

THIRTY-FIRST DAY

EVENING SESSION.

MONDAY, March 4, 1912.

The Convention met pursuant to adjournment, was called to order by the president and opened with prayer by the Rev. F. N. McMillin, of Cincinnati, Ohio.

The journal of the legislative day of February 26th was read.

PETITIONS AND MEMORIALS.

Mr. Bigelow presented the petitions of H. H. Johnson and other citizens of Barberton; of the Rev. Frank Hall and other citizens of Columbus; of the Rev. J. F. Olmstead and other citizens of Marion, protesting against a license clause in the constitution; which were referred to the committee on Liquor Traffic.

Mr. Dunn presented the petitions of W. E. Williamson and other citizens of Clermont county; of David R. Irwin and other citizens of Goshen; of H. E. Armacost and twenty-four other citizens of Norwood; of J. W. Snell and other citizens of Clermont county, protesting against the submission of a license clause in the constitution; which were referred to the committee on Liquor Traffic.

Mr. King presented the petition of C. D. Peck and seventeen other citizens of Erie county, in favor of equal suffrage; which was referred to the committee on Equal Suffrage and Elective Franchise.

Mr. Farrell presented the petition of the city council, of Cleveland, requesting the abolition of capital punishment; which was referred to the committee on Legislative and Executive Departments.

Mr. Antrim presented the memorial of the Seventh-Day Adventist church, of Ohio City, protesting against the passage of Proposals No. 65; No. 121; No. 204; which was referred to the committee on Education.

Mr. Cassidy presented the petition of U. E. Hootmen and seventeen other citizens of Bellefontaine, protesting against the passage of Proposal No. 4, licensing the liquor traffic; which was referred to the committee on Liquor Traffic.

Mr. Cassidy presented the petition of H. W. Holycross and twenty-six other citizens of Logan county, asking for the prohibition in the manufacture, sale and distribution of cigarettes; which was referred to the committee of the Whole.

Mr. Cunningham presented the petition of W. J. Reichard and twenty-three other citizens of Jewett, against licensing the liquor traffic; which was referred to the committee on Liquor Traffic.

Mr. Dunn presented the petitions of P. M. Stewart and other citizens of Milford; of C. H. Woodmansee and other citizens of Felicity, protesting against the manufacture, sale and free distribution of cigarettes; which were referred to the committee of the Whole.

Mr. Knight presented the remonstrances of S. P. Outhwaite and twenty-two other citizens of Columbus; of P. W. Huntington and thirteen other citizens of Col-

umbus; of Willard L. Wilcott and thirty-six other citizens of Columbus; protesting against any amendment that shall impose the suffrage upon women; which were referred to the committee on Equal Suffrage and Elective Franchise.

Mr. Knight presented the petition of Mrs. E. S. Ingraham and twenty-four other women citizens of Franklin county; of Mrs. Deborah Kurtz and sixty-two other women citizens of Columbus; of Herta Heingst and other women citizens of Columbus; of Jessie E. Karch and eight other women citizens of Columbus; of Georgietta F. Corner and sixteen other women citizens of Columbus; of Margaret L. Taylor and twenty-nine other women citizens of Columbus; of Miss Elizabeth Park and fourteen other women citizens of Columbus; of Theodora W. Rogers and twenty-three other women citizens of Columbus; of Helen H. Hysell and thirty-two other women citizens of Columbus; of Anna Leibold and thirty other women citizens of Columbus; of Marie Faye Montague and eleven other women citizens of Columbus; of Mrs. Margaret Bowers and thirteen other women citizens of Columbus; of Mrs. H. H. Snively and other women citizens of Columbus; of Alice H. Valentine and twenty-two other women citizens of Columbus; of Mrs. P. V. Burington and three other women citizens of Columbus; of Grace C. Williams and twenty-five other women citizens of Columbus; of Ida Feiel and sixteen other women citizens of Columbus; of Mrs. James McCombs and fifteen other women citizens of Columbus; of Mrs. Chas. Miller and other women citizens of Columbus; of Mrs. Julia Malley and other women citizens of Franklin county; of Mrs. F. E. Huggins and other women citizens of Columbus, protesting against any amendment that shall impose the suffrage upon women; which were referred to the committee on Equal Suffrage and Elective Franchise.

Mr. BROWN, of Highland: Proposal No. 152, I am convinced, has considerable merit, but it seems on account of its phraseology it has not met with universal favor in the committee to which it has been referred, the committee on Agriculture. I am willing that it be modified in any form and for that purpose I move that the committee on Agriculture be relieved of it and that the proposal be referred to——

The PRESIDENT: The question is on agreeing to the journal. The journal has not been approved. Are there any corrections? If not the journal stands approved as read.

Motions and resolutions are now in order and the member from Highland is in order.

MOTIONS AND RESOLUTIONS.

Mr. BROWN, of Highland: I make that motion.

Mr. JOHNSON, of Williams: The chairman of that committee is not here and it becomes necessary for me to take his place, as it were. The committee unanimously voted to report the indefinite postponement of the proposal referred to by the gentleman, and when the

Motions and Resolutions—Introduction of Proposals.

reports from committees are called for that report will be made. It is absolutely improper to relieve our committee of the consideration of that proposal after the proposal has been acted on and is ready to be reported back here. It should have been reported weeks ago, because we agreed to it; but, to give the gentleman more time to be heard, we held it. It is well known to the gentleman that that was the action of the committee and it is a reflection on the committee now to ask that the committee be relieved from the consideration when it has been considered and is ready to be reported. I am opposed to the motion of the gentleman.

Mr. MILLER, of Crawford: Our committee has given this proposal very careful consideration and we have taken probably more time than we ought to have done. Section 3672 of the Code denies the right to municipalities to require a license from farmers, etc. Now, if the Convention grants municipalities home rule and then attempts to take it from them, there will be some inconsistency. The wording of this proposition is that the selling of these products cannot be interfered with in any way. We were afraid this would invalidate all our pure-food laws and our laws about weights and measures. After careful consideration we have a report ready to recommend the indefinite postponement of this proposal.

The charge made against the dairy and food commissioner is absolutely without foundation. That gentleman came before us at our special invitation and presented his views, and he has not busied himself in the matter. I want to say to the member from Highland [Mr. BROWN] that he has as many friends on the committee on Agriculture as there are members, but we felt that we could not do anything else but report it back and recommend its indefinite postponement.

Mr. BROWN, of Highland: I demand a reference of that proposal to the Convention under the rules.

Mr. DOTY: I move that it be referred back to the committee on Judiciary and Bill of Rights.

Mr. LAMPSON: We have not had it read yet.

The PRESIDENT: The gentleman from Highland [Mr. BROWN] calls for Proposal No. 152 and the secretary will read it.

The secretary read the proposal, as follows:

Resolved by the Constitutional Convention of the state of Ohio, That a proposal to amend the constitution shall be submitted to read as follows:

ARTICLE I.

Section — The legitimate buying and selling of poultry, dressed meats, all products of the soil and products of the dairy, shall never be interfered with or restricted in any manner; nor shall any tax, license or assessment of any kind whatsoever ever be imposed which will in any way interfere with the buying and selling of poultry, dressed meats, all products of the soil and products of the dairy.

Mr. DOTY: I withdraw my motion.

Mr. PECK: What is the status of the proposal? Is this the report of the committee?

The PRESIDENT: The question is on the engrossment of the proposal.

Mr. PECK: How does it come before us?

The PRESIDENT: It has been ordered from the committee under the rules of the Convention which permits a member introducing a proposal to place it before the house after two weeks have expired since it was given to the committee.

Mr. MILLER, of Crawford: I move that the proposal be recommitted to the committee on Agriculture.

The motion was carried.

Mr. CASSIDY: I offer a resolution.

The resolution was read as follows:

Resolution No. 80:

Resolved, that the following list of bills which have been filed with the secretary of this Convention be allowed and ordered paid:

The Beggs Co., labor and supplies....	\$ 22.54
Central Union Telephone Co., rentals and toll	202.70
Central Union Telephone Co., toll....	.80
J. F. Cunningham, rent of P. O. box..	3.30
The Erner & Hopkins Co., labor and supplies	16.56
The S. F. Harriman, supplies.....	14.00
The F. J. Heer Printing Co., printing..	2,198.62
George F. Jelleff, labor and supplies....	20.85
Postal Telegraph-Cable Co.	2.11
Remington Typewriter Co., rentals....	19.00
Secretary of State, 4 vols. of Code....	4.50
E. H. Sell & Co., rental and supplies..	50.90
A. H. Smythe, supplies.....	2.50
Fred H. Tibbets, supplies	6.00
Underwood Typewriter Co., rentals....	50.75
The Western Union Telegraph Co.	6.02
The Diehl Office Equipment Co., supplies	4.50
Andrew Earl, supplies	17.40

The resolution was referred to the committee on Claims against the Convention.

Mr. WORTHINGTON: I offer a resolution.

The resolution was read as follows:

Resolution No. 81:

Resolved, that hereafter, until further order, the salaries of the delegates to the Convention shall be paid in monthly installments of one hundred and fifty (\$150) dollars each.

Mr. WORTHINGTON: I move that that be referred to the committee on Claims against the Convention.

The motion was carried.

The PRESIDENT: The next order of business is introduction of proposals and the secretary will call the counties in alphabetical order.

INTRODUCTION OF PROPOSALS.

The following proposals were introduced and read the first time:

Proposal No. 289 — Mr. Fluke. To submit an amendment to article IV, section 19 of the constitution. — Relating to establishing courts of arbitration.

Introduction of Proposals — Reports of Standing Committees — Limiting Veto Power of Governor.

Proposal No. 290 — Mr. King. To submit an amendment to article IV, section 10, of the constitution. — Relative to who shall be eligible to the office of judge.

Proposal No. 291 — Mr. Watson. To submit an amendment to the constitution. — Relative to recall of public officers.

Proposal No. 292 — Mr. Watson. To submit an amendment to article XII, section 2, of the constitution. — Relative to taxation.

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Proposal No. 296 — Mr. Watson. To submit an amendment to article XII, section 2, of the constitution. — Relative to taxation.

Proposal No. 297 — Mr. Hoffman. To submit an amendment to the constitution. — Relative to regulating the cost of text books for public and denominational schools.

Proposal No. 298 — Mr. Hoffman. To submit an amendment to the constitution. — To prohibit the contracting of convict labor.

Proposal No. 299 — Mr. Brown, of Lucas. To submit an amendment to article XII, section 2, of the constitution. — Relative to exempting homesteads from taxation.

Proposal No. 300 — Mr. Farnsworth. To submit an amendment to article III, section 2, of the constitution. — Relative to justices of the peace.

Proposal No. 301 — Mr. Kramer. To submit an amendment to article I, section 7, of the constitution. — Relative to bill of rights.

Proposal No. 302 — Mr. Riley. To submit an amendment to article XV, section 4, of the constitution. — Relative to eligibility to hold office.

REPORTS OF STANDING COMMITTEES.

Mr. Antrim submitted the following report:

The standing committee on Banks and Banking, to which was referred Proposal No. 93 — Mr. Earnhart, having had the same under consideration, reports it back with the following amendments, and recommends it passage when so amended:

Strike out all after the resolving clause and insert the following:

“Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her; except that stockholders of corporations authorized to receive money on deposit shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such corporations, to the extent of the amount of their

stock therein, at the par value thereof, in addition to the amount invested in such shares.”

Fill the blanks in title as follows:

After “Article” insert “XIII.”

After “Section” insert “3.”

The report was agreed to. The proposal was ordered to be engrossed and read the second time in its regular order.

On motion of Mr. Doty the proposal, as amended, was ordered printed.

Mr. Taggart submitted the following report:

The standing committee on Equal Suffrage and Elective Franchise, to which was referred Proposal No. 211 — Mr. Taggart, having had the same under consideration, reports it back and recommends its consideration by the Convention.

The report was agreed to. The proposal was ordered to be engrossed and read the second time in its regular order.

Mr. Johnson, of Williams, submitted the following report:

The standing committee on Legislative and Executive Departments, to which was referred Proposal No. 212 — Mr. Johnson, of Williams, having had the same under consideration, reports it back with the following amendment, and recommends its passage when so amended:

In line 19, after the word “governor” omit the period and insert the following: “except that in no case can a bill be repassed by a smaller vote than is required by the constitution on its first passage.”

The report was agreed to. The proposal was ordered to be engrossed and read the second time in its regular order.

Mr. THOMAS: I have a minority report on that matter that I wanted to submit before the motion was put. A minority report has no standing. It is just an individual opinion.

The PRESIDENT: The gentleman is too late. The matter will have to be introduced as an amendment to the proposal.

Mr. THOMAS: It is not my fault. I got up as quickly as I could.

Mr. FESS: I move to reconsider the vote by which the report of the committee on Legislative and Executive Departments was agreed to, so that the minority report can be put in in regular order.

The motion was carried.

The PRESIDENT: The gentleman from Cuyahoga [Mr. THOMAS] can now offer his minority report.

Mr. Thomas submitted the following report:

A minority of the standing committee on Legislative and Executive Departments, to which was referred Proposal No. 212 — Mr. Johnson, of Williams, having had the same under consideration reports it back and recommends the following substitute:

Strike out all after the resolving clause and insert the following:

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ARTICLE II.

"SECTION 16. Every bill shall be fully and distinctly read three different days, unless in case of urgency three-fourths of the house in which it shall be pending, shall dispense with the rule. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived, or amended, unless the new act contains the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed."

Mr. PECK: I don't understand this; to what is it apropos?

Mr. JOHNSON, of Williams: I hope the minority report will not be adopted. Proposal No. 212 as amended was agreed to by all the members of the committee except the gentleman who presents the minority report. In order that the Convention may understand what the minority report really means as compared with the majority report, it simply knocks out, if you will allow the expression, the veto power of the governor. Otherwise it is just the same as the majority report. The majority report provides for a veto power in the governor, not so drastic as at present. I hope the minority report will be voted down and that the majority report will be adopted and the measure engrossed so that we can discuss it.

Mr. THOMAS: The minority report abolishes the governor's veto. If I were in favor of the governor's veto at all I would vote for the change in the present system as presented by Mr. Johnson's report. The governor's veto, in my opinion, is simply extending to an individual power that certain people in this Convention do not care to extend to all the people. This Convention, I think, is going to grant that veto power to the people themselves, and there will be no necessity in having a certain individual, whether the governor or someone else, to exercise this power over us in the future.

A great many members, in discussing problems of this kind, point out the duties of representative government, and the very fact that the governor's veto will have to be extended proves representative government a failure. The only mistake that has been made in that particular is that instead of going to the people with the veto power you have placed that power in the hands of some executive official who has no more power to determine these things properly than any other individual member of this Convention.

Massachusetts has possibly now one of the oldest constitutions in the United States, and the section in the Massachusetts constitution pertaining to this subject seems to me to suggest a question that we might decide for ourselves before the Convention is over, and I will read what the constitution of Massachusetts prescribes on this subject, so that the delegates may understand how in old New England the patriots who fought the battles of the Revolution and established a constitution when freedom was secured, determined for themselves where the powers of government shall reside. The section reads like this:

In the government of this commonwealth, the legislative department shall never exercise the ex-

ecutive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws and not of men.

Sufficient unto itself is that paragraph, which can well be put into the constitution of Ohio.

Mr. OKEY: I agree with the gentleman from Cuyahoga [Mr. THOMAS]. If I were going to vote for the veto power being conferred on the governor I would perhaps vote for the majority report over the veto power we now have, which is the most drastic of any state in the Union. It is so framed that the most popular measure that might pass the general assembly would stand the least chance of being passed over the governor's veto. Why did we want the veto power in Ohio? Was there any demand for the veto power when it passed in 1903? I don't believe there was any campaign made upon that question before the people of Ohio and I believe that the veto power was gotten through by designing politicians. One hundred years of Ohio passed away without the power being conferred on the governor, and why at this time is there such a demand for the veto power? I claim, as it was claimed in the debates of 1851 by Judge Ranney, that veto power has no place in a representative government; that it is mistrusting the people and inconsistent with our theory of government. We must remember it is the divine prerogative, as kings used to call it, and the veto power has not been exercised by the British sovereign for two hundred years, and we here under republican form of government, so called, in which we claim we have government of the people, for the people and by the people, place in the hands of our executive, who has been elected by the people for executive functions merely, not only executive power, but legislative power and judicial power. When the executive vetoes a bill passed by the legislature he is exercising judicial functions in that it has the same effect as if a law were declared unconstitutional by a court, and we have him likewise exercising legislative functions when we say we have three co-ordinate branches of government and each must act within its own sphere and neither encroach on the powers of the other, and yet we are saying to our representatives that we will confer on the executive — a man elected for executive and not for judicial purposes — power to defeat the will of our chosen representatives, that he knows more than they do about what the people of Ohio need, and we will, therefore, give him the power to veto any law. I claim that is inconsistent with our form of government and we ought not to confer it upon any executive.

They talk about hasty legislation. I do not know of any law that has been vetoed by any governor for which there was not a demand from the people, and there have been many vetoes that ought not to have been given. For that reason I am opposing this, because it is a matter that concerns all of us, and it is putting too much power in the hands of one man and that power has been abused and will be abused in the future. It is a club in the hands of the executive, who can say if he wants to, "If certain measures are not passed as I want them I will veto certain measures that you propose", and, therefore,

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he will bring to bear the power of his executive office, and the importance of his office, on the legislature. It has exercised a great deal of influence in this country. I would like to have our representatives free and untrammelled, and would not confer upon the executive power that has not been used by a king in England in two hundred years. It was attempted two hundred years ago and what did the house of commons say to the king: "You veto that measure and there will be a new king!" And for that reason I oppose this majority report and hope the minority report will be adopted by the Convention.

Mr. HOSKINS: I had not intended to say anything on this matter and did not know about it until it came up. But what has been said here suggests a few thoughts. I am very much in sympathy with this proposition to not confer the veto power on the governor. I think it is inconsistent with our form of government, and particularly do I think that the present veto power is wrong. But as I understand it, the majority report provides for some modification in the present veto power and the minority report discards and does away with the whole veto power of the governor. The arguments just presented simply echo my thoughts upon the question. It is an invasion of the legislative department by the executive. It is an invasion of the judicial department by the executive, and a designing executive who desired to control legislation, could by threatening to hold up certain matters, procure the passage of other measures that he might desire to pass or the defeat of those he did not want to pass. There is no reason why a man who is elected solely for executive purposes should exercise legislative functions or should be a dominant factor in legislative matters. Many of our states do not have it, and, as has been said, we got along in Ohio until 1903 without any veto power. I do not know of any reason why that power was conferred at the time it was. I believe the minority report ought to be given very careful consideration and not voted down without knowing exactly what we are voting on.

Mr. KNIGHT: This discussion has been precipitated on us somewhat unexpectedly. It may not do any of us any harm to go back a little into the history of the veto power in this country in order to see where it came from and what it is today, and in order that we may know that the minority report proposes to put the state of Ohio out of line with every other state of the Union, instead of putting it in line with any other state.

There is not a state in the Union today in which the governor has not the veto power. Now, going into it historically, in the early constitutions of the first states after the Revolutionary War, the veto power was not conferred on the governors of those states for two reasons: In all but three states the governor was elected by the legislature and not by the people. It was obviously absurd that an officer elected by a legislative body should have a veto on the act of the legislative body.

The other reason was that in every colony of this country where the governor in the colonial times had the veto power, he had absolute veto power and not a qualified veto power. The legislative body had no opportunity to pass upon the measure if it were vetoed by the governor. Further than that, in all but three colonies the governor was appointed and sent to this country by

the crown of Great Britain, and represented the crown of Great Britain and not the people of the colony itself. Consequently, after the Revolution it was natural, and obviously natural, that the people of the different colonies should, in forming the first constitution, after their experience with governors sent from Great Britain to this country, do away with the veto power.

However, inside of ten years two changes came into the constitutions of this country, namely, that the governors, instead of being elected by the legislature, came to be elected by the people, and coincident with that fact came the second fact, that in every instance, with the exception of Delaware, Rhode Island and North Carolina, the veto power was conferred upon the governor at or about the time he came to be elected by the people instead of being chosen by the legislatures as before.

We find, then, that the reappearance of the veto power came along with the modification in the method of electing the governor. But in no instance was the veto power thus conferred anew upon the governor an absolute veto, but simply a qualified veto. A qualified veto, as we understand it, means simply an effective motion to reconsider. That is all that a qualified veto power is, that the people choosing their law-making body on the one hand and the chief executive on the other, place in the hands of the chief executive the right to make an imperative motion to reconsider, namely, that measures must be submitted to him for his approval, and if he disapprove, the legislature must vote on that question again to make it law. Ohio stood in the company of Rhode Island and that other large state, Delaware, and North Carolina for nearly one hundred years after every other state in the Union had conferred the veto power on its governor, and finally in 1903, by an amendment to the constitution, Ohio was brought into line with the experience, and the beneficial experience, of other states.

Now there was a reason why Ohio did not have the veto power before that. Ohio was, in colonial days, a part of the territory northwest of the Ohio river, and that territory was nothing more nor less than the first colony founded by the United States government. The government of the United States in founding this first colony did exactly what Great Britain had done two centuries before in founding her colonies, namely, appointed an executive and lawmakers for that colony, and the people of the Northwest Territory had nothing whatever to say in the first days of their colonial period either about what their laws should be or when they should go into effect, but there was conferred upon the first governor an absolute veto and that first governor, wise in many things, was unwise in others. Especially he does not seem to have been a good politician in that he was generally on the other side from the legislature, and in one or two instances he exercised absolute veto power to the discontent of the people of this region. Therefore, when they came to frame the first constitution, they did exactly what all the other states had done when they came from colonial days, they said, "We will not have anything to do with the veto and we will dispense with it altogether." That was the condition until about ten years ago.

The amendment giving the governor the present veto power, does confer on the governor of Ohio, a more drastic power than exists in any other state of the

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Union, and it is more drastic than should be conferred, because it makes it almost impossible that a measure passing unanimously should, if vetoed, pass over the governor's veto. I am entirely in sympathy with the majority report, but it seems to me that to adopt the minority report instead of the majority report puts us where we are simply reversing the experience and the beneficial experience of every state in the Union and of the United States government itself.

The abolition of the veto power in Ohio would certainly, in my judgment—and I am sure I am not alone in that opinion—be a backward rather than a forward step.

It has been urged that the giving of the veto power to the governor was primarily that he might have a club to wield over the legislature, and therefore to have something upon the basis of which he could make deals with the legislature. I beg to submit that if any gentleman will examine the statutes that have met the governor's veto in the last few years, he will find that the governor's veto has been exercised to prevent the result of some of the log-rolling between members of the legislature themselves, in the matter of appropriation bills. That it may have been unwise in the judgment of some to exercise it in some instances may be true—on that I have no opinion—but I am certain that in the few instances in which it has been exercised, it has in the main been exercised in the interest of the people and not in the way of oppressing the people. Since the legislature may repass a measure over the veto power, it does not seem to me to be a dangerous gift or a dangerous power to be possessed by the executive. The proposition that the governor of the state will exercise it wantonly and not in the interest of the people, but rather against their interest, is simply absurd.

Mr. DOTY: I understood you to say that the veto power undertaken to be given by the amended proposal is a qualified power.

Mr. KNIGHT: Yes; it is less than the one we have now.

Mr. DOTY: Would you be in favor of it if it would turn out to be an absolute veto?

Mr. KNIGHT: No.

Mr. DOTY: If it were to turn out to be an absolute veto of fifty per cent of the work of the legislature would you be in favor of it?

Mr. KNIGHT: Unless it could be on all, it could not be on any.

Mr. DOTY: I simply want your answer on whether you would be in favor of this measure if it should turn out upon further examination to be an absolute veto on fifty per cent of the work done by the legislature.

Mr. KNIGHT: I see what you are after. You ought to know that if a bill is passed by a majority of the legislature—

Mr. DOTY: You can not read my mind.

Mr. KNIGHT: I was reading along the line of ordinary minds—

Mr. DOTY: But I am extraordinary.

Mr. KNIGHT: I have just said it is not an absolute veto.

Mr. DOTY: If you should find out tomorrow, say, more than you know tonight—for instance, if I could show you tomorrow that it will be an absolute veto of

fifty per cent of the work done by a legislature, would you be in favor of it?

Mr. KNIGHT: When you show me that I will answer.

Mr. DOTY: I thought you would answer it some time in the future, but not now.

Mr. ELSON: Mr. Knight has come so near to what I intended to say that it is hardly worth while for me to say anything more than to make a point or two and register my opinion on the subject. I am very decidedly in favor of giving the governor veto power. The gentleman from Cuyahoga [Mr. THOMAS] spoke about the constitution of Massachusetts. The constitution of Massachusetts was made in 1780, at the close of the colonial period, and the people had in mind their long trouble during the colonial period with the governors. Many of those governors had been appointed by royal authority and the assembly which represented the people was constantly quarrelling with the governor, who did not represent the people. So the parallel was not well taken.

Mr. FESS: Did not the constitution of 1780 give the veto power to the governor of Massachusetts at the time?

Mr. ELSON: How is that, Professor Knight?

Mr. DOTY: He will answer that when he finds out whether he is for it or not.

Mr. ELSON: I believe it did, but the constitution of 1780, with some few modifications, is still in force in Massachusetts. It is the oldest of all the constitutions. It must be remembered, as I have stated, that the veto power was denied the governors generally in the newly-founded states at the close of the Revolution because of their experience with the colonial governors, governors who did not represent the people. Now someone spoke of the absurdity of the governor vetoing an act of the people's representatives. Is not the governor as much the people's representative as the members of the legislature? Then let me corroborate Professor Knight in this respect, that the governor is not apt to go wrong.

Mr. DOTY: What is that?

Mr. ELSON: A governor is less apt to go wrong than a legislature. Look back over the history of the United States and you will find from the records that the governors will average higher than the legislatures. You can find that in this state, and you won't have to go very far back. As far as the governors vetoing legislative acts I say I can just go back to our last legislature. It passed a corrupt practices act which we all value very highly. I think it is one of the very best in the United States, and I want to say if it had not been for the veto of one or two items in that act it would have been absolutely worthless and unworkable. It was the governor who stood over it and watched it and made it really a good law. Let me ask again, because it should be emphasized that the governor represents the people absolutely and as directly as the legislature or any member of the legislature, why should he not have the veto power?

One word further: Some one referred to the veto power of the English king, that there has been no such power for two hundred years. That is true. There has been no veto power in the hands of a British king

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since James II. One British queen vetoed a single act since then, but no British king has vetoed an act of parliament since the great revolution of 1688. Let me say this, that James II, whose brief and disastrous career ended in that year, was the last of the hereditary English kings. Since then no king is truly and finally sovereign until elected by parliament, and since parliament has elected the king no king has exercised any veto power over any act of parliament.

Mr. CROSSER: Did I understand you to say that the governor is more often correct than the legislature?

Mr. ELSON: I would trust a governor quicker than I would a legislature every week.

Mr. CROSSER: Then why have a legislature at all?

Mr. ELSON: The wisdom of one hundred men ought to be better than the wisdom of one.

Mr. DWYER: Did not Queen Victoria refuse royal assent to some bills during her reign, and what is that but the veto power?

Mr. ELSON: She did not. On one occasion she attempted to. She did not like Gladstone. She was fond of Beaconsfield, but she never liked Gladstone. Gladstone went to her on one occasion with a parliamentary bill and explained it to her and handed it to her for the royal signature as usual. We know, of course, that the signature is necessary to an act of parliament in order to make it an act of law. She objected to it and argued with him, and when he insisted she said to him, "I wish you to understand that I am Queen of England," and Gladstone, said quietly but firmly, "I wish you to understand that I am the people of England." And she signed the bill. She did not veto any bill during her entire reign.

Mr. PIERCE: If the initiative and referendum become part of our organic law, would you still say it was necessary for the governor to have the veto?

Mr. ELSON: Over the people in the initiative and referendum? I don't think I would, but we are not debating that. That is a thing to be decided in the future.

Mr. PIERCE: If the veto power is necessary, is it not virtually a concession that the people are not competent to govern themselves?

Mr. ELSON: As far as running the machinery of government, most certainly the people are incompetent to do it. Of course they are competent generally, but if they are competent to run the machinery and can do it, why elect the governor or legislature? These officers are put in a special position and with special duties, because they are competent to attend to them. Of course the people could attend to them, but they are too busy with other things.

Mr. BROWN, of Highland: In the case that the governor's veto were placed on a bad bill, would not that obviate the necessity of referring it to the people and the expense to the people of a referendum?

Mr. ELSON: I should think so.

Mr. DOTY: But suppose the governor should veto a good bill, then how about that?

Mr. BROWN, of Highland: It could be referred.

Mr. DOTY: Oh, no; it couldn't be if a bad one couldn't. Now I want to ask the gentleman from Athens a question: You are in favor of a qualified veto?

Mr. ELSON: Yes.

Mr. DOTY: If it turns out that the proposal submitted by Mr. Johnson is an absolute veto of fifty per cent. of the work of the legislature would you still be in favor of it?

Mr. ELSON: An absolute veto?

Mr. DOTY: Yes.

Mr. ELSON: I would not be in favor of it.

Mr. DOTY: Then I understand you would not be in favor of this veto provided for in the report of Mr. Johnson if you were satisfied it was an absolute veto of fifty per cent. of the work of the legislature?

Mr. ELSON: No.

Mr. DOTY: I am very glad to get an answer from you. I could not get it on the other side of the house.

Mr. KNIGHT: I would like to ask the gentleman from Athens if it is not true that in Great Britain the crown has an effective veto—an absolute veto—in the fact that no measure can pass parliament at all unless it has the approval of the prime minister in advance?

Mr. ELSON: Yes. You must remember that the prime minister is the executive officer in Great Britain and the prime minister is chosen by the people, nominally by the house of commons, but in fact the prime minister is the leader of the party that succeeds in the election, and after all he is some part of the government.

Mr. FESS: In view of the question asked by Mr. Knight and the answer, I should like to ask whether when the prime minister makes a suggestion that is not carried out by a vote of parliament, the veto power is not back to the people when he is thrown upon the vote of the people at large.

Mr. ELSON: That would more probably be called a referendum.

Mr. FESS: Is not that a veto by the people?

Mr. ELSON: Yes, a veto by the people if they vote adversely to the prime minister, but strictly speaking that is a referendum.

Now I do not know that I have anything else to say. I certainly didn't expect to precipitate such a flood of questions.

Mr. PETTIT: What is the difference in the veto power as provided in this proposal and the veto power as at present?

Mr. ELSON: Two-thirds or three-fourths or something like that, but I am not debating that. We are debating the subject of whether he should have the veto at all or not—on the minority report.

Mr. PETTIT: You said it was not as bad as the other.

Mr. ELSON: I have put myself on record as decidedly in favor of the governor's veto. I believe the more power you give the governor the better he will do.

Mr. WATSON: If you grant the executive part of the legislative powers, why not grant to the legislature part of the executive powers?

Mr. ELSON: There is a wide difference between the two. The governor is in the lime light. The public gaze is upon him. The public gaze may be in some way upon the legislature, but not on particular members, and one can hide behind another. We know a law-making body is far more apt to make blunders and mistakes and be led into corruption than an executive, and I think the more power you give an executive the better he will

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do. He is sure to do the best he can if you give him responsibility.

Mr. TETLOW: Following out logically your views, from your standpoint and not from mine, we have in this Constitutional Convention a hundred and nineteen members. Do you contend that one man could draft the constitution and submit it to the people of this state for their ratification and meet the views of the people better than these one hundred delegates?

Mr. ELSON: No; but after we have framed the constitution — I believe that after we have finished the whole thing and have gone home, one man, a wise man, a statesman thoroughly well posted, might go over that constitution and find flaws in it.

Mr. DOTY: I think this has been a very remarkable discussion. It has been a great change from what we have been accustomed to having and for that reason I welcomed it heartily. We have been greatly entertained and really educated this evening by some lessons in English history. We cut off one king's head because he vetoed something, and we have seen another English sovereign, who was a woman, who didn't get the last word, and altogether we have had a very entertaining and educational seance here on the veto matter.

Now, I have not thought much about the veto business until the last day or two, and as the discussion proceeded I asked some questions of the member from Franklin. Not knowing just where he was going to land, he very carefully refrained from answering. But the gentleman from Athens did answer, and therefore I want now to show why the gentleman from Athens should be against the bill as reported by Mr. Johnson, of Williams, and I want to show that the veto in that proposal is an absolute veto of fifty per cent. of the bills passed by any legislature.

Mr. ELSON: Then I should say, if I am permitted to answer, that I would not be in favor of it.

Mr. DOTY: Now I am showing you about it because you did answer and the member from Franklin did not answer.

Mr. HARRIS, of Ashtabula: Does the gentleman from Cuyahoga [Mr. Doty] say that it is an absolute veto? He certainly can't mean that.

Mr. DOTY: I know what I mean and you know it. You have been here on the last day of a session of the legislature, and you have seen fifty per cent. of the bills passed and sent to the governor and then the legislature adjourned and the members went home.

Mr. HARRIS, of Ashtabula: But he didn't veto them.

Mr. DOTY: Why that's simply tweedledee and tweedledum from the member from Ashtabula [Mr. HARRIS]. I would like to know what kind of a veto Governor Harris put on the penitentiary bill?

Mr. HARRIS, of Ashtabula: We presume —

Mr. DOTY: Are you answering a question, or are you going to ask a question, or are you going to make a speech?

Mr. HARRIS, of Ashtabula: I asked you a question and you didn't answer it.

Mr. DOTY: What was it?

Mr. HARRIS, of Ashtabula: I asked you whether it was an absolute veto or if it simply had that effect?

Mr. DOTY: I say it was an absolute veto. That is exactly what I said; and I want to say to the gentleman

from Ashtabula [Mr. HARRIS] that the veto by the governor of the penitentiary bill was just as absolute a veto as you ever saw and we haven't any penitentiary yet under that bill.

Mr. WOODS: When the governor vetoes a bill after the general assembly adjourns what becomes of the bill?

Mr. DOTY: They have never found out what they do with it. The governor, I believe, sends it up to the next house or senate, as the case may be, in the next general assembly. Now, that house doesn't know what to do with it and they indefinitely postpone it. The legislature is not a continuous body, as the member from Medina [Mr. Woods] knows.

Mr. WOODS: Can they not act on it?

Mr. DOTY: You know as a lawyer they cannot. An action doesn't do any good unless it has effect. You have to return it to the house in which it originated. Where is the house in which it originated when the legislature has adjourned sine die? And when it is sent back to the next general assembly the house in which it originated is out of existence.

Mr. FESS: May I ask you a question?

Mr. DOTY: Sure; I like them.

Mr. FESS: If the assembly adjourns within ten days, does not the constitution provide that the proposed law is saved by being filed in the office of the secretary of state?

Mr. DOTY: It does not. That is just the trouble with the whole arrangement. You have an absolute veto and you never knew it.

Mr. FESS: Tell us what is the matter; how is it absolute?

Mr. DOTY: You have an absolute veto on everything passed in the last few days of the general assembly, and that is nearly fifty per cent of the business done by the general assembly. I have stood at that desk and called sixty-six roll calls on sixty-six laws in one day. These laws go to the governor all at once and we adjourn and go home, and he can veto every one of them and we can't do a thing.

Mr. ELSON: Do you think there is a governor who would veto a law that was good.

Mr. DOTY: I saw one do it once, and a mighty good man, and he vetoed a law that I am ashamed that any governor of Ohio ever did veto.

Mr. ELSON: Will you give us his name?

Mr. DOTY: I will not. He was a good governor, and he vetoed a bill that was a capital bill and everybody knew it.

Mr. ELSON: I suppose he was sincere in his action.

Mr. DOTY: We don't want him to be so sincere. We want him to sign bills when we pass them.

Mr. WATSON: Is it not a fact that this malodorous veto power originated in the brain of Marcus Aurelius Hanna?

Mr. DOTY: I guess not. Some people think he was guilty of everything. He was blamed for this, that and the other thing, and now he is blamed for the veto power. The veto power at that time was simply the only method we had of standing between the foolishness of the legislature and the people. But we think now we are going to put in something better. I am not in favor of the veto power such as we have had it. The member from Franklin [Mr. KNIGHT] says the present

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veto power in the constitution is almost an absolute power on everything, and that is true. The member from Williams [Mr. JOHNSON] has attempted to take out some of the drastic things. Now we are coming up to the question of qualified veto or no veto. I undertake to say to you that you cannot frame a veto that will not subject fifty per cent. of the work of our legislature to an absolute veto and you can't help it.

Mr. WORTHINGTON: Is there any reason why the legislature can't take a recess for ten days and then come back?

Mr. DOTY: They can, but they don't.

Mr. WORTHINGTON: Why don't they? What is the reason?

Mr. DOTY: Simply because every preacher and reformer all over the state is writing the legislature within three days after they meet to adjourn. There must be a last day and they will pass everything on the last day, and then it has to go to the governor and there is an absolute veto on that.

Mr. WORTHINGTON: But fifty per cent wouldn't come then on the last day if you pass the laws and then adjourn for ten days.

Mr. DOTY: I am talking about the present practice.

Mr. CROSSER: In view of the notions of the present governor of Ohio, if he had the veto power on what this Convention does, what do you suppose would happen to Proposal No. 2?

Mr. DOTY: I don't undertake to say if this were the general assembly submitting a thing of that kind that the governor would veto it. I don't believe he would go that far. I think the governor of Ohio had a perfect right to come in and tell us what he thought. I didn't agree with him on a good many things, but he came in and told us what he thought; and he did it in a statesmanlike way and I think the governor should be commended for his courage.

Mr. CROSSER: I am not taking issue with you on that, but if he had the courage of his convictions wouldn't that lead him to veto that?

Mr. DOTY: He might. I think it is better that the people have the veto than the governor.

Mr. KNIGHT: If it be true that the general assembly had the power to recess for whatever number of days, three or ten, as the case may be, within which the governor has the right to exercise the veto power and they fail to take that recess and come back and pass on the bills that he did veto as they are permitted to do under the law, is it anybody's fault but the representatives of the people—the legislature—if a qualified veto is converted into an absolute veto?

Mr. DOTY: No, sir; but if you have a practical way of doing it which will result in what I have said, what then?

Mr. KNIGHT: Reform your legislature.

Mr. DOTY: That is what we are trying to do. We are trying to pass the initiative and referendum so that we can reform them.

Mr. DWYER: Has the legislature in any single instance passed any bill over the governor's veto?

Mr. DOTY: Never had a chance. I cannot recall where the governor ever sent a bill back to us in time.

Mr. MILLER, of Ottawa: Oh, yes; the salary bill last winter

Mr. DOTY: Yes; that is one bill in ninety years. That was passed and vetoed while the general assembly was in session.

Mr. WOODS: I want to ask Mr. Doty if it is not a fact that the general assemblies have recessed for ten days before they finally adjourned?

Mr. DOTY: Yes, and that was for the purpose of enrolling bills. If you look up the record you will find that all the bills actually passed in the last two or three weeks are scheduled as being passed on the last day after the ten days' recess. That is a fact and that brings three weeks' work into one day—technically it is all done on the last day—because the bill takes its date from the day it is signed at that desk, although the actual action may have been three weeks before. If you will look up the record you will find that a great part of the bills are shown to have been passed on the last day of the session when they were actually passed weeks before.

Mr. LAMPSON: And how many of that large number of bills enrolled on the last day were actually vetoed by the governor?

Mr. DOTY: Not many.

A DELEGATE: Twenty-eight last year.

Mr. DOTY: I was out of office at that time and was not keeping track of it.

Mr. WINN: How did that happen?

Mr. DOTY: I think this is a question of great importance and it ought not to be passed idly or hastily tonight. Members ought to have more time on it, and therefore I move that the further consideration of the question of the minority report be postponed until tomorrow and placed on the calendar in regular order.

The motion was carried.

The PRESIDENT: The next business is "Proposals for their second reading and consideration by the Convention." The first thing under that head is Proposal No. 151—Mr. Anderson.

Proposal No. 151 was read the second time.

Mr. HARTER, of Huron: I desire to offer an amendment.

The amendment was read as follows:

Strike out all after the word "Ohio" in line 1 of the resolving clause in Proposal No. 151—Mr. Anderson, and substitute therefor the following:

That a proposal shall be submitted to the electors to amend the constitution by substituting for section 18 of the schedule the following:

SECTION 1. At the time when the vote of the electors shall be taken for the adoption or rejection of any revision, alterations, or amendments made to the constitution by this Convention, the following articles, independently of the submission of any revision, alterations or other amendments submitted to them, shall be separately submitted to the electors in the alternative in the words following, to-wit:

FOR LICENSE.

License to traffic in intoxicating liquors shall hereafter be granted in this state, and license

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laws operative throughout the state shall be passed with such restrictions and regulations as the general assembly may provide, and the general assembly shall authorize municipal corporations and townships to provide for the limitation of the number of saloons and for the payment of the amount of license fees, in whole or in part, under general laws applicable thereto; provided that where traffic is or may be prohibited under laws applying to counties, municipalities, townships or residence districts, or other districts now prescribed by law, the traffic shall not be licensed in any such local subdivision while any prohibition law is operative therein, and nothing herein contained shall be so construed as to repeal, modify or suspend any such prohibitory laws, or any regulatory law now or hereafter enacted or to prevent the future enactment, modification or repeal of any similar prohibitory or regulatory laws.

No license shall be granted to any person who at the time of making such application is not a citizen of the United States and of good moral character. No license shall be granted to any applicant who is in any way or manner interested in the business conducted at any other place where intoxicating beverages are sold or kept for sale, nor shall such license be granted unless the applicant or applicants are the only persons in any way or manner pecuniarily interested in the business asked to be licensed, and that no other person shall in any manner whatsoever be in any way interested therein during the continuance of the license, and if such interest of such person be made to appear, the said license shall be deemed revoked.

AGAINST LICENSE.

No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may by law provide against the evils resulting therefrom.

SECTION 2. At said election, a separate ballot shall be in the following form:

INTOXICATING LIQUORS.

	For License.
	Against License

SECTION 3. Separate ballot boxes shall be provided for the reception of said ballots.

SECTION 4. The voter shall indicate his choice by placing a cross-mark within the blank space opposite the words "For License" if he desires to vote in favor of the article first above mentioned, and opposite the words "Against License" within the blank space, if he desires to vote in favor of the article second above mentioned. If a cross-mark is placed opposite both phrases or neither phrase, then the vote upon that subject shall not be counted.

SECTION 5. If the votes for license shall exceed the votes against license, then the article first above mentioned shall become a part of article XV of the constitution, regardless of whether any revision, alterations, or other amendments submitted to the people shall be adopted or rejected. And if the votes against license shall exceed those for license, then the second article above mentioned shall be a part of article XV of the constitution.

The PRESIDENT: The question is on the adoption of this amendment.

Mr. ANDERSON: I offer an amendment.

The amendment was read as follows:

Strike out the amendment offered by Mr. Harter, of Huron, and insert in lieu thereof the following:

That a proposal shall be submitted to the electors to amend the constitution by substituting for section 18 of the schedule the following:

SECTION 1. At the time when the vote of the electors shall be taken for the adoption or rejection of any revision, alterations, or amendments made to the constitution by this Convention, the following articles, independently of the submission of any revision, alterations or other amendments submitted to them, shall be separately submitted to the electors in the alternative in the words following, to wit:

FOR LICENSE.

ARTICLE 1. License to traffic in intoxicating liquors shall be granted in this state and license laws shall be passed to regulate and restrict said traffic, and shall operate throughout the state, provided, that where the traffic in intoxicating liquors as a beverage is prohibited under laws applying or which hereafter apply to the county, municipality, township, residence district or other districts and places prescribed by law, the traffic shall not be licensed in such described territory so long as the prohibition of said traffic shall by law be operative therein or shall hereafter be operative. Nothing herein shall be so construed as to repeal or modify any prohibitory or regulatory laws, or to prevent their future enactment, modification or repeal.

No license shall be granted to any person who at the time of making such application is not a citizen of the United States, of temperate habits and good moral character. No license shall be granted for a longer period than one year, nor shall license be granted to any applicant who is in any way or manner pecuniarily interested in the business conducted at any other place where liquors are sold or kept for sale, nor shall such license be granted unless the applicant or applicants are the only persons in any way or manner pecuniarily interested in the business asked to be licensed, and that no other person shall in any manner whatsoever be in any way interested therein during the continuance of the license, and

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if such interest of such other person be made to appear the said license shall be deemed revoked.

If any licensee is more than once convicted for a violation of the laws in force to regulate the traffic in intoxicating liquors, the license of said licensee shall be deemed revoked, and no license shall hereafter be granted to such convicted licensee.

No application for license shall be granted unless the business for which license is allowed shall be located in the same county or an adjoining county to that in which the person or persons live and reside whose duty it is to grant such license.

AGAINST LICENSE.

ARTICLE 2. No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may by law provide against the evils resulting therefrom.

SECTION 2. At said election a ballot shall be in the following form:

INTOXICATING LIQUORS.

	For License.
	Against License

SECTION 3. The voter shall indicate his choice by placing a cross-mark within the blank space opposite the words "For License" if he desires to vote in favor of the article first above mentioned, and opposite the words "Against License" within the blank space, if he desires to vote in favor of the article second above mentioned. If a cross-mark is placed opposite both phrases or neither phrase, then the vote upon that subject shall not be counted.

SECTION 4. If the votes for license shall exceed the votes against license, then the article first above mentioned shall become a part of article XV of the constitution, provided that the revision or alteration submitted to the people shall be adopted. If the votes against license shall exceed those for license, then the second article above mentioned shall be part of article XV of the constitution, provided that the revision or alteration submitted to the people shall be adopted.

Mr. KING: I offer a substitute for Proposal No. 151 and all pending amendments.

The substitute was read as follows:

Strike out all after the word "Proposal" in Proposal No. 151 — Mr. Anderson, and all pending amendments and insert the following:

To submit substitute for section 9 of article XV, otherwise known as section 18 of the schedule of the constitution. — Relating to licensing the traffic in intoxicating liquors.

Resolved, by the Constitutional Convention of the state of Ohio, That a proposal shall be submit-

ted to the electors to amend the constitution by substituting for section 18 of the schedule the following:

SECTION 1. At the time when the vote of the electors shall be taken for the adoption or rejection of any revision, alterations, or amendments made to the constitution by this Convention, the following articles, independently of the submission of any revision, alterations or other amendment submitted to them, shall be separately submitted to the electors in the alternative in the words following, to wit:

FOR LICENSE.

"License to traffic in intoxicating liquors shall hereafter be granted in this state, and license laws shall be passed to regulate and restrict the said traffic, and shall be operative throughout the state, provided that where the traffic is or may be prohibited under laws applying to counties, municipalities, township or residence districts, the traffic shall not be licensed in any such local subdivisions while the prohibition of the said traffic shall by law be operative therein. Nothing herein contained shall be so construed as to repeal, modify or suspend such prohibitory laws or to prevent their future enactment, modification or repeal, or to repeal or to prevent the repeal, amendment or re-enactment of any laws whatever now or hereafter existing to regulate the traffic in intoxicating liquors, and the general assembly may provide against the evils resulting from said traffic wherever licensed."

AGAINST LICENSE.

"No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may by law provide against the evils resulting therefrom."

SECTION 2. At said election, a separate ballot shall be in the following form:

INTOXICATING LIQUORS.

	For License.
	Against License.

SECTION 3. Separate ballot boxes shall be provided for the reception of said ballots.

SECTION 4. The voter shall indicate his choice by placing a cross-mark within the blank space opposite the words "For License" if he desires to vote in favor of the article first above mentioned, and opposite the words "Against License" within the blank space if he desires to vote in favor of the article second above mentioned. If a cross-mark is placed opposite both phrases or neither phrase, then the vote upon that subject shall not be counted.

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SECTION 5. If the votes for license shall exceed the votes against license, then the article first above mentioned shall become section 9 of article XV of the constitution, regardless of whether any revision, alterations, or other amendments submitted to the people shall be adopted or rejected. And if the votes against license shall exceed those for license, then the second article above mentioned shall be section 9 of article XV of the constitution.

The PRESIDENT: The question is on the adoption of the substitute.

Mr. KING: I offer this substitute amendment partly to make good the promise I made the other day that whenever the opportunity was offered I should present an amendment along these lines. There has been printed a copy of the proposition which I submitted as an amendment the other day. This one changes that in two respects, and it adds two words to the last sentence of that proposition, reading as printed in this paper which I hold in my hand, and which has been generally circulated, beginning at line sixteen: "Nothing herein contained shall be so construed as to repeal, modify or suspend such prohibitory laws or to prevent their future enactment, modification or repeal, or to repeal or to prevent the repeal, amendment or re-enactment of any laws whatever now or hereafter existing to regulate the traffic in intoxicating liquors." You will notice that the words "amendment or re-enactment" have been inserted in line nineteen after the word "repeal." Then this is added: "And the general assembly may by law provide against the evils resulting from said traffic where licensed."

That is the proposition in place of Proposal No. 4, which was submitted the other day. It undertakes to make definite, I think, beyond any criticism, this proposition: That its adoption here and at the polls would not affect the operation and continuation or the execution, of any of the laws upon the liquor traffic now upon the statute books, of whatever kind of nature, and makes it definite and certain that the legislature may amend or repeal or re-enact both the prohibitory laws and regulatory laws now upon the statute books, and finally winds up with the grand finale that the general assembly may provide against all the evils resulting from the traffic where licensed. Of course, there could not be any anywhere else, because it is prohibited there.

Mr. ANDERSON: You claim, therefore, that the amendment to the amendment would permit all of the regulatory temperance laws as to local option to remain on the statute books without any impairment?

Mr. KING: I do.

Mr. ANDERSON: You do not mean that it shall be a restricted license, constitutionally speaking?

Mr. KING: No; I intend to put a proposal before the delegates without any legislative proposals in it. All the other provisions are simply explanatory of the grand power.

Mr. ANDERSON: Is it not all legislative, Judge King?

Mr. KING: No, sir.

Mr. ANDERSON: Is it organic law at all?

Mr. KING: Yes; it has become organic law in Ohio

by practice and custom. We have made it so by putting in a provision in our constitution where it has been since 1851. But these are not legislative provisions — I mean they are not distinct provisions regulating the license itself in any form or shape. All there is in this provision about license is that the legislature shall provide a license system and the rest of it is to show when and where and how it may be operative — to-wit, that it shall not affect any of the other laws or powers which the legislature has for all these sixty years been in the habit of exercising.

Mr. WINN: I want to understand what you mean by the last provision: "The general assembly may provide against the evils resulting from said traffic wherever licensed?"

Mr. KING: That is the only place it can exist under this provision.

Mr. WINN: Do you undertake to say there would be no evils from the traffic excepting where it was licensed?

Mr. KING: Where it is prohibited I expect the prohibitory laws to be carried out and that, of course, will do away with all the evils. I think that is a complete remedy.

Mr. WINN: What objection would you have to striking out those words, "wherever licensed" and leave it read "the general assembly shall have power to provide by general laws against the evils, etc.?"

Mr. KING: At present I would object to striking that out.

Mr. WINN: Well, I will ask you to explain your objections.

Mr. KING: The idea I had in drafting that was just simply this, that the clause should have the effect the supreme court has given it, if they have given it any effect — which I don't concede — during the sixty years they have been construing it. I want to give it the full effect and leave to the legislature power to pass all regulatory laws that may be necessary of the sort and kind that they have been heretofore passing, such as to prevent the sale to certain individuals, or to individuals in a certain condition, or within certain prescribed territory on account of institutions or things that are located in that territory. Those are all details that the legislature will take care of. Now they still have that power by the first clause, and if they have not they have it by the second clause — that is, they have it by the clause which allows them to give license and then they have it by this last clause; I think they have it by both. It seems to me possibly a repetition, but it seems to me very full and very complete.

Now this proposition is put up to you again without any regulation in the license grant itself, and it is up to you to determine once and for all, as far as I am concerned, and I think so far as this side is concerned, whether you will abide by a straight license proposition that will preserve every alleged objection now made to it, and preserve them as fully as I could make the English language do it without defining particularly with reference to license — leaving that to the legislature to determine — and I warn you that the moment you attempt to write into the constitution the regulations of a license law you have made a difficulty for future generations, or for the people, to wrestle with in some other way in at-

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tempting to get that constitution amended when they want to get it amended. You have trespassed upon the power of the legislature to meet readily the public opinion.

Mr. ANDERSON: Do you think the time will ever come when the public opinion will demand of the legislature that they will allow any other than citizens of the United States to engage in this business?

Mr. KING: No, sir; I do not, and personally I am not in favor of that either.

Mr. ANDERSON: Do you think there will ever come a time when public opinion will demand that the legislature make it so that a man who has been arrested and convicted more than twice shall be allowed to engage in the business?

Mr. KING: Probably not.

Mr. ANDERSON: Do you think the time will ever come when public opinion will demand that the legislature pass laws permitting brewers to run saloons?

Mr. KING: I don't know. That is a subject for discussion. I am not a brewer and I do not own any interest in a saloon or brewery. I think that is a matter for discussion, but I do say this: Why draw the line, why should we not present a full license code with everything in it? Why should we get down and become legislators and usurp wholly the province of the general assembly? If you say there will never come a time when public opinion will grant license to the people you have mentioned, I say that the next general assembly and all subsequent ones will write that into the license law with the utmost readiness, and they will probably write everything else contained in your proposal or the proposal of the gentleman from Huron, because, as I have said, those ought to be there and a great many more than those. If I were drafting the law as a legislator there would be many things in it that are not in either substitute or amendment, but I don't believe it is a part of wisdom to write all of them into the constitution.

Mr. ANDERSON: Do you believe that more people will vote for a license clause when submitted to them if they are in doubt as to whether a license board will be created at Columbus, appointed by the governor, which shall say where and to whom license can be granted, or where the restrictions are in the constitution prohibiting any license board at Columbus and making the grant of power in the county where the saloon exists or in the adjoining county?

Mr. KING: You have me there. I never heard of that before.

Mr. ANDERSON: I can refer you to where Mr. Dean speaks of that.

Mr. KING: I was not familiar with it. That never occurred to my mind. The proposition is entirely new and I would not be able to say. I had supposed, in my ignorance, perhaps, that any law adopted would provide some local authority or body in the county to pass upon the question of those licenses. It would be a quite busy task for a state official to undertake to do it for the whole state. He would not be familiar with the conditions and I am opposed to any such authority being granted—the power to license the traffic all over the state—to one person here in Columbus or to one board. I thought it would be a local authority, where the people can watch it and see that it operated according to

law and to the best interest of the community in which located. I am perfectly frank to say I am in favor of the local authority handling it.

Mr. DWYER: I would like to ask Judge King whether his proposition covers this: Supposing a mile and a half from the Soldier's Home the territory should be made prohibitory by legislation. Can they under your proposal do that?

Mr. KING: Can they have such a limit?

Mr. DWYER: There is a law prohibiting the sale of liquor within a mile and a half of the Soldiers' Home. Under your proposition can the legislature do that? You designate townships, municipalities, county districts and residence districts. Ought not you go further and designate the entire territory as Mr. Anderson has done?

Mr. KING: It occurred to me a great many times, but I believe that the authority for the passage of those laws has been all the time by the supreme court referred to the police power of the state—that it is a police regulation. It was not intended to prohibit the liquor traffic. It was not passed with that idea. It was intended as a preservation of the Soldier's Home property and of the educational institutions and state institutions mentioned in the laws. There are several of those laws; I don't know how many. They can be passed now or hereafter as well as they have been in the past. Not one of them is affected by the amendment I have submitted.

Mr. DWYER: But when you go into details and enumerate the territory in which it may be prohibited, is not the prohibition confined to the territory enumerated?

Mr. KING: I go into details because there are four special prohibitory laws passed to take effect or go into operation by a vote of the people in that territory. Those are the four kinds enumerated. There are other provisions about selling within one hundred feet or a mile or such and such a distance of such and such a place which have not anything to do with that sort of prohibitory laws. The constitution fully and amply confers authority to pass those laws, and they always will be passed, no matter what kind of a license proposition is adopted.

The president announced the following committees:

The president appointed as the committee to welcome ex-Senator Joseph B. Foraker, who had been invited to address the Convention, Messrs Brown, of Highland, King, Cunningham, Halfhill and Norris.

The president appointed as the committee to welcome the Hon. William Jennings Bryan, who had been invited to address the Convention, Messrs, Harris, of Hamilton, Partington, Brattain, Fox, Earnhart, Tannehill and Fluke.

The president appointed as the committee to welcome Senator Theodore E. Burton, who had been invited to address the Convention, Messrs Crites, Taggart, Solether, Rorick and Longstreth.

The president appointed as the committee to welcome Senator Atlee Pomerene, who had been invited to address the Convention, Messrs. Harter, of Stark, Wagner, Fluke, Beatty, of Morrow, and Miller, of Fairfield.

Indefinite leave of absence was granted Mr. Rorick on account of illness.

Mr. DOTY: I move that we recess until tomorrow at ten o'clock.

The motion was carried.