

The Chair was in error a moment ago. There is one other amendment I think. Delegate Mentzer, do you still desire to offer your Amendment D to section 6.02?

DELEGATE MENTZER: Yes, I desire, but I hope not tonight.

THE CHAIRMAN: Are there any other — the plea in the voice means the Chair cannot possibly push on. Are there any other amendments to section 6.01? We will carry over.

Delegate Mentzer.

DELEGATE MENTZER: This does not seem to be my night but I prefer to finish it. It shouldn't take that long, I do not think.

THE CHAIRMAN: Are there any amendments to section 6.01?

If not, the pages will distribute, with the thanks of the Chairman to Delegate Mentzer, Amendment D.

This will be Amendment No. 4.

The Clerk will read the amendment.

READING CLERK: Amendment No. 4 to Committee Recommendation SF-4 by Delegate Mentzer: On page 2 strike out all of section 6.02, Gift or Loan of Assets or Credit, and insert in lieu thereof the following:

“Section 6.02 Gift or Loan of Credit.

The credit of the State shall not in any manner or for any purpose be given or loaned to or in aid of any individual, private association or private corporation.”

THE CHAIRMAN: The amendment is submitted by Delegate Mentzer.

Is there a second?

*(Whereupon, the motion was seconded.)*

THE CHAIRMAN: The amendment having been seconded, the Chair recognizes Delegate Mentzer.

DELEGATE MENTZER: Those of you who are familiar with the present Constitution will undoubtedly recognize that this phrase occurs in nearly similar form in the present Constitution, section 34 of Article III. In the draft Commission report they state that the Commission is fully mindful of the very strong arguments which can be made for a complete prohibition of a gift or loan of credit or a loan of assets.

We did not hear these strong arguments in the Taxation Committee as far as I re-

member and I introduced this really to get further clarification along the way. I do not feel that the public purpose as Judge Sherbow pointed out, himself, can be circumscribed with any precise meaning at all. A research paper prepared for the Convention said the phrase “public purpose” in Maryland as well as in other states has no exact definition in law. Cases in Maryland and elsewhere have used this phrase in a flexible manner. That flexibility of the phrase would allow changing social and economic conditions to be met but it has an aspect of vagueness and possibility of frequent judicial review. It is one of those litigation breeder words. I think in Maryland we have seen that giving the assets of the State can be done in the most flexible manner as we have done it in the past, no doubt will continue to do it in the future, but I do not like the idea of giving other than assets to groups and which could be private groups, organizations or individuals and have it serve only a public purpose. A gift of assets is a one-time-only thing, but the gift of credit or loan of credit continues into the future and I think this is not a step forward for Maryland.

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: Mr. Chairman, ladies and gentlemen, I hope you will vote against this amendment. In the years past, Maryland has aided schools. We have helped Johns Hopkins. We have helped hospitals. We have helped the Provident Hospital. We have helped institutions of this nature. We have been very careful in when and how it was done.

This would be a tremendous step backward because in the years to come there will be gigantic federal matching funds and projects. What will we do? Will we say the only way Maryland can ever act is to have only help for those which are State institutions? What a step backward. The Court of Appeals in the Horace Mann case said, they made it perfectly clear, I have it there in mimeographed form here it is in printed form. Court of Appeals speaking, we have heard of no Maryland case denying right of the Legislature to make grants to private institutions provided money is appropriated and expended for a public use, here is a long list of cases where this was done.

I urge you not to tie us down forever, put us back a hundred years, and prevent the State from really and truly moving into the next century. I ask you to vote no.

THE CHAIRMAN: Is there any further—