly ten days or two weeks ago, but this paragraph came to their attention, and this is the first opportunity we have had to---

SENATOR PASCOE: I do not want to get in the position of differing with you any more than I did with one or two others this morning. Everything has been in the newspapers. A week ago it was in the newspapers after we considered these various sections.

MR. HURSEY: It was in our paper in Atlantic City not more than ten days ago. I will be back again and bring a brief.

SENATOR PROCTOR: Submit it in writing to Senator Howard Eastwood, Chairman of the Committee. Would anyone else like to speak?

(Mrs. Ruth Rappoport, representing the New Jersey League of Women Shoppers, spoke as follows:)

MRS. RAPPOPORT: I simply want to say on behalf of the League that we endorse the proposals of the New Jersey Committee on Constitutional Revision as they apply to the present Articles, and in addition we would like to see a proportional revision as being the most democratic form of proportioning the minority groups in the Legislature. And that is all, thank you.

SENATOR PASCOE: This has to do with district election of Senators, because your representation in the legislature is on a

proportional basis in so far as the Assembly is concerned, except every county must have one Assemblyman, otherwise it is on a population basis. Is that what you mean by proportional representation within the counties?

MRS. RAPPOPORT: Proportional representation as I know it, in New York, on that basis. In other words, that would give the minority groups representation in the Legislature, with much better chance than the present system.

SENATOR PASCOE: That is in the City of New York, not in the State. You want us to adopt what they have in the City of New York?

MRS. RAPPOPORT: Yes.

SENATOR PASCOE: That is brand new, and we will give it consideration.

MRS. RAPPOPORT: I am not sure it is brand new, but I think it is good. Thank you.

ASSEMBLYWOMAN PREEN: I would like to ask a question of Mr. Beblut, who spoke previously. I did not hear the first part of your discussion. I was wondering whether you had said anything with regard to age limits of members of the Senate or of the legislators. Because as you know it has not been changed. It is drafted as it originally was, 30 for persons who wish to run for Senator and 21 for the Assembly. I wanted to know what your opinion was of the age of 30 for the Senate, inasmuch as you know that the age limit for Congress is 25.

MR. BEBLUT: I can speak only for myself on that. The Committee on the Constitution revision has taken no position on it at all. It is more or less a detail. As far as I am concerned I don't care how low you put the age limit.

ASSEMBLYWOMAN PREEN: I just wanted to get some reaction from Mr. Beblut knowing he represented a large group.

MR. BEBLUT: That statement is not representative of the group. They haven't even thought about it as far as I know.

ASSEMBLYWOMAN PREEN:

I was wondering if there has been any discussion in your group.

MR. BEBLUT:

No, there has not been.

SENATOR PASCOE:

Is there anyone else this morning who would like to be heard. If not we will adjourn until two o'clock, when we will be here for the purpose of hearing anyone. Tomorrow this Committee in this room will hear the suffrage section, or the one pertaining to elections, and on Thursday the financial section, the one pertaining to the revenues of the State, counties, municipalities, school districts, and dedicated funds. We want to thank everybody for coming and for the interest they displayed.

ASSEMBLYMAN PASCOE:

We would like to continue with the hearing from where we left off on the clock. Anyone here wish to be heard on Section VII, Legislative?

ASSEMBLYMAN LEONARD:

I think Mr. Beblot has something to add to what he said this morning on Section V, Paragraph 3.

MR. BEBLOT:

The latter part of it, "no bill or joint resolution shall pass, unless there be a majority of all the members of each body personally present and agreeing thereto;". I know that it has been generally assumed that means that it takes necessarily 31 votes in the Assembly and 11 votes in the Senate, but there was an opinion by the Speaker of the House back in 1880 - I did not come prepared to give that citation but will submit it to the stenographer later - to the effect that when there is a vacancy in the Assembly the majority of the body means a majority of those actually belonging to the body at that time. He, therefore, declared a bill passed by 30 votes. He said he had opinions of the Chief Justice, the Chancellor and Supreme Court Justice to support his opinion. I would suggest, therefore, that a specific provision be made that this means a majority of 60 in the case of the Assembly and the whole constitutional body in the case of the Senate.

SENATOR PASCOE:

Your thought is that a majority of all members of each body should be a majority of the whole membership.

MR. BEBLOT:

Of the membership of the whole constitutional body.

SENATOR STANGER:

You want to state 31 in the Assembly and 11 in the Senate?

MR. BEBLOT:

I don't believe you want to say 11 members of the Senate. There might be an increase in the number of counties. You would have to say essentially, representing a majority or something of that sort.

SENATOR PASCOE:

Do you want to submit suggested phraseology for that. We will be glad to look it over. In the years I have been here there have been vacancies due to deaths, resignations, particularly since we have gone to war. There are three vacancies in the Senate. There has never been any question about the requirements of the Senate to pass a bill. Our resolutions, of course, are passed with a majority vote. However, we will be glad to have your statement.

MR. BEBLOT:

I will put it in a statement. Thank you.

SENATOR PASCOE:

Anyone else who would dare to speak?

(Mr. Carl Holderman, representing the O. I. O., spoke, as follows)

MR. HOLDERMAN:

I have a request for something to be included under Section VI, Article III - I believe it would go in there. It will be up to the judgment of you gentlemen where it belongs, but that is where I think it would be placed. I protest against the passage of any legislation that will permit religious instruction at any free public school of any school partially or wholly financed by the State. It is becoming a matter of importance between various groups and is raising a great deal of feeling. It is our contention that the basic principles of the Constitution of the United States are violated if any attempt is made to use public funds for such a purpose in a public school system. Freedom of religion is a basic right of the people and should not be a part of our public school

system, and we are very much opposed to its incorporation in any way, shape or form. While we are not putting ourselves on record as being against religion or any particular type of religion, we are opposed to religious instruction in any way.

SENATOR STANGER:

I am not sure, but isn't there a provision in our statutes that provides that applies to the three major religions, Protestants, Catholics and Jews, regarding this?

MR. HOLDERMAN:

There have been some attempts to introduce them in various parts of the State.

SENATOR STANGER:

In other words, your proposal would be to prohibit by Constitution any religious instruction of any kind in any school supported in any by State funds.

MR. HOLDERMAN:

It should be in the constitution that the separation of civil right is actually a fundamental part of our democracy and should be provided for in the Constitution.

SENATOR STANGER:

This is not your personal opinion. It is given as a part of your statement for the Association.

MR. HOLDERMAN:

That is right.

SENATOR PASCOE:

Will you submit that phraseology for the Committee?

MR. HOLDERMAN:

I will be glad to.

(Mr. Milmed asked to speak, as follows)

MR. MILMED:

I would like to agree with Mr. Holderman in his views on religious instruction. I think a provision prohibiting

religious instruction in the public free schools of the State could be included in Paragraph 8 of Section 6. Any proposed legislation concerning religious education or religious instruction in the public free schools of the State is not only undemocratic and violative of our democratic way of life in that it is an attempt to the three faiths. It would also, I believe, tend to combine the functions of the church and the State, which we have always contended should be separate. I think Mr. Holderman has adequately presented the argument against religious instruction in the public school, and I would like to be given an opportunity to submit a memorandum on it. I know there are several other organizations throughout the State that would be anxious to submit a memorandum on this point, and I ask leave that they be granted an opportunity to do so.

SENATOR STANGER:

I wanted to ask Mr. Holderman, but I believe he left, but I think you could answer my question. You agree with the wording of Mr. Holderman's statement that no religious instruction should be given in any school supported in any way by public funds.

MR. MILMED:

I would rather have it put this way, that religious instruction should not be permitted or required in any public free school of the State.

SENATOR PASCOE:

Of course, we all understand that this is an after-thought on the Constitution. Had there not been a bill introduced in the Senate, which is creating a great furor throughout the State, you and Mr. Holderman probably would never have presented it to the hearing today. We have allowed you to do it because we didn't want you to feel you are being hindered in any way. We will take it under advisement, and if you want to submit it in cooperation with Mr. Holderman you can, or if you want to suggest a paragraph you can submit that.

ASSEMBLYMAN LEONARD:

Don't you think that inclusion of this in the Constitution will set up a reaction which will act in the opposite direction.

MR. MILMED:

I am trying to steer clear of any such reaction. Any legislation that would permit religious instruction would create reaction.

ASSEMBLYMAN LEONARD:

Do you feel legislation representing the feeling of the greater majority of the people will be covered here very well. They will probably be against any bill which will allow that to happen. Do you think that would be better than putting it in the Constitution.

MR. MILMED:

I believe the Legislature should not be the agency to permit or require religious instruction in any form in any free public school in the State.

ASSEMBLYMAN LEONARD:

I agree with you. That is my own personal opinion.

SENATOR PASCOE:

If you know of anyone else we will be glad to hear from them. In accordance with the rules of this morning, anybody unable to be here can send a brief if they want to and we will be glad to receive it and give it due consideration. Does anyone else want to speak on Article III. I want to say again that tomorrow this Committee will consider Article VIII, election or suffrage. On Thursday we will consider Article VII, finance. This is going to be a controversial subject and I want everybody here. We will have further

hearings for stragglers perhaps next week or it probably will not be until a week after this Thursday. Like everything else we are trying to do in this session of the Legislature, we would like to get it out of the way not later than March 1st if we can.

If there is nothing else, this Committee will stand adjourned until tomorrow at 10:30. Hearing nothing, we stand adjourned.

PUBLIC HEARING ON
PROPOSED REVISED CONSTITUTION (1944) PENDING BEFORE JOINT LEGISLATIVE
COMMITTEE TO FORMULATE A DRAFT OF A PROPOSED REVISED CONSTITUTION
FOR THE STATE OF NEW JERSEY CONSTITUTED UNDER SENATE CONCURRENT
RESOLUTION NO. 1, ADOPTED JANUARY 11, 1944

HELD BEFORE SUBCOMMITTEES ON
Wednesday, February 2, 1944

(Legislative)

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SPEAKERS - MORNING SESSION

Wednesday - February 2, 1944

J. ALBERT DEAR, JR.	-	League for Free State University of New Jersey
DAVID H. GLADSTONE	-	" " " " " " " "
DR. LEON S. FILMED	-	
JOHN E. BEBOUT	-	Committee on Constitution Revision of New Jersey
CARL HOLDERMAN	-	New Jersey CIO
RAYMOND C. LINDQUIST	-	New Jersey Library Association (Article III)
MRS. RICHARD ZWEIER	-	Consumers' League of New Jersey (Art. VIII, Par. 4)
MRS. MAXWELL BARUS	-	New Jersey League of Women Voters
MRS. CHARLES MADDOCK	-	President of State Federation of Women's Clubs
SAUL WITTES	-	
L. H. JAMOUNEAU	-	
FRED MARTIN	-	National Association for Advancement of Colored People of New Jersey (Education)

SENATOR PASCOE:

This is the second hearing on the revision of the Constitution, the bill now before the Legislature. This is the sub-committee on the Legislative section, and which has also been assigned Article VII and VIII as part of the schedule that applies to our assignment. The hearing today has been set aside for Article VIII, elections and suffrage. There are one or two in the audience who failed to get here yesterday who wish to speak on Article III. After we finish with the assignment for the day we will revert back to Article III, when they will be given an opportunity to present their views on that Article.

The same rules of the day will prevail that we had yesterday, and as there are practically/^{no}new people here I won't take the trouble to re-read the rules. We will apply them, however, at the time the various speakers address the audience. Those of you who were here yesterday know we would like to have in advance, if you have it, a typewritten copy of your comments to facilitate production of the minutes of the hearings. If you don't have them in advance, if you care to you may submit them later on together with any proposed wording for changes or modification in the present proposed constitution revision.

We will begin here this morning by hearing Mr. Bebout, who started the discussion yesterday.

MR. BEBOUT:

Mr. Chairman, the New Jersey Committee for Constitutional Revision has very little to say specifically about Article VIII. I think, however, I speak for the Committee in saying we feel that your Committee has very substantially improved both the present suffrage article and the corresponding article in the original Hendrickson Committee report.

There are only two points on which we would like to see a change made. One, is in Paragraph 4 of Section 8. We propose the elimination of the word "pauper" as a disqualification for voting, on the ground that the word is vague and uncertain of meaning. It has not been

misused in the State in the past, and so far as I know has had no particular effect. Our Committee feels it would be safer to eliminate it from the Constitution.

The other proposal would be to make a slight change in the wording of Paragraph 3. The purpose of which would be to make it possible for the Legislature at some future date to provide for the use of proportional representative or some similar form of voting in local elections. The language which we would like to change is this, "Subject to the provisions of this Article" and so on, beginning with "shall be entitled to vote therein for all officers". We would like to substitute for the word "for" in the election of all officers, two words, "and bodies". The reason for that is this. There were several court decisions about 40 years ago which invalidated a scale for the election of local excise boards designed to permit minority representation to be prescribed that people should vote for only one or two out of three. The courts held that this was unconstitutional because the suffrage article gave the individual voter the right to vote for all officials that might be elected by the people. The language we propose to substitute for "for" is based upon studies of the committee of the National Municipal League which put out the model State Constitution. That wording they have checked with competent lawyers and are satisfied it would eliminate that block.

SENATOR PASCOE:

That will be submitted in proper form?

MR. BEBOUT:

That is right.

SENATOR PASCOE:

I want to say we held a conference yesterday and we will have a meeting of the Constitution Committee next Wednesday. We will adjourn tomorrow and the next meeting will be next Wednesday. We would like to have as far as possible all these suggestions by next Wednesday. Then the Committee is to collate them and

act on them and decide whether further hearings would be necessary. So, if you can, have them in by Wednesday.

I would like to introduce a member of the Committee who was not here yesterday, Mr. Roy, Assemblyman from Sussex County.

The next speaker will be Mr. Carl Holderman, representing the C. I. O.

MR. HOLDERMAN:

Mr. Chairman, we have a number of suggestions for changes in Article 8. The first of which is in Paragraph 3. We propose that this Paragraph be changed to permit "every citizen of the United States who shall have attained the age of 18 years," instead of 21 years. It is our firm belief the war has created new responsibilities for the young men of the State. We feel that if they are to be called upon to produce the weapons of war in times of emergency and are called to the armed forces and have the responsibility for these jobs that they should attain full powers of citizenship with all the responsibilities that go with it.

We propose also, in Paragraph 4, that the word "pauper" be eliminated from this Paragraph, because it might deprive certain incapacitated people from exercising their right of franchise. We well remember the serious consideration that was given to a proposal to disenfranchise people on public relief back in 1933 and 1934, and we should not like to see a similar proposal come before any Legislative body.

Paragraph 5, we propose this section be stricken out because of its very broad implication. That is the Paragraph that is designed to disenfranchise people who have been convicted of a crime. Unfortunately, in this State there is no dividing line between the worst crimes and minor offenses, and it might be possible under this section, with its present wording, to disenfranchise a person who has been convicted of a very minor offense against the State. For example, to commit a legal act illegally is a crime and sufficient under this Section to disenfranchise a person and deprive him of his right to vote. Therefore, we believe

because of the difficulty in defining a major crime for which a person should be disenfranchised this should be stricken out.

ASSEMBLYMAN LEONARD:

I just want to say this to all you people interested in legislation concerning Paragraph 5. It was not the thought of the Committee in our interpretation of the wording as it now is stated in Paragraph 5 to say that the conviction of any crime would deprive a citizen of the right to vote, as in the case of a person convicted of assault and battery. Our constitution sets forth a person convicted of a crime which deprives him of his right to testify as a witness shall not be deprived of his right to vote at an election. When we considered this Section we first set forth the crimes to be named which were the crimes at common law which would deprive you of the right as a witness, such as burglary and crimes at common law. Then our legal department advised that many of these crimes, which by name were included in the Revised Statutes, are not crimes by exact name, and the names in the Constitution would gain nothing. We thought of this way of handling it, with the idea in mind that the Legislature would enact legislation setting forth through a revision of the Revised Statutes those particular crimes for which a person should be disenfranchised. I do not think the Committee has included the wording so simply as to deprive anyone of the rights of citizenship.

MR. HOLDERMAN:

We believe there should be a dividing line between a major crime for which a person should be disenfranchised, and a minor crime for which he shouldn't be disenfranchised. We are very much afraid about the possibilities of this Paragraph being used to enact laws which will permit this. It seems to me that the use of the word "crime" in this is probably the principal objection. It does not say major crime. As you say, assault and battery might come under this. The Legislature could enact a law which would say that for assault and battery you will be disenfranchised. Perhaps if you at least made some attempt to define it by saying major crimes it might be, although we feel - -

ASSEMBLYMAN LEONARD:

Would you then say assault and battery is
a major crime?

MR. HOLDERMAN:

Wouldn't it be hard to explain it?

ASSEMBLYMAN LEONARD:

I would say that everyone is in agreement
with the thought and it is just a question of working it out in words.
As I say, the Committee had a great deal of difficulty. This Section
has been written and rewritten and changed 4 or 5 times, because every
time we got to a point where we thought we had answered the problem,
every time another legal technicality, that had to be changed.

MR. HOLDERMAN:

My suggestion was it should be stricken
out.

SENATOR PASCOE:

We asked Mr. Leonard to make that statement
for the Committee because he is an Attorney and understands it thoroughly.
We do not want you to go away with the impression we do not still feel
that somebody, somehow, has to determine how serious a crime is going to
be that a man is to be disenfranchised for. We felt in adopting this in
the first place in writing the Constitution the object was to get in this
just the fundamentals and keep away from writing specific laws. As
Mr. Leonard has said, we had a paragraph probably four times as long
as this, then we came to the conclusion it was so restricted that nothing
outside of that could be included and no offense could be deleted without
amendment.

MR. HOLDERMAN:

I understand the difficulty. We tried to
define it by length of time of conviction but couldn't because some of
the convictions are out of proportion to the offense committed. We still
think it has dangerous implications as it is in there.

SENATOR PASCOE:

That will be noted, and you may submit by next Wednesday a brief on these various paragraphs and they will be given our consideration by the Committee as a whole.

The next person to speak is Mrs. Richard Zwemer of the Consumers' League of New Jersey.

MRS. ZWEMER:

The Consumers' League endorses Article VIII of the proposed Constitution with one exception. We propose to remove the word "pauper" in Paragraph 4. To the best of our knowledge, no one has in recent times been barred from voting in New Jersey as a pauper. However, during the depression it was proposed by some that recipients of relief be barred from voting because of this constitutional provision. The reference to paupers should be removed lest it give rise to a similar effort to disenfranchise a section of our population.

SENATOR PASCOE:

Thank you. That is very brief. We won't ask for the wording because it has been asked for before.

The next speaker will be Mrs. Maxwell Barus of the New Jersey League of Women Voters.

MRS. BARUS:

The League of Women Voters would like to go on record as concurring in the opinion of the Committee on Constitutional Revision with a slight change in the wording of Paragraph 3. That is, to make it perfectly clear. I think the wording should say, "to vote in the election of all officers" instead of "to vote for all officers," and to add the words "and bodies" as suggested by Mr. Bebout.

We also concur in the idea that "pauper" should be eliminated because of the dangers Mrs. Zwemer has mentioned. It could be used possibly for the disenfranchisement of people who through no fault of their own -- We are also glad to see that the Committee has eliminated the word "male" from the suffrage requirements. It has been in there

for a good while now and women have been voting for 24 years.

We also approve the statement on crimes. We believe it is best to leave it to the Legislature to say for what crimes a person should be deprived of his right of citizenship.

We would like to further suggest that the voting age might be lowered to 18 or at least it be made so the Legislature could set a limit. Our point of view is that the present generation 18 years of age has had school training to serve in a democracy and the public school system does make great effort to train young people in the habit of taking responsibility toward their function as citizens. Most young people are endowed with that idea. When they go for three years without exercising the right of suffrage their interest is likely to wane. We believe it would help to build responsibility if they moved directly from training in the school system into full suffrage.

We would like to see the requirement of five months residence in a county eliminated from this Article, because we think that would better be fixed by law. I believe that the election laws of some counties run counter to this, so there is confusion whether the law determines or the Constitution determines. I think it is not universally necessary to have this five-months residence clause.

SENATOR PASCOE:

Shall we take that one up now. If it is in the Constitution it has to be five months residence you can rest assured.

I would like to make a personal observation. The danger from colonization from one county to county or in State to State in the past has changed and we are loathe to make any change in reducing the requirements from county to county.

SENATOR LITTELL:

The inclusion of the word "pauper" has a historical background. I am wondering if your League has considered the possibility of qualifying words, such as habitual pauper. It might then make it something that you wouldn't be opposed to.

MRS. BARUS:

It seems to me a much more intelligent qualification would be one requiring voters to read and write English. I think "habitual" again would be a very difficult thing to define, and it does effect the suffrage right of persons who through no fault of their own might be out of employment, even might be out of employment for some time. You might run into difficulty for those who have retired because of old age, or can't get a job because of over-age. He may be unemployed for five years but may be capable of filling the rights of citizenship. I think it would be an extremely difficult matter to define.

SENATOR LITTELL:

I agree with you, it would be extremely difficult to disenfranchise people who because of no fault of their own find themselves on relief to live.

MRS. BARUS:

They might because of age have become permanently incapacitated.

SENATOR PASCOE:

Social Security would doubtless take care of them today.

MRS. BARUS:

That is true.

ASSEMBLYMAN LEONARD:

Do I understand you to say you are in agreement with the present wording of Paragraph 5, to leave it with the Legislature? I think you said that.

MRS. BARUS:

Yes, that is what I said.

SENATOR PASCOE:

Do you know of any other State which has reduced the age to 18?

MRS. BARUS:

No, I don't.

SENATOR PASCOE:

I know of one State, the State of Georgia.

They do not permit them to vote if they haven't paid their last poll tax.

MRS. BARUS:

I am certainly not in favor of the poll tax.

SENATOR PASCOE:

I just mention it to show we are not too backward, although there is legislation before the Legislature to reduce it to 18 years. Thank you.

Next is Mrs. Charles Maddock, President of the State Federation of Women's Clubs.

MRS. MADDOCK:

I am not speaking for the State Federation of Women's Clubs, for the reason that I have not had time since the draft was published to call my Executive Board together. We are meeting Friday, when I will bring up the things I am presenting at this hearing.

SENATOR PASCOE:

We expect to have another meeting next Wednesday.

MRS. MADDOCK:

I would like to go on record as a citizen of New Jersey. May I ask, is a question permissible here?

SENATOR PASCOE:

It works both ways, you can ask questions and we will ask questions.

MRS. MADDOCK:

I want to know if it is possible in the Constitution to define the term of "citizenship". In here you say that in order to vote a person has to be a resident of New Jersey for a stated time. When does he stop being a resident of New Jersey. This may not have a place in the Constitution, but I have worked with migrants

during the 1930's and have tried to get migrants accepted as residents of states and they have not been accepted because they have lost their claim to residence. It seems that if you define residency for suffrage it might be possible to make absence from the State also the reason for loss of residency.

SENATOR PASCOE:

I think you will find that it is covered for the armed forces further down in this Article. For other purposes, the minute he changes his post office address he could be considered as changing residence. He makes a declaration that he left the State to go into a State on a certain date. He has to make an affidavit in order to register.

MRS. MADDOCK:

That is a citizen of standing, but how about the migrant who goes from State to State. He is a state ward and tries to claim relief from his State. Many of the States found it necessary to limit that. I am just asking for information.

SENATOR PASCOE:

The best answer I can give at the moment is that the migratory labor coming into this State in the summer did not come here for the purpose of residence, the Bahamans, for instance. This type of people never come here for residence. They came in under the immigration law. Those who came from the Southern states for the purpose of helping out in the crop condition have never come here for residence, but had they stayed here and did make a declaration they would then be privileged to vote in this State.

MRS. MADDOCK:

I am thinking particularly of the relief angle. How long can a person who has lost his residency in New Jersey claim it, one who moves maybe every three months from State to State as they did during the 1930's.

SENATOR PASCOE:

Could they claim residence in any State?

MRS. MADDOCK:

No, he can't. There are laws against it.

SENATOR PASCOE:

If you reduce it to less than a year and a man lived in New Jersey two months, New York two months and Florida two months.

ASSEMBLYMAN LEONARD:

I am not trying to give a legal opinion, and merely as a statement, I think the word "residence" is divided into two parts. Physical being in the person as to where he is physically located, and his mental intent. In other words, a person could physically be in the State of New Jersey the better part of the time and never become a resident of the State of New Jersey, if he intended and had actually another place of abode in the State of Florida, for instance, and kept that as his place of abode. Where you find a person going from one state to another state, if he intended to make New Jersey his permanent home, the courts would probably consider on certain occasions he became a resident the day he moved into the State.

MRS. MADDOCK:

It has a place in the Constitution. You have to get it covered by law.

ASSEMBLYMAN LEONARD:

I do not think it could be. It has peculiarities in each case.

MRS. MADDOCK:

I am particularly interested in migratory problems, as about 12 years ago there were 3,200 in New Jersey.

I would also like to delete if possible the word "pauper".

SENATOR PASCOE:

Since these suggestions have been made by others, it would only be a repetition to ask you to submit to us proposed wording of the paragraphs. So you will be relieved of that if it is agreeable to you.

MRS. MADDOCK:

Yes, that is all right.

SENATOR PASCOE:

Dr. Leon Milmed, we will hear from you now.

DR. MILMED:

Mr. Chairman and members of the Committee,

I would like to repeat what some of the former speakers have said with regard to modification, or proposed modification, of the age requirement for suffrage. First of all, as to the age requirement set forth in Paragraph III of Article VIII, requiring an individual citizen of the State to attain the age of 21 years before he can vote. I think it should be revised to 18, and these are my reasons. First of all, the average age I think that a person graduates from high school is somewhere around 17. During his high school courses are taken in civics, problems in democracy and others. He has had sufficient academic background for performing civic duties and functions. If we allow that individual to wait until he reaches the age of 21 his interest in his civic duties will have become stale. I believe we should allow the students within a half year or year after he graduates from high school to assume the civic function of voting. My second reason is that as long as we require men of 18 to join the armed forces and fight and die for their country I think we should permit them to vote at the same age that they are required to join the armed forces.

I think it has already been mentioned that one state in the Union, Georgia, has permitted suffrage at the age of 18. I believe that that State has taken an advance step in the progress of citizenship in not forestalling those who are permitted, those who are required, to assume a patriotic duty, from assuming a civic duty.

The second modification I would suggest is that the word "pauper" be taken out of Paragraph 4, because if it is kept in there it would in effect prescribe a property qualification for voting of certain classes of people in the State. I think it should be taken out.

SENATOR PASCOE:

How was that, "property qualification"?

DR. MILMED:

I think the word "pauper" prescribes a property qualification for voting. That is, the word "pauper" I believe means that a person must own a certain amount of money or property over and above, we will say, \$50.00 or \$100.00, as set by law.

SENATOR PASCOE:

You mean everybody having less than \$200 is a pauper?

DR. MILMED:

We have legislation giving the definition for a pauper. I believe any man who has less than an amount of property is declared to be a pauper. I think that would prescribe property qualifications. I think that should be taken out of the Constitution.

SENATOR PASCOE:

The Committee has given consideration, of course, to this question of 18 years. It is a subject that naturally came to the fore because of the war. All children in schools do not take these courses, it is optional with the child.

Thank you a lot, we will consider all of these.

As there seems to be no one else present to speak on Article VIII, we will hear those who are interested in Article III, which we discussed yesterday.

NOTE: The following pertains to Article III,
which Article was the subject of discussion 1.
on Tuesday, February 1, 1944

* * * * *

MR. J. ALBERT DEAR, JR.: (Representing League for Free State University
of New Jersey)

First, Gentlemen, we want to compliment you on practicing what is
preached in the Bill of Rights and granting the right of petition. We think
you are setting a very splendid example in the way you are hearing each
person. In the proposed Constitution, Article III, Section VII, Paragraph 8 -
I understand that yesterday you had a hearing on that particular paragraph.

SENATOR PASCOE:

The whole Article.

MR. DEAR:

Well, we are here not to criticize anything
therein contained, but to suggest that when we are about to propose a new
Constitution we ought to go a little further than we have gone in the old
Constitution. As a matter of fact, I believe all the cities, counties and
legislatures have always gone beyond the strict interpretation of the old
Constitution. Now Paragraph 8 is word for word almost identical with the pro-
vision now in the Constitution. A sentence has been transposed and the words
"public" and "free" have been transposed in two sentences. Therefore, we will
only look at what you have proposed and not go back to the old Constitution.

SENATOR PASCOE:

I mean I would like to explain why that is. The
last paragraph is the declaration so we put the declaration in front. We
just changed it around so the declaration is first and the words "public" free
schools" we made uniform throughout the constitution.

MR. DEAR:

I thought it an improvement.

SENATOR PASCOE:

This is only up to grade school. We want to
talk about the entire education field.

MR. DEAR:

In the present provision and in the proposed
provision, which is Paragraph 8, the language is, " for the in-
struction of all children in this State between the ages of five and eighteen

years". . . . The literal interpretation could mean that beginning with the age of six and concluding with seventeen the Legislature must provide a proper free public school system. Always the Legislature has interpreted that to mean including both ages. We would like to see included in the Constitution a provision that it is the duty of the Legislature to provide a fair and equal opportunity for all qualified citizens who have an ambition to study further to obtain a college education.

I have with me, not a speech, but a few excerpts from other State Constitutions which I think you will agree are the type of inspiration that should be in the fundamental law. I didn't bring a prepared speech. I want to speak from my heart to your heart. I want to speak to you, if I can, from my soul because you are dealing with the soul of Government when you are proposing a new Constitution.

Texas criticizes the Government of Mexico, from which they separated themselves, because the Government of Mexico neglected education. The Texas Constitution has this to say in Article VII, Section X: "The legislature shall as soon as practicable establish, organize, and provide for the maintenance, support and direction of a university of the first class, to be located by a vote of the people of this state, and styled, 'The University of Texas' for the promotion of literature and the arts and sciences including Agriculture and Mechanical departments'. At the present time, Gentlemen. in New Jersey we have no State College of Liberal Arts or Sciences. All we can have as we are presently operating is a College of Mechanical Science and Agriculture and other things are permitted but not required.

Wyoming which received a land grant before they became a State Constitution says: "The establishment of the University of Wyoming is hereby confirmed, and said institution, with its several department is hereby declared to be the University of the State of Wyoming. All lands which have been heretofore granted or which may be granted hereafter

by congress unto the university as such, or in aid of the instruction to be given in any of its departments, with all other grants, donations, or devises for said university, or for any of its departments, shall vest in said university, and be exclusively used for the purpose for which they were granted, donated or devised. The said lands may be leased on terms approved by the land commissioners, but, may not be sold on terms not approved by congress.

"Tuition free. Article VII, section 16. The university shall be equally open to students of both sexes, irrespective of race or color; and, in order that the instruction furnished may be as nearly free as possible, any amount in addition to the income from its grants of lands and other sources above mentioned, necessary to its support and maintenance in a condition of full efficiency shall be raised by taxation or otherwise, under provisions of the legislature."

I have others but I will not bother to read them.

SENATOR PASCOE: We wish you would.

MR. DEAR: I only have here excerpts from a few --

ASSEMBLYMAN LEONARD: Do you have any from surrounding states near New Jersey?

MR. DEAR: We wrote to all of the forty-eight universities - two in Ireland, none in New Jersey. We have received replies from most of them. Some said, "We will send you the information", others said, "We are enclosing it." Ohio gave us some information. Pennsylvania gave us full answer. If you would like you may have copies of the answers we received.

ASSEMBLYMAN LEONARD: Do you have an excerpt from Pennsylvania on that point?

MR. DEAR: There is nothing. It is created by statute. I thought you would be interested in universities we know are provided in State Constitutions. I have others. If you want I will be glad to provide information about them.

The university of California is provided for in a lengthy section of the Constitution which includes these conditions: "Shall constitute a public trust to be administered by a State Board of Regents subject only to such

legislative control as may be necessary to insure compliance with the terms of the endowments of the university and the security of its funds." I didn't come here, Gentlemen, to propose how you should do this. I think you are probably better judges than I might be on how to phrase a constitutional provision. If you are concerned about Rutgers I recommend that you look at the Constitution of California and consider for a minute whether it is not possible to take verbatim the clause in the Constitution of California and make that part of the New Jersey Constitution and strike out the words "Regents" in California and make it read, "Trustees of Rutgers University" in New Jersey. For my part I have no antipathy toward Rutgers - only to the set-up. In my opinion the provision as it is made today is loosely made and possibly unconstitutional. We would like to see it made clear and we would like it to be possible for the Legislature to be confident that the people were with it when we speak of money for higher education. We know the people would be with them if there was no question of how to make appropriations for education in universities. The University of Michigan Constitution provides: "The president of the university and the superintendent of public instruction shall be ex-officio members of the board of regents, with the privilege of speaking but not voting."

You, Senator Pascoe, are familiar with Assemblyman Muir's bill and you will find I have an excerpt here which has its counterpart in Assemblyman Muir's bill to establish a New Jersey University as an essential part of the free public school system of New Jersey. Free tuition as in the case of Wyoming.

"North Carolina, Section I. Religion, morality, and knowledge being necessary to good government and happiness of mankind, schools and the means of education shall forever be encouraged. Section V. The University of North Carolina, with its lands, emoluments, and franchises, is under the control of the State and shall be held to an inseparable connection with the free public school system of the State." That kind of language would certainly do the trick. .

In North Dakota a provision is included in the State Constitution:

"Article VIII, Paragraph 147....This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota." No Legislature of the State of North Dakota could abandon or even suspend the University of North Dakota without the consent of the Congress of the United States. "Article VIII, Paragraph 148.

.....a uniform system for free public schools throughout the state, beginning with the primary and extending through all grades up to and including the normal and collegiate course." That is the kind of language we would like to see in our State Constitution. The inference now is when a man reaches eighteen he is no longer a proper recipient of public funds for higher education. We have to make quite a complex argument to justify an appropriation for higher education in New Jersey under the present constitution.

The Governor of our State has made a very splendid contribution, to my mind, on the subject of higher education. He has only been in office a few weeks but in his Inaugural Address he mentioned the fact that when veterans return it will be necessary to provide a course of instruction in colleges and universities. How much easier it will be to attend to all that if we have a clear, clean-cut set-up of a State University.

I would just like to give you a little imaginary story. It won't take but a few minutes and I am sure you will recognize fellows you have personally known who had this experience. I will call this lad Joe.

Joe is a popular name now-a-days for infantrymen. Joe is the son of a ditch-digger and back in the late twenties his father had a job and married and Joe came along. Joe went to the public schools of New Jersey. He was bright. I don't know whether he was any brighter than his father but his father didn't have the opportunities Joe did and Joe had the advantage of the American way of life and an opportunity for free education. Joe did pretty well in school and came home one day when he was maybe ten years old and said, "Pop, I want to go to college" and his pop said, "You better forget that stuff; that's only for the rich. There's no chance

for you." Well, Joe went back to school and in High School his High School advisers said: "Joe, your dad didn't know all about this or he wouldn't have said what he did. It is true you can't get a free education in New Jersey unless you want to be a teacher, and you don't want to be a teacher, but this is a big country and there are State Universities and if you work hard we might be able to get you a scholarship in Virginia and you could grow up to be a doctor or we might get you a scholarship in Ohio or some other place. All you have to do is study hard." Joe comes home and tells Pop about it. He says, "All right, but how will you pay your carfare and who is going to take care of you? You can't live home." Nevertheless, Joe is an enterprising boy and he was able to get the scholarship and along comes the War and he is in the Army now. When he comes back where does he stand? ^{/I don't know/} It is not clear yet. We haven't finished thinking in New Jersey about it. He can't come home at the present time unless the Legislature does something about it and find any State University ready to receive him. He may be able to take a pauper's oath because that is presently a state requirement for a State scholarship. He may not want to be a teacher and if he wants to be a farmer and go to the Agricultural College and can't afford the tuition he must get his parents to sign a statement saying that they can't pay. Then he can have a scholarship. It seems to me the whole system should have been set up so every boy and girl could have held out in front of them a goal. "If you are a good student you will have an opportunity to continue through college after you are through high school." We don't have in mind some second-rate institution. We have in mind an institution that would be so good that people from other states would want to come to it.

I am a proud Jerseyman. I wouldn't make these statements outside of New Jersey. I left Jersey City today the site of the private college, St. Peter's. There's also John Marshall. In Hoboken the Stevens Institute of Technology. I left in Jersey City the State Teachers' College, so-called. They don't call it that. If you call the operator she will say, "State Teachers' College of Jersey City." If you ask Dr. Rossi, the President, he will say, "State College of Jersey City." There's only one

Normal school left because pressure was so great during the depression days for something other than teaching in order to accommodate people they opened up in Paterson, Jersey City and Montclair.

In Trenton there's a school for Liberal Arts and Bachelor of Science. Hoboken and Newark. In Newark it is known as the Newark College of Engineering. It has over a thousand students and is a full-fledged engineering college. It's a creature of the Legislature and entirely within your control. You can do with it what you want, provided you don't violate what your constituents want you to do. In Hoboken there is a little institution known as the Hoboken School of Industrial Arts. It doesn't amount to very much because it has not had attention. In Trenton it is better developed in the Institute of Fine Arts. Those are part and parcel of the State's educational enterprise which are neglected. In New Brunswick and in Sussex County there are some colleges which are called State Colleges but it is a matter of discussion whether they are State or private colleges. I wish to point out it is not necessary to disregard the advice of the Guffey Commission. Nothing drastic should ever be done which would injure Rutgers. It is not necessary to do anything drastic. If these colleges are private colleges and the State needs to use them the State can buy their services at so much per hour. If they are public and Rutgers needs to use them it's the same thing. It is a business arrangement to be worked out. In New Brunswick they have a charter which everybody in the State ought to be proud of. It came down before the Revolution just like Princeton's. They have accepted additional responsibility. They have run the university for us and they deserve our gratitude and we should not do anything unkind or unfair to them. That's true and not to be taken back but if the State desires it can run its own institution and they can have the management thereof in either the Trustees of Rutgers or in the hands of the State Board of Education. Either would eliminate the present confusion.

SENATOR PARSON: Assemblyman Stepp has a question. He is associated with Princeton.

ASSEMBLYMAN STEPP: Do you contend that your Joe does not have an opportunity for higher education?

MR. DEAR: I do. Mr. Gladstone will tell it to you. Let me say this. I have a great respect for Dr. Duffield who at that time was, I believe, acting as Chairman of the Board of Trustees at Princeton. Incidentally, I am a Princeton boy too--1920. My background is private college. I graduated from the University of Chicago which is private. Dr. Duffield said this when I talked to him about free institutions. He said, "Al, if a man gets something for nothing he won't appreciate it. I think if a fellow is going to have a college education he should work for it." I said, "There's something in what you say but are you practicing what you preach? Your son is now in Princeton. Are you requiring him to work his way through?" He said, "That has nothing to do with it." That is the nature of the argument I've heard through the years. He said the whole thing and so did I.

ASSEMBLYMAN STEPP: May I point out that the argument with Dr. Duffield could extend to sending his son to Princeton. I am speaking about that point. In normal times fifty per cent worked to help themselves through and a large majority of them worked their way through entirely. I can cite an example of a Joe from Trenton. His father is an Italian truck driver. He worked his way through Princeton. He was an enterprising boy and had the courage to get out and get what he wanted.

MR. DEAR: You are quite right. Every time you get an exceptional individual he can study and make his way to the top in New Jersey and if I were making this speech outside New Jersey I would stress that. Here we are addressing ourselves and it is something different. Is it proper for the State to appropriate money for education beyond the age of eighteen? We say "yes". Why? Because it is to the advantage of the State to hold out as part of its public educational program an opportunity to every one who can qualify a higher education so that we can help a number of men and women to become better citizens.

SENATOR PASCOE: I will explain about the five to eighteen years which has always been considered inclusive of both ages. In discussion with Dr. Bosshart, Educational Commissioner of the State, it was felt if we left it at eighteen there would still be an opportunity for them to do as they pleased above the age of eighteen. They could do it if we made it twenty. We felt we would leave the ages there and not have restriction on education beyond that.

MR. DEAR: As the Constitution stands now education must be required up to the age of eighteen and the Legislature must be required to support a public school system free up to that age and if there is nothing further said about it there will be no prohibition and therefore it would be permissible to make an appropriation.

SENATOR PASCOE: For the municipality.

MR. DEAR: What I am trying to recommend is that it would be a great advantage to the State to make a definite provision in the State Constitution for a State University.

SENATOR PASCOE: I don't disagree with your presentation. I only wanted to explain why we left those years in there. We have in the past given scholarships - all for Rutgers. Taking a scholarship within the State was left up to the Legislature and the committee has confined it to Rutgers in the past.

MR. DEAR: As I was saying, when I left Jersey City this morning and left those colleges behind and went past Newark where there is a State College, the State College of Engineering, and went through to New Brunswick where there are various State Colleges and a great private college and I could see the spires of Princeton, than which there are no finer, and then I came to Trenton where you have a State Teachers' College, now giving a Master of Arts Degree - --- you can't stop these follows from growing because the people need them.

SENATOR LITTELL: Mr. Dear, you made a remark about the requirements of obtaining higher education at the Rutgers Agricultural School.

MR. DEAR: I made a remark about obtaining education at the State College for Agriculture which is conducted for the State by Trustees of Rutgers. There's a point there.

SENATOR LITTELL: To clear the record I will yield the floor to my colleague, Assemblyman Roy. I will let him pursue that one point a bit further so that the record may be clear.

ASSEMBLYMAN ROY: You made a statement about obtaining higher education in the Agricultural College.

MR. DEAR: I didn't mean it to be all-inclusive.

ASSEMBLYMAN ROY: You said the parents had to sign papers saying they were paupers.

MR. DEAR: There are two kinds of scholarships, as you know. Perhaps we should point it out so the record will not be misleading. There is a scholarship which is free which is created in the original act established by the Board of Visitors. At one time there was a dispute between the Legislature and Rutgers as to what was fair compensation and that was compromised, I think unjustly to Rutgers. I think we pay them too little. Those are free. The candidate is recommended through his County Agent.

ASSEMBLYMAN ROY: That is not necessarily so.

MR. DEAR: I think it is the County Agent that brings him to your attention. There is another kind of scholarship which is an additional scholarship created a few years ago - in 1938. For those the need must be demonstrated and the manner of demonstration, whether or not in the law, but in practice, has been for the parents or guardian to sign a statement that the education cannot be paid for in any other way.

ASSEMBLYMAN ROY: I don't think that is the case. I have a boy who got one through taking an examination.

MR. DEAR: Then he got the first one.

SENATOR PASCOE: There are two or three points upon which they are granted. There's scholarship attainment, the necessity of the family, and the recommendation from the school from which he emanates.

MR. DEAR: The first point - scholarship attainment - that is the only requirement for the scholarship originally created. There are scholarships where you don't have to be poor. If you can get in you can go. However, for the bulk of them today you must prove need.

SENATOR PASCOR: That is correct. If the parents can pay they should. Most children get these scholarships because they would have to forego a college education if it were not for this opportunity. That's so.

MR. DEAR: You know more about that than I do.

SENATOR LITTELL: You very graciously referred to the great county of Sussex and referred to the Agricultural Extension School.

MR. DEAR: You have a model farm there. As a Sussex County man you might look up and see whether that property was given to the State or was given to a private corporation. You will have a lot of fun if you look that up.

SENATOR LITTELL: I would be glad to follow your findings in the matter because I know you have looked it up.

MR. DEAR: That is only one example. Some have been given one way and some the other way.

SENATOR LITTELL: The press reports I read at the time stated that the property was donated to the State. I have a further question. If there is an attempt to expand the age limit and widen the field of spending public moneys for public instruction may there not be the danger of circumscribing future generations from their desires and intentions at that time. It is very difficult to determine what twenty-five or fifty years may develop as a requirement or public demand in the way of education. If we attempt now to set a framework, may not that framework be too small for future generations? With respect to the practice of putting in age limits, the Legislature is not prohibited from spending any money that may be appropriated or granted by a referendum before the people.

MR. DEAR: There is always danger when you are trying to compose a declaration of faith that you might be too narrow in your statement. However, the present Constitution has stood for a hundred years and it is expected

the proposed constitution will stand for another hundred, maybe two hundred. Certainly, I don't propose that you should write narrow and confining clauses. You notice I did not submit, and neither will Mr. Gladstone submit, any exact wording because we think the Committee could compose it better than we. We thought you would be interested in these provisions in other State Constitutions and you will be interested to note in the State of California there is no narrowness in their university clause. I once heard Dr. Hibben say it was too wide. They teach them to make ice cream. That is not what I would advocate for Princeton. However, we might be glad to see such a course in a State University if there were a practical need for it.

SENATOR PASCOE: Mr. Dear, I would like, on behalf of the Committee and myself, to extend to you our sincere appreciation. It has been very instructive and enlightening. I think we all understand things much better as a result of your remarks. You said you wanted to talk to us from your heart and soul and I think that is what you have done. You are so tremendously interested in the subject and you have made many things clear to us. I wish the whole Legislature might have been privileged to have heard your remarks.

MR. DAVID GLADSTONE: Gentlemen, may I express my pleasure and "Thank You" for the opportunity of appearing before you. Before I discuss my question, I want to clear up several things that were questioned by the two gentlemen sitting in front, as I think they are worth while clearing up: One of them is why a person, like myself, who is extremely occupied all the time can devote time to the question of higher education? I have accomplished my education entirely at night. I had been out of school for practically twenty-five years, going in at the age of forty-three to secure a higher education. I agree with the gentleman from Princeton that it can be secured; but, since I have obtained my education within the last ten years, I have had the opportunity to study the questions confronting the higher education of the youth of the country today. The thing that struck a spark in me and aroused in me the strenuous desire to battle for higher education in this state was the situation of a student, sitting along side of me, who was striving for an education and working to pay for it. He slept in the public park across the street, worked on E.R.A., and wound up with malnutrition and tuberculosis, as a result.

Again coming back to the significant point, in trying to secure my higher education I had the golden opportunity of seeing line after line appear at each semester at various colleges - I have attended two of them - and of seeing others come to the Treasurer to borrow money to continue their education. During the depression, they had to practically 'hock' their future life in the hope of securing their education and paying for it at a later date. That was their one means of securing their education; and I know how many of them were 'hounded' when the money came due and it was not there! Realizing that those things breed discontent, and that our country owes its youth the opportunity of equality of education, I took an interest in

our own state. That was about seven years ago. I think that, as the result of the efforts of Mr. Dear and myself, legislation was passed which created what today is called the "Free Scholarships", which number about 840, at Rutgers University. That was a fine move, but is not enough. That is the history behind the reason for my coming into this movement and desire to see something accomplished along these lines.

B. ...: Going back to the revision of the Constitution, one of the objectives should be to correct any inequalities or errors existing in the old Constitution, and we believe that Legislature is undertaking that very point before it presents the new Constitution to the citizens for adoption. If the above statement is true, then one of the inequities that has existed from the very inception of the old Constitution, and which definitely needs correcting, is the failure of the old Constitution to provide for a State University of higher learning for the youth of this state. Out of the forty-eight states that we have in the Union, about forty-two or forty-three all have State Universities. And, if you include in the total those in existence in the territories, they far exceed forty-eight.

Many people of this state have been led into the belief that we have such an institution, but such is far from the truth. Gentlemen, I'd like to give you material that has been compiled by a branch of the government which has been appointed by Legislature, and quote verbatim their own statements in the CRITICISM OF SET-UP BETWEEN NEW JERSEY AND RUTGERS - and, gentlemen, I wish to express no feeling against Rutgers University. I have the greatest admiration for it; and I hope that, in creating a State University set-up, that Rutgers will be utilized to the greatest capacity. - I quote now: "Rutgers University as such is a privately governed institution. It retains its original charter from the Crown, and if an application is by the University for its own use, it cannot be said to be an agency of the Government."

That was taken from a letter of Attorney General Wilentz to Hon. William Ely, State Administrator of Works Progress Administration, dated October 8, 1935. Further on in the report there is reference to the State Agricultural Experiment Station and the State Agricultural College at New Brunswick, as follows: "At present the State Agricultural Experiment Station, while intimately associated with the State Agricultural College at New Brunswick, is under the general control of a Board of Managers. It follows that this Board has its own budget and seeks its own appropriation. The budget is not subject to the approval of the Board of Regents." There is an institution that is supposed to come under the category of a State institution and yet is controlled by a body outside of State jurisdiction!

It is true that New Jersey has spent and is continuing to spend considerable monies for higher education, but this money has been spent without a proper set-up which would give, in return, dollar for dollar value. Our higher educational system is a hodge-podge conglomeration of many factors, and we do not at this very date know what correctly belongs to the state, and what is privately owned. I would again like to quote from a report which was submitted on a previous occasion to the Assembly. This quotation comes from the Eighth Annual Report of the New Jersey State Board of Regents; "The fact that it furnishes to the State, on contract, the greater part of the services of public higher education, has created a widespread misconception that Rutgers University is a state institution. This is an error. Rutgers University renders a public service, but it is under private control."

Our group, gentlemen, is concerned with two things: One, that higher education be created in this State which definitely is state-owned and which can be labeled the State University of New Jersey. We are very much concerned over our economic condition, and therefor we suggest, secondly, that such

institution can and be economically conducted and that it definitely be decided under whose jurisdiction it shall be placed so as to place responsibility. Now there have been several proposals as to how that can be done. When we make the statement that we would want to see something economical and at the same time propose a State University there would seem to be a dilemma there! We feel, however, that it can be economically done as, as Mr. Dear has stated before me, we have actually in existence today the very institutions needed. They are our own in certain places; but, in other places, there is a question of doubt as to what is our own and what is not. If we set up an institution and label that the State University of New Jersey we could definitely know what each dollar is going for. We could give to each person in the various parts of the state equal opportunities. I believe that each person in each county should be given the same opportunity. We could set up, in our own State University, the utilization of these various State Teachers Colleges, using them to the fullest capacity, giving the youth of the entire state the opportunity of attending them, and to secure for all who wish to go further - perhaps into medicine, or agriculture, or into other professions - well, then the State could definitely purchase such courses that it does not give in its own institution from other colleges, such as Rutgers, Princeton, Stevens and many others.

The importance of higher education in a democracy does not have to be elaborated upon by me. You people are well aware that education is the very foundation of a true democracy such as ours. Most of the states of the United States have long ago recognized this point and have provided state-owned institutions of higher learning to its youth at no cost or very little cost. On this point, of course, I would like to elaborate a little and agree with the gentleman from Princeton that if you make a thing easily accessible that part of the value of it may be lost. In New York City they have a free college that gives an

education to, possibly, 400,000 or 450,000 people. They have made it extremely difficult to attend Hunter, City College, Queens and Brooklyn. If you don't keep up a certain scholastic standing, you are out. Anyone who attends knows that if he does not keep up to the scholastic requirements, he is put out of the institution and he is dropped by the pathway.

I'd like to bring forth another point: New Jersey's position in higher education. I'd like to inform you of another investigation that has been made relevant to education. This is from the College Blue Book, a table, showing College Opportunity by States, compiled in 1928: "New Jersey now occupies the unenviable position of 46th along the states of the Union in its per capita appropriation for higher education. The College Blue Book places New Jersey in the position of 49th in the 48 states of the Union and the District of Columbia in the number of colleges as compared with population." Again, I quote from the Second Regents Report: "Moreover, New Jersey educates a smaller proportion of the students which it supplies than any other State in the Union." I think that point deserves considerable thought. Why is it that other states can, and do have, such a high average by comparison with ourselves? I don't think we afford, under our present setup, the opportunities that we could give if we put it into the language of our Constitution that here is a State University, here is what it consists of, and here are the opportunities for those who desire to attend. I think that all the charge should be a nominal fee ranging from \$60. up to about \$120. or \$130. I know of a considerable number of persons

who left this state to go into others because the cost of an education in their own state was prohibitive. I have had friends who, when they wanted to secure an education but could not afford it in this state went down to North Carolina Ohio Virginia and secured it at much less cost than it could be obtained in our own state.

Another factor our old constitution states what we cannot do. I refer to Section 20, and the matter has been a question of conjecture as to whether we have not been doing for a great number of years an unconstitutional thing, that we have been appropriating to a private institution money that was supposedly going to a State body. Of course, that is a matter that could be discussed in many ways but there has been a feeling among a considerable number of people, and lawyers in particular, who feel that we have been doing an unconstitutional thing. If you have inserted in the new Constitution a plan stating here's the State University of New Jersey, and if you appropriated money to that institution, you would very definitely eliminate the possibility of danger.

I wish to end this entire discussion, gentlemen, with one thing also kept in mind. Quite a number of my friends are in the armed services. They are now fighting in many places all over the world. Several have been severely wounded. Several have died. I think that this State has a golden opportunity to earn the praise of these young men when they return from the war by giving them an honest opportunity whereby they may secure any further education they may deem essential, and for receiving the thanks of the young people if there is definitely set up a State University and we definitely use the institutions that we own, and, then, let us use the other fine colleges we have in New Jersey for purchasing whatever other instruction we may need. Rutgers has gone through a number of years and has build a fine college. We should promote and help that institution in carrying out its

fine work. I think the same is true of Stevens, Princeton and many other educational institutions in this State. In that way, you will spread out opportunity to the entire youth of the state in connection with whatever education they may need. If those opportunities are given they will be returned manyfold through a better citizenry in the state.

MR. HOWARD W. STEPP: I am completely in favor of education for anyone who shows ability to absorb it. You say that New Jersey educates a smaller number of its students - you don't mean that a smaller number are educated?

MR. GLADSTONE: By a smaller number I mean of those who come from this state and remain in the state.

MR. STEPP: It may be advantageous to some to get out of the state. I am sure that as any of our boys and girls are educated.

MR. DEAR: May I be permitted to answer that? Mr. Gladstone's statement was correct. In absolute numbers and in proportion to population, there is a lesser percentage of the youth of college age in New Jersey than there is of any other state getting a college education anywhere. In addition, there is a less percentage of those who do go to college from New Jersey, the exception being possibly two or three states. Substantially it is a fact that New Jersey succeeds in getting a smaller part of her youth to attend college than other states. We think the reason is because we don't hold forth as an ideal, a free State University.

MR. STEPP: Does that include the Southern states?

MR. DEAR: Yes, sir, those figures were compiled originally by the United States Bureau of Education. According to the figures I have here, the University of Newark conducted a survey in 1938 and it gives Michigan, Massachusetts, New Jersey, Missouri and Indiana. It shows the population, rank, the wealth of the State and the number of full time university students. Here are the figures: Michigan 31,149; Massachusetts 36,204; New Jersey 8,541; Missouri 21,175; Indiana 22,933.

MR. STEPP: It is true that our two largest educational institutions have a larger percentage of their boys from outside the state.

SENATOR LITTELL: In your discussion, using as your example the New Jersey Agricultural College - I believe you used that for the example - to show that state monies were being managed there by a Board of Regents, does that imply for private usage?

MR. GLADSTONE: No, the Board of Managers are given a sum of money, but the money is turned over to the Board of Regents and then the Regents turn it over to the University.

SENATOR LITTELL: I want to get that clear for my own edification. I have been informed somewhere or another that there is a source of money coming from several angles to support that institution, Federal, state and private.

MR. GLADSTONE: Yes, sir.

SENATOR LITTELL: - So that the Board of Managers being not controlled directly by Legislature does not appear to be quite so, shall we say, 'critical' a point as you might, in the records, have indicated. Isn't that true?

MR. GLADSTONE: Possibly, sir.

SENATOR LITTELL: That was what I was trying to clear up. Have you ever come of the opinion that there is a great desire in this state to prevent political factions of the state entering into the schooling of our children? Locally in our own community there is quite a desire to keep the political setup out of the school picture.

MR. GLADSTONE: I will agree with you one hundred per cent on that; but, if that is true - that we want to keep politics out of the picture - first we must want to establish that politics are intervening in education. Of course, in the case of Louisiana, where Mr. LaFollette -

SENATOR PASCOE: There are exceptions to the general rule, and we will allow for Louisiana.

MR. STEPP: Generally speaking, there has not been much trouble; only a few cases, such as Wisconsin.

MR. GLADSTONE: I think that one thing that can be said of a kind nature for politicians is that they seem to have left education alone!

ASSEMBLYMAN LEONARD: You feel that your program can only be accomplished by placing a provision in the Constitution, or can it be done without framing it in the Constitution? Can it not be accomplished by legislation?

MR. GLADSTONE: I don't know if you have had the opportunity of trying to get a bill passed! Here is the point that I would like to bring out: How much better it would be if it were in the Constitution. Other states in the country have included it in their constitution.

MR. LEONARD: If you can't get your bill through the Legislature, I don't know what chance you have. It is interesting to me that Pennsylvania, with its fine state university, has nothing in their constitution, but it is all set up by statute. And some other states refer them to the code to find the authority, which again, is statutory. My question is: Is there any advantage in getting the legislation through as a mechanical process? What is your point in having it inserted in the Constitution?

MR. GLADSTONE: That it may create interest, through the Constitution, by letting citizens know that there may be a State University, and it may aid in putting it before the public. I know that in my feeling out of the youth of this state of voting age that they are definitely for it.

MR. STEPP: How about the taxpayer?

MR. GLADSTONE: When the taxpayers consider the facts as to the volume of money being spent today for higher education in private institutions, they will agree that a State University could be much more economically run.

MR. LEONARD: I don't think that you have answered my question. My question is fundamentally: Do you feel it has to be included in the Constitution, or that the same program can be accomplished by legislation?

MR. GLADSTONE: I think it should be in the Constitution.

MR. LEONARD: Can it not be accomplished by legislation?

MR. GLADSTONE: If we are proposing a new Constitution and we are attempting to correct errors and eliminate possible omissions that have been left out in the past - Is not that what we are attempting to do? And if we can set forth in the Constitution that we have a so-called State University then we can leave it to whatever procedure shall be designated. The very fact that we have not in our old Constitution the statement of a State University has led to much misconception and misunderstanding all over this state. I would wager with you that if you took a group of citizens of this state and asked them if they had a State University you would get about seventy-five per cent of them who would say, "Yes, down there at Rutgers in New Brunswick". I have spoken to Assemblymen who have stated, "Sure, we have one down there in New Brunswick".

MR. LEONARD: How many states have State Universities?

MR. GLADSTONE: I believe about forty-two or forty-three.

MR. LEONARD: In how many states are they set up in their constitutions?

MR. DEAR: Approximately, about two-thirds are set up by the Legislature.

SENATOR PASCOE: Any more questions? If not, we want to thank you too Mr. Gladstone.

MR. SAUL A. WITTES:

Mr. Chairman and Gentlemen: First let me

say that I am very much in favor of the Revised Constitution.

I think it is a marvelous piece of work. There is only one

proposed change that strikes me as being fraught with danger;

i.e., Article III, Section V, paragraph 4, which is proposed to

be read into the Constitution as follows: "To avoid improper

influences which may result from intermixing in one and the same

act such things as have no proper relation to each other, every

law shall embrace but one object and that shall be expressed

in the title." That is how it is in our present Constitution.

Now, the proposed change is as follows, and is added on the

paragraph: "This paragraph, however, shall not be given effect

to invalidate any law adopting or enacting a compilation,

consolidation, revision or rearrangement of all or part of the

statutory law, nor in any event to invalidate any law except in

proceedings brought within two years from the effective date

thereof." I think that part of the addition which relates to

a revision of the statutory law should not be incorporated. We

have already decisions on cases in this state by our courts which

hold that the provision in the Constitution has no effect on a

revision of law, that a revision of law is outside of the

constitutional purview. The dangerous part of this act is this:

"...nor in any event to invalidate any law except in proceedings

brought within two years from the effective date thereof." That

is the part of the proposed revision which I find objectionable

for these reasons. The old provision in the constitution has been

repeatedly construed by our courts, and construed very liberally.

In the letter I wrote to the Chairman, I set forth citations from

our court decisions in which the court held that it was the

purpose of this constitutional provision to "prevent the con-

cealment of the real object of the act and what is commonly

called logrolling".

I took the trouble to find out what was meant by "logrolling", and, in 25 Cyclopedia of Law and Procedure, 1602, I found the following definition:

"A union of interest to secure legislation; the practice of comprising in one bill subjects of a diverse and antagonistic nature, in order to combine in its support members who were in favor of particular measures, but neither of which measures could command the requisite majority on its own merits; a practice to corrupt combinations of minorities with different interests to force the passage of bills with provisions which could never succeed if they stood on their separate merits."

In other words, our courts have held that laws which have more than one object included in one act are the result of corrupt combinations, and that is the reason there has remained opposition to it for over one hundred years. As a matter of public policy, such laws are corrupt in their inception. In the proposed constitutional revision, we are saying, in effect, that, although this law was corrupt in its inception, we have allowed it to remain on the statute books for two years and it has become a law of the state and cannot be attacked. If a law is impure in its inception, the passage of time does not improve it.

SENATOR PASCOE: Your objection is to the two years limitation?

MR. WITTES: Yes. I hold that while, of course, the citizens of the state could protect themselves by bringing action against it within two years, that would place a burden upon the people to read every law from beginning to end, and, where there is any doubt, to bring action. That would result in wholesale litigation. As a member of the bar, I can't possibly see how anyone could possibly follow the law that closely. It is almost impossible to follow the law now without having further ramifications. Besides that, it is almost impossible for the

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layman to determine what is meant by such a law.

I have been trying to find something in favor of the proposed amendment. I can't conceive of any desirable object that could be accomplished by it, except to provide a means whereby persons who wanted to take advantage of such a provision in the constitution to do so.

I have read a good many cases on our old constitutional provision, and I find that it has been very liberally construed by the courts so that undue hardships would not be had. The Supreme Court held that "the design of this constitutional provision was mainly to prevent surprise in legislation; and it will be construed to effectuate that beneficial object". Since our courts have construed this provision so liberally, I can't understand why any change should be made.

I urge, therefore, that the provision as it now exists in our old constitution remain intact and that it be not modified.

Thank you very much.

MR. LEONARD: Do you think that if a bill is passed upon which subsequent rights have been founded and acted upon by any party that might be involved, and that bill should be declared unconstitutional?

MR. WITTES: I do very much believe that such a law should be declared unconstitutional because of the fact that our courts have held that this will open the door to a combination of corrupt minorities - that is what we are trying to avoid. If we open the door at all, the Legislature will be flooded by requests from those who have a special interest personally.

MR. LEONARD: I can't agree with you on your major premise. The thought behind the Committee in making such a provision in the constitution was merely to stop or prohibit, after the expiration of two years legislation which to all attempts and purposes was valid and moral, declared unconstitutional merely

because of some technical defect. I doubt if the provision will open the door and allow any minorities to get together to put bills through which have any jack-in-a-boxes that are going to jump up and surprise anyone.

MR. WITTES: I don't doubt but that your reason is a laudable one. But by accomplishing a very minor objective you are, at the same time, opening the door which will permit these terrible things to happen to the rest of the people in the state. I think it is up to somebody to see that it is put in a form which will bear the scrutiny of years.

SENATOR PASCOE: Then you wish to eliminate the last clause in the second sentence of paragraph 4, beginning with the words "nor in any event to invalidate any law except in proceedings brought within two years from the effective date.....". That will be recorded and referred to the Committee for consideration.

MR. L. H. JAMONEAU: I have already gone over this matter with Mr. Wittes, and I agree with him one hundred per cent with what he said. It will not be necessary for me to repeat any of it; but I would like to point out that, not being a lawyer - I am just an ordinary business man - the matter seems more important to me than it does to a lawyer because I don't understand many of the technical terms. It seems to me that a constitutional provision that has been unchallenged for so long - well, I'd hesitate before I'd alter it in the slightest degree. We should not abandon anything that has proven itself for so long a time.

I would like to point out that my objection in connection with two laws in one act is the fact that, in such laws, the titles are frequently misleading. As a business man, I don't have time to read all the bills proposed, but sometimes only just the titles. With this provision there might be laws which I would not want to attack,

but I would never be able to recognize them by the titles.

Another objection I have to mention is that I have had some experience, in the past, with laws that were enacted that should not have stood as they were, in my opinion. Such laws could not be attacked after two years, under the new provision, just because they were not discovered in that time. That, to me, seems a very bad policy.

I want to call to your attention Chapter 387, P.L. 1939. You passed a law containing a provision which was adopted intact from the Crimes Act of 1898 that all public officials of all categories who committed certain crimes were guilty of a misdemeanor. That is universal. But in 1939 you amended the original act so as to make it apply only to certain officials and not to all. That was a matter that was concealed by the way the title was framed. The title of the bill was "An act concerning the disbursement of moneys or the incurring of obligations by the governing bodies of counties and municipalities in excess of appropriation, etc.". It was an act concerning business men and excluded the counties and municipalities, but the title did not give any real clue to the nature of the bill. From that title, no ordinary person would know that the law had been put through. It may be possible to attack that law today; but after the Constitution has been amended, with that provision in there, it would be impossible to do so after two years. In just such a way, many other undesirable laws might be 'frozen' on the books by adopting this amendment. Thank you.

L. H. JAMOUNEAU submitted the following:

From a casual reading of the new draft, I am quite disappointed at the considerable deterioration from the original draft of your commission. Some of the new proposals seem to me to be definitely bad.

Art. III Sec. VI, Par. 4, of the 1844 constitution reads:

"To avoid improper influences which may result from intermixing in one and the same act such things as have no relation to each other, every law shall embrace but one subject and that shall be expressed in its title".

To this it is now proposed to add:

"This paragraph, however, shall not be given effect to invalidate any law....except in proceedings brought within two years from the effective date thereof".

In other words, the sense of the new constitution may be expressed thus:

"Notwithstanding the improper influences which result from intermixing in one and the same act things which have no relation with each other, any number of laws, whether on related subjects or not, may be combined in a single act. The courts shall, however, set aside any laws on unrelated subjects which have been combined in a single act, also laws not expressed in their titles, providing that proceedings to set ~~such~~ laws ~~aside~~ are brought within two years from their effective dates, otherwise no law may be set aside by the courts because of its combination with another law in a single act or because of misleading or otherwise improper title".

This, ridiculous and contemptible as it would make the constitution, is nevertheless a perfectly fair paraphrase of what is actually proposed; in fact it is much less ridiculous and contemptible than the proposal to first declare an action to be improper, then absolutely forbid that action and in the next breath to weakly excuse in advance all future perpetrations of the forbidden action and ratify them unless the people, whom the constitution is supposed to protect and defend, themselves discover and

redress the perpetrations within a time limit of two years, and at their own expense and pains.

The proposal is an open invitation to "sneak" legislation, and a frank encouragement for log-rolling. Vicious and foolish laws that could never be passed singly will be combined by two or more minority groups and easily passed in defiance of the public interest. Misleading titles will also be deliberately encouraged. The fact that these laws will be subject to constitutional attack for two years will not deter their instigators, for they could not be passed any other way, so there is nothing to be lost by the attempt. In any event there is no assurance that the people will defend themselves against these bad laws, and even if they do, an unnecessary burden is cast upon the courts to set them aside.

The circumstances that will make the constitutionality of such a law a matter of concern may not exist when the law is passed, or for more than two years after. The perpetrators of them will doubtless pass them with special knowledge of changing circumstances of which the general public will not be aware until it is too late to challenge the laws.

The record of past legislatures does not justify relaxing any of the present constitutional restrictions on legislative power. Many thoroughly bad laws have been passed, some very recently, in spite of all the existing restrictions, and infinitely more would have been passed in the past except for Article III, Sec. VI, Par. 4. It should not be relaxed in the slightest degree.

Even if you do not agree with me in this conclusion I suggest further that purely as a matter of policy this change should not be proposed. The new constitution has still to be sold to the voters, and it must be sold as a single bill of goods; if there are too many bad items in it, or perhaps even if there are any, the bill will not be sold.

It should not be assumed that I have made the strongest argument against this proposal that may be advanced. I am a strong proponent of constitutional reform. The able opponents of constitutional reform, having a different viewpoint from mine, will be able to capitalize this

point much more effectively than I have been able to do here. They will argue that none of the rights of the present constitution ought to be surrendered, and quite rightly; that this provision has stood up under the test of time, and has never been criticized before; they will be able to point to numerous laws invalidated in the past which in the future would be beyond the reach of constitutional attack, and altogether may succeed in shaking the confidence of the voter in the honesty or propriety of the whole constitution.

I suggest therefore that this proposal ought to be abandoned by the legislature, and not permitted to become the subject for discussion at the public hearings. As nothing can be said in favor of it, and there is so much to be said against it, discussion can only be harmful to the main issue.

I make the same recommendation with respect to all other cases where the original constitution has been abandoned without obvious cause, and where trifling and inconsequential changes have been made in the language. The less change in these respects the better.

MR. L. H. JIMOUNE also submitted the following:

In re: Overexpenditures of public funds by public officials:

R. S. 2:160-5 provides:

"Any person, board or body charged with or having the control of any state office, department or institution (or any board of chosen freeholders, or any township committee, board of aldermen or common councilmen or any board of commissioners of any county township city town or borough in this state,) or any board of education or any committee of such board. (committee or commission), which, or any member thereof who shall:

(a) Disburse, order or vote for the disbursement of public moneys, in excess of the appropriation respectively to any such board, (committee or commission), or

(b) Incur obligations in excess of the appropriation and limit of expenditure provided by law for the purposes respectively of any such board, (committee or commission)---

Shall be jointly or severally guilty of a misdemeanor----".

The above provision was adopted intact from the Crimes Act of 1898 (Chapt. 235). Prior to that time the law had been substantially the same at least as far back as 1876. P. L. 3 of that year was substantially identical except that it described the misdemeanor as malfeasance in office and proscribed maximum punishments of 5 years imprisonment at hard labor and \$1000 fine.

In 1939 the legislature adopted Chapter 387, (Senate Bill 251, history of which is annexed), whereby the words underlined above were stricken from the law, no other change being made. The effect was to change the Crimes Act so as to exempt from its provisions the public officials of counties and other municipalities, leaving the act to apply only to state officials and officials of boards of education.

The printed draft of Senate Bill 251 is not available at the moment, and whatever explanation it may have contained may only be surmised. Probably the excuse used to induce passage of the bill was the fact that at this session an amendment to the local budget law was adopted, fixing a civil penalty for the overexpenditure of appropriations of \$50, to be invoked and collected by the Commissioner of Local Government.

It seems to me that the passage of Chapt. 387, P. L. 1939 was very reprehensible, and if not unconstitutional it ought to be.

If the law is valid it means that one public official might be subject to indictment and imprisonment for exactly the same offense which another official might commit under the trifling penalty of a \$50 civil penalty. There is, of course, no difference between the financial duties and responsibilities of officials of state institutions or boards of education and the officials of counties and municipalities.

The only provision of the present constitution that I can see might apply is Article IV, Sec. VII, Par. 11, in the clause prohibiting special legislation granting to any corporation, association, or individual any exclusive privilege, immunity, or franchise whatever.

I have not read the cases, and am not sure whether or not this provision is sufficient to definitely void Chapt. 387, P. L. 1939 as unconstitutional.

No change has been proposed in this constitutional provision either in the original draft by the Constitutional Commission of 1942, or in the draft which was submitted to the legislature this week.

If this provision (prohibiting special legislation granting exclusive privileges immunities and franchise) is not sufficient, then I strongly feel that the new constitution should contain such a provision as would make the perpetration of any more laws like Chapt. 387, P. L. 1939 impossible.

History of Chapt. 387, P. L. 1939 (Senate Bill 231)

Introduced March 29th by Senator Foran for Senator Hendrickson, (President), on leave.

(The title of the bill was very misleading:

"An act concerning the disbursement of moneys or the incurring of obligations by the governing bodies of counties and municipalities in excess of appropriations, etc....." It concerned only state institutions and boards of education not even mentioned in the title).

Referred to Committee on Municipalities, March 27 1939. (Senators Kelley-Chairman, Powell, Summerhill, and Bowers)

Reported favorably without amendment by Kelley, chairman, April 10, 1939, and given second reading.

Taken up on third reading June 12th, and laid over on motion of Mr. Hendrickson.

July 11th passed on third reading 11-2. Aye: Foran Hendrickson Jamieson, Kelley, Lozieaux, Powell, Runyon, Stout, Taggart, Toolan, and Van Winkle. No: Bowers, Driscoll.

July 12th received in House, read first time and referred to Judiciary Committee (McClave, Chairman, Kerner, Platts, Herbert, and DeVoe.)

July 13th, reported favorably without amendment by Chairman McClave. On McClave's motion, taken up under suspension of rules and read 2nd time.

Oct. 9th, 3rd reading, by title only, and passed 45-11. Aye: Artaserse, Beronio, Bogle, Boswell, Boyle, Browne, Cassin, Cavicchia, Connolly, Czachorowski, DeVoe, Donohue, Doremus, Farley, Featherer, Forster, Friedland, Hancock, Hand, Hanna, Hargrave, Hess, Kerner, Littauer, Lum, Maloney, McClave, Muir, Palese, Pascoe, Pierson, Platts, Schaeffer, Schroeder, Shafer, Shepard, Sholl, Smith, Stokes, Vasbinder, Vogel, Ward, Wickham, Wilensky, Wilson. No: Glickenhau, Hanoman, Huntington, Lance, Mehr, Orben, Sanford, Wogrocki, Williamson, Willson, Worrell.

(7 of the assemblymen voting no were from Essex County. The others were Hanoman, Atlantic; Lance of Hunterdon; and Wilson and Worrell of Camden.)

SENATOR PASCOE:

The Committee will recess until two o'clock this afternoon.

(Meeting adjourned)

To the Members of the Legislative Sub-Committee hearing proposals for modification of the Proposed Revised Constitution (1944)

Gentlemen:

The members of the New Jersey Library Association, and the office of the Public Library Commission of the State, have examined the draft of the Proposed Revised Constitution which is now before the Legislature, and we find no mention of public libraries.

Very possibly this situation exists because the 1844 Constitution of New Jersey contains no reference to libraries. There is a very good reason for this, however. At the time that Constitution was drawn up and approved, there were no public libraries in New Jersey, the American public library movement dating back to approximately 1850.

Public library development started in New Jersey in 1879. The Legislature then created the public library by providing a law under which they could be organized and maintained at public expense. This law gave the common council in each town the right to establish a public library for the benefit of the inhabitants of the city, and to levy a tax annually on all taxable property in the city to be collected like other taxes, and to be known as the "Library Fund". The library law has been changed since that time, but there have been no changes in its purpose.

Recognizing the importance of public libraries, the Legislature established a department of the State government, in 1900, called the Public Library Commission. The function of this Commission was stated by law to be the giving of advice and help to public libraries and to persons who wished to start public libraries. (R. S. 1937, 52:26-22.)

In the Education law itself, the Legislature has granted permission for the use of school buildings for public library purposes or as stations of public libraries (R. S. 1937, 18:5-22).

It also provides in the Education law for school libraries, with financial aid granted to them by the State, but to be supervised by the Public Library Commission (R. S. 1937, 18:12-4 through 18:12-9). In this same section ~~the law~~ provides that a county library (a

public library serving a county) may receive the State aid for school libraries if they agree to provide library service to the schools. Under this provision, most of the \$10,000 given each year for aid to school libraries is actually paid to county libraries. This indicates that over most of the area of New Jersey school library service is actually rendered by county public libraries.

Since public library service first started in 1879, the Legislature of New Jersey has steadily recognized the value of public library service to all the people. Since the State Constitution provided in 1844 for a system of public free schools, it would seem reasonable to surmise that if there had been a system of free public libraries in existence at that time, provision for them would have been made in the Constitution.

Public libraries have grown to become an exceedingly important agency for disseminating education not only to those studying in schools, but to all the people. Today there is a public library, supported by the people from taxes, in almost every community.

The laws of New Jersey already recognize the educational nature of libraries, just as they recognize the importance of public schools. The arguments that would be advanced for having specific mention of public schools made in the Constitution apply also to the need for mention of public libraries. In order to ensure that there will always be provision for public libraries, the people need the protection of a specific requirement for enabling legislation in the Constitution. This involves also the guaranty of a means of support for libraries. It also protects public libraries as educational institutions apart from schools and avoids the possibility of their ever being subordinated to the schools.

Accordingly, we respectfully request that the following sentence, or one similar to it, be added to Article III, Section VI, paragraph 8 of the Proposed Constitution: "They (The Legislature) shall also provide for the maintenance and support of free public libraries and recognize them as agencies for the education of all the people".

Respectfully submitted,

(Signed by)

RAYMOND C. LINDQUIST

Secretary and Librarian of the
New Jersey Public Library Commission
and representing the New Jersey
Library Association

SENATOR PASCOE:

Is there anyone else that wants to be
heard before this Committee? If not, the hearing stands adjourned until ten
o'clock tomorrow morning, when the subject discussed will be Article VII.

Meeting adjourned at 2:37 P. M.)

PUBLIC HEARING ON
PROPOSED REVISED CONSTITUTION (1944) PENDING BEFORE JOINT LEGISLATIVE
COMMITTEE TO FORMULATE A DRAFT OF A PROPOSED REVISED CONSTITUTION
FOR THE STATE OF NEW JERSEY CONSTITUTED UNDER SENATE CONCURRENT
RESOLUTION NO. 1, ADOPTED JANUARY 11, 1944

HELD BEFORE SUBCOMMITTEES ON
Thursday, February 3, 1944

(Legislative)

SPEAKERS - MORNING SESSION

Thursday, February 3, 1944

(Article VII - Paragraphs 2 and 3)

Senator Arthur Pierson	Sections II and III
Mrs. Richard Zwemer	Consumers' League of New Jersey Short general statement
Miss Marion E. C. Walls	N. J. League of Women Voters - Proponent
Mr. Arthur Bray	Pres., N.J. State Association of Freeholders
Mr. A. Paul King	Vice-Pres., N.J. State Association of Freeholders
Ex-Senator David Agans	Chairman, Highway Users Conference and Master of N. J. State Grange
Mrs. Kathryn D. Sullivan	Sec., N.J. Conference of AAA Automobile Club
Miss Alta R. Ely	N. J. Manager, Automobile Legal Association
Mr. Herbert Voorhees	Pres., N.J. Farm Bureau - Was not there - W. J. Gaffney read his statement.
Mr. D. J. Crecca	Manager, N.J. Motor Truck Association
Mr. Jacob Spiegel	Pres., N.J. Assoc. of Township Committeemen
Mr. A. W. Rich	Sec., Fuel Oil Distributors Assoc. of N.J.
Mr. William L. Mallon	N.J. Automotive Trades Association
Mr. F. C. Conkey	Central N. J. Fuel Exchange
Mr. John Dressler	Pres., N.J. Gasoline Retail-Gasoline Dealers Association
Mr. W. J. Gaffney	Sec., N.J. Petroleum Industries Committee
Mr. Frederick Petry, Jr.	N.J. Furniture Warehousemen's Association
Mr. Charles Brodsky	N.J. State Federation of Teachers-Modification
Mr. John F. O'Brien	N.J. Assoc. of Real Estate Boards
Mr. John Bebout	N.J. Committee for Constitutional Revision
Mr. Michael Breitkopf	N.J. Veterans Protective League - Against Constitutional Revision
Assemblyman William J. Tierney	Hudson County Municipalities - Article VII - Paragraph 4 Sub-section III - Article III Section VI - Paragraph 9
Lauren V. Pohlman	N.J. Society of Architects - Dedicated Funds
Dr. Frederic J. Quigley	Chairman of Legislation - The Medical Society of N. J.
Dr. Edward R. White	Legislative Chairman-N.J. State Dental Assoc.
Wilhelmine A. H. Twidale, R.N.	President, N.J. State Nurses' Association
Bernice E. Anderson, R.N.	Secretary-Treasurer, N.J. State Board of Examiners of Nurses - N.J. State Nurses' Assoc.
Mr. John J. Debus	Executive Officer, N.J. Pharmaceutical Assoc.

SENATOR PASCOE:

If you will please be seated, we will begin the hearing immediately. I want to make just a few preliminary remarks: As you know, the State of New Jersey is now in the throws of writing a new Constitution. The bill before the Legislature and submitted by Governor Edge is the result of the work of an official committee which were appointed two or three months ago. In order that all of the people of the State might be given an opportunity to be heard as to their desires in regard to the various provisions of the new proposed Constitution, the Joint Legislative Committee now officially appointed by the Speaker and President of the two parts of Legislature have divided themselves into three sections - Legislative, Executive and Judicial - and such parts of the Constitution that do not come directly under any one of those have been assigned by the Chairman of the Committee as a whole to some one of the three committees.

The Committee known as the Legislative is now sitting in the Assembly Chamber here. We have had two hearings so far. The first, on Article III, which is directly Legislative, and then on Article VIII, which was assigned to us, on Elections and Suffrage. Today we have set aside, particularly, for Article VII, known as Finance. Finance takes in, as paragraphs 2 and 3, a single budget and single appropriation bill; and paragraph 4 deals with the question of assessed taxes, while paragraph 5 has to do with State debt. It is our purpose this morning to take them up in their numerical order: First, paragraphs 2 and 3, which are inter-related. Following in their order then will be paragraph 4 and, later, paragraph 5. We don't want anybody to go away disgusted that they have not had ample opportunity to be heard. We have, however, set out a series of rules in order that each of the hearings that are being held simultaneously might be conducted in an orderly and uniform manner. I will read these rules for your information, and ask that you be governed accordingly as you speak.

The hearing will begin at ten-thirty and continue until one p.m., at which time there will be an hour for recess,

resuming at two o'clock and continuing until four p.m.

On the day of each hearing, all persons desiring to speak here are requested to submit their name to the young lady here, giving the organization that they represent, and any classification under which they wish to speak; namely, whether they are an opponent, modificationist, or proponent. Such registration shall be made with the official stenographer, Miss Inness, down here in front, and before, if possible, the morning or afternoon session.

Rule 2, the order of speaking, as far as practicable shall be: first, the opponent; secondly, those for modification; and third, the proponents. Rule 3, at the beginning of each day's hearing, the spokesman of each committee shall give a brief summary of the Article under consideration, which I have just done. Rule 4, each speaker, before being heard, is requested to submit a written statement to the Chairman of the sub-committee, before the hearing if possible, outlining his position and covering the points he intends to speak upon. If the speaker appears without the written statement, it is requested that he forward such a statement to the Chairman of the Joint Committee, Senator Howard Eastwood, in care of the State House Senate Chamber. Rule 5, each speaker shall be limited to fifteen minutes on each Article, not each paragraph thereof, and in organizations represented by more than one spokesman it has been suggested that the subject matter be divided among such spokesmen. The thought there is that some groups might consume an hour and a half - and there are so many to be heard here today. Any person attending the hearing who does not desire to present his views orally may record his position by filing a written statement with the Chairman. That clause is in there to make this as broad as possible.

I would like to introduce to you the members of the Committee, so far as they are present: Hon. Thomas A. Mathis of Ocean County; Senator Bruce A. Wallace of Camden County;

Assemblyman Leon Leonard of Atlantic County; Assemblyman Insley H. Roy of Sussex County.

We have a long list of those who want to speak today, and we are going to try to hear them all, if possible. We shall begin with those who want to talk on paragraphs 2 and 3, which is the single State fund and the single appropriation bill.

I think I would like to start off with one who, in my personal opinion, knows more about the financial affairs of the State than the average citizen, and one who, although he has been out of Legislature for several years, is still recognized as an authority in this section, my former colleague from the County of Union - Arthur Pierson.

SENATOR PIERSON:

Mr. Chairman, I am here to speak for Section II and Section III. I think it has been developed to a very well-directed phraseology to take care of subversions, or dedicated funds, for our municipalities and counties and our schools. This, I understand, is the policy that has been unanimously accepted in connection with this revision proposal. However, I have one or two minor suggestions for Section II.

I would say, first, that the first three and a half lines of this Section direct that all revenues coming into the State shall be placed in the General State Fund to be subject to appropriation for public purposes. That that follows is entirely an exception from this general sweepstake of funds. Consequently, my suggestion is that instead of the words, "this paragraph" - which would indicate that the whole paragraph is thus qualified by the exception, i.e., the plain statement in the first paragraph, together with all exceptions, would be qualified; whereas, to my mind, the exceptions only qualify the general statement - I would suggest, and urge you, to word that, "but such provision shall not apply". That would immediately direct you forward to some provision that had theretofore been stated,

and would then separate, or place apart from this general rule, the exceptions that we want to have.

Then, down in the second exception, which is the subversion to municipalities, counties and school districts, I feel that we should tie them up to the law that directs their diversion, and, consequently, would suggest the striking out of the word "payable" and the adding of the words "apportioned; as provided by law, to any county, municipality, or school district, etc." so that the clause would read, "or which may be apportioned as provided by law to any county, municipality, or school district, of the State."

I notice that you have tied up the third exception with the provisions of law, and I think that was well directed; but I think that you should tie up the first two exceptions also. That is all that I would suggest in connection with Section II. Can I go to Section III now?

SENATOR PASCOE: Do I understand that you want to file this with the Committee so that it will be in the records?

SENATOR PIERSON: Yes. Now, in connection with paragraph 3:- Here the language of the old Constitution has been used. In connection with the word "bill" used there in "one general appropriation Bill", that is confined entirely to the rules of the two Houses in phraseology. May we introduce the fact that we all hope a "bill" will some day become a law. That should be, to my mind, controlled by the Constitution as a duly constituted and firmly expressed law. Consequently, in the two places where the word "bill" is used, it should be worded "law". I think the word "bill" is awkward and does not conform to good constructional practices, because we could change and call the thing that we introduce a resolution or document, or anything else, if we choose, at any time when we adopt the rules in either House; but we have to enact that down there into a law, and the law is the only one I think should be treated in our Constitution.

I likewise feel that we should follow - if we are going to, as we are doing in this Constitution, treat with budget practices, such as in both Sections II and III - on the basis of the present law, which is that the Comptroller shall certify the anticipated available revenues apportioned to such a purpose and that the appropriation shall not exceed the sum total of those estimated sums. You have put something of that phrasing regarding available funds in the last sentence there about supplemental appropriations, but I think there it should be confined. The reason for that is that I think I know that if I were a Governor of this State, I should want the support of a duly constituted State official who would have access to the information that would qualify him to make an estimate of the available revenues that would support my recommendations to Legislature, and not leave it to chance, inasmuch as the bill that I would recommend for adoption by Legislature is controlled by Sections II and III. Likewise, I think that any supplemental bill should be under the same coverage, and the one who furnishes that information should be the State Comptroller, who has the access to those funds. Those are the two suggestions that I would have.

I think, likewise, that I would like to add that it would seem to me every member of the Legislature should have that support, because one could well be challenged, if he did not have that support, as to why they had made such a large appropriation of anticipated State funds, and he would necessarily have to have the relief, or the support, of some duly constituted State official for such things. We practice that in our local budget, and we really practice it in our State budget. If we are going to express in our new Constitution such detail as is now planned, I think those suggestions I have submitted as under-scored words should be included.

Now, there are just one or two suggestions in connection with that Section IV --

SENATOR PASCOE: If you don't mind, we will hold off on IV for awhile. Mr. Leonard has a question, I believe.

MR. LEONARD: Do you feel that, as a further protection, there ought to be some similar statement in paragraph 3 as that in paragraph 2 protecting the counties, municipalities, etc.?

SENATOR PIERSON: I think so. The entire revenues from all sources coming into the State would be so stated, but there would here be the necessity of setting up the subversions against those revenues willy-nilly, which you could not tamper with with this phraseology. We have subversions in counties, but the law requires that they shall be stated in the highway budget. This does not compel them to state them. They may state that the available revenues, say, from motor vehicle taxes, are a stated sum, which would be less than the diversions; but if they want to put in the entire amount and put in the diversions on the other side to have the full picture, it would be permissible and perfectly in order, and probably should be done.

SENATOR MATHIS: Do you think that this paragraph 2, which you offered as a substitute, is better than the one I handed you?

SENATOR PIERSON: No. I think yours is just as good as this, but I didn't have any copies. Yours is a very excellent suggestion.

SENATOR MATHIS: Will you give me that one back, so that it can be offered by someone else and so that the Committee can take its choice of the two.

SENATOR PASCOE: I would like to introduce a couple more members of the Committee: Senator Alfred B. Littell from Sussex County, and Assemblyman Freas L. Hess of Somerset County.

There has been no reference to the ladies present. I think we ought to hear from a couple of those. We have now, Mrs. Zwemer of the Consumers' League of New Jersey.

MRS. RICHARD ZWEMER: Mr. Chairman and members of the Committee, I come as a proponent of paragraphs 2 and 3. The Consumers' League

highly endorses the provisions in Article VII for a General State Fund, for a single appropriation law and a single fiscal year. Also, I listened to Senator Pierson and I think his suggestions very constructive as to wording, and I would also endorse those.

SENATOR PASCOE: Thank you, Mrs. Zwemer. Now, Miss Marion E. C. Walls of the New Jersey League of Women Voters.

MISS WALLS: I just wanted to echo what Mrs. Zwemer said; that we endorse that Article. We would like to submit a brief a little later. Do you have a dead-line?

SENATOR PASCOE: We are going to meet next Wednesday, and you can submit it then.

MISS WALLS: We can have one by then. In the meantime, we are very much in favor of it.

SENATOR PASCOE: I would like to revert now to the Board of Freeholders. I understand you are interested in paragraphs 2 and 3, Mr. Bray? Freeholder Arthur Bray of the County of Mercer, who is the President of the New Jersey State Association of Freeholders.

FREEHOLDER BRAY: Mr. Chairman, ladies and gentlemen, I want at this time to introduce to you A. Paul King, who is speaking for the twenty-one counties of this State in reference to paragraphs 2 and 3 in Article VII.

SENATOR PASCOE: Mr. King is Vice-President of the New Jersey State Association of Freeholders.

MR. KING: We, as the State Association of Freeholders, are interested in the question of the dedicated funds, or the gasoline tax funds. Several years ago, the New Jersey State Association of Freeholders sponsored the original gasoline tax for the purpose of building highways. We have consistently opposed the diversion of any of the highway funds, because at that time it was promised in this very room by the Association of Freeholders, who sponsored the bill, and the members of Legislature then in office that these funds would never be

used for any purpose except for the building of highways, bridges, and for the care of the needs of the motorists; and we have never changed our opinion in this respect. We believe that the economy of the State of New Jersey depends on a fine system of highways from one end of the state to the other. Our seashore resorts are just as necessary to economy in this state as the manufacturing sections of the state. If these seashore places are to be available and of easy access to the people at the conclusion of the war, it is necessary that larger sums of money than have ever been spent should be spent on those highways. It is my understanding that the State Highway Commissioner has submitted a program calling for about \$130,000,000. to be spent after the war. I have also been told that this does not at all cover the entire field, because our South Jersey counties have not been included in that program. This calls for an expense of, roughly, \$130,000,000. to be used, and I call to your attention the \$126,000,000. which has been diverted. There is a need for all of these funds.

We, today, are not asking that all of the funds be kept in this way; but we do ask that funds which have been allocated to the counties, cities and municipalities be continued to be used as it is at the present time.

SENATOR PISCOE:

I think the only fair question to ask now is the same question Mr. Leonard asked Arthur. I think that in order to get it officially in the record that Mr. King has filed with the Committee a proposal that has just been referred to in this discussion it would be well for him to read that.

MR. KING:

This proposal is that:

Article VII, Finance.

2. All revenues of the State Government from whatever source derived, including revenues of all departments, agencies and offices, shall be paid into a single fund to be

known as the General State Fund and shall be subject to appropriations for any public purpose; but this provision shall not apply to moneys which may be received or held in trust or under grant or contract for restricted use, or which must pursuant to law be received or held in a particular manner in order to receive a grant, or which may by law be dedicated to any specific purpose or may be apportioned and payable to any county, municipality, or school district, of the State. Nothing in this paragraph shall prevent or interfere with any payment of State revenues to or any direct or indirect collection or retention of State revenues by, any county, municipality or school district which payment, collection, or retention, may be provided by law. Nothing in this paragraph shall abridge the right of the State to enter into contracts."

SENATOR PASCOE: We would like to say here that we will have copies made of that so that it can be passed around this morning. Mr. King, would you respond to this one question along the same line as has been asked before this morning. With this change in this particular paragraph, do you feel it sufficiently protected?

MR. KING: Yes.

SENATOR PASCOE: We are very anxious that the wording shall be satisfactory because the intent of the group was to protect as far as it could any subvention. I notice here in the Governor's Address that it is in keeping with the Governor's thought, as well as the Committee's, to try to get the right phraseology to do the job.

SENATOR PASCOE: We have Mr. William J. Gaffney, Secretary of the New Jersey Petroleum Industries Committee. I assume it is on the same two paragraphs?

MR. GAFFNEY: That is right, Senator; but I am also here in the capacity of the Secretary of the New Jersey Highway Users Conference, who have several other members here to talk and at that time I would like to introduce them.

SENATOR PISCOP:

I am going to introduce them later.

Your appearance will be down in the records.

We will revert back to the introduction of the Committee members. The Senator from Middlesex County - John E. Toolan.

It seems to me that a lot of the senators, after they leave Legislature, continue their interest. That is true of former Senator David Agans, Chairman of the Highway Users Conference and Master of the New Jersey State Grange.

SENATOR AGANS:

Thank you, Senator, as Chairman of the Committee, and gentlemen of the Committee, for this most courteous introduction. We don't get them very often after we get out of the Senate, and it is very nice to have them!

As you have stated that I am Master of the State Grange of New Jersey, I shall add that I have been for twenty-two years. I suppose that when they want to get rid of me, they will have to knock me in the head- but that's not for the record! But, the New Jersey State Grange has gone on record, and I am here today in my opening remarks to present their position in opposition to the diversion of highway funds. That is the old 'battle-cry' that we have been using as a slogan down through the years. I was in the Senate when the Act was passed regarding the gasoline tax and motor vehicle licensing. At that time, we promised the people that if they would not object, or oppose, the gasoline tax or motor vehicle licensing, that every dollar of the funds derived from those sources would be used, or dedicated, for the building of state roads, county roads, township roads, and what not, and that eventually, all road taxes upon real estate or wherever levied would be eliminated. I feel that that promise, or obligation, is just as valid today as it was at the time we made it. I look around me here and find some of my colleagues that were in the Senate at that time; and I would like to go to my resting place feeling that we had carried out this obligation made to the people of the State of New Jersey. So, our organization has gone

on record in opposition to diversion of highway funds.

Since that time, an organization known as The Highway Users Association, has been created. They made me President of that Association. We meet from time to time and are very widely interested in highways because, of this array of speakers that I have here, each one of them representing their organizations, are users of the highways and use them most extensively. Therefore, we are here as highway users opposing the diversion of these funds. Now a short statement.

We have a suggestion to make, in lieu of the statement made in Article VII, paragraph 2. I would like to read that, and I will present a copy to each one of the Committee: "All revenues of the State Government from whatever source derived, including revenues of all departments, agencies and offices, shall be paid into a single fund to be known as the General State Fund and shall be subject to appropriations, except - here is the exception - that no monies derived from license fees, operation or use of motor vehicles on public highways, or on fuels used for propelling such vehicles, shall be expended for other than the cost of administration, statutory refund and adjustment payments of highway obligation, cost of reconstruction of highways, and maintenance of public highways and bridges, and expense of enforcing state traffic laws, and such money shall be expended under the supervision and jurisdiction of the state department having charge of highways, nor shall this paragraph apply to monies which may be received or held in trust or under grant". And, of course, there is the language that follows in the proposed Constitution.

Now, that is about the extent of my statement; but I may be permitted probably to add something later on. I will distribute these to the Committee. (Gives each a copy of paper just read into record.)

Then, I would like to introduce the various persons here who represent these other various organizations. First, I want to introduce, Mr. Chairman, Mrs. Catherine D. Sullivan--

SENATOR AGANS: First, I would like to introduce, Mr. Chairman, Mrs. Catherine D. Sullivan, Secretary of the New Jersey Conference AAA Automobile Clubs.

MRS. SULLIVAN: Mr. Chairman and members of the Committee, I don't have the gift of oratory that some of our speakers have that are here this morning, and, with your permission, I should like to read my brief.

SENATOR PASCOE: That is all right.

MRS. SULLIVAN: There seems to be widespread agreement that some consolidation of the funds and revenues of the state would be desirable. To that idea I am not going to take exception. My only contention is that the money received by the state from its motor vehicle registration fees and gasoline taxes is money received and held in trust for restricted use - and for that reason is, and should remain dedicated to highway purposes exclusively.

The special road tax has been a characteristic government finance through the centuries in New Jersey as elsewhere. In Colonial days, New Jersey's highways were commonly financed through forced labor assessments. Every able-bodied man was required to work on the roads, usually for two weeks every year. This was very definitely a special highway assessment.

Toll roads were a later type of special assessment for highways. Many of the charters granted to the toll road companies provided that tolls could not be collected at all unless the roads were adequately improved and maintained.

The modern assessments for highways are the gasoline taxes and registration fees that are placed upon the licensing and operation of motor vehicles. In New Jersey, the gasoline tax is so specifically a special assessment for the financing of highway maintenance and improvement that all taxes paid on gasoline not used directly on the highways are refunded.

Thus, both historically and in fact our highway taxes are special assessments for a specific purpose, the building and maintaining of highways. I will agree with those in this state who believe that highway funds should not be allowed to pile up in the treasury. If the present special highway tax rates ever bring in more money than is needed for roads -- and there is little possibility of this because the American Association of State Highway Officials estimates New Jersey's immediate highway needs at \$193,000,000 (1) -- then the highway taxes should be reduced.

When used for highways, the gasoline tax is the fairest tax in existence because a motor vehicle owner pays according to the amount which he uses the highways. When it is diverted to non-highway purposes, however, it becomes the unfairest and the most unjust of all taxes because it results in the double taxation of motor vehicle owners. Motor vehicle owners are subjected to all of the taxes that average citizens pay, such as income, poll taxes, real estate, etc. When their gasoline taxes are diverted, however, they pay an additional tax for general purposes of government, based on the number of miles which they use their motor vehicles.

It is for this reason that some sort of protection should be given to highway funds.

Obviously, this protection belongs in the constitution and not on the statute books. On this subject I should like to quote a paragraph from Corpus Juris Secundum, published by the American Law Book Company, a recognized authority on constitutional law, which states: "The ultimate distinction between statute law and the constitution is not the character of the latter's provisions, nor yet their binding force, but the formal mode by which they may be changed." End of quotation.

In other words, any law which the people wish to protect, or which they wish to control directly, is proper matter for the

constitution. The statutes, on the other hand, are of a more transitory nature.

This protection of the taxpayers in the disposition of their special highway assessments lays down a fundamental principle for the guidance of future legislatures, and like all constitutional principles, from the Magna Carta to the present day, it places certain limitations upon the legislature and increases the power of the people.

There is nothing new or unusual about this proposal to provide constitutional protection for the state's special highway assessments. Our old constitution contained protection for certain trust funds of the same nature.

Furthermore, the new constitution in its preliminary draft contains this provision, and I quote: "The Fund for the support of public free schools, and all money, stock and other property, which may hereafter be appropriated for that purpose, or received into the treasury under the provisions of any law heretofore passed to augment the said Fund, shall be securely invested, and remain a perpetual Fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of the public free schools, for the equal benefit of all the people of the state; and it shall not be competent for the Legislature to borrow, appropriate, or use the said fund or any part thereof, for any other purpose, under any pretense whatever." (2) End of quotes.

In the past ten years, there has been a nationwide movement in the direction of protecting highway funds against diversion in the same way that the school funds are protected. And in this connection, I want to correct a misstatement I recently saw in the newspapers. The president of the State Chamber of Commerce was quoted as saying that more and more states are repudiating the system of dedicated funds and are placing these funds in one general

fund. That statement is entirely contrary to fact with respect to highway funds. The trend is just to the contrary. Since 1934, state after state has amended its constitution in order to provide protection against diversion of its highway funds, and not a single state has reversed that process.

There are now 14 states in all parts of the nation which have protected their highway funds in this way. They include California, Colorado, Idaho, Iowa, Kansas, Michigan, Minnesota, Missouri, Nevada, New Hampshire, North Dakota, Oregon, South Dakota, and West Virginia. The last three of these were ratified by the people in 1942, where the people ratified them by majorities of 8 to 1 in Iowa, $2\frac{1}{2}$ to 1 in Oregon, and 6 to 1 in West Virginia.

Last year the legislatures of Connecticut, Maine, Pennsylvania, and Washington approved similar amendments, and the people in two of these states - Maine and Washington will vote on the question at the November elections. In Pennsylvania and Connecticut second passage by their legislatures is required before those amendments will be submitted to the people.

And the trend hasn't stopped! On January 27th, 1944, the Senate of Kentucky passed a similar amendment by a vote of 36 to 0.

The protection of highway funds belongs in the constitution, just as does the protection of school funds. The proposed change would require no major modification of the draft proposed by the special legislative committee. It would merely include in the section dealing with finance, a provision guaranteeing that registration, license fees and state gasoline taxes shall be used for highway purposes only. The question of how the highway funds shall be appropriated or allocated among the various classes of highways in the state, namely, state highways, secondary highways, city streets and farm-to-market roads, is left entirely in the hands of future legislators. All we ask is

that the fundamental principle of using special highway user taxes for highway purposes only be guaranteed in our new constitution. We hope that you will see fit to include it in the constitution to be submitted to the people of the state.

SENATOR PASCOE: Mrs. Sullivan, on behalf of the Committee I want to thank you for your very comprehensive and well-prepared statement.

Dave (Senator Agans), to revert back to your proposed change in the wording of that paragraph, the Committee has been studying this and it would seem to us that you have got your provision in the wrong paragraph. It seems to us that your change should be in paragraph 3. You see what I mean?

SENATOR AGANS: Yes, I see. May we have permission to correct that?

SENATOR PASCOE: For the benefit of the records, the young lady will understand that your reference to paragraph 2 will refer to paragraph 3 in connection with this change.

SENATOR AGANS: You know, us farmers sometimes get in the wrong field, but we mean well!

SENATOR PASCOE: I have talked to you, Dave, about this letter which I received from you. Do you think that we should offer it for the records also?

SENATOR AGANS: Yes.

SENATOR PASCOE: This is a communication from Senator Agans, as the head of the N. J. State Grange, and it has in it a resolution from one of the Granges that has to do with this subject, and I think that it belongs officially in the records, and we will so arrange it.

LETTER

"Enclosed is a copy of a resolution passed at the last annual convention of the New Jersey State Grange, held at Atlantic City last December, recommending that the proposed Constitution shall include a clause protecting the integrity of gasoline taxes and registration fees against Diversion.

In view of the fact that hearings on the proposed Constitution are being held on February 1st, 2nd and 3rd, we are sending this resolution to you at this time in anticipation that you would appreciate knowing the attitude of the citizens of rural New Jersey on this all important matter.

We are also enclosing a suggested clause which we feel should be inserted in Article VII of the proposed Constitution dealing with Finance.

Rural citizens will thank you for any effort which you may display in attempting to get this clause incorporated into the proposed Constitution.

Yours very truly,

Signed by: D. H. AGANS, Master"

R E S O L U T I O N NO. 11

Introduced by Allentown Grange No. 98
Referred to Committee on Legislation
Committee report favorable
Resolution adopted

WHEREAS-- The use of motor vehicles is a daily necessity for Farmers and rural residents of New Jersey, and

WHEREAS-- Approximately 800 small communities, representing 44% of all the towns, villages and unincorporated communities in the state, are without railroad service and are completely isolated from other parts of the state except for motor vehicle transportation.

WHEREAS-- This dependence of rural residence upon their motor vehicles makes the diversion of gasoline taxes, registration fees and other special highway tax money from road purposes especially unfair to the rural citizens of New Jersey and results in their paying an excessive and disproportionate share of the general costs of State Government while denying such rural tax payers adequate road improvements as may be demonstrated by the fact that nearly one-third of New Jersey's rural roads as yet have no surfacing whatsoever, and

WHEREAS-- The diversion of highway tax funds places farm refunds of about \$200,000 annually in jeopardy, and

WHEREAS-- The Constitution is designed to set forth financial and other policies and principles of the state for the guidance of the Legislature.

THEREFORE BE IT RESOLVED-- That the New Jersey State Grange be officially recorded in favor of amending the constitution of this state in order to protect the integrity of gasoline taxes and registration fees against Diversion.

AND BE IT FURTHER RESOLVED-- that the Officers of this organization are instructed to make known the views of this organization to the Governor-elect and the special legislative committee now drafting a new constitution with the request that the said legislative committee incorporate such a clause in the new constitution.

Fraternally submitted

Harold L. Potter, Master
Allentown Grange No. 98

AMENDMENT TO ARTICLE VII DEALING WITH FINANCE

1. The credit of the State shall not be directly or indirectly loaned in any case.

2. All revenues of the State Government from whatever source derived, including revenues of all departments, agencies and offices, shall be paid into a single fund to be known as the General State Fund and shall be subject to appropriations for any public purpose; except that no moneys derived from fees, excises or license taxes relating to registration, operation or use of motor vehicles on public highways, or
to fuels used for propelling such vehicles, shall be expended for other than cost of administration, statutory refunds and adjustments, payment of highway obligations, costs for construction, reconstruction and maintenance of public highways and bridges and expenses of enforcing state traffic laws, and such money shall be expended under the supervision and jurisdiction of the state department having charge of highways; nor shall this paragraph apply to moneys which may be received or held in trust or under grant or contract for restricted use or which must be received or held in a particular manner in order to receive a grant or which may be payable to any county, municipality, or school district, of the State. Nothing in this paragraph shall prevent or interfere with any payment of state revenues to, or any direct or indirect collection or retention of state revenues by, any county, municipality or school district which payment, collection, or retention, may be provided by law. Nothing in this paragraph shall abridge the right of the State to enter into contracts.

NOTE: The underscored is the amendment to dedicate automotive taxes to highway purposes only, as proposed by the New Jersey Highway Users Conference.

SENATOR AGANS:

Thank you. Our next speaker is

Miss Olga R. Ely of the Automobile Legal Association.

MISS OLGA R. ELY

Mr. Chairman and members of the Committee,

I, too, would like your permission to read my statement. "Many times in the past few years the statement has been made that it would be no more logical to segregate motorists' taxes for highway purposes only, than it would be to segregate taxes paid on liquor for the benefit of those who consume liquor, or taxes paid on cigarettes for the benefit of those who smoke cigarettes. Persons who make such a comparison give no thought or consideration to the fundamental principles underlying taxation. They fail to realize that in general there are three (3) types of taxes - general taxes, luxury taxes and 'use' or benefit taxes.

General taxes are those levied on the entire citizenry for general purposes of government. They include such taxes as sales taxes, income taxes, poll taxes and real estate taxes, which are paid both by the owners of real estate and those who rent. These taxes are collected in general according to ability to pay, and are used to defray the general costs of government. They are not special taxes on a special class of taxpayer for special purposes, but are for the general purpose of government, such as police, fire protection and other governmental services for the benefit of all.

The second type of taxes are the so-called luxury taxes, which might best be called selective sales taxes imposed at a high rate on such undisputed luxuries as liquor, cigarettes, playing cards, race track, amusements and the like. Such taxes have no relation to ability to pay and have no relation to any services provided by government.

The third class of taxes are the so-called 'use' or benefit taxes. They are imposed on a special group for the benefit of that group. A common example is the Social Security tax. The Federal, State and local governments operate various kinds of businesses. The Federal government runs the postal system and charges 3¢ a letter. That charge is not based on ability to pay, but on the cost of the service. The Federal government does not attempt to profiteer or charge more for the cost of the Postal Department than it actually costs to run the Postal Department. The same

principle prevails in the road systems operated by states

A hundred years ago the owners of horse-drawn vehicles paid their tolls for the use of highways to private turnpike companies which built and maintained the through highways of that day. Today, since the State has accepted this business of constructing and maintaining highways, it is justified in charging users for their proportionate share for the maintenance and improvement of highways, but it is not justified in profiteering at the expense of highways users. That is, it is not justified in using highway user tax money for non-highway purposes, because the taxes paid are not based upon ability to pay and they are not paid by everyone.

The gasoline tax is imposed at a high rate on gasoline used to propel motor vehicles over the highways. It is a fair tax when it is used only for highway purposes because it benefits motorists by reducing operating costs for them. It is unfair when it is used for non-highway purposes, because it then becomes a selective sales tax imposed at high luxury rates on gasoline, which is a necessity today beyond doubt.

Those persons who prior to the war looked upon the motor vehicle as a luxury to be taxed as such with taxes thus derived used for any purpose whatsoever have learned that the automobile is a vital part of our transportation system. A study made by the Opinion Research Corporation in 1940 showed that 55% of all mileage traveled in passenger cars was for necessary purposes. Additional surveys made by this same organization revealed that the number of passenger miles, exclusive of recreational driving, traveled in passenger cars, was equivalent to $3\frac{1}{2}$ times the total passenger miles for all other forms of transportation combined. If the motor vehicle were swept off our highway entirely, mass transportation facilities could not handle the necessary travel done by the public. Anyone who does any traveling today can see for himself how over-taxed our mass transportation facilities are and how impossible it would be for them to transport in addition to what they

are now carrying, persons who now use their motor vehicles to and from work.

In normal years motor vehicle registration and license fees and state gasoline taxes make up between 30 and 40 percent of the total revenue collected by the State. Certainly the question of what shall be done with these new taxes which make up such a large percentage of our total revenue is of sufficient importance to establish a fundamental policy for their use in our new Constitution."

SENATOR PASCOE:

I say the same thing to you that I said to Mrs. Sullivan - that it is a well-read and a well-prepared paper.

CHAIRMAN PASCOE: I would like at this time to introduce the Honorable Manfield G. Amlicke who is Vice-Chairman of this Committee.

EX*SENATOR AGANS: At this time I would like to introduce to you Herbert Voorhees, who is president of the Farm Bureau of the State. Mr. Voorhees was called away very unexpectedly this morning and we are going to have the Secretary of the State Association of Highway Users, Mr. Gaffney, read his statement and file it, with your permission. Mr. Gaffney.

MR. GAFFNEY: Statement in behalf of Mr. Herbert Voorhees, President of the New Jersey Farm Bureau: -

Over 44% of our New Jersey communities depend entirely on highway transportation for contact with other communities. It is little wonder that rural people in New Jersey have for years been interested in the improvement of rural roads and our entire highway system. Roads are farmers' connecting link with the outside world. As roads are improved, land values increase. A study by Cornell University showed that improved roads increase the value of farm lands at least 20%. Improved roads also reduce operating costs of motor vehicles. From studies made at Iowa State College on costs of operating motor vehicles on rural mail carrier routes it was found that the year-round cost of operation on earth roads was 8¢ per mile as compared with 3 $\frac{1}{2}$ ¢ per mile on paved roads.

New Jersey farmers, in spite of the lack of new farm machinery and labor, have gone and are continuing to go all-out in the Food-For-Victory program. Production, however, is only one phase of farming; crops must ^{and to be marketed} be marketed/they must be carried in trucks from the farm to the consumer, stores or depots. A large part of our farm products raised in New Jersey go directly from the farm to the consumer by truck. That is why we find 14% of all trucks in New Jersey on farms and why 8 out of 10 farmers in the state have trucks. New York City, which serves as a market place for hundred of New Jersey farmers, in 1941 received 45% of its fruits and vegetables by truck.. In the same year, it received 48% of its eggs and

76% of its live poultry by truck. To be operated efficiently trucks must have good roads on which to travel.

For farm people, the ownership of an automobile even if it's nothing more than a broken-down Model T Ford - is a necessity, and the family that doesn't own a car must either revert to the horse and buggy, or stay home. Surely, the motor vehicle has relieved the semi-isolation of the farm. It has made available to countless rural families many advantages such as medical aid, modern education, and theaters, which city dwellers have enjoyed for so long.

Motor Vehicle tax diversion is most unfair to farmers as a group as can easily be seen by using the case of two dairy farmers. One lives one mile from the creamery, the other, ten miles away. Both haul milk in their trucks to the creamery each day. When a part of the gasoline tax is diverted to non-highway purposes, the farmer ten miles from the creamery pays ten times as much for the general upkeep of government in diverted gasoline taxes as the man one mile from the creamery. Surely the distance a man has to travel every day in his business is no index of his ability to pay taxes in addition to the ones he already pays as an average citizen. It would be just as logical to place a special tax on the plow of the farmer, the saw of the carpenter, or the trowel of the mason. To tax gasoline, the tool of the farmer, doctor, traveling man, and workman, for general purposes of government is unjust, discriminatory, and results in class taxation.

The New Jersey Farm Bureau has always opposed diversion of highway funds and as recently as last week at our Annual Convention held in Trenton a resolution was adopted calling upon the Legislature to prohibit the diversion of highway funds. We urge that in your deliberations on constitutional revision you give serious consideration to protecting future motor vehicle and gasoline taxes for the purposes for which they were originally levied - namely, highway construction and maintenance.

Signed by

H. M. Voorhees

EX-SENATOR AGANS: Our Next speaker will be Mr. D.J. Crecca,
Manager of the New Jersey Motor-Truck Association.

I have been directed to appear here today by our Board of Directors to express the feeling of the membership respecting the proposed abolition of dedicated highway funds which Article VII would bring about. The membership of our organization comprises the great majority of motor truck registrations in this State.

The trucks which our members operate are the connecting links between war manufacturing plants in the assembly lines for the production of arms, munitions and food. The ability of civilian trucks to transport war goods quickly and with a minimum of labor, and their adaptability to the transportation of all sorts of equipment make them a vital necessity to the Army and Navy, and to the maintenance of our civilian economy.

Trucks because they are better and faster in short hauls than any other type of transportation, have not only made it possible for City people in the lower income group to enjoy a more varied diet of fresh fruits and vegetables, but they have lowered the cost of all commodities for consumers. These lowered costs will not always be enjoyed by consumers in the future if taxes on trucks are allowed to climb.

Truck owners in New Jersey already pay a total of \$10,150,000 (1) in registration fees and State gasoline taxes, or 23 per cent of the taxes paid by all highway users. Yet truck registrations represent only 12 per cent of the total motor vehicle registrations. Each year New Jersey truck owners pay taxes averaging \$100 per truck in State gasoline taxes, registration fees and federal taxes.

A section in the ^{new} constitution dedicating special automotive taxes to highway purposes only, would be the best guarantee that truck owners could look forward to fair taxation in the future. Truck owners do not object to the large gasoline taxes and registration fees which they are now paying to the State so long as they are used for highway maintenance

and improvements. Improved highways will give relief to traffic congestion, eliminating delays, and thereby lowering truck operating costs, and in turn lowering living costs to the consumers.

Therefore, because the public welfare, as well as the more than 138,500 (2) persons employed in the trucking industry in New Jersey are so vitally dependent upon truck transportation, we do not hesitate to request earnestly that you write into the new Constitution an anti-diversion provision.

EX-SENATOR AGANS:

Our next speaker is Mr. Jacob Spiegel,

President of the New Jersey Association of Township Committeemen.

MR. SPIEGEL:

Mr. Chairman and members of the Committee,

I, like the other members of the New Jersey Highway Users will refer to a brief which is a modification to Section III

While all of our communities in New Jersey are dependent in part on motor vehicles as a means of transportation, 44% or 797 out of 1,823 are entirely dependent on highway transportation for their continued existence. If they are to continue to grow, they must have good highways.

They have no railroad connections and no air ports. Their ability to expand and accommodate new industries and to support bigger payrolls is dependent on the ability of trucks, buses and passenger automobiles to transport people and products to and from these communities. When the highways leading into these communities are modernized and extended, prosperity is increased. If they are permitted to disintegrate, the importance and influence of the communities will immediately begin to decline.

We have noted and express our appreciation for the fact that the proposed new Constitution contains a provision that certain Township allocations are to be protected. We believe, however, that in justice to all citizens of the State, there should be an additional provision to protect all highway taxes. In other words, we see no reason why the constitution should not include a provision, which would segregate motor vehicle

registration and license fees and gasoline taxes from all other taxes, and provide that they shall be used for the purposes for which they were originally levied, which includes only the construction and maintenance of our highways.

I regret that due to the present conditions, gasoline, tires, rationing, that we are unable to bring a larger delegation than we have. With your permission I would like the township committeemen to rise so that you can see that they are interested in this amendment.

CHAIRMAN PASCOE: You heard Mr. Bray say that the revised working of Sections II and III would bring the desired effect, to their satisfaction. Do you, representing the township committeemen, feel that with this changed phraseology your interests are fully protected?

MR. SPIEGEL: I agree.

CHAIRMAN PASCOE: You agree that they are. Do you believe that that the proposal of Senator Agans, if it were put into Section III, would protect your interest, in the event the committee put that into the Constitution?

MR. SPIEGEL: Yes

CHAIRMAN PASCOE: You may introduce the gentlemen. They are support of your proposal?

MR. SPIEGEL: Yes.

CHAIRMAN PASCOE: There are fourteen township committeemen present.

EX-SENATOR AGANS: Mr. Chairman, our next speaker will be A.W. Rich, Secretary of the Fuel Oil Distributors Association of New Jersey.

MR. RICH: I will just read a short brief.

The rationing of gasoline and tires has brought home to us forcefully the importance of motor trucks in the distribution of the necessities of life to the American public.

The baker, the milk dealer, the grocer and the fuel dealer all find it necessary to distribute their goods in most cases in their own trucks.

We are a part of that group of private carriers which own over 85% of the trucks in New Jersey, or approximately 94,255 trucks. Truck manufacturers have built trucks especially for our many diversified uses. The speed, efficiency and cost of distribution is determined to a large degree by the kind of highways over which our trucks travel and the way in which these highways are maintained.

We look forward in the post-war period to a resumption of new highway construction on a still larger scale, which will be possible if highway funds are used for highway purposes. Unless you gentlemen incorporate in the new Constitution a provision setting aside for highway purposes only, the money which we pay in the form of gasoline taxes and registration fees, I fear for the future of New Jersey's Highway System.

I might just like to say that if it weren't for the tank truck facilities available in the East today, the East would have less than 50% of the presently available gasoline supply.

EX-SENATOR AGANS:

Our next speaker will be Mr. William L.

Mallen, Secretary of the New Jersey Automotive Trade Association.

Mr. Mallon.

MR. MALLON:

Mr. Chairman, members of the Committee:

A problem uppermost in the minds of thoughtful people everywhere is how to cushion the shock of the economic readjustments after the war is over. Men who are now employed in war plants will be thrown out of employment. In New Jersey it has been estimated that after the war 281,400 men now in the Armed Forces will be demobilized and 327,800 industrial workers now engaged in war work will be seeking peace-time jobs. (1) To avert a critical post-war depression, some employment stop-gap is required to facilitate the transition from a war-time to a peace-time economy.. It is universally acknowledged that the launching of a post-war program of highway modernization and improvement will be one of the best ways to cushion the unemployment that will inevitably result from the stop-gap of war production.

No form of public works uses more labor than highway construction. According to the Federal Public Roads Administration, 90% out of every dollar spent on road construction goes to labor. For every million dollars spent on highway construction, a thousand men are given a year's employment. For every dollar spent on highways, there is a resulting \$3.15 turnover in wages and trade. For every man directly employed on the road job, 1.4 men are employed behind the lines.

The automotive industry and related trades which normally employs one out of 10 workers in New Jersey was one of the first to feel the impact of war priorities. (2) If this industry, which is of such economic importance to the State, is going to take the place in our post-war civilian economy which it had before the war, conditions will have to be favorable for its return. These conditions are reasonable taxation of highway users who are its customers and the construction of a highway system adequate for highway users to drive on.

Experience during the past two years has clearly demonstrated the vital part that motor vehicle transportation plays in our economy. This will be equally true in the post-war era. A large percentage of the industries of this State are dependent upon ample highway facilities.

By providing in our new Constitution that every cent of highway tax funds must be used for highway purposes only, the New Jersey State Legislature will be providing the best insurance possible that a post-war depression will be either avoided entirely or will be kept to an absolute minimum. It is one insurance policy which costs nothing, yet it will save thousands of New Jersey families from the relief rolls.

EX-SENATOR AGANS:

Our next speaker, Mr. Chairman, is a neighbor of yours, Mr. F. C. Conkey, Managing Director of the Central New Jersey Fuel Exchange. Mr. Conkey.

MR. CONKEY:

Mr. Chairman and gentlemen of the

Committee: The Central New Jersey Fuel Exchange is made up of businessmen engaged in the distribution and delivery of coal and fuel oil. The cost of distributing the many thousands of tons of coal and gallons of fuel oil from our receiving plants to the various wholesale and retail outlets throughout the State makes up a goodly part of our cost of doing business each year. Most of our distribution is done in our own trucks. Anything which adds to the cost of operating trucks adds to our cost of doing business and likewise to the final cost of fuel to the consumer. Taxes on our trucks and the gasoline they consume do add materially to our operating costs each year.

When registration fees and gasoline taxes are used for highway improvements, we consider them a good business investment because transportation costs are lowered, distribution is speeded up with less time and labor lost in traffic jams, all of which results in lower costs of our products to consumers.

In the interest of the public, as well as ourselves, we appeal to you to re-consider that Section of Article VII (Finance) of the proposed new Constitution, which, as written, would cause these special highway taxes to lose their identity.

The idea of a single budget may appear to many citizens to be harmless and a good business move, thus, it has public appeal. However, experience has proven to us that such an idea is just another one of those moves to which the saying of - "All that glitters is not gold" - could be well applied.

The revenue the State has derived from motor vehicle fees, tax on motor fuels has exceeded, the revenue the State derived from other sources that go to make up the general budget.

For the very fact that real estate is not taxed for State Highways - and that highway funds are contributed by motor vehicle owners only, we feel that highway funds should be definitely protected the same as school funds are.

The proposed Article in our opinion is too broad for safety.

EX-SENATOR AGANS:

Our next speaker, Mr. Chairman, is

John Dressler, President of the New Jersey Gasoline Retailers-Gasoline Dealers Association.

MR. DRESSLER:

Mr. Chairman and members of the Com-

mittee: I would like to pay a compliment to the Chairman of your Committee. I don't know of anyone who makes a man feel more at home than he does.

CHAIRMAN PASCOE:

That is on orders.

MR. DRESSLER:

I don't know what I can add to the pre-

sentation, particularly of the two ladies. I speak as the President of the New Jersey Gasoline Retailers Association which has three thousand members in the State of New Jersey. The single fund, of course, is opposed by our group because we feel that immediately following this war, the few dealers who will survive the depression and the war conditions and the OPA suspension orders, will probably be pleased to see our Legislature or our State Highway Department, repair the

roads which so badly need repairs at the present time. We have been able to go anywhere in this country and brag over the highways in the State of New Jersey. I think the fact that this money was set aside, that this special tax on a special group of people, has been set aside and used so well, that we can be proud of our highways and any change would be detrimental not only to the dealers but to the motorists of the State of New Jersey. I don't think there is any need for me to go any further into that, but I would like to add I think the principle of dedicated funds is a sign of particular needs. I think that if any group in this government of ours, such as gasoline dealers, doctors, lawyers, have a problem which they bring to the State Legislature and are willing to pay this cost, the cost of solution of their problems, by a special tax, I think that the special tax should be set aside for administering that special problem.

CHAIRMAN PASCOE:

There is one more name on your list?

EX-SENATOR AGARS:

There is one more name. Mr. Chairman,

I am going to present to you Mr. W. J. Gaffney, Secretary of the New Jersey Petroleum Industries Committee.

MR. GAFFNEY:

My brief, Mr. Chairman and members of the Committee, will deal with certain statistics and figures concerning the highway funds and because of that I desire to read it and hope that you will bear with me when quoting some of these statistics.

The statement has often been made to me that it is unsound to tie up automotive taxes by a constitutional provision because the time might come in the future when we would have surplus funds derived from motor vehicle taxes to divert to non-highway purposes. I can never foresee a time when our State under any conceivable condition would be in a position when it would not need all of its highway funds for highway purposes.

Some may say that in time of war for some great emergency we might need to divert part of the Highway Fund to non-highway purposes. So

far as the effect of war is concerned we can see today what is happening to highway transportation. With restricted highway travel, highway funds are reduced. At present the reduction is about 40% of pre-war motor vehicle and gasoline tax collections. All of this reduced fund is needed for the retiring of highway debts and the administration and maintenance of our highways over which are transported the materials of war and over which travel war workers.

Should our State be bombed from the air by the enemy, highways and bridges would be the first targets and would have to be reconstructed immediately. This would require all and probably more than our present highway funds. If we should once again be confronted with hundreds of thousands of unemployed, there is no type of public works and construction which would help to relieve this problem any better than highway construction, since 90¢ out of every dollar spent on highway construction goes to labor.

Another thought which I have often heard expressed is that since we collect some 50 odd million dollars annually from gasoline taxes and registration and license fees, this is more than we can possibly use in the new state highway construction. Actually over the past few years only a relatively small part of the annual collections in automotive taxes has gone to new state highway construction. Since the establishment of the State Highway Department in 1917 we have made a capital investment in State Highways in New Jersey of approximately a third of a billion dollars. Of these expenditures approximately one-third, or 128 million dollars represents funds derived from issues of bonds. Had we not diverted 124 million dollars since 1930 we could have built our roads without borrowing this money. Since 1930 we have issued 81 million of the 100 million dollars of highway bonds authorized by vote of the people and before we are finished paying off the principal on these bonds the interest and carrying charges, alone, will approximate 60 million dollars, which sum of money could have gone a long way towards constructing new

highways in New Jersey.

Of the approximate 50 million dollars which has gone into our Highway Fund each year over the past 11 years from motor vehicle registration, license fees and gasoline taxes and Federal Aid, we have spent only 11 million dollars or about 20% of the Fund for new State Highway Construction. This is because of the diversions of the past and the fixed charges which must be met out of the Highway Fund. A break-down of the Highway Fund reveals that these fixed charges have amounted over the past 11 years to about 1/2 of the expenditures, or 50% of the Fund. A further break-down of these figures based on expenditures made from 1931-41 show us that on the average, the following annual expenditures were made:

Administration	\$3,304,043.00	7.1%
Return to Municipalities	\$1,490,588.00	3.2%
Maintenance	3,376,408.00	7.2%
Debt Service & Retirement	6,787,659.00	15. %
State Police	228,305.00	.5%
Distribution of Highway Funds to Local Government for Highway purposes	8,990,665.00	19.5%
Miscellaneous	1,247,717.00	2.7%
Cost of WPA Roads and Bridges	813,694.00	1.3%
Diversions	8,385,678.00	18.2%
New State Highway & Bridge Construction	11,572,649.00	<u>25. %</u>
		99.7%

An analysis of these figures shows that we have spent only about 25% of our Highway Fund each year over the past 11 years for new State Highway and Bridge construction. If we stop diversion in the future, there is no reason why we cannot spend over 50% of our Highway Fund on new highway construction and have a highway system in the State of New Jersey equaled by no other State in the Union.

I should like to comment briefly on some of the figures which I have given you and try to interpret for you what we may expect in

the way of highway expenditures in the future, if we adhere to a sound policy of highway finance. As our highway system becomes more involved we probably can expect larger administration costs. We will not have the expenditure of one and one-half million annually to cities and towns, since this was a reimbursement which we made to cities and towns from 1931-1933 inclusive as a token payment for the Mill Tax which was in effect at this time. We can expect our maintenance costs to be larger than \$3,376,408 a year because as our highway system is enlarged our maintenance costs increase. If we do not issue any more Bonds our debt service cost will decrease each year until 1950 when our Bonds will be practically paid off. The 11 year average for State Police may be somewhat misleading since we have been appropriating money to the State Police only since 1938. These appropriations have amounted annually to over one-half a million dollars. We can expect our distributions to local government to be at least 10 million a year in the future. So, you see we will continue to have fixed charges of approximately 25 million annually, or 50% of the Highway Fund. This will leave us 25 million a year for new highway construction which, according to authorities on the subject, will be little enough.

Traffic congestion through and between large metropolitan areas after the war will continue to be a large problem. Steps should be taken immediately to solve this problem after the victory is ours. Widening arterial routes through cities, building over-passes and under-passes and elevated highways and constructing by-passes to carry through traffic around cities will all be necessary to solve the traffic problem. To do all this will take motorists' tax dollars which should be guaranteed to this purpose not through a constitutional provision.

According to the October 1943 issue of American Highways published by the American Association of State Highway Officials, New Jersey should spend immediately after the war over \$193,590,000 to

bring its highway system up to date. I understand that this estimate was furnished to the American Association of State Highway Officials by our own State Highway Department. This job can be completed in eight years, if we guarantee now in our Constitution the use of Highway funds for highway purposes only. If we dissipate them in the future as we have in the past, it will take us 20 years to make these improvements. In the 1942 report of our State Highway Department it is stated on page 62 and I quote - "The following map shows the status of needed improvements to the Legislated State Highway System, which now comprises 2306 miles, of which 1687 miles forms the present operating State Highway System. In addition to the improvement of approximately 601 miles of Legislated State Highways not taken over, some 588 miles of highways now in the operating System requires reconstruction or other major improvements, at an estimated cost of \$496,770,000." End of Quotation.

If we continue to divert money after the war at the same rate that we diverted it prior to the war, it will take us 50 years or almost into the twenty-first century to modernize our New Jersey Highway System as recommended by our state highway department. If we use our highway funds for the purposes for which they are raised, we can do this job on a pay-as-you-go basis in 20 years. All of this, Ladies and Gentlemen, is exclusive of the Federal Post-war program for a 34,000 mile inter-regional highway system as announced in Congress within the past two (2) weeks. This system would embrace only about 1% of New Jersey's existing highways or 270 miles. When we further realize that the average life of a highway is only 20 years, at which time it is often necessary to resurface a highway, we can see what a tremendous job of highway construction we have ahead of us.

In order to plan and carry out a sound, long-range highway improvement program with a minimum of waste, extravagance and inefficiency, we must be able to estimate in advance what revenues we will

have at our disposal. We can do this if we know that the highway funds of the state are protected against diversion and misappropriation. It is the only way we can plan. Consequently, the only assurance which the people of this state can have that a long-range, well-planned highway improvement program can be carried out is through the inclusion of the road fund protection provision in the new constitution.

If we protect our future highway revenues now by constitutional provision, we can have this splendid proposed highway program for the State of New Jersey constructed on a pay-as-you-go basis and without any new taxes. Any other basis other than pay-as-you-go would be unsound because our own experience has shown that when we build highways on borrowed money, for every dollar we spend on highway construction we spend another dollar for carrying charges and interest. In other words, our highways cost us twice as much as they would if they were built on a pay-as-you-go basis.

We must construct our future highways without increased taxation of the motorists because the average motorist today is paying all he can pay, or should pay in automotive taxes. In the last normal year - 1941 - he paid annual taxes amounting to \$50 on his motor vehicle worth approximately \$200. In other words, he paid taxes at the rate of \$250 per thousand, of 5 or 6 times the tax on real estate. We must remember also that the pre-war motorist, as will probably be true of the post-war motorist, was and will be a person of moderate means earning less than \$30 per week.

Safety on our highways is another factor that cannot be passed over lightly. The element of safety that should and must be built into our highway system is one that cannot be measured in terms of dollars and cents.

After the war we should look forward to a revival of our recreational industry which in pre-war years amounted to about \$200,000,000 annually. The recreational industry came into this flourishing exist-

ence as a result of the motor vehicle. Good roads will encourage and inadequate highways discourage its growth. With highway funds protected in the future by constitutional provision we can look forward to a safe, adequate and modern highway system, which will insure the future of this most important recreational industry.

Before closing I wish, once again, to call the attention of the committee to the statement made by Mrs. Sullivan earlier today with reference to the state-wide publicity given a recent statement by the President of the State Chamber of Commerce, in which he said - and I quote - "One by one they (the states) are repudiating the system of dedicated funds and replacing it with the more sensible practice of one general fund for all revenues." And of quote.

I believe, Ladies and Gentlemen, it has been definitely proven here today that this statement is in direct contradiction to the true picture that exists throughout the country with respect to the dedication of highway fund revenues.

I point to the trend in other states, which shows conclusively that the people in various sections of the country have on each and every occasion when given the opportunity to speak on this question voted to guarantee highway revenues for highway purposes.

It is unnecessary for me to repeat here again the facts concerning the number of states that have so acted on this question. We feel sure, that, because of the trend in other states, the people of the State of New Jersey if given the opportunity to vote on this question alone, would place our great state in the column of those states that have dedicated their highway funds to highway purposes. We sincerely hope that in your serious deliberations on this question, you will finally arrive at the sound and sane conclusion that this provision to protect highway fund revenues for highway purposes only as recommended here today, should be included as part of the new constitution.

CHAIRMAN PASCOE:

Have you filed a copy of that?

MR. GAFFNEY:

Yes.

EX-SENATOR AGANS:

We have one more speaker, that is

Frederick Petry, Jr., New Jersey Furniture Warehousemen's Association.

Mr. Petry.

MR. PETRY:

Mr. Chairman and members of the

Committee, I merely wish to supplement the various papers which have been read and help to call attention to some things that might not have been touched upon.

For the successful prosecution of the war, and to take care of the post-war traffic, it is necessary to have adequate funds available for maintenance and construction of highways. Not only is this essential in the movement of troops and military equipment along the East Coast, but it is equally necessary to insure that the flow of materials and products from New Jersey's war plants is facilitated.

A substantial portion of all the shipments of raw material into our aircraft, engine, and war manufacturing plants, as well as a large share of the finished products, is carried by motor truck. By way of illustration, a survey in Michigan showed that 65% of incoming and 60% of outgoing freight moving to and from war plants is transported by motor vehicle.

New Jersey industry, because of its proximity to other industrial areas, is greatly dependant on the development of New Jersey's highways. The speed and economy with which truck deliveries are made depend greatly on the condition of our highway system.

Many of New Jersey's most important industries are dependant upon highway transportation for their continued existence. In a nation of free enterprise, such as the one in which we live, the survival of any business enterprise depends upon its ability to meet competition, its ability to effect economies, and its operating efficiency. Small savings in time, money or labor are often the factors which enable a manufacturer to survive where, without them, he would fail. The ability

to effect these savings often depends upon the convenience, the low cost and the speed of highway transportation. Consequently, the condition of New Jersey's highway system will determine the ability of New Jersey industry to meet out-of-state competition.

I hope that your honorable body will include a provision in our revised constitution to protect the future development of our highways.

CHAIRMAN PASCOE: Will you submit that brief to the stenographer?

MR. PETTY: Yes.

EX-SENATOR AGANS: Mr. Chairman, gentlemen of the Committee, we are going to rest our case with you. We know that you will give it careful consideration. I have been personally classified by the press as an obstructionist. I want to say that publicly. I hope the press will make a note of it. Everything that I have done, or my organizations or those that I represent, as I see it represents progress. We are writing a law here under which we must live, our children, our grandchildren, and, well, if it isn't amended, or revised in another 100 years, is going to cover quite a period of time. I believe that we should be careful and consider over a period of time as to how and what should be in that Constitution. I have always been a great believer and have a high respect for the Legislature of the State of New Jersey. I know a great deal has been said about them from time to time, but in my nine years in these two bodies I have found that a lot of this is untrue. We rest our case in your hands. We hope that you will give it careful consideration and that you will be able to decide that these funds, these most important funds, shall be set aside for the building up of our system of highways in New Jersey and for the maintenance of these roads. We thank you for the most courteous reception and we now rest.

CHAIRMAN PASCOE: On behalf of the Committee I want to say that we appreciate the orderly and detailed manner in which you presented your case to the Committee and we assure you that it will

be given the earnest consideration of the Committee when it meets to draw the final draft of the Constitution. You might strengthen your position with a statement from all these organizations that support the suggested change in phraseology which you mentioned in the beginning of the meeting. I assume they all support you?

EX-SENATOR AGANS: All those supporting the change in phraseology please rise.

CHAIRMAN PASCOE: I take it that it is unanimous. I would like to introduce another member of the Committee, the Senator from the County of Morris, Senator Harold A. Pierson. I feel that I have overlooked a member of the legislature who is here to speak today on this subject to whom I apologize for not having recognized in the audience. I would now like to ask him to join us and when he wants to speak he can go down on the floor, Senator Tierney.

SENATOR WIDENBY: Thank you for the kind invitation but I am perfectly comfortable right here and I think I will stay here.

CHAIRMAN PASCOE: There are several here to speak, but too many of them to take them now. This Committee adjourns promptly at one for lunch. I would like to say to those people who desire to speak, if they will be back at two o'clock we will take them on the first thing this afternoon. Mr. Charles are you talking on Section 2 and 3?

MR My main remarks are really on Article III. I would like to make some on Articles II and III.

CHAIRMAN PASCOE: Confine your remarks to paragraphs 2 and 3.

MR. CHARLES BRODSKY: (Representing N.J. State Federation of Teachers)

I would like to oppose the position taken by the other people who have just spoken on the basis of several arguments which I don't think were demolished by the speakers regarding dedicated funds. It seems to me first of all you do open the door if you have dedicated funds to the State Highway Department to dedicated funds for any purpose whatsoever. In the same way real estate owners could insist that their money go for housing and that corporation taxes go for the benefit of corporations. I think the main body of the argument here has been for good roads which are necessary and nice to have and I don't think any reasonable person could disagree with that. I think everyone in New Jersey is proud of our roads and wants them to be the talk of the nation. After all, isn't the main argument against dedicated highway funds that it invites a maximum of spending not based upon need necessarily. If we are making a Constitution for a long time we must look to the future and I don't know, and I don't think any person here knows, what the future needs are going to be. I would imagine the legislators of the State will always be open to hearing from the ladies and gentlemen who presented their case this morning when the need for more highways arises, and I think we can trust the Legislature will provide those roads.

After all, are you not tying the hands of the legislators in stopping them from making a balanced fiscal program when you say how much money is going for roads? We don't know how the post-war era may be and how great may be the need for other types of construction - possibly housing - any number of things. To dedicate money that comes in from taxes for roads is similar to a man who operates a business and says that all the money which comes from such and such an account shall go for a certain purpose, for housing we'll say. For a ridiculous point, a man might find himself without food but with a luxurious mansion in which to live.

Therefore I would certainly like to have the New Jersey State Federation of Teachers and myself go on record as being against dedicated moneys for any purpose.

SENATOR PASCOE: What is the difference between the New Jersey Federation of Teachers and the New Jersey Educational Association?

MR. BRODSKY: There are two State Associations of teachers in this State. The New Jersey State Federation is part of the American Federation of Teachers and associated with the American Federation of Labor. The New Jersey Educational Association is a local State Federation of organizations of teachers.

SENATOR PASCOE: Would it be possible for you to state the proportion you do represent? In your State Teachers Association there are probably a thousand teachers. Approximately what proportion do you represent in the statements you made here this morning?

MR. BRODSKY:

I frankly don't have the exact number of teachers. I don't know.

I can say we have a local in every part of the State.

SENATOR PASCOE: Could you say proportionately?

MR. BRODSKY: I could not go on record saying one-third or one-fourth or a half.

SENATOR PASCOE: On behalf of the Committee I would like to call your attention to an important part of this the teachers have missed. There are several dedicated funds that are involved in paragraphs 2 and 3. I have in mind the railroad tax; also the property tax. I have in mind your Teachers' Pension Fund which is more or less protected by dedicated contributions. I am wondering whether the teachers are satisfied with the various points protecting them as we hoped they would be protected. It's a very vital thing. In reading paragraphs 2 and 3 are you satisfied that the language there protects those various points?

MR. BRODSKY: I would think so.

SENATOR PASCOE:

I am glad to hear that. The Committee has very seriously considered this in order that we might do nothing to interfere with the educational program in the State.

MR. GIFFNEY:

I have prepared here some formal statements made here today which I promised to submit but I cannot sit down without taking issue with the previous speaker. I think we have pretty conclusively proven here today that the highway tax is a special tax on a special group and there is no more justification for taking those funds to build any housing program than there is for a fisherman to go fishing without any bait. In addition to the facts pointed out to him we certainly feel we have put in an argument that this tax is a special tax on a special group for a special purpose and it should be used for just that purpose.

SENATOR PASCOE:

The Committee is not going to get into any argument. If you want to argue among yourselves you may go ahead and enjoy it.

MR. O'BRIEN:

I would like to say something on behalf of real estate owners with respect to dedicated funds. One of the arguments advanced here this morning is that real estate is not taxed for highways. One of the bad things about property tax today is that real estate is being taxed indirectly in so many ways that the problem of the real estate owner is a great one. When the gasoline tax was invoked great ado was made that the tax invoked would be used exclusively for building highways. When the gasoline tax was invoked - up to the time it was invoked - it was a direct property tax on the motor vehicle. That amounted to something like fifteen or sixteen million dollars that went directly to the local community to be used for local purposes. With the introduction of the gasoline tax the Legislature exempted the motor vehicle from local tax - and I think it amounted to the same amount - and it went directly to the State. For a number of years some of that money went back. That going back has gone out the window now. There you have a direct tax on local home owners impressed directly for building highways.

There is another fact to be considered. The cost of government has been greatly increased since the coming into the picture of the motor vehicle. There's local traffic control. Local street widening brought about by the increased traffic. The tremendous costly Raymond Boulevard in Newark involving street widening, street paving and all sorts of improvements. Street widening particularly falls directly upon the property owners under the theory that they are being benefited. I know that a great many of these improvements not only do not benefit property but actually damage it, but under the theory that property owners are benefited they are assessed for those benefits. I want to give the committee the benefit of my judgment that real estate is being taxed for highways. It may be a direct tax but it is a burden placed on real estate owners by the traffic of the motor vehicle, and the revenue is taken away from the local government and given to the State in a direct motor vehicle tax.

MR. JOHN BEBOUT: (Representing Committee on Constitutional Revision)

I just want to say that the New Jersey Committee for Constitution Revision stands as proponents for these two sections of this Article, (Article VII). We might be considered modificationists so far as the second section is concerned to the extent that we would like to see written into it in so many words the principle of the tax benefits but we felt the guaranteeing of the single funds will go a long way toward putting the constitutional underpinnings in order. We do wish to have the privilege of submitting a detailed statement next Wednesday on the subject of dedicated funds.

MR. BREITKOPF: (Representing New Jersey Veterans' Protective League)

Proposed additions to New Jersey Constitution respectfully submitted by New Jersey Veterans' Protective League against Constitutional Revision:

Article VII, "Finance", - add Section 6.

(a) The restriction in this Constitution with respect to the incurring of public debt in excess of \$100,000., shall not apply to the incurring of public debt for the purpose of raising moneys for the payment

of compensation to honorably discharged veterans of any war of the United States, or to their education, rehabilitation, hospitalization, vocational training, financial relief, either to said honorably discharged veterans or to their dependents.

(b) In any war in which the United States is presently engaged, or may hereafter engage, the legislature shall make provision for the appropriation or raising of public funds and pay upon honorable discharge of every soldier, sailor or marine serving during said time of war, and resident in this state at the time of entry in the military service, a sum equivalent to \$50, for each month of service, and the legislature shall further provide for the education, vocational training, hospitalization, or rehabilitation of honorably discharged veterans, and for the care of their widows and orphans.

(Adjourned for lunch 1 P.M.)

DR. FREDERIC J. QUIGLEY:

Mr. Chairman and gentlemen of the committee: I appear representing the Medical Society of New Jersey, an organization of 4,000 members and comprising four-fifths of all the active practitioners in the State. I appear on their behalf in opposition to paragraph 2, Article VII of the proposed revision of the Constitution. Now as you are aware Mr. Chairman and other members - There have been several legislative attempts made during the past twenty years to do away with dedicated funds and to make it mandatory that all monies from whatever source received shall be paid into the general state fund and subject to appropriations for any public purpose, as is contemplated by paragraph 2 of Article VII of the proposed revision. All such proposals made in the past have been opposed by the medical, dental, pharmaceutical and nursing professions.

As a general proposition we agree with the principle that all monies should be paid into a single fund and appropriated for any public purpose. The question we raise is whether this principle should be applied universally. One of the stated specific purposes of the revision is to make such changes in the Constitution as will make for efficiency and economy. We believe very thoroughly that if this principle is applied to the funds received by the Board of Medical Examiners, the Board of Dental Examiners, the Board of Pharmacy and the Board of Nurses Examiners it will be impossible to maintain the present efficient functioning of these boards. This, of course, is the most important desideratum. Neither do we believe that the procedure contemplated with reference to these funds would produce greater economy.

A medical man may see a patient who needs surgical intervention. There may be conditions and factors surrounding the

case which will make the physician decide, after a careful appraisal, that it is inadvisable to operate; or a surgeon in operating may encounter conditions which may make it necessary to modify the principles and methods of the classical approach to the surgical problem.

In the functioning of these boards referred to there are conditions and factors, which will be described by speakers to follow, representing dentistry, nursing and pharmacy, which cannot be efficiently carried out if paragraph 2 of Article VII is enacted, and no provision is made to exempt these boards from its provisions. The reasons which they will advance as to why these boards cannot function efficiently if dedicated funds are taken away apply with similar force to the operation of the Board of Medical Examiners.

As we have said, organized medicine, dentistry, nursing and pharmacy have consistently opposed similar legislative proposals in the past. There are added and more compelling reasons why these professions should oppose this proposal at this time. Under Section 3, Article 4 of the proposed revision of the Governor, by Executive Order, shall create not more than 20 Principal Departments in the State Government. None of us -- that is the State Medical Society, the State Dental Society, the State Nurses Association and the State Pharmaceutical Association -- has any idea at the moment where the boards of examiners of the respective professions will be placed. After these boards are placed in one of the Principal Departments, "The Governor by Executive Order from time to time may reorganize, merge, consolidate and divide offices, departments, instrumentalities and the Principal Departments, and the functions, powers and duties of any of them among and within such offices, etc." In doing so the Governor may transfer personnel, property and appropriation balances.

In view of the proposed powers to be given the Governor in the reorganization of the departments it is more important that the dedicated funds of these boards be reserved for the purposes for which they are intended. The present Governor, Governor Edge, has a background of distinguished administration in government, and it would be most unlikely that he would not use good judgment in the establishment of the Principal Departments, but Governor Edge will only be in office three years. What may happen if a subsequent Governor, with strong convictions and inferior administrative ability decides that the boards, bureaus, etc. as then organized need reorganization. It would be possible for him to make such a scramble of them as to render them almost entirely ineffective.

We would respectfully ask the consideration by this committee of the remarks to be advanced in opposition to paragraph 2 of Section 7 by the representatives of the dentists, nurses and pharmacists.

SENATOR PASCOE: How many Boards are there?

DR. QUIGLEY: I think twelve.

SENATOR PASCOE: You are afraid if this is carried into effect --

DR. QUIGLEY: All the arguments are carefully prepared and the speakers will bring out the thoughts in your mind and if there are any further thoughts, I will be very glad to answer them.

SENATOR PASCOE: If we wrote in a little clause that said they must be

DR. QUIGLEY: This is correct, Mr. Chairman.

SENATOR PASCOE: As it stands today, there is no danger of your organization and other ~~such~~ organizations coming to the State and asking for the money.

DR. QUIGLEY: No, sir.

SENATOR PASCOE: Is there any suggestion as to the wording?

DR. QUIGLEY: This comes so suddenly we have not had a full opportunity, but we will be glad to write you.

SENATOR PASCOE: That will help us, you are only interested in your profession - to keep under the police power of the State but divorcing the question of the State. Have you ever given any thought to that. You would be self-sustaining and it would go to the state fund and it would be for the legislature to say that in all respects you should be under the laws of this State and maintain that feature to be self-sustaining.

DR. QUIGLEY: Our present thought is to maintain autonomy wherever we are. I think it would be brought out that the present trend is for the boards to give them full authority. We have no idea which shall be the twenty Principal Departments and a great deal depends on that.

SENATOR PASCOE: Will you give that some thought.

DR. QUIGLEY: Thank you.

DR. EDWARD R. WHITE: Dr. Quigley has said these boards so far have gone along quite well with their own moneys. The moneys used by the State Dental Board are collected as examination fees or registration fees. Of the 3000 dentists in New Jersey, the New Jersey Dental Society comprises about 2400 of these and they feel it would certainly be a blow to the efficiency to take these moneys away and put them in a general fund and we have classical examples in other states. These funds carry over from year to year and when the prosecution is great, a great deal of money is needed, in other years quite a lot less. Some three years ago we came to the Legislature and to the Governor and voluntarily increased the registration fee from \$2.00 to \$4.00. We were willing to do this for it was for the betterment of public health. Our board receives no pay in any way whatsoever from these funds. It is a very efficiently run board office with the smallest amount of help. We should be glad to furnish the budget to the committee. In South Jersey recently, illegal practitioners from Pennsylvania came to New Jersey and there did some of the work

over here but took the cases back to be processed in Pennsylvania. We asked the Pennsylvania board to help and they ran into the same condition. The budget was set up for the year. The funds would have been available and could be available and I know none of the members of the committee would like to see an increase in the illegal practice of dentistry. It is a hard job to police it and I think in the country we are looked upon as one of the best groups for the policing of illegal practitioners.

SENATOR PASCOE: If there are no further questions, we will go on to the next: Mrs. Wilhelmine A. R. Twidale, President, representing the New Jersey State Nurses' Association.

MRS. TWIDALE: Mr. Chairman and members of the Committee:

The New Jersey State Nurses' Association, which I represent as President, was incorporated in 1902 for the purpose of rendering better nursing service to the citizens of New Jersey by -

- (1) setting standards in our schools of nursing
- (2) setting up requirements for graduate nurses.
- (3) examining nurses practicing in the State.

In 1903, at the request of the State Nurses' Association, the Nurse Practice Act was passed. New Jersey was the second state in the Union to pass such a law. The New Jersey State Board of Examiners of Nurses was created in 1912. This Act has been amended, from time to time in order to keep in step with the progress in education, the science of medicine, and to safeguard community needs.

In order to secure, maintain and enforce legislation, the nurses of New Jersey have, since the beginning of the State Association, taxed themselves. At no time has the State of New Jersey been asked for financial support.

In fact, each of the original Board of 5 members contributed \$400.00 of their own money to make it possible to conduct examinations of nurses, to register qualified nurses in the state - both of these vitally important steps for the protection of the citizens of New Jersey.

The expense of the New Jersey State Board of Examiners of Nurses has at all times been paid by registered nurses who desired to have their professional qualifications accepted by the state, and by applicants desiring to have their credentials established.

Today, every state in the Union has an Examining Board. Of the 48 State Boards, 36 are composed of nurses controlling their own funds. The trend of Boards, the last few years, has been for reorganization for, rather than away from, independence.

The expense of the State Board of Examiners of Nurses, to carry on its work in New Jersey, has always been met by the nurses themselves, and has never been an expense to the taxpayers of the state.

The willingness of professional registered nurses to meet the financial obligations of the profession is shown by the fact that the number of nurses registering every year increases. Also, the nurses, themselves, in 1923 asked to have their original registration fee of \$5.00 raised to \$10.00 with an additional fee of \$1.00 for annual re-registration, in order to provide for the inspection of schools of nursing from which candidates were graduated.

The disposition of the funds, which the New Jersey State Board of Examiners administers, is at all times open to the scrutiny of anyone interested. Monthly and annual reports are made to the Comptroller of the State.

The profession of nursing came into being because the public needed nursing care. In our own state, nursing exists because of this same need. The citizens of our communities need nursing care. The New Jersey State Nurses' Association, through the State Board of Examiners, has accepted the responsibility of supervising the proper and adequate education of nurses for the public.

At this particular time, the State Nurses' Association has a responsibility not only to see that qualified nurses are serving in our immediate communities, but that qualified nurses are serving with our armed forces.

The Federal Government, American Red Cross, Army and Navy Nurse Corps look to State Boards of Examiners for the credentials of nurses. Nurses, meeting the requirements of the New Jersey State Board of Examiners, are accepted without question for military service.

The United States Public Health Service, in June of last year, 1943, set up the United States Cadet Nurse Corps. 65,000 young women are needed by the schools of nursing of the country. Our own state was given a quota of 2,386 young women needed to enroll in the 44 schools of nursing.

Of this work to be given by the accredited schools of nursing, Dr. Thomas Parran, Surgeon General of the U. S. Public Health Service, states: "great care has been taken to preserve nurse education standards," and looks to State Boards of Examiners to not only set up, but maintain, these standards.

Since there has never been any appropriation by the State of New Jersey for the support of the State Board of Examiners of Nurses, it would become necessary, under the proposed revision, for Registered Nurses to donate funds to the State, and, in turn, have the State appropriate these donations for the support of our organization.

Heretofore, the 15,000 Registered Nurses in New Jersey have proudly given adequate financial support to our State Board. We sincerely believe that the best interest of all persons concerned, both the nurses and the general public, will be served by continuing the financial independence of the State Board of Examiners of Nurses.

I am going to ask Miss Bernice E. Anderson, Secretary-Treasurer, to present a more detailed explanation of the activities of the New Jersey State Board of Examiners of Nurses.

SENATOR PASCOE: Miss Anderson.

MISS ANDERSON: Mr. Chairman and members:

It is my responsibility to speak for 15,000 nurses currently registered under the Nursing Practice of New Jersey. I feel that it is also my duty to speak for the 4,500 students now enrolled in the approved schools of nursing in this state. These nurses and students, together with their families, are vitally concerned with the liberty of the Board of Examiners to carry on its functions efficiently.

The function of this particular Board is not one of policing, since our law is permissive. We have a dual responsibility, one relating to state registration through examination and the other the maintenance of standards in approved schools of nursing. Like all other groups, the expenses of this Board have increased since the beginning of the emergency and particularly since the outbreak of the war. For many years the Board has conducted two examinations annually. In 1941 this number was increased to three and in 1943, four examinations were given, as well as special individual examinations for young men students whose draft had been deferred to allow them to finish their nursing course. Doubling

the number of examinations has more than doubled the expense and work in connection with them. These examinations, given last year to approximately 1200 candidates, are for the purpose of distinguishing, for the public, between nurses who may or may not represent themselves as sanctioned by the state to be safe to practice. Constant effort has been made by the Board to improve the type of examinations in order to meet current practice. New Jersey has pioneered in new and up-to-date examination procedures. Economy has been effected, whenever possible, by using hospital facilities and personnel, without payment, in conducting examinations.

The second function in relation to protection of the public, for which the Board is responsible, is in surveying and assisting schools of nursing in developing and maintaining those standards which make it possible for young women to be properly trained. We have in New Jersey 44 approved schools of nursing, 3 approved affiliate courses and 5 public health agencies approved for student affiliation. Of the 44 schools, 41 are participating in the United States Cadet Nurse Corps of the United States Public Health Service with which you are all familiar. The acceleration necessary has increased exceedingly the number of conferences and visits needed by schools of nursing, as well as the demand for assistance and guidance. The shortage of teaching personnel resulting in the use of less experienced supervisors and instructors in teaching nurses has necessitated special work in helping them adjust to their new responsibilities. Through control of its funds the Board has been able to meet these situations as they have arisen without the delay that would be entailed through diversion of funds or the process of making special pleas to have access to enough funds to deal with problems. It should be kept in mind that the expenditures of the Board's funds are already supervised through monthly and annual reports to the State Comptroller and surveys by the State Auditor, and reports are submitted regularly to the Governor.

Through constant contact with all Boards of Nurse Examiners in the country we know only too well the handicaps that are encountered daily in those states whose funds are not under Board control; action on applications has been delayed for indefinite periods, new methods could not be adopted, examinations have been curtailed, and specially trained clerical personnel needed to expedite business procedures have been denied or transferred. The efficiency of operation of the Board is of more importance than false economy. The test of that efficiency is not alone in figures or reports but in the safety and security of the patient who has every right to expect that the nurse who is certified through state examination and registration is competent. However, economy has not been forgotten as the Board in the fall of 1942 recommended to the State Nurses' Association that an amendment be passed eliminating the so-called "issuance fee" (not the annual re-registration fee) which may have been justified at the time it was established but now constituted an extra fee which interfered with the speed with which recently examined nurses could be made available for military service. Other economies would be detrimental since expenses at the present time are unpredictable. It is imperative that the Board of Nurse Examiners be allowed to carry on its work and meet emergency situations. Efficiency should not be hampered if the public is to be served and protected adequately.

SENATOR PISCOE:

Mr. John J. Bebus of the New Jersey Pharmaceutical Association.

MR. BEBUS:

Mr. Chairman and members of the

Committee: I would like to call the committee's attention to several arguments and suggestions offered this morning, particularly the suggestion of Senator Agans that all moneys received from licenses and fees be dedicated to highway expenditures,- I believe that is the phraseology of the proposal.

We certainly would object to having our funds dedicated only for highway uses.

MR. GAFFNEY: The wording was for motor vehicle registrations and license fees.

I am authorized to speak for the New Jersey Pharmaceutical Association and its affiliated county pharmaceutical associations. This organization represents more than 4200 pharmacists who hold licenses to practice pharmacy in New Jersey.

Before the Pharmacy Act was passed by the legislature in this State, no funds were appropriated from the public treasury for the regulation of the practice of pharmacy. The passage of the Pharmacy Act provided not only for the regulation of the practice of pharmacy but, like other professional practice acts passed by the legislature of New Jersey, carried with it its own method of enforcement and the financing of this enforcement. In the sixty-five years or more since the Pharmacy Act has been on the statute books, the enforcement of this act, which has brought countless advantages to the people of the State, has cost the tax payers nothing. The expense of enforcement has been defrayed largely from fees paid by the pharmacists of this State who are subject to the regulations provided by the Act. It is a function of the police power of the State to care for the health and welfare of its people. Acting under the police power, the legislature wisely set up the professional practice acts which limit the practice of various professions to persons who have proven their competency by passing licensing examinations, thus protecting the people against the practice of these professions by persons who are incompetent to give the services expected.

As long as the members of the professions are satisfied to pay the cost of enforcement of these acts, there should be no constitutional provision or legislation to prevent them from doing so.

It should not be unconstitutional for any group of citizens who have a particular interest in the health and welfare of the people of the State as a whole to petition the legislature to set aside funds which they are willing to con-

tribute for the specific purpose of providing such protection.

When the legislature agrees that the function to be exercised is necessary and essential in the public interest and funds are contributed through licensing and examination fees to make it possible to exercise such functions, it is certainly unfair to divert such funds to other purposes.

We are not opposed to a proper accounting of funds which are definitely paid to the State for a specific purpose. We would not advocate for one moment that there should not be a proper accounting for such funds and that their budgeting should not be properly supervised. However, we do object most strenuously to having such funds become free treasury funds to be expended for any purpose which the legislature may determine.

It is unfair to ask pharmacists, dentists, nurses, accountants, architects and other professional groups to pay annual license fees, and candidates for licensure in such professions to pay examination fees, with the understanding that these fees are to be used for the enforcement of the professional practice acts and then have them used for some other purpose.

For a total sum of approximately \$30,000 per annum the Board of Pharmacy of the State of New Jersey regulates the practice of pharmacy in the interest of more than four million people in this State. It supervises about 1800 retail pharmacies and more than 4200 licensed pharmacists. It makes investigations of the quality of prescriptions and drugs dispensed in these pharmacies. It makes inspections of hundreds of other establishments where drugs, medicines and poisons are kept or sold. It conducts licensing examinations, establishes standards for instruction and acquiring practical experience, determines the adequacy of equipment and personnel in the pharmacies throughout the State, regulates the sale of hypnotic and other dangerous drugs and acts as a center of information on matters involving the dispensing of drugs and medicine and the training and supervision

of personnel throughout the State. All of this is done with practically no expense to the tax payers as a whole. The Board maintains its office and personnel. It reports all of its financial transactions monthly to the State Comptroller. It reports its activities to the Governor annually and at such other intervals as he may request. It takes on special services in the field of pharmacy such as acting in an advisory capacity to other State agencies and institutions, to the Selective Service Administration, to the War Production Board and to other Federal agencies, and it has raised the standards of pharmaceutical practice in this State to a point where it is the envy of other States.

We feel, therefore, that nothing should be done which will impede the progress that has been made or impair the efficiency of the Board.

It is our belief that failure to continue to earmark these funds for the use of this Board will result in inadequate appropriations to continue activities which have been of inestimable value to the people of New Jersey.

The proposal to deprive the Board of Pharmacy of the State of New Jersey of the dedicated funds with which it presently carries on its activities will not in any way increase the efficiency or effect any economy in the operation of the State Government.

It is our conviction that the administration of public health services, such as are administered by the Board of Pharmacy, should be non-political within the scope of democratic government and that such administration in order to be effective requires continuity of planning and administration. It is also our conviction that neither non-political administration nor effective planning can be adequately maintained unless those responsible for proper planning and administration are kept free of the political entanglements that are bound to result when the

funds for such planning and administration are not prededicated for such purposes. We therefore respectfully request the continuance of the presently existing conditions under which the Board of Pharmacy operates with funds dedicated to its use.

SENATOR PASCOE: Mr. Lauren J. Fohlman of the New Jersey Society of Architects.

MR. POHLMAN: Mr. Chairman and members of the Committee:

I represent the New Jersey Society of Architects and the New Jersey Chapter of the American Institute of Architects. Our case in regard to dedicated funds is very similar to the other State boards and we have joined in preparing a brief which if you do not now have, will be mailed to you, and our organizations are fully behind this brief.

SENATOR PASCOE: This is being prepared?

MR. POHLMAN: Yes, it is being prepared and you will have it by next Wednesday,

SENATOR PASCOE: I have here a list of the licensing boards. The Architects have been heard. The Barbers Licensing Board is a more recent one. Anyone here to speak for them?

(no response)

Beauty Culture Board?

(no response)

Dentistry has been heard.

Embalmers and Funeral Directors, anyone to speak for them?

(no response)

Medical Examiners have been heard. Nurses have been heard. -- Optometry, anybody here to speak for them?

(no response)

Professional Engineers and Land Surveyors?

Mr. Pohlman, you spoke only for the architects?

MR. POHLMAN: Yes.

SENATOR PASCOE: Public Accountants State Board?

(no response)

SENATOR PASCOE:

Shorthand Reporting?

(no response)

Veterinary Association?

(no response)

Stationary Engineers? These are issued
by the Department of Labor.

(no response)

Real Estate Commission?

MR. O'BRIEN:

The funds are paid into the Treasury
and appropriated out.

SENATOR PASCOE:

Five out of sixteen have been heard, with
the exception of three, they are all in the same position. The
Beauty Board and Barbers Board ever since they have been in ex-
istence have put their revenues in the fund and they have passed
through the fund. There is a considerable balance amounting
to thousands of dollars. We don't know how much. They have
none here to approve or object. I wish to announce the League
of Municipalities will come back on Wednesday. We had the free-
holders and township organizations here this morning. Does any-
one else want to be heard on paragraphs 2 and 3?

MR. POHLMAN:

I would just like to state, many of those
boards have joined with us in the preparation of the brief, which
is being submitted.

SENATOR PASCOE:

Will you outline to what extent?

MR. POHLMAN:

State Board of Pharmacy, Public Accountants,
Optometrists, Nurses, Embalmers and Funeral Directors, Professional
Engineers and Land Surveyors, Medical Examiners, all.

SENATOR PASCOE:

When you submit this brief, it will be
signed by representatives of these.

MR. FRANK MARCHESE:

I am from the Barbers Examiners. We
want to be recorded as being here but not prepared to enter a
discussion.

SENATOR PASCOE:

We will have another meeting next Wednes-
day.

MR. MARCHESE: We will be prepared by next Wednesday.

MR. LEONARD: As I understand your position, you do not want your boards included?

DR. QUIGLEY: We have tried to show in our arguments there are special reasons why these boards should be excluded.

MR. LEONARD: Isn't it a fact that everyone of these boards are the creatures of the Legislature?

DR. QUIGLEY: That's true.

MR. LEONARD: So that in any year if the Legislature wanted it could do the very thing you seem to fear -- interfere.

DR. QUIGLEY: That is true except that is going to be incorporated in the constitution.

MR. LEONARD: The point I make is this - The Legislature any year now can interfere with any of these boards.

DR. QUIGLEY: There have been several attempts and our representatives at that time were apparently effective in satisfying the majority of the legislators that it was an unwise procedure so far as it affects these boards.

MR. LEONARD: The point is this, the difference would be each year each one would come before the Appropriations Committee with their budget.

DR. QUIGLEY: That is correct. May I say we do not know what is going to happen under this revision which is going to set up twenty different departments. We have no means of knowing where these boards are going and that is an added and very important reason for opposing the taking away of the dedicated funds.

MR. LEONARD: All right.

SENATOR PASCOE: Mr. Tierney.

MR. WALTER J. TIERNEY:

I am appearing here today, representing

all of the municipalities comprising the County of Hudson, in which County 80 percent of the second-class railroad property in the State of New Jersey is located. All of the valuable waterfront of the municipalities in our County is in the hands of the railroads and has been utilized for generations by the railroad companies in the erection of piers, terminals and other railroad facilities used in the operation of railroads. It is, therefore, apparent that the people of the County of Hudson and all of the municipalities therein, as well as the people of the State of New Jersey, are vitally interested in the problem of taxation, and more particularly, the taxation of railroads. Moreover, it is of vast importance to all the people of the State, and their best welfare demands, that there should be an equal distribution of the burden of government, and that railroad companies should bear their share of that burden and not receive a preference over other taxpayers.

The history of railroad taxation in our state clearly indicates the problems which have beset the people in the field of railroad taxation prior to the year 1875, by reason of the preferences which were given to the railroads in the form of gifts and low taxation. Scandals ensued which became a matter of national discussion. The conditions were denounced in the public press, publicised by writers and were the direct cause of the adoption of Article 4, Section 7, Paragraph 12, of our present constitution, which reads as follows:

"Property shall be assessed for taxation under general laws, and by uniform rules, according to its true value."

The decisions of our courts are replete with statements clearly indicating that this provision was imbedded in the supreme law of the land, its constitution, to forever suppress the evils which had existed prior to 1875, namely, the granting of financial aid and preferential rates to privately owned railroad corporations. The wording of this amendment, namely, that property should be assessed under general laws, by uniform rules and according to its true value, were words carefully chosen so that railroad property would be assessed and taxed in such a

way that the railroads would share equally in the cost of government with all other taxpayers.

From 1875 until the present time more than one hundred decisions in our courts have fully developed the method and manner of ascertaining the true value of property, and all of our courts, the Federal courts and the United States Supreme Court, have approved the method and manner in which railroad property has been assessed in our State since the constitutional amendment of 1875. The words "true value" have received a definite and clear meaning, particularly as applied to the taxation of railroad property. The railroads of the State of New Jersey have continuously tried to destroy and upset the methods of assessing their property, but the courts have unanimously denied their attacks and sustained the methods employed by the State. For example, the railroads claimed that their property should be assessed in accordance with the value of its outstanding shares of stock in the market; they claimed that they should be assessed in accordance with their earnings; they claimed that "true value" should be ascertained in accordance with their track mileage, and a dozen other fanciful suggestions have been made from time to time in order to destroy the method which had been adopted by the state for generations. They were always defeated in their efforts.

The proposed constitution destroys the safeguards which have surrounded the ascertainment of the true value of railroads and deliberately gives to the railroads the very thing that they have been clamoring for during the last forty years, namely, the right of the legislature to assess their property in accordance with standards of value which the legislature may from time to time itself fix. Hence, the proposed constitution, under Article 7, Paragraph 4, changed the words "true value" and substituted the words "fixed standards of value" so that the section proposed reads:

"Property shall be assessed for taxation under general laws, and by uniform rules, according to fixed standards of value."

It is clear that should this constitution be adopted in the form proposed, the legislature may substitute, in the place of the present

method employed by the State Tax Commissioner in ascertaining the true value of railroad property, a new method based upon the value represented by its stocks and bonds, issued or outstanding, or upon a capitalization of its net earnings, or upon a formula relating to its gross receipts, or indeed upon any of a multitude of other factors which might be thought to be an advisable standard or base against which to apply a selected and arbitrary rate. This provision, as has been demonstrated repeatedly prior to 1875, will permit the railroads to get from the legislature the very preferences which they have been unable to obtain since the adoption of the amendment to the constitution of 1875, and will relegate our state to the same chaotic and scandalous situation which existed in those days, namely, railroad domination of politics in our state. This fantastic story of railroad domination is well described by Professor Wheaton J. Lane in his book, "From Indian Trail to Iron Horse," (Princeton University Press, 1939) in Chapter 12, entitled "Monopoly and Politics", Pages 323-370.

Nor is this all. As a further clear indication that this change in the proposed constitution is for the direct benefit of the railroads, we point out that the proposed constitution has made a further change in our present constitution, relating to the taxation of property. Another Sub-section has been added to Article III, Section 6, Paragraph 9, which section is analogous to the present constitutional provision, Article IV, Section 7, Paragraph 11, prohibiting the passage of private or special laws in certain categories of legislation. The proposed Article III, Section 6, Paragraph 9, to a large extent, is the same as our present Article IV, Section 7, Paragraph 11, but the very significant addition to the category of legislation, with respect to which the legislature is prohibited from passing private or special laws but may pass general laws relating thereto, is the following;

(3) "Relating to taxation or exemption therefrom,"

The inclusion of this provision just recited will definitely permit the legislature to exempt from taxation any class of property of whatever type or use, so long as the exemption is made by a general law. For example: The legislature would be free to exempt from taxation all

property used for railroad purposes, or all of the property of some other private corporations, as long as it exempted all of the property in that class.

It is inconceivable that the framers of the present constitution would insert this powerful provision unless it intended thereby to favor a particular class or group of property owners, and this carte blanche right to exempt property, which the courts have clearly held is impossible under our present constitution, unless the property is devoted solely to educational, charitable or religious purposes, would give a pliant legislature the constitutional right of granting the most preferential treatment to the railroads or any other corporate owners of taxable property.

Thus, by one stroke of the pen, these two provisions destroy the wall of protection which the courts of New Jersey, the Federal courts, and the United States Supreme Court, have erected to protect the people of this state from the great evils which had dominated the State of New Jersey prior to 1875. The railroad scandals were the provocative cause of the imbedding in our constitution of 1875 of the provision that property must be assessed at true value. The courts have construed this amendment of 1875 to mean that railroads must not be given any preference and that no property can be exempted unless the property is devoted to a charitable, religious or educational use. Should this constitution be adopted the doors would be flung wide open for the railroads to obtain preferences and benefits which they have sought to obtain for years but which were unobtainable because unconstitutional. The inclusion of these two provisions, moreover, to which I have referred, will prevent the state, a municipality or any taxpayer from questioning the constitutionality of such preferences because the proposed constitution makes such preferences perfectly legal and would leave the state, the municipalities, and the taxpayers of the State without any remedy.

In conclusion, gentlemen, I wish to recommend to the committee they take under consideration these few thoughts I have left with you and include them in our new constitution.

SENATOR PASCOE:

You did submit a copy of the brief to the stenographer?

MR. TIERNEY:

I will submit it now.

SENATOR PASCOE:

You talked on two articles?

MR. TIERNEY:

Yes.

MR. O'BRIEN:

My remarks will be directed principally

to the particular language used and what I have to say will lead up to that.

On behalf of my Association, the following is submitted with reference to Paragraph 4, Article VII of the proposed Constitution, which reads as follows:

"Property shall be assessed for taxes under general laws, and by uniform rules, according to fixed standards of value".

The Committees of the Legislature are to be commended for recognizing the need of eliminating the true value clause of the old Constitution, which was designed to meet the needs of another day and age. The practical application of the true value clause has narrowed almost exclusively to real property. The method of assessing that property at ever increasing high local rates, upon which there is no limit whatsoever, has had a very serious effect on home ownership and the private ownership of real estate generally. The cause and effect of this condition was treated at length at the public hearings two years ago and need not be repeated here. This can be said, however, for this record.

In its administration of the tax laws, the legislature has recognized the fact that the advalorem system of taxation, that is, a tax on the capital value of property at unlimited rates, is a bad yard-stick for measuring tax-paying ability; it has removed from its application, practically all types of personal property. In the recent railroad tax legislation, there may be noted a move to exclude certain classes of real property from its full application. This precedent will undoubtedly bring demands from other large corporate bodies for similar treatment for its real property, by classes. All of these changes have had, and will continue to have, if unchecked, but one effect, the placing of an intolerable burden upon other real estate and upon the homes of our

people. This entire problem has been further aggravated by the freedom with which the Legislature has granted exemptions to certain types of both real and personal property.

The real estate owners of this state, and particularly home-owners, are looking to this revision of the Constitution to provide for a more equitable distribution of the tax burden. It becomes of paramount importance therefore, that great care be used in phrasing this paragraph having to do with taxation, not only that its meaning may be clear to the people who will be asked to vote for it, but that the Legislative intent may be clear to the Courts, which will be asked to construe it for many years to come. Above all, it must be so clear as to leave no doubt that the Legislature is charged with the duty of providing for the future, a tax administration best suited to the needs of this state and its people, based on equity and the principle of the ability to pay, and unhampered by a Constitutional provision which may possibly be construed as freezing within the framework of the new Constitution, the standards of value which have been fixed up to now, and I use the word value both from its narrow meaning of referring to the value of property as such, and its possible broader meaning as referring to different methods of assessment.

In order to explain that I don't suppose there is a paragraph which is more subject to court opinion than this one, A great many court opinions have revolved around the definition of a word used in legislation. These words "fixtures", "fixed" and "standard" are dangerous words for future construction. You gentlemen may remember the great furor about tax exemption last year when all social organizations throughout the State applied for exemption. This exemption followed out of an opinion of the Supreme Court in an exemption case, that is because of the definition of Webster on "fraternal". The courts may go to the dictionary to find out what the Legislature meant when it put the word "fixed" into the constitutional provision and I am afraid the courts may say after going to the dictionary that the definition of the word "fixed" may mean the standards of value fixed up to now.

For the above reasons, and because of its evident ambiguity, we ask that the words "according to fixed standards of value" be not used in this paragraph. If the Committees decide to use some such language, we suggest that this paragraph be changed to read as follows:

"Property shall be assessed for taxes under general laws, and by uniform rules, according to classifications and standards of value to be established by the Legislature".

In ~~order~~^{our} judgment, this language is clear and its intent plain, and sufficiently broad to permit the Legislature to meet the problems of the post-war era with respect to taxation, when construction and housing will loom so high in importance, with a more definite authority than the paragraph contained in the submitted revision.

I might say that it has been suggested that as a protection against the unlimited assessment of property that there should be inserted some limit such as is contained in the New York law that states the assessments shall in no case exceed their true value.

In connection with this tax provision, we submit herewith two recommendations contained in resolutions adopted at the convention of our Association last December:

- 1- We recommend that the new Constitution provide for the classification of all property for the purpose of taxation, the rates and method of assessment of each class to be commensurate with the type of property, its earning capacity, the services it receives from the government, and its general relationship to the security, welfare, and stability of the state and its subdivisions.
- 2- We recommend that the new Constitution contain a provision restricting and limiting the power of the Legislature to grant tax exemptions, or to enact mandatory spending laws.

If we decide to do so after further study, and with your permission, we will reduce these two recommendations to exact language form, and submit them to your Committee in the immediate future.

On behalf of the Association, I wish to commend Governor Edge and the members of the Legislature for the expeditious way they have treated the mandate of the people for a new Constitution. With respect to the matter of taxation, our only desire is to see a more equitable system of taxation ushered in through the medium of this

new Constitution, and to that end to assure you our every help and cooperation.

CHAIRMAN PASCOE:

Will you file a copy of your brief?

Just what was it you were referring to about the word "fixed"?

MR. O'BRIEN:

My thought is this. Incidentally and

possibly 25 years from now the law of taxation may be abandoned as all over the world except in this country and Canada and there should not be anything to prevent that abandonment. It is a protection against the unlimited assessment of property on its capital value. The Constitution should contain the words that in no case should it be assessed at greater than its true value.

CHAIRMAN PASCOE:

Anybody else want to talk on Paragraph

4? If not, we will proceed to Paragraph 5 and the first speaker will be Mr. Frye on Paragraph 5 and also a section in Paragraph 3.

MR. FRYE:

If it pleases the Committee, I would

like to speak informally relative to State debt. The first proposal I have submitted in writing to Senator Pierson and I believe that is before the Committee. I will mention that only in the briefest way. It is not of course necessary, you will agree, that that reserve appear in the constitution, the reserve to relieve the bonds prior to maturity. The legislature, I take it, believes that is necessary in order to keep before the mind of the legislature in the future the advisability of calling in a proposed issue of bonds. If you put it in it constitutes a reservation on the part of the State and it should be clearly defined so that the investor may know clearly the intention, at the particular moment. At the present time in two of our southwestern states there are litigations in which State courts have held that bonds which apparently on the face of the bonds were due on a fixed date have been held callable on an earlier date under some old law on the statute books of those states which law was apparently unknown to the people of the state or to the investors. To avoid any uncertainty on the subject, therefore, your putting in this sentence "In contracting any such debt or liability, how-

ever, the privilege of paying all or any part thereof prior to maturity may be reserved to the State in such manner and upon such terms as may be provided by law." - I have no objection to that.

To make that more definite I would suggest that it read "upon such terms as may be provided by the law authorizing the debt", that is the specific act of the Legislature authorizing the debt or liability and stated in the terms of the debt or liability. The investor looks to the bond and doesn't like to have any ancient law which may affect the terms of the contract.

CHAIRMAN PASCOE:

It has been discussed by the Committee.

MR. FRYE:

There is one more suggestion which I

have not had an opportunity to present to the Committee.

CHAIRMAN PASCOE:

What is that?

MR. FRYE:

That is the provision which is in part

quoted from the existing constitution, a very famous provision, in referring to the law authorizing the debt. It now appears as the last sentence of the draft. "No such law shall be repealable until such debt or liability, and the interest thereon, are fully paid and discharged." That is the way the phrase appears in the existing constitution and in connection with bond issues over a period of years we have given wide publicity to that clause and found it extremely helpful in reassuring the investors and holding down the cost to the State. In the proposed draft it goes on to say "or until equally secure provision is otherwise made for the payment of the remaining annual installments of the principal and interest of such debt or liability". I can understand why that has been proposed. I believe it is because some of the outstanding bonds of the State are secured solely by a general property tax. It has been deemed advisable by the State to resort not only to the general property tax but to apply the proceeds of the motor fuel tax. It is merely an additional means of paying the debt, and should the motor fuel tax prove insufficient, the investor would always have recourse to the general property tax. It has worked very well under the existing constitution.

If you include the expressed reservation, the Legislature may substitute equally secure provisions which leaves the investor and the State in an extreme uncertainty. In the last analysis it would be up to the Courts to decide, but no large insurance company would like to buy a law suit against the State of New Jersey, certainly not at the low rate of interest yielded by the bonds. You would introduce a lot of speculative value into the bonds. You would then be appealing to the speculative investor who would demand a higher rate on the coupon bond. The class that we have always appealed to is the large banking interests because of definite date of maturity or an ascertainable date of maturity, clearly defined, and adequate security for payment. That class of investors will take a lower coupon rate. If you have to apply to the speculative investors, they would certainly demand a higher rate of return and it would make a great difference.

CHAIRMAN PASCOE:

You recommend that we strike out a part of paragraph 5. Will you kindly state that in the record so that we can take it up when we get to it?

MR. FRYE:

I suggest, therefore, if the Committee please, that the last sentence terminate at the word "discharged", and the remainder of that last sentence be stricken out from the draft. I might just add if I may that in making these observations I am not appearing on behalf of any special interest, but only from a sense of duty, having had the privilege of representing the State in such matters. I should say that I had discussed this with Mr. Backes and he agrees entirely in this observation. I should also add that many investors have talked to me about matters relative to the debt of this State and in these observations today I am sure that I am correctly presenting to you their views, the views of the people who might be prospective buyers of New Jersey bonds.

SENATOR PASCOE:

For the record, I have some statements on this Article and a telegram from Mr. Benjamin M. Taub, President of the State Federation of Planning Boards saying that he would like to appear. I believe he is here now. If you will come forward, Mr. Taub. This is on Section VI, Paragraphs 6 and 7, the provision for zoning and domain.

MR. TAUB:

We have submitted a full detailed report with proposed substitutions.

SENATOR PASCOE:

I would like to state briefly - I am not going very much into it, that our whole purpose in formulating the report was to provide the framers of the Constitution with bases for assessing the value of the recommendations and to suggest to them certain considerations peculiar to planning and zoning practices which might not otherwise come to their attention. In addition we have submitted to you gentlemen an additional clause which we would like to have inserted or read into the revised Constitution on eminent domain and urban redevelopment, which in our opinion is of vital importance at this particular time.

MR. TAUB:

C. EMINENT DOMAIN AND URBAN REDEVELOPMENT

Before entering into a detailed discussion of this provision, it seems advisable to present some of the reasons why the committee deems it necessary. It is common knowledge that many communities in the state and throughout the country are suffering from depopulation of their central areas. What is not as generally known is that the obsolescent layout of these areas would result in an excess of maintenance and operation costs over returns in licenses, fees and taxes regardless of how many people were jammed in. The real problem is not so much depopulation as it is the excessive costs for serving the areas due to their inefficient layout and obsolete structures. Piecemeal rejuvenation of individual houses or even individual blocks is ineffective to correct such a condition. The only economical answer to the problem is the redesign and redevelopment of whole neighborhoods according to a plan

developed to provide all requisite community facilities in an efficient layout.

This is not merely a matter of housing as is sometimes thought. The redevelopment scheme may include areas which can be better used for business, industry, parks, etc., than for residences. Existing public housing legislation is not enough. Public housing may be necessary for the lowest economic groups and the redevelopment plan might include provision for residential areas which with sufficient subsidy could provide a reasonable return on private money. Also as above, private capital might reasonably be invested in necessary commercial and industrial areas. To make this use of private capital possible, therefore, the legislature must be able to promulgate laws allowing land to be condemned for redevelopment for private use as well as public uses. It is to make this possible that the following section on eminent domain is recommended by the Committee.

You have our Committee's recommendation.

SENATOR PASCOE:

Yes, we have your three suggestions.

MR. TAUB:

I would like to call attention to one other. We have added to Paragraph 6, Section 7 of Article 3, a sentence which is contained in the constitutions of other states, mainly the Constitution of New York State. I will read it.

"The Legislature may enact general laws empowering municipalities to adopt ordinances restricting to specified districts and regulating therein: land uses; uses of buildings and structures, their location and construction, their maximum and minimum height and bulk; minimum lot sizes; density of population; and, to the extent only that is necessary to prevent depreciation of other property values, the design of buildings and structures. The Legislature may grant similar powers to counties to be exercised within the limits of any municipality which has not adopted such an ordinance and to remain in effect pending the adoption of such an ordinance by the municipality. The Legislature may by law authorize a State agency to limit and restrict, for the

protection and conservation of any State-owned parkway, highway or other public improvement or public place owned by the State, the uses of property adjacent thereto. Laws enacted under this section shall be deemed to be within the police power of the State."

SENATOR PASCOE: That is zoning ordinances for state highways.

MR. TAUB: That is correct. We have other members of our Committee here who participated in the discussion and formulation of these suggestions, such as Mr. Bittenheim and Mr. Bishop. If you care to have any further comments on it, Mr. Bittenheim will be glad to give them.

SENATOR PASCOE: Certainly, we do not want to restrict anybody.

MR. TAUB: Mr. Bittenheim is Editor of The American City, from Madison, N.J.

MR. BITTENHEIM: Mr. Chairman and gentlemen, I think the three provisions that we have suggested have been made as the result of having a very careful study by the committee, and also with the findings of some of the most eminent lawyers in the country, Mr. Alfred Bettman of Cincinnati and Philus Nichols of Boston. That amendment will provide, in our opinion, an entirely new section which we are suggesting on urban development. There is a movement spreading around the country, as most of you know, to do something to recover and revitalize the thickly settled slum areas of the cities. It is generally recognized that that job cannot be solved entirely by public enterprise and public subsidy. If it is to be done effectively, it has got to be done by public aid and private aid and what is more, the private initiative you have to have in order to effectively solve this problem has got to have the power of eminent domain exercised, so that when they decide to assemble large areas in the slums, there will not be the inevitable holdup as soon as word gets around that the big areas are to be bought up to have prices skyrocketed. The object of this provision is that the power of eminent

domain would be exercised by the municipality and all corporations set up under conditions specified by the Legislature and permitted by the new Constitution. Those corporations would be subject to some special regulations in return for the power of eminent domain. Part of the rent to be used for public housing, but no restriction in the constitutional provision as to what in any particular project would public or private. The provision would also allow the Legislature to grant partial tax exemptions such as is allowable under the New York State law for a period of years by which the corporation would pay to the municipality the equivalent of the full taxes now being paid on both land and buildings, but would not pay over a period of years any taxes on the increased value given by the housing development, that being an inducement to get private capital into these enterprises. After a period of years which could be fixed by the Legislature, it probably would come under the full taxing power of the municipality. This provision does not say the Legislature must do that, but says the Legislature may grant the power of eminent domain or may grant the right for special tax exemption for a limited period of years during which period such corporation would be subject to controls as to its earnings and dividends paid, etc. That in brief, is the reason. Those are the principal provisions. I do not know whether you care to have me read the clause in which we have embodied that in language. You have them there.

SENATOR PASCOE:

They are here, we have them.

MR. BUTTENHEIM:

If you want us to file additional briefs

today we would be glad to do it, but I think the statements we have submitted have covered that very well. Also there is a third provision which I have not mentioned, which we have added, which is brief and I would like to read. "The Legislature may also provide, in such manner, by such means and upon such terms and conditions as it may prescribe, for low-rent housing for persons of low income as defined by law, or for the clearance, replanning, reconstruction, and rehabilitation of sub-standard and insanitary areas, or for both such purposes, and for

recreational and other facilities incidental or appurtenant thereto."

That clause has been lifted from the Constitution of the State of New York by amendment adopted in 1938. It seems to be working out effectively in New York State.

I would like to add as a final word that the clauses submitted to the committee are substitutes for the ones now in the draft and that the committee and the Federation, which consists of every municipal official planning board and board of adjustment in the State of New Jersey, have given serious thought and have passed unanimously upon the clauses we have submitted to you gentlemen this afternoon.

SENATOR PASCOE: The third is brand new.

MR. BUTTENHEIM: It has been submitted by the Federation .
as being desirous of being written into the Constitution.

SENATOR PASCOE: I think we understand that.

SENATOR PASCOE: Mr. Charles Brodsky, of the New Jersey State Federation of Teachers told me this morning he would like to speak on Article III, Section VI, Clause 8.

MR. BRODSKY: I appear before you Senator Pascoe and your Committee as Chairman of the Committee on Constitutional Revision of the New Jersey State Federation of Teachers. I would like to say first of all that we are very happy about the Constitution as drawn up and we think a remarkable job has been done. We would like to call to your attention several additions and one amendment in order to make the Constitution one of the most official looking documents of all the constitutions of all the states.

The first addition that we would have to Article III, Section VI, clause 8 is, that "No grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the Legislature or any political division thereof for the purpose of founding, maintaining, or aiding any school or institution of learning wherein any denomination or sectarian doctrine is taught or inculcated; nor shall sectarian instruction be allowed in the free public schools of this State."

I think those of you who have been familiar with the Shershin Bill in the Legislature will see there is quite a need for a measure of this kind. I would like to say on this point that I and the members of our Committee think that the people who would introduce religious education into the schools have good motives. We do not question the motives. We think the practice is an extremely dangerous one and violates the American principle of separation of school and state. We can see where a number of situations would arise which would bring about complete confusion. We feel that the religious institutions should take care of the religious education and the public money should not be used in order to aid in any way institutions which teach sectarian education. I might say we have checked all the constitutions of the 48 states and we found that 34 of the state constitutions contained a clause to this effect. The ruling out of state aid to sectarian institutions and also sectarian instruction in the public schools I could explain, for instance, you could have a situation in a school where if we have religious instruction you might have 50 different denominations saying they should be allowed to send their representative, their minister, pastor, to teach the people of their faith. I think it goes without saying that we have based our concept of public education on the fact that the children of the state shall not be differentiated one from each other, and that is one of the aims of public schools, not to point out to students how different they are from each other but to create an Americanism which does not point out these differences.

We would like to add in this Section the following clause: "No distinction or classification of pupils shall be made on account of race, creed, color or religion; nor shall race, creed, color or religion be a consideration in the hiring of teachers in the public schools of this State."

Once again I think you will recognize that this is basic to the American idea that we accept the individual for what he is. We take each American and not segregate him into one corner and say he is different

from other Americans. We are not the only organization that has brought up the point that there should be no classification of students or teachers on obviously something over which they have no control, or a matter of conscience.

The third addition which we would suggest to the Article on education is the clause which we have taken from the New York State Constitution, which reads: "Membership in any pension or retirement system of the State shall be a contractual relationship, the benefits of which shall not be diminished or impaired."

SENATOR PASCOE: Will you please read that again? Do you mean teachers' pensions or general pensions.

MR. BRODSKY: We have not confined it to teachers' pensions, but pensions of the state; not to divisions of the state, or municipalities, but to the pensions of the State itself. I would like to give you the thinking we have here. Behind the thought of this section is the feeling that persons, any capable persons, who accept employment in the public school system or in the various offices of the State, render services to the people of the State and gives up the idea of ever getting wealthy from it, to put it very bluntly. In order to serve the children of the State - I am thinking of the teachers here - all the people of the State as it applies to other civil servants - security is a very necessary thing. And it is in order to provide that security we feel the people who work at small salaries during their lifetimes - in order to continue the capable people in the system they should be entitled to the knowledge that in their old age they will retire on a pension which has not been impaired, after their 25 to 30 years of service. If you buy an annuity from an insurance company you enter into a contractual relationship, and we feel the government should hold as sacred this type of contract as any private business does. We feel a private business man who enters into an agreement with the State for the purchase of materials of any kind through a contract expects that to be carried out, and we hope the people of this State will feel the

the public servant should also be treated in a similar manner.

We would like also to ask as the wish of our organization that the first part of Section VI be amended to read: "The Legislature shall provide for the maintenance and support of a thorough and efficient system of public free schools for the instruction of all persons in this State between the ages of 3 and 20 years....."

The present clause in the old Constitution read "children in this State between the ages of 5 and 18 years", and the only purpose of that is to take advantage of the newer trends in education which provide for nursery school training and for two years of so-called junior college work. We have the feeling that the people of this State should be entitled to attend, or send their children, to pre-kindergarten schools or to at least two years of junior college. This does not preclude setting up of a State university, of which we are in favor, nor does it preclude such grants as take place at the present time, such as to Rutgers University.

The last clause that we would like added to the section on education is a clause which does appear at the present time in another part of the Constitution.

SENATOR PASCOE:

This Committee cannot take that because it is not assigned to it.

MR. BRODSKY:

This has to do with school districts only.

SENATOR PASCOE:

I am sorry.

MR. BRODSKY:

We would like added to the section on schools under the school districts of the State, this clause: "In the school districts of the State, all offices and positions shall be classified according to duties and responsibilities, salary ranges shall be established by the school board of each school district for the various positions. All such salary ranges shall be considered contracts at law, and all promotions from one position to another shall be made according to merit and fitness to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive."

That actually is an attempt to put teachers in the same category as other civil servants in the State.

I am going to rest there, Senator Pascoe, with the comment I made before that we are very happy that the Legislature has done such a remarkably good job. We are a little disappointed you have not followed the example of numerous other states, I would say a majority of the states, in creating a separate section on education, but we do hope the suggestions here will be taken up for consideration and possibly included by your Committee.

SENATOR PASCOE: You will file your suggestions.

MR. BRODSKY: You have them.

SENATOR PASCOE: Senator Toolan would like to ask a question.

MR. BRODSKY: I would be happy to try to answer them.

SENATOR TOOLAN: With reference to this addition which you suggested on Article III, Section 6, Clause 8, "Membership in any pension or retirement system of the State shall be a contractual relationship, the benefits of which shall not be diminished or impaired." Don't you think you should have a clause in the Constitution that the pension fund shall be self-sustaining.

MR. BRODSKY: I don't see the necessity for it. The pensions would be of a hundred different types.

SENATOR TOOLAN: Don't you think if you want absolute security in the amount of your pension that the pension fund ought to be an actuary fund from those contributing to it to make up the full amount of benefits to be paid?

MR. BRODSKY: No doubt it should be an actuary fund. Are you suggesting everything should be paid by the employee. The Social Security Act doesn't.

SENATOR TOOLAN: Don't you think it should.

MR. BRODSKY: I don't think it necessarily should apply.

I don't see any reason why it should. It would be nice if it did.

SENATOR TOOLAN: This amendment -- you want to be guaranteed that the amount would be here in the Constitution. That doesn't impose upon the Legislature the obligation to appropriate a sufficient sum each year to keep it -- actuarially sound.

MR. BRODSKY: I think it imposes upon the Legislature the same duty as would be imposed if the State entered into a contract a business man, that the Legislature must see that that man is paid. I think the same thing should apply to any member of the pension fund.

SENATOR TOOLAN: That is true, of course. The State should be very careful what kind of a contract it makes with them to make sure they will not make a contract to pay him any more than he puts in it.

MR. BRODSKY: I certainly agree that the State should not enter into a contract it cannot fulfill, but with your second point I disagree. It is very easy to say to the individual, "Yes, you want a pension fund, now go ahead and pay for it, and you will have it." The Federal government might have said that when they set up the Social Security Act. If you will look at the example of England and Germany when they set up a social security fund you will find there was always some kind of governmental appropriation to it.

SENATOR TOOLAN: What happened to Germany though?

MR. BRODSKY: I can mention the American and British plan. The first teachers' pension fund went broke too, and there were a great number of people treated unjustly.

SENATOR PASCOE: Who failed in that?

MR. BRODSKY: The State failed in that. I think the State lived up to its obligation though.

SENATOR TOOLAN: You never could get a provision like this into the present Constitution, where you make a commitment on existing pension funds. If you had such a provision you would have to exempt all present pension funds and then have legislation, new legislation, enacted with the knowledge of such a constitutional provision, and then you

would have to draw your pension legislation in this State a lot more carefully.

MR. BRODSKY: I don't think you want to be understood as saying the State is not willing to carry out its present obligations on these pension funds.

SENATOR TOOLAN: In order that you may understand my position in this thing - it doesn't make any difference what I feel - the fact is you now in your exist fund are at the mercy of the Legislature every year, and every year the Legislature does not appropriate enough money to keep that pension fund solvent you will be insolvent. Here you have no guarantee as at the present time. You are subject to the whim of the Legislature and it is not a matter of contract.

MR. BRODSKY: That is just the thing we don't think is fair. It is not only a matter of fairness. We don't think it leads to a stable school system to have a large turnover of teachers. Teachers are a funny breed. I think there may be other groups. They are willing to work for many, many years under conditions and for salaries which others wouldn't be willing to work for, because they feel that at the end their idea is going to be to retire and have a little bit. They don't have to get rich during their lifetimes. I don't think it is too much for a man to ask as a result of his service.

SENATOR TOOLAN: If you are going to start out right now and operate on this basis that you give the person an option you must give the State an option to decide what sort of contract they want to make in the light of the change in rules. You must recognize we have a number of municipalities that have been called upon to pay teachers' pension funds before - that it would have ruined many municipalities if they had had to do it.

MR. BRODSKY: You are not referring to the pension fund now.

SENATOR TOOLAN: I am talking about teachers, and it seems if you are writing a clause of this sort into the Constitution now you

are changing the rules of the game after the parties have gone half-way.

MR. BRODSKY:

I can't agree with that. I know what went on when the State agreed to set up a new pension fund. The State at that time made a pledge. I have been down here for a number of years. That pledge has been repeated time and time again by you worthy people of the Senate and of the Assembly, that the State has this obligation and is going to keep it up. The rules of the game are being changed by not providing for this. I can say this, I don't know a teacher in the entire State of New Jersey who doesn't really feel that the Legislature should live up to its agreement. Very few people feel that if the Legislature decides after a few years to cut that out, they will cancel it. They have taken it in good faith.

SENATOR TOOLAN:

There is no question of that fact. There is no question in my mind that the State will continue to discharge that obligation if it has the means to do so. You must also recognize that it is an annual question for the current Legislature to pass upon, and it is not a matter of binding obligation.

MR. BRODSKY:

Of course, whether it is or is not, we feel it should be. I don't know that anyone wants to enter into a contract, but it is a contract to those of us who are working and making a monthly contribution. It is a question of ethics.

SENATOR TOOLAN:

Of course you proceed on the hypothesis of a contract. As far as I am concerned I don't see that there is any contract because no Legislature can bind a succeeding Legislature. You people must sell your bill of goods at the end of each year.

MR. BRODSKY:

May I ask a question? Could you sell state bonds on the same basis, that no Legislature must bind another?

SENATOR TOOLAN:

That is a different proposition. Will you make a contract that you will not quit over a period of 40 years, or will other school teachers? You have to assume some long-time obligation too. You can't have the option to change and impose upon the State the burden of not changing its position.

SENATOR PASCOE:

Let me show you the danger. If the Legislature hasn't the money to meet the terms of the contract in existence you will have to go back and change your contract. That is a backfire danger to this. ^{This was considered very thoroughly by the Committee.} We have a couple of funds in the State that are not as secure as yours. If you make a contractual obligation the first thing you know they will want the State to bail them out. We are satisfied that in a short time it is going to be very unsound. If we have a contractual obligation the first thing we know they are going to want a new contract for double the amount we are paying today, which is out of proportion to what we are paying the other pension funds. These restricted pension funds throughout the State are very unsound. I say this without prejudice to the police and firemen funds. If we make yours a State fund why shouldn't we make theirs a State fund. The minute we do that we will need millions of dollars. That is the danger of writing into the Constitution contractual obligations.

ASSEMBLYMAN AMLICKE:

Do I understand you wish to create a partnership between the teachers of the State in so far as these funds are concerned?

MR. BRODSKY:

Are you using that in the legal term of partnership?

ASSEMBLYMAN AMLICKE:

No, in a general sense, a contract between two parties. You want the State to guarantee payment of your pension.

MR. BRODSKY:

I think so.

ASSEMBLYMAN AMLICKE:

Are you willing to share in the profits and losses, so that if you do have as big a surplus as you do now you will turn the balance over to the State.

MR. BRODSKY:

I don't know of any retired teachers who got very much more than they were supposed to get.

ASSEMBLYMAN AMLICKE:

Do you know that in one year the teachers had an appropriation from the Legislature, had their own payments, and they paid all losses during the year from the interest alone.

MR. BRODSKY: May I say that I am not in a position ^{now} to prove whether the present pension system in any one year was profitable or was not profitable. That would be a little unfair to even question me on. I would be very glad to have Mr. Ward or some other trustee present their statements to you, but I don't think you want them.

ASSEMBLYMAN AMLICKE: You want to gamble with the State, but if you are short you want the State to make it up.

MR. BRODSKY: I am in favor of taking the gamble out of life. I will say this in all sincerity, that teachers are not the gambling type. They work hard for a number of years. They want to take the gamble out of it at the end.

ASSEMBLYMAN AMLICKE: You are asking for a guarantee --

SENATOR PASCOE: We want to take the gamble out of the Constitution.

ASSEMBLYMAN AMLICKE: You are asking for a guarantee that in case of shortages in your fund you want the State to make it up.

MR. BRODSKY: The Legislature, of course, must see to it that the individual does not have any benefits impaired. If that means the Legislature has to do something to make up that difference, I suppose the answer is yes.

ASSEMBLYMAN AMLICKE: If you have a surplus in that fund are you willing to turn that over to the State.

MR. BRODSKY: Yes, but let me say this. Pension funds are a long-range thing and you can't look at any one year and decide how a pension fund is going. You know that too. You can't take profits without proper reserve, etc.

SENATOR PASCOE: It has been very interesting to discuss the matter with you. It is one the Legislature is well acquainted with.

If there is nothing else the meeting is adjourned until next Wednesday at 10:30 when all subjects under the jurisdiction of this Committee will be heard.

PUBLIC HEARING ON
PROPOSED REVISED CONSTITUTION (1944) PENDING BEFORE JOINT LEGISLATIVE
COMMITTEE TO FORMULATE A DRAFT OF PROPOSED REVISED CONSTITUTION
FOR THE STATE OF NEW JERSEY CONSTITUTED UNDER SENATE CONCURRENT
RESOLUTION NO. 1, ADOPTED JANUARY 11, 1944

HELD BEFORE SUBCOMMITTEES ON
Wednesday, February 9, 1944

(Legislative)

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REGISTERED SPEAKERS - MORNING SESSION

Wednesday, February 9, 1944

Mr. James J. Smith	Executive Secretary, N. J. State League of Municipalities - Article VII, Section 2 and 4
Mr. Thomas E. Duffy	American Legion Department of New Jersey, regarding Veterans
The following were present but did not speak:	
Mr. William Butler	Chairman of Veterans' Preference and Civil Service Committee
Mr. Rowland Cowan	Adjutant
Mr. Emanuel Wagner	Union County Bar Association Article III, Section 4, Paragraph 7 Article III, Section 5, Paragraph 4 Article III, Section 5, Paragraph 7 Article III, Section 6, Paragraph 6
Mr. W. T. Vanderlipp, Newark	State Housing Authority - Suggestions on Housing Par.
Mr. Jack Lamping	N. J. Resort Association - Article VII, Section 2 and 3 Mr. Lamping submitted a statement by Mr. Howard E. Shifler
Mr. Frank D. Holmes	Commerce and Navigation - Finance
Mr. Alvin A. Burger	N. J. State Chamber of Commerce - Finance Provisions
Mr. E. W. Kilpatrick	Secretary of the State Federated Board of Education introduced: Charles A. Brown, President of the above Federation - re Educational Clause - favorable Section 6 - Paragraph 8
Dr. C. J. Strahan	N. J. Education Association - favorable
Miss Huntington	Teacher - Senator Pascoe called on her as she was in the audience.
Mrs. J. Kempson	N. J. League of Women Voters - re Dedicated Funds

The following registered but did not speak in the morning session

Mr. Emil A. Gallman	Executive Vice President, N. J. Savings & Loan League - Article VII, Par. 2-3
Mr. J. Gilbert Borton	N. J. Civil Service Association
Mr. David H. Agans	Master of State Grange - Chairman of Highway Users Conference, Article VII, Par. 2
Mr. W. J. Gaffney	Secretary of Highway Users Conference - Article VII, Paragraph 2

SENATOR PASCOE:

We will now resume the hearings on the proposed new constitutional revision.

For the information of the members of the public present, this is the subcommittee considering the legislative article, Article III; and the finance article, Article VII; and the suffrage or election article, Article VIII; that portion of the schedule which affects those three articles. The unofficial committee was appointed by Governor Edge to prepare a draft of the Constitution. They have made their report, and the bill is now before the Legislature. Committees have been reformed and the minority party has been given representation thereon. They are now official legislative committees. So what we do here this morning is official from a legislative standpoint.

We have during last week had separate hearings on each of the three articles. There were a few, however, who said they would like to have a little more time, and all of the committees are meeting this morning and until we finish up this afternoon. And to whether there will be any further hearings will depend entirely upon the number of requests to be heard at a later date.

We are anxious to get this proposition through the Legislature as soon as possible in order to permit the advertising within the time as required by the Constitution and get the matter before the public at the coming election in November, in accordance with the referendum adopted by the people at the last election.

We had a few rules that were adopted by the Committee of the Whole for the purpose of an orderly procedure and in order that all might be treated alike, I would like to read those rules. There are a few here today who were not here the other day.

1. The hearings will begin at 10:00 A. M. continue until 1:00 P. M., resume at 2:00 P. M. and continue until 4:00 P. M. On the day of each hearing all persons desiring to be heard are requested to register their names, the organizations represented, if any, and the classifi-

cation under which they wish to speak, namely; whether opponents, modification-ists, or proponents. Such registration shall be made with the official stenographer before the beginning of the morning or afternoon session. We assume that that has been done on the part of those here this morning who desire to speak.

2. The order of speaking, so far as practicable shall be, first, the opponents, second those for modification or addition, and third, the proponents.

Now while we would like to adhere strictly to that, we find several people coming in who are both proponents and modificationists, and we have permitted them to go on and speak as long as they are before us.

3. At the beginning of each day of the hearings a spokesman for each sub-committee will give a brief summary of the particular Article under consideration and will also inform the audience when other Articles are to be considered.

That I have already done, and today we will hear people on all three of the articles as far as possible for us to do so.

4. Each speaker, before being heard, is requested to submit a written statement to the Chairman of the sub-committee before the hearing, if possible, outlining his position and covering the points he intends to speak upon. If a speaker appears without a written statement, it is requested that he forward such a statement to the Chairman of the Joint Committee as soon as possible thereafter. If any speaker attending the hearings wishes to supplement any remarks made at the hearing he may do so by filing a written statement with the Chairman of the Joint Committee.

The Chairman of the joint committee is Senator Eastwood, who is also chairman of the Subcommittee on Judicial Provisions. The purpose of that paragraph was to indicate to the public there was no attempt to stifle them in any sense. If they did not get everything they wanted here before the public hearing, they could supplement it by a written statement addressed to Senator Eastwood.

5. Each speaker shall be limited to fifteen minutes on each Article. If an organization is represented by more than one spokesman, it is suggested that the subject matter be divided among such spokesmen.

That is an ideal suggestion. The Committee has not at any time thus far attempted to stop anybody who is a little in excess of his allotted time of fifteen minutes. The primary thing is to have everybody satisfied when they leave here that they have had ample opportunity to be heard.

6. All suggestions for modification and addition shall be submitted in writing and shall contain specific language to accomplish the suggested result.

The reason for that is it is all very well for you ladies and gentlemen to make suggestions to us in the abstract and then expect us to sit down and put your thoughts into correct verbiage for a constitution, but we ask for your assistance to the extent that if you have a specific change or addition to be made, that you put that in writing with your own verbiage, and then we will take it up in the committee later as to whether or not it will be accepted.

7. Any person attending the hearings, who does not desire to present his views orally, may record his position by filing a written statement with the Chairman.

Now there are some people who prefer to leave it entirely to a written statement, and we have provided for that. There have been very few of those, but if there are any such, we will be glad to comply with that rule. Now, in accordance with that section of the rules, I have here three communications complying with that proposal, which I would like to put into the record. These three will be written into the record as a part of the minutes of today. One is from the New Jersey Association of Real Estate Boards, one from the Medical Society of New Jersey, and one from Mr. Saul A. Wittes, an attorney of Elizabeth who appeared here one day last week.

NEW JERSEY ASSOCIATION OF
REAL ESTATE BOARDS

Military Park Bldg., Newark, 2, N. J.

Sub-Committee on Legislative Provisions

State House, Trenton, N. J.

Gentlemen:

Supplementing verbal statement and written brief submitted at hearing on February 3, 1944, we submit herewith recommendations as follows:

PARAGRAPH 4-ARTICLE VII - to read as follows:

"Property shall be assessed for taxes under general laws and by uniform rules, according to classifications and standards of value to be established by the Legislature.

In creating such classifications, and establishing the standards of value for each, the Legislature will give due consideration to the type of property, its earning capacity, the public services it receives, and its relationship to the welfare and stability of the State and its sub-divisions.

Assessments were based on an ad valorem basis shall never exceed the full value of the property assessed.

Exemptions from taxation may be granted only by the affirmative vote of two-thirds of the membership of each house of the Legislature."

In addition to the above, we recommend that the new Constitution contain a provision limiting the power of the Legislature to enact mandatory spending laws where the revenue made necessary by such laws is to be raised by local government units.

The above recommendations are made in accordance with resolutions adopted at the convention of this Association held December 1943.

Respectfully submitted,

(Signed)

John F. O'Brien, Chairman
Constitution Revision Committee

On behalf of the Medical Society of New Jersey **Frederic J. Quigley, M. D.**
submitted the following amendment:

PROPOSED AMENDMENT TO ARTICLE VII, PARAGRAPH 2:

Nothing in this paragraph shall affect funds arising from the collection of examination fees, registration fees or penalties by any board, bureau or department having supervision over the right to practice or engage in the professions.

MR. SAUL A. WITTES:

Supplement - Re: Article III Section V, Paragraph 4

Supplementing my letter of January 31 to you, and the discussion which took place before the Committee on Legislative Provisions on February 2 at the State House, Trenton, and particularly the discussion with Assemblyman Leonard, I wish to reiterate that the objections made by me do not go to that part of the paragraph that relates to compilation, consolidation, revision or rearrangement of laws. It goes to that part of the provision which recites "nor in any event to invalidate any law except in proceedings brought within two years from the effective date thereof".

THE CHAIRMAN:

We have a list of those who wish to speak. We reserve the right to divide this up as the Committee sees fit so as not to have them too much along the same line.

Heading the list is the present Executive Secretary of the New Jersey State League of Municipalities, Mr. James J. Smith, who will talk on Article VII, Section II and IV. Mr. Smith.

MR. SMITH:

Mr. Chairman and gentlemen of the Committee. On behalf of the New Jersey State League of Municipalities, the following is submitted in reference to Article VII, Section II and IV of the Proposed Constitution.

Section II. We believe that the text clearly and specifically indicates the intent to retain and preserve the right of the municipalities to revenues now dedicated by Statute to the municipalities. We, therefore, approve this Section.

Section IV. "Property shall be assessed for taxes under general laws, and by uniform rules, according to fixed standards of value".

This section eliminates from the Constitution the provision that property shall be assessed on a basis of true value. We agree with this significant and important change because the actual administration of the tax laws is at variance with the present true value provision. We know that property is not being assessed at true value.

The language used in the proposed draft in our judgment, however, is ambiguous and tends to permit of various interpretations. The taxation provision is of such vital importance to every inhabitant of the State that the intent of the Legislature should be made clear. The entire question of taxation including exemption therefrom should be so stated that the Constitutional direction will assure equitable administration of the tax laws.

We, therefore, suggest the following for Article VII, Section IV:

"Property shall be assessed for taxes under general laws, and by uniform rules, according to classification and standards of value established by the Legislature. Ad valorem assessments shall not exceed true value.

"Laws establishing classification and standards of value for the purpose of taxation, or providing for exemption from taxation shall require for passage on affirmative vote of two-thirds of the members elected to each of the two houses of the Legislature."

That is all, Mr. Chairman.

THE CHAIRMAN:

Mr. Smith, have you filed a copy of that?

MR. SMITH:

Yes, I have filed it,

THE CHAIRMAN:

Are you satisfied with the wording of

Section II?

MR. SMITH:

If that is the intent that we read, as we understand it, that it indicates an intent to retain and preserve the right of the municipalities to revenues now dedicated by statute to the municipalities. That is the way we understand it, as we read it.

THE CHAIRMAN:

There is a slight modification of the wording suggested by Senator Pierson, who appeared, and Senator Mathis, but was ~~it~~ for the purpose of strengthening what you have in mind instead of weakening it in any way. So if you are satisfied with this present wording, you could not be dissatisfied, I think, with the other.

MR. SMITH:

No. I remember the Senator making some suggestions along that line.

THE CHAIRMAN:

Thanks a lot, Mr. Smith.

The American Legion, Department of New Jersey, would like to have Judge Thomas E. Duffy, of the County of Passaic say a few words at this time. Judge Duffy.

MR. DUFFY:

Mr. Chairman and members of the Committee.

I don't know that our proposal addresses itself to the matters under consideration this morning. Our proposal filed here this morning is that a new section be inserted in the Constitution which we believe will take care of the entire veteran situation to the satisfaction of everyone.

I don't think it is necessary for me to go into the services rendered by veterans during the past wars and the sacrifices being gone through today by the veterans of this war. Our Governor, our President, the press throughout the state, and the members of both houses of the Legislature, have repeatedly expressed themselves as being desirous of doing everything that is humanly possible for the benefit of the veteran. Here we are on the threshold of a most important step; that is, the adoption of a new constitution for our state. Regardless of all the talk about doing things for the veteran, we search the Constitution in vain and find nothing therein that even mentions the veteran.

The American Legion, Department of New Jersey proposes,--or before I go into the proposal I might say what I have to say about the Constitution, presently proposed is probably equally true of our present Constitution. There is nothing therein mentioned about veterans. It has been a matter of legislative function and many beneficial acts have been passed throughout the years for the benefit of veterans. Some have been upheld by our courts. Others are at least debatable as to their constitutionality. I would like to call your attention to the fact that ^{the} at/present time, whether rightly or wrongly, municipalities and counties

make contributions to veterans' organizations for the purpose of conducting suitable celebrations on the Fourth of July, Decoration Day, Armistice Day, and so forth. They also have in the past conveyed to veterans' organizations property for a nominal consideration of one dollar to be used for veterans' homes. Now, under the old and under Articles XIV and XX, or Sections XIX and XX of Paragraph 1, that is clearly illegal.

We do also enjoy a \$500 statutory exemption from taxation.

I have had occasion to approach this problem from a veteran's angle and also from a municipal angle, having been city counsel for the City of Passaic for a great many years. This statute was taken before the Court of Errors and Appeals and was held to be unconstitutional -- true, not as to a veteran but as to an exempt fireman--and the reasoning of the Court could well be applied to the veteran.

We also enjoy preferences in the matter of points in examinations before the Civil Service. That has been generally upheld by the courts.

So the American Legion suggests to you, gentlemen, that in order to lay a foundation in the Constitution for present and future legislation that may be passed, that Article IX in the present draft of the Constitution be numbered Article X and that an Article IX, an article on veterans, be inserted and be phrased in the following manner:

"Notwithstanding anything in this Constitution contained the Legislature shall have the power to grant preferences, privileges and exemptions to persons serving and who shall have served in the armed forces of the United States of America in time of war as may be defined by it."

We believe your own committee, the members of the Legislature, and the Governor, are not only willing but anxious to preserve existing veterans' preferences, privileges and exemptions, but are even willing to enlarge upon them for the benefit of men and women now actively serving in the armed forces for the many reasons we all appreciate and understand which need not be enumerated here.

The proposed section is simple and permissive in form and merely gives to the Legislature the power to grant preferences, privileges and exemptions to members of the armed forces should the Legislature at any time deem it advisable to do so. Who of us can look ahead to what may happen after the close of this war and see what legislation may be needed to carry out the intent of the Governor and the Legislature in taking care of veterans? The American Legion does not like laws that officials merely close their eyes to, like the taxation exemption law and the granting of funds by municipalities and counties. We want the matter placed squarely and fearlessly before the people, and we believe by this simple amendment or simple change of Article IX and then the renumbering of the present Articles IX, X and XI, to Articles X, XI, and XII, will cover the entire veterans' situation. We are not asking anything but to lay a basis in the Constitution so that the present legislative acts and the future legislative acts will not be tainted with the probability or the debatability as to their constitutionality, and we respectfully urge that upon your Committee.

THE CHAIRMAN:

The Committee was not being disrespectful to you when we were conferring here a little bit during your discussion. We were conferring because we were fearful at the beginning that it was in the wrong place. The previous recommendations on behalf of the veterans have been in connection with Article VI, paragraph 2.

MR. DUFFY:

Yes, sir.

THE CHAIRMAN:

And that, of course, is assigned to Senator Eastwood's committee, and we were a little bit fearful, but when we got down to the end we realized that you were presenting an entirely new article.

MR. DUFFY:

Yes, sir.

THE CHAIRMAN:

And therefore we permitted you to continue, and we will accept your recommendations to this committee, and we are going to ask you, if you will, please, to submit a copy to Senator Eastwood's Committee of the Whole in accordance with those rules which we have read this morning.

Mr. Duffy:

I have submitted one copy. I have another here. Shall I leave another for the other section?

THE CHAIRMAN:

Well, with our committee here you are filing a copy.

MR. DUFFY:

We have filed one.

THE CHAIRMAN:

Why not give one or serve one on Senator Eastwood so that there is no doubt but that the Committee of the Whole will have the matter before it, and that is in accordance with our rules.

MR. DUFFY:

Thank you. I will be glad to do that.

ASSEMBLYMAN AMLICKE:

Judge Duffy, do you feel that under the present proposed revised Constitution veterans' preferences are not protected?

MR. DUFFY:

The courts have held preferences to be sound, but I say what is the sense of kidding about it? Let's lay a foundation so there will be no question about the validity of these laws, and the only way to do it is to lay a foundation for it by an appropriate article in the Constitution.

Who knows, Mr. Amlicke, in the next five or ten years, what the Legislature may desire to do? Who knows what conditions are going to be after, we will say, four or five years of war in the South Pacific, and probably many, many hundred or maybe many, many thousands of men and women come back here and the Legislature may desire to do something to help them and find their hands tied by the Constitution? The American Legion does not believe that things should be specifically inserted into different articles of the Constitution but that the Constitution should recognize and give to the Legislature the power to grant benefits to veterans.

Now, another good thing about that, Assemblyman Amlicke, is that where the Legislature has the power, if it is deemed impractical, it can always be repealed, but if it is inserted in the Constitution it stays there; but surely there should be some recognition of veterans' rights in the Constitution and some power given to the Legislature to carry out the program that they, the Legislature, may deem beneficial, and that is the position of the American Legion, Department of New Jersey.

ASSEMBLYMAN AMLICKE:

One more question. Is there any counterpart in any other state constitution for the provisions that you now propose?

MR. DUFFY:

I wouldn't know that, nor would I be interested in it.

ASSEMBLYMAN AMLICKE:

Well, have you studied the New York Constitution on that very question?

MR. DUFFY:

Well, the New York Constitution has a long article on preference as to examinations and different things like that, but our contention is that it should be broader than that, as we believe that this article that we propose, or one along these lines that the Committee may think better, will lay a foundation for good law in the State of New Jersey. Thank you.

THE CHAIRMAN:

Now, I notice two others listed with you, Judge. Do I understand that they would like to speak also, and will it be along the same lines?

MR. DUFFY:

I believe that it would be merely cumulative, sir, and we will forego any other talk.

THE CHAIRMAN:

Then may I suggest that we enter into the record the two gentlemen's names as being here in support of the proposal, and if you have any title or office in the state legion or anything like that, please give it to the secretary. Would you mind doing that now?

(The two men in question are William Butler, Chairman of the Veterans' Preference and Civil Service Committee, Department of New Jersey; and Rowland F. Cowan, Department Adjutant, American Legion, State of New Jersey)

Hon. Herbert Pascoe
Chairman, Legislative Section
Constitution Revision Committee
Trenton, New Jersey

Dear Senator:

The American Legion, Department of New Jersey, respectfully requests the consideration of your committee of the inclusion of an Article covering Veterans in the new proposed Constitution for the State of New Jersey.

Our suggestion is that the Articles be known as Article IX and that present Articles IX, X and XI be renumbered X, XI and XII. Article IX suggested to provide as follows:

"ARTICLE IX

VETERANS

1. Notwithstanding anything in this Constitution contained the Legislature shall have the power to grant preferences, privileges and exemptions to persons serving or who shall have served in the armed forces of the United States of America in time of war as may be defined by it."

We believe this suggested Article is necessary and advance the following reasons.

1. The proposed Constitution is absolutely silent on the subject of Veterans.
2. We believe your committee, the members of the Legislature and the Governor of our State are not only willing and anxious to preserve existing veterans' preferences, privileges and exemptions but are

even willing to enlarge on them for the benefit of men and women now actively serving in our armed forces for the many reasons we all appreciate and understand and need not enumerate in this memorandum.

3. Veterans' organizations presently enjoy state, county and municipal benefits by Statute that may be declared unconstitutional under Sections XIX and XX of Article I; Subsection 3, Section IX, Article VI; and Sections I and IV, Article VII in the proposed Constitution.
4. Title 34:4-3,12 Revised Statutes of New Jersey, Revision of 1937, grants to honorably discharged soldiers and sailors, under certain conditions, an exemption from State, county or municipal taxation upon real or personal property, or both, to a valuation not exceeding in the aggregate five hundred dollars. This Statute was construed in the case of *Tippett v. McGrath*, 70 N.J.L. 110, affirmed 71 N.J.L. 388 and declared unconstitutional as to persons enrolled as active members of a fire company. True, it has never been tested as to a discharged veteran but the reasoning applied by the court would be the same. The inclusion of our proposed section in the new Constitution would remove all doubt.
5. Title 11:27-1 et al, seq. of the Revised Statutes of New Jersey, Revision of 1937, grants certain credits for Veterans and wounded Veterans under the Civil Service of the State and certain preferences in appointment to Veterans. Although generally followed in a certain fashion, we believe this legislation would be greatly strengthened by authority for it in the Constitution.
6. We believe that all beneficial legislation for Veterans would be greatly strengthened by having authority for it in the new Constitution.
7. The proposed section is simple and permissive in form and merely gives power to the Legislature to grant preferences, privileges and exemptions to members of our armed forces should our Legislature at any time deem it advisable to do so.
8. We believe the inclusion of our proposed Article will carry out the often expressed desire of both the Governor and the individual members of the Legislature to do everything in their power for the returning veteran and especially for those disabled in the line of duty.

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9. The inclusion of our proposed Article will set at rest for all time the question of the legality of legislative action in the future.

Respectfully submitted,

Signed - Thomas E. Duffy
Department Judge Advocate

THE CHAIRMAN:

The next is Emanuel Wagner from the Union County Bar Association, who desires to speak on several sections of Article III. Mr. Wagner.

MR. WAGNER:

Mr. Chairman and members of the Committee, The Union County Bar Association has appointed what it considers a very competent committee to scan the provisions of the proposed revision. It made a report, and without attempting to be captious in any way, it merely made suggestions that it thought would be in the best interest of all concerned.

The committee felt, and this is the report as adopted by the association, that the provision relating to lobbying should not be in the Constitution.

THE CHAIRMAN:

That is page 6?

MR. WAGNER:

Yes, sir. That is Article III, Section IV, paragraph 7; that that provision should not be in the Constitution because that can well be taken care of by each house itself, that that subject is within the control of the Legislature and can be prohibited and controlled by statutory enactment. We don't believe it wise to put cumbersome and excess matter in the Constitution, particularly in a case like this where it is not necessary.

As to Article III, Section V, paragraph 4, the association feels that there should be eliminated the provision reading: "nor in any event to invalidate any law except in proceedings brought within two years from the effective date thereof". The reason for this is that persons incapacitated and others whose rights to not

arise until after the two-year period has elapsed might have their property rights affected or entirely destroyed. Otherwise the effect is to sanctify any error by mere lapse of time. An actual case may not arise until after the two-year period has elapsed.

As to Article III, Section V, paragraph 7, a permanent law revision agency is favored as essential. Objection, however is made to the mandatory revision every ten years. The time and the occasion should be left to the Legislature as necessity determines. Frequency of revision beyond necessity may be merely confusing instead of producing the clarity and simplicity which are the natural objectives. A mandatory ten-year revision would subject taxpayers to an undue burden and lawyers would not be able to keep abreast of these continual revisions.

As to Article III, Section VI, paragraph 6, this affects the zoning amendment as adopted in 1927. There is a broad change in the proposed amendment as distinguished from the present amendment. The present amendment provides that the "Legislature may enact general laws under which municipalities, other than counties, may adopt zoning ordinances to limit and restrict, to specify districts and regulate therein buildings and structures" according to their construction and the nature and extent of their use, and that the exercise of such authority shall be deemed within the police power of the state. Now, the proposed provision extends the power to the use of land as well. Now, while we do not object to the extension of that power to the use of land, we do object to the elimination from this proposed revision of the requirement that it be done by ordinance when municipalities adopt any regulations affecting the use of building or the use of lands. Now, I don't know why that was left out, because this is not a revision of the Constitution that was adopted in 1844. This is a revision of an amendment which was adopted by the people in 1927, and therefore, it is very recent, and I think that the people having full knowledge of that and having voted upon that subject matter at a special election and having adopted the phraseology used in it, should have some particular interest in this, because it was the subject matter of a special election.

Now, then, this would permit a municipality by resolution to zone lands and zone districts and zone construction, and we think that there should be inserted in this section the words "adopt zoning ordinances" too.

In other words, we think that a limitation should be placed upon the right of the Legislature in enacting legislation so that municipalities may regulate the use of lands only by ordinance, the purpose being that property owners be given notice of any enactment which would affect their property rights. If it were done by resolution, it would be a fait accompli and there would be nothing that could be done about it except attack the constitutionality of it, but at least if it is done by zoning ordinance, notice is given to property owners who may then assert their objections or their opinions on the subject.

THE CHAIRMAN:

You have filed a copy with us, have you?

MR. WAGNER:

Yes, sir, I have a copy of it here.

THE CHAIRMAN:

For your information, without commenting upon any of the others, the last suggestion unquestionably will be adopted, because when they checked the printed copies which are being distributed and are there on the desk, it was found that the words "zoning ordinances" had been left out, and it has already been arranged.

MR. WAGNER:

Oh, it has been.

THE CHAIRMAN:

Thank you for calling that to our attention.

MR. WAGNER:

That is very satisfactory. Thank you, sir.

THE CHAIRMAN:

Those will be taken under consideration by the Committee as well as all others.

Mr. Vanderlipp is here from the New Jersey State Housing Authority. He has a suggestion on the housing paragraph under the legislative section.

MR. W. T. VANDERLIPP:

Mr. Chairman and members of the Committee.

I am not necessarily commissioned by the Housing Authority, but may I say at the same time they are heartily in accord with the notions which I shall present.

It is aware to all of us, I am sure, that the Governor has in mind a program of housing. That is to be developed. It is in the interest of that program that some of us a little while back were asked to consider a proposed addition to the Constitution which was being prepared for the purpose of making certain many things which are now highly desired.

It is well known, I take it, that housing legislation has been attempted pretty well over the country. In some places it met with success and in other places did not do so well. Ohio, now lately Illinois, have found objections to the grants which are necessary in aid of housing, and as I speak before you now I am concerned not with low rent housing which this Legislature has already provided for and which has been upheld, but rehousing and rehabilitation, which is commonly recognized as something that is growing upon us and now needs attention, indeed very serious attention. The ability of the municipality to deal with those who are financially able to do so, to rehabilitate the interests of the public at large, and to sustain tax values of sections in their municipalities which are dreadfully decadent, is seriously questioned.

We have at the request of the National Committee on Housing been studying urban rehabilitation. We studied it originally for the purpose of having a law, not to present but as a study solely in the interests of the state if a study like that was desired, having a law which would fit into our various constitutional provisions as they now stand, and one of the stumbling blocks that we had, of course, was to try to make the law liberal enough so that it would attract profit capital, and on the other hand to meet the restrictions which the Constitution now puts on projects of that sort, in two ways; one, in the aid of taxes, and the other definitely the matter of eminent domain.

It is quite clear, I think, to thinking people that the time had rapidly come, if not already passed, when an individual may not sit in a single lot or a single property and hold back and arrest development of a large section.

So I am here to suggest to your honorable committee an addition, if you please, to our proposed Constitution which will permit the Legislature by general laws to provide by such means and on terms and conditions as they may prescribe. I include low rent housing for persons of low income, for the eradication and clearance of slums and substandard areas, the gradual elimination and alleviation of conditions brought about by blighted and decadent areas, and the replanning, reconstruction and rehabilitation of substandard and unsanitary areas, and for recreational and other facilities incident or appurtenant thereto, or for one or more of such purposes.

I have a draft here which I will leave with the Committee. It goes further and provides solely that the Legislature may authorize tax exemption and it may authorize also the exercise of eminent domain in the interest of urban rehabilitation and blight conditions such as I mentioned.

THE CHAIRMAN:

Mr. Vanderlipp, do I understand that you are indicating in what article and subsection you would like to have that included?

MR. VANDERLIPP:

I think that would become another paragraph, probably, in Section VI of Article III where you touch on zoning, the right of the municipality to make zoning regulations and things of that sort. I think it will properly belong in Section VI of Article III.

THE CHAIRMAN:

You think that the Committee as well as you want to have that.

MR. VANDERLIPP:

Yes, I want to say this, of course, if the Chairman please. I know that the Planning Board has a suggestion in their report which they made as to a similar amendment. Ours differs somewhat

from that, but if it is desired, we shall be very glad to try and boil it all down and make something concrete but which we think will nevertheless go along, if that is requested of us.

Thank you very much.

THE CHAIRMAN:

Mr. McGeehan, who is on the State Revision Commission and also counsel for the Constitutional Revision Committee, suggests, Mr. Vanderlipp, that you do endeavor to reconcile your differences, if there are any in wording, with the Planning Board. That would be very helpful to the Committee, if they do decide to put it in, to get the correct wording.

MR. VANDERLIPP:

Thank you very much. I will do that right away.

THE CHAIRMAN:

We would like to have that not later than Monday, if you can.

MR. VANDERLIPP:

All right.

The following was submitted by Mr. Vanderlipp.

HOUSING

Section I.

The Legislature may enact general laws which may provide, by such means and upon such terms and conditions as the Legislature may prescribe, for low rent housing for persons of low income; for the eradication and clearance of slum or substandard areas; the gradual elimination and alleviation of conditions brought about by blighted and decadent areas; the replanning, reconstruction and rehabilitation of substandard and insanitary areas; and for recreational and other facilities incident or appurtenant thereto, or for one or more of such purposes.

The exercise of such authority shall be deemed to be within the police power of the State. Such laws shall be subject to repeal or alteration by the Legislature.

Section II.

For and in aid of such purpose, the Legislature may grant or authorize tax exemption in whole or in part for a period of not more than sixty years and grant the power of eminent domain to any municipality and to or in aid of any corporation engaged in providing housing facilities, and which is organized, regulated and controlled as the Legislature may provide.

Section III.

Any agency of the State, or municipality or corporation, which is empowered by law to take private property by eminent domain for any of the public purposes specified in Section I may be empowered by the Legislature to take property necessary for any such purpose in excess of that required for public use after such purposes shall have been accomplished; and to improve and utilize such excess, wholly or partly for any other public purpose, or to lease or sell such excess with restrictions to preserve and protect such improvement or improvements.

Section IV.

Subject to any limitation imposed by the Legislature, the State, or any municipality or corporation, may acquire by purchase, gift, eminent domain or otherwise, such property as it may deem ultimately necessary or proper to affectuate the purposes of this article, or any of them, although temporarily not required for such purposes.

THE CHAIRMAN: Mr. Jack Lamping, secretary-treasurer of the New Jersey Resort Association. Mr. Lamping.

MR. LAMPING: Senator Pascoe, Senator Mathis and gentlemen: The vast contribution of New Jersey's seashore, mountain and lake resorts to the wartime morale of workers has removed any doubt that the recreational assets of this State rank as a major industry with farming, manufacturing and transportation. In peace and war, our recreational industry has sparked farm and industrial development by serving as the great magnet of attraction to those seeking relaxation, restored minds and bodies. Millions have traveled from the East and the far West to enjoy our beaches, mountains and lakes. They have traveled almost entirely by motor car over New Jersey's improved 2,308 miles of the highway system. Without the great natural charm and beauty of New Jersey's 100 seashore, mountain and lake resorts, countless millions of visitors to the Garden State would never have crossed its borders. Every industrial town, each farm community has served as a filter for visitors en route to resorts. They have tarried to examine and to invest in our enterprises. It is not too much to say that light and heavy industry, farming, rail and road transportation have been brought to a large measure of their development by people who came to play and stayed to toil with us in our march of progress.

The New Jersey Resort Association was organized last November among the resorts to plan their advertising and progress. We stand solidly behind the effort of the New Jersey Council to sell New Jersey. Our purpose is, "to publicize and to promote the development of the resort and recreational assets of the State of New Jersey." The resort contribution to highway development heightens our interest in the future expenditure of revenues collected from users of roadways. Any omission or inclusion of dedicated highway funds in the proposed Constitution for roads and bridges is of primary concern to New Jersey's resorts.

The New Jersey Resort Association

favors the specific dedication of highway funds for highway uses; condemns the practice of diversion for purposes unrelated to roads, bridges and waterways. We break faith with motorists when we take their monies for one purpose and then divert them to another use in which they are not consulted. From a study of highway plans and post-war needs, we cannot conceive of a day when all of the collected funds from highway tax sources will not be needed to maintain, improve and expand New Jersey roadways. Previous witnesses have developed the picture of state highway debt service and mortgaged roads resulting from a policy of diversion amounting to \$124,000,000 since 1930.

Only 25% of highway funds collected in the decade prior to 1941 were actually used for new highway and bridge construction; 18.2% were diverted, a sum nearly equal to the 19.5% distributed to local governing units for road purposes. Fifty per cent of all our highway revenues can be dedicated to future highway planning and new construction if we stop once and for all the harmful policy of diversion.

Property valuations in the four resort Counties of Atlantic, Cape May, Ocean and Monmouth total \$423,000,000 - twenty per cent of the State's property wealth. Pre-war recreational expenditures amounted to \$200,000,000 annually. In 1943 the six major resorts spent \$194,000 for advertising; not including hotel expenditures. It's safe to say New Jersey spends at least a quarter million dollars for advertising its healthy resort advantages. Meanwhile, the New Jersey Council had less than \$25,000 to work with last year. This had to be spread thinly in promoting manufacturing, real estate, farm and recreational assets. There's a definite need for present and post-war expenditures more commensurate with California (3¢ per person). The prime example is Maine which spends 20 cents per capita in telling the world about itself.

"Resort advertising is an investment, not an expenditure," according to a recent article by Freeholder A. Paul King of Ocean County. The speed of air-travel and lure of far-away resorts will never do away with the contribution of our resorts. We shall not suffer by competition with new resort areas. New Jersey's resorts are close-by to metropolitan populations and saved, thank God, from the devastation of enemy bombings. They are ready to restore and rebuild hundreds of thousands of weary people the moment victory is achieved.

This otherwise pleasant outlook is darkened by roads which have deteriorated by long months of little maintenance and disuse. They will not be equal to the task of transporting people to our resort areas. They will need rebuilding; including the new construction of an express roadway from North Jersey to Cape May with linking approaches to our resorts, our industries and our farms.

Ten days ago Charles Upham of the American Roadbuilders Association told the New Jersey Freeholders in this city that "\$426,000,000,000 will be needed to adequately plan and build America's post-war program after victory." New Jersey's far-sighted Highway Commissioner Spencer Miller, Jr. has estimated we need \$496,770,000 to reconstruct and extend the roads of this State.

We assure you New Jersey's resorts will continue to attract visitors in ~~ever~~-increasing numbers. Many will stay to enrich our economic and cultural life. Unified development cannot be accomplished unless the predicted needs of our highways are protected by constitutional means and held safe from periodic forays.

We trust that Article VII of the proposed Constitution, Section II, offers ample protection to motorists by pledging the use of funds they pay for the specific use and operations of roads. A general state fund providing school funds for school

needs must also logically provide for the dedication of road funds for road needs. The New Jersey Resort Association has confidence your Committee will embody this essential principle in its proposed Constitution to the people of New Jersey for ratification. This principle has developed from the experience of our related resort-highway history. It's application in the new Constitution of New Jersey will forswear this continued healthy growth of resorts and allied industries throughout the State.

Thank you, Gentlemen.

Senator, I have a statement for the record in addition to that, a statement prepared by the Honorable Howard E. Shifler, Brant Beach, Trustee of the New Jersey Resort Association, furnishing figures on resort business.

STATEMENT BY HONORABLE HOWARD E. SHIFLER, BRANT BEACH,
TRUSTEE NEW JERSEY RESORT ASSOCIATION

New Jersey's recreation industry, which represents an annual income to New Jersey of approximately \$260,000,000 (according to the Industrial Directory of New Jersey) is one of the State's largest sources of income. The amount spent for all phases of recreation in New Jersey exceeds the income from agriculture or from either the petroleum or chemical industries, three of the State's most important wealth-producing resources.

The recreation industry is by far the principal source of income in the Counties of Monmouth, Ocean, Atlantic and Cape May. Indirectly, recreation contributes to the income and welfare of the other seventeen counties.

The existence of this important wealth-producing industry is directly dependent upon a system of adequate highways maintained at high standards of efficiency and safety. Any decline in such standards will be reflected in the returns from recreation.

Proof of this close relationship between the highways and the resorts is apparent on inspection of a highway map of New Jersey. Traffic leads to the recreation resorts have determined most of the main state highway routes which are supplemented by county and township roads. This is true of both inland and seashore resorts.

1940	Income from recreation	\$260,000,000
1940	Value of products--chemicals	195,000,000
1940	Value of products--petroleum	215,000,000

THE CHAIRMAN: As I understand it, sir, you are principally talking on Sections II and III under the Financial Article.

MR. LAMPING: That is right.

THE CHAIRMAN: Just to identify it.

MR. LAMPING: Article VII, Section II specifically.

THE CHAIRMAN: Two is going into the fund, and you are interested as to its going out of the fund, which is paragraph 3.

MR. LAMPING: I see. Thank you.

THE CHAIRMAN: All right sir. If there are no questions, we will take this under consideration.

Mr. Frank D. Holmes of the State Department of Commerce and Navigation.

MR. HOLMES: Gentlemen, I wish to speak on Article III, Section VI, paragraph 8, in its relation to Article VII, paragraph 2, under finance. I want the Committee to distinctly understand that I am not here in the effort to save any dedicated fund either for our department or any moneys that we might be interested in. I simply want to call to the Committee's attention that these two paragraphs seem to conflict, and I would recommend adding a paragraph to Article III which I think would clarify this Article VII, paragraph 2, which would clarify Article III, paragraph 8.

Under paragraph 8, this section is identical to the present Constitution. I have read it and re-read it and I find no change in any of the wording there.

THE CHAIRMAN: I would like to interrupt you, Mr. Holmes. Let's all understand what we are talking about. You are talking about the public school fund?

MR. HOLMES: Yes, sir, in relation to the finance.

THE CHAIRMAN: Page 7.

MR. HOLMES: Yes, sir.

THE CHAIRMAN: You are absolutely correct. That is exactly the same wording except that statutory declaration which was at

the end of the old paragraph and that about the declaration up at the top that the State must provide the school. That is the only change.

So you are all right there.

MR. HOLMES:

Now, under this provision, the State Board of Commerce and Navigation and the school fund trustees have been taking all of the money for the sale of riparian lands and using it for the school fund. It isn't any money that the Board of Commerce and Navigation has any control of. We simply collect it and turn it over to the treasurer, who in turn sets it up in the school fund for investment. So we haven't any interest as a department in that procedure.

If this same procedure is going to continue as outlined in the last Constitution, I have no objection to it at all, if that is going to continue, if that is your desire.

Then when you come over to the finance article, Article VII, paragraph 2, you state that all the money must be put in a general state fund, and you make no provision for school fund moneys except as it might apply to school districts or municipalities. It is my recommendation, if you are to continue the first article in the Constitution, there should be a few words added to paragraph 2, such as, "Nothing in this paragraph shall apply to Section VI, paragraph 8 of the Constitution." I think that would clarify it.

THE CHAIRMAN:

That would apply to the funds.

MR. HOLMES:

Well, I don't care how you clarify the words, but I mean --

THE CHAIRMAN:

Paragraph 8 is the school paragraph in its entirety. What you are referring to is the --

MR. HOLMES:

The fund. If you are setting the funds up under one procedure in this Article III, then the finance article should take care of it, not contradict it. We will be called upon later, if that is to stand, for a ruling probably from the Attorney General's office, a ruling as to which is to apply, how we are to handle

this money. I think it might just as well be clarified now.

THE CHAIRMAN: There was no intention on the Committee when it drew this paragraph to change any of the school funds. If you notice the wording --

MR. HOLMES: It is identical, yes.

THE CHAIRMAN: We will take the dedicated railroad funds for educational purposes, and also your state school fund which is collected by property tax and immediately turned back to the municipality with a slight deduction for general purposes, and in writing that paragraph we thought we had covered it all. Now, if our attorney finds the necessity for additional wording, he will give it his consideration. I thank you for calling it to our attention.

MR. HOLMES: Yes, sir. Thank you.

Following is Mr. Holmes' proposed revision re Article III, Legislative, Section VI, paragraph 8:

The Legislature shall provide for the maintenance and support of a thorough and efficient system of public free schools for the instruction of all children in this State between the ages of five and eighteen years. The fund for the support of public free schools, and all money, stock and other property, which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public free schools, for the equal benefit of all the people of the State; and it shall not be competent for the Legislature to borrow, appropriate, or use the said fund or any part thereof, for any other purpose, under any pretense whatever.

Following is Mr. Holmes' proposed revision re Article VII, paragraph 2, Finance:

All revenues of the State Government from whatever source derived, including revenues of all departments, agencies and offices, shall be paid into a single fund to be known as the General State Fund and shall be subject to appropriations for any public purpose; but this paragraph shall not apply to moneys which may be received or held in trust or under grant or contract for restricted use or which must be received or held in a particular manner in order to receive a grant or which may be payable to any county, municipality, or school district of the State.

Nothing in this paragraph shall prevent or interfere with any payment of State revenues to, or any direct or indirect collection or retention of State revenues by, any county, municipality or school district which payment, collection, or retention, may be provided by law. Nothing in this paragraph shall abridge the right of the State to enter into contracts. Nothing in this paragraph shall apply to Section VI, paragraph 8 of this Constitution.

THE CHAIRMAN: We have Mr. Alvin A. Burger of the State Chamber of Commerce, who desires to talk on the finance provisions.

MR. BURGER: Mr. Chairman and gentlemen of the Committee: The New Jersey State Chamber of Commerce will in the near future send to the Committee of the Whole, of which Senator Eastwood is chairman, a statement of its position with respect to the revised constitution draft as a whole.

This morning I am appearing in behalf of the Cost of Government Committee of the Chamber to speak in support, briefly, of paragraph 2 of Article VII, of the finance provisions. We feel that the step that your Committee has taken in including this provision in the Constitution, which sets up a single general state fund and thereby gives us a single state budget and a uniform fiscal year, is the greatest single forward step taken by any New Jersey Legislature in the history of public finance in this state.

There are at least eighty-five dedicated trust funds in our New Jersey State Government. I have some lists of those funds here for the record. At least fifty of these dedicated revenues we believe should be made to clear through the general state fund and should be subject to supervision in their spending by the Appropriations Committee of the Legislature and by the several fiscal officers of the State Government.

These dedicated revenues are subjected to different forms of financial treatment both by the fiscal officers and by the Legislature at the present time. Some of the funds go entirely for the support of one given service and are not subject to ap-

appropriation by the Legislature or subject to spending supervision by the State's fiscal officers. They are independent and truly dedicated funds.

Others are used entirely for one purpose, but balances remaining over at the end of the fiscal year may not go into the general fund.

In others there are unused balances, or where unused balances occur these balances are required to be re-appropriated for next year's use by the collecting and spending agency involved.

Certain others are used to supplement appropriations from the general fund made by the Legislature for the given agency, and these revenues may be spent for general purposes by that agency.

Others are used to finance some special activity in a case or two for the acquirement of property and are in addition to appropriations made to the agency out of the general fund by the Legislature.

Still others may clear through the general fund or the State Treasurer but are administered under a separate bookkeeping system.

These varied treatments and others that I have not mentioned often confuse the Legislature, and particularly the members of the Appropriations Committees. I have been privileged in the last five years to sit in at the hearings of the Appropriations Committees and I could see the amazement and hear the amazement expressed by some of the new members coming in on the Appropriations Committees who hear for the first time of these varied treatments, and they realize so well that it makes it virtually impossible for them or for anybody else to secure a clear and comprehensive, accurate picture of the state

of the finances of the State Government as a whole at any given time.

The lack of a general and single state fund and a single budget and a uniform fiscal year has produced, for one thing, a great deal of conflicting reporting by the state fiscal officers, and this in turn confuses the Legislature and confuses the Governor and hampers them in the proper conduct of their activities.

(Continued on next page)

These several reports in my own experience have never been found to agree one with the other. They all differ because they are based on what the law provides. They should be based with respect to considering these many independent funds as well as the state funds. There have been some instances that have been more or less dramatic occur in the last few years that show the need for a better reporting system which can only be based on one single state budget. In the years of the depression there was a constant search for funds on the part of the Legislature and a search for sources that were known to be around somewhere, pigeon-holed here and pigeon-holed there, out of which funds might be procured, state funds that were there, that might be procured to finance relief. Somehow or other the funds were found and the need for enacting new taxes was avoided, but it took a great deal of scratching and digging on the part of the successive Legislatures to find the funds.

In 1940 I recall there was some question as to where the millions of dollars that were needed to help municipalities finance relief were to be procured, and the chairman of the Senate Relations Committee at that time, at the request of the Committee, called upon one fiscal officer to tell him just what relief funds were available at that time; that is the total amount of relief fund balances available at that time for re-allocation or re-appropriation for relief purposes. This official gave that committee a figure. The comptroller was called into the picture and he disagreed and offered still another figure. The budget commissioner offered still another; and there were three different figures given. So the finance commissioner was called in and asked which of these three figures was right. What does the State really have in its fund to re-appropriate? The finance commissioner said none of them was right and he offered a fourth figure. So the Senate Finance Committee asked these four fiscal officers to get together and try to agree on what the correct amount was that was available for this particular purpose, and they did get together and after a good deal of discussion they agreed on a fifth figure which they all

agreed was right.

Now, the Legislature cannot conduct its important work of financing when we go into the post-war period with the difficult problems that are bound to come in the post-war period, with that kind of condition permitted to continue in this state; and neither can the fiscal officers do their satisfactory duty in rendering the reports they are required to render, accurate, comprehensive reports to the Governor and to the Legislature. We have seen instance after instance where this multiplicity of funds and multiplicity of treatments accorded them has made it next to impossible to impose effective controls over the spending of those funds.

A single state fund and a single budget need not interfere at all with the operations of independent examining boards or other agencies that are now financed by those funds primarily. I know that some of these boards that now operate on dedicated funds are very well and frugally administered. Others are not so well administered and money is wasted and the people who pay license fees into those particular funds are not getting a full dollar return on their license dollar.

But for those boards that fear that a certain amount of autonomy is to be taken away from them in the direction of their activities, it seems to me in the light of my own observations, sitting in with the Appropriations Committees, that the legislation creating those boards and providing for the financing of their activities, can still dedicate the use of revenue for a stated purpose; that is, the use of the revenue. There would simply be, as I see it under this proposed new setup under the Constitution, the new constitution, the formality of the clearance of these funds through the general fund and then approval by the Appropriations Committee of appropriations needed to maintain those boards and agencies, and in the case of an agency which finds its present income from its dedicated fund more than sufficient to conduct its activities, rather than to have balances year after year, substantial balances, appropriated for general use that some of them fear, there would be the possibility of reducing the license

fees supporting those departments.

In the State of Rhode Island a very notable job has been done in the fiscal reorganization of that government. It was started under Governor Green and completed under Governor Vanderbilt, and four years ago I took two members of my staff up there. We went up and spent a week in Rhode Island to examine their procedure, and we found it very satisfactory indeed and brought back reports to that effect. Governor Vanderbilt allowed us to go into the various fiscal departments and see how their machinery was set up. There all of their funds that otherwise might be dedicated clear through the one source. They have one general state fund, ^{no dedicated funds,} and they are properly administered and properly used.

We believe that the taxpayer of New Jersey and the license payer of New Jersey stands to get nearer to a full dollar of value of service for every tax and license dollar he pays in if this provision that is now in Article VII is permitted to stand. We believe that goes particularly for the highway fund. If the highway fund is undedicated and consolidated with the state fund, we believe that there will be better and more adequate spending of highway funds for the use of the motorists rather than less and less adequate spending of such funds for that purpose.

We believe that with this provision in the new constitution and with other new provisions that your committee and the other committees have inserted, New Jersey stands to have, if this constitution is adopted, the best constitution of any state in the country and one which will promote very substantially the cause of good government and we as a business organization believe that the best advertising that New Jersey can get to bring new industries and new wealth into our state is the advertising that comes to a state that is well governed.

THE CHAIRMAN:

I wouldn't be surprised if there were a question or two put to this gentleman. Do I understand there are? Would you like the Chairman to start it?

With the wording of the present paragraphs 2 and 3, Mr. Burger,

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do you think that those ills you refer to will be corrected?

MR. BURGER: We don't think that these provisions are necessarily panaceas. We think that they pave the way to these important fiscal steps that should be given constitutional sanction.

THE CHAIRMAN: Let's step for a minute into those license agencies. You and I appeared before a group the other day where that question was brought up. You said something about where there were balances in those funds. What was your thought should be done with the balances? Turned back to the commission or put in the state fund?

MR. BURGER: I think the balances should be turned into the state fund, but my thought there is that if there are boards who seek to operate year after year spending just the amount necessary to carry them on, that in the event that there are continuous balances that are substantial and the people who pay the license fees to maintain that agency feel that they should not be called upon through the payment of those licenses to support the general state government thereby, that the remedy would be found in reducing the amount of the license fees.

THE CHAIRMAN: To the members of the profession?

MR. BURGER: Yes, sir.

THE CHAIRMAN: Now you are up against this difficulty. Three of the sixteen licensing boards are already revenue producing boards.

MR. BURGER: That is right.

THE CHAIRMAN: The Real Estate Board, the Barbers and the Beauticians. So when you come to treat them as a whole, you are going to get into difficulty of three being contributing boards and the others being self-sustaining boards. How are you going to have a general regulation to cover both groups and not turn back the excess revenues of the three that are now revenue producing?

Let me just say a little further. They are considerably producing. In other words, the Barbers Board turns in several thousand dollars a year in excess of their expenditures, and the Beauticians

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do even better than the Barbers. I haven't the figures of the Real Estate Board in my mind, but they represent a considerable sum.

MR. BURGER: I realize that, and I don't recall that those three agencies coming before the Appropriations Committee have protested particularly against that situation. It is my thought that there should not be any particular straight-jacket regulation imposed which would require, say, a reduction of the license fee in case the money is not all used, or that should require balances to be re-appropriated for the use of these agencies, but that the balances that do occur should go normally into the general state fund; but the autonomy of these various boards would be more or less preserved in so far as the spending policies, the policies directing the activities of those boards, are concerned. We do not advocate any straight-jacket provision with respect to the disposition or spending of these funds.

THE CHAIRMAN: Mr. Stepp has a question for you.

ASSEMBLYMAN STEPP: How often do you think there would be balances under those circumstances?

MR. BURGER: There aren't very many balances now, not many. There are very few balances now. They usually manage to spend all that they take in.

SENATOR TOOLAN: As I understand it, you want to protect the integrity of the fund and you would leave that particular agency to spend it as it sees fit without any legislative interference; is that right?

MR. BURGER: No, sir. Apparently I didn't explain it as I should have.

SENATOR TOOLAN: Oh, I wasn't here. Pardon me. It is my fault. I didn't hear what you had to say. I was outside.

MR. BURGER: As I talked, and I talked extemporaneously, I wasn't at all sure that I was explaining it very clearly to my own satisfaction; but my thought was that we want to see all of these funds that are now dedicated and that are not trust funds go into one general state fund to be treated by the Appropriations

Committee, by the fund, in one way. I was thinking of some of the examining boards that protest that their income now is carefully administered from a particular dedicated fund from licenses and they spend it all, and they feel that they are running the risk, or their licensees are running the risk of having part of those funds under this plan used for general state purposes, and they take, I think, a great deal of them. I was simply trying to offer an argument against that to offset that fear. It is my belief that while they will go through the formality of having their moneys go into the general state fund and then the appropriations are passed upon by the Appropriations Committee, it is my experience that the Appropriations Committees have been very fair and pretty decent about seeing that the moneys that those people collect to maintain their departments are used for that purpose and are not diverted in any substantial degree for other uses.

THE CHAIRMAN:

Are there any other questions?

Senator Mathis.

SENATOR MATHIS:

Do I understand that you feel that the gas tax, the motor vehicle funds, and other moneys that are dedicated to the Highway Department now, should go into the general fund?

MR. BURGER:

Yes, sir.

SENATOR MATHIS:

And you also feel that the riparian funds and other dedicated funds and the school fund should go into the general fund?

MR. BURGER:

No, sir.

SENATOR MATHIS:

Why the difference?

MR. BURGER:

Well, because we are rather strong for the protection of the financial support for educational purposes. That has been traditional in our state government for a long period of years. That riparian fund is an old fund. We believe that the funds devoted to public education should be continued to be protected. It is a fund for a local purpose, not for a state government purpose.

SENATOR MATHIS:

Do you feel this, that if the high-

way fund should go into the general fund, that the gas tax or the motor vehicle license law should be repealed and they should not pay their special tax as long as it is going into the general fund?

- MR. BURGER: You mean the license fees?
- SENATOR MATHIS: Yes.
- MR. BURGER: And the gasoline tax?
- SENATOR MATHIS: Yes.
- MR. BURGER: That those should be repealed?
- SENATOR MATHIS: Yes.
- MR. BURGER: No, indeed. I don't feel that way at all.
- SENATOR MATHIS: Well, why should the motorist pay a special tax to go into a general fund?
- MR. BURGER: You mean a new tax?
- SENATOR MATHIS: Yes.
- MR. BURGER: What kind of tax?
- SENATOR MATHIS: The gas tax and the motor vehicle registration fees.
- MR. BURGER: The motorist is now paying those taxes. The motorist is now paying those taxes into the state highway fund.
- SENATOR MATHIS: They are dedicated to highways, yes.
- MR. BURGER: Yes. Some of those moneys are now diverted when there is a need for it. The bulk of them go for the support of the services to the motorist.
- SENATOR MATHIS: The Legislature has always had the right to dip into those funds for state purposes, and they have taken, I think, a hundred million dollars from the highway funds for state purposes already.
- MR. BURGER: Yes. We believe that the taxes and license fees received by the state from the motorist should go into the general state fund and should be used for general purposes, but we have this very much in mind, that the plans for the post-war period call for continuance on a very large scale of highway construc-

ion in this state, call for the elaboration of services to the motorist, and we feel certain that with the more adequate and strict supervision over the spending and allocating of these funds, these highway funds along with all the others, that the motorist in New Jersey in the future stands to get much more value received out of his license and tax dollar than he did before, because there has been a certain vested interest in the spending of that money prior to this on the part of the State Highway Department and other agencies that spend that money.

I believe that much of the diversion out of that fund has come because it is a special fund, and much of the money diverted has been for certain agencies that the advocates of dedicated highway funds were perfectly willing to have get the money and that it has been wastefully expended, and that there has been plenty of money wastefully expended in the highway department in the past.

THE CHAIRMAN:

Are there any other questions?

ASSEMBLYMAN LEONARD:

Mr. Burger, would you help clear up

my mind on one point? You referred to eighty-five, as I recall it. At least, I marked down eighty-five separate funds. Then shortly afterwards you spoke of fifty funds, and I took it that you laid those funds into one category because of characteristics peculiar to the fund, but I haven't heard, and it probably is my fault, about the other thirty-five. Was there any reason for separating them at the time that you spoke of them? Did you intend to speak of the thirty-five?

MR. BURGER:

I think Senator Mathis brought out in his question about the riparian fund, brought out some of our thinking with regard to the other funds outside of those fifty that I talked of.

ASSEMBLYMAN LEONARD:

Yes, sir.

MR. BURGER:

I don't say fifty. I said more than fifty funds of these eighty-five funds. I say funds; I mean revenues, dedicated revenues and trust funds, that more than fifty should be put into or cleared through the general state fund. Now, actually

there probably should be more than sixty, and that might still be rather conservative, but I have in mind in those other funds not included, such funds as you gentlemen have in mind excluding from this general state fund, the various school funds, certain funds for local purposes, and certain others, for instance, the pension funds of the teachers and the pension funds of the State Employees Retirement System that now are separate trust funds and are administered by separate bodies.

ASSEMBLYMAN LEONARD:

Thank you.

THE CHAIRMAN:

The State's appropriation to those pension funds is in the appropriation bill every year.

MR. BURGER:

That is right.

THE CHAIRMAN:

It is the fund itself after it is accumulated that you are referring to as administered by the other boards.

MR. BURGER:

Yes, sir; that is right. There is a difference between the revenues and trust funds.

ASSEMBLYMAN AMLICKE:

Mr. Burger, as to paragraph 2, are you quite satisfied with that paragraph as to municipalities, town and school districts?

MR. BURGER:

Yes, sir, we are. There has been a question raised, but we think you gentlemen have the answer, whether those provisions protecting the rights of municipalities would tend to fix the amounts in any way now given, say, to certain townships on road aid. It may be that ten years from now, if those amounts were to be fixed, -- in other words, if they were to freeze present legislation allocating money to those townships-- that might be advisable, because certain townships now needing \$25,000 a year from this fund and spending it wisely might not need that ten years from now. We just have the idea that it does not freeze the amount of the present contributions or allocations to these communities.

ASSEMBLYMAN AMLICKE:

Mr. Burger, assuming that real estate taxes were collected by the state, would you want that fund dedicated for the purpose and use only of real estate owners?

MR. BURGER: You mean the state school fund?

ASSEMBLYMAN AMLICKE: No. I mean assuming real estate taxes now collected by the municipalities to be collected by the state. Would you want those to go only for the purpose and use of real estate owners?

MR. BURGER: Well, I am not advocating any such thing as that for the use of any particular group, the use of the motorists or the use of even license fee payers. I hope I am clear on that, because the point that I want to make is that we are strong for the undedication of all of these funds. No, sir. In the first place, there ain't no such animal. There isn't any tax now imposed and I don't think the Legislature has any remote thought of imposing a state real estate tax for state purposes. But if any general tax were to be imposed by the State Government on any group or on the taxpayers as a whole for state government purposes, well, then that is something else. We believe that such taxes collected should go into the general state fund, just as we believe that motor revenues should go into the general state fund and be appropriated by the Legislature in a general way and supervised by the fiscal officers of the state as all other funds are supervised.

ASSEMBLYMAN AMLICKE: Then by the same token you also believe that railroad taxes should not be used merely for the purpose and use of the railroads. Is that right?

MR. BURGER: That is right.

ASSEMBLYMAN AMLICKE: So when you argue that way, you say the revenues from highway use should not be used only for the purpose of highways.

MR. BURGER: No.

ASSEMBLYMAN AMLICKE: It should be used for the general state fund.

MR. BURGER: I am saying that that should go into a general state fund.

ASSEMBLYMAN AMLICKE: That is right, and I think you are right.

THE CHAIRMAN: Any further questions? Mr. Burger, have you seen Governor Edge's budget?

MR. BURGER: Yes, sir, and we think that it starts out to accomplish many of these splendid reforms that are now contemplated in the provisions you are putting into the new constitution. That is our feeling about it.

THE CHAIRMAN: In other words, a single appropriation.

MR. BURGER: Yes, sir.

THE CHAIRMAN: As provided for here; and a single fiscal year.

MR. BURGER: Right.

THE CHAIRMAN: Those are both provided for here in this proposed revision. I didn't know whether you had seen the budget or not, but it is so prepared.

MR. BURGER: We have seen it and we were delighted with it, and we wanted to see that practice, which is a good, business-like practice, made permanent.

THE CHAIRMAN: There being no other questions, many thanks.

We have a letter from Dr. Bosshart, Commissioner of Education, which I would like to read into the record. It has to do with some testimony here the other day given by Mr. Lindquist of the Public Library Commission. Dr. Bosshart says:

"Honorable Herbert J. Pascoe,
"Chairman, Subcommittee on Legislative Provisions,
"State House,
"Trenton, New Jersey.

"Dear Senator Pascoe:

"Mr. Lindquist, secretary of the Public Library Commission, has talked to me about the proposed amendment to the Constitution in regard to the responsibility of the State in maintaining libraries. I think that this is a good amendment.

"Thanking you for your consideration,

"Yours very truly,

(Signed) John H. Bosshart, Commissioner of Education."

Then I have a telegram here which I think should likewise go into the record.

"Legislative Committee Hearing Amendment and Revision. Provisions. New Jersey State Constitution, Room 214, State House, Trenton.

"Many branches of New Jersey Division of American Association University Women on Record as favoring the following Proposal 'The Question of Authorizing Revision shall be Submitted to the People at a General Election (1) In any year designated by law.'"

That is already provided for in the new constitution and also in the referendum that was approved by the people.

The second suggestion. "Automatically 20 years after the last such Referendum Election. Will appreciate your serious consideration of the proposal."

Submitted for the consideration of the committee by Thelma Parkinson Sharp, State Legislative Chairman, American Association of University Women.

The next one on our list here is Mr. E. W. Kilpatrick, secretary of the State Federated Board of Education. Mr. Kilpatrick.

MR. KILPATRICK: Mr. Chairman, we have not prepared a statement for this morning, but we will submit it.

I would like to introduce our president, Mr. Charles A. Brown.

This organization represents the 551 boards of education of the state, and Mr. Brown will speak for our organization on Section 6, Paragraph 8, on page 7, which we approve. Mr. Brown is going to speak for our organization.

THE CHAIRMAN: I would like to introduce Mr. Brown as the president of the Federation of Boards of Education for the State of New Jersey. He will speak on this particular paragraph, Paragraph 8 on page 7.

MR. BROWN: Senator Pascoe, as Mr. Kilpatrick said, we were not aware of the requirement for a written statement, but we will submit that to the Committee.

We are wholly in favor of this Article VIII of Section 6 as it is written. There has been some talk, however, that there would be

some stress laid upon increasing the age to twenty. I feel that that would be up to the State Commissioner of Education, and he has already become cognizant of that responsibility in appointing a committee of laymen and educators in order to prepare for post-war planning in education.

I would like to speak also for a moment on Governor Edge's inaugural address in which he stressed the importance of an equalization of education for the twenty-one counties.

As you old gentlemen of the Legislature know, for the past eight or nine years we have been faced with deficiency appropriations, and last year and this year it is going into the budget. Eighteen counties are recipients of these deficiency funds, Union, Essex and Hudson not being participants, and we feel that if the Legislature would try in their setup of Article VIII of Section 6 to provide adequate funds for education, eliminating these deficiency appropriations, we could then be in a position to take all the youth of this state from Cape May to Sussex and see that they are provided with a well rounded education.

We know that we are facing pressure groups from time to time. We do oppose mandatory spending legislation that makes it mandatory upon local taxpayers to assume additional educational burdens. We do approve, however, of certain regulatory mandatory legislation. I think it is a step in the right direction.

But we are putting our plea entirely up to the Legislature as far as humanly possible. I don't believe that we will ever see the millennium.. I think that is far fetched; but I do feel that steps should be taken, Senator Pascoe, Miss Preen and gentlemen, that the state will provide in their budget such as other states do-- New York State I think has an average of around thirty per cent of the educational cost-- that some steps should be taken here in New Jersey that would provide equal educational opportunities for all the young men and women that we are supposed to educate from the age of five to eighteen. I say that in all sincerity, and I feel that certain funds have been dedicated in the past to education and by act of

legislation those funds have been diverted away from education to other purposes, and I feel that if we ever do get down to the point where there are funds set aside in the budget for education, that it should be sent through the Commissioner of Education for allocation to the county superintendents of schools and to all the school districts in this state.

Thank you very much.

THE CHAIRMAN: I feel sure that there will be some questions here. We are all interested in the schools. Do you want to ask any questions?

ASSEMBLYMAN STEPP: Mr. Brown, I have been enormously interested in this age business. I understand that in the past there have been no restrictions on ages in the schools for those of nineteen, twenty or twenty-one going on.

MR. BROWN: That is right.

ASSEMBLYMAN STEPP: Do you think that it is safe to limit the age from five to eighteen?

MR. BROWN: Well, that is in the old constitution, Mr. Stepp.

ASSEMBLYMAN STEPP: Well, I mean in view of the fact that we are at war and many young men will come back after the war.

MR. BROWN: Nineteen, twenty. That has been just one of those local problems that we have assumed. I believe that you will see a great deal of federal funds allocated for post-war education, and it is a question in my mind if all the school facilities and the higher educational facilities, like Princeton and Rutgers Universities, could absorb all the young men and women who would want additional post-war education. I don't think we have the facilities to absorb them all.

ASSEMBLYMAN STEPP: I am thinking of the grammar and high school rather than the university.

MR. BROWN: Well, now, I know many local school districts that have never abided by this five to eighteen which is in the old constitution. We would have them up to twenty. I think

your Interscholastic League, the Athletic League, acknowledges twenty years as the limit of age for high school competition.

ASSEMBLYMAN STEPP: But if this were literally translated theoretically--

MR. BROWN: It would put them out all at once, but that is a home rule proposition, I believe.

THE CHAIRMAN: Don't let's get on the wrong foot here by the questions and answers. Dr. Bosshart approved of this wording, and we particularly asked him about the ages of five to eighteen, and they insisted that it remain the same.

MR. BROWN: Yes.

THE CHAIRMAN: On the ground that the local municipalities could and do--

MR. BROWN: -- govern that situation.

THE CHAIRMAN: They have both under and over. So if you put it up to twenty, it would only be compulsory to twenty, and then they could take it up to thirty if they want to. So they decided that the present age was sufficient for all school requirements and why change it?

MR. BROWN: That is right.

THE CHAIRMAN: Now, we have a recommendation here that it be reduced to three and the maximum to twenty, and the man that made the recommendation admitted that he was only thinking about two years in junior college. Well, we haven't gotten into higher education in New Jersey except in the Board of Regents.

MR. BROWN: Well, at the age of three, then you would come down to the nursing schools, and that kind of education is very expensive.

THE CHAIRMAN: That should be just as this constitution arranges it.

MR. BROWN: That is right.

THE CHAIRMAN: Left to the local community to decide for itself. There is no prohibition here. They are still at liberty to do it.

MR. BROWN:

That is right.

THE CHAIRMAN:

Now, Mr. Brown, there was one other question in there as you were going along. Mr. Toolan mentioned it, and I haven't got it right close in my mind.

SENATOR TOOLAN:

Mr. Brown, you made some reference to diversion of school funds. What did you have in mind?

MR. BROWN:

Why, Senator Toolan, many years ago all the main stem railroad tax was set up for free public schools, and there were several millions of dollars. It ran one year I think to three and a half million.. That was sent into the twenty-one counties. That was allocated to the various school districts of the state.

Then came a series of diversions. It was for educational purposes, but for higher education, teacher pension fund, teacher colleges, Bordentown, State Commissioner of Education, and in fact you will see that there were probably eighteen or twenty items there, and the last one was free public schools, but when it reached there there were no funds left. So we had none, and therefore it necessitated some of these deficiency appropriations.

Take Union County. Now, Union County does not get any deficiency appropriation. Still and all there are some school districts in that county, like Kenilworth, that could use state aid for education. They do not have the ratables, and I think with the United States Government taking up more and more acreage of property, your ratables are going to be decreased in some of the counties and your deficiency appropriation is bound to increase due to the fact that you are not going to have enough sustaining money.

Of course, as I said before, the millenium will never be reached, but I am speaking for the boys and girls of this state, because that is after all our first and primary obligation. I have no objection to higher education. I have no objection to free universities. I have no objection to anything that will enhance the value of a young man or woman in this state to become a big man, but I think our primary objective is to take care of the feeders into higher education

by giving proper education to the kids of this state.

SENATOR TOOLAN: Is that by innuendo an argument against the moneys which are now appropriated annually to the State Board of Regents?

MR. BROWN: Oh, no. I think that is a necessary adjunct, and I feel also, Senator, that if there should be an elimination of the state teacher pension fund from revenues, it then would come back to your local school districts that we would have to meet those obligations. I think it is a step in the right direction.

SENATOR TOOLAN: I have never divined any tendency in the Legislature, during my period at least, to refuse to make the annual appropriation to the Teachers' Pension Fund. There have been years when, during the depression particularly, we got into great difficulty.

MR. BROWN: You didn't know where it was coming from.

SENATOR TOOLAN: However, some of the teachers seem to think that that is an absolute right as a matter of contract. They have taken the position that it was a matter of contract. It is a matter of annual decision by the Legislature that they should do it.

MR. BROWN: That is a debatable question. You may please many, but you may displease a great many others that feel that there should be some stopgap in the proposition, and if it is actuarially sound, why, then compensation to those should be eliminated and that fund used for other educational purposes.

SENATOR TOOLAN: Well, I think--of course I express my own views--if in any particular year there was conclusive proof that the appropriation was not needed because the pension fund was actuarially sound, speaking for myself I would probably not appropriate money for the fund.

MR. BROWN: That is right.

ASSEMBLYMAN AMLICKE: Then you are quite satisfied with the reading of the paragraph, as I understand you now.

MR. BROWN: Yes, I am.

ASSEMBLYMAN AMLICKE: You are not really pressing for the change of age from five to nineteen or from five to twenty?

MR. BROWN: No. I think it should stay as is, and if there should be any changes, that should be left to the local authority. For instance, Passaic. If they want to take their boys up to nineteen or twenty, all right. We have all been doing that in the past.

THE CHAIRMAN: In approaching years you never can tell where it will stop.

On the subject of education may we hear from Dr. Strahan of the New Jersey Education Association. Dr. Strahan.

DR. STRAHAN: Mr. Chairman, and other members of the Committee. Under our present Constitution it is provided that boys and girls may attend school from the ages of five to eighteen. Now, the Legislature has for many years had a law that the state shall provide education up to the age of twenty, and in the last few years it has adopted a law providing for certain phases of nursery schools

Now, the five to eighteen seems to have been adopted and has given general satisfaction, because that is what the state must do, not what they may do, and the courts have so interpreted it.

So our association is satisfied with this five to eighteen for this reason, that if you made mandatory by statute or constitutional provision, that provision should be made for the ages of three to twenty or more, immediately boards of education have to provide schools, nursery schools with an added school expenditure, and I am not sure it would be not necessary to provide certain colleges, because we now interpret the eighteen to include high schools. If you go up to twenty, it would probably mean also college education which you will be including, and therefore you will be making mandatory beyond your legislative control the fact that you must also have college education. Not that we are against it. We believe that the Legislature will do it when it sees the time is right to do it and we can present a cause that is worthy of your consideration.

So our association is entirely satisfied with the Constitution as it now exists on the provision of

five to eighteen years.

It was in the Constitution of 1875 that they said that the Legislature should provide a free, efficient system of education, of free public schools. The older provision was in the 1844, but it was in 1875 when they realized that we should need a thorough and efficient system, and the Legislature aims to do that. We have no objection to that provision of the Constitution as it is now provided.

Now, in relation to the finance section, we have no objection-- that is, our association--to the way it is provided here in the Constitution. There is a difference, as Mr. Brown pointed out, or he raised the question at least, between the state railroad tax and state school taxes. State railroad taxes are property taxes assessed against the railroads for revenues and then dedicated to the schools, which is all right. The state school tax is a tax assessed for a certain purpose and comes into the treasury and is returned back to the districts under certain provisions. It is not used for state purposes, but the state sets itself up as a collecting agency and returns it. Now, we realize that, and our association has had competent counsel go over this section on finance, and as a result of that study we have no objections to that phase of the Constitution.

ASSEMBLYMAN AMLICKE: Mr. Strahan, under Paragraph 8 of this particular section, it is mandatory on the part of the state to provide free education for children between the ages of five and eighteen. That is correct, isn't it?

DR. STRAHAN: That is right.

ASSEMBLYMAN AMLICKE: Now, assuming just for the sake of my question that a young man or a young woman graduated from high school at the age of sixteen. Couldn't that person demand further education for a period of two years under the present Constitution?

DR. STRAHAN: Well, we have gone into that in the Attorney General's office a number of times, because the question

has been raised before. The general interpretation of the Attorney General is that the Legislature in complying with the Constitution has set up elementary and high schools covering twelve years of education, and it is the belief of that department that when the Constitution provided that, the Legislature has interpreted that as being in compliance with the Constitutional provision.

Now, in further answer to that, however, you might say that if a person comes back and says, "We want more education," we might say, "Well, there are some other subjects in the high school course that you haven't taken that you can take." So so far there has been no interpretation that they must have a college education, but if you extend it up from eighteen to twenty, then you do raise the question whether there should be some other education beyond that which is provided now.

ASSEMBLYMAN AMLICKE: Mr. Strahan, would it make any difference if you change the age limit from five to twenty under the same conditions?

DR. STRAHAN: Well, it would appear then by extending what the Constitution says the districts must do, that you have extended the type of education to a broader program of education. That would appear to me. I am not a constitutional lawyer, but that would be my interpretation of the fact that you broadened out beyond the old Constitution as to what the state must do.

Now the law says that the Legislature shall provide school facilities for all the children between the ages of five and twenty and for such persons over the age of twenty as the board of education may deem advisable. They could go on and have adult education. Now, until last year that couldn't be done because the Legislature never provided for any education below the age of five, although it said the board may permissively provide for it above the age of twenty. You have thirty, forty, fifty year old people going to adult education classes. That is under legislative law, and last year it extended down under legislative permission, and it can be

changed at any time, of course, by the Legislature.

Mr. Kilpatrick just points out that many of the schools are giving what they call post-graduate courses, staying in high school and getting more subjects. That is covered, I think, under the point I presented.

MR. KILPATRICK: They are generally the good football players.

SENATOR TOOLAN: Football players usually don't graduate at sixteen.

THE CHAIRMAN: Mr. Strahan, we had before the Committee last week a young man from Newark by the name of Brodsky who said he represented a group of teachers of the state. I am just wondering if you would tell the Committee what proportion of the teachers your organization represents.

DR. STRAHAN: Over 27,000. I don't have just the exact number, but more than 27,000, and that is about 95 per cent of all the teachers in the state.

THE CHAIRMAN: You speak also for the other five per cent generally, don't you?

DR. STRAHAN: Well, I don't know. You never count on that five per cent of Republicans or five per cent of Democrats or five per cent of the state association, people who don't want an association. I don't know whether you do or not.

SENATOR TOOLAN: There are always five per cent of the people whom neither God, man nor beast can speak for; isn't that so?

DR. STRAHAN: Well, there is a normal curve of distribution, you know, and we have people some of whom don't belong the same as the big majority do.

THE CHAIRMAN: Mr. Strahan, generally speaking then, the 95 per cent of teachers that you do speak for are satisfied that the Legislature in the preparation of this new constitution have endeavored to safeguard the welfare of education?

DR. STRAHAN: We have a representative assembly and the members are elected from the respective counties just like the Senate and the House. We have an executive committee, one from each county. We have a delegate assembly which is composed of the same numbers as the members of the Legislature and who come from the different counties just the same as the members of the Legislature. Now, both of those organizations are in favor of that.

Now, in this representative assembly you might pick up some individual teacher that has a different point of view, but the representative assembly endorses these things.

THE CHAIRMAN: That is fine. Are there any other questions of Mr. Strahan?

DR. STRAHAN: Mr. Chairman, someone raised a question the other day about the pension fund. Could I leave a memorandum in relation to that? When the pension fund was to come under Mr. Eastwood's committee, we understood over there in that committee that somebody raised a question about it, and I would be glad to leave a memorandum with your committee in reference to our thought about the pension fund.

THE CHAIRMAN: That was Mr. Brodsky, who represented the Federation of New Jersey Teachers, the New Jersey Teachers Federation.

DR. STRAHAN: Yes. We were over there at the same time and didn't have time to appear here, and if it is permissible I will leave a memorandum concerning it.

THE CHAIRMAN: We will be glad to have it. As long as we accepted his comments, we will be glad to have yours also.

DR. STRAHAN: Thank you.

(The following proposals were submitted by Dr. Strahan)

Proposed Constitutional Amendment for Protection
of State Pension and Annuity Funds

Members of State Pension Funds are very much interested in having a provision in the State Constitution which will provide for a contractual relationship between the State and such members.

As a result of the New York State Constitutional Convention that State adopted a pension provision as follows:

Article 5, Section 7, "After July 1, 1940, membership in any pension or retirement system of the State or of a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired."

This provision protected the rights of members of both State and local funds.

The New Jersey Committee on Revision of the Constitution, under the chairmanship of Senator Hendrickson, recommended the following:

Article 6, Section 1, Par. 6. "After July 1, 1943, benefits payable by virtue of membership in any State Pension or Retirement System shall constitute a contractual relationship and shall not be diminished or impaired."

This proposed amendment for New Jersey includes only the funds to which the State contributes.

From the discussions of the Revision Commission regarding this amendment, it is understood that municipal funds were not included in the proposed amendment for New Jersey as they were in New York due to the fact that many of the municipal funds are not considered actuarially sound.

It is the understanding of the members of these Funds, that the Revision Commission of 1941 unanimously endorsed the provisions for the constitutional protection of State pension funds. When this provision was discussed at the hearings before the committee of the Senate and House during the summer of 1942 there was no opposition to this provision by any persons present at these hearings. In fact, both the members of the group favoring revision and the members of the group opposing the revision expressed themselves favorably regarding this proposed pension amendment and there seemed to be no opposition to the protection of any pension fund which was considered actuarially sound.

The members of the State Pension Funds believe that they should be given the same constitutional protection as is provided by New York State for its fund under practically identical laws and financial status.

MEMORANDUM ON CONSTITUTIONAL PROVISION TO CONSTITUTE MEMBERSHIP
IN A STATE PENSION FUND A CONTRACTUAL OBLIGATION OF THE STATE

There are four State Pension Funds:

1. The Teachers Pension and Annuity Fund
2. The State Employees Pension Fund
3. The State Police Pension Fund
4. The State Prison Officers Pension Fund

The proposed Constitutional provision to make State Pension Funds contractual obligations of the State approved by the 1942 New Jersey Commission on Revision of the Constitution reads as follows:

"ARTICLE 6, SECTION 1, PAR. 6. After July 1, 1943, benefits payable by virtue of membership in any State pension or retirement

system shall constitute a contractual relationship and shall not be diminished or impaired."

There are objections to a similar provision in the Revision to be submitted by the present Legislature. The objection having the most merit is that the State Prison Officers Pension Fund, created by Chapter 220, P. L. 1941, effective July 4, 1941, is not actuarially sound. It is claimed that this Fund was not created as the result of an actuarial study but on arbitrary contributions insufficient to produce the financial benefits authorized in the Statute.

The other objections are not general but reflect various individual opinions, such as, "The benefits might be increased, and such benefits could not be withdrawn." Another objection is the interest rate on withdrawals is now too high, etc.

While it would be possible to make the amendment apply to only the first three of the four State Pension Funds by including only those funds that were created prior to 1940, such action does not appear to be advisable for the reasons:

- 1 - That such action would constitute discrimination against the single State Fund.
- 2 - It would be discriminatory against State Pension Funds hereafter created.
- 3 - If the effective date of this constitutional revision is deferred to 1945, the Legislature would have ample time to establish the State Prison Officers Fund on an actuarial basis. Legislative action should be taken to make the State Prison Officers Fund actuarially sound, and any State Pension Fund hereafter created should, at the very beginning, be placed on an actuarial basis.

In view of the foregoing, we recommend a constitutional provision as follows:

After July 1, 1945, benefits payable by virtue of membership in any State pension or retirement system shall constitute a contractual relationship and shall not be diminished or impaired.

THE CHAIRMAN:

The ladies have been exceedingly

patient, and I see in the audience one of those twenty-seven thousand school teachers that you represent, and I was just wondering if the sister of former Assemblyman Huntington of the County of Essex, who is sitting there in the back row, would like to have a word to say on this teacher program. Miss Huntington.

MISS HUNTINGTON:

This is extremely unexpected.

I was very glad to hear Mr. Strahan say that he supported or spoke for the twenty-seven thousand teachers. I was almost ready to get up and help him out on that.

We are very much interested in this constitutional provision. We are very much interested naturally from the point of view of the school children, and selfishly for ourselves.

I might say, Senator Pascoe, that all I can do is corroborate whatever Mr. Strahan has said. I was a member of the State Delegate Assembly for a number of years myself, and when they go to back a thing, they back it.

You are right when there are five per cent that can't be talked to, as the gentleman said. That is correct. We do have a number of dissenting ideas. I don't know Mr. Brodsky personally. I wish I had heard what he had to say; but I think you will find that that five per cent is possibly even exaggerated.

I submit, along with the approval of Mr. Strahan of the Executive Board of the Teachers Association and the Delegate Assembly, that anything that you do will be satisfactory to the majority at least of the 27,000 teachers of New Jersey. Thank you very much.

THE CHAIRMAN:

Thanks a lot. I see another lady here who has been very patient, Mrs. J. Kempson of the New Jersey League of Women Voters, who desires to speak on dedicated funds. Mrs. Kempson.

MRS. KEMPSON:

Mr. Chairman and members of the Committee. I didn't know until this morning that I was going to have the very satisfactory job of presenting these statements concerning Article VII, Paragraphs 2 and 3.

I represent the New Jersey League of Women Voters today charged with the task of presenting the League's strong endorsement of the provisions for a single state or general fund along with the stipulation that "no money shall be drawn from the state treasury but for appropriations made by law." We sincerely hope that those provisions without weakening will be a part of the Constitution which we trust will be approved by the people next November.

The League believes those provisions are necessary to establish the State's financial system on a sound basis or indeed to give it a financial system. For years the Governors of New Jersey and officials responsible for state finance have stated officially that they were unable to secure a true picture of the State's financial status, and competent investigators have given the same testimony.

We are glad that those who have prepared this document have decided to give the people an opportunity to change that situation.

It seems to us that the present system of dedicated funds, meaning the power of certain state boards and commissions to collect funds directly from licensees and other sources and then to spend those funds only for their activities, is in effect, class distinction or legislation. If the practice were carried out logically for all state services its indefensible nature would be clear.

It cannot by any stretch of the imagination be considered an inducement to economy or efficiency. New Jersey's government is probably the biggest business enterprise in the state and Governor Edge stated forcefully in his inaugural address, "This practice from a business standpoint is indefensible. Every successful business in the world provides income and outgo through centralized control. For the State of New Jersey to have over fifty disbursing agencies is not only confusing but unbusinesslike." And further he said, "The Legislature and the fiscal officers of the state must have control over all state expenditures."

The press recently carried the story of the purchase of land by the State Fish and Game Commission for \$60,000. We are not concerned here with the question of the wisdom of the purchase but with the fact that the law says that the commission's fund "shall be kept separate," and, "shall be disbursed by the state treasurer on vouchers certified to by the board." That seems a large amount of money to be spent without specific appropriation by the Legislature, and with due consideration for the general welfare and needs of all the people. Furthermore, if the people of the state do not approve, what can they do about it? Whom can they hold responsible? The Governor has no control. Practically, there seems to be no effective way to remedy such a situation at present. The people must depend upon the executive and the Legislature to plan for them in providing departments of justice, health, welfare, labor,

soil conservation and many other services, and with the funds to operate them.

We believe it is undemocratic as well as unbusinesslike to set up certain groups to be a privileged class and a law unto themselves in the collection and use of public money. In other words, why shouldn't the services provided by these agencies and their need for appropriations be evaluated and decided upon by our elected representatives and their accounts scrutinized in exactly the same way as are those of other agencies performing functions just as necessary to the good of all the people?

We approve, therefore, of these provisions as providing for good administration, sound financial practice, and democratic procedure.

I would be very glad to answer any questions within the limits of my lay knowledge perhaps of the operations of your Appropriations Committee or anything else if you care to ask them.

THE CHAIRMAN: First we will ask you to submit your brief. We will first ask you to submit your paper.

MRS. KEMPSON: Surely.

THE CHAIRMAN: Mr. Leonard would like to ask you a question.

ASSEMBLYMAN LEONARD: Mrs. Kempson, do I understand your remarks to be that you approve of the present wording of Paragraph 2 as it is in this proposed revised draft?

MRS. KEMPSON: Will you read it for me, please? It is not within my memory.

ASSEMBLYMAN LEONARD: That is the present wording of Article VII, Paragraph 2, that you are speaking of.

MRS. KEMPSON: I said that I was reading this this morning. I was commanded for this particular job this morning. If someone will refresh my memory, I can tell you.

ASSEMBLYMAN LEONARD: That is the finance article.

MRS. KEMPSON: In respect to what?

SENATOR TOOLAN: We want to know whether or not you favor the present proposal in the Constitution; in other words, all the money going into one general state fund.

MRS. KEMPSON: Yes, very definitely, in a common pool. It would seem to me, and I must speak perhaps more for myself than the League, but the League as I know it,--that there are certain services of government that should be provided for from the pool, such as health and welfare and highways, and education particularly, and it would also seem to me that there are certain services of government that should have priority in the order of urgencies over others, and in having a common pool it would seem to me that the different department heads could come out at budget time and apply for the amount they feel necessary to provide those essential services. That is my personal opinion.

ASSEMBLYMAN LEONARD: Does the association approve of the part of the paragraph that protects the subventions to the municipalities and counties?

MRS. KEMPSON: Well, I feel, as I said before, that there is a further principle involved there. You mean in regard to giving them specific grants for specific purposes? I think that a great many of the services of the state, the four that I mentioned particularly, should be apportioned to the different municipalities on the basis of need, and it would seem to me that there should be a certain flexibility in making those appropriations.

THE CHAIRMAN: That is quite the practice, Mrs. Kempson, in the Appropriations Committee. They appropriate the money. The finance commissioner sets up a quarterly requirement and he supervises the paying of the money out.

MRS. KEMPSON: Then just what was the point of his question?

THE CHAIRMAN: Mr. Leonard's idea was to make sure that he understood the paper you read, and I am quite sure we all did, that your organization does approve of this single fund.

MRS. KEMPSON: Oh, very definitely. I thought that was very clear.

May I say that if I seem to be a bit confused about it, my particular department is education, and I was asked to do this this morning, and though I know in general the principles of the League, I am not qualified to give you an extemporaneous talk as to whether we approve certain sections of this particular Constitution. That is why I asked.

SENATOR MATHIS: Mrs. Kempson, do I understand that you believe that all the present dedicated funds should go into the general fund?

MRS. KEMPSON: Except in so far as they are protected under the Constitution. I suppose you have in the back of your mind the question of the funds that are dedicated for the use of free public schools.

SENATOR MATHIS: Yes.

MRS. KEMPSON: Of course I don't know whether the first fund that was set up for the state school fund in 1817, whether the particular properties, for example in Jersey City and other places, to start that fund, were given with the express stipulation that they should be used in perpetuity for the public schools. If so it would seem that would come outside of the question of dedicated funds. It would seem to me that should remain intact. But as I said before, it seems to me a common pool for the essential services of government should be set up, and I think in regard to the essential services of government that there is no service of government that ranks above education, because it is basic to everything else.

Does that answer your question?

SENATOR MATHIS: Personally I think the school fund should remain.

MRS. KEMPSON: Well, Senator Mathis, in operation it does not. The school fund was set up and the Constitution specifically

says that this fund and all money heretofore appropriated for this purpose or received into the treasury under the operation of any law passed heretofore shall remain a perpetual fund, and there have been diversions, as some of the previous speakers have told you.

SENATOR MITCHELL: I think I agree with you on this school fund. Now, do you think the funds at present dedicated to the highway should go into the general fund?

MRS. KEMPSON: Yes, I do. I think that those of us who travel the highway, and I speak now as a motorist, I think that we have certain benefits accruing to us in the use of roads--that is, the excessive use of the roads--over the ordinary person, and I think that according to democratic principles it squares with the principle of equalizing. For example, some of my neighbors may not use the roads as much as I do, and we must all pay for essential services whether we use them or not, and in using the roads as a motorist, I think I gain certain benefits that some of my neighbors do not get. I don't think that the highway funds should be kept for the exclusive use of the highways if there are other needs of the state more urgent.

As I said before, will you please keep in mind that I am speaking for myself now as a citizen and not for the League of Women Voters.

THE CHAIRMAN: It is understood ^{so} so far as the questions and answers are concerned.

MRS. KEMPSON: Yes. Surely.

THE CHAIRMAN: There are no further questions, and the Committee is now recessed until two o'clock.

NEW JERSEY STATE LEAGUE OF MUNICIPALITIES

808 Trenton Trust Building
Trenton 8, New Jersey

On behalf of the New Jersey State League of Municipalities, the following is submitted in reference to Article VII, Sections 2 and 4 of the Proposed Constitution.

Section 2. We believe that the text clearly and specifically indicates the intent to retain and preserve the right of the municipalities to revenues now dedicated by Statute to the municipalities. We, therefore, approve this Section.

Section 4. "Property shall be assessed for taxes under general laws, and by uniform rules, according to fixed standards of value."

This Section eliminates from the Constitution the provision that property shall be assessed on a basis of true value. We agree with this significant and important change because the actual administration of the tax laws is at variance with the present true value provision. We know that property is not being assessed at true value.

The language used in the proposed draft in our judgement, however, is ambiguous and tends to permit of various interpretations. The taxation provision is of such vital importance to every inhabitant of the State that the intent of the Legislature should be made clear. The entire question of taxation including exemption therefrom should be so stated that the Constitutional direction will assure equitable administration of the tax laws.

We, therefore, suggest the following for Article VII, Section 4:

"Property shall be assessed for taxes under general laws, and by uniform rules, according to classification and standards of value established by the Legislature. Ad valorem assessments shall not exceed true value.

"Laws establishing classification and standards of value for the purpose of taxation, or providing for exemption from taxation shall require for passage an affirmative vote of two-thirds of the members elected to each of the two Houses of the Legislature."

(Signed) James J. Smith
Executive Secretary

RESOLUTION

TO THE JOINT LEGISLATIVE COMMITTEE

HONORABLE SIRS:

The Union County Bar Association at its annual meeting held on Monday, February 7th, 1944, adopted a resolution recommending to your committee and favoring the following modifications in the proposed revised constitution (1944):

- (1.) Article III, Section IV, Paragraph 7 relating to Lobbying should be eliminated. Reason: This subject is within control of the Legislature and can be prohibited and controlled by statutory enactment.
- (2.) Article III, Section V, Paragraph 4. There should be eliminated the provision reading: "nor in any event to invalidate any law except in proceedings brought within two years from the effective date thereof". Reason: Persons incapacitated and others whose rights do not arise until after the two year period has elapsed might have their property rights affected or entirely destroyed. Otherwise the effect is to sanctify any error by mere lapse of time. An actual case may not arise within the two year period.
- (3.) Article III, Section V, Paragraph 7. A permanent law revision agency is favored as essential. Objection, however, is made to the mandatory revision every ten years. The time and the occasion should be left to the Legislature as necessity determines. Frequency of revision beyond necessity may be merely confusing instead of producing the clarity and simplicity which are the natural objectives. A mandatory ten year revision would subject taxpayers to an undue burden and lawyers would not be able to keep abreast of these continual revisions.
- (4.) Article III, Section VI, Paragraph 6. This section should be amended by inserting the words "adopt zoning ordinances to" on the second line between the word "may" and "limit" so that the same should read: "(6.) The legislature may enact general laws under which municipalities, other than counties, may adopt zoning ordinances to limit and restrict, to specify districts and regulate therein buildings and structures" etc, to the end thereof. Reason: The constitutional amendment adopted by the people relating to zoning contains the words "zoning ordinances" and we feel that no municipality should be permitted to regulate zoning except by a duly adopted ordinance previously authorized by act of the legislature.
- (5.) Article V, Section I, Paragraph 3. Strike out the words "at the seat of government" and substitute "at such place or places as may be designated from time to time by the Chief Justice". Reason: In order to make hearings before the Appellate Division more flexible this matter should be entrusted to the good judgment of the Chief Justice. Appellate Divisions should sit where the business of the Court requires sessions.
- (6.) Article V, Section III, Paragraph 3. We favor a separate equity court, branch or section. In the absence or impossibility of this, we recommend that there be retained and incorporated in the equity and probate section of the court as a distinctively functioning entity, the comprehensiveness of jurisdiction and practice inherent in the present equity court, so as to preserve the demonstrated value and benefits of that system of equity judicature.

Further resolved that copy or copies of this resolution be presented by one of our members, Mr. Emanuel Wagner, to the Joint Legislature Committee at its hearing to be held on Wednesday, February 9th, 1944.

The foregoing resolutions were adopted at a meeting of the Union County Bar Association held on Monday, February 7th, 1944.

(Signed)

Harrison Johnson

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SENATOR PASCOE:

First on the list this afternoon is

Mr. David H. Agans, Master of the New Jersey State Grange, Chairman of the Highway Users Conference, and former Senator.

MR. AGANS:

Mr. Chairman and Members of the

Committee: You will recall that we were here last Thursday and presented our brief in opposition to the diversion of highway funds. We would like at this time, not taking very much of your time, to present a supplement and, with your permission, I will introduce Mr. Gaffney who will present the supplement.

MR. GAFFNEY:

Mr. Chairman and Members of the

Committee, you will recall that at last Thursday's hearing the Highway Users Conference recommended an amendment to paragraph 2 of Article VII and, after a brief study on the part of the Committee, it was returned to the Conference with a request that we make a further study to see whether or not we cared to change our recommendation and have it recommended as a part of paragraph 3.

We have made a study of the matter and have written a memorandum which I will read for the record:

MEMORANDUM

SUBJECT:

Amendment to the Proposed Constitution for
the State of New Jersey

The purpose of this memorandum is to analyze Article VII under the title "Finance" with a view of determining wherein the proposed amendment prohibiting diversion of highway funds should be incorporated. A careful study of the article will show that there are but two Paragraphs in which the above-mentioned provision could properly be inserted. These are Paragraph 2 and 3. A further study indicates that for the following reasons Paragraph 2 is to be preferred to Paragraph 3:

- (1) The subject matter of Paragraph 2 pertains to authorizations for appropriations and use of revenue for public purposes, with certain exceptions. Any provision such as the suggested amendment respecting the use of certain tax monies for a public purpose ought to be incorporated therein. Where practicable and for purposes of clarity it is advisable to place exceptions as closely as possible to the general statement.
- (2) The remainder of Paragraph 2 expressly excludes certain other "monies" from the declaration that "revenues shall be subject to appropriation for any public purpose" by preserving such monies for the restricted uses for which they have been received.
- (3) Restricted use provision should be incorporated in the same Paragraph, i. e. Paragraph 2. Paragraph 3 pertains primarily to providing by appropriation for the "needs for support of state government." It will be noted that the emphasis in this section is placed upon "procedure" rather than upon providing for authorizations for appropriations.

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Also, reference is made to operations over a fiscal year, which supports the assumption that it is the intention to differentiate between the annual expenditures of public monies for essential governmental function (such as executive, judicial, police power, public welfare, prisons, etc.) and long term expenditure for public purposes.

In the light of the foregoing, it is submitted that the proposed amendment should be incorporated in Paragraph 2 and not Paragraph 3.

Before I finish, I would like to, for just a moment, discuss briefly one of the statements made this morning with reference to the Rhode Island situation.

The One Fund Act was passed in Rhode Island in 1935 and it was known as the Administrative Efficiency Code Act. Prior to 1935 the diversion from highway funds in the State of Rhode Island amounted to approximately one million dollars out of a total revenue take of five million dollars, or twenty per cent. Now, after the passage of the One Fund Act in Rhode Island in 1935, diversion of highway fund revenues has grown annually until in 1941 the diversion in Rhode Island amounted to four million, or approximately sixty-six per cent of the highway revenue. So, Gentlemen, we point to that danger in the State of New Jersey.

I believe that the Senator has one or two statements to make and at this time I will ask him to take over unless there are some questions you would like to ask.

SENATOR PASCOE: All right, we will hear from Mr. Agans.

MR. AGANS: Mr. Chairman, with your consent I would like to present each Member of the Committee with a digest of the Highway Fund Protection Amendment. May I have your consent?

SENATOR PASCOE: Certainly, we will be glad to accept one for each Member of the Committee and one to be made a part of the record.

MR. AGANS: Thank you very kindly for your indulgence for these few minutes. We will probably to back again.

SENATOR PASCOE: There are fourteen Members of the Committee.

MR. GAFFNEY: We have copies to send to the Members who are not present today.

SENATOR PASCOE: We would like to have one in the record in addition.

ASSEMBLYMAN LEONARD: I will hand my copy over for the record and it can be mailed to me.

A SUGGESTED AMENDMENT TO THE PROPOSED REVISED CONSTITUTION (1944) OF NEW JERSEY GUARANTEEING THE USE OF SPECIAL MOTOR VEHICLE AND MOTOR FUEL TAX REVENUES EXCLUSIVELY TO THE ADMINISTRATION, MAINTENANCE AND CONSTRUCTION OF HIGHWAYS AND THE PAYMENT OF PRINCIPAL AND INTEREST ON HIGHWAY BONDS.

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- V. Brief - Benefits to be derived through inclusion of amendment in revised Constitution.
- VI. Statements - Regarding highway fund protection amendments by Chambers of Commerce, Labor Unions, Governors, Members of Congress, etc.
- VII. Editorials - Newspaper editorials.
- VIII. Letters - From Civic and state authorities.

SPONSORS

ORGANIZATIONS SUPPORTING SUGGESTED AMENDMENT

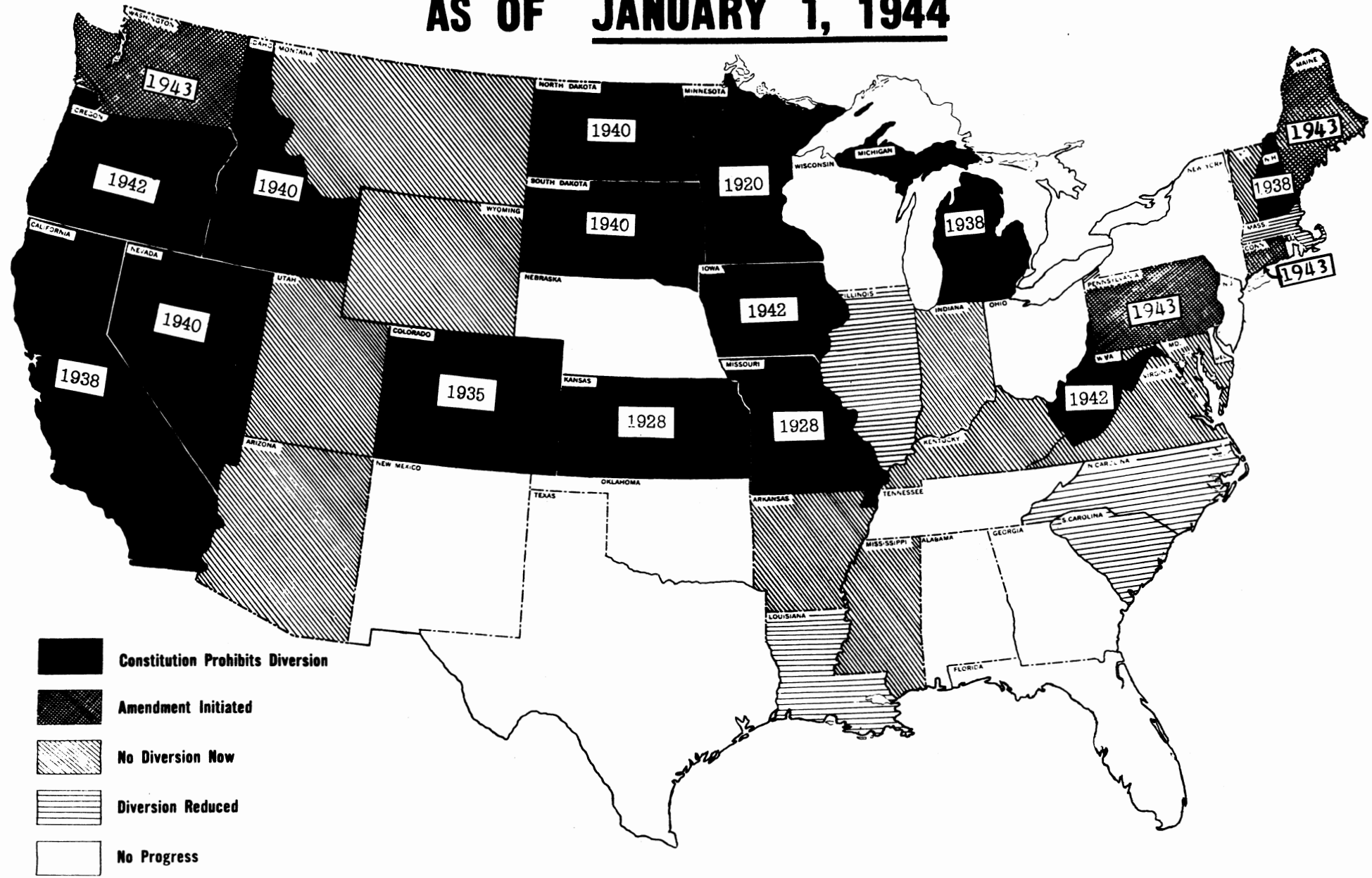
NEW JERSEY CONFERENCE OF AAA AUTOMOBILE CLUBS
 AUTOMOBILE LEGAL ASSOCIATION
 NEW JERSEY STATE GRANGE
 NEW JERSEY FARM BUREAU
 NEW JERSEY AUTOMOTIVE TRADES ASSOCIATION
 NEW JERSEY MOTOR TRUCK ASSOCIATION
 NEW JERSEY FURNITURE WAREHOUSEMEN'S ASSOCIATION
 NEW JERSEY ASSOCIATION OF TOWNSHIP COMMITTEEMEN
 FUEL OIL DISTRIBUTERS ASSOCIATION OF NEW JERSEY
 CENTRAL NEW JERSEY FUEL EXCHANGE
 NEW JERSEY PETROLEUM INDUSTRIES COMMITTEE
 ASSOCIATION OF CHOSEN BOARDS OF FREEHOLDERS OF NEW JERSEY
 NEW JERSEY GASOLINE RETAIL DEALERS ASSOCIATION

SUGGESTED AMENDMENT TO ARTICLE VII DEALING WITH FINANCE.

1. The credit of the State shall not be directly or indirectly loaned in any case.
2. All revenues of the State Government from whatever source derived, including revenues of all departments, agencies and offices, shall be paid into a single fund to be known as the General State Fund and shall be subject to appropriations for any public purpose; except that no moneys derived from fees, excises or license taxes relating to registration, operation or use of motor vehicles on public highways, or to fuels used for propelling such vehicles, shall be expended for other than cost of administration, statutory refunds and adjustments, payment of highway obligations, costs for construction, reconstruction and maintenance of public highways and bridges and expense of enforcing state traffic laws, and such moneys shall be expended under the supervision and jurisdiction of the state department having charge of highways; nor shall this paragraph apply to moneys which may be received or held in trust or under grant or contract for restricted use or which must be received or held in a particular manner in order to receive a grant or which may be payable to any county, municipality, or school district, of the State. Nothing in this paragraph shall prevent or interfere with any payment of state revenues to, or any direct or indirect collection or retention of state revenues by, any county, municipality or school district which payment, collection, or retention, may be provided by law. Nothing in this paragraph shall abridge the right of the State to enter into contracts.

NOTE:- The underscored is the amendment to dedicate automotive taxes to highway purposes only, as proposed by the New Jersey Highway Users Conference.

**PROGRESS IN PROTECTING HIGHWAY TAX FUNDS
AS OF JANUARY 1, 1944**



- Constitution Prohibits Diversion
- Amendment Initiated
- ▨ No Diversion Now
- ▨ Diversion Reduced
- No Progress

(Insert 3)

CATECHISMA SUGGESTED AMENDMENT TO THE PROPOSED REVISED
CONSTITUTION TO PROTECT NEW JERSEYS' HIGHWAY FUNDSWhat is the purpose of the proposed amendment?

To guarantee use of gasoline taxes and registration fees for maintenance and improvement of highways and for payment of interest and principal on highway bonds.

How will it save New Jersey taxpayers' money?

By conserving highway taxes, it will keep motor vehicle taxes down and will make property and other taxes for state highways unnecessary.

How will it give us better highways?

During the war, it will insure adequate highway maintenance. After the war, it will guarantee the eventual improvement of the highways that need to be resurfaced, modernized or re-constructed.

How will it protect the credit of the state?

Rationing of gasoline and tires is reducing revenues from gasoline taxes and license fees from which approximately \$4,000,000 a year in bond interest and principal must be paid. From the same reduced revenues must come the increased cost of wartime highway maintenance. The "Highway Protection Amendment" will prevent the dissipation of road funds and insure the availability of funds to meet bond payments without reverting to real estate or any other type of new or increased taxation.

How will the "Highway Protection Amendment" aid labor?

Highway work will cushion post-war unemployment and provide jobs for returning soldiers and for men thrown out of war work. No form of public works uses more direct labor than highway construction. Ninety cents out of every dollar spent on road construction goes to labor. In normal times one out of every eight persons is employed in the automotive trades. Consequently, labor has a stake in preventing highway fund diversion or anything else that might create unemployment in the automotive businesses.

Is it important to New Jersey farmers?

Yes. Practically all produce raised on New Jersey's farms is transported by truck to markets, creameries, or transportation terminals. Convenient, economical highway transportation is, therefore, important to the farmers of this state, and the adoption of this amendment will guarantee that the farm roads of the state eventually will be improved.

How will the "Highway Protection Amendment" increase prosperity?

There are 797 communities in New Jersey - 43.7 per cent of all the communities in the state - which have no rail or air connections and which are completely dependent upon highway transportation for their existence. Their ability to expend, to accommodate new industries, to support bigger payrolls, is dependent upon good highways - upon the ability of trucks, buses and passenger automobiles to transport people and products to and from these communities. By insuring good highways, the amendment will assure the continued existence and prosperity of these communities.

How important is the suggested Amendment to New Jersey business?

New Jersey businesses must compete with business concerns of other states, and convenient, economical, rapid highway transportation is a factor in business costs. Good roads are especially important to New Jersey's tourist industry. This business, which brings to the state \$200,000,000 in cash in a normal year, did not develop until improved roads made our resort sections readily accessible to tourists. A sure way to lose this valuable business is by diverting highway money and neglecting the highways.

Why is such protection necessary during the war?

Because during the past year gasoline taxes, registration and license fees were approximately 40% below pre-war collections. Every cent of the State's diminishing highway revenue must be protected.

Why is such protection necessary after the war?

Because all road construction projects have been postponed for the duration, a large backlog of necessary highway improvement projects is being built up which must be undertaken when peace arrives. Unless priority on those projects can be established and unless the State is able to plan carefully its construction projects, delay and extravagance and waste are sure to creep in. If, however, the highway funds of the state are protected, the State will know how much is going to be available for highways over the years and will be able to plan its highway building program scientifically.

Would an anti-diversion statute provide sufficient protection for the highway funds?

No. A statute may be changed from year to year without recourse to the wishes of the people. A constitution, however, can be changed only with the consent of the people. The proposed amendment would guarantee that our highway funds are protected until the people of New Jersey themselves decide otherwise.

What other states have such amendments?

Fourteen states in all have such amendments. They include California, Colorado, Idaho, Iowa, Kansas, Michigan, Minnesota, Missouri, Nevada, New Hampshire, North Dakota, Oregon, South Dakota, and West Virginia. The last three of these were ratified by the people in 1942, when the people ratified them by majorities of 8 to 1 in Iowa, 2½ to 1 in Oregon, and 6 to 1 in West Virginia.

Last year the legislatures of Connecticut, Maine, Pennsylvania, and Washington approved similar amendments, and the people in two of these states - Maine and Washington will vote on the question at the November 1944 Fall elections. In Pennsylvania and Connecticut second passage by their legislatures is required before these amendments will be submitted to the people.

And the trend hasn't stopped! On January 27th, 1944, the Senate of Kentucky passed a similar amendment by a vote of 36 to 0.

Why should the amendment be passed?

Historically and in fact our highway taxes are special assessments for a specific purpose, the building and maintaining of highways. When used for highways, the gasoline tax is the fairest tax in existence because the motor vehicle owner pays according to the amount which he uses the highways. When it is diverted to non-highway purposes it becomes the unfairer and the most unjust of all taxes because it results in the double taxation of motor vehicle owners.

The protection of highway funds belongs in the constitution. The protection of the taxpayers in the disposition of their special highway assessments lays down a fundamental principle for the guidance of future legislatures, and like all constitutional principles, it places certain limitations upon the legislature and increases the power of the people. The question of how the highway funds should be appropriated or allocated among the various classes of highways in the state, is left entirely in the hands of future legislators. All that is asked is that the fundamental principle of using special highway user taxes for highway purposes only, be guaranteed in the new constitution.

BRIEF

Statement by New Jersey Highway Users Conference,
David H. Agans, Chairman

RE: AN AMENDMENT TO PROTECT NEW JERSEY'S HIGHWAY FUND

AN AMENDMENT TO THE PROPOSED REVISED CONSTITUTION OF THE STATE OF NEW JERSEY GUARANTEEING USE OF SPECIAL MOTOR VEHICLE AND MOTOR FUEL TAX REVENUES EXCLUSIVELY FOR THE ADMINISTRATION, MAINTENANCE, AND CONSTRUCTION OF HIGHWAYS AND THE PAYMENT OF PRINCIPAL AND INTEREST ON HIGHWAY BONDS.

1. Purpose of the Amendment

Purpose The purpose of the suggested amendment is to assure that revenue from motor vehicle registration fees, from the state gasoline tax, and from other special taxes and fees levied on motor vehicles shall be used exclusively for the administration, maintenance and construction of the state's highways, including the cost of highway bond service,

Diversion in New Jersey

Starting in 1930 and continuing through 1943, there has been diverted from the highway fund of New Jersey the following amounts:

1930	\$26,988,250.00
1932	28,161,033.50
1933	5,000,000.00
1935-1936	7,572,437.00
1937	9,077,660.00
1938	9,790,000.00
1939	6,241,250.00
1940	3,106,000.00
1941	7,219,000.00
1942	8,090,000.00
1943	8,509,566.41
	<u>\$119,755,196.91</u>
Interest Cost) in Relief Bonds)	<u>4,387,500.00</u>
Total	\$124,142,696.91

The condition of our state finances is such that these diversions can now be eliminated altogether without any serious readjustment of the State's finances. Realizing that highway funds will continue to be subject to raids unless very strong safeguards are placed around them, a large number of civic-minded organizations in New Jersey interested in preserving an adequate, self-financing highway system are supporting the suggested amendment, because it is the only practical guarantee for the integrity of the highway funds.

2. Would Require No Readjustments

State Finances Not Affected

New Jersey is in a favorable position at this time to take action on this proposal, for the adoption of it would mean no search for new or increased taxes. The proposal would in no way change the present sources of highway revenues. The allocation of such revenues to legitimate highway purposes would remain subject to the discretion of the Legislature. It merely insures that special highway tax revenues are dedicated exclusively to highway purposes without diversion of any kind.

Gasoline Tax Is A Highway Toll

The wording of the state gasoline tax law unmistakably reveals that it is not a general purpose tax, but a special tax for highway purposes. The tax is refunded on all gasoline not used in the propulsion of vehicles over the highways. The law states that any person, using fuel on which the gasoline tax has been paid and shall consume the same in any manner except in the operation of motor vehicles over highways, shall be reimbursed for the amount of the tax paid.

Law Specifically Declares Gasoline Taxes and Registration Fees Must Go for Roads

Part of Sec. 52:22-20 Cum. Supp. 1938-40 of R.S.p.525, State Highway Fund: Withdrawals. 1. All moneys now in the treasury of the State or which hereafter shall be received into such treasury from any and every source which are dedicated to highway purposes, which shall include all revenues from the motor fuel taxes and the motor license fees and fines, shall be set up by the state treasurer in a separate fund to be known as the state highway fund, and no money shall be withdrawn from such fund, except as shall be included in the state highway fund appropriation act except for the purposes enumerated in subdivisions "d-1" (Debt service on bonds payable from revenues derived from motor fuel tax.), "d-2" (State-aid projects.), and "d-3" (Reimbursements to municipalities.) of this section, or for further grants of moneys to counties or municipalities for road purposes or for the payment of interest or principal on reimbursement obligations heretofore incurred for road purposes, and provided for in subsections "g" and "h" of this section, and none other, excepting as hereinafter provided for in this subsection, and any unexpended or uncommitted balances of such appropriations shall revert back to the state highway fund.

Statutes Have Proved Inadequate

Thus the laws of the State of New Jersey are emphatic that registration and license fees and gasoline taxes shall be used for roads. But, the record of diversions shows that the present statutes have proved to be inadequate. A provision in the proposed revised constitution is needed.

3. War Makes Amendment Especially Desirable

War Is Resulting in Decreased Highway Revenue

New Jersey is losing millions of dollars in gasoline and registration fees as a result of gasoline and tire rationing. Figures for the last fiscal year show that automotive taxes have dropped off 40%.

No one knows when the war will end, but the longer it lasts the greater will be the drop in receipts from gasoline taxes and registration fees. Consequently, it is imperative that every cent of highway revenue obtained by the state should be safeguarded carefully. Inclusion of the anti-diversion provision in the revised constitution is the first

step in that direction.

Payments on Road Bonds Must be Made

Although wartime restrictions will cut New Jersey's highway receipts by millions of dollars, heavy fixed charges against the remaining revenue must be paid. The inclusion of the anti-diversion provision is a step toward insuring that these charges will be met without recourse to borrowing from the general fund and without the assessment of additional taxes.

New Jersey has outstanding approximately 32 million dollars in Highway Bonds. Annual principal and interest payments amount to and will continue to amount to, for the next few years, about 4 million dollars, or nearly 20% of our reduced automotive tax revenues.

Adequate Maintenance Needed for Successful Prosecution of War

The cost of highway maintenance and administration is another heavy and inescapable charge against the highway funds. These charges amount to approximately $3\frac{1}{2}$ million dollars annually, or 12% of our reduced revenues. New Jersey has a big investment in its highway system, and unless the state's highways are promptly and adequately maintained at all times, including the present, this investment, paid for with the hard-earned dollars of the highway taxpayers, will be lost.

Entirely aside from the practical desire to protect this enormous investment it is necessary to have adequate funds available for maintenance as a patriotic contribution toward the success of the war. Not only are well-maintained roads essential in the movement of troops and military equipment along the East Coast, but they are equally necessary to facilitate the flow of materials and ordnance from New Jersey's war plants.

A substantial portion of all the shipments of raw material and finished products into and out of this state's war plants is carried by motor truck. A survey in Michigan showed that 65% of the incoming and 69% of the outgoing freight moving to and from war plants is transported by motor vehicle.

As a patriotic contribution toward the nation's war effort, this state has an obligation to maintain its highways in good condition for the duration of the war, and the first step in insuring that sufficient money is available for maintenance and debt service during this time of reduced highway income is through the inclusion of the highway fund protection amendment in our revised constitution.

4. A Relatively Small Part of New Jersey's Highway Funds in the Past Have Been Used for New Highway Construction

Constructing Roads With Bonds Costly

The thought has often been expressed that since we collect some 50 odd million dollars annually from gasoline taxes and registration and license fees, this is more than we can possibly use in the new state highway construction. Actually over the past few years only a relatively small part of the annual collections in automotive taxes has gone to new state highway construction. Since the establishment of the State Highway Department in 1917 we have made a capital investment in State Highways in New Jersey of approximately a third of a billion dollars. Of these expenditures approximately one-third, or 128 million dollars represents funds derived from issues of bonds. Had we not diverted 124 million dollars since 1930 we could have built our

roads without borrowing this money. Since 1930 we have issued 81 million of the 100 million dollars of highway bonds authorized by vote of the people and before we are finished paying off the principal on these bonds the interest and carrying charges, alone, will approximate 60 million dollars, which sum of money could have gone a long way towards constructing new highways in New Jersey.

Only 25% of Highway Funds Spent Each Year for New State Highway Construction

Of the approximate 50 million dollars which has gone into our Highway Fund each year over the past 11 years from motor vehicle registration, license fees and gasoline taxes and Federal Aid, we have spent only 11 million dollars or about 20% of the fund for new state highway construction. This is because of the diversions of the past and the fixed charges which must be met out of the Highway Fund. A breakdown of the Highway Fund reveals that these fixed charges have amounted over the past 11 years to about 1/2 of the expenditures, or 50% of the fund. A further breakdown of these figures based on expenditures made from 1931-41 show us that on the average, the following annual expenditures were made:

Administration	\$3,304,043.00
Return to Municipalities	1,490,588.00
Maintenance	3,376,408.00
Debt Service & Retirement	6,787,657.00
State Police	228,805.00
Distribution of Highway Funds to Local Government for Highway Purposes	8,990,665.00
Miscellaneous	1,247,717.00
Cost of WPA Roads & Bridges	613,694.00
Diversion	8,385,678.00
New State Highway & Bridge Construction	<u>11,572,649.00</u>
TOTAL	\$45,997,904.00

Can Spend 50% of Fund of New Highways if Diversion is Stopped

An analysis of those figures shows that we have spent only about 25% of our Highway Fund each year over the past 11 years for new State Highway and Bridge construction. If we stop diversion in the future, there is no reason why we cannot spend annually over 50% of our Highway Fund on new highway construction and have a highway system in the State of New Jersey equaled by no other State in the Union.

A further analysis of the above figures shows what we may expect in the way of highway expenditures in the future, if we adhere to a sound policy of highway finance. As our highway system becomes more involved we probably can expect larger administration costs. We will not have the expenditure represented as one and one-half million annually to cities and towns, since this was a reimbursement totaling

approximately 16 million dollars, which we made to cities and towns from 1931-1933 inclusive as a token payment for the Mill Tax which was in effect at this time. We can expect our maintenance costs to be larger than \$3,376,408. a year because as our highway system is enlarged our maintenance costs increase. If we do not issue any more bonds our debt service cost will decrease each year until 1950 when our Bonds will be practically paid off. The 11-year average for State Police may be somewhat misleading since we have been appropriating money to the State Police only since 1938. These appropriations have amounted annually to over one-half a million dollars. We can expect our distributions to local government to be at least 10 million a year in the future. So, it is obvious that we will continue to have fixed charges of approximately 25 million annually, or 50% of the Highway Fund. This will leave us 25 million a year for new highway construction which, according to authorities on the subject, will be little enough.

5. Highway Funds will be Needed for Post-War Improvements

Traffic congestion through and between large metropolitan areas after the war will continue to be a large problem. Steps should be taken immediately to solve this problem after victory is ours. Widening arterial routes through cities, building over-passes and under-passes and elevated highways and constructing by-passes to carry through traffic around cities will all be necessary to solve the traffic problem. To do all this will take motorists' tax dollars which should be guaranteed to this purpose now through a constitutional provision.

Road Needs are Being Built Up During War

The federal government has announced the cancellation of all federal aid contributions for highway construction for the duration of the war, except for roads of strategic military importance. All state highway construction projects likewise are postponed for the duration of the war, which is resulting in the accumulation of a large back-log of urgent highway construction projects for the post-war period. This is, of course, over and above all the construction projects that were planned prior to our entry into the war.

According to our Highway Officials, the October 1943 issue of American Highways, published by the American Association of State Highway Officials, New Jersey should spend immediately after the war over \$193,590,000. to bring its highway system up to date. This information was furnished by our own State Highway Department. The job can be completed in 8 years, if we guarantee in our revised constitution the use of highway funds for highway purposes only. If we dissipate them in the future as we have in the past, it will take us 20 years to make these improvements. In the 1942 report of our State Highway Department it is stated that to modernize the highways in our State it will require an estimated cost of \$496,770,000. If we continue to divert money after the war at the same rate we diverted it prior to the war, it will take us 50 years or almost into the twenty-first century to do this job. If we use our Highway Funds for the purposes for which they are raised, we can do this job on a pay-as-you-go basis in 20 years. This program ties in with the proposed Federal Post-War Program for a 34,000 mile interregional Highway System as announced in Congress recently.

When we further realize that the average life of a highway is only 20 years, at which time it is often necessary to resurface a highway, we can see what a tremendous job of highway construction we have ahead of us.

In order to plan and carry out a sound, long-range highway improvement program with a minimum of waste, extravagance and inefficiency, we must be able to estimate in advance what revenues we will have at our disposal. We can do this if we know that the highway funds of the state are protected against diversion and misappropriation. It is the only way we can plan. Consequently, the only assurance which the people of this state can have that a long-range, well-planned highway improvement program can be carried out is through the inclusion of the road fund protection provision in the new constitution.

6. Amendment will Help to Prevent A Post-War Depression

Will Aid Transition from War to Peace-Time Economy

A problem uppermost in the minds of thoughtful people everywhere is how to cushion the shock of the economic readjustments after the war is over. Men who are now employed in war plants will be thrown out of employment. Servicemen will return home in search of employment. To avert a critical post-war depression, some employment stop-gap is required. President Roosevelt recently asserted that the launching of a post-war program of highway modernization and improvement will be one of the best ways to cushion the unemployment that may result from the stoppage of war production.

Statistics of the Federal Public Roads Administration reveal that road construction employs more men for the amount expended than practically any other form of constructive endeavor. Ninety cents out of every dollar spent on road construction goes to labor. For every one dollar spent on highways, there is a resulting \$3.15 turn-over in wages and trade. For every man directly employed on the road job, 1.4 men are employed behind the lines. With adequate planning during the war, it will be possible to start highway work with a minimum loss of time.

The inclusion of the Highway Fund Protection Amendment in the revised constitution will be an important step taken to insure that a post-war depression will either be avoided entirely or will be kept to an absolute minimum. It is one insurance policy which costs nothing. Yet it may save thousands of New Jersey's families from relief rolls.

7. Protection of Road System Insures the Future Prosperity of the State

Long-Term View Favors Amendment

The need for husbanding all highway tax funds during the war is obvious. It is equally imperative after the war, because the civic, commercial, and industrial prosperity of the state is dependent upon the maintenance of a modern highway transportation system.

The automotive industry and related trades, which normally employs one out of ten workers in New Jersey, was the first industry to feel the impact of war shortages. If this industry, which is of such economic importance, is going to take the place which it had before the war in our post-war civilian economy, conditions will have to be favorable for its return. These conditions are, reasonable taxation of highway users who are the customers and the construction of a highway system adequate for highway users to drive on.

More than 44% of all the communities in New Jersey are completely dependent upon highway transportation for their continued existence. They have no railroad connection and no airports. Their ability to expand, to accommodate new industries, to support bigger payrolls is

A good example of what can be accomplished by building safety into the highways, is found in our State, whose accident experience before and after highway improvement has proved conclusively that, by constructing highways according to modern safety standards, the accident rate can be reduced to a minimum. In a two-mile stretch of four-lane undivided road in this state, the installation of a 12 ft. center island separating opposing traffic on two 20 ft. roadways, was responsible for a 36% reduction in accidents. In another project which involved the conversion of a 7 mile highway from a two-lane to a four-lane divided roadway with some changes in alignment, resulted in a reduction of 46% in traffic accidents.

Arnold H. Vey, New Jersey Traffic Engineer, has estimated that if it were financially possible to reconstruct New Jersey Highways, building safety into them, it would be possible to reduce New Jersey's accident rate by 75%.

Thus, it is quite evident that a substantial reduction in our New Jersey traffic toll can be readily brought about in the post-war period by dedicating highway funds for needed highway improvements.

9. Benefits of Road Fund Protection Proved Elsewhere

The provisions of the Highway Fund Protection Amendment are very similar to the provisions of similar amendments that have been adopted by 14 other states in recent years. First tried out in Minnesota, Kansas and Missouri more than a decade ago as a means of protecting highway tax funds against waste and diversion, these amendments have proved so popular and successful that 10 states in the last 5 years have amended their constitutions in this way. At the election in 1942, Oregon, Iowa and West Virginia ratified similar amendments, the last two states by majorities of 8 to 1 and 6 to 1 respectively. Last year the legislatures of Connecticut, Maine, Pennsylvania and Washington approved similar amendments, and the people of two of these states - Maine and Washington -- will vote on the question at the November 1944 fall elections. In Pennsylvania and Connecticut second passage by their legislatures is required before these amendments will be submitted to the people, and the trend has not stopped! On January 27, 1944 the Senate of Kentucky passed a similar amendment by a vote of 36-0.

The complete list of states now having such amendments includes California, Colorado, Idaho, Iowa, Kansas, Minnesota, Michigan, Missouri, Nevada, New Hampshire, North Dakota, Oregon, South Dakota, and West Virginia.

10. Amendment Represents the Only Proper Method of Protecting Road Funds

Constitution is Only Proper Place For Policy Questions

Obviously, this protection belongs in the constitution and not on the statute books. A paragraph from Corpus Juris Secundum published by the American Law Book Company, a recognized authority on constitutional law, states: "The ultimate distinction between statute law and the constitution is not the character of the latter's provisions, nor yet their binding force, but the formal mode by which they may be changed."

In other words, any law which the people wish to protect, or which they wish to control directly, is proper matter for the constitution. The statutes, on the other hand, are of a more transitory nature.

This protection of the taxpayers in the disposition of their special highway assessments lays down a fundamental principle for the guidance of future legislatures, and like all constitutional principles, from the Magna Carta to the present day, it places certain limitations

dependent upon the ability of trucks, busses and passenger automobiles to transport people and products by highway. When the roads leading into these communities are modernized and extended, prosperity is increased. If they are permitted to disintegrate, the importance of the communities will immediately begin to decline.

Essential to Industry

Many of New Jersey's most important industries, likewise, are dependent upon highway transportation for their continued existence. In a nation of free enterprise, such as the one in which we live, the survival of any business enterprise depends upon its ability to meet competition, its ability to effect economies, and its operating efficiency. Small savings in time, money or labor are often the margin between success or failure. The ability to effect these savings often depends upon the convenience, the low cost and the speed of highway transportation.

Like industry, New Jersey agriculture is forced to meet the competition of farmers from other states, and a primary factor in this competition is the availability of quick and economical transportation facilities, enabling our farmers to carry their own produce to the railroad station or directly to market in their farm trucks.

Good roads are a boon to agriculture. A study by J. L. Tennant at Cornell University showed that a hard-surfaced road increases the value of farm land about 20%. Practically all vegetables and fruits produced in New Jersey are consumed within the state and are transported from farm to market by truck. In 1941 New York City, which serves as a market place for hundreds of New Jersey farmers, received 45% of its fruits and vegetables, 48% of its eggs and 76% of its live poultry by truck. To be operated efficiently trucks must have good roads on which to travel.

Roads in Peace Bring State \$200,000,000. of Tourist Business Yearly

In times of peace this state's tourist business is one of its important industries. According to the New Jersey Council this tourist trade is worth \$200,000,000. a year to New Jersey. This business means more than an increase in trade for hotels, stores, filling stations, garages and restaurants. It means additional jobs for New Jersey's men and women. It means increased tax revenue flowing to the state treasury. It means greater cash income for farmers.

The surface of this tourist business has just been scratched. Possibilities of its growth are unlimited. Our chief recreational market is east of the Mississippi River and North of the Ohio River. In this area resides 72% of the population of the United States. Practically this entire distance is within two days' driving distance of New Jersey. New York, with its 12,000,000 population and its proximity to New Jersey, offers a substantial field in which to sell vacations. The average American going on a vacation is interested in getting to his point of destination quickly. We have the ideal vacation land of America, and three-fourths of the business, or recreational market, is within 500 miles of our State. Our job is to bring tourists to New Jersey. A good Highway System will do much to entice tourists here. The inclusion of the Highway Fund Protection Amendment is the first step.

8. Good Roads Reduce Traffic Deaths

Straightening crooked roads, eliminating blind curves and hill-tops, by-passing towns and cities, eliminating railroad crossings, building divided highways, grade separations, and widening, all cost money. Diversion perpetuates death and accident on the highways.

upon the legislature and increases the power of the people.

There is nothing new or unusual about this proposal to provide constitutional protection for the state's special highway assessments. Our old constitution contained protection for certain trust funds of the same nature.

Furthermore, the new constitution in its preliminary draft contains this provision; "The Fund for the support of public free schools, and all money, stock and other property, which may hereafter be appropriated for that purpose, or received into the treasury under provisions of any law heretofore passed to augment the said Fund, shall be securely invested, and remain a perpetual Fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of the public free schools, for the equal benefit of all the people of the state; and it shall not be competent for the Legislature to borrow, appropriate, or use the said fund or any part thereof, for any other purpose, under any pretense whatever. (Proposed Revised Constitution (1944) Article III, Section VI, Paragraph 8.)

The protection of highway funds belongs in the constitution, just as does the protection of school funds. In normal years automotive tax collections in New Jersey amount to 30% - 40% of the total state revenues. Surely the question of how such a large part of our state revenues shall be used is of sufficient importance to include in the constitution. The proposed change would require no major modification of the draft proposed by the special legislative committee. It would merely include in the section dealing with finance, a provision guaranteeing that registration, license fees and state gasoline taxes shall be used for highway purposes only. The question of how the highway funds shall be appropriated or allocated among the various classes of highways in the state, namely, state highways, county highways, municipal streets and farm-to-market roads, is left entirely in the hands of future legislators. All that is asked is that the fundamental principle of using special highway user taxes for highway purposes only be guaranteed in the proposed revised constitution.

11. Why the New Jersey Constitutional Convention Should Act Favorably on the Highway Fund Protection Amendment

A Summary

New Jersey's highway revenue has been cut by millions of dollars as a result of wartime conditions, yet from the reduced revenues highway bond service and adequate wartime highway maintenance costs must be met. Due to the curtailment of highway construction during the war, a large back-log of necessary road construction projects is being built up, which must be met after the war with a minimum of waste, and delay and inefficiency, and with the amount of highway funds then available. Unless the State knows in advance approximately what funds are going to be available to it, it cannot plan its highway improvement program on a sound, scientific basis; and the only way it can estimate what future revenues will be available for highway improvement is with the assurance that gasoline tax and registration fee revenues are protected against diversion.

New Jersey's prosperity and welfare, in time of peace, depend upon the continued development of its highway system. The state's manufacturing, tourist industry and agriculture all benefit from the highway system which is self-financed through taxes levied upon the users of those highways. The success of this method of highway finance is contingent upon the protection of the highway taxes that are paid in.

We have learned from the experience of other states that the only adequate safeguard for the highway funds is a constitutional barrier against diversion. The value and effectiveness of such amendments have stood the test of time. They have proved to be successful and popular in 14 states.

The amendment proposed would entail no change in present sources of highway revenues, nor increase taxes of any kind. It will merely place our basic highway taxation policy in the constitution where it belongs. When our old constitution was drawn up, there was no such thing as a motor vehicle, and so there was no need for a provision outlining the state's basic highway tax policy. The opportunity now exists to correct this deficiency.

STATEMENTS

BUSINESS MEN SAY:

"The membership of the Chamber have by repeated declarations supported the principle that highway users, in addition to being fully subject to all other taxes, should through special taxes pay the cost of improving and maintaining the highways of general motor use, and that the proceeds of such special taxes shall be applied exclusively for highways."

U. S. Chamber of Commerce

"The only adequate protection to the future use of Alabama's highway funds and to the future of Alabama's highway progress is by the way of a constitutional amendment requiring that all state gasoline tax, motor vehicle registration fees and truck mileage taxes be used exclusively for road purposes. The Alabama Junior Chamber of Commerce hereby actively endorses such a amendment and pledges its active cooperation to other groups in support thereof."

Alabama Junior Chamber of Commerce

The California State Chamber of Commerce adopted a report of its highway committee and urged all of its members to vote for the anti-diversion amendment on the ballot in 1938. The Southern California Businessmen's Association circularized its membership and urged that they support the amendment. (The amendment was passed.)

California State Chamber of Commerce
Southern California Businessmen's Ass'n.

"A good highway system will prove a great cash asset to the state. It will attract tourists, who help pay gasoline taxes. A good highway system will provide new business, new capital for the state. A good highway system will pay immediate cash returns to our farmers and to business generally. Future income will be more certain. What greater service can service clubs and road committees render the state and themselves than to get into action right now?" (From bulletin to members written just prior to the adoption of the North Dakota amendment. The amendment was passed.)

Greater North Dakota Association
(The State Chamber of Commerce of
North Dakota)

"The adoption of Amendment 'A' will safeguard future automotive tax funds so that they will be available for highway construction. As a result, the merchants and businessmen of the state can feel secure in the knowledge that potential customers are driving to their doors instead of avoiding them. Everyone in the state benefits directly or

indirectly from our profitable tourist trade, and a vote for Amendment 'A' next Tuesday will be a vote to continue that trade." (Amendment was adopted.)

Greater South Dakota Association

The West Virginia Chamber of Commerce at its annual convention in Wheeling, West Virginia, May 9, 1941, passed a resolution supporting an amendment to the state constitution to safeguard the road funds. "We endorse the proposed anti-diversion amendment to the state constitution to be voted upon at the next general election," the resolution declared, "and we recommend its adoption to our members and the people of the State of West Virginia." The amendment was approved by the people of the state by a majority of 6 to 1 at the general election in November, 1942.

West Virginia Chamber of Commerce

LABOR ORGANIZATIONS SAY:

Both the C.I.O. and the A.F. of L. unions in Alabama have approved a constitutional amendment to protect the road funds of that state.

Alabama State Industrial Union Council
Birmingham Trades Council (AFL) (CIO)

The Iowa State Federation of Labor endorsed a constitutional amendment protecting the highway funds at its annual convention in June, 1940. The amendment was approved by the people at the November election, 1942.

Iowa State Federation of Labor (AFL)

"Every million dollars diverted from the highway fund deprives men of employment in highway construction and brings about a loss of \$3,150,000 in wages to trades in 24 related industries which supply highway materials, equipment and services. Diversion, a form of double taxation, penalizes greatest the small wage earner since the bulk of automobiles are owned by families with incomes of less than \$30. a week. Many workers are entirely dependent on the automobile for transportation to and from work."

Massachusetts State Federation of Labor
(AFL)

"Proposed amendment to the constitution would prohibit diversions of funds from the state highway fund for any purpose other than the construction and maintenance of highways. Its purpose is sound, and it is the opinion of the board that it is worthy of support. (Amendment ratified by the people of Oregon November, 1942.)

Oregon State Federation of Labor (AFL)

"The Executive Board recommended that we support the Constitutional Amendment (Amendment 304, the Good Roads Amendment). Moved, seconded, and carried to concur with the decision of the Executive Board."

Oregon State Industrial Union Council
(CIO)

FARM ORGANIZATIONS SAY:

"Whereas, the orderly development and expansion of our highway system is contingent upon the preservation of a fair basis of taxation, and

"Whereas, reasonable license fees and gasoline taxes are everywhere

recognized as sound methods of securing the funds necessary to construct and maintain these highways, and

"Whereas, today widespread efforts are being made to divert these highway funds to other purposes,

"Therefore, be it resolved, the National Grange again re-affirms that special taxes levied upon motor vehicle ownership should be used for highway construction and maintenance and for no other purpose."

The National Grange

"We request the discontinuance of diversion of revenues obtained from all gasoline taxes for any purposes other than highway building, maintenance, and the payment of outstanding highway obligations. We recommend that states which continue to divert such revenues should be penalized by receiving lesser, or no funds, for highway building and maintenance from the federal government."

The American Farm Bureau Federation

"Farmers purchase more gasoline than any other group; hence they are the largest payers of gasoline taxes. Gasoline taxes were imposed for construction and maintenance of highways, being considered as the fairest measure of the use of highways. We are, therefore, opposed to the appropriation of gasoline or motor vehicle license tax funds for other than highway purposes."

National Farmers Educational and
Cooperative Union

STATE GOVERNORS SAY:

"I find myself in agreement with the recommendation (Highway Survey Commission) that the annual allocation of \$1,250,000 of highway revenue to the general fund be discontinued. This will not only add revenue to the state, city and county highway departments, but will offer convincing proof that we subscribe to the non-diversion theory concerning highway revenue."

Governor Henry F. Schricker (Indiana)

"Diversion of motor vehicle tax revenue to other than highways is morally wrong.

"When the motoring public pays taxes for roads, they are absolutely right in their expectations that the money shall be used for that purpose and no other purpose.

"Maryland's highways today need the special taxes collected for the roads. When the day arrives that special taxes are no longer needed, the taxes should be reduced."

Governor Herbert R. O'Connor (Maryland)

"Motorists have suffered long enough. Diversion of moneys from the highway fund to non-highway purposes is a practice born of expediency, not of far-sighted or sound economic administration. Eventual lessening of the tax burden upon the automobile owners of Massachusetts demands a discontinuance of this unfair and inequitable practice of diversion."

Governor Leverett Saltonstall
(Massachusetts)

"Michigan motorists were given their greatest Bill of Rights in all the history of this state when voters approved a constitutional amendment prohibiting the diversion of motor vehicle taxes.

"A constitutional amendment is the best way to prevent diversion. Its adoption should be urged in every state,

"Given the opportunity, the voters in other states will write such a guaranty into their constitutions."

Former Governor Murray D. Van Wagoner
of Michigan

"In order to protect the revenues now set aside for highway construction and maintenance, I recommend that this legislature submit to the people a constitutional amendment which would prevent diversion of these funds to any other purpose."

Governor John J. Dempsey (New Mexico)

"It would be manifestly unfair to force our farmers and low-salaried workers to assume through diversion the bulk of the burden of paying taxes for general purposes. Yet that is what happens when highway funds are diverted.

"I endorse the amendment to dedicate gasoline tax and motor vehicle license taxes for highway construction."

Governor John Moses (North Dakota)

"I believe it is a well-established and fundamentally sound principle that monies accumulating to the highway department be used in their entirety for the construction and maintenance of highways."

Governor Leslie C. Hunt (Wyoming)

MEMBERS OF CONGRESS SAY:

"Since it is unfair and unjust to tax motor vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those states that use at least the amounts now provided by law for such purposes in each state from state motor vehicle registration fees, licenses, gasoline taxes and other special taxes on motor vehicle owners and operators."

Declaration of policy by the U. S.
Congress in Section 12 of Federal
Highway Aid Act,

"Enactment of state laws diverting gasoline and other motor vehicle taxes from highway purposes can only be construed by the National Congress as a clear indication that the states do not care to continue to receive the benefits of federal aid for roads."

Senator Carl Hayden (Arizona)

"If we are going to protect our investment in highways, reduce the staggering annual cost of traffic accidents, and give the motorists the freedom, economy and safety of travel for which they have always been willing to pay, the gasoline tax must be restored to its original purpose. Diversion of highway revenues must be checked."

Senator Charles L. McNary (Oregon)

"Congress cannot be expected to continue indefinitely to help complete the highway systems of those states which pursue the indefensible practice of misappropriating their gasoline and other motorists' special taxes to purposes not related to highways."

Congressman Wilburn Cartwright
(Oklahoma)

THREE GREAT VICTORIES ON THE AMERICAN HIGHWAY FRONT

Iowa, Oregon and West Virginia place Constitutional safeguards around special taxes for road purposes.

Dedication of Highway Funds

Citizens of three additional states, Iowa, Oregon and West Virginia, marched to the polls on November 3, 1942, and voted over-whelmingly to amend their state constitutions to require that all special motor vehicle taxes be dedicated solely to highway purposes.

Iowa chalked up the greatest victory for the amendment with a voting majority of approximately eight to one. West Virginia followed closely giving its "Good Roads Amendment" an approval of nearly six to one, while Oregon voters cast their ballots approximately one-and-one-half votes for the amendment to each vote against it.

Public sentiment against the use of special highway taxes for non-highway purposes has been growing in recent years and 14 states now have constitutional amendments prohibiting this practice. Minnesota headed the parade of constitutional safe-guards by adopting an amendment against diversion in 1920. Kansas and Missouri followed in 1928, Colorado in 1934, California, Michigan and New Hampshire in 1938, and Idaho, Nevada, North Dakota and South Dakota in 1940.

The indispensability of highways in the American war effort has emphasized with even greater weight the necessity of spending highway taxes for highways. Available for war today are 2,936,200 miles of highways developed in peace time and paid for to a large extent by special motor vehicle taxes.

The seriousness of multiple taxation resulting from non-highway use of special motor vehicle taxes is revealed in figures of the United States Public Roads Administration showing that during the 5-year period from 1937 through 1941 \$912,417,000 of such revenues were spent for purposes not related to roads. If these funds had been spent for road purposes, as such imposts originally were intended to be spent, America's vast highway system would be even more efficient in the war enterprise.

Current reports indicate that highway users in several states in 1943 will urge their legislatures to submit to the voters constitutional amendments to dedicate highway revenues to highway purposes. Some opponents of constitutional protection of highway funds will argue that dedication of highway taxes to highway purposes can be accomplished by statutory action of state legislatures. This viewpoint ignores the fact that the action of no particular legislature can be binding upon succeeding legislatures and that statutory protection of highway funds can be annulled even by the same session that enacts it.

Highway user organizations generally are in agreement that the safest and soundest way to assure adequate highways for war and peace is by amendment to State constitutions to require that all special motor vehicle taxes be dedicated solely to highway purposes.

CONGRESS CONDEMNS DIVERSION

The Congress of the United States has repeatedly declared its opposition to diversion of highway funds to non-highway purposes. Its position is clearly stated in the following language of the Hayden-Cartwright Federal-aid Highway Act of 1934:

"Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts now provided by law for such purposes in each State from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators ..."

MOTORISTS' TAXES BUILD ROADS FOR WAR AND PEACE

National Highway Users Conference
National Press Building, Washington, D. C.

December 1942

EDITORIALS

Daily Journal
Elizabeth, N. J.
Dec. 22, '43
Editorial

The Dedicated Funds

The proposal to do away with dedicated funds is reasonable, providing the taxes poured into the common treasury are made equitable.

If the highway funds, for example, are poured into the common treasury, the motorists, as a group, should be relieved of gasoline taxation.

It is decidedly unreasonable and unfair to tax a group for a special purpose, then use their tax money for other purposes than that for which it is collected.

The only excuse for taxing the gasoline the motorists use, which has been the source of millions upon millions, was that of using the funds to maintain the highways the motorists use. It was the pledge of the State, when the levy was made, to use the gasoline sales tax money only for the construction, repairs and general maintenance of the highways.

The motorists as a group are willing to be taxed to maintain roads, but are not willing to be taxed to finance services that are equally shared by all citizens and residents of the State.

There is no more reason for taxing motorists as a group for some general service than to tax the owners of radios to finance highways.

Repeal the gasoline sales taxes and enact a general sales tax, if the gasoline sales taxes are to be used for other purposes than maintenance of the highways. Motorists have a right to fight the proposal to throw highway funds into a common fund to the last ditch. They will show a lack of spirit if they do not either fight it or campaign for repeal of gasoline sales taxes.

DAILY JOURNAL
Elizabeth, N. J.

SHOULD BE PASSED

Assemblyman Kerner is fully in accord with sentiment in Union County in promoting Assembly Concurrent Resolution No. 1. Few counties have a larger percentage of owners of automobiles; and few counties have so many highway uses and needs.

The resolution reads: "All revenue, in excess of the necessary cost of collection and administration accruing to the State from registration fees, operators' licenses, gasoline and other motor vehicle excise taxes and any other special charges or taxes with respect to the operation of motor vehicles or the sale or consumption of motor vehicle fuels, shall be appropriated and used solely for the payment of the interest and principal of obligations for which this revenue was pledged prior to the effective date of this amendment, and for construction, reconstruction, and maintenance of public highways within the State, including the supervision of traffic thereon, and for the payment of future obligations incurred in the construction and reconstruction of such highways; and no part of such revenues shall, by transfer or otherwise, be diverted to any other purpose whatsoever."

Motorists everywhere over the State should get in touch with their legislative delegations, and thus promote passage of the resolution. It has been reported and read a second time in the Assembly.

It would bring the important matter of diversion of the funds of motorists, exacted under the pledges of the State for use constructing and maintaining roads, squarely before the people.

Eleven important States have enacted constitutional amendments to protect road funds. They are California, Michigan, New Hampshire, Minnesota, Missouri, Colorado, Kansas, Idaho, Nevada, North Dakota and South Dakota.

If all the funds contributed by motorists in the State, in license fees and gasoline sales taxes, were used for construction and maintenance of roads the ever-recurring problem of providing adequate highways would be solved. There is more than \$40,000,000 annually collected. Already, over the past few years, about \$100,000,000 has been seized for other uses that have no relationship whatsoever to the purposes for which the funds were exacted.

THE TREND IS RISING

The trend toward protection of highway funds is rising in the Nation. At the November election, three more States, West Virginia, Iowa and Oregon, by popular vote, banned use of highway funds for any other purpose than to construct, maintain and repair roads and highways, and pay interest on road construction bonds.

In West Virginia the so-called "Good Roads Amendment" was favored nearly 6 to 1 by the people at the polls. In Oregon the vote for the proposal was $1\frac{1}{2}$ to 1, and in Iowa it was almost 8 to 1. It indicates how the people feel toward the use of highway funds.

In no other State, it is likely, are gasoline sales taxes and motor vehicle license fees so definitely pledged to highway use as in New Jersey. If the same proposal were put to the people in this State, there is no question what would be the result. There are few if any owners and operators of motor vehicles who are not strongly opposed to using highway funds for just any purpose, as has been done in the past in New Jersey. More than \$100,000,000 of Highway funds have been frittered away for this or that purpose that has had no relation to roads and their use.

Now that the war emergency has cut down the contribution of the motorists to such a low figure, there is all the more need for strictly conserving highway funds. The expensive road system in this State must not be neglected. It must be fully maintained.

Altogether, at the present time, there are fourteen States that have put a ban on use of highway funds for any other purposes than the ones for which they are exacted and for which they are pledged.

JERSEY JOURNAL
Jersey City, N. J.

N. J. MOTORIST IS A PATIENT, KINDLY SAP

The state highway fund, originally made up of receipts from gasoline taxes and automobile registration fees, is facing disintegration.

It used to total many millions a year and was devoted to the building of new roads and the repairing and improvement of old roads.

But the war has cut down gasoline tax receipts and other incomes from cars. In addition, the state officials have started to dig more deeply than ever into the state highway fund, so that the money might be used to keep the state treasury out of the red.

The state treasury badly needs funds to make up for the millions that the state will lose because of the huge and indefensible cut in railroad taxes. The railroad taxes have been slashed by a railroad-controlled state administration in the most prosperous period in railroad history, and at a time when the private taxpayer is hard pressed to find ways and means of meeting his mounting federal taxes and other war burdens.

If this business of eating up the state's highway fund to keep the state solvent is continued, there will soon be no need for a \$15,000 state highway commissioner. There will be nothing left for Spencer Miller to do, since his job will have evaporated and become a sinecure.

At the beginning of this diversion policy state road funds were used to help build up the state relief fund, but now the state highway moneys are being paid to prevent the state from becoming bankrupt as a result of the gifts to the prosperous railroads. The automobilists form a nice, patient army. They are being taxed to save the state treasury. Their chief function now seems to be to pay the fat salaries of favored boys in Trenton and make up for the taxes that the railroads are escaping.

The New Jersey motorist is a lovable, patient, kindly sap, but nonetheless a sap.

DAILY JOURNAL
Elizabeth, N. J.

ANTI-SANTA CLAUS GROUP

Motorists are preparing to do what they should have done a long while ago. They have formed The Motorists' Anti-Santa Claus Committee of New Jersey. They will extend the organization to protest against the vast amount of money they contribute to construct, repair and maintain roads being seized for just any purpose.

The organization has adopted a resolution in which the motorists declare their main protest, and "serve notice on all that they no longer will play Santa Claus in the tax grabbing schemes that hatch perennially at Trenton, and to protest against continuation or the practices wherein their moneys are seized by every pressure group that stalks the corridors of the State House."

The grabbing process has been going on until more than \$100,000,000 of the highway funds have been seized and frittered away to pay for this and that service that should be the responsibility of all citizens and not of the motorist group.

When motorists form a strong organization and serve notice on the politicians at Trenton that they will not be made the goat of the Legislature's inability to finance State services in an equitable manner, they

will get somewhere in preventing tax grabbing methods.

It is even proposed to take \$2,500,000 out of the pockets of the motorists to pay bonuses to the State jobholders. That is what is arousing the owners and operators of automobiles -- to be asked to increase the salaries of the jobholders. That adds insult to many injuries.

The motorists are taxpayers apart from what they contribute to the fund that the State is pledged to use for highway purposes. They do their part paying realty taxes. It is grossly unfair to seize highway funds for just any purpose, simply because it is easy to collect license fees and gasoline sales taxes.

JERSEY OBSERVER
Hoboken, N. J.

MOTORISTS BALK AT LAST AT SANTA CLAUS ROLE

The worm has turned at last! The Motorists Anti-Santa Claus Committee of New Jersey has resulted from a meeting held in Newark, and called to protest against proposals in the Governor's budget message "to take \$2,500,000 from them to pay bonuses to State jobholders, plus an additional \$4,000,000 of their money for the teachers' pension fund, which now has an accumulated reserve of more than \$100,000,000 in cash and securities."

In selecting a title for their organization, the motorists certainly have chosen a most descriptive one. That they mean business is shown by the election of Raymond Hernandez, of Packanack Lake, as chairman, and Robert Oram, of East Orange, as secretary; also by adoption of resolutions in which they, after citing their main protest, "serve notice on all that they no longer will play Santa Claus in the tax grabbing schemes that hatch perennially in Trenton, and to protest against continuation of the practices wherein their moneys are seized by every pressure group that stalks the corridors of the State House."

With the funds derived from motorists due to show a big drop this year because of gas and tire rationing, and the banning of pleasure driving, it remains to be seen whether the customary dipping into these funds for non-associated purposes is again to be attempted. At all events, the Anti-Santa Claus Committee serves notice that it stands on guard.

STANDARD
Red Bank, N. J.

DIVERSION SHOULD BE HALTED

Following the November elections a total of eleven states have now repudiated the diversion of automotive tax funds to non-highway purposes as an unsound policy. Those states are California, Colorado, Idaho, Minnesota, Missouri, Michigan, New Hampshire, Nevada, North and South Dakota and Kansas.

Because diversion in New Jersey - the use of motor tax funds to non-highway purposes - is a radical departure from traditional public policy, it is fitting and proper that the question should be submitted to our 1941 Legislature and that it should be passed by that body.

Why can't we have the protection enjoyed by these progressive states?

Before the advent of the motor vehicle, taxes levied for special purposes were devoted exclusively to the purpose intended. There is no

reason why that policy should not be continued. Two out of three families in this State own motor vehicles. Diversion of these special taxes they pay is a gross injustice. Diversion is a policy which hides extra general levies in their annual bill for the use of the highways, a policy which makes them pay for roads which they do not get.

Under present conditions New Jersey is out of step in the march of the states away from the practice of highway fund diversion.

COURIER-NEWS
Plainfield, N. J.

WHY WE OPPOSE DIVERSION

We always have been and still are opposed to the diversion of state automotive tax funds for relief and other general purposes.

It is our contention that all the money collected from gasoline taxes, auto registrations and driver's licenses should be used for the benefit of those who pay those taxes. We believe that money should be used to rebuild existing highways, construct new roads and in general carry out projects to improve motoring conditions in the state.

When highway funds are diverted and used to help meet relief expenses, for instance, that means the motorists and trucking firms, a special group of taxpayers, are being called upon to bear the cost of state expenses which all taxpayers should share equally.

In other words, motorists are penalized for having licenses and operating their autos when the tax money derived from those sources is used for any project other than highway improvement.

The mere fact that this auto tax money can be and has been diverted is proof enough that those taxes are excessive. Either state gasoline taxes and fees for auto registrations and driver's licenses should be reduced or legislation should be passed requiring that highway funds can be spent only for the purpose for which they are levied.

Until some change is made, it is not too harsh to say that New Jersey motorists are being robbed.

NEW YORK SUN,
November 23, 1942

ANTI-DIVERSION STATES

By fiat of their voters, three more States -- Iowa, Oregon and West Virginia -- have joined with eleven others which had previously placed constitutional restraints upon the diversion of revenue from gasoline taxes. The others are California, Colorado, Idaho, Kansas, Michigan, Minnesota, Missouri, New Hampshire, Nevada, North Dakota and South Dakota. An argument that evidently had great weight with the voters was that wartime restrictions on motor vehicles have brought about serious reductions in revenue from this source; that it is therefore all the more necessary to protect highway funds from such diversions.

That was a good argument, but not the best one. The best argument is that the practice is in itself dishonest and unfair. Operators of motor vehicles pay all the other taxes which citizens of comparable status must pay. They are quite willing to pay in addition special taxes to provide revenue for construction, maintenance and improvement of highways to be used by the machines they drive. Gasoline taxes in the States were designed originally for that purpose and for none other. The ease and relative painlessness with which such taxes brought in revenue did not long escape the eagle eyes of the various Legislatures.

Diversion to general revenue and for other purposes began as a trickle and spread into a flood. Motorists protested, but in vain. There are instances in which candidates for governorships paid lip service to these complaints before election, but forgot all about it after they had been elected and installed. Some of these were among the first to flop with talons outspread upon this tasty morsel of prey. Apparently the only way to stop this practice is to put a continuance of it out of the power of Governors and legislators. The fourteen States which have shown the way will be joined by others as soon as the voters of these others find out what it really means.

SOUTHWEST AMERICAN
Fort Smith, Arkansas

* * *
PROTECT ROAD MONEY

Support begins to roll up for the proposed amendment to Arkansas' constitution designed to prohibit diversion of highway funds to any other use.

The Arkansas Rural Letter Carriers association, meeting in Little Rock, Saturday in convention, endorsed the proposed amendment which the Arkansas Highway Users conference decided Friday it will sponsor at the next election.

The Rural Letter Carriers association members known from intimate daily experience how important is the construction and adequate maintenance of roads. The automobiles they drive use gasoline. Tax is paid on that gasoline. They have no objections to the tax, so long as the money it produces is used on the roads, either to pay for construction or to keep them in usable condition. But they do have objections to use of motor vehicle taxes for some other purpose. And their objections are well founded.

* * *

The exact language of the proposed amendment has not been finally worked out. The Highway Users conference, at which were representatives of a number of organizations interested in motor vehicles and fuel, agreed to support such an amendment, and left to a future meeting approval of its exact terms. The letter carriers, too, endorsed the principle, not exact words. But the exact form will come along. It is important, because it must do the job the motorists want done, so there can be no question about it. Equally important is an aroused public support.

Arkansas has not diverted so much of its highway revenues as many other states, but it has diverted too much.

Early in the state's road construction program, from 1927 to 1931, the legislature dipped into highway money whenever it needed extra cash for some unusual purpose. Some of it was taken as a loan, which in some instances was finally paid back. Some of it was just taken. Higher gasoline taxes were producing a flood of money which seemed at the time to be nearly inexhaustible.

* * *

The depression of 1930 slowed the flow of new revenues. The state was not able to sell any more bonds. Presently, the state got into difficulties with its payments, and a refunding of the highway debt occurred early in 1934 which stopped diversion of highway money by tying up all the highway revenues for specific purposes.

The new refunding act of 1941, under which the state has now refinanced its road debts so they can be paid with about half the present revenue, also protects against diversion up to the state's actual commitments for bond payment, maintenance and \$2,500,000 a year for new

construction, plus \$750,000 a year for special aid to bridge, road and paving districts and for turn-back to cities and counties. Excess revenues are not so well protected. It is necessary to safeguard them against diversion to other uses. They are piling up higher each year. We need every dollar of that money to build and maintain roads. None of it should ever be used for any other purpose.

THE NEWS
Indianapolis, Ind.

GASOLINE TAX

Indiana motorists who have long opposed diversion of the taxes which they pay on license plates, gasoline and other services were heartened by Governor Schricker's recommendation on this question in his message to the general assembly. He believes the allocation of \$1,250,000 yearly to the general fund should cease. "This not only will add revenue to the state, city and county highway departments," he said, "but will offer convincing proof that we subscribe to the nondiversion theory concerning highway revenues."

At present all the cost of operating the state police department is paid from the motor vehicle fund, provided by motorists through taxes and fees. As the department does general police work and war conditions have brought about an enormous reduction in traffic, the Governor advocated looking to other sources of revenue for at least a portion of this cost. For obvious reasons, he concluded, "it would be entirely proper to appropriate some of the alcoholic beverage receipts, now flowing to the general fund, for the support of the state police department."

Everybody recognizes that the curtailment of traffic means less money in gasoline taxes. Much of what has been collected in the past has been earmarked for cities, towns and counties, the general fund, and state police department and other activities. The state highway department gets what is left. It is clear to all who have studied the problem that the highway department must have a greater share of these receipts if it is to maintain existing roads. The assembly should make certain that diversion of gasoline money is stopped.

HIGHWAY FUNDS

Motorists and others who have been protesting against the diversion of Indiana gasoline taxes to other than highway uses are heartened by reports from the recent election. In Iowa, Oregon and West Virginia, voters piled up overwhelming majorities in favor of proposed constitutional amendments forbidding the diversion of highway funds. Fourteen states now require that all gasoline taxes and registration fees be used exclusively for highway construction, maintenance and the retirement of road bonds.

Indiana could adopt a constitutional amendment of the same type, but as certain amendments are pending now, none may be proposed during the coming session of the general assembly. Thus several years would be required to make this policy a part of the state's basic law. Such evils as exist can be corrected quickly next January, if the assembly cares to act.

A large slice of Indiana's gasoline receipts is arbitrarily diverted to the general fund. The entire cost of the state police department is paid from gasoline taxes. A considerable percentage of the money collected from car owners is frittered away, due to the plan of distribution to governmental units. After all the mandatory amounts are set aside, the highway commission gets what is left and next year that total will be materially reduced. The original purpose of the

gasoline tax was to obtain money to build roads. That purpose is sound, and, as the voters of other states have shown, popular.

HOOSIER INDEPENDENT

Indianapolis, Indiana

THE LUXURY OF DIVERSION

The talk of new or increased taxes upon motor trucks ^{on} or any type of motor vehicle while diverting to non-highway uses, money raised by taxes upon motor vehicles would be a legislative phenomenon.

The State of Indiana has for many years used part of the motorists' highway tax money for general purposes. No one questions that upwards of \$25,000,000 has been diverted for purposes that have no relation to highways.

At present, there is over \$2,000,000 being diverted each year in Indiana. If those who advocate higher truck taxes want more money for highway purposes why don't they join with the taxpayers who have for several sessions been urging the Indiana legislature to put a stop to diversion. The motorist taxpayers welcome their assistance. Here is an opportunity for all those interested in more money for the highway system to get \$2,000,000. This amount of money comes out of the pockets of the motorists and in fairness and justness should be spent on the highways and roads of Indiana.

Just as long as there is a single dollar of highway tax money diverted in Indiana, just that long will the motorists and highway users vigorously oppose any attempt to increase old taxes or to impose new taxes.

Highway users as taxpayers enjoy a fundamental right in knowing the use to which their taxes are put. They also have a right in demanding that it be used for the purpose for which it is being imposed upon them. Highway taxes are paid by a designated group of taxpayers for a specific purpose. Why not start being fair to them?

As long as those who are seeking more truck taxes do not do ~~everything~~ ^{it} in their power to put a stop to diversion, just that long are they saying that they approve of diversion while at the same time they are for soaking the taxpayers more. If it is more money for highway purposes they really are interested in, why do they not take full advantage of all the money the present tax rates generate?

Indiana motorists cannot afford the luxury of diversion. When the state diverts one dollar of highway money it means that the taxpayer must dig down a little deeper in his pocket for another dollar to do the work that the first dollar was supposed to do. It is only common sense and certainly good business to make the most efficient use of all the economic factors and at the same time extend fair and just treatment to the taxpayers.

NASHVILLE TENNESSEAN

Nashville, Tenna.

WEANING TIME

Diversion is an ugly word. But ^{it} is the word used by the Federal Public Roads Administration in describing the practice employed by the State of Tennessee of dipping deeply into its revenues from gasoline taxes and other highway users' taxes for the purpose of meeting the state's general operating expenses.

The Public Roads Administration reported recently that Tennessee was second from the top among all Southern states in this practice of diverting tax payments by highway users.

This federal agency gave Tennessee's diversion score for 1940 as \$7,900,000 out of a total of \$47,599,000 worth of highway users' taxes collected. Diversion figures for 1941 are not yet available, but with highway users' tax collections at an all time high of \$33,281,000 for this year, there is every reason to believe that there was no let up in the practice.

The Federal Public Roads Administration in its annual report on diversions of state highway users' tax revenues refrains from comment on the moral and ethical considerations involved in this procedure. But we ordinary citizens can't help wondering what would happen to Tennessee's fine general funds surplus of better than a million dollars, if all the state's gasoline tax collections had gone to the building of new highways, roads, and bridges and to the payment of interest and principal on the state's bonded indebtedness.

Of course, the whole procedure of siphoning off highway users' tax payments during 1940 and 1941, didn't bother any of us very much. Gasoline tax collections were so big that there was plenty of money to go around. There was enough to build some good highways, pay off the principal and interest due on the state bonds, and yet enough more to sweeten up the general fund's kitty an awful lot. The state's optimistic bookkeepers smilingly told us that we had smacking big surpluses from our year's operation of all of the many arms of state government, and we were glad to hear it.

We are told, however, by the American Petroleum Institute that gasoline tax and all other types of highway users tax revenues are going to drop and drop sharply in another month or two. The family buses are dropping off the highway.

But we also hear that there are no great compensating drops in the payments the state's bondholders are expecting this year nor in the anticipated general operating expenses of the state. We hear that the State Highway Department isn't looking for the usual big federal grants, because Uncle Sam is spending most of his highway money on coastal defense highways. Therefore what state roads going to be built will have to be built pretty largely with state funds.

As ordinary citizens we can't see but one answer. This practice of diversion has got to be slowed down. The bondholders have got to be paid their interest and their principal, and the most needed state highways from a standpoint of national defense have got to be built. If this means that the state's general fund has got to be weaned of diverted revenues, why let's wean her right now.

THE COMMERCIAL APPEAL

Memphis, Tenn.

GAS TAX DIVERSION

For more than a year now, the State Funding Board has been diverting gasoline tax moneys into the Sinking Fund, building up a cushion to meet Tennessee's debt demands of the next two years even in the face of an anticipated over-all revenue shrinkage.

The policy is, and has been, carried on at the sole expense of the Highway Department purely on the assumption by state officials that because of the war there is no highway construction to be carried on, hence no need for new road money in that department.

It cannot be disputed that highway construction is at a standstill, there to remain until after the war. But, what of the period after the war when Federal funds, now frozen, are released to the states as a part of the postwar program of restoring the Nation to peacetime economy? Is

Tennessee to approach that period with its highway construction till empty simply because the present state administration is determined that debt requirements are to have the green light over all other demands of the state government? That is the situation as it now confronts the state.

There is little argument with the state administration's program of seeking to keep Tennessee's credit on an even keel by preparing now to meet future debt requirements. But state officials, in keeping their eyes on this one goal, should not lose all sight of other demands which will be made on Tennessee after the war is won.

State Budget Director W. M. Duncan, upholding the gasoline tax diversion--and he objects to it being called a "diversion," although there seems to be no other name applicable to the process--was quoted from Nashville by the Associated Press Sunday as saying that if the war ends suddenly the funds on hand can be transferred back to the Highway Department to be used for matching Federal construction money. Presumably he refers to any surplus which might be resting in the Sinking Fund for debt service. If he does, then the budget director need but retrace his steps and reread the 1937 Debt Retirement Act to see whether that can be done. That act plainly declares that no funds finding their way into the Sinking Fund may be recaptured except to correct bookkeeping errors. By no stretch of imagination could the diversion of the gasoline tax funds be interpreted as a "bookkeeping error," so then how could they be returned to the Highway Department either now or at any time in the future? Perhaps Mr. Duncan has a plan, the details of which are to be sprung at a moment's notice.

But until they are, Tennessee, under the present administration's program, is in the position of putting all its eggs in one basket.

To say the most for it, the present policy is a shortsighted one. It would be much wiser to distribute the money more thinly and spread it around than it is to throw all of it into the Sinking Fund and thus leave the highway program to shift as best it can, either now or after the war.

INTELLIGENCER

Wheeling, W. Va.

CONSERVING THE ROAD FUND

This newspaper has not been disposed in the past to look with much favor on the so-called good roads amendment, to be voted on by the people of West Virginia next month. It has felt lukewarm about the amendment for two reasons.

First, there has been no diversion of gasoline and motor vehicle tax revenue from road purposes in this State, so a constitutional prohibition against such diversion--the purpose of the amendment--has seemed unnecessary.

Second, we have felt that the practice of singling out the yield from a particular tax for a particular purpose makes for rigidity in public administration and encourages extravagance.

We have come of late, however, to the viewpoint that the amendment is important and should be adopted.

Motor vehicle taxes differ from all others in that they are peculiarly adapted to the segregation principle. This is particularly true of the gasoline tax, the major item in the list. The gasoline tax a motor vehicle driver pays is a direct measure of his use of the highways. It may be too high, but proportionately, as among road users, it is necessarily fair. Consequently, it is an especially equitable tax in principle and because of this has been accepted and paid with less grumbling than has accompanied the administration of any other tax. And it has made possible the construction of thousands of miles of good highway in the United States which we otherwise would not have.

In view of all of this, we believe that the principle of restricting motor vehicle taxes to road uses is a sound one; that the objections to revenue freezing in general do not apply in this case.

If we accept this principle, we must accept that of protecting the road fund. For while it is true that none of the funds in question have been diverted thus far in this State, it is not true that no sentiment for diversion exists. And we have reason to believe that in the not distant future an attempt will be made to dip into this road money if the constitutional bar is not raised.

When the war is over, if history repeats, the State and the Nation will be faced with a serious business slump as the painful task of readjusting to a peace-time basis is undertaken. Unless a sharp reduction in state spending has been undertaken in the meantime, and provision made in today's booming times for the rainy day ahead, the state spenders will be casting about for all the revenue they can find for general state purposes. Who can doubt that the road taxes will be seized upon in such circumstances if there is no bar to the raid? And if that happens, there will not only be a virtual suspension of road construction and maintenance, but property may be called upon to meet the \$8,000,000 annual sinking fund charge against outstanding road bonds.

The danger is too great to risk. The amendment, we believe, should be adopted.

LETTERS

EXECUTIVE DEPARTMENT
State of New Hampshire
Concord

January 17, 1944.

Robert O. Blood
Governor
William C. Chamberlin
Secretary

Mr. Frank D. Marshall
Legislative Counsel
Maine Automobile Association
120 Exchange Street
Portland, Maine

Dear Mr. Marshall:

This will acknowledge receipt of your letter of January 15th, requesting information on New Hampshire's experience with its constitutional amendment prohibiting the diversion of highway funds.

The New Hampshire constitution was amended as a result of a constitutional convention held in the summer of 1938. We had no diversion of road funds at that time, but on occasion bills to divert highway tax money had been introduced in the legislature, and proponents of this amendment feared that the attempts would continue every biennium until a constitutional safeguard was erected to protect the integrity of the highway funds.

Only four of the many resolutions proposed to the constitutional convention that year were approved by members of the convention for submission to the people of the state. Three of the four proposals for constitutional changes submitted to the people for approval were rejected

by them. Only the amendment prohibiting diversion was approved. The favorable vote was over 4 - 1, there being 96,631 votes cast for the amendment and 23,851 being cast against it. This was the only change that had been made in the New Hampshire constitution for 26 years.

In the five years since its passage, I have heard no comment adverse to the amendment. Of course, New Hampshire like Maine, is a vacation state, and people here fully are aware of the benefits which we derive in times of peace from vacation traveling to the state by automobile. We know, also, that good roads constitute one of the best advertisements to these tourists, so that the sentiment is overwhelmingly in favor of the use of highway tax revenue exclusively for highway improvement.

You ask whether the adoption of the amendment has affected the state adversely in any way. It has not, and we cannot see that it will, and probably the removal of special highway taxes as a possible source of general revenue may have tended to take considerable pressure off the legislature which otherwise might have been asserted by groups interested in additional governmental spending. Perhaps the greatest benefit which we have derived from the amendment is the security that has been felt in the highway department as a result of its being able to plan its projects in advance, assured by the knowledge that there would be sufficient funds available to carry out any reasonable plans without an increase in taxes.

Very sincerely yours,

(signed by) Robert O. Blood
ROBERT O. BLOOD

ROB:hes

State Of North Dakota
OFFICE OF THE GOVERNOR
BISMARCK

John Moses
Governor

October 14, 1943.

Mr. Frank Marshall, Chairman
Maine Highway Users Conference
c/o Maine Automobile Association
Falmouth Hotel
Portland, Maine

Dear Mr. Marshall:

I have before me your recent letter, inquiring about our experience in North Dakota, with reference to diversion of highway funds to other than highway purposes; I understand that you desire this information in connection with the coming election in your state, upon an amendment to the constitution of the State of Maine, prohibiting the diversion of highway funds.

In North Dakota we voted on a similar proposition in June of 1940, and the people of the State approved such an amendment by an overwhelming majority; in fact, it was approved in fifty-two of the fifty-three counties of the state. At the time this matter was submitted to the people of North Dakota I endorsed the passage of such an amendment. Our experience since has made me very happy the people saw fit to approve the amendment.

Before the adoption of the amendment in North Dakota approximately three million dollars in highway funds had been diverted to other than highway purposes. Our highways were getting to be in deplorable state due partly to the lack of revenue to maintain them and partly to the fact that the Highway Department had not been operated on a businesslike basis. When I assumed office in 1939 as Governor of North Dakota, the Federal Government was threatening to refuse Federal aid to the State of North Dakota because of the deplorable condition of our highways. With the adoption of the constitutional amendment and the appointment of a businesslike highway department, our road situation has vastly improved. Now our Highway Department can plan construction for the future, secure in the knowledge that highway funds will not be diverted by any legislature; thus they may make their plans far in advance for their program, and as a result we have been able to greatly improve our highway system, much to my satisfaction and I believe to the satisfaction of the people of North Dakota.

I have no hesitation in saying that the adoption of the constitutional amendment prohibiting diversion in North Dakota was a step in the right direction.

Yours very truly,

(signed by) John Moses
Governor

UNITED STATES SENATE
Committee On Interstate Commerce

June 18, 1938

Mr. George Douglas, Secretary
130 Midland Savings Bldg.
Denver, Colorado

Dear Mr. Douglas:

In 1935 while serving as Governor I sponsored an amendment to the Colorado constitution earmarking motor and gasoline excise tax funds for the construction and maintenance of highways. The previous General Assembly had made a raid on Colorado highway funds taking fifty per cent of them for other than highway purposes.

Without such an amendment Colorado would have suffered an irreparable loss in tourist revenue and would have soon become a backward state. In these days of quick transportation, good roads and progress travel hand in hand. As a result of the adoption of this amendment Colorado is rapidly developing the finest highway system in the Rocky Mountain region.

Sincerely yours

(signed by) E. C. Johnson

ECJ:ER

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA
WASHINGTON

Diversion of Highway-User Taxes

To Organization Members of the Chamber:

Taxes levied for highway use should be applied for highway purposes and it is now timely to provide for discontinuance of any diversions that have been made.

The membership of the Chamber have by repeated declarations supported the principle that highway users, in addition to being fully subject to all other taxes, should through special taxes pay the cost of improving and maintaining the highways of general motor use, and that the proceeds of such special taxes should be applied exclusively for highways.

The Chamber's members have further declared that the gasoline tax, which is the chief special tax, should be kept down to a point not encouraging large-scale evasion.

The principle of non-diversion of special highway-user taxes was recognized by Congress last year in the Hayden-Cartwright Act, whereby any state will be denied a third of its federal aid funds for highways if by diversion of user taxes it reduces its contribution to the federal aid system. It will assist in stopping further diversions if there is a clear understanding of the serious effect which this law will have upon future federal contributions to the highway revenues of any state making such diversions.

The reasons underlying the Chamber's position in support of the principle of non-diversion may be summarized as follows:

1. Diversion breaks faith with the highway user. He has generally accepted his responsibility for the major part of the highway bill, and this means of paying it. The money he thus pays obviously should not be put to other use.
2. Diversion creates resistance to proper and needed highway-user taxes. If the motor-using public know that the revenue from such taxes is likely to be diverted, they will not accept the burden thereof with the good will that has generally prevailed.
3. The highway program suffers unless the deficiency is made up from general taxes.
4. If, as is already the case in some states, the user taxes are so high as to make evasion profitable to unscrupulous persons, "bootlegging" of gasoline occurs on a large scale and the tax revenues suffer.

(signed by)

Henry I. Harriman
President

THE UNITED STATES JUNIOR CHAMBER OF COMMERCE

Office of Committee Chairman

R E S O L U T I O N

WHEREAS: The gasoline tax, motor vehicle registration fees and motor vehicle operator's licenses are special taxes levied on but one group of citizens, designed and justified only for road purposes, and

WHEREAS: The motor vehicle owner who pays these taxes for road purposes, also pays all other general taxes for general governmental purposes, "diversion" of these funds constituting "double taxation" on a group of citizens, the majority of whom have incomes of less than \$30.00 a week, and

WHEREAS: Millions of dollars of highway funds are being "diverted" in other states, and repeated efforts have been made in the past to "divert" to non-highway uses large portions of said funds in Alabama, and

WHEREAS: The future of Alabama's highway system depends entirely on these tax sources, and that our highway system is of the utmost importance to the welfare, progress, safety and defense of our state and nation, and to every group of individuals and businesses, and

WHEREAS: The trend of the past few years indicates definitely that our highway funds must be properly protected against "diversion" to other non-highway uses, and

WHEREAS: The acute rubber shortage brought about by the adversities of war definitely will cause a serious reduction in our State and county highway revenues, making more imperative than ever the exclusive use of our highway funds for road purposes in this day of motorized armies, now therefore be it

RESOLVED: That the only adequate protection to the future use of Alabama's highway funds and to the future of Alabama's highway progress is by the way of a constitutional amendment requiring that all state gasoline tax, motor vehicle registration fees and truck mileage taxes be used exclusively for road purposes. Be it further resolved that the Alabama Junior Chamber of Commerce hereby actively endorses such an amendment and pledges its active cooperation to other groups in support thereof.

WALTER B. MILLS

Adopted 4-10-42

CONNECTICUT FEDERATION OF LABOR

March 5, 1943

To the members of the House of Representatives:

Gentlemen:

A problem uppermost in the minds of thoughtful people everywhere is how to cushion the shock of the economic readjustments after the war is over. Men who are now employed in war plants will be thrown out of

employment. To avert a critical post-war depression, some employment stop-gap is required to facilitate the transition from a war-time to a peace-time economy, and one of the best ways to cushion the unemployment that will inevitably result from the stoppage of war production will be, as a part of the post-war program, a constructive highway construction program.

No form of public works uses more labor than highway construction, according to the Federal Public Roads Administration. The major part of every dollar spent on road construction goes to labor. For every million dollars spent on highway construction, several hundred men are given a year's employment. For every dollar spent on highways, there is a resulting \$3.15 turnover in wages and trade. For every man directly employed on the road job, 1.4 men are employed behind the lines.

The automotive industry and related trades which normally employs one out of seven workers in Connecticut was one of the first to feel the impact of war priorities. If this industry, which is of such economic importance to the state, is going to take the place in our post-war civilian economy which it had before the war, conditions will have to be favorable for its return. These conditions are reasonable taxation of highway users who are its customers and the construction of a highway system adequate for highway users to drive on.

The Connecticut Federation of Labor is very much concerned with the fund of our highway department, and we are very definitely opposed to the use of this fund for any other purpose except for the purpose of the construction of highways and bridges throughout our state and work relating to this. If we are going to accomplish a long range program of constructing highways during the post-war period, it seems to us there ought to be some assurance that this fund will not be subject to persons trying to grab the highway fund monies for other purposes. It has been our position for the past ten years to keep these funds intact and we see more need of it today than ever before, and we hope your honorable committee will very frankly emphasize this fact to the members of the legislature; that the monies paid into the highway fund should be used for that purpose and that purpose only.

(Signed) John J. Egan
Secretary-Treasurer
Connecticut Federation of Labor

MASSACHUSETTS STATE FEDERATION OF LABOR

February 1, 1943

Dear Sir:

As requested by you today, the following is a copy of a resolution submitted to and acted upon by the 53rd annual convention of this organization, held in Worcester, on August 1 to 5, inclusive, 1938:

DIVERSION OF HIGHWAY FUND

Whereas, every million dollars diverted from the highway fund deprives a thousand men of employment in highway construction and brings about a loss of \$3,150,000 in wages to trades in 24 related industries which supply highway materials, equipment and services and

Whereas, Diversion, a form of double taxation, penalizes greatest the small wage earner since the great bulk of automobiles are owned by families with incomes of less than \$30 per week, and

Whereas, Many workers are entirely dependent on the automobile for transportation to and from work and recreational areas, and

Whereas, Economical highway transportation, vitally important to Labor, cannot exist without good roads and fair taxation; therefore, be it

Resolved, That the Massachusetts State Federation of Labor go on record in favor of a constitutional amendment dedicating automotive registration fees, license fees and gasoline taxes to highway policing, maintenance and construction.

The committee recommended concurrence.

The motion was adopted.

(Signed) Thomas E. Wilkinson
Acting Secretary-Treasurer

The State of Colorado
STATE HIGHWAY COURTESY
PATROL

May 23, 1938

Dear Sir:

Some years ago, the voters of this state voted an amendment to the constitution prohibiting the diversion of gasoline taxes, or other taxes assessed against motor vehicles, to any use other than maintenance, construction and supervision of highways. This plan has worked very satisfactorily in this state and has enabled the state of Colorado to use its motor vehicle taxes entirely in behalf of roads and, as a result, the state has received benefits in the form of many new roads and great improvement of the old ones.

Prior to the passage of this amendment, much of the highway money was diverted to other divisions of the government and, as a consequence, the highway system suffered materially. I wish to thoroughly endorse any system of non-diversion of motor vehicle taxes to other uses than for highways, for I believe the plan has worked out very satisfactorily in this state.

(Signed) J. J. Marsh, Supervisor
State Highway Courtesy Patrol

NEW YORK STATE RURAL LETTER CARRIERS' ASSOCIATION

October 2, 1943

The following resolution was unanimously adopted at our annual convention at Rochester, New York, July 30, 1943.

Whereas, the State of New York has been diverting a large sum of money annually from gasoline taxes and motor vehicle registration fees which were originally levied, and should continue, to be imposed for highway purposes only, and,

Whereas, the result of this policy of misusing the highway funds has been that the rural roads of the state are disintegrating, a condition that has increased progressively to a point where many of them will have to be entirely rebuilt after the war, and

Whereas, there are 2,883 small communities, 54 per cent of all the communities in the state, that depend entirely upon highway transportation for their continued existence and future prosperity, and,

Whereas, the diversion of gasoline taxes and automobile license fees from highway uses unjustly burdens farmers and other rural residents, as well as rural letter carriers, by assessing them more than their share of the general tax burden of the state and denies them the highway improvements for which they have paid, and,

Whereas, the only way that this inequitable condition can be cleared up is through the adoption of a constitutional amendment guaranteeing that revenue from gasoline taxes and registration fees shall be used for highway purposes in the future, similar to the guarantees provided already in 14 other states,

THEREFORE, BE IT RESOLVED that the New York State Rural Letter Carriers' Association go on record as favoring the adoption of such an amendment to the constitution of this state and that copies be sent to each legislator.

(Signed) Burdette W. Playfoot
Secretary

THE TENNESSEE RURAL
LETTER CARRIERS' ASSOCIATION

Whereas, the use of automotive taxes for non-highway purposes is increasing in Tennessee each year, while state and county highway departments are unable to effect needed highway repairs and maintenance due to lack of funds, and

Whereas, this problem becomes increasingly serious because of decline in motorists' taxpayments due to Federal restrictions on the sale of gasoline, automobiles and tires, and

Whereas, the allowance made to rural letter carriers by the Federal Government for operation of automobiles is barely sufficient to cover operating expense and, in many instances the cost is greatly in excess of the government allowance largely due to necessary travel over roads in bad conditions, and

Whereas, There is greater need than ever before that highways and roads be kept in serviceable condition so that the war use of these routes will be unimpaired.

Now, therefore, be it resolved, that the Governor be respectfully requested and urged to provide additional money to care for the present needs of our highways and to provide for a reserve in the Highway Fund to enable the State of Tennessee to match Federal Aid after the war, and

Be it further resolved, That the Tennessee Rural Letter Carriers' Association hereby goes on record as favoring the adoption of a Constitutional Amendment advocating that all automotive taxes and fees shall be used exclusively for the construction and maintenance of highways and for the retirement of the state's bonded debt, as provided by law, and

Be it further resolved, That a copy of this resolution be spread on the minutes of this meeting and copies forwarded to the Governor Prentice Cooper and Highway Commissioner C. W. Phillips.

(Signed) E. W. Bailey, President
Tennessee R. L. C. A.

(Signed) E. A. Perkley, Secretary
Tennessee R. L. C. A.

Adopted in Nashville,
Tennessee, July 5, 1943

TENNESSEE DIVISION
TRAVELERS PROTECTIVE
ASSOCIATION
OF AMERICA
NASHVILLE, TENNESSEE

May 8th, 1943

Whereas, The diversion of highway users taxes to non-highway purposes in Tennessee is increasing by leaps and bounds. In 1939, \$3,641,000. were diverted to non-highway functions for the State Government and the amount increased to \$7,932,000. in 1941, and

Whereas, This year Tennessee faces the prospect of a sharp decrease in collections from its highway users' taxes because of war restrictions on the sale of gasoline, automobile and tires, and

Whereas, Because of this diversion of highway revenues, upon which highway maintenance and construction are wholly dependent, the highway system is becoming rapidly depleted, and

Whereas, There is a greater need for these funds now in the construction and maintenance of highways essential to our national defense.

Therefore, be it resolved, That all State Departments be required to exist upon the revenues which are normally and fairly theirs, freeing highway user funds for the important task of building and maintaining highways, and

Be it further Resolved, That this Association go on record as advocating an Amendment to the State Constitution providing that no monies derived from highway taxes and fees be expended for other than road costs and retirement of obligations of the State which these funds have already been pledged, and

Be it further resolved, That a copy of this Resolution be spread upon the minutes of this meeting and copies forwarded to the Governor of Tennessee and the Commissioner of Highways and Public Works.

Adopted May 8th, 1943

(Signed) H. A. Tiller
President

(Signed) Olney Davies
Secretary-Treasurer

TENNESSEE STATE GRANGE

Office of: Business Agent

RESOLUTION ADOPTED BY TENNESSEE STATE GRANGE
AT ANNUAL SESSION NOVEMBER 5, 1943
AT MURFREESBORO, TENNESSEE

WHEREAS, It is estimated that 30 percent of all motor trucks and 22.5 percent of all passenger vehicles registered in Tennessee are owned and operated by farmers, and

WHEREAS, Approximately 12 percent of the state road system and a large percent of the supplementary road system in the State of Tennessee are as yet unimproved, which indicates that Tennessee's road improvement program is as yet only partially solved, and

WHEREAS, 51,000 miles of highway adjoining Tennessee farms have never been improved at all, while another 44,000 miles of farm highways have no better than a dirt surface, and

WHEREAS, A continuation of the present policy of diverting nearly \$7,000,000 of highway funds a year would mean that these farms will continue to go unimproved year after year, and

WHEREAS, The farmers of Tennessee have less cash income than the average urban dweller, making the diversion of highway funds a special burden upon farmers, since it forces them to pay more than their share of the state's general taxes, and

WHEREAS, All of the foregoing considerations make it vitally important to Tennessee farmers that diversion in this state shall cease at the earliest possible time, and

WHEREAS, In 14 other states the adoption of a constitutional amendment has resulted in the ending of diversion where it existed and is now protecting the highway funds against future diversions, since in every one of these states the amendment safeguarding the integrity of highway funds has proved popular and successful.

THEREFORE, be it, RESOLVED, That the Tennessee State Grange go on record in favor of an amendment to the constitution of the State of Tennessee which will protect the road funds against diversion, and

BE IT, further, RESOLVED, That a copy of this resolution be forwarded to every member of the legislature, so that they shall know the wishes of this organization.

Adopted - Nov. 5, 1943
by Delegate Body.

(Signed) M. S. Howell
(Signed) S. G. Roy
(Signed) Rex Wiggs

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SENATOR PASCOE: To make amply sure that we understand you correctly, what you now want is that the proposed amendment be put in paragraph 2 notwithstanding the fact that the Committee might disagree with you as to that being the proper place?

MR. GAFFNEY: That is our recommendation. We do not feel that it is within our province to tell the Committee what it should do, however, if the Committee sees fit to recommend that the exception be placed in paragraph 3, that would be entirely within the rights of the Committee, but our recommendation is that it be placed in paragraph 2 and not in paragraph 3.

SENATOR PASCOE: On behalf of the Committee, I want to take this opportunity, while you gentlemen are still here, to show you' that you are still wrong.

Now, the exceptions in paragraph 2 are items that do not go into any particular general fund. Therefore, I still insist, as far as I personally am concerned, that you have it in the wrong place because in setting up the fund you state that no monies derived from fees, excises or license tax, etc. shall be expended for any purpose or appropriated for any purpose other than maintenance of highways. That is the sense of your amendment. Now the exceptions in paragraph 2 pertain to dedicated school funds and county pension funds which we want to protect and not make a part of the State Fund.

You can do as you please and we will accept it on its face value and make it a part of the record, but you want it in paragraph 2.

MR. GAFFNEY: That is our recommendation.

SENATOR PASCOE: The next speaker is Mr. Basil M. Stevens, an individual from Montclair, New Jersey, who wants to speak on Article III.

It seems that Mr. Stevens is attending another hearing so I will call on Mr. Emil A. Gallman, Executive Vice President of the New Jersey Savings and Loan League, speaking on Article VII, paragraphs 2 and 3.

MR. GALLMAN: Senator Pascoe and Members of the Committee, I am here at the direction of the Board of Governors of the New Jersey Savings and Loan League to present to you their approval of

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these two paragraphs and their hope that they will be retained in the final draft of the Constitution.

I think that Mr. Burger and Mrs. Kempson presented arguments in favor of these paragraphs very effectively this morning, in fact more ably than I could, and I don't want to take the Committee's time in repetition but I do think I ought to give a little background of our particular interest in these matters.

Our League includes some 380 of the Savings and Loan and Building and Loan Associations in this State. We are, naturally, very much interested in the welfare of the home owners and in making home ownership attractive to the prospective home owner. That involves very much the tax burden upon the average individual and that in turn, we feel, is affected by sound fiscal policy.

SENATOR PASCOE: I think we should be as quiet as possible for the man now speaking, and for the sake of orderly process we will waive for the minute the necessity for registering those who wish to talk on behalf of the labor section. That would save a little confusion for the minute until we get into the labor section and then we can get down to registration. If there are any who wish to speak, other than those wishing to speak on the labor section, please register now.

I see in the audience Assemblyman Friedland and I am wondering if he would like to sit with the Committee until such time as he is ready to speak.

ASSEMBLYMAN FRIEDLAND: Thank you, Senator, I would just as soon sit here.

SENATOR PASCOE: I didn't want you to be missed.

While at it, I saw another former Assemblyman here, Assemblyman Stackhouse of Burlington County. We are glad to see you and at the proper time we will ask you to say a word.

We will now proceed to hear Mr. Gallman of the New Jersey Savings and Loan League, speaking on Article VII, paragraphs 2 and 3.

MR. GALLMAN: Senator Pascoe and Members of the Committee: We feel that these paragraphs are a very definite step in the direction of sound fiscal policy and, therefore, we present to you

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our approval of them and we hope for their retention.

I will leave this formal statement with the Secretary.

STATEMENT

The New Jersey Savings and Loan League, by action of its Board of Governors, is on record as favoring wholeheartedly the provision which your committee has inserted in the proposed new Constitution, requiring that all revenues of the State government, from whatever sources derived, shall be paid into a single General State Fund.

We refer to Paragraph 2 and Paragraph 3 of Article VII, dealing with Finance.

We feel strongly that this provision constitutes a long-needed forward step toward sound financial administration for our State government. Several years ago the Legislature wisely provided that our municipalities be required to clear through one general fund all local taxes, grants, license fees, and other revenues, in order to insure proper financial reporting and effective control over the spending of all local funds. This step has proved to be a sound one, and our municipalities have benefited greatly thereby.

Obviously the finances of our State government deserve the same kind of business-like treatment, particularly if the taxpayers of New Jersey are going to be assured that the revenues of the State government are to be properly allocated and spent.

The savings and loan and building and loan associations of New Jersey have a very great interest in the tax burdens imposed on New Jersey property owners, and we realize that if bad laws and practices continue to hamper our State government, in recording and allocating its revenues and in maintaining proper controls over all the expenditures of its departments, boards, and agencies, the threat of new and additional taxes upon our home owners will be a real one.

We sincerely trust, therefore, that when your work is done, these desirable new provisions will still be contained in your finished document.

The New Jersey Savings and Loan League thinks that your committee is doing a splendid piece of work. We are glad to take this opportunity to indicate our approval of what you have done.

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SENATOR PASCOE: Just as a matter of information, please, these savings associations are federal associations?

MR. GALLMAN: No, approximately 380 of our members are state chartered and 8 are federal chartered. Whether federal or state chartered they perform the same functions, making loans on homes, mutual cooperation, thrift, and home financing institutions.

SENATOR PASCOE: You are speaking for the combined group?

MR. GALLMAN: Yes, I am, speaking for the group and after action by the Board of Governors."

SENATOR PASCOE: Thanks a lot.

The next speaker is former Senator J. Gilbert Borton representing the New Jersey Civil Service Association.

MR. BORTON: Chairman Pascoe and young-thinking Members of the Committee, I wish to take up a matter of privilege with you in regard to Article VI, Section 1 and the paragraphs following.

SENATOR PASCOE: Just a moment, Senator, that is under the Judicial Committee.

MR. BORTON: Am I in the wrong stall?

SENATOR PASCOE: Yes, it would seem to me that you are.

There are two or three articles which are not definitely legislative, executive or judicial and the Chairman, Senator Eastwood, assigned those Articles to the three committees - he gave us VII and VIII, and VI, therefore, this would come under the Judicial Committee. That is the civil service article?

MR. BORTON: The civil service Article, yes. But I think you could inform me on what I want to know. I am asking for the privilege of amending the brief I filed a few days ago.

SENATOR PASCOE: Where?

MR. BORTON: Over in the Senate Chamber with Senator Eastwood.

SENATOR PASCOE: And you want to amend that?

MR. BORTON: Yes.

SENATOR PASCOE: Then you will have to ask his permission.

MR. BORTON: Are they sitting there today?

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SENATOR PASCOE: Yes, in the Senate Chamber.

MR. BORTON: I am sorry to have taken up your time.

SENATOR PASCOE: We would be glad to hear you but, in accordance with the rules adopted, we feel we cannot do it.

MR. BORTON: Well, I will change my residence.

SENATOR PASCOE: Are there any others present who would like to speak on Article III, the Legislative Section, aside from the section on labor which we will hear later?

MR. WOLFE: Mr. Chairman, on Article III -

SENATOR PASCOE: With exception of the Labor Section.

MR. WOLFE: I sent my name up a little while ago -

SENATOR PASCOE: May I have your name, please?

MR. WOLFE: My name is Hugh C. Wolfe. I am from Tenafly, New Jersey, Bergen County.

There was one item in connection with Article III, Section IV, which caught my attention in reading through the proposed revision and I want to find out what it is all about.

Under Section IV, paragraph 3, we have this reading: "Each House shall choose its own officers, determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, may expel a member."

I recollect that in various European countries majorities have gotten into control of legislative bodies and then proceeded to expel all members of the other parties. I wonder why in this Constitution we made provision whereby, without any necessity except a two-thirds vote the House could expel any member it might desire. I am curious as to where that provision came from and why it is here.

SENATOR PASCOE: If you will just wait a minute we will tell you. We have here a special digest of the proposed and old Constitutions so when I read from this it will be something you haven't yet seen. On one page we have Section IV of Article III of the proposed Constitution, which you refer to, and then we have Section IV of Article III of the present Constitution and there is no change in the proposed Constitution.

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MR. WOLFE: That still doesn't answer my question as to why there should be a provision that the House may expel a Member by a two-thirds vote. It seems to me that it is one provision that has been made use of in other countries very much to the detriment of our Democratic policy. I wonder why it is retained even though it is in the old Constitution.

ASSEMBLYMAN AMLICKE: Don't you think that either branch of the Legislature, the House or Senate, ought to have the right to expel a member if he is guilty of conduct unbecoming a member, such as corruption or a grave misdemeanor or conviction for some heinous crime?

MR. WOLFE: I do, indeed, but I do not believe that any such Legislature by a majority of two-thirds should have the right to expel a member for being a member of another political party properly elected by his constituents, and there is no provision made here as to any restriction.

ASSEMBLYMAN AMLICKE: Do you know of any instance in the past one hundred years when that was done?

MR. WOLFE: In Europe, yes.

ASSEMBLYMAN AMLICKE: We are talking about New Jersey, particularly, the State of New Jersey.

MR. WOLFE: I think the people in New Jersey are fine people and act well but if we went on the assumption that the people would always act well we would not need any laws or a constitution.

ASSEMBLYMAN AMLICKE: Exactly what are you afraid of?

MR. WOLFE: Only that there might be ill-advised use of an Article so completely general, that imposes no restriction whatever upon the right of the majority to expel any other member.

SENATOR PASCOE: I assume you are not referring to the Democrat or Republican Party?

MR. WOLFE: I don't care what it is. I know in Germany when Hitler's party got in majority they proceeded to expel members of the various other political parties in order to have complete control.

SENATOR TOOLAN: Did they give the people in Germany the right to vote on a Revised Constitution?

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MR. WOLFE: I am not saying; I am wondering, if you are limiting the Legislature to specific acts, such as conduct unbecoming a member, as a basis for removal, why not so state instead of a general statement that a two-thirds majority may remove a member for any cause. That is all I have in mind.

SENATOR TOOLAN: Don't you realize that on constitutional law you will have a pretty good definition of the cause for which men have been expelled from legislative bodies in this Country, and that is the limit of the power of these legislative bodies insofar as precedent can fix that limit. Now, if we reach the point in this Country where legislative bodies begin to expel their members for lack of sufficient cause or for no cause, then we will arrive at a time when we won't have to worry about a constitution because then we will have a revolution. As long as we operate under a constitutional democracy I think you will find that this language is adequate because under precedent it probably has been adequately lived up to.

MR. WOLFE: Thank you. I just wanted to make sure the matter has received due attention.

SENATOR PASCOE: Reading what the boys and girls are trying to do around the world, I have the utmost confidence we are going to win. I have no fear that any gestapo or Hitlerized tactics will be assumed by this present Legislature or by any in the years to come.

MR. WOLFE: Since you said that, I do not think so either, but we don't write laws on the assumption that politicians are going to be crooked and misappropriate State funds; nevertheless, we try to draw up laws that will make it difficult to do that if there are such people.

SENATOR PASCOE: Of course. All laws are drawn on that basis.

We will now call Matlack Stackhouse representing the New Jersey Committee for Constitutional Revision and former Member of the Legislature.

MR. STACKHOUSE: Senator Pascoe and Honorable Members of

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the Committee, I have been requested to appear here this afternoon for the Committee of which I am an officer, the New Jersey Committee for Constitutional Revision.

Our Committee has combed this proposed Constitution in every respect because we know that the burden of urging the electorate of New Jersey to vote in favor of this proposed Constitution at the November election will rest mainly on our Committee.

Our Committee wants to congratulate the Members of this Committee and the Members of the Legislature for incorporating this provision in reference to dedicated funds. We unanimously agree, and in fact I have heard no disagreement, that such a provision should be in any proposed Constitution and I want to convey to you that our Committee and all of the constituent organizations that we represent are in favor of this provision.

Winston Paul, our President, is here this afternoon and will elaborate more fully and more scholarly on that.

It seems perfectly obvious to me that taxes can only be levied where the money is, and taxes, so far as our State is concerned, are only for one purpose; that is, for the support of the State Government or any social project undertaken by the State. There is no theory, as far as State taxation is concerned, that taxes should be used to change the social structure. It is a quite respectable theory in our Country today that taxation should be used in order to change the social structure. I simply have to mention Stewart Chase to you on such a theory, but that has entirely to do with Federal taxation.

That being the case, New Jersey can only tax where it can get the money, and to dedicate funds which are raised in a particular source to that particular source where the funds are raised, would mean that a large number of institutions and salaries of public officials generally would have no source from which they could be paid; for instance, farmers who might pay real estate tax could argue that all that money should be devoted solely to farmers, and so we go down the line, that is, the people who claim that taxes should only be used according to the source from which they are paid would in effect, emasculate our entire State

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Government.

It is a well known fact in New Jersey that it is almost impossible to secure a proper State budget which includes all receipts and disbursements of all of the departments of the State, and this provision will eliminate that terrific confusion which exists in our entire State budget.

Taxation is not a penalty in any respect; in fact, it is paid for the privilege of the benefits which we receive from our State Government and that is only consistent with the provision which you gentlemen so wisely inserted in this Constitution.

On behalf of our Committee, I wish to congratulate you and hope this provision will remain in the Constitution when it is submitted in November.

SENATOR PASCOE: Does Mr. Winston Paul, representing the New Jersey Committee for Constitutional Revision, wish to speak now on Section II of Article VII?

MR. PAUL: Mr. Chairman I would like to speak in favor of Section II of Article VII as proposed and prepared by this Committee.

This is the Article which has to do, as you all know, with so-called dedicated funds. The New Jersey Committee for Constitutional Revision was the Committee which actively sponsored a favorable vote on the referendum at the last election. It consists of 20 state-wide organizations, such as the CIO, AFofL, New Jersey Taxpayers Association, New Jersey League of Women Voters, New Jersey Real Estate Boards, etc., about 20 different organizations.

We have given very careful study to the Constitution and we think your Committee has proposed a very excellent document which puts to shame those critics who state that this method of amending our Constitution would not be workable and as a result we would not get a workable or forward-looking document.

I think the document this Committee has proposed is so excellent that it is an outstanding contribution to the good government and progressive spirit of this State.

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Apropos of the dedicated funds, in the words of the Hendrickson Commission: "So long as the State's left hand is not permitted to know what its right hand is doing in a fiscal sense, the State's financial management is obviously under a severe handicap. The provision abolishing so-called dedicated funds will remedy this situation by preventing separate little treasuries for favored projects from being established, regardless of the demands of pressure groups." Those are the words of the Hendrickson Commission which I just quoted.

There are at least 37 dedicated funds. Some authorities claim the correct number is 58. Whatever be the number, the principle and the vice are the same.

In the words of Mr. Russell Watson, one of the leaders of the New Jersey Bar and close student of New Jersey's Government: "The vice of the system of dedicated funds as it has obtained in New Jersey for a long, long while is that certain revenues are dedicated to certain specific purposes, regardless of the State's resources and regardless of its needs and requirements. Under this system the State might have more money than is needed in a particular dedicated fund and yet be rather hard put to it for money for essential governmental services. No private business practices such a system, nor could long survive under it. It seems to us that the sound principle is that all of the State's revenues and resources should be pooled in one fund and dedicated according to the supply and according to the need. The system of dedicated funds has created a State fiscal situation that is nothing short of scandalous.

A few years ago the Princeton Survey made a study of our State Government, under the direction of Dr. Harold W. Dodds, President Princeton University, and they reported as their conclusion: "The complex system of dedicated funds breaks the financial resources of the State into numerous self-contained compartments. As long as they exist it is impossible for the State to mass its fiscal resources and direct them to the points at which they are most needed. We recommend in the strongest terms possible a complete abandonment of this policy. It is not proper that any unit of the government should live to itself alone.

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Each one is a part of a vast machine operating for the benefit of the people as a whole. It is unthinkable that any agency should be allowed to spend all it can collect, while another agency relying upon special appropriations, starves its essential services. Only by the merest accident can the needful expenditures of a department coincide with its receipts from particular fees or taxes. The single factor in determining what a department is to be allowed to spend should be the public value of its services."

The most important and the best known instance of Dedicated Funds is in connection with the Highway Department, and in an exhaustive study and report on that Department a year or two ago, this report states that the Highway Department has for much of the time in the past dedicated itself to the proposition of maintaining its indefensibly independent position in the State Government--a position that carries great power in State affairs, and further, the State Highway Department should be considered as a regular agency and integral part of the State Government, and should be subject to the same set of overhead controls of budgeting, finances, purchasing and personnel as are provided for the other agencies of the Government.

The most serious objection to a dedicated revenue, in the judgment of students of Government, is that it tends to create a vested interest in continuing arrangements, which experience and lapse of time may prove to be contrary to the public interest. Even if there be at first a proper relation between the proceeds of a given tax and the need for expenditure for a given service, there is no reason to assume that that relationship will continue to exist. Experience demonstrates that once a dedicated fund has been set up, it is extremely difficult to deal with it on its merits. If a revenue proves to be greater than is needed, it is likely to encourage improvident expenditure for the particular function. This may mean either that an inordinate tax is perpetuated or that some public services languish while others flourish in extravagance. On the other hand, the purpose for which the fund is dedicated may not be fulfilled if revenue fails to keep pace with need.

One of the vices of the system of Dedicated Funds is that it is

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difficult, if not impossible, for the Legislature in making appropriations for these 37 or 58 bodies benefitting from Dedicated Funds, to impose upon them the same sort of control which the Legislature imposes on departments not having Dedicated Funds. The essence of a sound budget system is that the Legislature should have absolute control over the expenditures of all State departments, Bureaus and Agencies.

The N. J. Committee for Constitutional Revision found in the campaign last fall, when it advocated a favorable vote at the referendum, that the citizens and taxpayers of this State are very much concerned with and wish to see established in this State the principle of ONE BUDGET and ONE BUDGET YEAR. Believing that the provision Section 2 of Article VII recommended by your Committee meets this test, the New Jersey Committee for Constitutional Revision wholeheartedly endorses same, and urges its adoption.

SENATOR PASCOE: Have you seen Governor Edge's budget, Mr. Paul?

MR. PAUL: I haven't read it; I have seen only the highlights in the paper.

SENATOR PASCOE: It provides for a single appropriations bill and also for a single fiscal year, just what you are talking about.

MR. PAUL: Yes, I know that.

MR. PASCOE: On behalf of the Committee I would like to state that Senator Eastwood has asked this Committee if they would not indulge him to the extent of hearing the combined labor article, that is the paragraph under Article III and the paragraph in Article VI pertaining to labor, because his Committee is overwhelmed today with the appearances of those who desire to speak on the Judicial Article.

The Committee has agreed to accept that responsibility and has further agreed that we will stay here until everybody has had ample opportunity to be heard. We do have a few more who want to speak, and were registered this morning, on Article III and Article VII and we would like to finish those. Please don't get the impression that we are not going to stay until we hear all.

I will now call Mrs. Richard L. Miller who desires to speak on

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Article VII, Section II.

MRS. MILLER: Senator Pascoe, and Members of the Committee: As a member of the New Jersey League of Women Voters, I am very happy to be recorded as a "proponent" of the article which does away with dedicated funds. The League has long advocated such a change in the government of New Jersey. We believe that the theory of dedicated funds is wrong. Money which is collected by various departments of the State should go into a single pocket-book and be expended as needed in the best interests of the whole state. If a revenue proves to be greater than is needed, it is likely that unnecessary spending will result. On the other hand if the revenue is not forthcoming a very necessary expenditure will have to be curtailed, as long as dedicated funds are kept intact. Surely no private business carries out such a practice of many pockets and many treasurers, and our State can ill afford that practice.

In this we concur with the Constitutional Revision Committee.

Thank you very much.

SENATOR PASCOE: Captain Tom Mathis would like to ask a question.

SENATOR MATHIS: Do I understand that you are proposing that dedicated school funds go into the General State Fund?

MRS. MILLER: No, because we agreed to paragraph 2 which makes the exception, I think. We agree on paragraph 2 as recorded there.

SENATOR MATHIS: Then, if the school fund should be dedicated, why shouldn't the highway or some other fund be dedicated?

MRS. MILLER: We don't feel the Highway Fund is as necessary as school education.

SENATOR MATHIS: Why?

MRS. MILLER: Why do you think so? Perhaps you can give me a good reason for thinking that. I think schools are much more important than highways.

SENATOR MATHIS: Because the voters pay additional tax in motor vehicle tax for the purpose of building highways.

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MRS. MILLER: I don't believe they do.

SENATOR MATHIS: Why should the Highway Fund not be kept for highways as well as the school fund -

MRS. MILLER: I think people pay because they need to do that because they drive cars on the highways, not because they want more highways built perhaps.

SENATOR PASCOE: I see also two other names of people representing the New Jersey League of Women Voters - Mrs. K. A. Baldwin representing the New Jersey League of Women Voters.

MRS. BALDWIN: For the Summit League I would like to say that we support the statement made by Mrs. Miller, just now, and the statement made by Mrs. Kempson this morning.

SENATOR PASCOE: And Mrs. S. B. Ingram.

MRS. INGRAM: I believe official statements have been made by Mrs. Kempson.

Senator Pascoe, I will just take a moment to say that I believe Mrs. Kempson was here at your hearing this morning and gave the official League statement. I just want to say as Vice President of the New Jersey League of Women Voters that we endorse the stand which Mr. Paul has outlined inasmuch as the League of Women Voters is an affiliate organization. We believe in letting our left hand know what our right hand does or vice versa. We would therefore like very much to urge you to include the present provisions which you have already outlined in Article VII on Finance.

SENATOR PASCOE: Paragraph 2?

MRS. INGRAM: Paragraphs 2 and 3.

SENATOR PASCOE: There is liable to be a slight modification, not for reducing its importance but rather to further protect that in which you are interested, the single fund.

MRS. INGRAM: Yes, thank you.

SENATOR PASCOE: Mr. Harry W. Wolkstein, Certified Public Accountant.

MR. WOLKSTEIN: Mr. Chairman and Members of the Committee:

The State of New Jersey, operating under its century-old Constitution

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has developed a large number of dedicated funds. The practice of establishing many dedicated funds, to be controlled by their own administrative heads without adequate budgetary control, has been carried to dangerous extremes. The existence of these allocated funds, accounted for in the past on two different fiscal years, has prevented our State government from massing its financial resources and directing them where most urgently required, and has prevented an economic administration since the chief executive has been unable to exert the necessary constant pressure upon these spending agencies for economy.

Under our present system, it is exceedingly difficult for our fiscal officers to prepare financial statements indicating the operating results of the State Government as a whole, since the complex system of dedicated funds has resulted in numerous independent departments and agencies. As noted by Mr. Winston Paul previously, commissions and investigating agencies have for many years advocated the abandonment of dedicated funds. The State Audit and Finance Commission, in its report of 1930, offered the following criticism of dedicated funds existing within our State governmental structure, "The dedication of revenues amounts to a lump sum appropriation with authority in the spending agency to apportion, apply and administer as it sees fit in its uncontrolled judgment, providing only that expenditures do not exceed the amount appropriated and come fairly with the general purposes described."

This system of levying a tax, fee, or license, and thereafter dedicating the entire yield to a flexible service without adequate and direct budgetary control, encourages wasteful expenditure by individual agencies. The dedicated fund method assumes that the fee or license as levied will produce exactly the proper amount of funds required by the particular agency involved. If the fee or license, as imposed, does not produce a sufficient amount of revenue the result may be inadequate service by the agency. If, on the other hand, the tax as levied, should produce double the revenue required for adequate service, the result as witnessed in too many instances of the past, is needless extravagance without proper executive control. The yield of any one tax or license is not necessarily the proper measure of what should be spent by that agency.

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It is essential that the chief executive of our State know that the State Government is receiving all the revenues to which it is entitled, and that the State is not making any expenditures that are not justified, and finally that all administrative work is being carried on economically. We cannot possibly secure economy in the expenditure of funds for any purpose without first requiring that a constructive program be set up and approved by the chief executive prior to appropriation. It is strongly recommended that our present system of allocating revenues and dedicating funds be abandoned, and that all funds be subjected to direct budgetary control. A comprehensive budget should decide the disposition of all state revenues.

May I quote from the 1931 report of the Commission on County and Municipal Taxation and Expenditures on the "Revenue System of New Jersey": "The State of New Jersey will never get its finances in order, and it will never be able to set up the kind of budgetary control of these finances which is so essential to wise and prudent management, until the unscientific practice of dedicating specific revenues for specific purposes is entirely abandoned."

Accordingly, I desire to be placed on record as one approving Article VII, Section 2, of the Proposed Revised Constitution "All revenues of the State Government from whatever source derived, including revenues of all departments, agencies and offices, shall be paid into a single fund to be known as the General State Fund and shall be subject to appropriations for any public purpose..."

Under our old Constitution, the State Treasurer has been permitted to hold a number of ex-officio administrative positions. Most authorities hold that he should be removed from all administrative boards and agencies, and his duties restricted to the collection, custody and expenditure of State moneys. The State Comptroller, under our present Constitution, maintains the central accounting system of the State, controlling the expenditure of State Funds, and auditing the accounts and records. In addition to his administrative duties, the Comptroller is a member of a number of boards and departments. In 1933 the Legislature created the office of the State Auditor, his duties to include the

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post-auditing of the accounts of the State and all departments, agencies and political subdivisions.

In the past there has been no clear line of demarcation between the administrative functions of the Comptroller and the functions of post-auditing. In preparing the revised Constitution, it is my belief that we must distinguish carefully between pre-auditing and post-auditing. The proposed draft of a revised Constitution provides in Article VI, Section II, "The State Comptroller, the State Treasurer and the State Auditor shall be appointed by the Senate and General Assembly in joint meeting for terms of four years." I wish to recommend that our revised Constitution define clearly the basic duties and responsibilities of these three financial officers.

We cannot overemphasize the importance of taxation in government, whether it be Federal, State or Local Government.

The proposed Constitution, in Article VII, paragraph 4, provides "Property shall be assessed for taxes under general laws, and by uniform rules, according to fixed standards of value." It is respectfully suggested that careful consideration be given to the advisability of modifying this particular provision. The Constitutional requirement that all property shall be taxed uniformly may have served, in years gone by, to safeguard against discrimination as between classes of property. Today, however, the Constitutional restriction as to uniformity of assessments, is regarded as a distinct hindrance toward desired tax reforms.

It should be noted that a number of States, after unsuccessful attempts over a long period of years to enforce the assessment of taxes uniformly as required by their old Constitutions, have developed a logical scheme of classification of properties. The Conference of the National Tax Association in 1907 passed the following resolution, "Resolved that all State Constitutions requiring the same taxation of all property, or otherwise imposing restrictions upon the reasonable classification of property should be amended by the repeal of such restrictive provisions."

In order to correct inequalities in taxation of the past, and to provide for a just and simple system of state and local taxation, it is

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respectfully recommended that Article VII, paragraph 4 of the proposed revised Constitution of New Jersey be modified as follows; as submitted previously by Mr. John F. O'Brien, "Property shall be assessed for taxes under general laws, and by uniform rules, according to classifications and standards of value to be established by the Legislature." It is further recommended that personal property taxes be levied and collected by the State Government.

SENATOR PASCOE: Are you a member of the Public Accountants Association of the State?

MR. WOLKSTEIN: I am a Certified Public Accountant of the State of New Jersey and State of New York.

SENATOR PASCOE: Are you a member of the Public Accountants Association of the State?

MR. WOLKSTEIN: I am not a member of the New Jersey Society, no, sir.

SENATOR PASCOE: You are not?

MR. WOLKSTEIN: No, sir.

SENATOR PASCOE: Then when you speak today, you are not speaking on behalf of that organization?

MR. WOLKSTEIN: I don't believe I represented myself as such, no.

SENATOR PASCOE: I had in mind their statement and we didn't understand your taking a different position.

MR. WOLKSTEIN: I see.

(Mr. Wolkstein requested the stenographer to include in his response that he is a member of the "American Institute of Accountants," the national association of certified public accounts.)

SENATOR PASCOE: Mr. Roger Hinds speaking on Dedicated Funds.

MR. HINDS: Mr. Chairman and Members of the Committee, I would like to add my approval, for what it may be worth, to the proposed Section II of Article VII which, with one exception, does away with dedicated funds.

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I speak only as an interested citizen but I have a special interest in this subject matter because of activity in connection with the Highway Investigation in which I and members of my staff consulted with a great many citizens, people who were well informed on the subject, and we received almost no dissent from the view which has been so admirably expressed in the proposed Revised Constitution and in our report, filed in 1942, we urged, with respect to the Highway Fund, that it be not dedicated as our investigation convinced us that it was a very bad principle. We believe in responsible government and we believe the responsibility with respect to state funds rests with the Legislature and there should be no such limitation on the power of the Legislature with respect to appropriations.

I, therefore, very enthusiastically express my personal agreement with Article VII, Section II, exactly as it is proposed by your Committee.

SENATOR PASCOE:

Thank you.

We have on our list the name of a gentleman who was not present when called - Mr. Basil M. Stevens an individual from Montclair who wishes to speak on Article III, Section VI.

It seems that Mr. Stevens is still not here so I will call on a gentleman who appeared before our group at each of our hearings and presented a very interesting discussion - Mr. John Bebout representing, as this says, Commissioner Driscoll and Director Westcott, Camden County Board of Freeholders.

MR. BEBOUT:

Commissioner Driscoll had hoped to be here today and when he found he could not possibly get here he dictated this brief memorandum and asked me to read it in the record. This has to do with Dedicated Funds.

MEMORANDUM DICTATED BY COMMISSIONER DRISCOLL TELEPHONICALLY ON FEBRUARY 9, 1944.

Good business and sound public policy support Article VII of the proposed Constitution as drafted and submitted by the Joint Legislative Committee.

The principle of "dedicated funds" is unsound and uneconomic. Their presence in the past has handicapped the fiscal planning of the State. Moreover, in my opinion, these dedicated funds have not promoted the best interest of the programs they were intended to serve.

I strongly urge that all revenues of the State from whatever source derived, should be paid into a single fund to be known as a "General State Fund" and subject to appropriation following the normal procedure for such appropriations.

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I have also been asked by Director Westcott to say that he endorses a statement made by Freeholder Farrell of Camden/^{County} to the Joint Legislative Committee, page 422 to 424 of the record of those hearings. I will read a couple of brief paragraphs which give the substance of what Mr. Westcott is endorsing:

"As part of the general program to cure New Jersey's many governmental ills, the new Constitution would provide for a manageable administrative system and a uniform and effective system of fiscal control, something now lacking, with approximately one hundred boards, departments, bureaus and agencies operating each unto its own laws and customs.

"Imagine a business, however small, in which the operator didn't know how much money he spent: Even an ordinary household couldn't survive on that basis. And yet the great State of New Jersey, spending millions of dollars every year, is so involved in a maze of financial spider-webs that no one knows exactly how much of the taxpayers' money is spent - an unthinkable condition, and yet it exists.

"As a member of Camden County's governing body, I am naturally vitally interested in anything that will cure this unhealthy and expensive ailment. The proposed Constitution supplies the answer, I am convinced, in its fiscal procedure. It places all agencies and departments in a single budget appropriation bill, where they belong. It sets up a uniform budget year. It places restrictions on special legislation and mandatory local spending. It limits borrowing power with a resultant enforced saving in tax-consuming interest charges. It restricts supplementary appropriations, the invariable joker in artificially reduced budgets, and so a contributor to dishonest budget-making. And, of tremendous importance, it abolishes the evil of dedicated funds. Coming from a freeholder, this last may sound like heresy, simply because some of the funds are dedicated to county use. But what is the true picture? We have the spectacle in New Jersey of departments finding themselves unable to cut expenses, even if they want to, because revenues from certain fees or taxes are specifically dedicated to them. If those revenues increase, the expenses must keep pace.

"It is illogical to say that because, for example, the use of automobiles has increased greatly in the past decade, and receipts from

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motor vehicle license fees and gasoline taxes have exceeded all expectations, their use should be restricted to highway projects. Where would the municipalities of this State and the taxpayers who support them be now if the fallacious theory, sacredness of dedicated funds, had not been set aside long enough to permit diversion of highway funds for relief? Why shouldn't these taxes, the same as liquor taxes and all other State revenues, be put into a single fund for use wherever needed?"

ASSEMBLYMAN LEONARD:

Mr. Bebout, you don't mean to imply from quoting Mr. Westcott that he said he was against the proposals of paragraph 2, protecting municipalities and counties in their subvention? In his remarks he said something about as a freeholder speaking about County Funds he was against paragraph 2 that protects the municipalities.

MR. BEBOUT:

I don't think that was an issue. I believe we agreed a year ago last summer that it was not intended that the draft then before us should prevent the transfer by the State of revenues that were collected for local units. They are not thought of in the same category.

SENATOR PASCOE:

When here the other day, the Board of Freeholders said they agreed that paragraph 2 would protect them, so I don't think Mr. Westcott has taken any different view. He says he thinks they are protected.

MR. BEBOUT:

That was my understanding.

SEANTOR PASCOE:

Then may I say to them, through you, Mr. Bebout, that the Governor in his present budget message before the Legislature has provided for two successive years of county subvention, indicating that it is his intention at least that the Legislature will no doubt approve same in the form sent to us in the Appropriations Bill. Therefore, it would not be the Legislature's purpose to interfere with counties.

MR. BEBOUT:

I didn't suppose the Legislature would stop giving county road aid.

SENATOR MATHIS:

Do I understand that you think the Highway Fund should come in the General Fund?

MR. BEBOUT:

That is right.

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SENATOR MATHIS: And if that came in the General Fund, do you believe the gas tax law should be repealed or the Motor Vehicle license fee law should be repealed?

MR. BEBOUT: No, I don't see where they have any connection.

SENATOR MATHIS: You don't? Is there any reason why a motorist should pay a special tax for the General Fund?

MR. BEBOUT: Well, the motorists actually don't pay all the costs which are the result of the existence of motor vehicles. If you add the cost of State and county highways, municipal roads and streets, police costs and other costs which are a direct result of the existence of motor vehicles, they still haven't begun to pay for all of them.

SENATOR MATHIS: I don't want to be misunderstood. I am very strong for the School Fund being dedicated. Do I understand that you think the School Fund should also go into the General Fund?

MR. BEBOUT: My answer is that it was accepted from the beginning that -

SENATOR MATHIS: If the people you represent are willing to trust the Legislature to disburse dedicated funds to the highway and other departments, why shouldn't they trust the Legislature to disburse the School Funds?

MR. BEBOUT: The people I represent, so far as I know, haven't regarded that as an issue because it was their understanding that the school fund was specifically exempt and they have taken no action pro or con on that.

MISS PREEN: Are you aware of the fact that there are fourteen states at the present time that have a constitutional provision against the diversion of highway funds?

MR. BEBOUT: Yes, I have been told that.

MISS PREEN: Are you aware of the fact that within the last year three states have put in the Constitution this particular provision?

MR. BEBOUT: A good many states have a good many provisions in their constitutions that are foolish.

MISS PREEN: What I was getting at is do you believe there is some reason for this general trend throughout the whole United States?

MR. BEBOUT: I think there is always a reason for a trend, whether good or bad, but I disapprove of that trend.

SENATOR PASCOE: Any questions? If not, that exhausts our list of speakers on Articles III, VII, and VIII, with the exception of the labor section.

In order that there should be no one go away without having an opportunity to be heard, even though they didn't register, we are now asking if there is anyone in the audience who would like to speak on either one of these three particular Articles, III, VII, and VIII, with the exception of the one on labor.

MR. STACKHOUSE: I would like to answer Senator Mathis who has put the question to a number of speakers that, if school funds are dedicated and you approve of dedication of school funds, why shouldn't other funds be dedicated. The answer to that, Senator, is this, that our society conceives education to be the most important social function. Those who are of my older generation here this afternoon will remember the hysteria caused in the educational world during the last war. H. H. Wells published his most famous novel on education "Joan and Peter" and you will recall there is a chapter dealing with the subject of education or catastrophe. And our world has reached that point where the question is "education or catastrophe".

Therefore, we can say that education is the most important social function that the State could undertake. Consequently, we believe those funds for education should be definitely dedicated but there certainly is no reason why the same lines of logic should apply to any other dedicated funds.

SENATOR MATHIS: Don't misunderstand me. I agree that the educational funds should be dedicated. You misunderstood me before.

SENATOR PASCOE: There is a lady over here who wishes to speak. Will you give the secretary your name and the organization you represent?

MRS. HOWELL: I am Mrs. Charles R. Howell speaking for the Pennington Women's Club, a member of the New Jersey State Federation of Women's Clubs. In regard to Article VII, paragraph 2, we strongly approve of the General State Fund proposed in this paragraph.

SENATOR PASCOE: Mr. Irving Abramson. Are you also going to speak on Article III?

MR. ABRAMSON: No, Article VII.

SENATOR PASCOE: All right.

MR. ABRAMSON: In this connection I would like to say with respect to Article VII that I am representing the New Jersey State Housing Authority as well as the Congress of Industrial Organizations of New Jersey.

SENATOR PASCOE: Mr. Abramson, Mr. Vanderlipp of your organization was here this morning and made quite an exhaustive statement but we will be glad to hear you also.

MR. ABRAMSON: Fine. We got our wires crossed. I will merely talk for the New Jersey State CIO.

We are asking that paragraph 1 of Article VII be deleted and also asking that paragraph 5 of that Article be so amended as to permit the State of New Jersey to lend its credit so that, in the post-war period that comes, public projects toward rehabilitation, after this whole smoke is over, may take a more effective form. Particularly I am referring, for example, to the New Jersey State

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Constitution which has a provision allowing an indebtedness from that State of about two hundred million dollars for public housing. While public housing is involved we are hoping that it will not be limited to that type actively but to other projects that may be required in the post-war period.

SENATOR PASCOE: Will you name the State again?

MR. ABRAMSON: New York.

SENATOR PASCOE: You said New Jersey. The State of New York has a two hundred million dollar provision.

Those suggestions will be noted in the record.

Any questions? Mr. Everson, of the N. J. Taxpayers Association, on Article VII.

MR. EVERSON: I wish merely to say that the New Jersey Taxpayers Association is a member of the Committee for Constitutional Revision and, of course, we concur with what Mr. Paul has said and, for the New Jersey Taxpayers Association, I wish to say that we would like to see very much this Article retained in the draft of the Constitution and presented to the people in November as it is, without change.

SENATOR PASCOE: Is there anyone else who desires to speak on this particular Article?

MISS HUNTINGTON: May I ask a question? I am very much interested in dedicated school funds. If this should go through as is, with school funds dedicated, will they be dedicated on the same basis as today?

SENATOR PASCOE: It is the thought of the Committee, and those that we have worked with, that various school funds, such as the one Captain Tom talked about today, that come to the State with a slight deduction and then are reallocated to the county they come from, on a certain basis of allocation, would be fully protected and not go in the General State Fund. Then your monies accruing into the State School Fund, the Riparian Rights monies that are invested on behalf of the schools, and the interest of which is used for school purposes,

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would likewise be protected. And we wanted that change made in another paragraph under education to provide that those two major funds will be protected. The State Teachers Pension Fund would, undoubtedly, be protected under the provisions of this paragraph as it is now prepared. That is the full intent and understanding of the Committee.

MISS HUNTINGTON: Thank you.

SENATOR PASCOE: May I have your name please?

MRS. RAPPAPORT: Mrs. Ruth Rappaport of the New Jersey League of Women Shoppers.

We wish to endorse the stand taken by the Committee for Constitutional Revision regarding this proposed Article.

SENATOR PASCOE: This one paragraph?

MRS. RAPPAPORT: Yes, on dedicated funds.

SENATOR PASCOE: If there are no others desiring to speak, the Committee will take a couple of minutes recess so that we can arrange and allocate time for the representatives here to speak on the two paragraphs pertaining to Labor.

In the meantime, I would like to ask Mr. Wm. R. Jackson and Mrs. Wm. Milwitzky if they will please step to the chair so we can talk to them.

RECESS

SENATOR PASCOE: The hearing will please be resumed and we will ask everybody to be as quiet as possible. We will now ask Spencer Miller, Commissioner of the State Highway Department, who is vitally interested in this subject of Constitutional Revision, if he would like to make a statement at this time.

MR. MILLER: Mr. Chairman and Ladies and Gentlemen of the Committee, Article VII, dealing with Finance in the proposed Revised Constitution, deals with the subject of a single State funding budget and the question of the fiscal year. It is a matter that I have been giving a good deal of thought to over the past 20 months and I am of the opinion that the provisions as set forth in this Article VII, particularly in paragraphs 2 and 3, will go a long way

to put the finance of the State of New Jersey on an orderly business basis.

It seems to me that it is elementary in connection with public finance that the expendable revenues of the State should be paid into a General State Fund and that a single comprehensive financial plan for the year's operation should be embodied in a single budget and appropriations act conceived each year in the light of existing realities rather than of outmoded hopes and fears and I subscribe to the principle that all departments of state government should be controlled by that plan and operate on the same fiscal year.

I have stated this, gentlemen, before the Joint Appropriations Committee now on two occasions and I am persuaded that it is in the interest of New Jersey, of not only economy and efficiency but of state operation, that we should have the same fiscal year, that we should have the same budget for all departments, and that by this process I believe we can count upon not only the Governor and the Legislature but I think it is a device by which the public itself can get an accurate and a current understanding of the financial conditions of the State. There is no other system in my judgment which is as likely to result in equitable allocation of resources of the state among agencies and services in the light of their respective importance. There is, in short, no other actual control of our state government from year to year. I think it is a significant fact, and I think one that is worth noting, that the Governor himself has seen fit in his budget to anticipate the formal adoption of this system by the vote of the people by recommending that the highway department and all other agencies be put on the same basis so far as the budget and the fiscal year are concerned and I want to have this opportunity of coming before your Committee to make clear my own position-that I find myself in complete agreement with the provisions as set forth in paragraphs 2 and 3 of Article VII dealing with the question of Finance.

May I make one further statement, because I have a concern about this problem in connection with the problems of the Highway Department- that it is my considered judgment that it is possible for the State Highway Department to work out a plan, shall I say a master plan, for the development of the facilities of our highways and bridges throughout this State which will not only be the basis upon which appropriations can be made but whereby I think that we can provide all of the necessary and requisite safeguards for a sound development of highways throughout this State.

In other words I think we have come to an important turning point in the history of State Finance and I think it is of the very greatest importance that we provide in this State for a single fiscal year, for a single budget, and work out a plan for the broad over-all development of our highway systems on the basis of which the Legislature can make its appropriations.

I realize the very grave concern that some agencies and some groups in this State have about the diversion of these funds. I must say quite frankly to all of them that, as I have studied the operations of the highway fund and what has happened over the years, I have come to the conclusion that the existence of an independent highway fund will not safeguard and secure the integrity of those funds themselves and I think the time has arrived when we must in the interest of the whole people have a single fiscal year and a single budget, and the burden must rest upon those charged with the administration of our highways to present and prepare plans so sound in their engineering and economic base that they will commend themselves to the reasonableness of the State Legislature and to the people of the State. I think we can provide the assurance of a program of continuous development of our highway system. I think it can be done under a single budget, such as I have suggested and as you have recommended in the provisions of your proposed new Constitution.

SENATOR PASCOE: There are two people who want to talk on housing, Mr. Jackson and Mrs. Milwitzky, and I would like to call on Mr. William R. Jackson.

MR. JACKSON: Mrs. Milwitzky and I represent the Citizens Committee for Inter-Racial Unity, composed of representatives of forty different organizations that serve in the Newark area. These organizations include people of all races, colors and creeds.

The recommendation which Mrs. Milwitzky will present comes from the combined thinking of 150 organizations throughout the State of New Jersey at a conference of the New Jersey Good Will Commission in Newark.

Will you present it, Mrs. Milwitzky.

MRS. MILWITZKY: The belief is that the State Constitution should assert the broad power of the Legislature to legislate for the general welfare. Such powers should specifically include the right to provide for issuing bonds for a state financed housing program without the existing restrictions by the bond clause of the 1844 Constitution.

The evils of poor housing are manifest at every term. To the same degree that public health and public education were necessary to provide all citizens with basic protection as a means toward developing good citizenship, it is equally imperative that the State be placed in position to attack the evil of slums. The Federal Government has pointed the way. It now is a State Responsibility and it is within the function of a State Constitution since New York has already adopted such a plan and we hope New Jersey will follow.

SENATOR PASCOE: Do I understand that New York State has written it in the Constitution or adopted it otherwise?

MRS. MILWITZKY: In the Constitution, yes.

SENATOR PASCOE: May I ask you two people if you will please, not later than next Monday, submit to the Committee your proposed wording of the paragraph and where in the Constitution you would

like to see it placed. That is quite important.

MR. JACKSON: We will send it in.

SENATOR PASCOE: This morning a priest came to me and talked on this same subject and I referred him to Senator Eastwood because I thought they were talking on the Bill of Rights. Do you recall who that might have been?

MR. JACKSON: I am sorry but I don't.

SENATOR PASCOE: He came down and wanted to talk on the racial question. I didn't want him to think we diverted him or that we were hearing it and he was not advised. I don't see him in the audience but if you should see him tell him we apologize but this was sent back by the Chariman since I talked to him.

MR. JACKSON. I shall.

SENATOR PASCOE: We now come to the subject of labor.

The Committee has long and carefully considered the matter of the labor clauses in the proposed Constitution. May I say here that there is no other single group in the State of New Jersey that has been brought under the Constitutional provision except labor. I say that advisedly, before the discussion begins, because we have many other groups throughout the State who have asked to be brought under the new Constitution and we have left it thus far that labor and labor alone has been singled out for this special consideration.

While our rules provide for fifteen minutes on each Article the Committee has agreed to waive that for this particular group because they have been around all day waiting for an opportunity to be heard and we want them to be given the most ample opportunity possible for all to speak that want to. Therefore, we will put no limit whatever on either side that wants to speak within common decency and reason. The sun is already setting but we have agreed to stay and stay we will. We will start by hearing from the President of the American Federation of Labor of the State of New Jersey Louis P. Marciante.

MR. MARCIANTE: Senator, I assume we are not restricted to the provisions on labor?

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SENATOR PASCOE:

No.

MR. MARCIANTE:

Our understanding with Senator Eastwood was that we could present all of our views.

SENATOR PASCOE:

That is right.

MR. MARCIANTE:

The New Jersey State Federation of Labor has carefully considered the proposed constitution as prepared by the Joint Legislative Committee. We are satisfied that, using the form of the proposed revision of 1942, much care and attention was given to this document, and a sincere attempt was made to prepare a basic charter which would meet the needs of our present highly industrialized society.

We feel, however, that, in some respects at least, changes for the better could be made.

At the outset, we should like to point out that, except in one or two instances, our suggestions are made, not in a restricted sense of representing only organized labor, but from the broader point of view of being an integral part of our society as a whole. If we had to make one broad or general criticism of the entire document, we should say that it reflects a rather distressing lack of confidence in the integrity or intelligence of the common people. The restrictions on their right of self-expression, their inability under this proposed constitution to initiate reforms, to control the processes of government more directly, give evidence of a disbelief in the basic principles of democratic government. There seems to be a repetition of the conflict between Alexander Hamilton and Thomas Jefferson, with the principles of Hamilton winning out.

Our reasons for this comment will appear as we voice our various suggestions. They are as follows:

Article 1.
THE BILL OF RIGHTS.

We ask the inclusion in the Bill of Rights of a new section, to read as follows:

"Section 22. Employees shall have the right to organize and bargain collectively through re-

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representatives of their own choosing, free from interference, restraint or coercion on the part of their employers."

This is not a new suggestion, nor is it unknown in the constitutions of other states. It is contained in the New York Constitution, a state, which, in industrial development, is closer to ours than is any other state.

It has been stated before this committee that labor should receive no consideration in the constitution, because other groups receive no special consideration. This statement was, oddly enough, made by a representative of that very group which has received the greatest special consideration in the proposed, as well as the existing constitution--the great industrialists of our state. They have been guaranteed the protection of their property, and are assured fair compensation for any property needed by the government, and due process of law before their property is taken. Even in war, they cannot be forced to give up their property, no matter how badly needed, without due process, or fair compensation.. On the other hand, persons are not as sacred. They can be conscripted for governmental service.

We do not object to these principles. We merely suggest the absurdity of any statement that workers should not be given constitutional protection, on the ground that such protection is not given to other groups.

In the Legislative Section, article lll, section VI, paragraph 2, is contained a clause reading, "The right of labor to organize and bargain collectively shall not be impaired."

This clause, we submit, is meaningless. It was, we are sure, included in the 1942 draft in good faith, in the sincere belief that it guaranteed the right of labor to organize. But it does no such thing. It merely preserves to organized labor whatever rights under state laws which we have now.

But we have very few rights, under state laws. The Federal Constitution secures our right to organize, our right to associate

for our mutual protection. The Wagner Act protects our right to bargain collectively with employers engaged in interstate commerce. But there is no state law protecting our right to organize, free of interference, restraint or coercion on the part of employers. Employers may engage labor spies with impunity. They may discharge employees for joining labor unions. They may form company-dominated unions. They may refuse to talk to representatives of their employees.

In other words, the laws of the State do not grant any right to organize or bargain collectively. A constitutional prohibition against impairing these non-existing rights would be an empty mockery-- a gesture without meaning of any sort.

If it is the purpose of the Legislature to grant and to guarantee to labor these fundamental rights, and obviously this is your intention, since there is included in the Legislative article the section reading, "The right of labor to organize and bargain collectively shall not be impaired", then there should be an effective guarantee of these rights. It should be affirmative, not negative. It should be included in the Bill of Rights, where it properly belongs.

We, therefore, urgently recommend that our suggested clause be added to the Bill of Rights and be used instead of paragraph 2 of section VI, of article III, which could then be deleted.

Article IV.

Executive

1. Re-election of Governors

We believe that a grave error has been made in prohibiting a Governor from succeeding himself. This is one of those instances to which we have referred where the framers of this document have shown their lack of confidence in the intelligence of the voting public. Why should the people not have the power to re-elect an able, intelligent, and successful chief executive?

A business corporation would be considered stupid if it required its president to retire from office after four years. We in New Jersey are seeking to streamline our constitution so as to give us efficient government, suitable to modern conditions. It takes not

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much less than one term for a Governor to become acquainted with all of the ramifications of his office. Should we then be compelled to kick out of office a man who has demonstrated his ability, honesty, and efficiency?

The history of our sister state, New York, gives ample evidence of the desirability of retaining in office those Governors who prove their worth.

The only reason why this limitation is included in the proposed constitution is that its framers did not trust the judgment of the people. They do not believe that the people can be trusted to know a good Governor from a bad one.

We have greater faith in the people. If we are to have a democracy, or a republic at all, it is because we believe what the constitution says, that "All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it."

The cynical refusal to trust the people's judgment in the election of governors certainly is a repudiation of the pious expression of the Bill of Rights that all political power is in the people.

We therefore, recommend that the last sentence of paragraph 5 of section 1 of article IV should be deleted.

2. Lieutenant Governor

We believe that there should be a provision for the election of a lieutenant governor, of the same political party as the governor, who would succeed the governor, be a member of his cabinet, and preside over the Senate.

Many states have such a provision, which seems to operate satisfactorily. Certainly a Governor should, in case of death or other disability, be succeeded by a member of the political party in which the people have most recently expressed confidence. His successor should be one who has worked with him in the development of his plans

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for the government of the State, who knows his purposes, and who will be prepared to carry them out.

The system of having the Governor succeeded, even in his temporary absence, by a member of opposite political faith, has in the past led to dispute, confusion and difficulties which are known to all of us. While we have the chance, we should eliminate this serious cause of friction.

3. Labor Mediation

Section 111 of Article IV, as written, would require the incorporation of the State Board of Mediation into the Department of Labor, or some other department of the State. We ask that this board be exempted from such requirement.

The success of a mediation board depends entirely upon the confidence placed in it by industry and by labor. Lack of confidence in it by either side will spell its doom. It should be borne in mind that it acts purely on a voluntary basis, and can settle disputes only in direct ratio to the confidence reposed in it. It is not, and cannot be, an arm of government for compulsory arbitration of disputes, since compulsory arbitration is repugnant to industry, to labor, and to the basic constitutional concept of freedom of action by all people.

To subject the mediation board to the orders and direction of a politically appointed commission will destroy its effectiveness. If the commissioner is deemed favorable to one side, the other side will refrain from appealing to the board for assistance.

You know that the board is a creation of legislation introduced by organized labor. Representatives of industry agreed to it, but only on a condition that its services would be on a purely voluntary basis. In this we agreed. To add to its powers, or to subordinate it to a department of government will be to destroy it.

4. Veto Power

We submit that the Legislature has still retained too much power unto itself in providing for the overriding of a veto by a 60% vote of each house. A two-thirds vote should be required.

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A two-thirds vote is required by the Federal Constitution and by most of the state constitutions. Its beneficial effect is well known. Legislation of a purely partisan character becomes not too easy of passage.

We operate in this country on a system of checks and balances. The executive and the legislative authorities check each other, and the Courts check both. We are all too familiar with the disastrous results of undermining the Governor's power to check the Legislature. It is this very point that, above all else, led to this attempt to revise the Constitution.

We do not believe that any branch of the government should selfishly retain to itself greater power than it should properly wield. We believe that the requirement of 13 votes in the Senate and 36 votes in the Assembly is far too easy of accomplishment than the best interest of the State require.

The elimination of the pocket veto is an excellent suggestion. Here it prevents an excess of authority on the part of the Governor. Correspondingly, there should be the proper elimination of excessive authority on the part of the Legislature, by requiring a two-thirds vote to override a veto.

Article V. Judicial

We ask the amendment of section V of this article, to provide for the election of the judges of all constitutional courts.

Here again, the emphasis upon the appointment of judges indicates the same failing we have pointed out before—a lack of confidence in the judgment of the people. If this lack of confidence is justified, then it would be logical to go further, and to do away with the popular ballot altogether.

We of organized labor have had, perhaps, more intimate contact with the rank and file of the people, day in and day out, than any other group. We are in constant touch with their problems, their opinions and their reactions. We say to you that this lack of confidence in them is totally unjustified. If greater, instead of less responsibility is placed upon them, they will recognize this responsibility and act

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accordingly. It is only necessary to rub elbows with the man on the street in daily life in order to gain an overwhelming respect for him and an optimistic outlook for the future of our race.

It is argued that the voters do not get an opportunity to judge the capacity of men seeking judicial office. The answer to this lies again in the experience of our sister state, New York, where the highest court, the Court of Appeals, has justifiably gained the reputation of being the finest court in the country.

Article VI
Public Officers and Employees

We urge the elimination of the third paragraph of section I of this Article, reading,

"Strikes of public employees are against public policy."

We of the A. F. of L. do not encourage strikes of public employees. Our public employees' unions generally are in possession of charters prohibiting the resort to a strike. But we are deeply concerned with the implications of this clause, and troubled over its effect.

We feel sure that the Joint Legislative Committee intended merely to express a point of view, not to impose a penalty. But we are advised, and believe, that this clause may be the cause of the imprisonment for long terms of many fine, upstanding citizens.

It is not inconceivable that a group of employees, driven to desperation by tyrannical actions of a municipal despot may in the future, refuse in concert to continue their work. That would, under all legal definitions, be a strike. You must remember that, so far, there is no legal means whereby a group of public employees may secure a redress of their grievances, no matter how serious.

Since a strike of public employees is declared by the Constitution to be against public policy, it is an illegal act. Since it is an illegal act performed by more than one person in concert, it is a conspiracy to commit an illegal act. Such a conspiracy may, under our laws, be punished by imprisonment for not more than fifteen years.

We are sure that no member of the Joint Legislative Committee ever intended such a result. But, regardless of your intention, that would

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be the result-a fifteen year penalty for exercising the right, heretofore, guaranteed by every constitution in the country, to refuse to work for any employer for whom one does not care to work. The right to work is accompanied by the corresponding right not to work.

Fundamentally, this nation is built upon the freedom of the individual-the sacred guarantee against involuntary servitude. It is just as wrong morally to enslave a man to a private employer as it is to enslave him, in peace time, to governmental service.

Gentlemen of the Legislature, we submit that this clause is morally wrong, and is by all means the wrong approach to a solution of the problem of strikes by public employees. No American will give proper service under compulsion. We were brought up under the principles of freedom, and we will resent any limitation upon this freedom. No, the proper approach is to remove the causes of unrest among public employees. Set up legally recognized machinery for the redress of grievances. Guarantee all public employees that their grievances will be given sympathetic and fair treatment. Don't penalize them for seeking, in desperation, their only way out. Give them another way out, by recognizing that they may have justifiable complaints which should be adjusted.

Prohibition, of liquor or anything else, doesn't work. It merely provides a punishment. It doesn't cure the cause of evil. If you eliminate the cause of complaint, you eliminate the disease.

Article IX Amendments

It is in this Article that the framers of this proposed Constitution reveal most clearly their distrust of government by the people. No means is provided for the revision or amendment of the Constitution except on the initiative of the Legislature.

There should be definite means of amending the Constitution, or adopting legislation on the initiative of the people.

We, therefore, propose two modifications of Article IX--first, regular, recurrent constitutional conventions, and, second, a popular initiative and referendum for constitutional amendments or the adoption of legislative enactments.

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As to the constitutional conventions, we believe they should be held every ten years. Delegates should be elected by popular vote, by districts. It is entirely probable that many such conventions would adjourn without making any suggestions for changes in the Constitution. However, we are living in a world that changes with such rapidity that we should make it possible to revise our Constitution whenever the need arises.

As to initiative and referendum, we are only echoing the opinions of two of the greatest men of our time-President Theodore Roosevelt and President Woodrow Wilson. They had implicit faith in the voters. They had an optimistic attitude toward the future of our race, based upon their confidence in the common man.

It is at least strange that the members of the Legislature, who have proof of the intelligence of the voters in their own election to office, should not have demonstrated their faith in the electorate by imposing greater responsibility upon the voters.

It is true that a sufficient number of petitions should be required on an initiative, to insure against too easy changes in the Constitution or laws. It is our belief that the petitions should be signed by at least five percentum of the number of voters who cast their ballots in the latest gubernatorial or presidential election. Upon such a petition for a change in our Constitution or laws, the question presented by the petition should be required to be placed upon the ballot at the next general election for submission to the people.

The inclusion of provisions for constitutional conventions and for initiative and referendum would go a long way toward making the proposed Constitution a peoples document, toward establishing true democracy in our State, and refuting once and for all the arguments of a small class of persons who hold that they, and not the people as a whole, should be entrusted with the reins of government.

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Since the preparation of the foregoing memorandum, the State Federation of Labor has been able to give further study to the proposed revision. This study has revealed further points which we believe require correction. We ask permission to supplement our memorandum by reference to these additional questions.

Article VII.

Finance Paragraph 2

The elimination of dedicated funds is an issue concerning the general nature of which the Federation desires to take no position. However, we fear that the second paragraph of this Article may unintentionally be a death blow to any social security fund heretofore or hereafter created.

The Unemployment Compensation Trust Fund is now administered by the Federal Government. However, it is possible that at some future date it may be returned to the State, and it may not be especially earmarked as a trust fund.

We of organized labor have long sought the establishment of a state workmen's compensation insurance fund. We hope eventually to secure such legislation. Such a fund should, of course, not be subject to general appropriations.

There has just been introduced a bill to segregate employees' contributions to the Unemployment Compensation Commission in a separate fund, to be known as the Cash Sickness Benefit Fund, for the payment of sickness benefits. Such a fund should not be subject to general appropriations.

We are sure that it is not the intention of the Legislature or of the joint committee to prohibit such funds. It may very well be that the second paragraph of Article VII, as presently written, would exempt these funds. However, in order to set at rest any question on the subject, we ask that the first sentence of this paragraph be amended to read as follows:

"All revenues of the State Government from whatever source derived, including revenues of all departments, agencies and offices, shall be paid into a single fund to be known as the General State Fund and shall be subject to appropriations for any public purpose; but this para-

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graph shall not apply to moneys which may be received or held in trust or under grant or contract for restricted use or which must be received or held in a particular manner in order to receive a grant or which may be payable to any county, municipality, or school district, of the State, or which are paid to any agency or instrumentality of the State by way of contributions, insurance premiums, or salary or wage deductions for the establishment of a fund which is to be used to pay insurance benefits, social security payments, or compensation for unemployment, sickness, injury, or pensions."

Paragraph 1

We recommend that paragraph 1 of Article VII be amended to read as follows:

"The credit of the State shall not be directly or indirectly loaned in any case, except that it may be loaned, in the manner and to the extent directed by law, to an instrumentality of the State, or to a County, or to a municipality for the construction of public works which are found to be necessary."

In making this suggestion we are bearing in mind the probable necessity of large scale public construction in the post-war period to rebuild obsolescent structures and to aid in the elimination of unemployment. Many counties and municipalities, in order to engage in this necessary work, will need the assistance of the State. To prohibit the State from granting this assistance may well prevent a proper program of post-war rehabilitation.

Article VIII

Elections and Suffrage.

This article, we believe, requires two changes.

First, the word "pauper" should be deleted from paragraph 4. We have grown far from the Elizabethan days when a pauper was considered akin to a criminal. There is no valid reason to deprive from his ballot an unfortunate person who, by reason of the interplay of social or economic forces, should happen to be unemployed.

Next, we believe the provisions of paragraph 5 are too broad. A conviction of petty larceny, or simple assault and battery would be sufficient ground to disfranchise a voter. We believe that the provisions of our present constitution are sufficiently broad.

Article VI

We take this opportunity to express our support of the position of the Veterans' organizations on the question of preference in civil service.

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Since these organizations have already presented their proposed clauses, it is not necessary to repeat them here. We request the committee to include these clauses in the final draft of the revision.

Article 1

In addition to our previous suggestion for enlargement of the Bill of Rights, we suggest the following:

1. Amend paragraph 6 by adding the clause "No evidence procured in violation of this paragraph shall be admissible in any court." It is un-American to prohibit certain searches and seizures, but at the same time to permit evidence so procured to form the basis of a criminal conviction.
2. A section should be added prohibiting discrimination by reason of race, color, or creed as to civil rights, including the right of employment, by any governmental authority or by any private person or corporation.
3. The detention of witnesses for unreasonable periods of time or under excessive bail should be prohibited.

Article III

Finally, we desire to call to the attention of the committee that some definite protection should and must be given to the general public against what has been termed "legislative lightning." By this, as the committee well knows is meant the adoption of legislation hurriedly, and without giving the public or the members of the Legislature adequate opportunity to study a bill or make known their points of view or reaction.

Our nation and our state are built upon the principle that all citizens are entitled to a voice in their government. We are all guaranteed the right of petition. But this right of petition, the privilege of expressing our opinions to our elected representatives is denied to us through the use of the device of a "Suspension of the rules " by which a bill may be introduced and adopted by both houses on the same day. We believe that this practice is reprehensible and should be abolished. We therefore join in the suggestions heretofore made that paragraph three of section V of Article III should be amended to read as follows-

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"All bills and joint resolutions shall be read three times in each House, before the final passage thereof; no bill or joint resolution shall receive third reading or passage in either House until it shall have been printed and shall have been laid upon the desk of each member of both Houses at least one week before such third reading or final passage thereof; and no bill or joint resolution shall pass, unless there be a majority of all the members of each body personally present and agreeing thereto; and the yeas and nays of the members voting on such final passage shall be entered on the journal."

Senator, that concludes the presentation of the State Federation of Labor. I would like to say to you that it represents the combined opinion of a great many men whose names are being recorded here who represent many large organizations and who will be presented to your Committee. I might add that it represents the Frøtherhood of Locomotive Engineers and the Brotherhood of Firemen and Enginemen, Railroad Trainmen and Railroad Conductors.

SENATOR PASCOE: Inasmuch as that embraces all three departments we would suggest that you file a copy with each one of the sub-committees. We will make it an official record here but they can't say they don't know about it.

MR. MARCIANTE: We were going to suggest that by next Monday we would have a copy of this statement in the hands of each Member of the Committee. We don't have enough for that today.

CHAIRMAN PASCOE: There are only two questions I want to ask. Mr. Marciante has made several suggestions about possible wording of the bill of rights and I am just asking him to give his opinion as to whether or not we can add to or change the bill of rights.

MR. MARCIANTE: Legal opinion?

CHAIRMAN PASCOE: Personal opinion.

MR. MARCIANTE: I don't know. I frankly say we thought it legally could be done. I have never doubted the legality of it.

CHAIRMAN PASCOE: There has been some discussion on it.

One other point we ought to get in. You object to the wording of the present paragraph 2, Article III, subsection 2, "The right of labor to organize and bargain collectively shall not be impaired."?

MR. MARCIANTE: What we object to is placing it in the legislative.

CHAIRMAN PASCOE: You also suggested another wording, didn't you?

MR. MARCIANTE: We did, with qualifications.

CHAIRMAN PASCOE: In other words, if there is no change made by the Committee in the wording, you are still satisfied with the wording the way it is now? Just let's get that straight.

MR. PARSONETT: May I have a word?

MR. MARCIANTE: We would prefer it the other way.

CHAIRMAN PASCOE: What I am getting at, while we're satisfied the way it is now, is labor satisfied if they can't get the other wording?

MR. PARSONETT: Except that it gives us nothing in the affirmative. What it says now is that you can't take away something we don't already have.

CHAIRMAN PASCOE: When the Committee gets together, if you are not satisfied with this, would you rather have this out, if you say it won't do any good?

MR. PARSONETT: May I say this. If it is stricken out and not included in the bill of rights, the State Federation of Labor

will take this position: We will oppose the adoption of the entire revision. That is our conviction at the present time.

CHAIRMAN PASCOE: Anybody have any further questions about it?

The next speaker will be Mr. Parsonett.

MR. PARSONNET: Senator Pascoe and members of the Committee. President Marcianite has covered the field thoroughly. I haven't anything particular to add except to call attention to the question on Paragraph 2, Section 6, Article III. A little elaboration on it might be of assistance. At the present time the State law does not give labor the right to organize. That is guaranteed by the United States Constitution and nothing that the State Legislature can do could interfere with the right to organize. Insofar as the right of bargaining collectively is concerned, employees of any employer engaged in intra state commerce do not have any affirmative right to bargain collectively today in the State of New Jersey. Employees of inter state employers can enforce the right to bargain collectively through the Wagner Act. We have experienced throughout the last five or six years any number of cases in which retail store employers, laundries, hotels and other such organizations, which are naturally under intra state regulations, have not been willing to sit down to negotiate with employees, with representatives of their employees, and there is no legal method whereby they could be compelled to sit down and negotiate. They have a right to discharge employees who join a union and nothing in the negative approach contained in the Constitution will prevent them from discharging employees because they joined a union. They have the right to form company unions, engage labor spies to spy upon their employees, and thereby defeat an honest effort at organization among their employees. None of these things are prohibited by law in New Jersey today. So that when you say the right to bargain collectively and organize may not be impaired, we have nothing that you can impair under the New Jersey law as it is today. The right to organize you cannot impair because the Federal Constitution protects it. The right to bargain collectively does not exist. We ask an affirmative statement such as is in the New York Constitution and if the Committee feels that

the terms of the referendum of last year do not permit additions in the bill of rights, there is a simple answer: Substitute our proposed clause for the clause now inserted in the legislative article. Of course the referendum as we construe it does permit addition to the bill of rights. All the referendum said was that it shall include the present bill of rights. It does not prevent an expansion of the bill of rights provided all the rights now contained are maintained. So that although we feel that it could be included in the bill of rights, if you feel you are stopped from doing so, we ask you to substitute our clause for the clause now contained under Paragraph 2 of Legislative Article VI. We ask you to include it in either. There is also one more point I would like to call to your attention. I have not yet heard of its being presented to the joint committee and it may not be presented, but I heard of an attempt to present the suggestion containing the so-called and badly named "equal rights" amendment. The alleged equal rights amendment which would prohibit discrimination on the ground of sex, sounds very good. But you gentlemen of the Legislature have had experience with it before and you know that this amendment as proposed then would make unconstitutional all of the laws which at the present time protect women in industry, such as the minimum wage law for women and minors and the law which requires that seats be provided for all women that are employed at a stationary spot. We ask that you be on guard against making illegal the laws now on our statute books protecting women workers.

CHAIRMAN PASCOE: Mr. Parsonett, there is no provision in the proposed constitution which calls for equal rights.

MR. PARSONNET: That is true.

SENATOR TOOLAN: I am very much interested in what Mr. Marciante had to say, and I want to ask a question. It is this. Don't you think that implicit in that paragraph there is the guarantee of the right to organize and bargain collectively?

MR. PARSONNET:

I presume that was the intention of the drafters of that clause back in 1942. I think, however, we must consider the meaning in which the Court would consider the article or paragraph and I would like to refer you to the constitutional law decisions which say for example, "the constitution grants to the Courts the same constitutional and judicial powers they had had before." There was an interpretation whereby the courts were granted only those powers and no extra powers. As a parallel or reference to that provision, I would like to say this. In determining the intent of this short sentence, the Court would look into the laws as they existed in 1944 when the revision was adopted for the purpose of determining what the state of the law was then in New Jersey as to the right of employees to bargain collectively and finding that they had no right under the state law to compel the employer to sit down and negotiate with the representative of the majority of his employees, the courts would hold that there is not implicit in this section any right to force such employer to bargain collectively.

SENATOR TOOLAN:

Frankly, I disagree with you. I don't think the analogy which you cite would hold. You say that under the constitutional construction in the case where they say "this court shall have the rights, whatever rights existed in such a court" and inquire only what were the rights, this is not that sort of thing. This does not say that labor shall have the right to organize and shall have protected whatever rights it had heretofore to bargain collectively. If it said that I would go along with your argument. I think that implicit in this language was the guarantee to labor that it should have the right to organize and bargain collectively. However, I also am of the opinion that if there can be any difference of opinion on it, that difference ought to be eliminated now. It certainly should not be the intention of anyone to try to put a joker in here that gives you nothing. The drafters of this constitution intended to say that labor shall have the right to organize and bargain collectively. If we are going to do this, I see no

reason why it should not be done now. But that happens to be my point of view. Of course the other thing I would question would be the wisdom of inserting this in the Constitution. In other words, whether actually you are going to get anything more than you now have and will get in the future and whether by the inclusion of an article of this kind, as I said the other day when Carl Holderman was talking about it, whether as a result of the constitutional action you are not likely to get constitutional reaction along the lines that will perhaps be distasteful to labor. That, however, is a question of a policy for labor to decide.

MR. PARSONNET: I am glad to hear you say that the question might be clarified here rather than wait for judicial interpretation. You took the words out of my mouth. I was going to suggest that very thing, Labor has not in the past fared too well in judicial interpretations.

SENATOR TOOLAN: You got a lot lately. Don't give me that.

MR. PARSONNET: But since there is a question about it, it might be cleared up now rather than left for the future. With respect to constitutional reaction, we frankly feel that there is not too much concern about any restrictive legislation or constitutional amendments that we have heard to date and we don't believe that there will be that reaction. We believe that the wording we have suggested, and may I point this out, we don't ask for the wording, "labor shall have the right" but we ask for the word "employee".

SENATOR TOOLAN: I think the word "labor" is ill advised. Whom does it cover? Whom does it protect? It has a definition for some of us that it might not convey to somebody else.

MR. PARSONNET: I think the word "employee" is a much better word to use under the circumstances. We submit to you that if there is any question about the meaning of this thing, it might well be changed for clarification purposes.

SENATOR TOOLAN: Having it in the constitution, you would have legislation following it up in all probability, and the constitutional article plus the legislation would probably overcome what you anticipate.

MR. PARSONNET: That was going to be my last point. It was going to be this. If you merely have the negative provision, it is not likely to be implemented by legislation. If you have the affirmative provision, be it in the bill of rights or in the legislative, it is likely that it would be implemented by legislation.

SENATOR TOOLAN: I don't go along with the thought that it is negative at all. It says "The right of labor to organize and bargain collectively shall not be impaired." There is nothing negative about that. I think your criticism rather than that it is negative is that if it is the intention to give labor the right to organize then there should be a simple declaration that labor shall have the right to organize or bargain collectively. That is what you want?

MR. PARSONNET: We ask a little more.

SENATOR TOOLAN: I know, but on that aspect of it.

MR. PARSONNET: Yes.

COMMITTEE MEMBER: If you examine Section VI, Paragraphs 1, 2, 3 and 4, they provide for limitation and they prohibit the Legislature from doing certain things and by virtue of that you say the provision is negative for the Legislature is being prohibited? That is the purpose of it?

MR. PARSONNET: That is exactly the reason I suggested it is a negative provision.

COMMITTEE MEMBER: The question was raised in conjunction with other articles, but they are preventing themselves from taking actions in the future not to the benefit of labor.

MR. PARSONNET: In whatever rights we now have.

COMMITTEE MEMBER: Isn't it true you have no rights to organize now under the State law?

MR. PARSONNET: We have absolutely no rights under the State law to bargain collectively.

SENATOR MATHIS: Do you think you need legislation in order to have authority to organize and bargain collectively? Don't you have it without legislation?

MR. PARSONNET: We have rights, constitutional rights, under the Federal Constitution, to organize. That we cannot be deprived of. We have no right under any state law to compel an employer to sit down with us to bargain. That is the point I am trying to get over. If an employer were willing to sit down with us, by all means we have the right to sit down and bargain.

SENATOR MATHIS: The Constitution doesn't compel the employer to sit down with you either. It merely provides that the right of labor to organize and bargain collectively shall not be impaired.

MR. PARSONNET: May I read the suggestion we have?

SENATOR MATHIS: The thing is this. You can organize. True, there isn't any specific act saying that you have the right. Once organized, you can see the employer and say to him that Tom Jones is going to be our spokesman. He is going to bargain collectively for us. There is nothing in the statute of the State of New Jersey to say that you can do that, but there isn't anybody that is going to stop you. It is true that the boss when the fellow goes in doesn't have to sit down and talk to that fellow. Then you have the right to strike.

MR. PARSONNET: It is an important thing and has not been touched upon. May I say that our wording is "employees shall have the right to organize and bargain collectively". If you will bear in mind that nobody can stop us from organizing, but at the same time that we organize, nobody under the present state of law, except by strike, can prevent an employer from discharging us for organizing. This suggested language would guarantee the right of bargaining collectively and organizing. From our past experience, this last clause is an essential clause, because then if the employer violates our civil rights guaranteed by the Constitution by discharging us for organizing or bargaining collectively, we have guaranteed to us a civil right under the Constitution which either the Legislature would implement by statutory enactment or which, I think, could be enforced through court procedure to prevent a discharge for organizing, to prevent labor spying or any of the other most common unfair practices on the part of the employer.

ASSEMBLYMAN HESS: Mr. Parsonett, by having that, by inference aren't you restricting the so-called company unions?

MR. PARSONETT: It doesn't refer to company unions.

ASSEMBLYMAN HESS: I know it doesn't. To bargain collectively without interference or coercion by the employer, wouldn't that restrict the company unions?

MR. PARSONETT: No.

ASSEMBLYMAN HESS: You made the statement and I am just wondering whether that language would affect it.

MR. PARSONETT: With reference to the company unions, the company union was left out of the constitutional feature. There are many independent unions which are company dominant.

ASSEMBLYMAN HESS: They would still have independent unions by your recommendation?

MR. PARSONETT: Yes.

SENATOR TOOLAN: You say the right of employees to bargain collectively, it would not affect the voluntary organizations?

MR. PARSONETT: There is no intention to interfere with company unions. We will do that in another way, if we can.

CHAIRMAN PASCOE: Assemblyman Friedland would like to interrogate Mr. Parsonett.

ASSEMBLYMAN FRIEDLAND: Mr. Parsonett, is there anything in Article V, judicial provisions of the proposed Constitution, to provide a remedy for any unfair labor practices in any court jurisdiction?

MR. PARSONETT: No.

ASSEMBLYMAN FRIEDLAND: One more question. Is there any law in this State which would prevent an employer of any of our retail shops in our State from discharging an employee because he requested a wage increase?

MR. PARSONETT: No.

ASSEMBLYMAN FRIEDLAND: Or any revision in his working condition or change in his working conditions?

MR. PARSONETT: No, there is nothing to prevent an employer of any retail store from discharging an employee because he does not like the color of his hair or for any other reason.

COMMITTEE MEMBER: Should there be?

MR. PARSONETT: I think, sir, it gets into more of the philosophy of labor than should be taken up fully here. It would take me a half an hour to explain fully my point of view. If an employee worked for any length of time for an employer, he should, subject to good behavior, have a vested right in that job as long as the employer hires anyone for that job.

SENATOR TOOLAN: Don't you have to give the employer, correspondingly, the right to insist upon that man working for him, whether he wants to work for him or not?

MR. PARSONETT: No.

SENATOR TOOLAN: If the employee is to have a vested right in the job, then the employer should have a vested right in the services of an employee. You don't go along unbalanced. I can't go along with you at all. I haven't thought of the thing much. I am just giving my immediate reaction.

MR. PARSONETT: We would like to point out that the entire base of English and American law is upon the employee who has been compelled to continue to work for an employer as being subject to involuntary servitude.

SENATOR TOOLAN: Then you get to the point an employer has to keep an employee on the payroll he doesn't like.

MR. PARSONETT: I didn't say he doesn't like. An employer may fire under the present law for any reason or no reason. It may be that he has a good reason and if so he should have the right to discharge, but he should have a good reason.

SENATOR TOOLAN: Once you get into that, you get into the philosophy of labor. You are giving labor power beyond anything we have reached in this country.

MR. PARSONETT: Please understand, sir-

SENATOR TOOLAN: Let's forget it right now.

MR. PARSONETT: We are not asking for that kind of legislation or law or anything of that sort. It is a matter of relationship between the employer and employee.

ASSEMBLYMAN FRIEDLAND: Senator, if I may, I would like to say the proposal made by Mr. Marciante of the American Federation of Labor provides for the same rights for labor as they apply to an employee engaged in inter state commerce and I think, Senator, as they apply to employees in inter state commerce the policy of our government has been just that, to prevent an employer from discharging an employee without justifiable cause. Eighty-five per cent of our employees ~~now~~ subject to the Wagner Act are now subject to that very condition, and what the state federation is now saying is that that very same condition be made applicable to employees in inter state commerce.

MR. PARSONETT: May I qualify that. I don't want to take too much time. The federal law does prohibit discharge because of union participation. We don't ask for anything beyond that.

CHAIRMAN PASCOE: The next speaker is Mr. Baer, President of the Essex Trade Council.

MR. BAER: I just want to say a word. I am here representing the Essex Trade Council, some 120 odd labor organizations. We fully subscribe to the position of the State Federation of Labor. I have personally taken this up with our organization, particularly about a Lieutenant Governor. We have witnessed in this State House political skirmishes in both parties, division in the parties, and so forth, and it is our belief that although the President of the Senate, might also be of the same party as the Governor, in my time that has happened only once, and that was under Woodrow Wilson. We feel that a Lieutenant Governor campaigns on the same policy and program as the Governor and the people will pick them out. We believe that if the Governor is transferred to a higher office or should

he die, you should have the man he trusted, and campaigned with, in whom he had implicit faith that he would carry out that policy that the people had faith in, to continue the policy started by the Governor. It could be carried out by the Lieutenant Governor and eliminate the possibility of inter party vote experienced here where one section of the party is opposed to the other. With the president of the Senate taking over the duties of the Governor, there might be two different set-ups in the party system. I think it would guarantee us the opportunity to see a program carried out thoroughly if we had a Lieutenant Governor because he would be elected with the Governor and would carry out the platform of the Governor.

CHAIRMAN PASCOE: While we're waiting for Mr. Stevens, I have a request of Mr. Robert C. Cook, President of the Union League of New Jersey.

MR. COOK: Senator Pascoe, I believe there has been sufficient discussion on paragraph 2, Section VI. We have had a great deal of apprehension as to whether that guarantees our right to collective bargaining. I must admit I feel somewhat confused after hearing the discussion. We heartily approve of the stand taken by the American Federation of Labor.

CHAIRMAN PASCOE: May I suggest, Mr. Parsonett, you present the representatives of the groups. You said that you wanted to report certain groups as being present.

MR. MARCIANTE: How would you suggest that I do that - by calling on them?

CHAIRMAN PASCOE: Call on them and have them stand up and give the organization they represent.

MR. MARCIANTE: Sadie Riesch, International Ladies Garment Workers Union,
Ada Rose, International Ladies Garment Workers Union
Charles Allen, State Federation of Teachers
Joseph Brown, Mount Holly Bricklayers Union
George Ronald, Sheet Metal Workers Union of Trenton
John Kirk, representing Painters Local #956, Burlington County

Frank Warholie, President of the State Council of Sheet
Metal Workers

Joseph Hagen, Bricklayers and Plasterers' Union of Newark

James Fittin, Bricklayers' International Union

Frank Williams, International Asbestos Workers Union

Lois St. John Smith, Mercer County State Teachers Union

Otto Allan, Local #592, Electric Workers Union, Vineland, N.J.

John M. Kelly, Retail Clerks of Trenton

Joseph Landgraff, Brewery Drivers of Trenton

Alfred B. Smith, Printers' Union of Plainfield

William Cavanaugh, Hotel and Restaurant Joint Board of
Union County

Charles Weideman, Laundry Workers' Union

Mark J. Blank, Brotherhood of Railroads, Central Railroad
of New Jersey.

John Wall, Painters and Decorators Union of Hudson County

James Lowe, President of the Metal Trades of New Jersey

James Roach, Heat and Frost Insulators Union

George Dodd, State Council of Carpenters

Russell Walters, Plumbers Local #122 of Orange, New Jersey

Barney Mitchell, International Organization of Roofers

Alex Swanson, Essex County Council of Carpenters

J. W. Dearoff, District Representative of the International
Association of Machinists

I think that about completes them.

CHAIRMAN PASCOE: Thanks a lot. We will proceed to the Council
of Industrial Organizations of the State of New Jersey. Mr. Irving
Abramson.

MR. ABRAMSON: Senator and members of the Committee.

CHAIRMAN PASCOE: This is not restricted to these two items.

I have instructions from Senator Eastwood to let you talk on any
other questions.

MR. ABRAMSON: I am not going to deal with those subjects
which have been previously dealt with by us last week. I am merely
going to supplement that report at this time in respect to the matters
that have not been dealt with so far. We will simply add to what was
presented before.

CHAIRMAN PASCOE:

Fine.

MR. ABRAMSON:

With respect to the matters contained in the bill of rights, I am hopeful that our Counsel, Mr. Morris Isserman, will be permitted to say a few things on that. The first matter I want to touch upon is the much debated point in Section VI, Paragraph 3, Article III, relating to the right to organize. I think the matter has been dealt with quite comprehensively. The only thing I would like to add is this. Assemblyman Amlicke touched a very relevant point when he pointed out that under Section VI, Subdivision II, it merely presents a restraint upon the Legislature, forbidding them to do certain things. Keeping that in mind, Senator and members of the Committee, I question the value of this statement when it is merely an intent to restrain the Legislature from doing things. As a matter of fact this whole sphere of the matters we are talking about directs its attention towards certain things an employer should not do. I would say we are talking about purely academic matters. However, we are talking about what the Legislature may or may not do. The matter of having the right to organize and bargain collectively is directed to certain ranks in relationship to the employer, and for that reason, and without repeating what has been said, I doubt very much the value the present clause under Section II will have unless an affirmative right, later to be implemented by Legislature, is contained in the bill of rights under Article III. We propose that the Constitution shall provide for a State University in order to provide additional opportunities for higher education for the youth of this State. The records show that the appropriations now being made for higher education can be better utilized through a State University than by the present method of appropriations to private institutions of learning, whose constitutionality might be questionable. The Princeton survey in 1932 said "organization and finance of the agricultural agencies of the State is an almost chaotic maze"; the Second Regents report states that "New Jersey educates a smaller proportion of the students which it supplies than any other state in the union". A

University of Newark survey of 1938, shows that while New Jersey is ninth in population rank, being preceded by Michigan seventh and Massachusetts eighth and with a wealth of over twelve billion dollars, as compared with over eleven billion for Michigan and thirteen billion for Massachusetts. There are only 8,541 full time university students in New Jersey as against 31,149 in Michigan and 36,204 in Massachusetts. The establishment of a state university would permit a greater number of students from lower income families than the present method of subsidizing private institutions.

We urge that Section VII, which established a state militia, be deleted from the Constitution in its entirety, being obsolete and archaic. In 1844 when battles were fought with very simple firearms the need to arm the citizenry and assemble them into a state militia was quite obvious and they served a very useful purpose. Today, however, military training has become so complicated because of its mechanization that it is impossible to train citizenry in their spare time. Responsibility for the defense of our country rests upon the Federal Government and its army of full time soldiers and sailors and the state can very well be saved the expense of the maintenance of large bodies of militia because of it.

The establishment of the state police in this state has provided the proper policing of any civil disturbances thereby taking away another of the former duties of the state militia.

We believe that the provision for a state militia is an extravagance which the State of New Jersey can well do away with. The United States Army is now demonstrating to the world that it can well take care of this country and the states of which it is comprised. The existence of a state militia casts an archaic shadow of doubt against the military prowess of our own country.

The Governor in his inaugural address made some mention about his intention of removing the State Board

of Mediation from where it now stands as a creature of Legislature and placing it within the Department of Labor. We feel it would be a very bad mistake if we were to value the services of the State Board of Mediation. The State Board of Mediation can function only if it has the full confidence of both labor and industry represented on that board as well as the public. If we place it in a department which is subject to political appointments, it is my opinion you are going to destroy the services of the State Board of Mediation. One other point which is much broader than the State Board of Mediation is that the present powers as given to the Governor are so broad that it will permit the Governor not only to transfer the State Board of Mediation, but to take the State Department of Labor and transfer it to the Department of Finance or any other department he sees fit. While I recognize that the Governor should be given additional powers to so transfer and organize the departments with respect to expediency and with respect to the needs of the government, there should be some basic level beyond which the governor should not be allowed to tamper. While we recognize that the Governor may make a proper distribution, the constitution is made for a check on other executives who may not have the same wisdom and ability as our Governor during the time the Constitution is being written. I would urge strongly that your committee consider this change before putting it into effect.

CHAIRMAN PASCOE: There is nothing in the present constitution that refers specifically to the Mediation Board.

MR. ABRAMSON: I recognize that. I refer to the inaugural address of the Governor in which the Governor said it was his intention. Under the proposed constitution it will empower him to take that board and put it in the Department of Labor which he said he intended to do.

CHAIRMAN PASCOE: Subject to the veto power of the Legislature.

MR. ABRAMSON: That may still be all right. That may still be within his province. It puts to himself the initiative of doing that without respect to the initiative of the Legislature under existing legislation. It still gives him an executive power to reorganize under a proper constitutional basis. I have dealt with Article VII referring to the credit and I will skip it. With respect to Article IX dealing with the amending process, I desire to say this. The proposed amending process is entirely too restrictive in requiring a two-thirds vote of the legislature before submission of a Constitutional Amendment to the people. The Committee thereby shows a decided lack of faith in their constituents. It appears that they believe that they are forging an instrument that will endure for another 100 years.

We hold that the swift changes in our present day life make it necessary for an easier process for amending the Constitution and for periodically rewriting the entire document.

We therefore propose the following:--

1. That a majority vote of both Houses and the Governor's signature to the Joint Resolution be required before submission of a proposed Amendment to the Constitution, excepting that failure to act upon such a Joint Resolution by one House and failure to act by the other House, together with approval by the Governor, shall be sufficient for submission of a proposed Amendment to the people at the next General Election.

The proposal would prevent one House of the Legislature, by its failure to act or by any other dilatory means, to prevent an amendment passed by another house from being put before the people.

2. That a Constitutional Convention of delegates elected by the people shall be held at least once in each twenty years to revise the Constitution to meet existing needs.

3. Provision for initiating an amendment by direct public petition.

This will give to the hands of the people any amendment that the public feels is needed for the common wealth.

The revision as presently proposed is meaningless to those of us who are looking to changes in the Constitution that will make an important contribution to creating a more

democratic as well as a more modern constitution.

The most that the proposed constitution does is to give greater powers to the executive, and to the political party in power.

Constitutions are not changed frequently as is evidenced here in New Jersey. Therefore, if there are to be any changes, they must be something more than a reshuffling of the articles that make up some of the existing injustices against democratic government as they apply to present day conditions.

Our organization had previously submitted for your consideration some of the other more important changes and we respectfully maintain that unless some of the important changes are incorporated in the constitution, the present revision is not such as will warrant the adoption, providing for 2/3 vote of the Legislature before it is again revised, thereby preventing the people again from examining the constitution as they ^{might} desire to do at some later date.

CHAIRMAN PASCOE: Do I understand from that statement that unless the proposal your committee made is accepted and put into the constitution, you are not going to support its adoption?

MR. ABRAMSON: We are not coming here to make any pointed reference as to what our action will be. We assume it is a prerogative of my committee and our committee will submit suggestions with respect to any changes. We know you will give them full consideration. What will be done by our organization with respect to your action is not for me to discuss here today.

CHAIRMAN PASCOE: I rather thought it was the expression you made.

MR. ABRAMSON: If the Senator is asking that whether the constitution as presently proposed by the committee will be approved by our organization, I can very definitely assure you that we will oppose its passage if there are no changes in its present form.

CHAIRMAN PASCOE: That would be the general question.

MR. ABRAMSON: Is that all?

CHAIRMAN ISSERMAN: Yes, sir. Mr. Morris Isserman, counsel
of the Council of Industrial Organizations.

MR. ISSERMAN: Mr. Chairman, at this time I am going to
discuss only the bill of rights.

The New Jersey State Industrial Union
Council and, of course, all of labor, has a very special interest
in and concern with Article I of our state Constitution. In many
respects this concern is deeper than with some of the other portions
of the document which will embody the fundamental governing law for
our state. For example, in respect to the article on the judiciary,
all of labor is concerned with the general pattern of the courts with
particular reference to the speed, efficacy and justice with which
those of their grievances which come before the courts may be de-
termined.

But labor does not claim any such detailed
or expert knowledge of judicial processes or procedure as to
call for it to submit in full detail a draft for the judicial set-
up. In respect to Article I, however, its concern is at all times
immediate and complete. This article defines the fundamental
privileges, the fundamental rights which are possessed and are to
be protected on the part of every citizen. It is Article I which
should set the pattern for democracy in the State of New Jersey.
Labor, through the years, has suffered on occasion from the failure
of persons in official position to carry out the mandates of Arti-
cle I. But even more so, it has suffered from the determination
of public officials to find, and from their success in discovering
or inventing so-called loopholes in our Bill of Rights section either
because of an unfortunate deficiency of language, or by reason of
an unrealistic straining of language, or because our modern Common-
wealth has met with conditions and events which were not within the
most imaginative contemplation of the framers of our present Consti-
tution.

We propose to present to this joint legislative committee our suggestions aimed toward remedying these deficiencies, aimed toward securing, not just to labor but to all persons who may be within the state, the personal freedom, the assurance of democracy which we know was the avowed intention of the framers of our present Constitution and which, of course, is the avowed intention of this joint committee. We submit these proposals in the hope and belief that it is your purpose to give more than lip service to those high-sounding principles.

In accordance with the mandate of the people who voted for constitutional amendment, we do not propose to remove from the Bill of Rights anything which is there now. We do not propose to alter the existing language in any respect whatsoever. As a matter of fact, the existing language is entirely acceptable to labor so far as it goes. The difficulty is that it does not go far enough. Whether this is due to what we have already called "deficiency of language", or whether it is due to deficiency of judgment or deficiency of interest in democracy in interpreting that language is now beside the point." I would like to point out to this Committee that if the question had been submitted to the people "Shall we have constitutional revision without limitation" we are of the opinion that that question would have passed with as great a vote and majority as the question that was actually submitted to the people. Now, gentlemen, we recommend the following change or addition to Section 3:

"No person shall be rendered incompetent to be a witness in any criminal or civil trial or at any hearing or proceeding conducted or presided over by any court, officer or agency, or pursuant to or under the authority of any law of this state by reason of his opinion on matters of religious belief."

There have been numerous occasions when persons have been denied the right to act as witnesses where persons who were on trial were unable to produce competent testimony because of the provision of the constitution which does not permit a witness who may be an atheist, by the way we are not saying we believe in that, to testify.

Second: The same principle, religious freedom, calls for another addition. Section 4 provides, among other things, that no religious test be required as a qualification for any office or for any public trust. Our Bill of Rights needs a new section which will provide:

"No religious tests shall be required as a qualification for any public employment".

Every workingman employed by the state or by any governmental agency in this state must be assured that his religious beliefs will play no part in determining what job he gets or whether he will get it. Our new state constitution should serve as this state's primary unifying document, which will unite for common industry and for the common good all classes of persons within the state community.

You recognize, as we do, that discrimination in employment occasioned by religion is a relic of a darker age and has no place in a democracy. Our state, our governmental institutions, should set the example and should set the standards of democracy.

Third: Of course the framers of Section 6 in our present constitution thought they were making adequate provision against invasion of personal privacy. And it is true that a broad and liberal interpretation, an interpretation in accordance with what we believe to be true concepts of constitutional law, as applied to the prohibition against unreasonable searches and seizures, would have resulted in a fitting application of that section to modern inventions and devices such as the telephone, telegraph, radio, sound detection and sound amplification. Unfortunately, the courts, in interpretation of constitutional provisions, have all too frequently lagged behind the thought and will of the people. It may be proper or even desirable that that be the case. Be that as it may, the same concern for preservation of privacy which caused the adoption of Section 6,

"the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated",

calls for the addition of a new section in our Bill of Rights.

This section should provide:

"The right of the people to be secure against unreasonable interception of telephonic and telegraphic communications shall not be violated; the people shall be inviolate against interference of our privacy of act and word by sound detection apparatus. Ex parte orders or warrants shall issue only upon oath or affirmation that there is reasonable ground to believe that evidence of crime may be thus obtained, and identifying the particular means of communication, and particularly describing the person or persons whose communications are to be intercepted, and the purpose thereof."

This provision would permit wire-tapping and the use of sound detection apparatus, but only under the same safeguards which are now applicable to forcible searches of and entries upon private property where the indications of probable crime warrant. If it is improper, if it is inimical to democracy that a spy be allowed to creep through the window and eavesdrop behind some draperies, it is even more improper and unsafe to democracy that without creeping through your window he be allowed to eavesdrop on your private home conversations, that he be allowed to intercept your personal and business communications having no reasonable relationship to any criminal act. If modern inventions pose too difficult a problem for the courts so that they are unable to correlate to ancient concepts of freedom, when the people in this amended constitution, must furnish to the courts and to the law-enforcing officers, the yardsticks by which the propriety of their actions may be measured.

Fourth: Section 15 now prohibits the infliction, in criminal cases, of "cruel and unusual punishment".

We propose a new section, to read:

"Excessive punishment shall not be inflicted." The words "cruel and unusual" have been held to refer only to the type of punishment, and not to the duration thereof.

When Charles Edison became Governor of the state of New Jersey, there were three members of the National Maritime Union serving fourteen to fifteen year sentences in State's Prison.

Labor felt that the entire situation relating to Panchelli, Woodworth and Brown arose out of their activities in the National Maritime strike of 1936. There were persons who insisted that although our Crimes Act permits a fifteen year penalty for the crime of which those three men were found guilty, nevertheless, within the memory of living persons, no one else had ever received such a penalty for that offense. It may be that all the technicalities of legal procedure were fully observed in that case. When Governor Edison secured their pardon and freedom, as he did immediately upon taking office, he of course did so in the certainty that their punishment did not fit their crime, but went far beyond it. In such case a man's freedom, his opportunity to take his proper place and perform normal functions in society, should not rest upon the possibility that a humane governor will take action. It should be possible, even in cases where there has technically been an offense, and even in cases where all the required legal punctilio has been observed, to urge before an appellate court that the punishment inflicted went far beyond the offense. One of the foundation stones of democracy, and one without which a democratic edifice cannot stand, is that in its treatment of persons charged with crime and in its treatment of persons convicted of crime, no spirit of intolerance or vindictiveness or of despotism may prevail. We feel that these sentences were given to these men not because of the crime they committed, for the record fails to disclose any person who was convicted under the same circumstances receiving fifteen years, but they were given that because they were members of the labor organization and their crime was not what they were charged with but it was being members of the labor organization. That was remedied in Governor Edison's time by the signing of a pardon of all three men.

Fifth: We propose a new section to read:

"No person shall be denied the equal protection of the law of this state, or any subdivision thereof. No person shall, because of race, color, creed or religion, be subject to any discrimination in his civil rights, or be denied equal rights by any other person or by any firm, corporation or institution or by the state, or by any officer, official, agency or subdivision of

the state. No person shall, because of race, color, creed or religion, be subject to discrimination in any public employment by the state or any agency, officer, official or subdivision thereof. No person shall be deprived of life, liberty or property without due process of law."

This provision would add to the state constitution beneficial protection which, in the federal jurisdiction, is found in the Fourteenth Amendment. It is part of the pattern of freedom, and if this is truly a state for free men, it belongs in our Bill of Rights. Perhaps no provision of our federal constitution has been so often used and so effective in the protection of the individual as the Fourteenth Amendment. When urging before a court, an official or a tribunal in this state, the principles contained in the Fourteenth Amendment, we should not have to refer to a federal document; we should find in our ^{own} state constitution ample protection of this character.

Seventh; Experience has shown that our Bill of Rights needs a new section, to read:

"Witnesses to crime shall not be detained unreasonably or for an unreasonable or excessive period of time. They shall be bailable by sufficient sureties, and no unreasonable or excessive bail shall be required of them."

A witness, or one who is believed to be a witness to the commission of a criminal offense, should not be treated more harshly than the perpetrator of the crime. Our constitution has numerous safeguards for those accused of crime, but none for their witnesses. There have been occasions when persons accused of crime have been released on bail, possibly even on parole, while the state has kept witnesses in jail. We have a classic example of that. Back in 1937 or 1938, in Camden County there was a strike carried on by the radio workers union. One hundred and one people were held. Bail was set at the huge sum of \$524,000. We couldn't get that kind of bail. People were held in jail over the weekend. The following Monday morning when the Justice of the Supreme Court could find time to take up such a small matter as setting at liberty 101 citizens of his county, everyone of them with two or three exceptions, were released without bail. The very police officers who made the arrests

failed to appear as witnesses. That is only one example of what happens to people brought in without charges and held on excessive bail. As a matter of fact, in one case where the Supreme Court justice of this State set bail at \$5000, on a writ of habeas corpus the federal court reduced it to \$500. With a provision of this kind in the Constitution, it would eliminate or would act as a safeguard on the injudicial acts of our judicial officers.

Eighth: We also suggest a new section which will provide:

"In all cases where a fine or penalty may be imposed for the commission of an offense, there shall be a right of appeal which shall be provided by law. The appellant shall be admitted to bail upon proper application therefor by sufficient sureties in all cases excepting where a sentence of death or imprisonment in excess of fifteen years has been imposed."

Although we know of no possible conviction under the present law which is not appealable in some form, we believe that the legislature has it in its power, by a simple change of law, to eliminate the right of appeal. We therefor urge that the right of appeal be retained as a constitutional requirement. As for the right to bail an appeal, we have seen certain examples of persons denied bail on appeal even where the sentence imposed was imprisonment for less than one year, so that the sentences were served in full before the determination of the appeal. This situation has made our state a laughingstock in a democratic country. This situation effectively deprives persons of the right to appeal even where the appeal is provided for by law. The condition is intolerable. It is unfortunate that it has been permitted to exist. We must deal with it here because it has not been properly dealt with elsewhere.

While not wishing to rake up old sores, we can think of one case where there was a nine month sentence, and bail was denied on appeal; and another case where there was a six month sentence but bail was denied on appeal. We again^{can}/cite two instances of men who were held, found guilty of minor offenses, who were refused bail pending the disposition of their appeal and who actually served

their sentences before the Supreme Court determined their appeal and found that they were improperly imprisoned. I think the constitution should provide some such safeguards. We believe the constitution should have an addition in the bill of rights insofar as it refers to the freedom of speech.

Ninth: Paragraph eliminated

Tenth: Experience has shown another great deficiency in our Bill of Rights, and that is in respect to the freedom of speech provision. As construed, the present provision has been held not to prohibit judicial censorship and previous restraint on publication. Labor feels that it is enough to punish persons who have abused their right of freedom of speech and press by inciting to misconduct, by creating otherwise improper disturbances or by publication of slander or libel. We therefore take the position that our Bill of Rights needs a section prohibiting previous restraints and advance censorship of publication. The present practice permits an equity judge to lay down a chart for the guidance of the defendant in accordance with the opinions of the judge, and thereafter to punish what the court thinks is a deviation from that chart, as a contempt. Thus, a party may be punished for making statements which are neither libelous nor untrue, and all that without even a trial by jury. That very thing has happened in this state. We can think, off-hand, of such a situation in the clothing industry, and another in the newspaper field.

In connection with the same point, we believe it is essential to freedom of speech and press that the courts, as much as any other public institution, be subject to just and proper criticism, and a provision should be included in our bill of rights permitting that very thing. No human institution has such attributes of holiness as to be entitled to be beyond criticism. Public comment, delivered outside of the court room, in respect to the propriety or impropriety of a judge's actions, should not be punishable by contempt

to the extent to which it is fair comment and criticism and neither slanderous nor scandalous.

And in connection with the same point, we say there should be still another addition to our Bill of Rights, which would establish a constitutional requirement for trial by jury in every charge of contempt of court committed outside of the court room, and classifying them as criminal cases and applying to them all the safeguards applicable in other criminal cases, excepting perhaps Grand Jury indictments. There is no reason why a person charged with contempt of court and who may be subject to imprisonment therefor, should not be entitled to counsel, the right to be heard, the right to secure witnesses, the right to confront the witnesses against him, the right to bail in reasonable amount and with reasonable sureties, the right to trial by jury, and protection against cruel, unusual and excessive punishments. As the law now stands there is no limitation whatsoever upon the extent of the punishment which may be inflicted by any judge on any charge of contempt of court.

Eleventh: We urge the inclusion of a new section to read:

"No evidence obtained by any person or by any governmental agency by any method forbidden by the constitution or laws of the State of New Jersey, or, if obtained outside of the jurisdiction of the State of New Jersey, by any method forbidden by the constitution or laws of the United States, shall be admitted in evidence in any trial or proceeding."

It is indeed an anomaly that in New Jersey our courts, presumably administering the law, will allow to be presented before a jury matters or things which have been secured by the most reprehensible means. We feel there is a sound basis for the federal theory that if government is to secure and hold the respect of the people, then governmental officials, public persons in every office, must set the example of legality. Any tendency on their part to become over-zealous to the point where they break the law must be curbed. A public officer, a chief of police, an investigator, has no more right to take the law in his own hands regardless of

constitution or statutes, than has any other individual. It is the greatest and most essential deterrent to his doing so that the fruits of his misconduct be taken from him. A democracy does not need to secure its convictions. A democracy does not need or wish to base its final decisions on broken doors and windows or on broken bones. The English doctrine that every man's home is his castle has not, through the centuries, resulted in a breakdown of law respect or law enforcement, but rather, has had an exactly opposite effect; and no person who has seen prisoners arraigned in court with broken and bloody faces, torn and blood-stained clothing, can but have a contempt and horror of law enforcement as it is practiced in those places. When I make those comparisons and refer to those examples, I am not drawing upon my imagination. I am thinking of courtroom scenes in this state which I have myself witnessed. I say that from experience. Time and again we have seen persons come into courts who have been badly beaten by the police in order to obtain evidence and then we find that the police are permitted to use that kind of evidence. Thank you.

CHARIMAN PASCOE: May I suggest that you file a copy with each chairman of the other committees. Anybody else like to speak on the labor question. Mr. Abramson, anything else?

MR. ABRAMSON: No, sir.

MISS ROSE: Sir, I don't know whether I am in place but I am a little apprehensive about what Brother Marciante said about the equal rights bill.

CHAIRMAN PASCOE: Mr. Parsonett made the statement about the equal rights clause, not Mr. Marciante.

MISS ROSE: Is that going in, do you know?

CHARIMAN PASCOE: It has been submitted to the Committee just the same as your recommendations.

MISS ROSE: I would like to go on record as being against the equal rights bill because it seems to me that all the

laws that labor and organized women's clubs or liberal people have been fighting for for years would be liquidated by such a law. Mr. Parsonett did bring out some of the points about what would happen if we had equal rights. We mustn't forget at any time that if we had equal rights laws such as stools for women at stationary jobs would be eliminated. The women who go into work, and most of the women I represent, are young women who are the future mothers, and they do so under laws that do not apply to men.

CHAIRMAN PASCOE: You mean laws like the law regarding night work and other laws like that?

MISS ROSE: I would like to go on record against that equal rights law.

CHAIRMAN PASCOE: We understand. Anybody else to speak on labor? If not, we will hear Mr. Stevens.

MR. STEVENS: The interlocking character of many of the provisions which make it difficult to revise our present constitution by a series of amendments is one of the principal complaints against the document. The committee that framed the proposed constitution are deserving of high praise for the scarcity of the interlocking features of this draft. But there is one such feature that I would like to call to the attention of this Committee and the other Committees and that is the specific reference to the State Comptroller, State Treasurer and State Auditor in three widely separated paragraphs, namely paragraph 1, Section 2, of Article 4, Paragraph 1, Section 6, Article 3, and Paragraph 9, Section 3 of Article 4. Before any constitutional change or amendment involving any of these officers could be made, it might be necessary, because of their interlocking character, to submit for amendment all three paragraphs at one time. This would require the submission of one very complicated question, or, if each amendment is to be voted upon separately and distinctly, of three separate and distinct proposals to the people. The confusion or constitutional chaos which might ensue if one of the three paragraphs was ratified and the other two rejected, I think, could

be avoided by omitting the specific mention of these three officers in these three paragraphs.

Paragraph 1, Sec. ii Article VI, (p. 17) provides in part as follows:

"The State Comptroller, the State Treasurer and the State Auditor shall be appointed by the Senate and General Assembly in joint meeting".

CHAIRMAN PASCOE: While the press boys are here, this will be the last meeting of this Committee unless some unforeseen circumstances arise necessitating further hearings.

MR. STEVENS: This paragraph is under consideration by this Committee and so I recommend that Paragraph 1, Section 6 of Article 3 be reworded to read "Neither the Legislature nor either House thereof shall elect or appoint any executive, administrative or judicial officer, except as herein provided." Then I also recommend that this Committee when it meets with the Legislature as a whole, that they amend Paragraph 9, Section 3, Article 4, by substituting the words "any executive or administrative officer appointed by the Senate and General Assembly in joint meeting" rather than use the specific reference to the three officers. I make that recommendation for this reason. At the present time if we wish to submit a constitutional amendment to the people we would have to amend six separate paragraphs of our present constitution and I think you gentlemen are familiar with those paragraphs. If we want to make any amendments with regard to the justices of peace we would have to submit four separate paragraphs to the people for approval.

CHAIRMAN PASCOE: You mean under the present constitution?

MR. STEVENS: Yes. I can give you the paragraphs if you would like to have them. There are six with regard to general election. That is the only subject I came here prepared to speak upon. I would like to mention one other thing. I was much astounded to hear the recommendation that the provision regarding state militia be dropped from the constitution. It is true that modern warfare is complicated. But, speaking as a veteran of the last

war and still a reserve officer in the United States Army, I feel that the present system of warfare is so complicated that any training that a man might receive as a member of the state militia, even if it be only an hour a week, will be of great assistance if and when we have another war. That was proved by the militiamen drafted into the present army before we had a war. The basic training enabled them to catch on to the more modern and complicated system of war than they could have if they had not had the basic training as members of our state militia. That is all, sir.

CHAIRMAN PASCOE: Anything further, Mr. Stevens?

MR. STEVENS: I have just finished.

CHAIRMAN PASCOE: Anybody else who wishes to be heard.

If not, the hearing is closed. The Committee will rest and there will be no further meeting of this Committee unless there are some future developments making it necessary.

The New Jersey Committee for Constitutional Revision urges inclusion of the following as an additional paragraph in Article 111, Section VI:

MANDATORY LAWS

Except for a general civil service act and for general laws providing for the establishment and terms of members of the governing bodies and the principal officers of political subdivisions of the state, the legislature shall enact no law for determining the number, emoluments, term, or tenure of officers or employees of any political subdivision where the entire responsibility for raising the funds to support their employment is imposed upon said subdivision; and except to insure meeting of debt service or other local contractual obligation, the legislature shall enact no law for fixing the amount of any expenditure out of funds raised entirely by an political subdivision.

RECOMMENDED FOR SERIOUS CONSIDERATION
by the

EXECUTIVE COMMITTEE OF THE NEW JERSEY COMMITTEE FOR
CONSTITUTIONAL REVISION

Substitute for Article 111, Section 1, Paragraph 3.

3. The two houses of the Legislature shall meet separately, in regular session, annually on the second Tuesday in January and shall continue in session for a period not exceeding sixty calendar days whereupon a recess of both houses must be taken for thirty calendar days and both houses shall adjourn sine die not exceeding thirty calendar days after they shall reassemble, except as provided in the Executive Article of this Constitution. The Senate shall, however, convene from time to time at the call of the President of the Senate or of the Governor but only for the purpose of receiving and acting upon nominations to office made by the Governor or for the purpose of the preferring and trial of Charges against judicial officers or for both purposes.

PUBLIC HEARING ON
PROPOSED REVISED CONSTITUTION (1944) PENDING BEFORE JOINT LEGISLATIVE
COMMITTEE TO FORMULATE A DRAFT OF A PROPOSED REVISED CONSTITUTION
FOR THE STATE OF NEW JERSEY CONSTITUTED UNDER SENATE CONCURRENT
RESOLUTION NO. 1, ADOPTED JANUARY 11, 1944

HELD BEFORE SUBCOMMITTEES ON
Tuesday, February 15, 1944

(Legislative)

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REGISTERED SPEAKERS - MORNING SESSION

Tuesday, February 15, 1944

Dr. Leon Milmed	Speaking individually
Honorable J. H. Thayer Martin	Counsel, Newark Chamber of Commerce
Mr. Arthur J. Edwards Montclair	
Mr. William Blohm, Jr.	Counsel, Local Housing Authorities of State of New Jersey
Mrs. Kenneth A. Baldwin	New Jersey League of Women Voters
Mrs. R. W. Cornelison Somerville	Member, Board of Trustees of New Jersey State Federation of Women's Clubs

THE CHAIRMAN:

Just a brief statement for the record.

This is the Subcommittee on Legislative Provisions, on the legislative article of the constitution revision as proposed in a message from Governor Edge to the Legislature. We have had several meetings, but Governor Edge is very desirous that there shall be no one in the state deprived of the opportunity of being heard before these legislative official committees. For that reason we are holding a further hearing this morning and we will permit anyone to talk on any one of the articles that have been referred to this subcommittee, which include Articles III and IV, legislative, Article VII, finance, and Article VIII, elections and suffrage; also the whole subject of labor as it is proposed to be included in the constitution revision. The last is on instructions of the Chairman of the Committee of the Whole, Senator Eastwood, who assigned this whole subject to this committee at our last hearing.

I hardly feel it is necessary to reread the rules because by this time those who appear here ought to be quite familiar with them, and unless someone wants to have them read, we will dispense with that, but we will follow them in the presentation of the speakers and their actions in addressing the committee.

I have two communications which the committee feels should be written into the record. I am going to ask Assemblyman Leonard if he will read the two communications in order that you folks might know what they refer to, and then they will be handed to the secretary:

THE MONMOUTH BAR ASSOCIATION
Monmouth County, New Jersey

Max Finegood, President

Freehold, N. J.

February 12, 1944.

Senator Herbert J. Pascoe
Elizabeth, N. J.

Dear Sir:

At the Monmouth Bar Association meeting held on February 10, a discussion was held on the various sections of the proposed revision of the New Jersey State Constitution.

Please be advised that the Association at that meeting went on record as favoring the entire sections concerning the legislative and finance provisions as now proposed, with these exceptions:

We favor the excision of Article III, Section VI, paragraph 2, appearing on page 6 of the revision, and pertaining to the right of labor.

We recommend that Article VII, paragraph 4, appearing on page 19 of the revision, be changed to include the words "its true value" instead of "fixed standards of value" as now written.

On behalf of the Association, let me urge that these matters be considered by yourself and the members of your committee.

Very truly yours,

(Signed) Milton P. Cranmer, Secretary
252 Broadway
Long Branch, N. J.

STATEMENT by GEORGE C. WARREN, JR., President

New Jersey Board of Fish and Game Commissioners

While I fully realize the perils involved in the advocacy of "dedicated Funds", I feel that my position as President of the New Jersey Board of Fish and Game Commissioners obligates me to present to you certain facts and to respectfully urge your careful consideration of them.

The funds contributed to our Board by the sportsmen of New Jersey, and there are some 186,000 of them, are for a specified purpose, to wit, to make it possible for us to provide them with game fish and game birds and animals so that when they go afield or on our lakes and streams they will find something to reward their efforts and add to their enjoyment of the out of doors.

It is necessary to realize that these wild creatures are no longer a gift of nature like sunshine; they represent a crop and need the same care and attention that other crops require. It is a valuable crop as illustrated by the annual report of license holders: with only 49% of these holders reporting their kill the annual take of game has a food value of at least \$1,750,000. There is, therefore, involved not only a great recreational value but an important food value as well. The sportsman's license fee is an additional tax borne by him alone but appropriated and expended to provide outdoor recreation and to protect insectivorous birds in the interest of the farmer, whose crops need this necessary protection.

The revenue derived from the sale of licenses to hunt and fish is a special tax on a special group of citizens, and the retention or dedication of these funds to the particular benefit of these special taxpayers is a sound governmental policy. The work done by our Department does not cost the general taxpayer one cent.

I know from many years' experience on our Board that sportsmen will not buy licenses if they think that their funds are going to be diverted to other purposes. They insist that every dollar they contribute must go for the purpose of improving their sport and recreation. Our funds are subject to strict budgetary control, we cannot expend any money for any purpose whatsoever without the approval of the States' fiscal officers.

There is another matter in this connection of paramount importance. If there is not a prohibition against diversion of license fees paid by hunters, we will be deprived of important benefits that come to New Jersey through "The Federal Aid in Wildlife Restoration Act." These monies are divided from taxes levied by the Federal Government on the sale of guns and ammunition and if there should be a diversion, our New Jersey sportsmen would be deprived of benefits to which they are entitled and which they should have. These benefits have amounted to a considerable sum since the adoption of the Act.

I will quote from a letter dated March 15, 1943, from the Acting Director of the Fish and Wildlife Service of the U. S. Department of the Interior (the underlinings are mine): "The Federal Aid in Wildlife Restoration Act requires as a prerequisite to participate in the benefits of that Act that the States shall have passed laws for the conservation of wildlife which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of the State Fish and Game Department. Pursuant to the provisions of that Act, 46 States have passed such laws, the exceptions being Georgia and Nevada. Word has recently come to us that Georgia has enacted legislation that would permit Federal Aid Participation but we have not received definite confirmation.

Every attempt in the past to divert the sportsmen's funds has been strenuously opposed by everyone interested and I earnestly and respectfully request that nothing be done now to change the status of these funds. Every one of the 186,000 sportsmen is against it.

Our laws provide that a part of each license fee be set apart for the acquisition and maintenance of public shooting and fishing grounds.

This law was enacted several years ago when license fees were increased and it is a solemn covenant with the sportsmen of New Jersey."

THE CHAIRMAN:

Mr. J. H. Thayer Martin is on our

list. He has long been associated with the government of this state.

He is a former Commissioner of Taxation for the state. He is speaking as the counsel for the Newark Chamber of Commerce. The Honorable Thayer Martin.

MR. MARTIN:

I hope that I will not offend against

any of the rules of this committee, as this is the first time I have been before one of these committees. I do not know for sure what your rules are, but if I should violate one, you won't hesitate to let me know.

THE CHAIRMAN:

Mr. Martin, would you get close enough so that we can hear you, and if you are going to read it, why, tell the secretary so and he will check his records accordingly. We would like to have it accurate.

MR. MARTIN:

I don't expect to read very much.

The first reference I want to make is to Article III, Section I, Paragraph 3 on page 3 of the edition of the constitution published by order of the legislature. That limits the time of the session to ninety days.

I was a member of this house forty years ago and I have watched Legislation ever since. The purpose of this limitation is the thought that it will promote a more business-like session. Back in the early days when I was a member of the Legislature and continuing for years thereafter, the legislature fixed its own time for adjournment two or three weeks ahead and then stuck rigidly to that date, and the result was a jam of legislation in the last few days of the session that was very much worse than anything that has happened in the last ten years when the Legislature has been liberal about finally deciding on this date. They did not decide on the date for adjournment until they knew they were really through with all important business. Therefore I think that is an unwise limitation.

Paragraph 4, the next paragraph, provides that special sessions of the Legislature shall be called by the Governor upon petition of a majority of the members of each House, but there is no provision in here under which, if the Governor defied the petition of the Legislature and refused to call a session, they could get together. I think that should be put in. As to both of these sections, at the end I think you should add words something like this: "Or except as provided in case of impeachment," because there is conflict now between the language here as to business shall be taken up and the provision for impeachments. Paragraph 3, for

instance, says, "The Senate shall convene from time to time at the call of the President of the Senate or of the Governor," but only for certain purposes. The impeachment article contains a different provision, and Paragraph 4 ends up, "No special session shall exceed fifteen calendar days in duration, except as provided in the Executive Article of this Constitution," but besides the executive article is a provision in the impeachment article; so that that exception that I suggested ought to be included at the end of both of these paragraphs.

THE CHAIRMAN:

Mr. Martin, under impeachment it just

says the Legislature shall have the power of impeaching and it does not say for what purpose. Anything that the Assembly might decide is impeachable, why, they can impeach the Governor for. To the minds of the committee there would be nothing more required in deciding whether he should be impeached than the fact that he refused to comply with the request of the Legislature. That was the purpose of the two paragraphs. Whether or not it is going to accomplish it is something that will have to be reviewed by the legal talent we have around us, but that was the purpose of it.

Now, the calling of the special sessions, they left that with the President of the Senate to call us in session as well as the Governor, which seemed to be a desirable change, and then they provided for the calling of a special session by the Governor, or to give the Legislature the opportunity to get in session through the Governor, by this provision that a petition of the majority of the members was sufficient for him to call a session.

MR. MARTIN:

I understand that.

THE CHAIRMAN:

In other words, with a governor of the opposite political faith, we felt that a request of the Legislature to be called back into session would never be ignored by the Governor.

MR. MARTIN: Well, perhaps it never would, but a former Governor was quite suspicious of the Legislature, and a Legislature might be suspicious sometimes of a Governor.

THE CHAIRMAN: That has happened.

MR. MARTIN: And if the Governor declined to call a special session, of course the Legislature could convene to impeach him, but impeachment would take some time, and until they have finished the impeachment and removed him, they couldn't call their session for any other purpose, and it might be that the Legislature wanted to meet earlier than would be possible if they had to impeach the Governor first.

Now turning to Section V, Paragraph 4, on page 6 of this paper, Paragraph 4 contains at the end a limitation of two years for bringing an action to invalidate a law which violates the constitution because it has a misleading title. Now, the very fact that it may have a misleading title is apt to result in nobody discovering that that is an objectionable act until long after the two years are over. No person is apt to question the validity of an act of the Legislature unless that person is interested. A person might be interested several years after the adoption of an unconstitutional law but never know anything about it until the law pinched and then it is too late. On this thesis, a law which is admittedly unconstitutional never would become unconstitutional because nobody discovered that it was under a deceptive title until after the two years were up.

I should go back and refer to Paragraph 7 in the previous ----

THE CHAIRMAN: Mr. Martin, you want to say there then that you would like to have that last deleted?

MR. MARTIN: That I think should be struck.

THE CHAIRMAN: Is that the point you are making?

MR. MARTIN: Yes.

THE CHAIRMAN: And are you going to leave that now
and go to something else?

MR. MARTIN: Yes.

THE CHAIRMAN: All right. We have several others, just
for your information, making the same recommendation. That is just
to keep you posted. Now go ahead. What is the next one?

MR. MARTIN: I understood from the newspaper that
there had been some objection.

I skipped Paragraph 7 in the previous
section. That is at the top of page 6, about lobbying. The con-
stitution provides that the right of petition shall be inviolate.
"Lobbying" is a word that has a large variety of definitions, and I
would like to suggest that instead of this language, that section be
changed to provide that the Legislature shall regulate lobbying in the
Legislative chambers and provide suitable penalties for violation, be-
cause some things which some people call lobbying are obviously not
only desirable but the right of every citizen. It is not legitimate
that he should not be privileged to come down to the State House and
talk to a legislator. In fact, the appearance of all the speakers
before these committees might be construed, if this had been in the
constitution, to be in violation of it. This is lobbying in one sense
of the word. It is highly desirable lobbying to have proper discus-
sion before members of the Legislature.

THE CHAIRMAN: Mr. Martin, there is a difference be-
tween your being here today and coming down on your own volition. You
have been invited here today.

MR. MARTIN: Well, that is certainly true, but it
can be called lobbying whether you are under invitation or coming
down on your own volition, and even if I had not been notified, I think
it is the right and duty of citizens to come before the Legislature

or members of the Legislature if they come honestly, and some people would call that lobbying.

ASSEMBLYMAN LEONARD: Mr. Martin, are you through with that section?

MR. MARTIN: Yes.

ASSEMBLYMAN LEONARD: Is it your thought that the Legislature could not, in the present wording of Paragraph 7, define the word "lobbying"?

MR. MARTIN: I wouldn't go so far as to say that, but with a word that is capable of as many different definitions as "lobbying" is capable of, it would be entirely possible for the Legislature to enact into law a definition of lobbying which was very unsound. That is always possible. The Legislature might enact perfectly suitable legislation under this section as it stands, but also they might enact legislation which was not suitable and yet it would be clearly constitutional.

THE CHAIRMAN: Mr. Martin, there was another sentence in this paragraph originally which we deleted. It said something like this. The Legislature should pass laws to control lobbying elsewhere. That might include telephoning. You might want to call Uncle Tom and ask him how his bills were getting along.

MR. MARTIN: That is entirely true.

THE CHAIRMAN: We took that out, because he likes to hear your voice.

MR. MARTIN: I realize that the committees of the Legislature have weeded out a great many objectionable provisions that fortunately we do not have to object to now.

Section VI, Paragraph 1, on the same page, forbids the Legislature to elect or appoint any state officers except the State Treasurer, State Comptroller, and State Auditor. Regardless of the general policy which I won't attempt to discuss of

lodging appointments in the hands of the Governor and not the Legislature, regardless of that policy, this clause is a little too limited. The purpose of giving the Legislature the power to elect these three or appoint these three officers is to enable the Legislature to control the purse string. Everyone can see that that is a proper matter for legislative control, but if you don't expand that to include some language like this, "and such other state officials designated by law as may have for their principal duty the collection of state revenue," you might find some day that the Legislature discovered that the State Taxing Department, for instance, was being manipulated in a manner that it could not control, and yet the biggest collector of state revenue ought to be within the control of the Legislature when the Legislature thinks it necessary; and the same reasoning can properly apply to those other state officials whose principal function is to collect state revenue. I think that clause should be extended to that extent.

THE CHAIRMAN: Do you agree as to the three that are named in there now?

MR. MARTIN: Oh, yes. I think that is entirely proper.

THE CHAIRMAN: And you would extend it to the State Tax Commissioner?

MR. MARTIN: I would extend it not to any particular department or name, but to such other state officials designated by law as may have for their principal duty the collection of state revenue.

THE CHAIRMAN: Mr. Martin, that would take in the Motor Vehicle Commission, for instance, and various other departments that collect money and eventually the money gets into the state treasury.

MR. MARTIN: It could, and for that reason I think the Legislature should have power if it considers it necessary, to name the person who collects large sums of state revenue. Otherwise you don't really control the purse string because the policy of the head of a revenue department may seriously impair the revenue.

Now, in the same section, Paragraph 2, it reads, "The right of labor to organize and bargain collectively shall not be impaired." I don't think a provision of that character has any place in a constitution, but if it has and if the Legislature thinks that should be in, then certainly that should be accompanied by a further provision affirming the equal right of labor to work free from threat or compulsion of or by, or free from paying tribute to, other workers or strangers. That is, it is entirely unfair to place the right of labor to do certain things beyond impairment and not equally affirm the right of labor to be free from these threats or compulsions that everybody knows exist today.

If you take the view that I have expressed, that a provision of this kind has no real business in the constitution, then of course you could eliminate from another section that provision regarding the right of public employees to strike. That is a reaffirmation of existing law. It doesn't need to be in the constitution, and if both of these were struck, that would be consistent, but if this clause is left in it should certainly be accompanied by a declaration of the right of labor to work without compulsion from other labor.

THE CHAIRMAN:

Mr. Martin, labor representative when they were here suggested the substitution of the word "employees" for "labor."

MR. MARTIN:

Well, I don't think it makes very much difference whether you use the term "labor" or "employees."

THE CHAIRMAN:

The thought was that "employees" would more generally represent all workers, whereas "labor" here was generally felt to be organized labor.

MR. MARTIN:

I think that the change in wording would not affect the principle that I have been discussing.

On the next page, Section VI, Paragraph 6, that is the zoning paragraph. While that is taken from the existing zoning law or Zoning constitutional provision, I think this is the time when you ought to make a little change in it, and that change is this, to permit the Legislature itself to provide for zoning in those municipalities where the municipality refuses to pass any zoning ordinance. The Legislature now has no power under the present zoning amendment to do any zoning of its own. It is obviously inconsistent that the Legislature could delegate to a municipality a power that it does not itself possess, but that is exactly the way the present amendment and this proposal read, and I think that in addition that I have suggested should be made.

This was brought forcibly to my attention year ago in connection with the Billboard Act. The advocates of strict regulation of billboards admitted that their principal interest was in preserving the rural scenery of the state unimpaired, but the rural scenery was all under the jurisdiction of municipalities, small municipalities, that generally could not afford to incur the expense incident to adoption of zoning ordinances, and they never did adopt any zoning ordinance, and practically none of the rural sections of the state have today any zoning ordinances. Now it is not fair to ask those municipalities to adopt zoning regulations of the kind such as regulating billboards, but the billboard people themselves admitted that under the present constitutional amendment there was not any way that, constitutionally, billboards could be regulated. I think the change that I have suggested ought to be made.

ASSEMBLYMAN LEONARD:

Mr. Martin, do you mean by that statement that if the Legislature would pass an act defining the zoning of a city, we will say, in Atlantic County or some other county, planning out a scheme of zoning in that particular municipality?

MR. MARTIN: Well, I wouldn't suggest that. I wouldn't suggest going that far.

ASSEMBLYMAN LEONARD: Where would you draw the line between what you said and what I said?

MR. MARTIN: Well, I said in those municipalities which do not wish to adopt any zone of their own.

ASSEMBLYMAN LEONARD: Suppose, If I may interrupt you, that there would be developed a scheme throughout the state putting parks in the center of different municipalities and the City of Atlantic City, which I happen to come from, decided that they did not want such a park in the middle of their municipality. Do I understand you practically to say that the Legislature should pass laws which would say, "Here Atlantic City, if you don't follow this zoning program we are going to come down and do it for you"?

MR. MARTIN: I wouldn't go that far. I do think that in a matter affecting the state as a whole, where the Legislature thinks there should be a uniform policy throughout all municipalities, the Legislature ought to have the power to make such a provision, which it does not now have.

ASSEMBLYMAN LEONARD: Even though the municipality itself would be against that provision?

MR. MARTIN: Well, I can hardly believe that the Legislature would attempt to legislate as to a matter affecting cities which generally are big enough to adopt their own policy about zoning. I don't believe that the Legislature, with such a provision as I have suggested, would attempt to regulate zoning except in situations which would be comparable to the highways. I admit that it would be possible, but I don't think there is enough probability of it to lead any municipality into being disturbed over that.

ASSEMBLYMAN LEONARD: Well, I presume, Mr. Martin, in all your years in and about Trenton, you are familiar with the policy of the Legislature in the Home Rule Act, aren't you?

MR. MARTIN: Yes.

ASSEMBLYMAN LEONARD: Wouldn't that be in direct contravention of the Home Rule Act?

MR. MARTIN: I don't think so. I don't believe that the

Legislature would ever adopt a provision of this kind unless it was to take care of such municipalities as were not big enough to take care of themselves and really wanted the assistance of the Legislature.

ASSEMBLYMAN LEONARD: All right. Thank you.

MR. MARTIN: Now, I understand references to Article IV do not come before this committee.

THE CHAIRMAN: That should go before the Executive Committee.

MR. MARTIN: That is the executive, although one of those which I wanted to mention relates very much to the Legislature.

THE CHAIRMAN: What part was it you wanted to talk about? You know, the Legislature and the Executive are dovetailed considerably and the two committees have consulted with each other, but they have heard the arguments separately. That is to keep the identity of the committee. You see what I mean. So I really think that the best thing would be to see if you can't get up before Senator Proctor's committee. They are up in the utility room; supposed to be there right now.

MR. MARTIN: I was going to speak about the civil service provision also.

THE CHAIRMAN: Well, we will accept your comments on the labor end because, as I explained, Senator Eastwood asked us to take over all comments on the labor articles, and then you will have to go back there with the rest. So make any further comments you want to on the one about the right of public employees to strike against their government not being public policy.

MR. MARTIN: I don't think I need to add to that anything besides what I have already said. That now, on Article VII, finance. First I want to refer to Paragraph 2.

THE CHAIRMAN: Right.

MR. MARTIN: Which is the one forbidding so-called dedicated funds. I believe that is unsound. I believe it is due to a misconception by the public of the feeling that dedicated funds are beyond the reach of the Legislature. That isn't so under the present constitution, outside of pure trust funds which of course are excepted now in this proposal. The Legislature can at any time change and eliminate the dedication of any of these

so-called dedicated funds that there has been outcry against, but I don't think there should be a constitutional prohibition against the so-called dedicated bonds. I think that should remain under the control of the Legislature from time to time.

If you take any organization, like the State Medical Society, the State Bar Association, any other group of professional or business persons engaged in a like line of **business**, they have a voluntary organization. Their dues are their own property. If that profession or occupation seems to have a sufficient degree of public interest so that in the proper control of it they come to the Legislature and ask that the state permit the control to be not a pure voluntary control but an actual control enforceable by law and it is in the interest of the state to do that and the state passes an act, the dues of that organization ought to remain **dedicated** to the purpose of regulating that business or profession or occupation just the same as if it remained a voluntary association. The Legislature should have the right to say, "These funds shall remain for your own use and not for anybody else's." If the revenue from those license fees becomes too large so as to be a **temptation** to extravagance, the remedy is not to take the money and use it for other state purposes but is to reduce the licensed fee. If it is a pursuit which the Legislature considers should be a source of revenue to the state, then the tax on that occupation ought to be treated purely as a tax, but the mere license fee should not ordinarily be a source of general revenue to the state, and for that reason I think these so-called dedicated funds should remain as they have in the past, subject to the control of the Legislature.

THE CHAIRMAN:

Are you finished on that subject?

MR. MARTIN:

On that section, yes, that paragraph.

THE CHAIRMAN:

Paragraph 2. You are finished on that, are you?

MR. MARTIN:

Paragraph 2, yes.

THE CHAIRMAN:

Mr. Martin, the committee has taken considerable interest in these licensing agencies that you refer to. We confess

we are having some difficulty in making up our minds as to the best way to handle it. We ~~want~~ to thank you personally for the light of your discussion this morning. We anticipated a lot of good suggestions when you started, and that is why we are cultivating you as you go along.

Do you think it would be possible to pass legislation, for instance, that would set up the agency, give them the power of policing their profession, and then leaving the financing of it entirely to them, free from any governmental supervision? Would that be policy, in your judgment?

MR. MARTIN: I think that would be possible and whether it would be policy would depend on the circumstances of the particular occupation. In some of them it might be desirable and in others it might not.

I don't think in matters of that character that you can lay down a general rule that shall be applicable to every sort of group of associated occupations. I think that the Legislature can lay down a general policy for some, but there would be others that you would want to make an exception for.

THE CHAIRMAN: Mrs. Martin, as you well know, you have about sixteen licensing boards.

MR. MARTIN: Yes.

MR. CHAIRMAN: And three of them are revenue producers to the state because their membership is so extensive as compared to the others. For instance, there are many more barbers and many more beauticians and many more real estate brokers and agents than there are, perhaps, architects, and optometrists, and so forth, and those three are revenue producers. In fact, we have gotten hundreds of thousands of dollars out of the three in the last ten years, I will say, and if they were to be treated just a little bit differently than the others which are not revenue producing, what then? These doctors, dentists, the nurses and that group have never produced revenue for the state. They have just gotten enough to cover expenses, and so forth; they have never been a burden to the state because several years ago we wrote into the different

acts that they must be self-sustaining, and that got that old condition that existed off of the minds of the appropriation committees each year; that is, that they weren't to get any state revenue. What we are trying to wrestle around with is some method whereby we can protect these professional people without the necessity of engendering their displeasure.

MR. MARTIN: Well, I think that can best be accomplished by not having any constitutional limitation on you whatever.

THE CHAIRMAN: On them or on everybody?

MR. MARTIN: Well, on the Legislature. I think the Legislature should be left free to act in those cases as it thinks wise, because the circumstances may change from time to time. A policy that may be sound and just this year may ten years from now be unsound, and I think the Legislature's hands should be left free.

Now referring to Paragraph 4, the provision, "Property shall be assessed for taxes under general laws, and by uniform rules, according to fixed standards of value".

I still feel as I did when I appeared before the subcommittee last year, that that language and that change is unwise. I don't think anyone can determine in advance what may be the ultimate decision of the courts on the meaning of "Fixed standards of value," and until the courts have passed on that, which will involve a generation of litigation,--until the courts have passed on that not in one case but in a large number of cases, because it can come up in a great variety of ways,--until you are all through with the adjudication of the courts on it nobody will know for sure whether any proposed act is constitutional or not.

I do not personally believe that the Legislature can do anything under this language that it cannot do under the constitution as it stands today. I don't think that this language will permit any type of legislation that is not permissible under the present law. I mean any that is worth while. It would permit the Legislature to provide that property shall be assessed at fifty per cent of value instead of at true value, which I think would be wholly unwise, unsound.

Aside from that, I can't believe that this language will permit anything that is not permitted under the present law. Our courts have held that classification is possible.

ASSEMBLYMAN LEONARD: You suggest then, Mr. Martin, that that be changed back to "true value;" is that your thought?

MR. MARTIN: I think it is very much better to put it back, because then at least we will know what the rules are so far as they have been settled by the courts, and we don't have that number of years to go over, as we did before, before we get to know it.

Well, that concludes the matters which I wanted to bring up, which are within the jurisdiction of this committee, and I thank you for your attention.

THE CHAIRMAN: Have you finished, Mr. Martin?

MR. MARTIN: Yes.

THE CHAIRMAN: On behalf of the committee I have been requested to say to you that we **exceedingly** appreciate your attendance here this morning. Some of us have been associated with you several years in the Legislature, as well as in state affairs, and we **anticipated** when you started that we would get from you some very enlightening suggestions which are worthy of our serious consideration. The boys all want me to thank you, and we hope to see you again.

MR. MARTIN: Well, I again say I thank you.

(The following comments were submitted by Mr. Martin:)

Art. II. Sec. I. par. 3, page 3- The requirement for adjournment in nine days is unsound. In theory this would lead to speeding up the legislative program and prevent long, drawn out sessions. Those of us who remember the conditions prevailing on the last day or two before adjournment in the days when the legislature itself definitely fixed its adjournment date in advance and stuck to that adjournment date, know the results were bad. Good legislation was crowded out and bad legislation sneaked in. There has been less of that since the legislature has been more deliberate in adjourning. There should be added at the end of this paragraph the words "or except as provided in case of impeachment."

PAR. 4 page 3 - Provision should be made for the meeting of a valid session of the legislature when called by a majority, even if the Governor disregards their petition. Since the agitation for a revised constitution springs from the former Governor's distrust of the legislature, it should be remembered that the legislature may at times justly distrust the Governor.

The same clause as to impeachment should be added at the end of this paragraph.

Sec. V, par. 4, page 6 - The limitation in the last two lines validating any law which is not attacked within two years, is unsound. In case a law includes a secondary object or does not honestly express its object in the title, it is exceedingly likely that no one interested in challenging the law may discover it until long after the two-year limit.

Sec. VI, par. 1, page 6 - There should be added to this paragraph the provision "and such other state officials designated by law as may have for their principal duty the collection of state revenue". Without this provision the legislature may some day find it is not the guardian of the purse strings which is intended.

Sec. VI, Par. 2, page 6 - This provision should be accompanied by an affirmance of the equal right of labor to work, free from threat or compulsion of, by or free from or paying tribute to, other workers, or strangers.

Sec. VI, par. 6, page 7 - This zoning provision fails to permit the legislature to provide for some zoning regulations which may be greatly need in the general public interest, in municipalities which may refuse to pass zoning ordinances. It is inconsistent that the legislature should be able to give municipalities a power which it does not itself possess.

Art. IV. Sec. I. par. 11, page 10 - An attempt to limit the time within which the senate shall confirm, reject or return a nomination is unsound. If the senate is unwilling to confirm a specific nomination and the Governor is obstinate enough not to withdraw that nomination, the nominee is subjected to an unfair indignity by forcing the senate publicly to reject his name. This provision can have no other effect but that. It will never lead the senate to confirm a nomination.

PAR. 14, page 11 - The right of removal should be based on actual disclosure or misconduct, not what the Governor may choose to say in his opinion is misconduct.

It would seem reasonable to extend the power of investigation to the conduct of local officers as well as state officers. The legislature should not be burdened with the sole responsibility for initiating such investigation.

Sec. III. pages 11-12 - Consolidation where practical is desirable, but most of the contemplated groups cannot fairly be called departments. Many of them may prove to be baskets of eggs or assorted groceries.

A constitutional limitation of the number of such principal groups may in time prove very unsatisfactory.

PAR. 6, page 12 - The provision in this paragraph that the head of each principal department is to hold office only during the for-year term of a Governor is unsound. Perhaps there is an implication in paragraph 7 that all boards which head principal departments should also hold office only for the term of the Governor. This doubt should be clarified. It is equally unsound to limit the terms of boards by the constitution. It has been found in some departments, such as education, desirable to establish a continuity of policy independent of a transitory Governor. In some branches of government that is sound, and should not be blocked by any constitutional provision.

It is also unsound to think that business-like management or administration of any principal department can be had if the head of the department knows he is subject to be superseded when

a new governor takes office. To the extent it is desirable that the active head of a department be a career man, it would be obviously impossible to get a career man to take such a position with such uncertain tenure. It, on the other hand, the head of a department is to be selected because of special qualifications, no man capable of meeting these requirements would accept on such short tenure. In many departments it is desirable to have a qualified head to provide a broad range vision, which a career man might not have. We cannot secure such a man on a really full time basis, nor under such tenure as provided in paragraph 6.

The principal exception to this reasoning is the office of Attorney General. Because the Governor should be privileged to rely on this officer, his term should properly be co-terminus with the Governor's. However, some other departments should be permitted by law to have independent counsel. The Governor should have the privilege of an official cabinet, but he should not be limited to selecting state officers for that cabinet. He should have an adequate staff of adequately paid assistants to form his cabinet, to facilitate imparting his policies to the department heads, and carrying on such follow-up as may be necessary, and to advise him where he seeks advice. That should be provided by law without constitutional limitation. He should be privileged to include in his cabinet any additional state official whom he desires. Therefore, paragraph 8 should be changed to make this possible.

No governor needs any greater control of departments than is provided by existing law. No state official today can successfully defy or resist a governor who knows what he wishes to accomplish, unless that something is contrary to law. A governor who wishes to insure efficiency and economy in government can accomplish it through a cabinet such as above described. Most governors heretofore have been able to carry out their policies under existing conditions, unless their policies required an actual change in existing statutes.

But the proposal under this section as now drawn, ending the term of each department head with that of the governor, can have no other effect but to inject into the state government a much greater volume of law politics than has ever been seen before. A good governor might not misuse his power, but a politically minded governor could not avoid a misuse of this power.

Art. V. Sec. I Par. 2, page 13 - No one in the state can say what is the meaning of the clause "equity shall prevail", and those words will be a fruitful source of litigation and revenue to lawyers for years and years to come.

Pr. 3, page 13 - To limit by the constitution the place of the meetings of the Supreme Court and the Appellate divisions of the Superior Court, is simply to invite trouble in the future. It would save litigants money, if our present high court sessions were held in part in Trenton and in part in north Jersey.

SEC. III, page 13 - Each member of the Superior Court may exercise the original jurisdiction of the court under paragraph 4; but by the Schedule Art. XI, Sec. IV, par. 1, page 36, the lay judges of the present Court of Appeals who are not attorneys at law become justices of the Superior Court for the balance of their present terms. This is made convincing by the last sentence in this paragraph of the Schedule, which reads: "Any such justice ***may be re-appointed at the expiration of his said term if he shall then have been an attorney at law***for at least ten years". The effect of this provision will give those existing lay judges of the Court of Errors who are not attorneys the power to issue injunctions, grant prerogative writs, try any type of case and exercise all law, equity and prerogative jurisdiction. That does not seem business-like.

Sec. IV, page 14-15 - This section would seem to permit as many successive appeals in most cases as are now possible.

Sec. V, par. 4, page 15 - It seems unsound to provide for the trial of one of the justices by the same body which is required to prefer charges against him.

Par. 5, page 15 - It is contrary to the interest of the public automatically to end the term of a competent judge because he has attained seventy; and it is unfair to the judge to include such provision without at the same time providing for retirement on pension.

Art. VI, Sec. I, Par. 2, page 17 - Merit and fitness in the higher classes of governmental positions cannot be reasonably ascertained by competitive examinations.

Art. VII, par. 2, page 18 - The provision that all revenues be put into a single fund and be subject to appropriation for any public purpose, is unfair to those occupational license fees which are imposed solely for regulation and not for revenue. When a group of persons of a single vocation join for self-government by voluntary organizations, such as attorneys, their emembership fees are the property of the members. If such a voluntary association believes better control can be exercised by statute (such as barbers) the license fees paid by them should not be diverted to other purposes.

Par. 4, page 19 - The provision for taxing "according to fixed standards of value" should be restored to its present form. The change will not produce any benefit, but will simply result in creating years of litigation to determine the meaning and effect of the new words. That litigation may be profitable to lawyers, but cannot be beneficial to anyone else.

Art. IX, par. 1, page 20 - Under this paragraph an amendment might be adopted only a few days over three months prior to its submission to the people. That is an unreasonably short period. It may be long enough for the advertisement but the people should know what is coming no less than six months.

It also seems unwise to limit the proposal as here stated. It may be reasonable to permit two-thirds of each house to propose an amendment to be voted on in the same year, but it should also be possible for a majority of each house in two successive sessions one after the election of a new assembly, to submit an amendment.

THE CHAIRMAN:

The next on the list is William Blohm, Jr.,
counsel for the Local Housing Authorities.

MR. BLOHM:

By way of preface, gentlemen, might I state
that we understand that the State Planning Board and the State Housing
Authority have submitted some suggestions with respect to the amendment
of the constitution, Article III, Section VI, and other articles appertain-
ing to housing. By way of general policy we substantially agree with
those suggestions.

We also understand that this morning probably
following me, a presentation is going to be made by the New Jersey Consti-
tution Foundation, and again we substantially agree with the proposals./
However, these proposals I just saw this morning.
We would like to say at this time that we would like to have some opportu-
nity, if possible, to send in a written communication after we have
examined these new proposals that are going to be submitted just this
morning.

THE CHAIRMAN:

Pardon me just a minute. Do you have anything
to do with the organization with which Mr. Vanderlipp is connected?

MR. BLOHM:

He is the State Housing. I represent the
Local Housing Authorities of the State of New Jersey. We are in an
organization called the Council of Local Housing Authorities of the State.

I just say those remarks by way of preface
to let you know that we are more or less all in agreement, though some
new matters have come before me this morning that I would like to have
the opportunity to go over, if possible, later to present a written com-
munication to the committee.

THE CHAIRMAN:

Well, we will permit you to do that, but we
have now been going for the best part of three weeks, and we thought every-
body in the state knew there was such a thing as a constitutional revision
before the people. We will allow you to do it, Mr. Blohm, but you better
get it in pretty quick.

MR. BLOHM:

Well, I say I just had it this morning.

My own proposal is something that we felt was left out inadvertently. Referring to Article III, Section VI, Paragraph be amended as follow: Insert after "political subdivision thereof" the words "or any agency of such political subdivision".

The purpose of this change is to conform with the Local Housing Authorities Law, Revised Statutes, 55:14A-1, etc. Section 55:14A-4 defines a local housing authority as "an agency and instrumentality of the municipality or county creating it". The additional language recommended would clearly include a local housing authority within the provision of this Section.

The second suggestion is as follows: Insert after the word "any" and before the words "public highway" the words "the public use", and insert after the word "protect" and before the words "public highway" the words "public use".

The purpose of this change is to be in keeping with the wording in Article I, Paragraph 16 and Article III, Section VI, Paragraph 11 of the proposed revised constitution wherein the words "public use" are used in connection with condemnation.

Those are the two suggestions.

THE CHAIRMAN:

I think I follow you. The paragraphs you refer to are the zoning paragraphs.

MR. BLOHM:

Yes, and they leave out "public use". As I say, it is probably inadvertent, and we feel with the words "public use" not in definitely, local housing authorities might not come within the purview of the statute.

THE CHAIRMAN:

Do you think the Public Housing Authority should have the right to condemn all the property around it and turn it into a park if they want to?

MR. BLOHM:

No, no. Under the present housing law we have the right to condemn.

THE CHAIRMAN: Only what you are going to use.

MR. BLOHM: That is right.

THE CHAIRMAN: These clauses would allow them to take adjacent property.

MR. BLOHM: Well, that of course is a thought presented by another group. That of course sometimes is necessarily somewhat similar to the highway, I would say, where sometimes you want to develop along-side of a project, you might say, to beautify that part of the community. The reason I point it out, gentlemen, is this, that there has never been a test made in this state before the Supreme Court or the Court of Errors and Appeals as to whether a housing authority is a public use. We feel it is, and we feel if the words "public use" are in here, that we would come under it. We feel that because of the fact that the other sections of the constitution do use the words "public use," that it was inadvertently left out of here, that it was intended to be in.

Thank you very much.

THE CHAIRMAN: What community are you from?

MR. BLOHM: Jersey City.

THE CHAIRMAN: Dr. Leon Milmed has been before the committee several times, and he is here this morning. Not with any thought of any restriction whatsoever, but you are not going to repeat any of the things you have already said?

DR. MILMED: No, sir. That is right.

Mr. Chairman and members of the committee.

The policy of the State of New York with respect to public housing, which I submit should be adopted as the policy of the State of New Jersey on that subject, is set forth in Article I, Section II of the Public Housing Law of the State of New York.

This section reads as follows:

"Section II. Policy of state and purpose of chapter

It is hereby declared that in certain areas of cities, towns

and villages of the state there exist insanitary and substandard housing conditions owing to overcrowding and concentration of the population, improper planning, excessive land coverage, lack of proper light, air and space, insanitary design and arrangement, or lack of proper sanitary facilities; that these conditions are chiefly in areas where low rent dwellings prevail and that such conditions and dwellings are a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of this state; that there is not an adequate supply of adequate, safe and sanitary dwelling accommodations for persons of low income; that these conditions cause an increase and spread of disease and crime and constitute a menace to the health, safety, morals, welfare, and comfort of the citizens of the state; that these conditions inflict blight upon the economic value of large areas, impair private investments and the source of public revenues; that these conditions cannot be remedied by the ordinary operation of private enterprise; that these conditions require that provisions be made for the investment of public and private funds at low interest rates in low rent housing and the acquisition at fair prices of adequate parcels of property, the gradual demolition of existing insanitary and unsafe housing and the construction of new housing facilities, under public supervision in accord with proper standards of sanitation and safety and at a cost which will permit monthly rentals which persons of low income can afford to pay; that loans and subsidies by the state and its subdivisions are necessary for such purposes; that the clearance, replanning, reconstruction and rehabilitation of substandard and insanitary areas or the providing of adequate, safe and sanitary low rent housing accommodations in these areas and elsewhere for persons and families of low income, or both of these, are public uses and purposes for which public money may be spent and private property acquired; that these conditions require the creation of the agencies, instrumentalities and corporations hereinafter proscribed, which are declared to be agencies and instrumentalities of the state for the purpose of attaining the ends herein recited; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination."

In order to enable the state and the municipalities to undertake the work of slum clearance and the construction and maintenance of low rent housing projects, in accordance with the above statement of policy, it is recommended that the following provisions be included in Article III, Section VI of the Constitution:

II. Notwithstanding any of the provisions of Article VII, Paragraph 5 of this Constitution, the Legislature may, by concurrent resolution adopted by two-thirds of the members of each house thereof, authorize the borrowing of money by the state, for the construction and maintenance of such public projects within the state as shall be certified by the Governor as being at least 50% self-liquidating.

12. The Legislature may provide in such manner, by such means and upon such terms and conditions as it may prescribe for low rent housing for persons of low income as defined by law, or for the clearance, replanning, reconstruction and rehabilitation of substandard and insanitary areas, or for both such purposes, and for recreational and other facilities incidental or appurtenant thereto.

13. For and in aid of such purposes, notwithstanding any provision in any other article of this Constitution, but subject to the limitations contained in this article, the Legislature may make or contract to make or authorize to be made or contracted capital or periodic subsidies or loans, in such manner and under such terms as the Legislature may by general laws prescribe, by the state to any city, town, village or public corporation, payable only with moneys appropriated therefor from the moneys which may be borrowed pursuant to authorization as provided for in Paragraph 11 of this section; and in such manner and under such terms and conditions as the Legislature may by general laws prescribe, 1) authorize the contracting of indebtedness for the purpose of providing moneys out of which it may make or contract to make or authorize to be made or contracted loans by the state to any city, town, village or public corporation; 2) authorize any city, town or village to make or contract to make loans to any public corporation; 3) authorize any city, town or village to guarantee the principal of and interest on, or only the interest on, indebtedness contracted by a public corporation; 4) authorize and provide for loans by the state and authorize loans by any city, town or village to or in aid of corporations regulated by law as to rents, profits, dividends and disposition of their property or franchise and engaged in providing housing facilities; 5) authorize any city, town or village to make loans to the owners of existing multiple dwellings for the rehabilitation and improvement thereof for occupancy by persons of low income as defined by law; 6) grant or authorize tax exemptions in whole or in part, except that no such exemption may be granted or authorized for a period of more than sixty years; 7) authorize cooperation with and the acceptance of aid from the United States; 8) grant the power of eminent domain to any city, town or village, and to any corporation regulated by law as to rents, profits, dividends and disposition of its property or franchises and engaged in providing housing facilities.

As used in this article, the term "public corporation" shall mean any corporate governmental agency (except a county or municipal corporation) organized pursuant to law to accomplish any or all of the purposes specified in this article.

Those are recommendations, gentlemen, which I make, and in order to have this argument put in sequence, I would like to have Mrs. Baldwin of the State League of Women Voters speak after I finish.

THE CHAIRMAN:

Do I understand that all of those recommendations of yours you want written into the constitution?

DR. MILMED: Yes, sir. In that way and only in that way I believe that the state and the municipalities will be able to borrow money of the state, for example, in excess of the hundred thousand dollar limitation of Article VII, Paragraph 5, in order to aid in the construction and maintenance of public housing projects for persons of low income.

THE CHAIRMAN: Do I understand that you represent anybody but yourself? You are registered here as an individual.

DR. MILMED: I speak for myself. That is, I do not represent any organization.

THE CHAIRMAN: Nor any of these housing organizations?

DR. MILMED: No. I speak as an individual citizen of the state.

SENATOR TOOLAN: You are not insinuating that you are the only one in the state you can get to agree with you in your opinion, are you?

DR. MILMED: Oh, no. The proposals I believe will be agreed to by Mr. Blohm, who represents

(continue - next page)

the local housing authorities throughout the state, and by Mrs. Baldwin, who represents the State League of Women Voters, and, by the way, the State C.I.O. last week made recommendations along this line.

THE CHAIRMAN: I see. I would like to ask Mr. Blohm, who spoke before this committee just a minute ago, do I understand you endorse in toto what the gentleman just said?

MR. BLOHM: That is why I prefaced my remarks. I said I would like to have the opportunity to read it. He just showed it to me before, and I haven't had a chance to analyze it. That is what I want to do. We might agree with it. I don't know. I would like to have an opportunity to look it over.

THE CHAIRMAN: Well, he said that you would, and that is why I thought I would ask.

MR. BLOHM: He is hoping we will.

THE CHAIRMAN: The next on the list is Arthur J. Edwards of Montclair. Will you explain to the secretary whom you represent?

MR. EDWARDS: I am speaking in my individual capacity, or, rather, my joint capacity with John Bebout and myself as citizens.

THE CHAIRMAN: Yes, sir.

MR. EDWARDS: This has to do with the status of the State Comptroller, the State Treasurer, and the State Auditor, and I have discussed it with the Executive Committee in extenso, and I will just abbreviate it here.

Mr. John Bebout and I believe that the status of these three state officers should be critically re-examined from the standpoint of their relationship to the Legislature which is to appoint them in joint session (Art.VI, Sec.II, Par.1) and to the Governor, who under Art.IV, Sec.III, Par. 1 is to allocate all the executive and administrative offices, departments and instrumentalities of the State Government.

To point up the discussion, we recommend that in the first sentence of Par. 1 of Art. IV, Section III there be inserted after the words "Instrumentalities of the State Government" the words "not including the office of the State Auditor."

We further recommend that there be added to Art. III (or to Art. VII - Finance if deemed more appropriate) a new section, properly numbered:

"The office of the State Auditor shall be allocated in the Legislative Department of the State Government. It shall be the duty of the State Auditor to conduct a continuous post-audit of all transactions and all accounts kept by and for all departments, offices and instrumentalities of the State Government, and to certify to the accuracy of all financial statements issued by accounting offices of the State and to report thereon quarterly to the Speaker of the Assembly, and to the Assembly and to the Governor at the end of each fiscal year. He shall also make such additional reports to the Legislature, and conduct such investigation of the financial affairs of the State, or of any department or office thereof, as the Legislature shall require."

In the suggested amendment I picked out the Speaker of the Assembly because money bills originate in the Assembly. I just had to make a choice there. It will be equally within the recommendations to make it the President of the Senate and the Speaker of the Assembly or some specific committee or some special committee. That is a matter of choice.

The old Constitution and the present Constitution both say that the Comptroller, the Treasurer, and the Auditor shall be elected by the Legislature for terms of four years. I don't believe that that mere statement makes them officers of the Legislature. That is apparently a debatable question among the members of the Legislature, whether those men are in the legislative department or in the executive department. I would say most assuredly

that the Treasurer is in the executive department, and also the Comptroller. But I do think that it is not good accounting practice, it is not good administration, to have both the man who pays out the money and the man who checks up the payments in the same department, and therefore I am recommending that the Auditor may be made specifically a member of the legislative department with the right to make post audits, and then decide as to the Treasurer and the Comptroller. It certainly is not definitely stated in this Constitution where those men belong, and since they all three of them have offices and in the ordinary conception they are administrative and executive officers, certainly the Treasurer is an executive officer as compared with the Department of the Treasury in Washington, which is headed by the Secretary of the Treasury, one of the President's cabinet.

I think that should be clarified, and I do make that recommendation very specifically, that the Auditor be put in the legislative department and be their servant, and that the Treasurer and probably the Comptroller be in the executive department.

It is just a matter of clarification, because there is a very cloudy area there as to where those people belong, as I saw in the discussion upstairs, and I will leave this discussion with you for your information, but I will state that it is entered in the records of the executive committee and therefore it doesn't need to be duplicated down here.

ASSEMBLYMAN LEONARD: Mr. Edwards, don't you believe that the regulation and the duties and offices of these three men can be set up by statute?

MR. EDWARDS: A great deal of it could, but you have got to make some change in your present draft of the Constitution, which says that all administrative and executive officers are to be allocated among the twenty principal departments by the executive, and the way the Constitution reads now, it is not at all clear to me that because the Legislature appoints those three officers, that

they thereby become officers in the Legislative Department. If you want to, all you have got to do is say that the State Auditor shall be an officer in the Legislative Department and then leave the duties to the Legislature.

ASSEMBLYMAN LEONARD: Well, that particular section that you just read, your proposed section, we could set that up by statute, couldn't we, and enforce it?

MR. EDWARDS: Yes, except the one sentence I think you have got to have this one sentence in there. The office of the State Auditor shall be allocated in the Legislative Department of the state government, and from there on, why, the Legislature can regulate him anyway they please; but under the present wording all three belong in one department or the other, and I for the life of me can't see why the Treasurer should be considered a legislative officer, and if the Treasurer is an executive officer, why, then based on the fact of election, the other two follow with him into the executive department; but there ought to be a split somewhere, because one outfit makes the expenditures, actually draws the checks and pays the money, and somebody else ought to audit his account, and they ought neither one of them to be under a common overlord, be that overlord the executive or the legislative department.

Mr. John Bebout and I believe that the status of these three state officers should be critically reexamined from the standpoint of their relationship to the Legislature which is to appoint them in joint session (Art.VI, Sec.II, Par.1) and to the Governor, who under Art.IV, Sec.III, Par.1 is to allocate all the executive and administrative offices, departments and instrumentalities of the State Government.

To point up the discussion, we recommend that in the first sentence of Par. 1 of Art. IV, Sec. III there be inserted after the words "Instrumentalities of the State Government" the words "not including the office of the State Auditor."

We further recommend that there be added to Art. III (or to Art. VII --Finance if deemed more appropriate) a new section, properly numbered:

"The office of the State Auditor shall be allocated in the Legislative Department of the State Government. It shall be the duty of the State Auditor to conduct a continuous post-audit of all transactions and all accounts kept by and for all departments, offices and instrumentalities of the State Government, and to certify to the accuracy of all financial statements issued by accounting offices of the State and to report thereon quarterly to the Speaker of the Assembly, and to the Assembly and to the Governor at the end of each fiscal year. He shall also make such additional reports to the Legislature, and conduct such investigation of the financial affairs of the State, or of any department or office thereof, as the Legislature shall require."

The existence of the offices of the State Comptroller, State Treasurer and State Auditor is confirmed in Article VI, Sec. II, Par. 1 in the words "relating to the conduct of their respective offices." The distinctive functions of these three fiscal officers, as described in "New Jersey State Government, 1941-1942, its Functions, Organizations, etc." issued as a supplement to the Governor's Budget Message, at pages 123, 127, and 128 respectively, are that the State Comptroller handles Pre-Audits the Auditor handles Post-Audits and the Treasurer acts as banker and cashier.

The fact that these three officers are appointed by joint session of the Legislature gives them an aloof position from the Governor who has no part in their selection and

appointment and who under Art. VI, Sec. II, Par. 2 apparently needs constitutional authority in order to call on them for reports. This aloofness is further emphasized by the fact that their four year terms will not expire contemporaneously with that of the Governor as do the terms of other single heads of Principal Departments under Art. VI, Sec. III Par. 6, thus lessening the influence which the Governor might again by participating in their appointment, and by the fact that executive orders under Par. 9, same section cannot divest them of certain enumerated functions,

But despite these considerations, the present text of the Revision certainly classifies their offices, as does the Governor's Budget Message cited supra, as among the executive and administrative offices, departments and instrumentalities of the State. Certainly they are not judicial and present wording does not tie their responsibility to the Legislature, which merely appoints them, in such a manner as to make them legislative offices.

And being the heads of executive and administrative offices they will under Art. IV, Sec. II, Par. 1 have to be allocated into the 20 Principal Departments. But under Par. 6 of this Section they "shall be under the supervision and control of the Governor", who however is represented as needing a stated constitutional power to "require from them written statements under oath of information on any matter relating to the conduct of their respective offices". If they are intended to be under the Governor's "supervision and control", why under ^{that} all inclusive power, can he not require of them reports as a routine element in his control? I will not press this particular point however because the original inspiration for this clause probably was in the Federal Constitution, Art. II, Sec. 2 stating the President "may require the opinion in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices."

The normal functions of Comptroller and Auditor-pre-audit and post-audit respectively, are so very similar, differing only in the element of time before or after -- that it seems policy to create some real distinction between them. This can be done by making the State Auditor a legislative office, independent of the Governor, since it is the accounts of the Governor's other Departments and department heads that he is responsible for checking and auditing. A double check with responsibility to the same common over-lord is not good administrative planning or practice. An opportunity is here afforded to make the State Auditor an independent officer corresponding generally to the Comptroller General in the Federal Government, responsible to and reporting to the Legislature or to the Assembly which originates money bills, to assure them that the expenditures which they have authorized to be paid, have been made by the executive departments in accordance with legislative authorization.

These recommendations appear to be in line with the most recent authorities on government administration, as:

Report of the President's Committee on Administrative Management of the Government of the United States, pp.21-24.

"The President - Office and Powers - History and Analysis of of Records and Opinion" by Edward S. Corwin, 1940 at pp.107-109, discussing the functions of the Comptroller General and the Report of the President's Committee.

"American State Government and Administration" by Austine F. Macdonald, 1941 at p.220, The Auditor; and Sec. 28 at p. 592.

"Model State Constitution", National Municipal League, 1941, Sec. 707, or Sec. 28 in preceding edition; also article, "Post-auditing - an instrumentality of the Legislature, at p.46 in "Model State Constitution".

THE CHAIRMAN: Any further questions? Thank you.

Next we have Mrs. Kenneth A Baldwin
representing the New Jersey League of Women Voters.

Mrs. BALDWIN: Senator Pascoe and members of the
Committee. The constitutional provisions recommended by the New
Jersey Federation of Official Planning Boards have been called to
our attention. We are especially interested in one of these,
paragraph C of the part entitled, "Eminent Domain and Urban Re-
development," because it concerns a subject public housing, in which
we have long been interested.

The New Jersey League of Women Voters
is on record in favor of slum clearance and publicly subsidized housing
for low income groups and believes that the New Jersey Constitution
should make it clear that the state could provide public housing if it
wished to do so.

The New Jersey League of Women Voters
does not oppose the other recommendations of the Federation of Planning
Boards. It takes no position on them because it has made no study of
the subject which they concern. Publicly subsidized housing for low
income groups, however, has been on our program for many years and we
endorse the following wording: Additions to Article III, Section VI.

The Legislature may also provide in such
manner, by such means and upon such terms and conditions as it may
prescribe, for low rent housing for persons of low income as defined
by law, or for the clearance, replanning, reconstruction and
rehabilitation of substandard and unsanitary areas, or for both such
purposes, and for recreational and other facilities incidental or
appurtenant thereto.

A typewritten copy of what I have just
said was accidentally left at home. May I mail that to you for
filing?

THE CHAIRMAN:

Yes.

MRS. BALDWIN:

Our position, then, you understand is

just that the Constitution, we feel, should not be restrictive in that it would prohibit the state from providing public housing if it wished to do so.

ASSEMBLYMAN LEONARD:

To keep the record straight, you don't

endorse this morning the entire document Dr. Milmed read into the record, do you?

MRS. BALDWIN:

That is right.

ASSEMBLYMAN LEONARD:

You do or you don't?

MRS. BALDWIN:

We don't. That is, we have not considered

it, because we have already taken a position on this other thing. We would not be able to without board action.

THE CHAIRMAN:

Mrs. R. W. Cornelison of Somerville,

member of the Board of Trustees of the New Jersey State Federation of Women's Clubs. Mrs. Cornelison.

MRS. CORNELISON:

Mr. Chairman and members of the Committee.

I am a member of the Board of Trustees of the New Jersey State Federation of Women's Clubs.

The Federation has for years been in favor of revision of our state Constitution, and a committee has been appointed to appear at the various hearings to state our position on various articles of this proposed constitution.

We appreciate the fairness with which the hearings have been conducted and are very happy to have the opportunity to express our opinion.

We favor definitely certain of these provisions and we would like to emphasize that we approve certain of the provisions, such as Article III, Section VI, Paragraph 8, dealing with the public school system of the state and the safeguarding of school moneys. I have myself been on the Board of Education of our state and I have been interested in educational projects in the state for a great many years, and I feel that we could not do better than to

safeguard the rights of our children by keeping the funds for the schools sacred and separate, and I hope that that provision in this Constitution will be retained. I hope that it will be approved.

THE CHAIRMAN: You refer now to Article VII?

MRS. CORNELISON: Article III, Section VI, Paragraph 8, page 7.

THE CHAIRMAN: That, Mrs. Cornelison is the declaration for the necessity of a state maintenance of public schools.

MRS. CORNELISON: Yes.

THE CHAIRMAN: When you get over to Article VII, Paragraph 2, that has to do with the moneys that are collected.

MRS. CORNELISON: Oh, yes. The fund is kept separate.

THE CHAIRMAN: You know that Dr. Bosshart and Mr. Strahan, speaking for the Teachers' Association, did agree with the wording as now constituted in Paragraph 2 of Article VII.

MRS. CORNELISON: Yes. We are very anxious that that should be protected.

We do also favor the creation of a single fund to be known as the General State Fund, which is contained in Article VII, Paragraph 2, page 18 of the Constitution.

Now, there are some things that we would like to see which are not in the constitution. We favor the prohibition of legislative action under the suspension of rules unless the Governor certifies to an emergency; and we also suggest that a bill must be on the desk in printed form for three days. I feel that anything that will safeguard the rights of the people about legislation is advisable and that the passage of legislation under suspension of rules is a rather dangerous thing to permit.

Now, you have already this morning heard some discussion of the zoning provisions of the Constitution. Under the proposed draft of the Constitution which was drawn up by the Commission there was a section which reads as follows: "The legis-

lature may enact general laws under which municipalities and counties may limit and restrict and specify districts and regulate therein land uses, buildings, and structures according to their construction and the nature and extent of their use."

The point I want to make is that in this Constitution as at present proposed the zoning by counties is not permitted. I realize that the objection has been raised that there might be a conflict of jurisdiction between counties and townships. My answer to that would be that by all means let us permit townships to zone, too.

I have had years of experience in trying to work for the improvement of roadside conditions in our state, and we have found by our experience that zoning is the most effective means of regulating the use of billboards and controlling unsightly buildings along our highways. It is a matter of sanitation and of safety for the drivers, and it is a matter of growing importance and when the war is over and our cars are again in large numbers on the highways, the question of diversion of attention of drivers by billboards and so forth will be a very critical one and undoubtedly will increase the hazards of driving.

Now, there seems to me to be no valid reason why counties should not be given the right to pass zoning ordinances, and it seems to me highly desirable that that word should be reinstated in this section of the Constitution, and I do urge upon you that you take under very careful advisement because it will have very long lasting effects.

The question of the beautification of our roadsides which is provided for in this Constitution I think is to be commended, but I would very much like to see the word "county" inserted in this Article III, I guess it is, Section 6, Paragraph 6, on page 7, so that we may go ahead with our program through the counties of zoning along the highways so that we may safeguard and beautify the roadsides,

safeguard the driving and beautify the roadsides; and I do urge upon you that you consider that very very carefully.

THE CHAIRMAN: Mrs. Cornelison, you said to allow the townships. Did you mean townships or towns?

MRS. CORNELISON: No. I mean townships. Under the law we have permission now for towns and cities to zone. We can pass zoning ordinances in our communities.

(continued next page)

THE CHAIRMAN: Also townships.

MRS. CORNELISON: Well, all right. Then I can't understand the objection that has been raised to including counties in that provision. At the present time in this new constitution it says the Legislature may enact general laws under which municipalities other than counties may limit and restrict, and so forth.

THE CHAIRMAN: Just let's stop right there. Municipalities other than counties takes in every kind of municipality, even a village.

MRS. CORNELISON: All right.

THE CHAIRMAN: So they all have the right to zone.

MRS. CORNELISON: Then let's leave it that way, but why not include also counties?

THE CHAIRMAN: For the reason that you said in the first place. That is why it was left out. The present Constitution does not include counties.

MRS. CORNELISON: . No.

THE CHAIRMAN: And we have retained it in the same position. Now, we believe we might get into conflict. We have twenty-one municipalities, I believe, in our county, for the one county. If the county undertook to zone the City of Elizabeth, do you think Elizabeth would like it? They have a government of their own and they can do it other than the county. You know our county pretty well. The same thing about the people of Mountainside, for instance. A part of Route 29, the main highway, runs through there. Mountainside can pass its own zoning ordinance as a community. It is a borough, I believe, the Borough of Mountainside. So you get the same purpose without getting into conflict with the county. The county would have no right to go out and zone along Route 29 because it is a state highway. So you wouldn't accomplish what you are after, by allowing the counties to zone. They could probably zone their own county roads.

MRS. CORNELISON: That is it. We have been up against this lack of county zoning regulation for years in our program for control of billboards and unsightly buildings along the roads.

THE CHAIRMAN: Every municipality can give you the relief.

MRS. CORNELISON: Yes, I understand that, but there must be territory that we have not been able to reach. We have constant difficulty about it in our attempts at control of billboards and other unsightly things along our highways.

THE CHAIRMAN: Let's keep it straight. That has been along state highways primarily.

MRS. CORNELISON: Yes.

THE CHAIRMAN: And putting counties in here wouldn't help you at all. By those state highways I mean the big major routes, 29, 28, 25, 26, 24, and all those. Putting counties in wouldn't help you because they are state controlled roads; and right in the very next paragraph you have in a measure zonings for state highways because we allow them to buy the adjacent property for the purpose of protecting the interest they have in the highway itself.

MRS. CORNELISON: What about roads inside the counties?

THE CHAIRMAN: They are practically all, with the exception of a few county roads, municipal streets or roads. So I can't see how you get the conflict in there of the county going down in the city.

MRS. CORNELISON: Well, we do meet it.

THE CHAIRMAN: I beg your pardon?

MRS. CORNELISON: I say, we do meet it. We do have difficulty. We have been putting up a fight for years to try to control billboards and similar monstrosities along the highways, and we do feel very strongly the need of county zoning provisions. We have always felt that.

ASSEMBLYMAN LEONARD: Mrs. Cornelison, do you feel that the freeholders of Somerset County should be able to zone Somerville even though the people of Somerville wouldn't want that particular zoning?

MRS. CORNELISON: No, I don't feel that at all.

ASSEMBLYMAN LEONARD: Your suggestion of county zoning would make that possible, wouldn't it?

MRS. CORNELISON: I don't know why if the line of demarkation of the county does not come into Somerville.

ASSEMBLYMAN LEONARD: Well, you suggest this morning, as I understand it, that the county be given the right to zone.

MRS. CORNELISON: Yes.

ASSEMBLYMAN LEONARD: If they were given that right, the Board of Freeholders of Somerset County could zone particular districts of the City of Somerville, where you reside, even though the people of Somerville didn't want that at all. Isn't that so?

MRS. CORNELISON: No. I can't see why that would necessarily follow if the proper arrangement is set up between the county and the restricted areas, like the communities in the county. There are roads that are not in Somerville that are in Somerset County that we would like to be able to zone. Now, I can't see that it would be impossible to work out an arrangement by which, just as in other things; the county government does not interfere with our local borough government.

ASSEMBLYMAN LEONARD: That is because they are not allowed to by law, but this would open up the door to allowing them to interfere, wouldn't it?

MRS. CORNELISON: I can't see why. I don't think it need to.

ASSEMBLYMAN LEONARD: Are there any county roads that come into the City of Somerville, to use that as an example?

MRS. CORNELISON: I don't think there are. Are there, Mr. Hess?

ASSEMBLYMAN HESS: Yes.

MRS. CORNELISON: Are there?

ASSEMBLYMAN HESS: Your main street is a county road, East Main Street.

ASSEMBLYMAN LEONARD: Then the Board of Freeholders could zone East Main Street in Somerville although the people of Somerville might be against it, under your construction.

MRS. CORNELISON: Possibly they could.

ASSEMBLYMAN LEONARD: Do you feel it would be proper to allow the Board of Freeholders of Somerset County to zone East Main Street in Somerville although the people of Somerville were against it?

MRS. CORNELISON: Well, if that is a county road, I don't see why the county should not have the responsibility for it.

ASSEMBLYMAN LEONARD: Even though the people of Somerville would be against it?

MRS. CORNELISON: Why? I don't see why. Our objective is to make it possible to zone so that we can really control the roads of the state and safeguard them, and it seems to me that to give the counties the right to pass zoning regulations is a step in the right direction. We have felt that for a long time in our New Jersey Roadside Council.

Now, I would like to suggest one thing more that the committee would approve, and that is that state elections be held in odd numbered years instead of even numbered years, in order that the state issues and state problems should be before the people and not interfered with by the discussion of and attention on federal issues. We are strongly in favor of such a provision in the Constitution changing from the election in even numbered years to odd numbered years.

THE CHAIRMAN: You understand, of course, why we had to make that change. The original plan, both in the Hendrickson committee report and our own original draft, was for the odd years.

MRS. CORNELISON: Yes.

THE CHAIRMAN: Governor Edge has insisted that he was elected for three years and he won't consider a fourth year. Therefore in order ^{to} set the thing up, unless we wanted to go a year without a governor and let this present Senate run it for a year, why, we had to go to the even numbered years.

MRS. CORNELISON: Well, I appreciate the difficulty, but it seems to me that there could be a method worked out that would take care of that one particular case--that is just one case-- and that then we could start off and have our elections in odd years. It does seem to me that many times state issues are clouded by the predominance of

federal issues, and it would be very much to our advantage as citizens of the state to have the elections in odd years so that we can concentrate our interest and our attention on state issues.

ASSEMBLYMAN LEONARD: Mrs. Cornelison, do you believe that the members of the Legislature should run at the same time that the Governor runs?

MRS. CORNELISON: Well, I don't know. I suppose that would be interfered with, wouldn't it, by the odd years; is that it?

ASSEMBLYMAN LEONARD: In other words, if any particular party has program, the members of the Legislature and the candidate for Governor would perhaps run at the same time on that program, wouldn't they?

MRS. CORNELISON: Yes. Well, I presume that is true, but I still think that the elections ought to be in odd years.

ASSEMBLYMAN LEONARD: What I am getting at--

MRS. CORNELISON: I see your point.

ASSEMBLYMAN LEONARD: Your point is that the members of the Legislature should be elected in the odd years also, I presume.

MRS. CORNELISON: Oh, yes. I said state elections.

ASSEMBLYMAN LEONARD: All state elections.

MRS. CORNELISON: Yes. That is what I mean.

THE CHAIRMAN: We don't want to wish any more troubles on the Governor. If you can persuade him, you are good.

MRS. CORNELISON: Well, I am afraid the Governor would not be duly impressed if I tried to persuade him, but I still think that you have got to set up special machinery in order to put this constitution into operation anyway, and I still think that some way can be found out of that difficulty if it is to the long advantage of the citizens of the state to have the elections in odd years, and it does seem to us that there is a definite advantage in it.

THE CHAIRMAN: Of course we kept it out of presidential years by this program. At least we think we have. So it does keep it out of the national picture excepting when congressmen are elected.

MRS. CORNELISON: Well, I realize there are difficulties, but I still think that it is important that the citizens of the state

should concentrate their attention. I don't think the citizens give enough attention to state issues anyway, and I think that it is very important that we should concentrate our attention on state issues at specified times.

THE CHAIRMAN: Are there any further questions of Mrs. Cornelison? Were you finished?

MRS. CORNELISON: Yes. Thank you.

THE CHAIRMAN: After our long questioning, I want to thank you for coming down. I have heard you speak many times throughout the state, and I don't think you have lost any of your cunning in your questioning this morning. You have stood up against these legislators very well with all these questions. It has been nice to have you here.

MRS. CORNELISON: Thank you.

(The following statement was handed in by Mrs. Cornelison)

"My dear Senator Eastwood:

The New Jersey State Federation of Women's Clubs has formally supported the principle of revision of our State Constitution. We the duly elected members of its Board of Trustees therefore appreciate the opportunity of appearing before this committee to express our views on modification of certain sections of the tentative draft. We feel that the revised Constitution as submitted represents a long step forward in the evolution of our State government and have been impressed by the impartiality with which the hearings have been conducted.

"There are certain provisions which we heartily endorse and which we hope will be retained in the final draft as follows:

"ARTICLES I and II

The Bill of Rights and the distribution of powers of government.

"ARTICLE III SECTION VI

Paragraph 8

The safeguarding of school monies.

"ARTICLE IV SECTION I

Paragraph 11

The provision requiring the Senate to act on nominations with a time limit of 45 days.

"ARTICLE V SECTION IV

Paragraph 11

The separate appellate division in the new constitution is considered by competent authorities as highly desirable.

"ARTICLE VII

Paragraph 2

The creation of a single fund to be known as the GENERAL STATE FUND.

However we move for modification of the following provisions:

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"ARTICLE III SECTION V

Paragraph 3

We favor the prohibition of legislative action under the suspension of rules unless the Governor certifies to an emergency. We also suggest that a bill must be on the desk in printed form for three days.

"ARTICLE III SECTION VI

Paragraph 6

We urge that zoning by counties be authorized to protect those roadsides and public lands from unwarranted encroachment.

" ARTICLE IV SECTION 1

Paragraph 4

We suggest that State elections be held in odd numbered years in order to obtain concentration of public opinion on State issues.

"ARTICLES IV SECTION I

Paragraph 6

To insure the separation of powers in the three departments of government we suggest the creation of the office of lieutenant governor or the designation by the Governor of a member of his cabinet to act in event of his absence or disability.

"ARTICLE V SECTION V

Paragraph 1

We suggest that the advisability be explored of a balance between appointed and elected judges with a view to minimizing machine control of the judiciary of the State.

"ARTICLE IX AMENDMENTS

We suggest that the constitution should contain a definite provision for its revision.

(Signed) Alice L. Cornelison
State Chairman of Education,
N. J. State Federation of
Women's Clubs."

THE CHAIRMAN: That exhausts the list as I have it here.

Is there anybody else who would like to be heard?

SENATOR LITTELL: Mr. Chairman, I have a communication from one of my constituents and I offer it to you, sir, to be read into the record.

"Honorable Alfred B. Littell,
"Franklin, New Jersey.

"Dear Senator:

"The pamphlet covering the Proposed Revision of the Constitution of New Jersey was duly received. Also note a request for my thoughts and opinion regarding the adoption. I must confess I am not familiar enough with the present Constitution to make an intelligent decision between the old and the new and whether there is any particular improvement made in the new. Quite a goodly percent pertains to the Judicial Section and I know nothing whatever

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regarding this subject.

"Regarding the general legislation and operation of the State, I believe either one would be satisfactory if it was done with the object of benefitting the citizens of the State as a whole and not for any class. It is my opinion there has been too much what might be called class legislation for the benefit of a few and to the detriment of the many. I hope this kind of legislation will decrease whether the new Constitution is adopted or not.

"When reading this pamphlet I particularly noticed Article 2, Section 6, which reads, 'The right of labor to organize and bargain collectively shall not be impaired.' What are these rights and who gave them to labor? I cannot understand why this should be included in any Constitution. To my mind it is purely a legislative matter if any. My understanding is that this right, if it is a right, was granted by the Federal Government and not by the State, and therefore this article is entirely unnecessary and should be removed. If the State wants to fill this space I would like to suggest it should read as follows, 'The rights of the American citizen shall not be impaired.'

"As stated above I think this labor clause is entirely unnecessary and a voter would be justified in voting against this Constitution unless Article II is removed.

"Yours very truly, Reeve Harden."

THE CHAIRMAN: Is there anyone else here? We don't want anybody to be restricted at all.

The Committee will then recess and come back at two o'clock and see if there is anybody else who would like to be heard at that time.

(At 12:30 p. m. a recess is taken until two p.m.)

- AFTER RECESS -

THE CHAIRMAN: The hearings will be resumed. We have one lady, Miss Marion Courtney, who would like to speak, I believe, this afternoon, and if she is ready we will be glad to hear her now. Miss Courtney, are you going to speak on the articles?

MISS COURTNEY: Yes.

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REGISTERED SPEAKERS - AFTERNOON SESSION

Tuesday, February 15, 1944

Marion Courtney
Newark

C.I.O.

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THE CHAIRMAN: We don't want to shorten your speech but just want to make sure you are in the right place. Are you speaking on the articles that are before this committee?

MISS COURTNEY: Yes. Something that was discussed this morning. I am going to make a statement for Mr. Morris Isserman, who was not able to be here this morning, as follows:

On behalf of the State C. I. O., the state organization approves the recommendations with respect to low rent housing projects for persons of low income. That is the recommendation submitted by Dr. Milmed this morning.

THE CHAIRMAN: You are endorsing in its entirety all this?

MISS COURTNEY: They are in agreement, yes.

THE CHAIRMAN: Is that the extent of your statement?

MISS COURTNEY: That is the extent, sir.

THE CHAIRMAN: If there is anyone else who wishes to be heard, this is the time. If not, we will officially declare the public hearings by the Legislative Article Committee of the Constitutional Revision closed. There will be no further public hearings, and the Committee will take under consideration all of the various suggestions and recommendations that have been submitted during the entire series of hearings. The Chairman and Vice Chairman of the Committee are going to meet this afternoon for the purpose of formulating the balance of the program so far as the work of the committees are concerned, after which it will be a matter more or less of public information as to the progress that is being made.

I have two communications here that were left by Miss Preen that she would like to have made a part of the record. Without reading them, they will be submitted to be so included. One has to do with the question of the office of coroner, and the other as to the matter of dedicated funds.

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"Oak Grove Grange No. 119 P. H.
 "Pittstown, New Jersey.
 "February 11, 1944.

"Hon. Mildred A. Preen:

"Dear Miss Preen,

"The members of our Grange have by resolutions and in general discussion always opposed the use of our State Highway Funds for any other purpose than the construction and maintenance of our public roads.

"The proposed new constitution for our state would absorb these funds in a General State Fund from which appropriations would be made for highway purposes from time to time; such a plan would only mean that a large part of these monies, paid into the state by our motorists, would be ~~diverted~~ to other purposes, contrary to the expressed promise of our state when this fund was established that monies received would be used exclusively for highway construction and maintenance.

"We are emphatically opposed to the proposed plan. We want these monies used exclusively as originally intended and we hope you will use your good influences and your vote to prevent such a diversion; if this fund can be kept intact and used as intended, we feel that it will result in immense value to all the people of our state as well as the motorists who make such a fund possible.

"Your cooperation will be greatly appreciated.

"Sincerely yours, Chairman Legislative Committee, Wallace S. Suydam,
 Master, E. Joseph Rozzo."

"16 Clinton Street
 "Lambertville, N. J.

"Hon. Miss Preen:

"Will you kindly do something in connection with the office of coroner before the Committee on Revision Const. Either have them do away with the office so same will not appear on the Ballot or give it some duties worthwhile. The Revised Compiled Statutes of 37 has plucked the office cleaner than a goose. Thanking you I am, Jim Bumster, Coroner."

THE CHAIRMAN:

I want to thank the members of the Committee for cooperating with us, and also the stenographic force.

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SENATOR TOOLAN:

I would also like to put on the record the congratulations and compliments of the members of the Committee to the chair for the very fair and human way in which he has handled the meetings of this committee.

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