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STATE OF NEW JERSEY
CONSTITUTIONAL CONVENTION OF 1966
MEETING OF
COMMITTEE ON APPORTIONMENT OF THE LEGISLATURE

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JOSEPH M. KEEGAN (CO-CHAIRMAN): This is an executive session of the Apportionment Committee. We will call the roll so that the record will indicate those present.

(Mr. Keegan called the roll and the following Committee members answered as their names were called)

Keegan, Lance, Jacobson, Woodcock, Duff, Thatcher Reilly, Hunt, Metzger, Horuvitz, Inglema, Lockard, Roth, Lupton, Ozzard, Glauberman, Maraziti, Cotton, Kimmelman, Hollander, Farley, Roach, Dumont, Shaffer, Woolfenden, Deighan, Novins, Goldberg, Evers, Orkin, Cawley

The roll call reveals one absentee, Mr. Schreiber.

Now, the Chair notes that the last time I presided was under slightly different circumstances and if I'm going to preside today it is only with Mr. Lance here alongside of me.

As I understand what Co-Chairmen do it is to share and we are going to start off that way by sharing. It's kind of awkward, perhaps, but Wes and I agreed that both of us will be here. You may, of course, just address the Chair and one of us will answer and the other one will make sure that he answers correctly.

The first order of business that I have to call to the attention of the Apportionment Committee is a matter that's called to the attention of the Chair by one of the Delegates from Union County. Now I understand the gentleman from Union, Mr. Cawley, would like to address the Committee.

MR. CAWLEY: Gentlemen, at the last meeting of the Apportionment Committee Plan No. 16, introduced by Mr. McGowan of Union County was thrown out based on the fact that there was a report of the Attorney General which applied

to Nos. 15 and 16. I understand that, to date, the Apportionment Committee has not received a copy of the Attorney General's report and I would ask that Plan No. 16 be returned to the agenda and considered on its merit, so to speak, until the report from the Attorney General would expressly state, and it does not, as I understand, that Plan No. 16 is unconstitutional.

I would so move.

MR. MARAZITI: I second the motion.

MR. KEEGAN: For the record, the motion of Mr. Cawley, seconded by Mr. Maraziti of Morris County.

To refresh the Delegates' minds, and members of this Committee, Plan No. 16 - the record indicates that the Plan was rejected in toto by the Committee and was, in fact, not considered because of a report of a statement of unconstitutionality.

It has been moved and seconded that, for the purposes of clearing up the record on Plan 16, this Committee would now take a vote on Plan 16.

Discussion on the motion?

MR. ROACH: May I suggest that the motion be modified so that this does not take place until we have reconvened in public session? I think the agreement was that any such motion of this sort should be done in public session.

MR. MARAZITI: I'll accept that.

MR. CAWLEY: I would so modify the motion.

MR. KEEGAN: I would put the modified motion to

a vote then. All those in favor, signify by saying "Aye."

(Chorus of "Ayes")

All opposed?

(Silence)

The "Ayes" have it.

Mr. McGowan, I note, is present and the Chair makes the representation that at the public meeting we will conduct a vote on his Plan No. 16 so that the record of the 52 proposals will be complete.

Mr. Ozzard?

MR. OZZARD: Mr. Chairman, I speak for myself and probably a majority of Republican members of this Committee.

We came here this afternoon to spend as much time as may be necessary. We have not come here to waste any time.

Now, I make this prefacing remark because this morning the Republican members of this Committee met and we agreed upon several plans that we wished to recommend to the entire Convention. These plans are all predicated upon the principles which were put forth by Judge Horuvitz last Monday evening. They are embracing the philosophies that we have established as our base from early in this Convention. We think the plans are ones that are worthy of consideration by the entire body of Delegates.

However, we are also in the position and of the mood to talk areas of compromise with the Democrat members of this Committee.

Now, the reason I take the floor and the reason

I go into this at all is simply for the request of you or through you, Mr. Chairman, to make a determination.

We have heard repeatedly this morning, from several sources, that a meeting that you held last night, that the Democrat Delegates held last night, firmed up several - firmed up certain positions, for which we respect you and we expect that you must take positions and you must have meetings, but we understand that those positions, by direction or agreement, are to be held firmly past today's meeting and to the floor of the Convention. And I am asking you if this is so, since some of those positions such as at-large versus subdistricting, etc., if those positions are that firm that there is no area of compromise or discussion here today, then I would go back to my opening remarks that we don't intend to waste any time, that we would consider it a waste of time, I have a busy law office which I can go to this afternoon for a few hours.

So if the positions are firm, that you took last night, - and I think we know most of those positions - then I would suggest that each side submit minority reports, which we're preparing to do on the plans that we like and are going to recommend, get them to the floor of the Convention and get out of here.

MR. KEEGAN: Mr. Ozzard, the remarks are addressed to the agenda this afternoon. Before answering in detail, other than to report to you what has been the position taken, the Co-Chairman of the Committe points out to me that the first order of business, so that we can dispose of it as

an official act of this Committee, would be the filing with the Committee of the Committee on Apportionment's votes on proposals. Each of you has these on these 52 votes which we took.

At the request of your Co-Chairmen, the President of the Convention was invited to come before this Committee so that we may shorten things by inviting the President, Mr. Foley, to make a statement with respect to the force and effect of the filing by this Committee of the votes on proposals with the Convention.

Mr. Foley?

PRESIDENT FOLEY: Thank you, gentlemen.

The question that was posed to me about an hour ago was whether if in a report which this Committee files you refer, among other things, to the box scores of the Monday night meeting, at which time all 52 proposals were considered, that would a general reference in your report serve as sufficient legal basis for considering each of the 52 proposals as being properly before the Convention and properly, at an appropriate time and subject to the rules, the subject matter for Convention action. And I am pleased to state unequivocally that a general reference to the 52 proposals and the vote upon it, which amounted to Committee action, would more than suffice and would be deemed by the Chair as getting the proposals before the Convention, that is as Convention matter.

So that anyone who might harbor the fear that without specifically referring to proposal X or 2 or 7 or

15 need have no fear, so far as I am concerned. And I have no doubt, personally, as to the legality of this position.

If anyone has a contrary view, I would be glad to entertain it. But if anyone has the fear that by a general reference you are possibly losing the opportunity of a full discussion, I would like to lay that fear at rest.

That's all I have.

MR. KEEGAN: Thank you very much.

Are there any questions to be directed to Mr. Foley or can we release him to the Convention?

(Silence)

Thank you very much.

MR. LANCE: Mr. President, before you leave, let me pose this specific question.

There are a great many proposals and resolutions here. Many of them are expressions of intention and they are not spelled out in detail, as somebody is going to have to do before June 15th. Is, in your opinion, a proposal - let's say number 23, to pick it out of a hat - in the same status if it's one of a mass as compared with a minority report referring specifically to proposal number 23?

PRESIDENT FOLEY: In my opinion, it would be just as much a proper matter or subject for Convention report as if you specifically spelled out in a minority report each and every one of the 52. In other words, I think

you are incorporating all 52 by reference and I don't -- their status, incidentally, and their relative merit, some of them might suffer from - well, something the Scope Committee or Structure Committee or someone else might deem to be improper. But that goes to the merit. So far as the merits of each one, no action can make them any less or any more than they are. But so far as their being referred to in general rather than specific, I see absolutely no distinction and I would so rule.

MR. LANCE: Well, to put the same question in slightly different posture that if some particular delegate, on either side, is interested in preserving his proposal, it will be in no higher status if there is a minority report specifically mentioning it as contrasted with being in with a mass of proposals?

PRESIDENT FOLEY: That would be my opinion.

MR. KEEGAN: Thank you, Mr. Foley.

It's the Chair's understanding then, carrying on with Mr. Ozzard's comment directed to the Chair, that the first order of business, so far as we are concerned here, would be a motion that the vote on proposals be made an official report of this Committee and that it be forwarded by this Committee to the - as I understand the rules, to the Organization Committee. Is that correct?

PRESIDENT FOLEY: Correct.

MR. KEEGAN: The Chair would entertain such a motion.

MR. ROACH: I would like to make such a motion

with the reservation that if there is further action on any proposal, such action will supersede the vote recorded on that document.

MR. HORUVITZ: A question on the motion.

MR. KEEGAN: Yes, Judge.

MR. HORUVITZ: How about the voting on May 19th? Shouldn't that be incorporated? That was an action of the Committee.

MR. KEEGAN: As I understand it, Judge, what we did on Monday - we're discussing this now - is to take each of the proposals and vote upon it. What you would be doing, Judge, by this, if I understand correctly, would be also directing your attention to page 4 of this report - would be including those matters which were made the subject of a specific proposal.

MR. HORUVITZ: Page 4 doesn't show the vote on May 19th. That's what I'm talking about.

MR. DUMONT: You are talking about May 23d, Joe, here. We're talking about May 19th, last Thursday.

MR. KEEGAN: As I understand it, the votes on May 19th were of an advisory nature, that what we did on Monday --

MR. HORUVITZ: I don't care what it was. I think it ought to be incorporated in the report.

MR. KEEGAN: The Judge doesn't care what it was and that being the case then I can rule that it's not a matter then for the Chair. However, I think it would be easier, Judge, if we do this.

MR. HUNT: Mr. Chairman, I move you that all matters that have been taken to a vote in this Committee be made a matter of record, including the 19th day of May when the Committee was in joint session and did vote on certain principles. It was conducted as a meeting whereby we were required to express ourselves and where the vote is taken and tabulated then it should be reported as a matter of posture and policy in this very Committee.

MR. KEEGAN: May I point out, gentlemen, that what we are trying to get here are the 52 votes as an official act of the Committee and forward them to the Organization Committee.

Now, if there is a desire that the record of the May 19th meeting, of votes taken, be forwarded to the Organization Committee, an official record of it, I inform you that the Chair would entertain that as a separate motion.

I think it might be easier that way and I would anticipate no difficulty with it, Judge.

MR. HORUVITZ: That's agreeable.

MR. COTTON: On the motion made by Senator Hunt. As I understood what Judge Horuvitz and Senator Hunt have said - or if I misunderstood it I want to clarify my thinking on it - that they want to raise this action that we took on the 19th to the dignity of a Committee proposal within the meaning of the rules, and it was my understanding - at least when I was voting on these

things that it was exactly what you said was being done in an advisory capacity.

Now, I don't know. I agree with Senator Hunt that if we are going to conduct this we have to conduct it within the meaning of the rules and I see nothing in the rules that provides for offhanded advisory votes. And it is my understanding that the only thing that we are to report is our action on the various proposals or any committee proposals that we might make.

Now, I am not that conversant with the rules but if someone can point out to me some part of the rules that says that we should also report our vague comments and votes taken that were never, according to my understanding, intended to be raised to the dignity of a Committee proposal--

MR. KEEGAN: All right. It has been ruled by the Chair that we would have separate motions and I think this would satisfy Judge Horuvitz.

MR. HUNT: Mr. Chairman, I'm not attempting to dignify anything. I'm trying to make the record of the Committee meetings, which are bipartisan in nature, clear. I'm not ashamed of the way I voted and I am very happy to have mine on record.

MR. COTTON: Well, I'm not ashamed of a lot of things --

MR. KEEGAN: Just a second, men, just a second. I point out that there are no newspapermen here and there is no gallery and nobody is impressed, if you're trying

to impress the Chair. Let's leave it. We have a motion, I take it it's seconded by Senator Hunt, that the vote on proposals take the usual course of this Committee, being forward to the Operations Committee.

What is your pleasure?

All those in the affirmative say "Aye."

(Chorus of "Ayes.")

Now, there is in the records of the Committee a record of the vote which was taken on May 19th and this is part of the minutes of this Committee.

These are - so that you understand what you are discussing - these are the points, gentlemen, referring to the votes on proposals, they are given on page 3 and are labeled "Horuvitz Motion."

MR. DUMONT: No, that's not what we're talking about. We're talking about the votes of a week ago.

MR. KEEGAN: Just a second. I think, what I'm trying to do is not characterize them but to identify them, that on May 19th there were votes taken; on May 23d those proposals were made part of the Horuvitz Motion. This motion would make the votes on May 19th on those proposals - you have a sheet or you should have, page 4, that we make those votes, whatever they were, part of the record for forwarding to the Operations Committee.

MR. HORUVITZ: Together with the question because it simple states, could you support?

MR. KEEGAN: Well, obviously, Judge, the question and the vote. It's an exhibit, we'll call it that, in

the records of this Committee.

MR. HORUVITZ: I move the question.

MR. KEEGAN: Question on the motion.

MR. DUFF: I was of the understanding that all of the minutes of all the committee hearings from the beginning are going to be submitted to the Operations Committee. So I move we submit all of the hearings. We have reports made up. The stenographers have taken them. Send them all to the Organization and Operations Committee.

MR. HORUVITZ: That's right.

MR. COTTON: I second that.

MR. KEEGAN: We point out that this is the regular order of business but we have a motion and we will entertain that motion, it not being withdrawn, - right, Judge?

MR. HORUVITZ: Yes.

MR. KEEGAN: It not being withdrawn by the proponent, the motion being that questions and votes of May 19th be forwarded in the regular course of business to the Operations Committee.

MR. DUFF: May I ask Senator Hunt and Mr. Horuvitz if they will accept that amendment, that all be submitted.

MR. HUNT: Sure.

MR. HORUVITZ: Yes.

MR. KEEGAN: The question, then, as amended, is submitted to you for a vote.

Your pleasure, gentlemen?

(Chorus of "Ayes.")

MR. KEEGAN: All right. So carried.

Now, Senator Ozzard directed the attention of the Chair to the fact that matters of the Convention as well as the convenience of members of the Committee point out the need for stating a position as succinctly and as clearly as we can.

The Co-Chairmen will take just 10 seconds and we ask your indulgence while we confer, just as a matter of procedure.

(Co-Chairmen confer)

MR. KEEGAN: As Senator Ozzard points out, there have been discussions in the separate panels and positions have been taken. The positions have, the Chair notes, boiled themselves down and can be digested into 5 separate points. The Chair would propose to take up a point, point number one, and state what is a position and then would open it for discussion to determine if, in fact, this is the consensus of this Committee.

Mr. Roach?

MR. ROACH: Is this going to be considered in public session or in private session?

MR. KEEGAN: We are in private session. I think we should discuss it now and find out and make sure that this is our --

MR. OZZARD: Let's not be purists, let's be politicians.

MR. KEEGAN: Let's make sure. The Committees have met separately. We assume that the entire Committee has made up its mind. What will unfold now is a statement of

position. We should do it as a combined group in private. We will repeat it, if necessary, at a public meeting. It was the thought of the Co-Chairmen that this should be done in executive session so that we do, in fact, arrive at points of agreement and points of disagreement, those that can be reconciled and those that cannot be reconciled.

The first point, as I understand it is that the position as given by the Republican panel on the question of unicameral would be that the unicameral house be adopted would be 100 per cent on a district basis, single-member districts.

I have reported to the Co-Chairman that this, of course, is not acceptable to Panel A, I'll call it.

Now, the next point that was discussed at Panel A and, I presume, at Panel B, and I know that it was discussed, was the question of single-member districts in a bicameral house - single-member districts versus at-large election.

Now, I have reported to your Co-Chairman that the position of Panel A was for election at-large. He has reported to me that the position of Panel B on this subject was for single-member districts.

Now, discussing again the question of bicameral, there was a discussion, I'm reporting to you, in Panel A and that discussion led to a statement that the Senate of the bicameral house would be composed of a number of members up to 40, up to 40.

I understand from the Co-Chairman that this was

discussed in Panel B and that that was an expression of the opinion of Panel B on the size of the Senate.

The Chair notes that on that, the two panels are in agreement.

As to the size of the Assembly. There was a statement as to the size of the Assembly by Panel A to the effect that the size of the Assembly should be not to exceed a number of members which would give each county a member under the constitutional prohibitions which apply.

I have discussed this with the Co-Chairman. The Co-Chairman advises me that this statement is acceptable and represents a consensus of Panel B.

The fourth point which was discussed in Panel A, as it was in Panel B, was that the implementation in whole or in part of the reapportionment function would be done by the Convention, the Constitutional Convention up to 1970 figures.

Now, I am giving you what is the consensus after discussion in Panel A. I am informed that this is the consensus of the opinion on Panel B, and that such a statement reflects the opinion of Panel B, and we note that they coincide.

On the 5th point.

MR. WOODCOCK: Mr. Chairman?

MR. KEEGAN: Yes? Mr. Woodcock of Bergen County.

MR. WOODCOCK: Did I understand that it is represented that there was agreement on the reapportionment in whole or in part to be done by this Convention?

MR. KEEGAN: In whole or in part. The interpretation

as I gave it and as I got it from the members of Panel A was that the implementation in whole or in part - meaning B - should there be a determination, that grouping of counties should be made. For instance in a 40 member house or if in fact there is a determination that districting be done as distinct from grouping of counties, districting or subdistricting. In other words, the implementation of the apportionment in whole or in part, however it would be done, would be done by the Convention for those figures up to the year 1970.

MR. WOODCOCK: We have no problem.

MR. OZZARD: In whole or in part to me means that we might put the counties - assemble the counties by this Convention and then refer the subdistricting of those, if you agree to subdistricting, to the legislature or some other body. Now I want to know why this Convention doesn't do everything. To hell with this whole or in part.

MR. KEEGAN: It's the understanding of Panel A that the Convention does whatever districting --

MR. OZZARD: Does the total reapportionment job.

MR. KEEGAN: Does implement the apportionment plan which will be taken.

MR. LANCE: I think, before you leave that, we all ought to make sure we are thinking about the same thing.

The reapportionment function is three things: one, the grouping of counties; two, the allocation of

seats according to some formula or by this Convention; and, three, the subdistricting, if any. And it is my understanding that both panels believe that all three of these functions should be done by this Convention. Now, if we don't agree to that now is the time to find out about it rather than tomorrow.

ME. KEEGAN: The explanation of what is meant by in whole or in part, Senator Ozzard, was just that.

MR. CAWLEY: On the point. For clarity couldn't we just eliminate the words "in whole or in part" and say that we are going to do it, period?

MR. KEEGAN: Well the only point there is "of whole or in part." The Chair takes no position on it one way or the other except to point out that in order to cover that part which would be required, whether the whole job be done or only a partial apportionment be done, whatever is required to be done up to 1970 will be done by the Convention.

I can make it no clearer. I think you understand.

DELEGATES: All right.

MR. KEEGAN: Now, the 5th point directed itself to the apportionment after the year 1970, future reapportionment.

There was a statement by Panel A that the future reapportionment be done by the Legislature. There is a statement by Panel B, as we understand it, that the reapportionment be done by a bipartisan commission with a judicial backstop, if I may use that term of it.

We point out then that the areas that have been

subject to separate discussion among the panels boil down to these five points. The consensus of both panels, as I understand it then, is that the wording of these five points, as we've given it, constitutes then a statement of position by this Committee.

This statement of position or proposal, if you will, it is the thought of the Chair, should be forwarded in the usual course to the Operations Committee. And we would entertain at this point a motion to that effect, that this statement of five points, representing the viewpoints of the joint Reapportionment Committee, be forwarded to the Operations Committee.

MR. OZZARD: Joe, do I understand that both panels agree to reapportionment by a bipartisan commission after 1970?

MR. KEEGAN: No. I pointed out, so that there would be no problem, that on No. 5 there were two statements of position, one, that future reapportionment would be done by the Legislature; B. that future reapportionment be done by a bipartisan commission with a judicial backstop. We did not go into details other than to say that's the position of the Commission.

MR. THATCHER: Mr. Chairman?

MR. KEEGAN: Delegate Thatcher from Camden County.

MR. THATCHER: We've been sitting as a Committee now from the beginning of this Convention and we've been working very hard to bring this thing to a conclusion in respect to getting a proposal that is acceptable

to both sides of this Convention, and also a proposal that will be acceptable to the public and that will implement all that we have been striving to obtain here.

Now it seems to me that we are putting up some 50 proposals and we're giving this to the next committee down the line and they are going to put out some 52 proposals to this Convention, with these guidelines that we are just talking about now.

Now, it is my thought that since we are here, we have come this far, advanced to this point, why don't we, as a Committee, formulate a committee proposal encompassing the points on which we have agreed so far and work toward achieving agreement on the other two points. Why not make a committee proposal? Why stop now? Let's give this Convention the benefit of everything that we have talked about, argued about, listened to in the hearings? By just throwing this up at this point we are throwing, so far as I am concerned, everything out the window that this Committee did.

We are in the best position to give the Convention the benefit of everything that we've learned. Now, by just throwing out fifty proposals, we're doing nothing.

Why don't we formulate a proposal? And I would like to make a motion at this time that we do formulate a proposal and that, if it requires a recess for the two factions or two sides, whatever you want to call them, to get together to work out a proposal, I would like that to be done. Now, I think we are very close. Why not go

all the way, give the Convention the benefit of what we have learned, instead of throwing this thing up like we've accomplished nothing. And I would like to make a motion to that effect.

MR. KEEGAN: Mr. Thatcher, the Chair would point out that at this point your motion would be out of order. What the Chair has done - that doesn't mean, sir, that it will not be entertained immediately after we've disposed of this. What the Chair has asked for is a motion that the proposal, the five part proposal that the two panels have agreed upon, take the course of other proposals of this Committee and be forwarded as an official act of this Committee to the Operations Committee.

MR. THATCHER: Well, may I say this, in all due respect. I don't think it's a proposal. That is just general principles that we were talking about back on May 19th. It isn't a proposal. It's nothing concrete. It's just general guidelines with no decision.

MR. KEEGAN: Well, be that as it may, can we state this, that as an official act of the Committee, as we forwarded all these, that this proposal state - whatever you call it - be referred to the Operations Committee. If there's any problem about it - the Chair would entertain a motion on it and we can discuss it.

MR. DUMONT: Mr. Chairman, as I understood you to say, you had agreement between the Co-Chairmen here that the size of the Senate should be up to 40.

MR. KEEGAN: Yes.

MR. DUMONT: I want to say on behalf, certainly, of myself, and I think of several other members of Panel B, that we are not satisfied with talking about a Senate of "up to 40." We are for a Senate of 40, period. Not from 30 to 40 or less than 30, but of 40. So if that's the position that's going to be forwarded as coming from the two sides, I respectfully want to cast a negative vote on my own part against any statement of that kind going to the Operations and Organization Committee.

MR. MARAZITI: Mr. Chairman, I would like to reiterate what Mr. Dumton has said, as my position as a Delegate, and I think the position of some others so far as Panel B is concerned, that the size of the Senate be 40. And this was my understanding from my attendance at these meetings.

MR. KEEGAN: There is a query or discussion directed to the point of the size of the Senate. The motion by Mr. Dumont, seconded by Mr. Maraziti, would be so far as that point dealing with the size of the Senate that the recommendation be that the size of the Senate be 40. Being moved and seconded, we call for a vote on it.

The Chair would call for a vote. An "Aye" vote will mean that the recommendation of this Committee as to the size of the Senate would be 40.

DELEGATE: May I suggest a roll call on that?

MR. KEEGAN: All right.

MR. HORUVITZ: Mr. Chairman, may I make a suggestion?

MR. KEEGAN: Yes, Judge.

MR. HORUVITZ: Instead of getting into a controversial proposal like that, why don't you let both of these two gentlemen be registered in the negative and not ask people to vote on if they want a Senate of 40?

Now, if we come to a general agreement of not less than 40, some people might want 30 and we'll have 15 different votes. If these gentlemen want to say they want 40, let them register their votes and that's it.

MR. KEEGAN: Well, it would have to be acceptable to the proposer of the motion.

MR. DUMONT: Mr. Chairman, I didn't actually make a motion that we take a vote on this. I just want it understood that I am opposed to this business of saying up to 40, and I want it to be so reflected in the report that goes, and anybody else that wants to be, to the other Committee.

Now there is a very basic reason for this. Some of us have not been desirous at all of a large assembly in a bicameral legislature, at least not an assembly of over 80 members. There are others that want to go to one assemblyman for every county, whether that takes up to 94 or 100 or 105, or 109, 112, 120, whatever it may be. I don't care, -representing one of the five small counties, I'm not the slightest bit interested, very frankly, in whether we have an assemblyman all of our own or not, in the county. So, as far as I am concerned, if we

are going to go to a large assembly in a bicameral legislature - and I'm supposed to go along on that compromise and I am willing to do some compromising any time - at the same time I don't want to see that done just for the sake of keeping the Senate at 28 or 29 or 30 or 31 or some smaller size.

Now it has been made very clear by members of the Research Staff, who have worked on this for a long time, that you cannot have a senate of 35, 36, 37, 38 or 39 without cutting county lines, which we are all trying to preserve. So either you have a senate of 40 or you have a senate of 34 or less. And I just want to be on the record here as being for a senate of 40.

MR. KEEGAN: Will the record indicate that the comments of Mr. Dumont and the comments of Mr. Maraziti, of course, be noted on the record but not in the form of a motion.

MR. ROACH: Mr. Chairman?

MR. KEEGAN: Mr. Roach of Morris County.

MR. ROACH: When we discussed this in our panel this morning, in our Panel A, we discussed this on the assumption that this represented the unanimous opinion of Panel B and we felt that we could go along with this as the unanimous position of Panel B. I think there are some of us that might feel that the vote should be reconsidered, in view of the fact that does not appear to represent the unanimous sentiment.

MR. DUMONT: What do you mean by the unanimous

sentiment? namely that we have a senate of up to 40 or a senate of 40?

MR. ROACH: A senate of up to 40.

MR. DUMONT: That has never been unanimous in our panel.

MR. ROACH: I think in that case certain members of Panel A might wish to reconsider their vote.

MR. GOLDBERG: Mr. Chairman?

MR. KEEGAN: Mr. Goldberg.

MR. GOLDBERG: It seems to me that we may be discussing two separate propositions. On one hand we are talking about a constitutional proposal which will be a proposal that will have to be effective not only for the first apportionment that we come up with but, presumably, for every other apportionment that comes up while that constitutional proposal remains in effect.

I would suggest that it would be unwise, when you are talking about the language or the details of a constitutional proposal, to specify that the senate has to be a fixed number, whether that number be 40 or 34 or 60 or 17 or anything else. And it would seem to me that if we are talking about a general proposition and what limitations we are going to write into the Constitution, that the proposition that the senate be not larger than a certain number makes a great deal of sense.

Now, obviously, there is a second part to this proposition and that is if the determination is made that the senate should not at any time exceed a certain

number, what the size of that body should be under the first apportionment. And I think this is the area that is concerning Senator Dumont. And I am just wondering whether there isn't room to encompass the idea of Senator Dumont, as well as the general concept that there be a limitation on the size of the senate but that the size of the senate not be specified. And my understanding, in making the proposal that the Senate be not more than 40, is an indication as to what the constitutional concept should be, and it leaves open and doesn't bind anybody on the question of what a specific house should be.

And I think, if we are going to deal effectively with this, perhaps we ought to separate these questions out and everybody understands. If we say a senate up to 40, that's the concept, and the question as to what size it should be is a separate question to be resolved separately.

MR. KEEGAN: Thank you, Mr. Goldberg.

Mr. Dumont?

MR. DUMONT: Mr. Chairman, I don't happen to agree with Mr. Goldberg's analysis but then that's happened before. The point is that in this situation all I am interested in is not in the form of a motion but that you understand that Panel B is not unanimous in any sense of the word in having a senate up to 40. I think that ought to be made clear here and I hope I am making it clear and, therefore, if we have to take this to the floor of the Convention, on which it will undoubtedly be discussed, -

it may be resolved even by this Committee because some of the proposals that have been discussed by Senator Ozzard that we're going to recommend here, most of them deal with an exactly 40 member senate and not with a senate up to 40 but 40 members exactly.

Therefore, I want to make that clear. I'm not making a motion now but I am willing to fight to hell and back to get 40.

MR. KEEGAN: I think the Chair, when I ran through these five points, stated that it was the consensus of Panel A, that I was informed that it was the consensus of Panel B, that the senate be composed of a number of members up to 40, that that was the consensus.

I think, gentlemen, that you can accept the statement as that of being a consensus of this Committee subject to the notation by Mr. Dumont that in this part he has not formed part of the consensus whereas he has in others.

MR. DUMONT: Right.

MR. KEEGAN: We are not going into the individual votes of the members on each of these points. I point out that there has been a giving and an acceding by some members of Panel A on some points because they felt that they could in their own minds, for the sake of having a consensus and having a statement by the Committee to merge individual viewpoints on one particular point, they have agreed. Now what we are discussing here is the consensus. When we say consensus it is distinct from unanimous.

MR. LANCE: It is my opinion that Panel B, 100

percent, would not want to go over 40; that there is no one of the 15 Republican Apportionment Committee members who would want a senate of 41 or more.

MR. KEEGAN: I would say that that's so for Panel A.

MR. LANCE: Now as to whether the number should be fixed at 40 or be some lesser figure, there is some difference of opinion. And some Republicans could vote for both, not in excess of 40 and plugging it at 40.

So far as the Republican members are concerned, have I expressed their view correctly?

DELEGATES: Yes.

MR. HOLLANDER: Mr. Chairman?

MR. KEEGAN: Mr. Hollander from Sussex County.

MR. HOLLANDER: We sat this morning in our Panel and we discussed what we thought was the consensus of feeling on certain problems and we come here now and we see that possibly this is a consensus and possibly it isn't a consensus.

I would like to add my very weak one-half vote to Mr. Thatcher's and hope that possibly here this afternoon, prior to the completion of this specific committee session, we might be able to reach a consensus on a specific plan. Otherwise, I feel very strongly that we may have abdicated our responsibility as a committee.

MR. KEEGAN: I would point out, gentlemen, with respect to the comments made by Mr. Thatcher, joined in by Mr. Hollander, that the report or statement which I

have asked be forwarded to the Operations Committee, that that, on being forwarded to the Operations Committee, will go with the 52 votes that you have taken, with the May 19th votes that you have taken, as an expression of opinion with an indication or a statement where the Apportionment Committee as a whole agrees and on those two points where the Apportionment Committee disagrees.

Now, what we have asked is that that be made the subject of a motion and that we do it.

I point out to you that the Convention is due to sit again at 3. Mr. Lance and I have not set a time for another meeting but it's obvious we are going to have to have them. We are going to have to go forward. But we have to report this to the Convention. We get this into the Convention. We have to go back and the Committee submit reports, not only our own but Structure which is meeting right in back of us. Then all I can note for you gentlemen is that negotiations and discussions certainly continue as I understand it.

MR. NOVIN: Not by this Committee.

MR. HUNT: Mr. Chairman, I rise to support the position of Delegates Thatcher and Hollander.

It would appear to me that Panel A and Panel B have come a long ways in the past ten days on the agreement of principle. And I can see within this very body now that we are going to and can resolve a definite Committee resolution while we have the opportunity to iron out the two points in question. It would be

catastrophic for anyone to think we can walk away from this Convention by doing it piecemeal, after all the time and publicity it has had. And I would like to see the proposal these two gentleman have made discussed a little more so that we might arrive, if we can, at a definite Committee proposal that will be handed in.

I think there are many of us in this room who knowing each other as well as we do because of what we say from time to time can get together and agree on certain portions. For instance where we have the area now of where Panel A does not want total single-member districts and where Panel B does. Perhaps it might be to the interest of all to discuss a meeting in the middle of the ground and having one house with single-member districts and the other house at large. And I pull this out for the gentlemen of this delegation to discuss this thing and think it over a little bit if we are going to go on the floor so that when we meet again today we can come down to the resolving of two small issues which apparently are holding up a definite committee proposal. (Laughter)

MR. KEEGAN: If I can, to sum this up, Mr. Lance and I have had a colloquy here and we point out that these 5 points are as far as we have agreed, each representing a panel here of this joint committee.

Now, if it's the thought of the Committee that further discussion shall be held, there is absolutely nothing to prevent us from doing that.

MR. NOVINS: When would that take place?

MR. KEEGAN: Just this point. Yes, Judge?

MR. HORUVITZ: Why don't we first get out of the way the four things that we are in agreement upon, subject to the discussion of Delegates Dumont and Maraziti. Let's vote on that and send that to the Committee on Operations and then go into the controversial questions.

MR. KEEGAN: As I understand it, there is a statement of 5 points of consensus and there is a motion that the 5 points be forwarded to the Operations Committee.

DELEGATE: Second it.

MR. NOVINS: As what, a report?

MR. KEEGAN: Yes, as a report. A statement of proposals, a report, official act of this Committee, that it be forwarded to the Operations Committee.

MR. THATCHER: Mr. Chairman?

MR. LANCE: Aren't we in this position that all we have agreed upon as of this moment, based on what has happened in the past, what we've talked about - on some things we have agreed and on some things all we can say is, we have agreed to disagree.

This is a statement of past history. Now once you get that out of the way, if you want to compromise and can get a compromise and do it in this room in the next four hours, I am sure 126 delegates will be eternally grateful.

MR. THATCHER: May I say this. Isn't it a fact that once we go out on that floor and make a Committee

report, is not the function of this Committee then completed?

DELEGATES: Yes.

MR. THATCHER: Now, if we go out there and make a report that we've agreed on certain points and disagreed on certain others, we have accomplished what we are supposed to do or what the rules say we do and we are then finished. There will be no more discussion, there will be no more negotiations and we won't have accomplished a thing.

Now, I would like to once again - I made a motion and the Chair ruled --

MR. KEEGAN: I declared you are out of order.

MR. THATCHER: I would once again urge that we at this time, right now, attempt to come up with a Committee proposal - I don't care if the Convention sits there for another hour because if it takes that long I think we will have accomplished something in this Committee.

(discussion)

MR. KEEGAN: We will declare a 5 minute recess.

(Recess)

MR. KEEGAN: Gentlemen, if I can have your attention, please.

Mr. Lance and I have conferred here. Now, what would be the pleasure of the Chair and what the Chair would entertain is a motion that we forward this statement of proposals, to the Operations Committee.

Now, I point out to you, and I honestly don't know how long the Convention will meet. I am telling you and I represent you, with all that that means, that what I will do in forwarding this statement of proposal, this five point statement of proposal, that I will find out for you so that you know if in fact we can hold the Convention to continue our discussion. I will use what force of persuasion I can with Mr. Foley to ask him to hold the Convention so that we can continue. And if in fact we come to a further step, we'll take it.

MR. HORUVITZ: On a point of order.

I understand a lot of the Delegates have gone home so that I don't think you can meet on the floor. What disturbs me is this, I thought that if we were to pass a resolution on the areas of agreement then we could go into the controversial matters. But some of the gentlemen who sit next to me fear that if that motion is passed then the two Chairmen are going to adjourn the meeting and we can't go into the controversial matters.

MR. KEEGAN: Judge, you know me better than that.

MR. HORUVITZ: I don't know you too well and I don't know Senator Lance - I mean, you're not from Cumberland County. I know the boys in my own county. Now, if you will tell us that you are going to continue discussion on the controversial matters, then I think we will get unanimity of opinion on the motion. Now, you simply say so.

MR. LANCE: I think you are going to have to

hold the Convention over until we say --

MR. HORUVITZ: I don't care. Just answer the question whether we are going into the controversial matters so that we might resolve them. Certainly it calls for a categorical answer.

MR. KEEGAN: If the feeling is that something can be accomplished, yes.

MR. HORUVITZ: Not whether you think it's going to be accomplished, whether we are going to be permitted a discussion of the controversial questions.

MR. KEEGAN: Certainly.

MR. HORUVITZ: All right, that's all we want.

MR. LOCKARD: You will recall, one week ago or two weeks ago, when the final date for submission of proposals had arrived, that an arrangement was made so that submission of proposals would be possible in the President's office later after the Convention had adjourned.

Now is it conceivable that the same thing might be done again today with regard to our report to the sitting Convention but one that has adjourned in name.

MR. KEEGAN: Well, I think what -- yes, Mr. Farley, I'm sorry, I didn't see you.

MR. FARLEY: Mr. Chairman, my understanding of this Committee is that it has the responsibility of making definite recommendations on apportionment.

Now I hate to be repetitive but I want to tell you something. We have a time limitation. We have been mandated by a date. We have talked on repeated occasions.

As intelligent men here, why can't we resolve it?
Let's vote on what we are going to do. Let's find out
if we can come to some agreement and if there's a dis-
agreement, let's talk it out.

We've been here an hour and ten minutes. You've
talked about rules. Now I don't care who it may be that
makes a recommendation but let's talk about something
positive. I think we've come to some agreement between
both panels on basic principles.

I want to tell you this, not to bring up 1947
but in 1947 we never had conferences. We wanted committee
action and we worked all summer long and it was hot.

Now we are wasting a lot of time and none of us
want to be made fools of. I mean that. Now it is our
responsibility and let's forget the rules this time and
come to some basic principles, two, three or four projects,
whether you are for the at-large or single, whether it's
divided between the upper house and the lower house,
whether you are going to have districts, but let's have
something positive and let's come up with a program.

Now you in your minds and on your panel - and I
have been fighting this way on our side, Panel B - we've
had so many meetings at which I said the same thing I am
saying today - please do something concrete and basic and
do it today because if you are going to refer it to the
Operations Committee, I don't know what jurisdiction they
have over us - nothing against them but we've done nothing
so far. I ask you as Chairmen, both of you, to do something

today, something concrete, whether you have 60 or 70 or 120 assemblyman, whether you have 30 or 40 in the senate, whatever it may be, please do something.

MR. KEEGAN: Let's get down then to basics. One of the basics, Mr. Farley, as I understand them, is an agreement. When I came into this meeting I had an agreement, or I thought I did, that there were five points upon which we had agreed. Now, that's basic. That's basic and that's basic enough, and all I am doing is calling you on your agreement.

Now, if you feel that we can go forward, I am telling you that the Committee will not stop, that further the Committee or the Chairmen, one of us, will contact Mr. Foley to find out what we can do. There is a fear that the Convention will adjourn this afternoon.

Let me make a representation to him that, having voted on what we've agreed to vote on, further it may serve the purposes of the Committee if the Apportionment Committee continues its deliberations.

Now, but me no buts about basic principles and all the rest of it. You've got an agreement - live up to it.

MR. HORUVITZ: We ought to vote on it.

MR. HUNT: Yes.

MR. KEEGAN: Your motion, Judge, seconded by Mr. Hunt of Gloucester that - let's have that again, Judge?

MR. HORUVITZ: The motion, Mr. Chairman, is simply this, that on the areas of agreement stated by

you that this Committee vote in favor of them with the understanding that we continue on the controversial matters.

MR. KEEGAN: Fine.

MR. HORUVITZ: And that we report to the Convention that the Convention stay in session until we conclude our deliberations.

MR. KEEGAN: Well, I am telling you that as part of my understanding of what you and I have discussed here, evidently the Committee, that I will now contact Mr. Foley in an attempt to hold --

MR. HORUVITZ: You just tell him, don't ask him, it'll be all right.

MR. KEEGAN: I don't seem to do so good on telling anybody anything. (Laughter)

Let's have a vote on it? Do you want a roll call?

MR. GOLDBERG: On a point of information.

MR. KEEGAN: A point of information.

MR. GOLDBERG: Is it advisable - we've taken all our other votes in public, is it advisable to take this vote without having this session open to the public?

I raise that question because I think the Committee has to consider it before we take the vote.

MR. KEEGAN: Before the Convention adjourns on us, or anything, while you are considering that - take the vote now and we'll repeat it at a public meeting, if that's the thought to do, but in the meantime, while we are arranging for the public meeting, I will try to make

arrangements with President Foley to hold the Convention.
All right?

DELEGATES: Yes.

MR. KEEGAN: Now, do you want a roll call on that?

(Chorus of "noes")

MR. KEEGAN: Let the record show a unanimous vote.
Is that all right?

MR. DUMONT: What do you mean, on this whole
package?

MR. HOLLANDER: Call for a voice vote.

MR. KEEGAN: There is a motion that the 5 points
of agreement, as stated, take their course and be reported
to the Convention as a statement proposal of this Committee.

MR. LANCE: Wouldn't this be that the position of
the entire Committee on major points is as follows:
one, we are split on single-member and multi-member districts
in a bicameral house; two, we agree on something else; three,
we're split on something else, etc. It's the status of the
position of the Delegates because sometimes we agree and
sometimes we agree that we disagree.

MR. KEEGAN: Call the roll.

(Mr. Keegan called the roll.)

AYES: Keegan, Lance, Jacobson, Woodcock, Duff,
Thatcher, Reilly, Hunt, Metzger, Horuvitz,
Inglima, Lockard, Roth, Lupton, Ozzard, Glauberman,
Maraziti, Cotton, Kimmelman, Hollander, Farley,
Roach, Dumont, Shaffer, Woolfenden, Deighan, Novins,
Goldberg, Evers, Orkin, Cawley

ABSENT: Schreiber.

MR. ALITO: 31 ayes, 1 absent.

MR. KEEGAN: Now, Mr. Lance will preside and I will

go about discharging my responsibilities to hold the Convention.

DELEGATE: Are you going to declare it passed?

MR. KEEGAN: I declare it passed, for the record.

MR. LANCE: We will declare a five minute.

(Recess)

(After recess)

MR. KEEGAN: Now, we got a hold of President Foley and what we've done is this: There aren't that many Delegates over there to constitute a quorum, anyway, is what we are advised, but what he will do will be to hold the Convention for any subsequent report that's to come out of this Committee.

MR. HORUVITZ: Very good.

MR. KEEGAN: It's the suggestion of Wesley Lance, and he's trying to arrange for a room here now that Panel A and Panel B take a fast 15 minutes apiece to see what we, if anything, come up with and meet right back here.

Wes, I made the announcement that the Convention is being held and you were making arrangements for a room to meet for Panel B. I would suggest that we put a time limit on it.

Yes, Mr. Roth?

MR. ROTH: May I make a suggestion that instead of Panels A and B meeting separately that we continue the meeting as we have it now. I think the men here are competent to work out what they feel has to be done, rather than call signals. It's a bipartisan meeting and let's

keep it together. I think we can accomplish it here.

MR. KEEGAN: I have had requests that my panel meet with me. There are reasons for that. Believe me, if I felt instructions would be availing, I'd give them. I get them.

MR. ROTH: Let's take a vote on it.

MR. ROACH: Maybe we should learn what the Republicans have on their mind before we meet so that we have something to go over when we do meet.

MR. KEEGAN: The points of discussion, as I would understand, are those points where we haven't agreed. We have not agreed on future apportionment, we have not agreed upon the bicameral districting versus at-large in both houses. All right?

MR. HORUVITZ: Yes.

MR. KEEGAN: Those are the points we have to discuss.

DELEGATE: All right.

MR. THATCHER: Mr. Chairman, before we adjourn, why don't we - at least I would like to make a motion at this point that we consider a specific proposal and I would like to make that proposal at this time, and the proposal would be this, that we formulate a committee proposal which would be bicameral in nature; which would contain an assembly of between 100 and 120, at least of sufficient number to guarantee each county a vote; to contain a senate of between 35 and 40; that would contain single-member districting in the assembly and the senate to run at-large; that the future reapportionment be accomplished by a

reapportionment commission formed along the lines as set forth in Proposal No. 36; and that the present apportionment and districting be accomplished by this Convention.

I would like to move that proposal.

MR. KEEGAN: Mr. Thatcher, I missed the last point. Future reapportionment be accomplished by a commission as set out in Proposal No. 36. And then there was something else that you added.

MR. THATCHER: That the present reapportionment and present redistricting be accomplished by this Convention until 1970.

MR. KEEGAN: The present reapportionment?

MR. THATCHER: Yes.

MR. KEEGAN: -- be done by the Convention?

MR. THATCHER: Yes.

MR. KEEGAN: All right. We would understand that as a motion or a proposal made for consideration.

Is this seconded?

MR. CAWLEY: I second that.

MR. KEEGAN: Seconded. So that we have then a concrete proposal to discuss.

I think it embodies the two points that we've noted that we have not agreed upon. It's a concrete proposal. We will take our 15 minutes to consider them and report right back here, both panels.

Just a second, so that Mr. Lance has it.

MR. HORUVITZ: Mr. Chairman, I don't understand

the necessity for a recess. I mean, here is a man who lays it right on the table. Now, if this resolution is adopted, we can all go home. We've finished our work.

MR. KEEGAN: I've declared a recess, Judge, for 15 minutes.

MR. HORUVITZ: I respect the Chair.

MR. KEEGAN: Thank you.

(Recess for 15 minutes)

[After Recess]

MR. KEEGAN: Gentlemen, we note that members of the press are here. You are welcome. Are any members of the press here? (No response.) We might as well send for them. Do you want to send for them, Senator Lance? We can continue. We will be giving it to them anyway. We will take a roll call.

(The Chairman called the roll and the following Committee members answered as their names were called:)

Keegan, Lance, Jacobson, Woodcock, Duff, Thatcher, Reilly, Hunt, Metzger, Horuvitz, Inghima, Lockard, Roth, Lupton, Ozzard, Glauberman, Maraziti, Cotton, Kimmelman, Hollander, Farley, Roach, Dumont, Shaffer, Woolfenden, Deighan, Novins, Goldberg, Evers, Orkin, Cawley.

(Members of the press enter the room.)

MR. KEEGAN: The suggestion has been, after a conference between the co-chairmen that we take a vote on the proposal as submitted. For the record, the proposal as submitted was a proposal for a bicameral legislature, an Assembly of 100 to 120 with each county being given one vote, a Senate of 35 to 40. The Assembly would be comprised of single-member districts. The members of the Senate would be elected at large. The future reapportionment would be done in compliance with the provisions of the commission as set out in Plan 36. The present reapportionment would be done by this Constitutional Convention. Mr. Thatcher, I assume that it would be for you to make the motion.

MR. THATCHER: I move that motion.

MR. NOVINS: I second it.

MR. KEEGAN: Mr. Novins has seconded it.

MR. HUNT: Question on the motion.

MR. KEEGAN: Question on the motion. Mr. Hunt.

MR. HUNT: Would it be in order, sir, to advise the people who were not here of the salient factors that we had agreed on prior to this last discussion?

MR. LANCE: Let's get this out of the way first.

MR. KEEGAN: I think not, sir. Specifically, Mr. Hunt, you mean the members of the press. We will bring them up to date.

MR. HUNT: All right. That's all I wanted to know.

MR. KEEGAN: As you recall, Senator, there was a certain proposal which has to be made to accommodate Union County. That has to be done at a public meeting also and there is other business to be transacted.

The proposal is made and seconded. We will now call the roll.

(Mr. Keegan calls the roll):

AYES: Lance, Thatcher, Hunt, Horuvitz, Roth, Ozzard, Maraziti, Kimmelman, Farley, Dumont, Woolfenden, Novins, Evers, Cawley

NAYS: Keegan, Jacobson, Woodcock, Duff, Reilly, Metzger, Inglima, Lockard, Lupton, Glauberman, Cotton, Hollander, Roach, Shaffer, Deighan, Goldberg, Orkin

ABSENT: Schreiber

MR. KEEGAN: The record indicates one absentee.
14 yes, nay 17.

MR. HUNT: How do you get 17 when you only have 16 Delegates?

MR. GOLDBERG: We got one Republican.

MR. KEEGAN: 17 nay, Mr. Hunt, 14 yes, one absentee.

MR. HUNT: Thank you.

MR. LANCE: Before you leave this proposal, would it serve any useful purpose if we explored with each other the lines of objection to this particular proposal? In other words, there were seven points to it: (1) bicameral, (2) the size of the Assembly, (3) the size of the Senate, (4) single member in the Assembly, (5) at large in the Senate, (6) the present apportionment plan, (7) future apportionment. Was there any particular point of those seven which raised the chief objection?

MR. KEEGAN: I think, sir, that there is a proposal to be made by a representative of Panel A and that proposal may point out exactly what you have as a point of difference.

MR. HORUVITZ: We would like to have an answer to Senator Lance's inquiry.

MR. KEEGAN: I cannot answer it, sir, except by pointing out that there is a proposal to be advanced, that the proposal is different, of course, and is different at those points that are the points of discussion.

MR. HORUVITZ: We want to know the reasons for the rejection by Panel A.

MR. KEEGAN: What is your pleasure, gentlemen?

MR. GOLDBERG: Mr. Chairman.

MR. KEEGAN: Mr. Goldberg of Mercer.

MR. GOLDBERG: I would like to suggest that we just voted on a proposal advanced by the members of Panel B and that Panel A now be accorded the same courtesy and I think that Delegate Duff perhaps is best acquainted with the

proposal.

MR. KEEGAN: He is prepared with the proposal.

MR. GOLDBERG: That will, I think, go a long way toward explaining how Panel A views this proposition right now.

MR. KEEGAN: If you would agree to hear the proposal, you will see where it differs, Judge. Now if we can hear the proposal -- I will recognize you in a moment, Mr. Novins. If you can hear the proposal, you will see exactly those particulars in which it differs from the proposal last made by Mr. Thatcher. Mr. Novins.

MR. NOVINS: Before leaving this particular proposal that was just defeated, I would like to move that this proposal be made a minority report of this Committee.

MR. HUNT: I second the motion.

MR. KEEGAN: Is there any discussion on that? It has been moved and seconded that this be made a minority proposal of this Committee. All those in favor, say "Aye."

(Chorus of "Ayes")

Any opposed?

(Silence)

The motion is carried.

Now the Chair would recognize Mr. Duff of Essex County.

MR. DUFF: The proposal of Panel A provides for a bicameral legislature. It provides for a Senate up to 40 members, but for the 1967 and '69 elections for a Senate of 40 members for the next two elections, this Senate to be

elected at large. It provides for an Assembly of 94 members, permitting one representative from every county in the State, allowing for a deviation of 24.3 per cent in one case, this Senate --

MR. DUMONT: Assembly.

MR. DUFF: Pardon me. [Continuing] -- this Assembly of 94, one to each county, noting a deviation of 24.3 in one case, the Assembly meant to be nominated from residential districts, but elected at large throughout all the counties. [Laughter]

MR. LANCE: How was the Senate?

MR. DUFF: The Senate is straight at large.

MR. KEEGAN: See if we understand it. Bicameral, with a Senate of 40 members for the next two elections. The members of the Senate elected at large. An Assembly of 94 members, one Assemblyman to each county - at least one Assemblyman from each county, noting a 24.3 deviation in one case. The Assemblymen would be nominated from a residential district, but elected at large.

MR. DUFF: I should say the residential districts of equal population, as nearly as possible preserving municipal lines.

MR. LANCE: Anything about present apportionment?

MR. DUFF: Yes, the present apportionment on the points we agreed upon, by the Convention, the future reapportionment by the Legislature.

MR. COTTON: I second the motion.

MR. DUFF: That is, after the 1970 election, and the

terms of the Senate to be staggered.

MR. COTTON: I second the motion.

MR. KEEGAN: Mr. Ozzard.

MR. OZZARD: I opened our executive session today with a suggestion that the Republicans were willing to spend time and not waste it. And later this afternoon I participated in a discussion with you and Mr. Lance and Mr. Sarcone, suggesting that we try to compromise the areas of difference. Now there were only two basic areas of difference. One was the matter of all at large or all in districts and the other was the method of reapportionment after 1970.

Now the Republican members made a suggestion which was a compromise. Our position was all districts and we compromised by offering one house at large and one in districts and you come back with a proposal now that is all at large. I don't care about this residential crap. It is all at large. You compromised absolutely nothing. We are exactly where we were when we started this afternoon. We knew then where we agreed and we still agree only on those three or four points - four points. So you offer us nothing.

Now I ask you if this is the spirit and intent of the Democratic Party in the conduct from now until the end of this Convention - no compromise. We moved. We made a move, Mr. Chairman, to compromise one of the two houses. We came half way from our position, which was a fixed one. You have come no distance at all.

I would like to ask Mr. Duff, through you, if he

thinks this is a proper attitude of compromise. And if it is and if that's your spirit - this is the intent - then let's go home. This is ridiculous.

MR. KEEGAN: If I may, please, the question was directed to Mr. Duff. I can tell you this, that Mr. Duff does not speak for Panel A. I am the co-chairman and I speak for Panel A. I tell you that as far as I am concerned as chairman or co-chairman of Panel A that we consider that we have in fact acted in good faith and we submit that giving you this proposal -- As you note, if you take the time to consider it, you will find that no matter what you think, members of Panel A consider it a compromise and a retreat from the position that they had taken up to this point. You should know --

MR. OZZARD: Mr. Chairman --

MR. KEEGAN: Mr. Ozzard, just a second. You asked the question. Let me answer it. You should know that that represents a compromise. Now there has never been any question of any time that we have spent on the proposal made, just immediately before, and there was never any question but that it was considered. This is made by way of counter proposal.

Now it has been moved and it has been seconded, and it is before the Committee. We would respectfully think that it should be given consideration by the members of Panel A. We do not know, sir, and we had not considered anything with one house by districts - one house by districts. You know what our position was - bicameral and both houses

at large. I submit that this is a compromise and an effort, and a sincere effort, to reach accommodation if we can. I submit that the only way that we can find out is by taking a vote to find out if there is any support for this, if in your opinion and the opinion of your colleagues on Panel B and the opinion of the co-chairman it is worthy of discussion, pointing out that there are areas of agreement with the proposal as made. As a matter of fact, I think as a result of discussion that we had before we retired, more particularly with the size of the Senate, etc., we have come to certain conclusions and offer them respectfully and in good faith. So I can but answer the question for Panel A.

MR. OZZARD: Mr. Chairman --

MR. KEEGAN: Is it on the motion, sir?

MR. OZZARD: It is on the motion.

MR. KEEGAN: We will be happy to entertain it.

MR. OZZARD: I don't understand the proposition.

On the motion, I would like to know if this is a retreat from your position. Since I read this and understand it to be two houses at large, from what have you retreated?

MR. KEEGAN: Mr. Ozzard, let me give you the proposal: a bicameral house, a Senate of 40 members, the next two elections of 40 members, these members elected at large; as to the second house, a house, sir, not of 120, a house of 94 - a house of 94, one Assemblyman to each county, that the Assembly for nominating purposes be districted and that those nominees be elected from the district at large.

Now you asked if that is a retreat. I don't like to

use the word "retreat." I would say, sir, that this is a counter proposal. This is a proposal and I stress that it is made in good faith and one, as far as I know, that the members of Panel B have never voted upon or ever considered.

MR. OZZARD: I am certain, Mr. Chairman, that it is offered in good faith. I remember the first night we met in the President's Dining Room and Mr. Duff at that time suggested as a basis for election residential districts. There was a guffaw in the room and he was voted down. I think he and one other man were the only ones who voted for it at that time. You offer this as a compromise when you know you are electing two houses at large. I can tell you right now that you don't have to bother with a vote. It's strictly party lines. You won't get a single Republican and you've got all the Democrats.

MR. KEEGAN: You are entitled to your opinion. I submit that it is not the same proposal. I submit that you have elements here that should be considered and we ask the same way, sir, that I have heard yourself discuss weeks ago, single districting in one house, etc. All of these proposals have been discussed, but the point is that they have never been voted on by this Committee.

MR. KEEGAN: Mr. Woodcock.

MR. WOODCOCK: On the question, Mr. Chairman. Now I cast my vote in the negative on the proposal presented by Panel B because primarily I feel that that house and that senate would constitute too large a legislature. I don't

think that it is necessary. On that basis, I voted no.

I feel that this proposal that you have presented here today I cannot support because what you have in effect is a unicameral legislature with two houses because you are electing them in the same manner, despite the fact that we are here to give effect to "one man, one vote." And we are not doing it. We are trying to subvert it by this means. All we are doing is setting up two houses with the same kind of representation. I think that it is a bad plan and I am going to vote no.

MR. DUFF: Let me say this, the Supreme Court has twice upheld this type of plan. In the Fortson vs. Dorsey Case, it upheld residential districts, people running at large. In the Hawaii case which has been often quoted in here, the Supreme Court upheld both houses elected at large, but suggested as a protection, in representation of all interests, racial, ethnic, political groups, nomination by different areas in the country. Some people, political groups, have interpreted it in other ways. The idea that this is somehow unconstitutional or violates "one man, one vote" is not true.

MR. WOODCOCK: Perhaps --

MR. KEEGAN: The question has been moved.

MR. WOODCOCK: May I be heard?

MR. KEEGAN: All right.

MR. WOODCOCK: Perhaps I misinterpret our reason for being here. I don't think we are here just to pick out a plan that is going to satisfy the legalities and the Constitution.

I thought that we were here for the purpose of producing the best plan possible. Now I think that if you are going to have two houses where the selection is going to be made on the same basis which is at large in counties or within the districts and there is no difference between the selection except that you are going to have two houses, then I can't see how you can possibly justify the other house.

I have been a proponent of the unicameral system. I am a sponsor of Proposal 33 and I think if we are going to be in this position, we ought to be considering that.

MR. KEEGAN: The question has been moved. The roll will be called.

(Mr. Keegan calls the roll):

AYES: Keegan, Jacobson, Duff, Reilly, Metzger, Ingle, Lockard, Lupton, Glauberman, Cotton, Hollander, Roach, Shaffer, Deighan, Goldberg, Orkin

NAYS: Lance, Woodcock, Thatcher, Hunt, Horuvitz, Roth, Ozzard, Maraziti, Kimmelman, Farley, Dumont, Woolfenden, Novins, Evers, Cawley

ABSENT: Schreiber

MR. KEEGAN: The chair notes one absentee.

MR. ALITO: Yes 16, no 15.

MR. COTTON: I move this be made a minority proposal.

MR. REILLY: Second the motion.

MR. KEEGAN: It has been moved that this be made a minority proposal of this Committee. All in favor, signify by saying "Aye."

[Chorus of Ayes]

Opposed, "No."

[Silence]

The "Ayes" have it.

MR. KIMMELMAN: Mr. Chairman and members of this Committee, in view of the fact that we have been unable to reach a compromise on the important issue of a single-member, multi-member district in both houses or in one or the other of a bicameral legislature, I move that as part of the minority report there be the proposal that there be single-member districts in both houses of a bicameral legislature.

MR. HUNT: Second the motion.

MR. KEEGAN: I point out that that is part of the five that we forwarded. I just point that out to you.

The motion has been made.

MR. REILLY: Mr. Chairman, wasn't that part of the Horuvitz report of the 23rd? We voted on that already, didn't we?

MR. KEEGAN: Yes. You will recall we had the notation that the single-member versus at large was at deadlock.

MR. KIMMELMAN: Take a voice vote on it.

MR. KEEGAN: It has been moved and seconded that the minority report called for or endorsed single-member districts in both houses.

MR. GOLDBERG: Is this an amendment to the original minority report or additional?

MR. KIMMELMAN: No, in addition.

MR. KEEGAN: Specifically, endorse the position

of single-member districts in both houses of a bicameral legislature. It has been moved and seconded. All those in favor, signify by saying "Aye."

[Chorus of "Ayes"]

Any opposed?

[Silence.]

The "ayes" have it.

Now if it would accomplish any purpose, the Chair would call for a five-minute recess.

MR. HORUVITZ: Before you do that, I would like to make a motion if the Chair will permit me.

MR. KEEGAN: Yes, sir.

MR. HORUVITZ: It would appear from what I have heard, Mr. Co-Chairman, that the position of the Democratic Party relating to single-member districts in which they disavow that is non-negotiable and if the Convention is going to be stymied along party lines, I propose a suggestion that seems to be the only solution to the deadlock and I propose a unicameral legislature with members elected from single-member, equal population districts and with each county guaranteed one member.

Now strange as it may seem, my idea concurs with Brother Inglima, who always votes contrary to the way I vote, and I propose this resolution and I hope that Mr. Inglima will vote for his own proposal.

MR. MARAZITI: I second the motion and ask for a roll call vote.

MR. CAWLEY: May we say something on the motion?

MR. KEEGAN: If we could just have a statement of it, first. Judge Horuvitz, this is unicameral, single-member districts with the districts to include one for each county.

MR. HOLLANDER: I would like to call to the Delegate's attention that last Monday evening we voted on this particular proposal and it has previously been submitted. On this particular proposal, a vote has been taken.

MR. GOLDBERG: Mr. Chairman.

MR. HORUVITZ: Nothing in the rules precludes me from moving it again, your Honor.

MR. KEEGAN: Not yet, Judge.

[Laughter]

But I figure, one more day of this and I'll be ready.

MR. GOLDBERG: Aside from the vote last Friday, I would point out that this Committee adopted a package report earlier today which indicated that the members of Panel B, the Republican members, were prepared to support unicameral only if it was entirely single member and that the Democratic members were not prepared to give any support to that proposition. It would seem to me that the very proposal which has been advanced by the Judge was voted on not only last Friday, but today.

MR. HORUVITZ: I am entitled to a vote, notwithstanding the objections of the General.

MR. GOLDBERG: All right.

MR. KEEGAN: So you know what you are voting on -

unicameral, single-member districts, one member to each county.

MR. HUNT: Plan No. 8, sir.

MR. GOLDBERG: No. Plan No. 8 was voted on.

MR. HUNT: All right.

MR. KEEGAN: The plan as stated by Judge Horuvitz.

The roll is being called, gentlemen.

(Mr. Keegan calls the roll):

AYES: Lance, Thatcher, Hunt, Horuvitz, Roth, Ozzard, Maraziti, Kimmelman, Farley, Dumont, Woolfenden, Novins, Evers, Cawley

NAYS: Keegan, Jacobson, Duff, Reilly, Metzger, Lockard, Lupton, Glauberman, Cotton, Hollander, Roach, Shaffer, Deighan, Goldberg, Orkin

PASS: Woodcock, Inglima

MR. KEEGAN: The Chair notes two abstentions, one absentee.

MR. ALITO: Yes 14, no 15.

MR. KEEGAN: There were recorded 14 yes, 15 no, with two abstentions and an absentee.

MR. HUNT: Mr. Chairman, I move this be adopted as a minority report.

DELEGATE: Second the motion.

MR. KEEGAN: It has been moved and seconded that it be adopted as a minority report. All those in favor, say "Aye."

[Chorus of "Ayes]

Opposed, "No."

[Silence]

So ordered.

Mr. Cawley of Union County.

MR. CAWLEY: Senator, we are trying to compromise here and come up with some plan. All the gentlemen in this room are very busy people and they have given some time and effort to come down here for this particular Convention and it is a shame if we have to go home and say that we could accomplish nothing.

I realize there are some amongst us who want this thing. They want this deadlock. There is no question about it and it is a crime to take the time out from a man's schedule of the 123 delegates to do this.

So let's see if we can't get something settled and come out with something so we won't go home hanging our heads in shame. I want to be able to look in the mirror.

I would propose a compromise to the extent that we have a Senate with some single-member districts and some at large and an Assembly with single-member districts and I hope that we can get some consideration on that point.

MR. KEEGAN: Let me have your specific proposal - a Senate, some at large, some single-member districts?

MR. CAWLEY: Yes.

MR. KEEGAN: An Assembly, single-member districts. This has been moved. Is there any second?

MR. HUNT: I second it.

MR. KEEGAN: Mr. Hunt seconded it. Is there any discussion on it?

MR. HUNT: Mr. Chairman, the proposal is that we

discuss that when we have our little recess. We might try to effect a compromise here. That is the reason it was proposed on the floor at this time.

MR. DUFF: On the question, I don't understand how that can be offered seriously as a compromise. We have just rejected a Senate at large. Now they want a Senate half district, an Assembly all districts. It doesn't seem to me to be a feasible area of compromise.

MR. HUNT: There are other Delegates and they are entitled to --

MR. DUFF: Mr. Chairman, did you recognize Senator Hunt?

MR. KEEGAN: I do.

MR. HUNT: There are other delegates here besides Mr. Duff and I think they are entitled to discuss all the facets that we came here to talk about. We came here for a plan. We have a job to do. It is merely advanced and regardless of the Professor's views, we have submitted it and I request we have the vote.

MR. GOLDBERG: I move we take a five-minute recess.

DELEGATE: Let's take a vote on it.

MR. KEEGAN: The question has been moved on a proposal by Mr. Cawley of Union County. The proposal is for a Senate composed of some members elected at large, some from single-member districts, and an Assembly composed of members of single-member districts. The question has been called. Senator Hunt, you called the question, sir?

MR. HUNT: Yes.

MR. KEEGAN: All right. We'll take the roll call.

(Mr. Keegan calls the roll):

AYES: Lance, Thatcher, Hunt, Horuvitz, Roth, Ozzard, Maraziti, Kimmelman, Farley, Dumont, Woolfenden, Novins, Evers, Cawley

NAYS: Keegan, Jacobson, Woodcock, Duff, Reilly, Metzger, Inglima, Lockard, Lupton, Glauberman, Cotton, Hollander, Roach, Shaffer, Deighan, Goldberg, Orkin

ABSENT: Schreiber

The Chair notes one absentee. The vote, please?

MR. ALITO: Yes 14, no 17.

MR. KEEGAN: The Chair noting one absentee, the "aye" votes 14, "nay" votes 17.

MR. WOOLFENDEN: I would like to move that this be submitted as a minority report.

MR. CAWLEY: Second the motion.

MR. KEEGAN: It has been moved that this be submitted as a minority report and seconded by Mr. Cawley. What is your pleasure? All those in favor, say "Aye."

(Chorus of "Ayes")

Opposed, "No."

(Silence)

So ordered.

MR. KEEGAN: The Chair announces a five-minute break.

MR. OZZARD: Mr. Chairman, I would like to make an inquiry through you, if I may. There are some of us on the Republican side -- What is that B or A? - B, I guess.

MR. KEEGAN: B for what?

MR. OZZARD: That depends on who is talking to me and at what time of the day.

(Laughter.)

I think we might produce some votes for a Democrat plan, but before I go to the effort of finding that out, I would like to know if any of the seven sponsors of the Democrat plan would vote for it here tonight, and it's unicameral proposal No. 42. At the top of the list is Delegate Lockard with six others signing it. If they are not going to vote for their own plans, then, of course, there is no point in our making any effort. But during the five-minute recess I would like to poll our delegates. I think that we could get most of them to go along with 42 on the unicameral basis if the seven sponsors will at least admit to their original intent.

MR. KEEGAN: We will have a caucus and we will let you know immediately.

MR. HORUVITZ: We call for a declaration of intent.

MR. KEEGAN: We will recess.

(Recess)

AFTER RECESS

MR. KEEGAN: We will call the roll to make sure the Committee is here.

(The Chairman called the roll and the following Committee members answered as their names were called):

Keegan, Lance, Jacobson, Woodcock, Duff, Thatcher, Reilly, Hunt, Metzger, Horuvitz, Inglima, Lockard, Roth, Lupton, Ozzard, Glauberman, Maraziti, Cotton, Kimmelman, Hollander, Farley, Roach, Dumont, Shaffer, Woolfenden, Deighan, Novins, Goldberg, Evers, Orkin, Cawley.

MR. OZZARD: Before the recess, Mr. Chairman, I suggested that we might be able to talk on Proposal No. 42, which was sponsored by Delegate Lockard and six others, and you said that we go poll our delegation. I want to announce to you now that we haven't had a majority on anything up to this point, but the Republicans are now prepared to support Proposal No. 42 with 12 votes and if we can get the 7 Democrat sponsors, we have 19 for a majority report, the first and only majority report out of this Committee today to recommend to the floor. Incidentally, we never voted on 42 as amended and we are talking about as amended. So it would now be in order to call for a vote and I move for a vote on Proposal 42 as amended, which we have not done before.

MR. MARAZITI: I second the motion.

MR. KEEGAN: There is a motion on the floor and seconded on Number 42 as amended.

MR. MARAZITI: I ask for a roll call vote.

MR. KEEGAN: Is there any discussion on the motion?

MR. DUFF: I would like to offer an amendment to the motion. My amendment is that if any districts be drawn on this plan now under consideration, they be drawn by the Legislature for the 1967 and 1969 elections.

MR. OZZARD: I would be out of my cotton-pickin' mind to accept that amendment. I refuse to have my motion voted in any other way than the way I submitted it.

MR. KEEGAN: There has been an offered amendment by Mr. Duff.

MR. JACOBSON: I second it.

MR. KEEGAN: And seconded. Just a second now, let me get this clear. There is a motion on the floor, seconded, for No. 42 as amended, right, sir?

MR. OZZARD: That's correct.

MR. KEEGAN: Then there is a motion, seconded, amending the motion as made.

MR. OZZARD: Mr. Chairman, I have been playing this parliamentary game for a long time and nobody is going to tell me that a motion to amend applies to a motion to amend a motion. Now don't let's get cute about this thing. A motion to amend means to amend a proposition, but not a motion to amend a motion and my motion is not amendable and I ask that there be a vote on my motion and if he wants to submit a second plan with an amendment to that plan, he can do so, but don't amend a motion.

DELEGATES: Point of order.

MR. JACOBSON: I would like to discuss these motions with a little less emotion. If anybody happens to have a copy of Roberts' Rules of Order present, you will read that any motion is subject to two amendments and as a parliamentary maneuver, even then, you can continue by offering a substitute motion. So I think any attempts to block this motion would not coincide with the rulings of Roberts' Rules of Order and the amendment is in order.

MR. DUFF: I support Mr. Jacobson's position, gentlemen.

MR. KEEGAN: That was unexpected, I am sure.

MR. OZZARD: I want a roll call.

MR. KEEGAN: I understand there is one motion on the floor which has been seconded for No. 42 as amended. When I say "as amended," I mean as amended by the sponsors.

Now there is another motion on the floor that No. 42 be amended. Now the Chair would call them in the order that they are made. We will call for a vote on the motion of Mr. Ozzard as seconded. We will call for that vote first.

MR. DUMONT: You have to do it the other way around.

MR. JACOBSON: Point of order.

MR. KEEGAN: I tried, Bill.

MR. FARLEY: You are a legislator and you men have been around. Senator, it's not because he's on my side. All you can do is ask a man whether he would accept an amendment to his motion and his answer would be no. He has his motion. Then if you have a subsequent motion, it is a separate one. You can't amend a motion as outlined by the Senator. It is basic and fundamental in any procedure.

MR. KEEGAN: We have heard the remarks of Mr. Farley of Atlantic. Point of order, Mr. Jacobson.

MR. JACOBSON: I would like to very respectfully disagree with the Senator and refer him again to Roberts' Rules of Order which state that when a motion is made and seconded, it no longer belongs to the proponents, but it belongs to the body sitting in plenary session. Therefore, the amendment is in order.

MR. CAWLEY: Senator Keegan --

MR. OZZARD: I would like to remind Mr. Jacobson that

Roberts' Rules of Order don't apply. By our own rules, Cushing's Manual of Parliamentary Procedure which I happen to have read once does apply and it doesn't say the same thing.

MR. CAWLEY: That is what I wanted to say.

MR. KEEGAN: The record will indicate that Mr. Cawley has joined in the comments of Mr. Ozzard.

MR. DUFF: I would like a ruling from the Chair whether my amendment is in order.

MR. KEEGAN: The ruling of the Chair is that I am calling the motion first as made by Mr. Ozzard, seconded by Mr. Cawley, I believe, on Proposal No. 42 as amended and everyone is familiar with the terms of 42.

MR. LANCE: Before you say 42, as amended, that hasn't anything to do with the legislature. That is the original motion of Senator Ozzard without a further amendment. Is that correct?

MR. KEEGAN: The Chair has ruled that the vote be called on Mr. Ozzard's motion. Does everyone understand?

MR. DUFF: Mr. Chairman, on the question.

MR. KEEGAN: On the question, Mr. Duff.

MR. DUFF: The vote for this motion in its present form would permit the Convention or would authorize the Convention to go into a very arduous and difficult task of drawing one-half districts and leaving one-half at large throughout the State in a unicameral legislature and I am sure that the sponsors of the proposal did not intend it in that way.

MR. KIMMELMAN: Let them speak for themselves.

MR. DUFF: For that reason, I suggest strongly that the sponsors of the proposal consider that the proper place for this district to be drawn is in the legislature and that they reject this parliamentary tactic so that a true vote on democratic sentiments on this proposal with the legislature redistricting can then be had.

MR. OZZARD: Roll up the flag. Let's go.

MR. KEEGAN: Call the question.

MR. GOLDBERG: We want a description of it before the question.

MR. COTTON: He described that as half and half. It is one-third at large and two-thirds single-member districts.

MR. DUMONT: We understand.

MR. KEEGAN: There has been a question, Mr. Ozzard, and I believe it would be properly directed through the Chair to yourself, sir, that Number 42 calls for a unicameral house - so we know what we are voting on - one-third at large, two-thirds by districts, right?

MR. OZZARD: Approximately one-third at large and approximately two-thirds districts.

MR. KEEGAN: As amended.

MR. OZZARD: Yes. I start by complimenting the seven sponsors for drafting an excellent proposal.

MR. KEEGAN: Gentlemen, the question has been called. We will call the roll on the question.

(Mr. Keegan calls the roll):

AYES: Lance, Woodcock, Thatcher, Hunt, Horuvitz, Inglima, Roth, Ozzard, Maraziti, Kimmelman, Farley, Dumont, Shaffer, Woolfenden, Novins, Evers, Cawley

NAYS: Keegan, Jacobson, Duff, Reilly, Metzger, Lupton, Glauberman, Cotton, Hollander, Roach, Deighan, Goldberg, Orkin

PASS: Lockard

ABSENT:Schreiber

MR. FARLEY: Mr. Chairman, change my vote to pass, please.

MR. KEEGAN: Just a second so we have the record straight - we call for the vote, please. Will the tallier please note that Senator Lance has cast his vote in the affirmative.

MR. LANCE: With reservations, but it's a yes vote.

MR. KEEGAN: Mr. Farley.

MR. FARLEY: I'd like to change my vote to pass.

MR. KEEGAN: The Chair notes, before we get the tally, that Mr. Schreiber is absent and there are two abstentions.

MR. LANCE: Who are the abstentions?

MR. KEEGAN: The abstentions are Lockard and Farley. Our tallier is tallying. I might point out that I think that both sides indicate their confidence in Mr. Alito. He is the only one in the room that we trust with the tally.

MR. ALITO: Yes 16, no 13.

MR. KEEGAN: Yes, 16; no, 13.

Now the next order of business would be the second motion that was offered by Professor Duff and seconded by

Mr. Jacobson.

MR. DUFF: Since the changing and withdrawal of some votes has demonstrated the opaqueness of this political maneuver, I withdraw my motion.

MR. OZZARD: I would presume that the Professor being unwise in the ways of politics should know better than to call any maneuver made here tonight political.

MR. KEEGAN: Your comments are noted, Senator.

The Chair awaits your pleasure, gentlemen, as to the next order of business.

MR. DUMONT: Mr. Chairman, you have one item of unfinished business. You remember that sometime back you were going to take a vote on Mr. McGowan's plan, Proposal No. 16.

MR. KEEGAN: This being a public meeting, the Chair was informed of a motion to be made by the gentleman from Union, Mr. Cawley.

MR. CAWLEY: Gentlemen, you may recall at the last evening meeting we had, Proposal No. 16 was dismissed, so to speak, due to the fact there was a statement made that it was unconstitutional as far as the Attorney General is concerned. I think there was an implication to that particular point and the point of unconstitutionality was directed at Proposal 15. With that in mind, I would move that the proposal be reinstated at the present time and be voted upon today on its merits.

MR. KEEGAN: There is a motion on the floor by Mr. Cawley of Union that Proposal No. 16 be voted on its merits.

Is there a second?

MR. LOCKARD: I second the motion.

MR. KEEGAN: It has been seconded by Mr. Lockard of Mercer County.

The question - Proposal No. 16.

AYES: Thatcher, Hunt, Horuvitz, Roth, Maraziti, Farley, Dumont, Orkin

NAYS: Keegan, Lance, Jacobson, Woodcock, Duff, Reilly, Metzger, Inglima, Lockard, Lupton, Ozzard, Glauberman, Cotton, Kimmelman, Hollander, Roach, Shaffer, Woolfenden, Deighan, Goldberg, Evers

PASS: Novins, Cawley

ABSENT: Schreiber

MR. KEEGAN: The Chair notes Mr. Schreiber is absent.

Mr. Novins and Mr. Cawley have abstained.

MR. ALITO: Yes 8, no 21.

MR. LANCE: Now we are acting in a non-partisan fashion.

MR. KEEGAN: What is your pleasure, gentlemen?

MR. HORUVITZ: Mr. Chairman.

MR. KEEGAN: Judge Horuvitz.

MR. HORUVITZ: Mr. Chairman, we were all elected by the public of the State of New Jersey for the purpose of meeting here to create or establish a Constitutional Convention. Now I think if we leave here without framing such an amendment, we are abdicating our responsibility to the public.

I suggest, Mr. Chairman, that we continue in session until we come to an agreement.

MR. GOLDBERG: Mr. Chairman.

MR. KEEGAN: Mr. Goldberg.

MR. GOLDBERG: There has been comment continually that

if we don't resolve this problem in this Committee today that there is an abdication of responsibility on the part of the membership of this group. We have 32 fine members here who have been working quite hard during the entire length of this Convention. But I would point out that there are 126 members of this Convention, having a total of 112 votes, and that this group by no means represents a consensus or even a meaningful part of this entire Convention.

Now this group has labored long and hard. It has narrowed the points of differences. These are important differences. But nevertheless we have done a great deal at least to focus the attention in the area where it has to be focused and I would submit that it is not necessarily incumbent upon this one Committee and these 32 out of 126 individuals to resolve this problem by ourselves, that even if in fact we were unanimous on any given proposition, that would in no way indicate there was in fact a proposition which could pass this Convention. Even if this Committee can do nothing further, and we obviously have difficulty in proceeding any further, that does not mean that we are through as delegates or that the Convention is in fact going to fail on this proposition. But it does mean that we are going to move from this Committee to a discussion of the entire Convention and given the nature of the difficulties that we have had and given the fact that there are a great many other people in this Convention who have their own opinions and attitudes, who are waiting to come to grips

with this problem just as we have wrestled with it for a great many weeks, I would submit that this may be the appropriate time for this Committee to recognize that we have nothing more to contribute to the Convention other than our willingness to join them as a committee of the whole, if need be, to sit down and all of us, and that includes both Democrats and Republicans, come to grips with the problem with a view to working out the bipartisan compromise that everybody feels we must have if we are going to have a solution. But the fact that we cannot work it out here with us as individuals does not mean that it is not going to be worked out and I think all of us are going to continue our efforts, whether it is in this Committee or on the floor of the Convention to make sure that it happens.

MR. HORUVITZ: The words of the Deputy Attorney General may be soothing to some, but they do nothing to me.

This is the forum, gentlemen, that has been designated to prepare the constitutional amendment. We are the Apportionment Committee. We are not the Structure Committee. We are not any of the other committees. I would say that if any other committee in this Constitutional Convention failed to discharge its duty, then it is derelict in its duty. Now we are all intelligent men. We have college professors here. We have legislators and we have all successful men in their professions here. It is our bounden duty to stay here until we do something. I don't think we should escape our duty. I don't think we should just walk away and confess our inability. I don't like exercises in futility.

I could practice law and be making money home instead of wasting time here. Now I think we ought to do something or admit our incompetence.

MR. KEEGAN: Senator Hunt. You signified you wanted the floor, sir?

MR. HUNT: Not now.

MR. THATCHER: Mr. Chairman, when we began this Convention sometime ago, I think everybody in the Convention and, of course, everybody on this Committee, knew that the basic difference between the Republican and Democratic approach to this problem was that the Democrats wanted an at-large Assembly and Senate and that the Republicans were in favor of districting. We have now gone down that long road and we have come to a point today where we are at exactly the same point as when we started because we have come no further than that and we are going to leave it to the entire Convention rather than resolving this problem ourselves and I think we are making a mistake.

MR. KEEGAN: Any further comments?

MR. COTTON: I fail to understand all these comments about our being derelict in our duty and not doing our duty. I know I have done a lot of driving back and forth from Woodbury.

Now it was my understanding it was our duty to take all the proposals and report them out and take whatever Committee proposals that were made and report those out. Now if we have reported out 52 proposals and we have five other minority proposals that are going to go out on the

floor to be debated and to be ultimately voted upon, I can't see what possibly could be achieved. As Mr. Goldberg has said, if we do vote on one by majority, it means nothing. We have five proposals. We have established a lot of things - size of the legislature, individual votes for counties, maintaining county lines. I think at this point it is no longer up to us. It is up to the delegates to get out and debate, use the press in whatever way they can and have this thing resolved. This is only a committee and I move we adjourn.

MR. OZZARD: On the motion.

MR. KEEGAN: On the motion, Mr. Ozzard.

MR. OZZARD: I know it is not debatable, I just want to make a general --

MR. DUMONT: It's not debatable.

MR. COTTON: It was the other night. He changed the rules.

MR. OZZARD: I changed them back.

Now this is kind of a dark day on the banks of the old Raritan when the Governor's counsel gets up and says, "We have reached a point of where we must tell the entire Convention that we can do nothing more," and we haven't done anything really of substance as yet.

I want to remind everybody here that this Committee was on its way to doing a damn good job two weeks ago --

MR. KIMMELMAN: One week ago, May 19th.

MR. OZZARD: -- one week ago when we first sat down in the President's room at the end of the hall and started taking

votes and I realized that there were things that came with the suddenness that preparation - by preparation, I mean control couldn't be exercised - and we got some interesting votes, some honest votes, and both sides were splitting and going in their various directions and I think we had a free expression of ideas with which I had hoped this Convention would be imbued when I helped draft this legislation and sponsored it a year ago. But since then things have changed. The net has tightened. The orders have come down. We have organization as organization should be followed, but unfortunately shouldn't be applied to our Convention activities.

So I would agree with the counsel to the Governor that we have gone as far as we can go. We can't do any more because today we demonstrated, the Republicans, with honesty, by the way, that there is no area of compromise in this Committee and I don't think there is going to be any area of compromise on the floor, that sponsors will run out from under their own propositions, all because their instructions are direct and the control is tight and so this Committee has failed. It has failed to perform the one function it was charged with, and that is to come up with a sound recommendation or several sound recommendations to the other committee and ultimately to the floor of the Convention.

Gentlemen, you can go home and tell your local newspapers anything you want, but you have flopped. You have flopped miserably because you couldn't find an area of

compromise.

MR. MARIZITI: Mr. Chairman.

MR. KEEGAN: Would you yield, Mr. Maraziti? May I ask you to yield. Co-Chairman Lance has asked that he be given the floor. I point out that I presided today so that it is actually not the Chair making comment. Delegate Lance wishes to make some comments.

MR. LANCE: I am disappointed that we have not reached a compromise. I think the case decided in Hawaii a month ago called Burns vs. Richardson makes unconstitutional the having of both houses at large in the State of New Jersey at the present time. I didn't say that the United States Supreme Court decided a month ago in Burns vs. Richardson that you couldn't have two houses at large in some states. What I did say and repeat is: It is my opinion that the Supreme Court of the United States in effect has stated that in New Jersey at the present time it would be unconstitutional to have both houses at large. And the reason I say that is, the Supreme Court of the United States would want proof of that and the proof would run something along these lines, that in one recent year the Democratic Party got 52 per cent of the votes for its candidates and 70 per cent of the seats in the Assembly. In another recent year the Democrats got 50.8 per cent of the votes for their Assembly candidates and 63.6 per cent of the seats. And in another year the Democratic candidates got 54 per cent of the vote and 68.3 per cent of the seats and I read one sentence from the Hawaii Case, which is a long one, but I will read it

for the record: "Apportionment schemes involving multi-member districts will constitute an invidious discrimination only if it can be shown that designedly or otherwise a multi-member constituency apportionment scheme under the circumstances of a particular case would operate to minimize or cancel out the voting strength of racial or political elements of the voting population."

So I conclude our labors as one of the co-chairmen of this Committee by saying I'm sorry that we have not reached a compromise because I am confident as one person out of six million in New Jersey that the Supreme Court of the United States will not permit New Jersey in the year 1966 to have both houses at large and no matter what the Convention does, some other Convention or the Legislature or the New Jersey Supreme Court or the United States Supreme Court will decide something different.

MR. KEEGAN: Mr. Maraziti waived in favor of Mr. Lance. Mr. Hunt I will call you next, sir.

MR. MARAZITI: I am opposed to the motion to adjourn. I think we should remain here and complete the work and when the roll call is taken on the motion, I ask there be a roll call taken of the delegates voting on this motion.

MR. KEEGAN: Mr. Hunt.

MR. HUNT: Mr. Chairman, Mr. Maraziti in effect spoke for me. I am not one who thinks we should quit. I think we should discuss this thing and go through it until we find there is no possible agreement. We have until Midnight for this report.

MR. COTTON: I withdraw my motion.

MR. JACOBSON: I must say in preface to my remarks that I have a high personal regard, almost bordering on affection, for Senator Ozzard.

MR. OZZARD: Hear, hear! (Laughter)

MR. KEEGAN: At Mr. Ozzard's request, this remark will be lifted from the record and emblazoned in the Senate. (Laughter)

MR. OZZARD: -- that it be lifted from the record and sent to Mr. Murphy of the A.F.of L.

MR. JACOBSON: Among his other great contributions, I am delighted to know he is now the author of Ozzard's Rules of Order. They have changed week by week.

In all seriousness, though, I have personally subscribed to this spirit of bipartisanship which I had hoped would characterize this Convention. I must - and I do this most humbly and quite seriously - I must question the sincerity of the representations made here today by members of the Republican Party that they are solely interested in achieving a solution. I question the sincerity of the rather transparent Machiavellian intrigue of submitting on this floor a proposal for a unicameral legislature. I would also point to your attention the very obvious fact that if the Republicans really wanted a unicameral plan submitted to the Convention, there were 17 votes for it on the floor here no less than ten minutes ago. But when the stark realization struck home of what was happening, the prevailing vote was withdrawn.

So I would submit to you gentlemen, we would like to work this out, but please in the presence of the press, I would suggest that your sincerity be more open and a little less questioned, a little less subject to the question of those who know what is going on.

MR. COTTON: I withdrew my motion, sir. I withdrew my motion. I am going to stay here. I like it.

(Laughter)

MR. KEEGAN: Mr. Kimmelman.

MR. KIMMELMAN: Gentlemen and Mr. Chairman, I'd like to give you a concrete example of the sincerity that was just spoken about, just mentioned. One year ago today I happened to be a member of the Assembly and there are many members formerly of the Assembly and present Senators and we all received much mail from various groups, lobbyists, if you will, urging us to vote in a certain manner on the reapportionment bills which were before the Legislature. And I received a letter, which I have - it is in my briefcase which is not in the room with me tonight - but that letter urged me to vote for single-member districts and it came from Mr. Jacobson's union.

MR. KEEGAN: The record will note scattered applause.

(Laughter)

MR. KEEGAN: Mr. Hunt waives. Mr. Cawley.

MR. CAWLEY: Gentlemen, I think we are all here to compromise and what Mr. Jacobson said kind of opens the door where there may be no compromise at all because it draws another barrier between us. I would like to state for the record, to clear up what Mr. Jacobson has stated, because he really doesn't know what the situation is in the Republican ranks -he may speak for the Democrats, fine - but I can say now that up to a few days ago 31 Republicans voted that they would accept a unicameral, single-member district and I want that on the record.

MR. KEEGAN: I believe that it is a part of the record --

MR. COTTON: They might just get a chance to vote for it.

MR. KEEGAN: -- of the meeting, Mr. Cawley. The record will indicate it. Is there any further comment, gentlemen?

Mr. Jacobson, for five minutes rebuttal.

MR. JACOBSON: I feel impelled to point out that Proposal 42, which was apparently supported by a large number of Republicans here today, was voted unanimously against by them only less than a week ago.

MR. ROTH: Not as amended.

MR. JACOBSON: May I finish. You'll be able to answer me. It was a very minor amendment. I would suggest that if the Republicans here can change their minds within three days, I might have been able to change my mind within a year because we do know with age comes maturity and once in a while a little bit of intelligence.

MR. KEEGAN: There is a motion on the floor.

MR. GOLDBERG: There is no motion on the floor.

MR. KEEGAN: There is no motion on the floor. Mr. Reilly.

MR. REILLY: Well, Mr. Chairman, I am most impressed with this eloquence and I certainly want to get my name on the record as well. I would just like to say that I think both sides have stated their case rather well. I feel that we have both contributed as much as we can. It is rather apparent to me we are not going to accomplish any more by

any lengthy oratory and since my waist line is fast diminishing, I think we should perhaps adjourn and get something to eat until next Thursday.

MR. KEEGAN: There is a motion to adjourn. Is there a second?

DELEGATE: I second it.

MR. KEEGAN: On the motion to adjourn, there has been a request that this be done by roll call.

MR. CAWLEY: Is this temporary adjourned or for good?

MR. MARAZITI: On a point of order, Mr. Chairman, I would like to correct a statement made by my distinguished friend, Delegate Joel Jacobson. I voted in favor of the Lockard Plan last time we took a vote on it and I think a number of Republicans did likewise.

MR. KEEGAN: Joe, I know you are not out of order and I haven't ruled that way and your comments are in the record.

The motion to adjourn --

(Mr. Keegan calls the roll):

AYES: Keegan, Jacobson, Duff, Reilly, Metzger, Inglima, Lockard, Lupton, Glauberman, Cotton, Hollander, Roach, Shaffer, Deighan, Goldberg, Orkin, Cawley

NAYS: Lance, Woodcock, Hunt, Horuvitz, Ozzard, Maraziti, Kimmelman, Dumont, Woolfenden, Novins, Evers

MR. KEEGAN: The Chair notes abstentions, no response, by Mr. Thatcher and Mr. Roth. Mr. Schreiber absent. Mr. Farley abstained. May we have the tally, please.

MR. ALITO: 17 yes.

MR. LANCE: That's the magic number.

MR. KEEGAN: That's the magic number, gentlemen. Before

we adjourn, the Chair has made no comment other than to make the comment to thank you for your cooperation with the Chair.

MR. OZZARD: May I make a comment, Mr. Chairman?

MR. KEEGAN: Mr. Ozzard.

MR. OZZARD: I would like to compliment both you and Senator Lance for the manner and method in which you have conducted this co-chairmanship. I mean this most sincerely.

(Applause)

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