

taken out of this section and put in another section, a separate section.

DELEGATE J. CLARK (presiding): Delegate Bamberger.

DELEGATE BAMBERGER: If that is the intention of the Committee, then I suggest we ought to state that more explicitly, because my understanding of the application of section 35 of Article III of the present Constitution is that it did apply to other than state officers.

DELEGATE J. CLARK (presiding): Delegate Sherbow.

DELEGATE SHERBOW: Well, my understanding of Article III, section 35, is that it actually by reason of its manner of enforcement just has become a complete dead letter and we had testimony in connection with it.

Take a clerk of court, for example, whose election, or the day of his going in office is January 1, and his salary may have started at some low figure but he is elected for another term of four years. Well, somehow or other the attorney general ruled that if the increase went into effect either midnight, December 31 or 12:00 noon the next day, or some such thing, he could get the benefit of that increase.

DELEGATE J. CLARK (presiding): Delegate Bamberger.

DELEGATE BAMBERGER: Delegate Sherbow, I repeat, if that is the intention of the Committee, I think we should be more explicit about it, either in the Committee Recommendation or in the language of the report itself. I direct your attention to the case of *Pressman v. D'Alesandro* in 211 Md. 50, which held that the mayor, the comptroller, the vice-president of the City Council and members of the City Council were public officers within the meaning of this section.

That same case also held that county commissioners were included. If we intend to change that, then we are making a departure from the present Constitution which is certainly not indicated by the present recommendation which says in effect that this is taking the same language from the prior Constitution, presumably with the same effect.

DELEGATE J. CLARK (presiding): Delegate Sherbow.

DELEGATE SHERBOW: I think our problem arises where in the draft there is the reference to Article III, section 35. We

have put in this particular provision dealing with public officers of the State only. They are public officers who are affected by a state's budget and this is what our intent is.

If, however, it is the intent of this conclave to move this into a broader orbit—and this is not the intent of our Committee as I understand it—then you would have to provide in local government some method by which whatever is being sought with respect to the officers in the local areas have no right to have their salaries changed.

Bear in mind, Delegate Bamberger, we say nothing in here about having them increased. We simply say they shall not be decreased.

DELEGATE J. CLARK (presiding): Delegate Bamberger.

DELEGATE BAMBERGER: I understand all that. We have used the same words that are in the present Constitution. We said in the recommendation we took them from the present Constitution, and we are now saying that they mean something different from what they mean in the present Constitution.

I just suggest that we be more explicit.

DELEGATE J. CLARK (presiding): Delegate Sherbow.

DELEGATE SHERBOW: I call your attention to page 6, beginning of line 7. The last sentence of this section provides that the compensation of a public officer may not be decreased during his term of office.

The report of the Constitutional Convention Commission, page 323, indicates that this provision, although not new, is expected to fill the place of Article III, section 35 of the existing Constitution which is to be omitted.

This latter provision, however, prohibits increases as well as decreases. To make the point that I think we want to make clear, it is simply this: that so far as the Committee on State Finance and Taxation is concerned, we say that the compensation of a public officer may not be decreased during his term of office.

We relate ourselves only to decrease. We relate only to public officers who are state public officers who are within the orbit of what is the state budget.

If there should be anything else said with respect to compensation of local of-