To: Illinois State Board of Elections Chair Ian K. Linnabary, Vice Chair Casandra B. Watson, Member William J. Cadigan, Member Laura K. Donahue, Member Catherine S. McCrory, Member William M. McGuffage, Member Rick S. Terven, Sr., General Counsel Marni Malowitz, Acting Executive Director Bernadette Mathews, and Legislative Director Angela Ryan

From: Chicago Lawyers' Committee for Civil Rights

Subject: SB 828

Date: 10/21/2021

Thank you for the opportunity to provide comment at the Illinois State Board of Elections ("SBE") meeting on October 19, where Chicago Lawyers' Committee for Civil Rights along with Dechert LLP discussed SB 828. The bill would change the current law so that voting rights would be restored to incarcerated individuals serving a sentence. The current statutory law bars voter registration until a person is released from confinement.

During our organizations' comments at the Board meeting, Vice Chair Watson identified a judicial opinion from the Supreme Court of Illinois (*Evans v. Cook County State's Attorney*, 2021 IL 125513) and asked if that opinion changes our understanding of the constitutionality of SB 828. After reviewing *Evans*, we remain of the position that plain language and legislative intent of the Article III, Section 2 fully support the constitutionality of SB 828. Attached to this letter is a further analysis of the *Evans* opinion.

Evans addresses an instance where a literal reading of a law creates an absurd "statutory loop" that resulted from a too-literal reliance on the plain meaning of the statutes at issue. The Court identified that where a "plain or literal reading" leads to "absurd results that the legislature could not have intended, courts are not bound to that construction." *Evans*, ¶ 35.

Interpreting the Constitution to allow the General Assembly to re-enfranchise individuals prior to their release from confinement does not create any legal absurdities. The Constitution is clear: "A person convicted of a felony, or otherwise under sentence in a correctional institution or jail, shall lose the right to vote, which right shall be restored not later than upon completion of his sentence." It is entirely within the plain language of this section to suggest that the Constitution requires a person to lose their right to vote upon entering confinement but that the General Assembly can restore that right to vote at a time that it deems appropriate so long as it is not later than completion of the sentence.

Opponents of SB 828 might argue that a plain reading of the language "*not later than*" in Article III, § 2 should be ignored because it produces "absurd" results and renders meaningless the disenfranchisement called for by the Illinois Constitution. In particular, the argument that SB 828

disregards that the Illinois constitution mandates a period of disenfranchisement is a red herring, as explained more fully in Section 4 of the attached memo dated October 12, 2021. Rather, SB 828 recognizes the power that Article III, § 2 affords the legislature to determine when incarcerated persons regain the right to vote.

Further, the actual intent of the legislative drafters supports the plain reading of the language. The delegates of the 1970 Illinois Constitutional Convention explicitly rejected a proposal that would have substituted "upon completion of his sentence" for "not later than completion of his sentence."

Our understanding is that the SBE has had opposed the proposed law based on their interpretation of the Illinois Constitution that this change would be unconstitutional. As Representative Ford outlined in his letter to SBE on October 18, it is more appropriate for SBE to limit its opposition to proposed bills based on implementation concerns and practicability. This is particularly true where there is a reasonable disagreement regarding SBE's conclusions. We ask the State Board of Elections to remain neutral on this bill – particularly as that position relates to constitutionality.

Sincerely,

Ami Gandhi
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Clifford Helm
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CHICAGO LAWYERS' COMMITTEE for Civil Rights

ATTACHMENT #1

DATE October 19, 2021

TO Chicago Votes

FROM Chicago Lawyers' Committee for Civil Rights and Dechert LLP

SUBJ *Evans v. Cook County State's Attorney*

This memo analyzes the Illinois Supreme Court case raised by Illinois State Board of Elections at its public meeting on October 19, 2021. In general, Illinois courts apply the same principles to analyzing provisions of the Illinois Constitution as they do to statutes. *Kanerva v. Weems*, 2014 IL 115811, ¶ 36. The primary objective in analyzing a statute or constitutional provision is "to ascertain and give effect to the legislature's intent." *Evans v. Cook County State's Attorney*, 2021 IL 125513, ¶ 27. The most reliable way to achieve this objective is by looking at the language of the provision, "given its plain and ordinary meaning." *Id.* (citing *People v. Casler*, 2020 IL 125117, ¶ 24). It must be viewed as a whole, with words and phrases considered in light of other relevant statutory provisions. *Id.* In addition, constitutional or statutory analysis may also consider "the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another." *Id.*

In *Evans*, the statutes in need of interpretation were § 10(c) of the Illinois Firearm Owners Identification Card Act (FOID Card Act) and § 921(a)(20) of the Federal Gun Control Act of 1968. *Id.* at ¶¶ 7-8. Under Illinois law, persons with felony convictions are ineligible to own firearms. *Id.* ¶ 5, 720 ILCS 5/24-1.1(a). However, § 10(c) allows persons otherwise ineligible to own firearms to petition to have their firearm rights restored; such a petition would require showing that, *inter alia*, granting the petition would not be "contrary to federal law." *Id.* ¶ 7, 430 ILCS 65/10(c). Meanwhile, the Federal Gun Control Act prohibits any person convicted of a felony from possessing a firearm unless the conviction has been "expunged, or set aside" or "for which a person has been pardoned or has had civil rights restored." *Id.* ¶ 16, 18 U.S.C. § 921(a)(20). This created a catch-22 in which under state law, firearm rights could only be restored if it would not be contrary to federal law, while under federal law, firearm rights were limited unless restored under state law.

The appellant in *Evans*, who had been previously convicted of two felonies, unsuccessfully petitioned a trial court to have his firearm rights restored under § 10(c) of the FOID Card Act. *Id.* ¶¶ 6, 12. On appeal, the First District Appellate Court affirmed the trial court's decision. *Id.* ¶ 13. The court reasoned that, while the Illinois legislature passed § 10(c) with the intention of providing persons with felony convictions a legitimate opportunity to seek restoration of their firearm rights, the plain meaning of the phrase "contrary to federal law" required them to hold that the appellant

could "never be entitled" to having his firearm rights restored. *Evans v. Cook County State's Attorney*, 2019 IL App (1st) 182488, ¶¶ 4-7. The court recognized the absurdity of this "unending statutory loop" but felt "obligated to affirm." *Id.* ¶ 7.

The Illinois Supreme Court reversed. Instead, the Court held that if the appellant mounted a successful petition to have his firearm rights restored under Illinois law, federal law would recognize that these rights had been restored and therefore would no longer act as a bar. 2021 IL 125513, ¶ 33. This interpretation accorded with the clear meaning of the statutes at issue and avoided an absurd result. *Id.* ¶ 35. While the lower court felt itself bound by the plain meaning of the statutory language, the Supreme Court reasoned that "when a plain or literal reading of the statute leads to absurd results or results that the legislature could not have intended, courts are not bound to that construction." *Id.* In ending, the Court reiterated that "The legislature clearly intended for felons to be able to obtain relief under § 10 of the FOID Card Act. . . . We do not believe that the legislature's intent was to create such a right and then make it impossible for anyone to obtain relief." *Id.* ¶ 35.

The Illinois Supreme Court's decision in *Evans* affirms that SB 828 comports with Article III, § 2 of the Illinois Constitution. First, the intent of the legislature in passing Article III, § 2 was clearly to restore voting rights to those under sentence in a correctional institution or jail. The language is clear: "A person convicted of a felony, or otherwise under sentence in a correctional institution or jail, shall lose the right to vote, ***which right shall be restored*** not later than upon completion of his sentence." (emphasis added). The time in which the right to vote shall be restored is also clear: it shall be "not later than" completion of sentence. According to Merriam-Webster Dictionary, "no/not later than" means "by (a specified time): at, in, on, or before (a specified time)." Applying this definition to the plain language of Article III, § 2, an incarcerated person's right to vote shall be restored *by* completion of his or her sentence or *at, in, on or before* completion of his or her sentence. The plain language of Article III, § 2, therefore, permits the legislature to restore voting rights *before* a convicted individual completes his or her sentence.

In addition, the transcripts of the 1970 Illinois Constitutional Convention debates clearly show that the drafters of Article III, § 2 intended for the legislature to have flexibility in determining when voting rights may be restored. The delegates in fact voted on a proposed amendment to replace "not later than" with "upon" in the language of Article III, § 2. Sixth Illinois Constitutional Convention Debates, p. 1087. Immediately before voting on this proposed amendment, one of its sponsors—Delegate David Davis from Bloomington—explained to the delegates that removing the words "not later than" would "preclude the legislature from granting an earlier restoration of rights than prior to completion of sentence." *Id.* at 1086. The delegates rejected this proposed amendment by a vote of 46 to 31. *Id.* at 1087. In doing so, the Constitutional Convention delegates specifically considered whether the Constitution should empower the legislature to restore voting rights prior to completion of a sentence, and their answer was a resounding "yes."

Finally, unlike in *Evans*, in which the Illinois Supreme Court rejected the absurd "statutory loop" that resulted from a too-literal reliance on the plain meaning of the statutes at issue, SB 828 does not create any legal absurdities. Rather, SB 828 recognizes the power that Article III, § 2 affords the legislature to determine when incarcerated persons regain the right to vote. As already discussed, the delegates debating Article III, § 2 at the Constitutional Convention understood that deleting the words "not later than" would effectively preclude the legislature from restoring the rights of incarcerated persons earlier than the completion of sentence—and they rejected this idea wholeheartedly. The argument that SB 828 disregards that the Illinois Constitution mandates a period of disenfranchisement is a red herring. In fact, those who proffer this argument disregard the plain meaning of Article III, § 2, basic theories of constitutional interpretation, and the clear fact that the delegates who approved this language meant that this decision be left to the legislature.

ATTACHMENT #2

MEMORANDUM

DATE October 12, 2021

TO Chicago Votes

FROM Chicago Lawyers' Committee for Civil Rights and Dechert LLP

SUBJ Constitutionality of SB 828

This memorandum assesses the constitutionality of Senate Bill 828 (SB 828), which seeks to restore voting rights to incarcerated convicted persons. In particular, this memorandum discusses why SB 828 (1) is constitutional under the plain meaning of Article III, Section 2 of the Illinois Constitution, (2) comports with the common understanding of Art. III, § 2 at the time it was adopted, as demonstrated by the record of the Sixth Illinois Constitutional Convention in 1970, and (3) comports with the longstanding and fundamental rule against presuming "surplusage" in constitutional construction.

1. SB 828 is constitutional under the plain meaning of Article III, § 2 of the Illinois Constitution.

The plain language of Article III, § 2 permits the legislature to reinstate voting rights before a convicted incarcerated person completes his or her sentence. When construing a constitutional provision, Illinois courts first look to the "natural and popular meaning of the language" as it was understood when it was adopted. *Kanerva v. Weems*, 2014 IL 115811, ¶ 36 (2014). When the language of a constitutional provision is unambiguous, it is given effect without resort to other aids for construction. *Id.*

Article III, § 2 of the Illinois Constitution provides:

> "A person convicted of a felony, or otherwise under sentence in a correctional institution or jail, shall lose the right to vote, which right shall be restored not later than upon completion of his sentence."

Ill. Const. art. III, § 2. The plain language of Article III, § 2 allows for flexibility regarding whether a convicted incarcerated person's right to vote may be restored while the person is incarcerated, so long as it is restored "*not later than*" completion of his or her sentence.

Common usage of the term "not later than" further supports this reading. According to Merriam-Webster Dictionary, "no/not later than" means "by (a specified time): at, in, on, or before (a specified time)." Applying this definition to the plain language of Article III, § 2, an incarcerated person's right to vote shall be restored *by* completion of his or her sentence or *at, in,*

on or before completion of his or her sentence. The plain language of Article III, § 2, therefore, permits the legislature to restore voting rights *before* a convicted individual completes his or her sentence.

SB 828 is entirely consistent with the plain meaning of Article III, § 2. Under SB 828, "[a] person convicted of a felony, or otherwise under sentence in a correctional institution or jail, shall have his or her right to vote restored and shall be eligible to vote not later than 14 days following his or her conviction or not later than 5 days before the first primary, general, consolidated, or special election immediately following his or her conviction, whichever is earlier." SB 828 House Amendment 1, 5/1-18(b). A person convicted of a felony, or otherwise under sentence in a correctional institution or jail, loses the right to vote following conviction, as required by Article III, § 2. SB 828 restores that right while he or she is incarcerated, which is indisputably "not later than upon completion" of his or her sentence. As such, SB 828 precisely tracks the plain language and requirements of the Illinois Constitution.

2. <u>The drafting history of Article III, § 2 demonstrates the constitutionality of SB 828</u>.

Even if one were to conclude that the use of "not later than" in Article III, § 2 was ambiguous, the drafting history of that provision demonstrates that the legislature can restore voting rights earlier than a convicted incarcerated person's completion of his or her sentence. When a constitutional provision is ambiguous, Illinois courts will "consult the drafting history of the provision, including the debates of the delegates to the constitutional convention." *Walker v. McGuire*, 2015 IL 117138, ¶ 16 (2015) (*citing Glisson v. City of Marion*, 188 Ill.2d 211, 225 (1999), *and Committee for Educational Rights v. Edgar*, 174 Ill.2d 1, 13 (1996)). As discussed above, the plain language of Article III, § 2 is not ambiguous. But even if it were, the delegates' discussions surrounding the adoption of Article III, § 2 during the Sixth Illinois Constitutional Convention in 1970 show that the constitutional delegates intended to enable the legislature to restore voting rights to incarcerated persons earlier than the end of their sentence.

The 1970 Illinois Constitutional Convention was convened to address failures in the 1870 Illinois Constitution, which had become increasingly obsolete as Illinois' population and economy expanded. In 1968, increased demands on the state government and a series of financial crises led to a call for a constitutional convention. The resulting 1970 Illinois Constitution enumerated significant civil rights, created new state administrative bodies, including the Board of Elections, and clearly defined home rule for counties and municipalities. Delegates debated issues of taxes and revenue, the relationship between state and municipal governments, and the rights and liberties of Illinois citizens.

These considerations are on display in the delegates' debates over Article III, § 2. Delegate Peter Tomei introduced Article III, § 2 to address the fact that many formerly incarcerated persons, who had to affirmatively apply to have their voting rights restored upon release from incarceration or parole, did not do so and thus remained disenfranchised. *See* Sixth Illinois Constitutional Convention Debates, pp. 1079-80, attached hereto as Exhibit A. The Department of Corrections provided testimony to the delegates and "felt strongly" that the right to vote should be restored

automatically. *Id.* at 1079. But the question of *when* that right should be restored was a topic of debate. The delegates in fact voted on a proposed amendment to replace "not later than" with "upon" in the language of Article III, § 2. *Id.* at 1087. Immediately before voting on this proposed amendment, one of its sponsors—Delegate David Davis from Bloomington—explained to the delegates that removing the words "not later than" would "preclude the legislature from granting an earlier restoration of rights than prior to completion of sentence." *Id.* at 1086. The delegates rejected this proposed amendment by a vote of 46 to 31. *Id.* at 1087. In doing so, the Constitutional Convention delegates specifically considered whether the Constitution should empower the legislature to restore voting rights prior to completion of a sentence, and their answer was a resounding "yes." Illinois voters agreed by ratifying the 1970 Constitution with the "not later than" language intact.

3. Interpreting Article III, § 2 to allow voting rights to be restored to incarcerated persons before their sentence is completed or they are released from confinement comports with the fundamental principle that there is no "surplusage" in constitutional construction.

Although the plain language and the Constitutional Convention history are clear, a fundamental rule of constitutional construction further supports the legislature's power to reinstate voting rights prior to completion of a sentence. A constitution must be interpreted in a manner that gives weight to each word, clause, or sentence, so that no element is rendered superfluous. As the Illinois Supreme Court has explained, "The presence of surplusage . . . is not to be presumed in statutory or constitutional construction, and the fundamental rule that each word, clause or sentence must, if possible, be given some reasonable meaning is especially apropos to constitutional interpretation." *Hirschfield v. Barrett*, 40 Ill. 2d 224, 230 (1968). It is a cornerstone of constitutional interpretation that every element of a given provision is important. Under the same token, courts should not, "under the guise of interpretation, add requirements or impose limitations that are inconsistent with the provision's plain meaning." *Nottage v. Jeka*, 172 Ill.2d 386, 392 (1996).

Opponents of SB 828 argue that Article III, § 2 denies the right to vote to all convicted persons confined in an Illinois state correctional institution or jail throughout their period of confinement. Those who argue for disenfranchisement throughout the period of confinement effectively delete from the Constitution the words "not later than." In so doing, they read out of the Constitution the very language approved by the Constitutional Convention delegates and ratified by Illinois voters. As discussed above, this phrase was the subject of debate at the Constitutional Convention, and the delegates voted affirmatively to keep it. Case law and basic principles of constitutional construction do not allow the words "not later than" to be treated as mere surplusage. Treating them as such ignores the simple truth at the heart of constitutional interpretation: each word in the Constitution is an essential part of the entire document, which has been carefully considered and approved by the citizens of the state to serve as the foundation behind their government.

4. Interpreting Article III, § 2 to allow voting rights to be restored to incarcerated persons before their sentence is completed or they are released from confinement does not lead to consequences which are "absurd, inconvenient, or unjust."

Another fundamental rule of constitutional construction is that "no statute should be construed in a manner which will lead to consequences which are absurd, inconvenient, or unjust." *People v. Partee*, 125 Ill. 2d 24, 30-21 (1988). This principle, if applicable, provides an exception to the rule that a statute should be interpreted according to its plain meaning. *People v. Hanna*, 207 Ill. 2d 486, 498 (2003).

Opponents of SB 828 argue that a plain reading of the language "*not later than*" in Article III, § 2 should be ignored because it produces "absurd" results and renders meaningless the disenfranchisement called for by the Illinois Constitution. It does no such thing. Rather, SB 828 recognizes the power that Article III, § 2 affords the legislature to determine when incarcerated persons regain the right to vote. As already discussed, the delegates debating Article III, § 2 at the Constitutional Convention understood that deleting the words "not later than" would effectively preclude the legislature from restoring the rights of incarcerated persons earlier than the completion of sentence—and they rejected this idea wholeheartedly. The argument that SB 828 disregards that the Illinois constitution mandates a period of disenfranchisement is a red herring. In fact, those who proffer this argument disregard the plain meaning of Article III, § 2, basic theories of constitutional interpretation, and the clear fact that the delegates who approved this language meant that this decision be left to the legislature.

ATTACHMENT 3:
LETTER FROM REPRESENTATIVE FORD TO SBE

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La Shawn K. Ford
State Representative
8th District

October 15, 2021

Illinois State Board of Elections
69 West Washington Street, Suite LL08
Chicago, Illinois 60602

Dear Members of the Illinois State Board of Elections,

Senate Bill 828, for which I am the lead legislative sponsor, amends the Illinois Election and Corrections Code to end the practice of permanently disenfranchising people while they are incarcerated in prison. It will instead ensure that a person's right to vote shall be restored after they have been detained in prison and before they have been released. This legislation comports with the Illinois Constitution and does not require a constitutional amendment to take effect. Senate Bill 828 is also in line with the constitutional delegates' intent to grant the legislature the power to decide when a person who has been incarcerated shall have their voting rights restored.

It has become clear that the State Board of Elections (SBE) interprets the plain language in the Illinois Constitution as intending to strip voting rights of those who are incarcerated until they have completed their sentence. Based on this interpretation, the Board has gone on record to oppose SB828 on the basis that they find the bill unconstitutional.

It is outside of the duties and scope of SBE outlined in the Illinois Election Code and the Illinois Constitution to interpret the law and to oppose legislation based on constitutionality rather than on implementation concerns. The SBE position that SB828 is unconstitutional is improper and unwarranted, as the opposition does not pertain to implementation or procedures SBE must perform to fulfill its statutory duties and responsibilities.

SBE's opposition, as the state's central election authority, confuses lawmakers and perpetuates the misconception that the onus is on the citizens to amend the constitution rather than on the legislature to determine voter eligibility and ensure all who are eligible are able to cast their ballot.

The Illinois Department of Corrections, the Illinois Association of County Clerks and Recorders, and the Governor's office are standing by and are ready to work with SBE in implementation when SB828 is passed.

We ask the State Board of Elections to move to a neutral position on Senate Bill 828 and commit to their role in implementation if it is passed. This will empower the state legislature to do its job and determine when a person in prison shall have their right to vote restored.

Sincerely,

La Shawn K. Ford
State Representative – Eighth District

EXHIBIT A to the 10/12 Memo:
Sixth Illinois Constitutional Convention Debates, pp. 1079-89

luxury of calling off scheduled items of business. I think we are going to find ourselves requiring much more time rather than less, and I think there ought to be a general understanding that we are going to stick to the order of business and proceeed as expeditiously as possible.

VICE-PRESIDENT ALEXANDER: Thank you, Mr. Gertz. The parliamentarian reminds the Chair that debate at this point is not in order. Questions regarding the Davis motion are germane, but debate on the same is not. Now does that influence further questioning? Mr. McCracken?

MR. McCRACKEN: Well, this isn't a question. I would just like to comment that as far as I am concerned there is no element of surprise here. First of all, it's the president's prerogative to establish the calendar. Secondly, for what it's worth he asked me as chairman of the General Government Committee last week if I had any objection to setting it on for Wednesday and I told him there was none from our committee. I frankly think that there should not be an element of surprise. If there is, it's under the mistaken impression that the minimum seven-day period is the only period allowable between submission and hearing.

VICE-PRESIDENT ALEXANDER: Thank you, Mr. McCracken. Now Delegate Shuman?

MR. SHUMAN: Mr. President, I move the previous question—

VICE-PRESIDENT ALEXANDER: It isn't debatable. Therefore, the motion is unnecessary, the parliamentarian advises.

MR. SHUMAN: Well, then, may we vote, sir?

VICE-PRESIDENT ALEXANDER: I think we have exhausted the questions. Now you have heard the Davis motion to suspend rule 36 to permit limited consideration of Judiciary Proposals No. 2 and No. 2A. Those in favor of that motion will now indicate by saying aye. Opposed, nay.

Well, I think a hand vote would be in order. That requires a two-thirds vote, and we will take a show of hands. Those in favor of the Davis motion to permit limited consideration of Judiciary Proposals No. 2 and No. 2A will signify by raising their right hands. Now those opposed, indicate by the same sign. The motion has prevailed on a vote of 74, yea, and 16, nay. Is there objection to the Chair's postponing consideration now of Proposal No. 8 until tomorrow? Hearing none, it will be done—Mr. Foster's objected. Now, Delegate Davis, in your capacity as chairman of the Rules Committee, could you offer advice to the Chair on this matter?

MR. DAVIS: Mr. President, the banking matter is not on the calendar. It would normally be the next in order after the matter which is on the calendar, but we voted to consider this other matter. I think that that takes care of it.

VICE-PRESIDENT ALEXANDER: The parliamentarian agrees, Mr. Davis. We are now—we remain on the order of business, motions and resolutions. Are there further motions or resolutions? Delegate Macdonald.

MRS. MACDONALD: Mr. Vice-President and fellow delegates, I rise to offer a resolution to honor one of the most beloved citizens of the northwest surburban area, Mr. Albert Volz who was ninty-nine last week. If you remember, Al Volz was with us as we moved for our first day into this historic building, the old Capitol Building. I would like to read the resolution.

"WHEREAS, Albert F. Volz, was born in Arlington Heights on May 12, 1871; and

"WHEREAS, Albert F. Volz has devoted a liftetime of dedicated service to his community and his state, having served twice as mayor of Arlington Heights, three times in the Illinois General Assembly, on the Arlington Heights Park and School boards, as well as distinguishing himself in business and historical activities; now therefore

BE IT RESOLVED THAT THIS SIXTH ILLINOIS CONSTITUTIONAL CONVENTION in plenary session assembled does hereby extend special recognition to Albert F. Volz on the occasion of his ninety-ninth birthday along with warm best wishes for the future.

BE IT FURTHER RESOLVED that the clerk be instructed to transmit a suitable copy of this resolution to Albert F. Volz."

I move the adoption of this resolution.

VICE-PRESIDENT ALEXANDER: And, Mrs. Macdonald, I assume you would move suspension for immediate consideration. I am sure that would be granted. Is there objection to immediate consideration? Hearing none, those in favor of the Macdonald resolution will indicate—

MRS. MACDONALD: Mr. Woods and I—it's jointly presented by John Woods from the 3rd District and myself.

VICE-PRESIDENT ALEXANDER: Thank you for the correction. Those in favor will indicate by saying aye. Opposed, nay. It passes unanimously, Mrs. Macdonald and Mr. Woods. Thank you for your kind gesture to a gentleman I am sure we all recall so well from our opening day in this historic chamber.

Are there additional motions or resolutions at this time? Hearing none, is there unfinished business before the body? Apparently not. A motion would now be in order to move to a Committee of the Whole. Delegate Davis?

MR. DAVIS: Mr. President, I move that we resolve ourselves into a Committee of the Whole.

VICE-PRESIDENT ALEXANDER: You have heard the motion. Seconded by Delegate Orlando. Those in favor will indicate by saying aye. Opposed, nay. And the ayes have it and we have resolved ourselves into a Committee of the Whole.

Now the Chair would advise the body that sections 2 and 3 from Suffrage and Committee proposal No. 2 remain on General Orders of the Day. The Chair is aware of one pending—one additional and now pending amendment for section 2. It will entertain other amendments before we move on to limited consideration of the judiciary report following our disposal of this matter. Now Mr. Tomei?

MR. TOMEI: Yes. Mr. Vice-President and fellow delegates, we have two remaining sections, 2 and 3, and I understand from the Chair that Delegate Weisberg has agreed to pass, on first reading, his proposed amendments and save them for second reading. That means that aside from one amendment which you have on your desks prepared by myself and Delegate Jaskula, there is no further business on the suffrage article at first reading. I hesitate to offer this amendment to section 2, there are not too many people we are actually talking about—in fact, I am somewhat reminded of the story

about the visiting team—perhaps it was one of Mr. Friedrich's teams—to one of our prisons. They had been spending quite a bit of time going from one section of the prison to another and finally one man—gentleman—got separated from the team and he wandered through this corridor and that corridor looking through the various bars at the prisoners, but he couldn't find his way out. Finally, in desperation he turned to one of the inmates and he said, "Say, Mister, how do you get out of here?" After last week's debate, I sort of wonder how we get out of here. I spent the better part of yesterday on the telephone with various officials in the Department of Corrections—with the chief of professional services, Mr. Arthur Hoffman, and with the executive secretary of the Parole and Pardon Board, Mr. W. V. Kaufman, both of whom in turn were in touch with Director Bensinger, director of the Department of Corrections. This language that you have before you in two alternatives represents the thinking of the Department of Corrections and the thinking of your committee. You remember that on Thursday we passed one amendment—I believe the vote was fifty-one to thirty-one—in favor of adding the word "felonies" to what the committee had proposed," infamous crimes." Then we subsequently passed an amendment by a very close vote offered by Delegate Friedrich, forty-two to thirty-nine, which would have removed the automatic feature for restoration of voting rights but permitted earlier restoration prior to the time of completion of sentence. The voting there, I think, may have been perhaps confused, at least perhaps on my part; but I have done some checking and, as I say, these proposals—alternatives A and B that you have before you—represent, I believe, our best thinking. Let me say this, felony as defined in the Criminal Code means any offense punishable with death or by imprisonment in the penitentiary only.

VICE-PRESIDENT ALEXANDER: Excuse me, Delegate Tomei. There's a point of order raised by Delegate Friedrich.

MR. FRIEDRICH: My point of order is that what Mr. Tomei is proposing here is the same thing we made a decision on the other day exactly. I thought it had been the ruling of the Chair in the past that we didn't beat a dog but once around here. If we are, then I would say he is out of order.

MR. TOMEI: Mr. Chairman, I would like to speak to the point.

VICE-PRESIDENT ALEXANDER: Is that true, Delegate Tomei, that this is a restoration of the same point?

MR. TOMEI: I do not believe it is. The amendment offered by Delegate Friedrich permitted earlier restoration of voting rights than was permitted under the committee proposal. This proposal does partly what we did—but, rather, reverses what we did; but the proposals now before you are different in character. We are also still at first reading. We had language—and it's my understanding, Mr. Vice-President, at this stage we are trying to perfect the language—and I would suggest to the delegate that a forty-two to thirty-nine vote is not sufficient to pass this out of first reading.

VICE-PRESIDENT ALEXANDER: Now, Delegate Friedrich, furthermore on your point of order?

MR. FRIEDRICH: My point of order is that this does by another language exactly what we undid the other day, and I say all he's doing is rephrasing it and running it right back through. I thought the decision of the Chair in the past has been that we don't engage in that.

VICE-PRESIDENT ALEXANDER: The parliamentarian advises the Chair, who is no professional in this matter, that this is sufficiently different that it is in order and I will so rule. Continue, Delegate Tomei.

MR. TOMEI: Thank you, Mr. Vice-President. Just to explain the meaning of felony, it includes an offense which is punishable by imprisonment in a penitentiary only. That is if something else is tacked on—a fine or what have you—the courts construe the offense not to be a felony.

The—well, a point was raised in the discussion last week by Delegate Borek to the effect that papers for restoration were given to persons upon discharge from prison. That is true only in the event of a final discharge, I am advised by the Department of Corrections. Most prisoners are not given final discharge from the prison. They are put out, first of all, on parole; or lacking that, they are put on what is called "conditional release." So the point made in the committee report that may have been lost last week is, as we stated, that most prisoners do not have applications that are routinely or automatically filed.

On the other hand, once applications are filed they are almost routinely or automatically granted. And that was the testimony before the Department of Corrections. You received a communication—or some of you did—from one of the groups interested in this matter where they state that most prisoners are not restored. That is a gross misstatement in the fact that it's a gross inaccuracy. Most prisoners—in fact, virtually all prisoners—are restored *if* they make application. It was on that point that the Department of Corrections felt strongly that the restoration feature should be restored in our proposal. I would point out that the testimony before us indicated that while there were 3,300 discharges from parole last year, there were only 800 applications for restoration, all of which were granted. In addition, there were probations; and they have virtually a nil rate of applications made for restoration. So you are put in the position—as the committee report outlined—of the incongruity of people, in fact, having completed their sentence, being eligible to vote, but for one reason or other—perhaps from misinformation or lack of information or forgotten information—not making application, going on to vote, and sometimes even to be elected to office, which we mention in our report. So the Department of Corrections recommends either one of two alternatives. Alternative A was an attempt to get around this problem we had with the language, "felony" or "infamous crime," and the problem some of you raised with respect to incarceration in an institution. You might—it might read better—and I'll leave this to the Style Committee—if after the word "felony" in the first line you put a comma, and if after the word "jail" in the second line you put a comma, and if you did the same with the Alternative B. What it means is that under A any person sentenced for a felony shall not have the right to vote as long as he's under that sentence. It would include people—or felons, that is—who are on parole or suspended sentence or what have you—they cannot vote as long as they are under sentence of felony, but they would vote when that sentence is finally completed, if it ever is. The second

clause covers misdemeanors and would preclude from voting misdemeanants who are incarcerated in any type of correctional institution or jail in the state. In other words, it's an automatic feature for exclusion for both felons and misdemeanants in jail and an automatic termination of that exclusion upon the completion of one of those two events, completion of sentence in the case of felons, completion of—or rather discharge from incarceration in the case of misdemeanants.

Alternative B builds in a little bit more of the flexibility that Mr. Friedrich's proposal had last week. This would provide for the same exclusion but simply provide that restoration should not be later than completion of sentence. It would permit restoration of felons who are on parole or who were perhaps serving a suspended sentence. It would permit the General Assembly the latitude, as I understand it, that Mr. Friedrich's proposal would; but it would require again that at the end of the sentence or end of discharge of a misdemeanant from jail, the voting right would be restored. Now on the committee—the committee recommends both of these. We did not have a formal meeting, but I can advise the Convention that of the nine members of the committee, five preferred Alternative B and three, Alternative A. We would submit that either one of those is in accord with the thinking of the Department of Corrections—the gentlemen I mentioned—and we would recommend adoption of either one. I would move at this time, Mr. Vice-President, the adoption of Alternative B, just to get the show on the road.

VICE-PRESIDENT ALEXANDER: You have heard the Tomei motion. Is there a second? Delegate Sharpe seconds. Now discussion would be in order. Delegate Friedrich, I believe you were on your feet first and then Delegate Mathias.

MR. FRIEDRICH: Well, Mr. President and ladies and gentlemen of the Convention, Mr. Tomei talks about flexibility. Now how much more flexible can you get when you provide that the legislature may provide for the restoration of citizenship and the right to vote? Now regardless of what has been said here, we are actually deciding whether you get automatic restoration or not, as to whether we put this in the constitution. And that's all these amendments do, and that's all we argued about last week; and the vote was that we should leave it up to the legislature. That was the vote that was taken, and we're on the same issue, believe it or not.

Now I pointed out then that we are in certainly some changing times and in no area are we in a more changing position than we are in the business of penology and of rehabilitation. We have made a lot of progress in Illinois, and I doubt if many of you are really aware of all of the things that are being done in Illinois. We have one of the greatest programs, I think, anywhere in the United States. But because of this, we have a high percentage of our felons on parole in any given time. The tendency in the courts is to make more and more indeterminate sentences where actually it becomes up to the parole board when a person is released from custody, not to restore his rights certainly, but no longer incarcerated; because they have found that certain people rehabilitate well and actually are—it isn't necessary for them to spend their entire time in prison, that they can be useful citizens and productive people outside.

We also have this thing going on out at Stateville now where men go out and work during the day and go back at night. Now are you going to put the burden of all this on your county board of election commissioners or your county clerk as to is or who isn't? Are you going to require them to go through a certain procedure to restore their citizenship? Certainly all of you have to go register to vote—you have to do certain things, and you have never been in prison, but you have to meet certain requirements to vote. I don't think that's unreasonable. In the first place, these people, when they are released—permanently released—they are instructed—and believe me, they are instructed well—in what their rights are. They're given the forms to fill out, told how to fill them out, and where to file them. Now there will be very few cases where a person goes through this procedure where the governor does not restore their voting right. It's not automatic, but it does happen as a matter of course now.

So I say to you that I think in these changing times we did the right thing the other day, and if we have to run it through again we will. I think this is a good procedure that I'm going to adopt the next time I get beat. I'm going to rephrase the amendment and run it through again. I've learned one thing around here. So I just urge you to stick by your original decision. You were right in the first place. There has been a lot of talk about giving the legislature some flexibility to do things to meet the changing times. Now if there was ever an area when you ought to give it to the legislature, give it to them here. Thank you.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Friedrich. Now Delegate Mathias and then Delegate J. Parker.

MR. MATHIAS: Well, mine is an inquiry. Has this amendment been distributed? They talk about A and B. We do—I do not have a copy. I would like at least to have the clerk read the amendment if—

VICE-PRESIDENT ALEXANDER: The Chair has been advised by the clerk that insufficient numbers were prepared, and those are now being processed in the clerk's office. Perhaps the clerk could read for us Alternative B moved by Delegate Tomei. Mr. Clerk?

CLERK: Alternative B. "A person convicted of a felony or otherwise under sentence in a correctional institution or jail shall lose the right to vote, which right shall be restored not later than completion of his sentence." This is in substitution for section 2.

VICE-PRESIDENT ALEXANDER: Is that clear now, Delegate Mathias and others who do not yet have a copy of the Tomei amendment? Okay. Mr. J. Parker?

MR. J. PARKER: I rise primarily to oppose the proposed amendment but for—actually I have to raise a couple of questions of technicalities why I oppose. Alternate A says that a person under sentence of a felony or under sentence in a correctional institution shall not have the right to vote. Well, this raises a question that they must actually be in the institution or jail. What about a person who is convicted of a felony and is given probation? Under our present—as we adopted it, it says if they are convicted they lose the right to vote unless provided by law.

And this Alternative A, I believe, is too restrictive. In B they say that the right to vote not later than completion leaves—

raises a question as to when, who is going to decide "not later" or one of these questions, and there is no language in Alternate B that would decide who has the right to decide these little questions; whereas under the proposal as we adopted last week, we are leaving this up to the legislature as provided by law. This gives flexibility to decide when and when would be the best time. I believe that Delegate Friedrich's remarks as to how and how it actually works in practice is the best procedure. These men have the instruction; and if they want something that is a right and is a privilege, they ought to do something to get it and not have it automatically put the burden on every clerk to decide has this man been given it back or not. They should have to come in and do actually something, so I had these questions. Thank you.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Parker. The Chair would remind the floor that questions about and discussion of Alternative B only are now in order. Delegate Tomei?

MR. TOMEI: I would like to respond to that because unfortunately Delegate Parker may not have a copy of the Amendment, but it would not do what he said. A person convicted of a felony—whether he is in jail, out of jail, or anywhere else—once convicted, cannot vote until his sentence is completed. The—under a sentence in a correctional institution or jail refers to persons who are misdemeanants, persons convicted of something other than a felony; and he is right insofar as a misdemeanant is precluded from voting only during the period of incarceration. We suggest that language in view of the discussion we had last week about what do you do with people voting from prison and so forth and so on, but the person convicted of felonies shall be excluded from voting until restored at the end of his sentence, which is automatic at the end of his sentence.

Now as to who fulfills the details after that, it would be simply where it is now; it's by law—that's by the General Assembly. You notice that our present contitution says nothing about restoration. It allows the General Assembly to take action earlier, and indeed it does. That's what is contemplated by Alternative B. If you are looking for legislative freedom, as Delegate Friedrich says he is, then you adopt Alternative B. If you don't if you want to make it all automatic, you will adopt Alternative A.

VICE-PRESIDENT ALEXANDER: Now Delegate R. Smith, Delegate A. Lennon, and then Delegate Friedrich. Delegate Smith?

MR. R. SMITH: Yes. I would like to speak in behalf of Alternative B. First of all, it seems to me that the Department of Corrections, which some of the delegates might refer to as "the bread and butter boys," have approved of this alternative. They seem to feel that this is a good idea, and these are the very men that deal with this problem on a day-to-day basis.

Now I, for one, am getting tired of being bludgeoned with the argument that—of legislative flexibility. I believe in legislative and constitutional flexibility, but I would hope that the people who use these arguments themselves believe in it. Because if it's only going to be used against those of us who believe in it, we're starting off on unfair grounds. If you believe in legislative and constitutional flexibility all the way along the line, then it's—I suggest that you can go ahead and use this argument. But I don't want to be bludgeoned with it.

Now it seems to me that we are talking here about a right; in fact, I would hope that Style and Drafting would amend this to talk about exercising a right. I don't think anybody can take away a right. That's what a bill of rights is all about, that certain rights are inalienable. They can't be taken away from us; our Creator has endowed us with these rights. So all we are talking about here is the power of the police, the state power—the State police power—to limit the exercise of this fundamental, inherent, inalienable right. And it seems to me that once the guy has served his sentence, our state should join those states that say the punishment is over. We send people to jail; we sentence them for a number of reasons. One is to punish them. We hope that jail is enough. We do it to avenge the crime. I suppose this is somewhat primitive, but it is still a theory of why we punish people. We do it to express our disapproval of the conduct that the prisoners engaged in. And finally, we do this to rehabilitate the individual. And it seems to me that a very firm step in the rehabilitative process is to insure that this man, at the time his sentence is over, or earlier if the legislature decides, should be free to exercise that inalienable right. This is properly a matter for constitutional protection. It almost belongs in the bill of rights. So I speak on behalf of Alternative B, and I hope that you will support Mr. Tomei's proposal.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Smith. Delegate A. Lennon is now recognized.

MR. A. LENNON: Mr. President, I have a couple of questions here. As I understand the intention of Mr. Tomei, at least, and his committee, it is intended that anyone convicted of a felony in or out of jail until the completion of that sentence shall not have the right to vote. Am I correct so far?

VICE-PRESIDENT ALEXANDER: Mr. Tomei?

MR. TOMEI: Yes, that is correct.

MR. A. LENNON: Am I also correct that your intention is that a person convicted of a crime lesser than a felony would be denied the right to vote only while in jail?

MR. TOMEI: That is correct.

MR. A. LENNON: So that going back to our discussion of last week, the person convicted of an infamous misdemeanor on probation would never lose his right to vote in the first place. Is that correct?

MR. TOMEI: Yes, as I understand that. The question is, "What is an infamous misdemeanor?" I suppose it takes into account bigamy and some other crimes, but that is correct.

MR. A. LENNON: I am wondering, Mr. Tomei, then if at least to accomplish your objective, which I don't believe in reading this you accomplish really without a good deal of confusion, I wonder if after the word "felony" a comma might not accomplish more toward your purpose?

MR. TOMEI: It does, and I am sorry it's not in your text. I mentioned it once, but I think if you put a comma after "felony" on the first line and a comma after "jail" on the second line, it will make that meaning clear.

MR. A. LENNON: Okay. So then we've got everybody convicted of felonies not voting and the others only if they go to jail.

MR. TOMEI: That's right.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Lennon. Now Delegate Friedrich and then Delegate Parkhurst.

MR. FRIEDRICH: Well, now just to rebut what Delegate Ron Smith said. He says we ought to let the parole boys write the parole article and the voting right. I guess we could assume, then, we ought to let the legislature write the legislative article and the governor write the executive article. We could vote on it and all go home. Now I thought that we were sent here to write a constitution, and not the people over in the State House. I think that we should make our own decisions about these matters based on the facts.

Now with regard to Mr. Tomei's statement, the amendment adopted last week would not preclude automatic restoration if the legislature saw fit to provide for that; or if they provided for it and then later on found out it was a mistake, it would not preclude them from repealing it. It would not even preclude restoration before a completion of sentence, if the article adopted last week—it certainly is a lot more flexible and the thing it's doing here, we're tying down some things that cannot be changed. If they turn out to be wrong, we've done them and we're stuck with them. I just want to remind you of that.

VICE-PRESIDENT ALEXANDER: Thank you. Now on a point of personal privilege, Delegate R. Smith.

MR. R. SMITH: The last speaker mentioned my name, and I would like to point out something that again I'm not going to be bludgeoned with. If Mr. Friedrich believes that the State House shouldn't rewrite articles or the correction people shouldn't rewrite it, he should have said so in committee. His main argument for most of the things that he did in committee was that this officer liked it and that officer liked it. I am not going to be cut on both sides of your sword, Mr. Friedrich.

VICE-PRESIDENT ALEXANDER: Now Delegate Parkhurst?

MR. PARKHURST: I'm not cut on either side yet, but I'm trying to figure out the facts here. As I understand the thrust of Alternative B which is now before us, you are talking about a sort of mechanism for automatic restoration. Now last week we decided, I guess, that we would leave the matter up to the legislature, with the thought in mind that they would be fair and that they would not create a system which would keep anybody who is at liberty and not any longer under sentence or under supervision from voting.

Now I have got before me—if that's the issue, I have got before me this letter from the John Howard Association, which I guess we all got on our desks today; and in the second paragraph of that letter it says, "Under recognized standards existing in various states, voting rights are automatically restored to offenders upon discharge from supervision. Under the present system in Illinois very few offenders ever have their voting rights restored." Now Pete Tomei—excuse me, Delegate Tomei—a moment ago gave some figures which I didn't copy down, but I would like to hear them again because it seems to me if we are talking here about a statutory system or a parole board system which really does preclude the restoration of voting rights in any large numbers, that's one thing. Maybe we ought to go to a constitutional automatic restoration system, if that is the fact. If, on the other hand, the system isn't to blame but it is merely a lack of initiative on the part of the prisoner who no longer is a prisoner but who is now free and he doesn't choose of his own volition to go and take the forms to the county clerk's office or wherever he is supposed to take them and get himself back as a voter, that's another thing. I don't think we ought to constitutionally automatically restore voting rights for somebody that doesn't have the initiative to go and do it for himself. But if the system prevents it, that's something else. Now John Howard's letter says the system doesn't prevent it, but under the system very few offenders ever have their voting rights restored. Now what I want to know is why, because in my mind that's the issue upon which this question turns.

VICE-PRESIDENT ALEXANDER: Delegate Tomei, would you care to respond to that question?

MR. TOMEI: Yes, thank you. Delegate Parkhurst, I don't know if I can give you a satisfactory answer. I had trouble with that paragraph myself, because under the present laws a person can apply for restoration once he completes his sentence. But unfortunately we're probably dealing with a segment of the population that wasn't educated as you or I, and for some reason that information gets lost, forgotten, or some other reason, and so the applications are not made. The figures I gave you were for parole. Last year, as I understand it from the executive director of the Parole and Pardon Board, there were 3,300 discharges from parole. That meant completion of sentence. But these were people who were not incarcerated; they were not handed at the time of that discharge some paper. Only 800 of them made application for restoration. Maybe it was the year 1968 instead of '69, but it was the last available figures they had. Now the point is, I suppose, a bad matter of basic philosophy. If there is a right to vote, the only way you can take it away is by your constitution—or authorize it being taken away—and we have done that in Illinois. The question is whether once the penalty has been served for which you have taken away the right, it ought to be restored. As I read this, it would not mean that a person doesn't have to re-register or go through the technicalities that any other citizen does; but it would say that once he's paid his debt to society, he can go back and vote. And that's what the constitution does, and there are some of us who feel that voting is a constitutional matter and that ought to be spelled out.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Tomei. Now Delegate Hendren?

MR. HENDREN: We had testimony in our committee along the lines that Delegate Tomei has indicated. Approximately 3,300 of these people are discharged each year; 800 of them received their—have their voting rights restored. This means that 2,500 do not. What we are trying to do by automatically restoring these rights is to say to these people, "You don't have enough interest or you don't want to vote, but we are going to see that you are eligible." Now when one becomes twenty-one they must go down and register at the proper place before they vote. I am not in favor of telling these 2,500, "Whether you want the right to vote or not, we are going to force it upon you."

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Hendren. Now I have before me the names of Delegates Perona and Patch. Delegate Perona?

MR. PERONA: Mr. President and fellow delegates, under the language adopted yesterday, Mr. Tomei—or not yesterday, but last week—would the legislature have the right to provide for automatic restoration?

MR. TOMEI: I believe it would, if they chose to do so.

MR. PERONA: Why don't you believe we can trust them to do that?

MR. TOMEI: They haven't done it yet.

MR. PERONA: I would also like to know how complicated is the present procedure for restoration?

MR. TOMEI: Well, that I can't tell you. I'm not in the business. All I can tell you is that this is the recommendation of the people who are, and they feel that the procedure is sufficiently complicated that it ought not to be done and that there should be automatic restoration when the sentence is completed. That's their recommendation. It seemed like a good idea to the committee. As I have tried to explain, this is—we thought originally it was largely a technical matter and didn't mean to make it into a civil rights crusade. The point is that when a fellow does apply, he gets his voting rights back. That's the way it is now. The Department of Corrections is interested in trying to make this thing be automatic so that they don't have the slippage that they do now in the system.

VICE-PRESIDENT ALEXANDER: Please continue, Delegate Perona.

MR. PERONA: Mr. President, I think that the language that we adopted last week—I think it included both felonies and infamous crimes. I think that language is a little unfortunate and there it would an advantage in the present wording of this amendment over the language last week; but insofar as the automatic restoration, I think that's a different question.

VICE-PRESIDENT ALEXANDER: Thank you. Now Delegate Patch and then Delegate Jaskula.

MR. PATCH: Thank you, Mr. President. Fellow delegates, I rise at this point to endorse Alternate B, although I was a cosponsor for an amendment with Delegate Weisberg which was concerned about this same issue. I am appreciative of the fact that so many persons are concerned about initiative, but yet I don't see where it says in the constitution that it's on your own initiative that the voting rights will be taken. I feel that you must understand the fact that it was brought out by Delegate Tomei that there are a great deal of persons in this state who are not so well endowed in education and understand all the processes whereby they can have these rights restored. And the system does not give them a great opportunity to receive these rights. I feel that if an individual has paid his debt to society, he should be able to walk free and clear as anyone else.

Now just to register to vote does not require a petition to the governor. And another thing, I think there exists a great deal of persons who are in these institutions who have been convicted who are victims of circumstances. And there are a great deal of persons who have not been subjected to court procedures who should be, should have their rights denied. And I say this from experience, having served in the law-enforcement capacity and having dealt with some very famous crimes, so to speak, whereby there have been a lot of persons who were entrapped because they were ignorant of the scheme, but yet the facts speak for themselves and they were sentenced; and those persons were good citizens at the time and they were just working for their employer unbeknownest to what the employer was trying to do, and these persons did not understand the fact that they were going to get a long sentence, something like ten to fifteen years for these famous crimes. I don't call them "infamous." I call them "famous," because they received great publicity. I feel these persons are victims of society, and they should not have to wait ten years to have their voting rights restored if they had a suspended sentence or were paroled and came out and lived a normal life. Now after being paroled they have to wait until their sentence is complete before they can petition the governor for a right to have their voting rights restored. And I feel that they have paid their debt to society, and in that case their voting rights should be automatically restored.

A great deal of us have skeletons in our closets. You know there—in the police work they like to say there's only two type of people, those who get caught and those who do not. A lot of us are criminals in a certain act and have not been caught. And I don't think you would like to have your rights taken away to vote. In my community there exists a great deal—a great number of persons who are victims of society who are under punishment and sentence and then has been placed on probation and has not been informed of their rights. They go through life afraid to appear before the election board asking for the right to vote. No one has led them by the hand, so to speak; no one has helped them pull themselves up by the boot straps. I think the constitution is supposed to protect the people, not provide an out—well, in some way whereby the legislators can get around it. If you are going to take their rights through the constitution, you should restore their rights through the constitution.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Patch. Now Delegate Jaskula is recognized.

MR. JASKULA: Mr. Patch pretty well explained the philosophy behind what I am going to speak on. I think we are bogged down at the terminology, "sentence," in this particular matter. Sentence actually means the time that a man spends in jail; and if he is released on probation or parole, that particular time also counts as sentence. Now the practical procedure that we had behind being restored—today if a man completes his sentence while in jail, now there is no parole, no probation, no supervision concerned, at that time he is handed a document making the request with his signature only that his voting rights be restored. Once he is out on the street on parole, probation, or supervision, he does not get this particular document presented to him. As a result, when his sentence is over and probation is finished—or parole—he automatically does not have the right to vote as we are asking for here today. He doesn't even know that he has to sign this particular document. Most of your parole officers, probation officers, feel that his term is over, and they don't want to bother with him any longer. As a result, this man goes out and votes; and if he does so, he's committing another crime and subject to prosecution. That's why I'm asking here and now that we do vote and accept Alternative B, our proposal for automatic restoration. Thank you, Mr. President.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Jaskula. Now Delegate Durr and then Delegate Karns.

MR. DURR: Thank you, Mr. President. I am troubled by a couple of things and would like to ask a couple of questions: (1) how would the status or how would the burdens on one who had served and completed a sentence for felony differ from the burdens on any other citizen relative to the procedures he'd have to go through to become eligible to vote in a given election? Would he not have to register or meet any of the other requirements that any other citizen would have to meet?

VICE-PRESIDENT ALEXANDER: Does the sponsor of the motion or a cosponsor wish to respond to Delegate Durr's question? Delegate Jaskula?

MR. JASKULA: I think you are referring to whether or not he's eligible to vote at the time he comes out of jail. Is that correct? Or completes his sentence?

MR. DURR: I have heard some comments here to the effect that if these people aren't interested in becoming qualified to vote again, well, let's not force it upon them.

MR. JASKULA: Well, I think there's a fair chance of that, that they don't get the particular information from their parole officer or probationary officer informing them of their rights. And most of them don't know the right, really.

MR. DURR: Yes. My point is would they not still have to register as any other citizen after they completed their sentence?

MR. JASKULA: Yes, they would. The very same as if I failed to vote in four years in the city of Chicago, I would have to come back and reregister before I was allowed to vote again.

MR. DURR: So it puts on them no different burden then any other citizen at the end of their sentence. Is that right? And then the other question I had was you just indicated that probation or parole counts on this sentence. That would only be in the case of a felony, as I understood it.

MR. JASKULA: No, it could be in—by way of a misdemeanor, too, depending on the situation. Well, under our proposal today, he could vote when he's released from prison if he was serving time for a misdemeanor.

MR. DURR: Yes, while on probation or parole for a misdemeanor.

MR. JASKULA: He wouldn't be on parole from a misdemeanor. It would be probation only.

MR. DURR: All right. But while on that—in that status he could vote under Alternative B, but not if he were on probation or parole from a felony?

MR. JASKULA: He wouldn't be on probation from a felony. He would be on parole, if he did any time in jail at all.

MR. DURR: Either way, though, even if he were never confined under a felony but released or granted probation immediately—

MR. JASKULA: He could not vote.

MR. DURR: He would still not be—all right.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Durr. Now Delegate Karns and then Delegate Brown. Point of order, Mr. Brown, or for what purpose do you arise? Point of inquiry?

MR. BROWN: Point of misinformation to Mr. Durr's question. As a former deputy election investigator, one of the questions that was asked was what was the additional requirement that a former inmate who had been a felon would have to go through, if I am correct. And the answer was that no different. You know and we are, I think, reasonable men, and this is misinformation, simply because that person would first have to file for his restoration and after he receives an okay back then he would go through the same process as any other citizen.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Brown. Now Delegate Durr, do you wish to respond?

MR. DURR: Yes. Delegate Brown, I—my question was what would be the effect of Alternative B. If we adopt that, would he have any additional burdens placed on him that any other citizen would not or would he be given any special preferential treatment that any other citizen would not. And I understood the answer would be "no" in both cases.

VICE-PRESIDENT ALEXANDER: Now Delegate Karns?

MR. KARNS: Mr. President and fellow delegates, very briefly I rise to support the motion to adopt Alternative B. I agree with the philosophy expressed by Delegates Jaskula, Smith, and Patch and will not repeat that. I don't think a person should lose his right to vote on conviction of, say, an infamous misdemeanor—say, bigamy—where he receives a sentence of probation. I do think the language in the first part of Alternative B corrects a misapprehension that was expressed on the floor of the Convention last week when the case was stated that a person under conviction, say, of reckless homicide, in the penitentiary was thereby "convicted of a felony and has lost his right to vote." He is not convicted of a felony; he is still convicted of a misdemeanor, and under the provision adopted last week would be entitled to vote. I think this corrects that error and also makes it administratively more feasible in that a person convicted of a felony or otherwise in a penal institution—whether under conviction for a misdemeanor, felony, or infamous crime—would lose his right to vote. For that reason, I would support the adoption of Alternative B.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Karns. Now no one else has indicated his desire to speak to this motion. If you do, please indicate at this point or I will ask Delegate Tomei to conclude the debate. Delegate Borek?

MR. BOREK: Thank you. May I supply some information to this Convention sort of to bear up what Delegate Friedrich said? There are a great number of unfortunate citizens who do—a section of this society—who do land in prison, but may I say this: that we do have the finest penal system in the whole United States. Thanks to exprisoner Nathan Leopold, who in 1952 set up an educational program at Statesville that the most uninformed prisoner comes in there who cannot even add one and one, within eleven years later—if he so desires—he can walk out of there with a Bachelor of Arts degree from Northern Illinois University. So this section of society who is so unfortunate and does get there can get an education and can understand everything that's going on—their rights. And I would say what Delegate Hendren says, that 3,300 being discharged, only 800 applying, well, maybe voting rights are something we should ask for—not just given to them automatically. So I certainly am against Proposal B as outlined by Delegate Tomei.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Borek. Now Delegate Lewis?

MR. LEWIS: Thank you, Mr. Vice-President. Just briefly I would like to rise to support Alternative B for the reason that Jack Karns has already stated from the floor. You'll recall two or three days ago—or at least last week when we brought this up—that we had a hangup as to the committee effort to amend in "infamous felonies" and to strike out "felony." At that point the battle began, and we succeeded in getting the word "felony" back in as well as "infamous crimes." I think now the only matters we have omitted are the very few infamous misdemeanors that do not result in jail time. For those infamous misdemeanors not resulting in jail time, I think they are now so few and far between that I am quite willing to support Alternative B as for the other reasons stated by Delegate Karns.

VICE-PRESIDENT ALEXANDER: Thank you. The Chair now recognizes Delegate Cooper.

MR. COOPER: Thank you, Mr. Vice-President. I would like to direct a question to Mr. Tomei, if I may.

VICE-PRESIDENT ALEXANDER: Please do.

MR. COOPER: Mr. Tomei, the words "or otherwise under sentence" in your Alternative B—I am thinking in terms of a person who is in jail for an indeterminate period of time for contempt of court, meaning that he could probably purge himself of contempt of court and thereby be released. Would such a person fit under those words, "or otherwise under sentence"?

MR. TOMEI: If it's criminal contempt, I would take it that while he is serving time he could not vote.

MR. COOPER: I have in mind particularly the civil contempt.

MR. TOMEI: Well, I hadn't thought about that. We are talking about crimes; I would take it, it would mean criminal contempt and not civil.

MR. COOPER: Well, then how would a person incarcerated for civil contempt be treated under this particular provision?

MR. TOMEI: Well, just like misdemeanants and people in prison now, he could apply for an absentee ballot and vote in his home precinct. That's what they do now. As a matter of fact, there are misdemeanants in Cook County jail who, as I understand it, vote if they reside outside of Cook County normally, and they apply for an absentee ballot in Joliet or Kankakee or wherever they live.

MR. COOPER: Thank you.

VICE-PRESIDENT ALEXANDER: Now Delegate Netsch and then Delegate Orlando.

MRS. NETSCH: Mr. President, may I take just a moment to respond in a sense to the point that Mr. Borek made? The—it seems to me that with all due respect to whatever the level of the educational system in the state prison system of Illinois might be, that that is not a total answer to the kind of misinformation and misunderstanding that can occur in this area. I think that a great many prisoners do not know when they enter prison that they have automatically lost their right to vote. I am absolutely sure that most of them do not know when they come out of prison that they have to reapply in order to have that right restored; and I think that is true whether they complete their sentence in the penitentiary or whether they complete it while they are serving on probation subsequently. And I would recite as my source of information the former head of the prison system of Illinois, Mr. Regan, who, when one incident—or, rather, infamous incident—arose some six or seven years ago, suggested to me that indeed these people very, very seldom are aware of the fact that they have lost their right and that they must reapply in order to have it restored. And what this means, then, is that in addition to the fact that they have to go through this procedure which many of them don't know about, they frequently are left with what I think can be a very serious shadow hanging over them for the rest of their lives if, indeed, they do not go through the administrative procedure; because—as has been pointed out before—if they attempt to vote or do vote when they have not had their civil rights restored—the right to vote restored—they are, under most state laws, including this, subject to criminal prosecution. So you are putting each of these men into a position which it seems to me is quite intolerable under the circumstances.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Netsch. Now Delegate Orlando?

MR. ORLANDO: I would like to approach the issue from a practical standpoint. As I read Alternative B, when the sentence is completed the restoration is automatic. No affirmative action need be taken. On the other hand, I understand that the procedure would call for some affirmative action like the filing of a piece of paper. And if we could eliminate one less piece of paper being added to the governmental pile, I'm for it. (Applause)

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Orlando. Now Delegate Davis is recognized.

MR. DAVIS: Mr. President, I have an inquiry to direct to Mr. Tomei, if he's willing. I wonder if he would yield?

VICE-PRESIDENT ALEXANDER: It appears that he does.

MR. DAVIS: Mr. Tomei, I wonder if you would accept as an amendment to Alternative B, in the last full line, the word "upon" in place of the words "not later than." Those words "not later than" I think are rather ambigious. I don't know whether you intend that the legislature could restore civil rights before he's completed his sentence, but to me it would seem desirable that they would be restored upon completion of sentence. I wondered if you would accept that word in lieu of the words "not later than."

MR. TOMEI: Delegate Davis, I would if Alternative B fails. Alternative A does that. Alternative B, in effect, provides—or permits the legislature to allow the Parole and Pardon Board recommending to the governor and the governor acting so as to restore voting rights of felons who are on parole prior to the completion of their sentence. While they are on parole, they are still sentenced, you understand.

MR. DAVIS: Yes, sir, I do.

MR. TOMEI: So the "not later than" is simply intended as a final cut-off and does permit earlier restoration. If you don't prefer that alternative, then I would suggest that Alternative A does what you suggest.

MR. DAVIS: I would like to be able to support B, but I cannot support it with that language in it.

VICE-PRESIDENT ALEXANDER: Now Delegate Pughsley?

MRS. PUGHSLEY: Mr. President and fellow delegates, being a community worker, I have been involved in voters' registration on community issues trying to get out the vote. I have run into many people who have been in prison who are not aware of their right to vote and don't know the method that they should go through. They have been misinformed. Some think that they have to get lawyers to get their vote restored. Now these people are citizens of the community, they are paying taxes, and they are working hard for the betterment of their community; and I feel that the constitution of this state should protect them, because there are so many ways that these people are taken advantage of. They are taken advantage of by their lawyers and many other things. Well, I am not ashamed to say that, because I know what I am talking about; and I think they should be protected constitutionally. (Applause)

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Pughsley. I suspect that there might be an attorney's response here. Delegate Lewis?

MR. LEWIS: I don't intend to touch that with anything. I intend to follow up Delegate Davis's, I think, very excellent observation, and move to amend Alternative B by striking the words "not later than" in line 3 and inserting the word "upon" in lieu thereof.

VICE-PRESIDENT ALEXANDER: Are you asking-excuse me, Delegate Lewis, are you asking if Delegate Tomei will accept that amendment?

MR. LEWIS: Apparently he will not, so I am going to make the amendment. I think it's a wise language.

VICE-PRESIDENT ALEXANDER: You are offering an amendment to the amendment. Seconded by Delegate Hutmacher. Do you wish to discuss your proposed amendment, Delegate Lewis, or do you feel it's necessary?

MR. LEWIS: It's been already debated. I would rather have that change on Alternative B than go to Alternative A.

VICE-PRESIDENT ALEXANDER: Is there additional discussion of the Lewis amendment to the Tomei amendment? Delegate Gertz?

MR. GERTZ: May I ask Mr. Lewis a question, Mr. Vice-President? Is it your understanding, Mr. Lewis, that restoration would come upon completion of a successful parole, or would the former inmate have to wait until the completion of his sentence?

MR. LEWIS: Upon completion of successful parole; that would be the end of the sentence.

MR. GERTZ: Wouldn't there be an ambiguity? Would that be covered by the "not later than"?

MR. LEWIS: No. No, I think not. I think what we are saying—what I am saying is that if this be the time when it is restored, it's upon completion of the sentence. I think it's a good language.

MR. GERTZ: May I direct the same question to Mr. Tomei?

VICE-PRESIDENT ALEXANDER: Mr. Tomei?

MR. TOMEI: As I understand the question—well, maybe you had better repeat the question.

MR. GERTZ: I am wondering if the language suggested by Mr. Lewis and by Mr. Davis might not, in effect, create a hiatus between the completion of a successful parole and the completion of the sentence as set by the court. I should think the intention that you have under Alternative B is to permit the restoration of voting rights upon completion of a successful parole. And that would be cast in doubt, it occurs to me, by the Lewis amendment to your amendment.

MR. TOMEI: I think there is some ambiguity there. I'm more concerned about the ambiguity with respect to misdemeanants. I would suggest that this amendment be defeated, and if Alternative B is defeated then you have the alternative that perhaps is more preferable to Delegates Davis and Lewis, because that would, in fact, preclude earlier restoration without the ambiguity on the misdemeanant. So the language suggested by the amendment, I do think, raises an ambiguity.

MR. GERTZ: May I say one word only by way of comment? It seems to me that the difficulty with some of those who oppose Alternative B is that subconsciously they have the punitive notion that has so long bedeviled us in the field of rehabilitation. They somehow feel that because a person has committed a crime that a stigma ought to stick to him for the rest of his life and difficulties ought to be thrown in his way instead of society lending a helping hand. What I like about Alternative B is that it recognizes that society is willing to meet offenders at least halfway and to extend to them every opportunity once again to be part of society. I would like to say that Ted Borek referred to a case that I am at least somewhat familiar with, the case of Nathan Leopold. His life in prison and what he did in connection with the correspondence school, which started not in 1952 but many years earlier, and other things that he did indicate, to me at least, that it would be well for society to think in terms of lending a helping hand in the manner suggested by Mr. Tomei.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Gertz. The Chair now recognizes Delegate Fay.

MR. FAY: I would like to address this question to either Mr. Lewis or Mr. Davis. If we did adopt your amendment, would that preclude the legislature from granting earlier restoration?

VICE-PRESIDENT ALEXANDER: Do either of you care to respond to that? Delegate Davis?

MR. DAVIS: I can't speak for Mr. Lewis, but my judgment would be yes, it would preclude the legislature from granting an earlier restoration of rights than prior to completion of sentence.

VICE-PRESIDENT ALEXANDER: Now is there additional discussion of the Lewis amendment? Hearing none, do you care to terminate the discussion, Delegate Lewis?

MR. LEWIS: I think the issues are apparent. I believe all has been said that needs to be said as to what our view is as to what should be done. I personally favor making it automatic at that point. I believe that that is a specific time, and I would see no reason why the legislature would need to make it earlier. After the sentence is complete, we all know what that time is; we know that when a person is off of parole that the sentence is ended. We also know that if he is on probation and then completed probation that the sentence is ended. We know that when he is in jail he cannot vote. So I believe that is specifically directory to the state of Illinois and to the people and is fair to both sides, that I would support the amendment.

VICE-PRESIDENT ALEXANDER: Thank you, Dele-

gate Lewis. The motion before us then is whether to adopt the Lewis amendment to the Tomei amendment which in line 3 would substitute the word "upon" in lieu of the words "not later than." Those in favor of the Lewis amendment to the Tomei amendment will indicate by saying aye. Opposed, nay. The nays have it. We're back on the Tomei amendment.

There has been a request for a show of hands. It's granted. Those in favor of the Lewis amendment will indicate by raising the right hand. Thank you. Now those opposed to the Lewis amendment will indicate by the same sign. Thank you. The yeas are thirty-one and the nays are forty-six, and the amendment has failed. We're now back on the Tomei amendment. Is there additional discussion? Delegate R. Smith?

MR. R. SMITH: Yes. I would propose an additional amendment to the Tomei amendment. The clerk has it in his hands, and I would ask the clerk to read my amendment.

VICE-PRESIDENT ALEXANDER: Mr. Clerk?

CLERK: "A person convicted of a felony or otherwise under sentence in a correctional institution or jail shall lose the right to exercise his vote. The right to exercise his vote shall be restored not later than completion of his sentence."

MR. R. SMITH: I would be perfectly willing to have this referred to Style and Drafting. I will speak only briefly. I believe that the right is inherent and fundamental, that it is the exercise of that right that we are denying the individual while he is incarcerated. Thank you.

VICE-PRESIDENT ALEXANDER: Are you in effect, then, withdrawing your motion, Mr. Smith?

MR. R. SMITH: I will, with the understanding that Style and Drafting will clean it up.

VICE-PRESIDENT ALEXANDER: Fine. I think they will entertain your proposed language. Additional discussion? If there is none, the Chair will now recognize Delegate Tomei to conclude discussion of the Tomei Amendment.

MR. TOMEI: Thank you, Mr. Vice-President. I hope this amendment will prove satisfactory. I think it does the job that the committee—the Department of Corrections is interested in, and I would urge its adoption.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Tomei. We're now on the motion to amend section 2 by striking lines 2 through 4 and inserting in lieu thereof Alternative B or the Tomei amendment. Those in favor—are there ten persons desiring a roll call on this amendment? I see only five hands. We will try it on a voice vote first. Those in favor of the Tomei amendment will indicate by saying aye. Those opposed, nay.

The Chair's ears indicate that the ayes have it. If there is a question, maybe a show of hands. Is there a question of the Chair? Apparently there is. A show of hands on the Tomei amendment, then. Those in favor will indicate by raising the right hand. Now those opposed will indicate with the same sign. On this question the yeas are sixty-five and the nays are twenty-five and the amendment is adopted.

Are there additional amendments to either sections 2 or 3 of the Committee on Suffrage Proposal No. 2? Apparently there are none. Chairman Tomei of that committee, do you desire to move the adoption of that section as amended?

MR. TOMEI: Yes, Mr. Vice-President. I move the adoption of section 2 as amended and its referral to the Committee on Style.

VICE-PRESIDENT ALEXANDER: You have heard the motion. Is there a second? Seconded by Delegate Rosewell. Those in favor will—point of order, Delegate Friedrich?

MR. FRIEDRICH: No, not a point of order. I want to talk on the motion.

VICE-PRESIDENT ALEXANDER: Excuse me. Discussion is now in order.

MR. FRIEDRICH: I want to remind you again that something has just been done here which I know that President Witwer has ruled differently on at least three different occasions. Where a matter has been decided once, that's it. Now the Chair has allowed this to go through on the guise of rewording, and I guess the sponsor of the motion has gotten enough votes to pass it. I want to tell you again that this is a mistake. I think you could regret it later on, because the action that was taken last week provided very definitely that any of the features which have been adopted today could have been used or they could have been retracted. At least 50 percent of the people we have in Statesville are recidivists. That hasn't been talked about around here. And as far as restoration is concerned, some of them aren't out long enough to be restored to voting or anything else. I think the legislature certainly—as it keeps up from time to time on the advice from the men who run the penal institutions and the parole board and those in parole work—certainly could judge what is right. I just want to point out to you you are making a mistake here, in my opinion, and I am going to vote "no" on this.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Friedrich. Is there additional discussion on the motion to refer section 2 as amended to the Committee on Style, Drafting, and Submission? Apparently not. Those in—Delegate Borek?

MR. BOREK: Yes, may I answer for the information to Delegate Netsch? Contrary to what she said, I just talked to Stateville—to the parole officer whom I have been a friend with for many, many years, and he's a parole officer that handles the parole with reference—when they are on parole. At the end of their parole sentence they are sent a letter, "If you have a permanent address, fill out the first four lines, send this back to Warden Pate," who immediately refers it to the Parole Board in Springfield who refers it to the governor, and the restoration rights are given like that. No problem. Then I also talked to Parole Officer Shea who sits right there and those who have completely finished their sentence and he is asked the question, "Do you have a permanent address? We will fill out this blank for you and take care of your restoration rights immediately. If you do not have a permanent address, take this blank with you. When you establish a permanent address, mail this back to Warden Pate and your rights will be restored immediately." I offer this to you in answer to Delegate Netsch, who says they are not informed. They *are* informed. Take this information when you decide to vote on this particular motion.

VICE-PRESIDENT ALEXANDER: On a point of privilege, the Chair recognizes Delegate Netsch.

MRS. NETSCH: Mr. Borek, I did not say they were not informed. I said that a number of the prison authorities said that they do not understand. That is a very different thing.

VICE-PRESIDENT ALEXANDER: Now Delegate Parkhurst?

MR. PARKHURST: Well, very briefly, Mr. Vice-President, before I cast my vote. I am troubled by one thing that Delegate Borek has pointed up. It seems to me we do have a mechanical problem here. I know we have touched on it before, but it troubles me because we've now said in the constitution that the right to vote shall be restored not later than completion of his sentence. If that's the language we adopt, now that calls for the determination of a fact. Somebody has to have some kind of a piece of paper or be responsible for determining that fact. It kind of bothers me—the sequence of events that might occur. Here's a man that walks into the registration office or the polling place on election day and says, "Oh fine, now the constitution tells me that I am now eligible to vote. I can vote." And somebody says, "Well, how come?" And he says, "Well, I was in jail and I've completed my sentence; now I am automatically restored." The man says, "Well, I didn't even know you were in jail but now that you've told me you're out of jail, how do I know that you're automatically restored and that your sentence is over? Show me something." Now I'm just wondering who's got the burden of proof? Who's got the duty to decide this ultimate fact? I don't think we want to say in the constitution that every election officer, every judge in the polling place, every precinct registration officer has the duty of determining that fact when Mr. X walks in; and if Mr. X has to show it, which I think is the only logical way to assume that the system could work, then he's got to have a second piece of paper anyway that Delegate Orlando talked about a minute ago. I'm all for cutting down on pieces of paper, but I don't see how this does it. It seems to me if he has to show that he's eligible to vote in some way, either by constitutionally being restored that right or by having the governor restore it or by having some other device created by the legislature make the fact of restoration known, it still has to be a fact determination. And it looks to me like in the constitution we're only clouding, really, and making very difficult and very confusing the determination of that fact. So for that reason I think I'm going to vote against this and leave it the way it was before.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Parkhurst. Delegate Cicero and then Delegate Tomei.

MR. CICERO: Mr. Vice-President, I think Delegate Parkhurst is raising some problems which would not in fact exist. No precinct election judges make a determination on whether someone is eligible to vote or not. They make a determination on whether they are registered to vote. And the former inmate would have to be registered in the same manner as other persons are registered. The determination of his eligibility to register would be made at other levels than—in the same manner as any other registration procedure.

Secondly, I would point out that this kind of a problem is precisely the type of problem that is admirably suited for the State Board of Elections which we provided for in section 4 of the suffrage and amending article. This is the kind of administrative problem which involves coordination between different jurisdictions, which is precisely the kind of thing that can be handled by that board—that board, indeed. This problem that Delegate Parkhurst has outlined is a good example of the necessity for such a board.

VICE-PRESIDENT ALEXANDER. Thank you, Delegate Cicero. Now, Delegate Tomei, you're next.

MR. TOMEI: Yes, just to wrap up. Delegate Parkhurst, the judges who register voters have no other thing to do than they always do. Under our proposal, they'll have to ask the fellow if he is twenty-one or not—well, or eighteen, if that passes. You don't require birth certificates; a fellow says he is or he isn't. If he lies he is subject to perjury and can be thrown in jail. You ask him whether he's lived in the state for six months. You don't have to bring out an affidavit saying you were in the state for six months. If you lie, you're committing perjury and you get thrown in jail. Similarly, they can ask him whether he's under a sentence of felony. If he lies, he's perjured himself and he gets thrown in jail. I just submit that the question you raise is no different from any situation that a registration official has to face probably every day. I would hope that this amendment does pass. It seems to me it puts the thing in its proper perspective.

VICE-PRESIDENT ALEXANDER: Thank you. Delegate Gertz?

MR. GERTZ: I would like something cleared up. I thought we had previously passed the amendment. Are we voting on it again?

VICE-PRESIDENT ALEXANDER: The amendment has been accepted. The motion is now to refer the section as amended to the Committee on Style and Drafting.

MR. GERTZ: It seems to me, then, that the debate has gone off on a different tangent. Having passed this amendment, we now are considering the whole section and not redebating and revoting on the amendment; we're voting on the whole section. This is an unusual turn. Perhaps it's because we reversed ourselves one time, but I don't think we ought to reverse ourselves with each roll call. We passed over this hurdle. Now we have to consider only whether or not to send to Style and Drafting this particular section on first reading.

VICE-PRESIDENT ALEXANDER: Thank you, Delegate Gertz. Now I think we're ready for the motion to refer section 2 as amended to the Committee on Style, Drafting, and Submission. Those who will favor this motion will indicate by raising the right hand. Excuse me, let's start again. There's a request for a roll call. Are there nine who join in that request? No, there aren't. On a show of hands vote on that motion, those who favor the motion to refer will indicate by raising a hand—left or right, this time, Delegate Butler. Now those opposed will indicate by the same sign. You have a point of order, Delegate Foster?

MR. FOSTER: I'd like to explain my vote if that's—if it's on a proposal.

VICE-PRESIDENT ALEXANDER: No, it's not out of order. I think on a roll call normally there is a provision for explanation of votes. On a hand vote, I am not aware of that.

MR. FOSTER: I think the rule says a member can explain his vote on a proposal.

VICE-PRESIDENT ALEXANDER: Well, proceed—proceed, Delegate Foster.

MR. FOSTER: Well, I would like to explain that while agreeing fully in principle with this thing, I think it is legislative and therefore voted "no."

VICE-PRESIDENT ALEXANDER: Thank you. The results are yeas, fifty-nine; nays, twenty-three; and the motion to refer has carried. We are now on—I believe it would now be in order procedurally to entertain a motion to refer section 3 to that same committee. Delegate Tomei?

MR. TOMEI: I so move, Mr. Vice-President.

VICE-PRESIDENT ALEXANDER: You have heard the motion, seconded by Delegate Reum. Those who will favor referral of section 3 of the Suffrage Committee report to the Committee on Style, Drafting, and Submission will indicate by a show of hands. Those in favor, first, please raise the hand. And now those who oppose referral of Section 3 will indicate by the same sign. On this question the yeas are sixty-eight, the nays are one; and section 3 has been referred to the Committee on Style and Drafting.

The next order of business on our Committee of the Whole calendar is the—excuse me—yes, Delegate Tomei?

MR. TOMEI: Mr. Vice-President and fellow delegates, just to remind you, the proposed article on suffrage and elections deleted some of the present provisions of the constitution. We outlined those, and they are set forth in your report. And I think at this point it would be appropriate to move that the entire suffrage and elections article as amended now be approved and forwarded to the Committee on Style.

VICE-PRESIDENT ALEXANDER: Thank you for reminding the Chair, Delegate Tomei, of the practice we have used with other committee reports. We now have before us , then, a motion to refer the article as amended to that same committee. Those in favor will indicate with a show of hands. Those in favor—yes, Delegate Davis?

MR. DAVIS: A matter of inquiry, Mr. President. I understood that Mr. Tomei's motion was to approve the entire report and send it to Style and Drafting, and I understood your interpretation was to send the article to Style and Drafting. I think there's a distinction difference there.

VICE-PRESIDENT ALEXANDER: Mr. Tomei, you're making the motion.

MR. TOMEI: Yes, as to the article. The article—the revised article—excludes some of the things in the present one. I meant the article.

VICE-PRESIDENT ALEXANDER: Now we do need a second, if I could back up. Second by Delegate Brown. Is there a further discussion, then, of the motion to refer the article as amended to the Committee on Style, Drafting, and Submission? Those in favor of referral will indicate by raising a hand. Now the nays will indicate by the same sign. On this question the yeas are sixty-six, the nays are two; and the suffrage article as amended has been referred to the Committee on Style, Drafting, and Submission.

At this point, the Chair would bring to the attention of the floor several additional guests, Mr. Richard Sallus, a constituent of Delegates Brown and Arrigo—and a new member of the Illinois Bar as of today, I might add—is with us in the gallery. We welcome you to the Convention. (Applause)

Likewise, Mr. and Mrs. Paul Soble and his family are in the gallery. Mr. Soble—also a new member of the Illinois Bar—was a student under Delegate Ron Smith. (Applause)

Delegate Zeglis informs us that Sheriff Elmer Nelson of Kankakee County and the county clerk, Mr. Ed Sonci, are also with us, and we welcome you these proceedings. (Applause)

Mr. and Mrs. Lawrence Sanden of the Rockford area are with us, and we are happy to have you here as well as other guests in the gallery who go unrecognized at this point. So it's good to have you here.

The next order of business on our Committee of the Whole calendar, if you please, is discussion of the Judiciary Proposal No. 2 and No. 2A; and at this point the Chair would defer to the committee chairman, Delegate William Fay.

MR. FAY: Mr. President and fellow delegates, on behalf of the Judiciary Committee I have asked Delegate Rachunas and Delegate Linn to make the presentation of Proposal No. 2, the majority report, after which Delegate Nicholson will make the report on behalf of the minority as to Proposal No. 2A. Now I might just comment briefly that your Judiciary Committee feels that this is a very important section of the judicial article. I think all of us believe—whether you favor the majority proposal, No. 2, or No. 2A—I think all of us believe that either one of them would represent a very significant improvement in the judicial article. At this time, I will ask Delegate Rachunas and Delegate Linn to go forward to the rostrum and make the presentation of Proposal No. 2.

VICE-PRESIDENT ALEXANDER: Thank you, Chairman Fay. Will Delegates Rachunas and Linn assume these microphones in the front of the chamber?

Several of you have indicated a desire to take a short recess. I hate to interject, once I have invited you gentlemen to the front of the room. Is there a sense in the body to that effect, or do you desire to proceed with the explanation of Judiciary Proposals No. 2 and 2A? Proceed.

MR. RACHUNAS: Thank you, Mr. President and fellow committeemen, the Judiciary Committee Proposal No. 2 proposes a method for discipline and retirement of judges and magistrates, specifically section 18 of the judicial article, which is divided into three areas. The first area, labeled A, deals with the automatic retirement for age and temporary recall to service. The first sentence, lines 5 through 8, states that the General Assembly may provide by law for the retirement of judges and magistrates automatically at a prescribed age. In this instance, it should be noted that a change has been made to include magistrates because of the possibility of future tenure to be provided for magistrates. Also it should be noted, that the General Assembly has already risen to the cause arid provided for the retirement of judges at the age of seventy. Another significant addition is the authority to assign a retired magistrate to judicial service, but only in the capacity of a magistrate. The committee would like to have it known that this consideration might and should be helpful in some of the areas of the state where the judicial personnel may be scarce and almost unobtainable.

The second area, labeled B, provides for a judicial inquiry board and its authority and its procedures. I hasten to point out at this time that Proposal No. 2 is adopting an innovative position unique in any court system in its structure and composition by proposing a two-tier courts commission with functions different than those prevailing in other states which have a two-step procedure. The judicial inquiry board takes the role of the investigating body which presently is vested in the