

DELEGATE SCHNEIDER: I do not think that is an answer to my question. If you are going to go in and enforce this and you go to the Court and say it is constitutionally mandated that the right of removal shall be provided, who is the Court going to order to do it? The General Assembly or the Court of Appeals? Can it order either one, or can you order either one?

THE CHAIRMAN: Is that a question?

DELEGATE SCHNEIDER: I tried to make it a question.

THE CHAIRMAN: Delegate Moser?

DELEGATE MOSER: No one can order anyone to do this. It is simply a mandate. That is to say that there is no legal way to do it. It is a mandate to them which presumably would not be ignored, but I do not believe that except if there were a violation of due process that this could be enforced. We have had this question up many, many times and it envisions more than a ministerial act. Therefore it would not be enforceable in that respect.

THE CHAIRMAN: Does any other delegate desire to speak in opposition? Delegate Sherbow.

DELEGATE SHERBOW: Will Delegate Moser yield to a question?

THE CHAIRMAN: Delegate Moser, do you yield to another question?

DELEGATE MOSER: With hesitation.

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: In the event this amendment is voted down, the Scanlan amendment remains and this section is taken down, would not the Court of Appeals and would not in the alternative the General Assembly have this right anyway?

THE CHAIRMAN: Delegate Moser?

DELEGATE MOSER: Absolutely right. This is a substitute. They would have this right, but it does give recognition. It accomplishes somewhat more for those who want that rather than entirely omitting it in the sense that it is a mandate to the Court or to the General Assembly.

THE CHAIRMAN: Are you ready for the question?

*(Call for the question.)*

THE CHAIRMAN: The Clerk will ring the quorum bell.

Delegate Johnson.

DELEGATE JOHNSON: Mr. Chairman and ladies and gentlemen: Just very briefly, as Delegate Willoner said, this is certainly my second line position. I will support this amendment. We have a right of removal in our present Constitution and I believe we should have a right of removal in our new Constitution.

Delegate Sherbow has indicated that the Court of Appeals and the General Assembly shall have the power. However, the citizens, the people of this State, will not have the right of removal unless the General Assembly with the Court of Appeals by rule acts. If we adopt this amendment we are giving to the citizens of this State, subject to controls and regulation by the General Assembly and the Court of Appeals by rule, this right of removal. I say let us adopt this amendment.

THE CHAIRMAN: Are you ready for the question?

*(Call for the question.)*

THE CHAIRMAN: The question arises on the adoption of Amendment 13-B as a substitute for Amendment No. 13 to Committee Recommendation R&P-2. The question is only a vote on the substitution.

A vote Aye is a vote in favor of the substitution; a vote No is a vote against the substitution. In either event you will have the principal question submitted to you.

Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 73 votes in the affirmative and 40 in the negative, the motion carries. Amendment 13-B is adopted as a substitute for Amendment 13.

So that the record may be clear, before we leave Amendment No. 13 which has not been disposed of, will you please mark your copies so that the preliminary language is corrected to read as follows: This is the substitution in the first four lines: On page 3 restore lines 11 and 12 and in line 14 insert the following: —

For what purpose does Delegate Harry Taylor rise?

DELEGATE H. TAYLOR: A point of personal privilege.