Now advancing to the point of our meeting of the Committee on Personal Rights and the Preamble, one of our witnesses was Joseph Rauh. In answer to a question by me asking for an interpretation of state action, he said: "I think today's draft would, by the present Supreme Court, be interpreted to include licensees, to give an example. Whether it would go so far as including the permission of private discrimination, I do not know."

I asked, for example, what the effect would be if people wanted to get together and form a private hunting lodge out on an island in the Chesapeake Bay and they wished to incorporate. This would require state action.

Now, after they had incorporated, and someone then came along and decided he wanted to join that club, they could not deny him the right to join that club. Is that correct? Would a corporate charter constitute state action? Mr. Rauh said, "That would be correct, in my judgment. The State gives a corporate franchise with the protections. You get the corporate franchise because it has certain benefits from the State. If the State is going to give those benefits, I do not believe it can then permit the discrimination."

In answer to a question of Delegate Murray, "Is it not a fact that this proposal goes way, way beyond the question of licensee? Is this not true?" Mr. Rauh replied "It goes beyond it. I would assume that the licensee is still the most important part of it, but I did add the others; yes, it does go beyond it."

Delegate Child asked: "Now, Mr. Rauh, we are only talking here as delegates to a state Constitutional Convention. And when we speak of governmental action, we speak of state governmental action. Now, with that explanation, do you agree or not, that we should follow this recommendation?"

He answered: "Well, I guess I would have to say I do not because I think if you were just to take section 1.04 in its present language, it will take the Supreme Court of Maryland," he means the Court of Appeals, "a dozen decisions and, if my life depended on it, I do not know whether they would say a licensee could discriminate or could not under section 1.04 as it is at the present time. I simply do not know how those words would be interpreted."

In conclusion, I would like to quote from the CORNELL LAW QUARTERLY, in referring to the decision of *State v. Brown.* It said:

"All state legislative and judicial action granting or sanctioning private rights as against the 14th Amendment guarantees must not be made the springboard for a sort of 'bootstrap' doctrine whereby the victims of private discrimination convert judicially unrecognizable claims into constitutional rights. Otherwise, the rights of a private owner would be at the mercy of the first victim of discrimination with enough initiative to begin judicial proceedings."

"Thus an important social and psychological safety valve may be improvidently sealed if legislative and judicial recognition of the right of self-help is held to constitute a sufficient state connection under the 14th Amendment."

THE CHAIRMAN: Your time has expired.

Delegate Mitchell.

DELEGATE MITCHELL: How much time do I have left, Mr. President?

THE CHAIRMAN: Five and a half minutes.

DELEGATE MITCHELL: Delegate Clark, one minute.

THE CHAIRMAN: Delegate James Clark.

DELEGATE J. CLARK: Mr. Chairman, ladies and gentlemen of the Committee: I rise to support the Committee Report and the amendment which they have offered.

I think that the Committee did an excellent job but I believe that the amendment is a better job. This is an area which is extremely important to many, many people in this State, and I believe that the amendment emphasizes and underscores what I hope to be the intent of this Convention.

I certainly hope that the amendment will be adopted.

THE CHAIRMAN: Delegate Mitchell.

DELEGATE MITCHELL: Delegate Hargrove.

DELEGATE HARGROVE: Thank you, sir.

DELEGATE MITCHELL: One minute.

THE CHAIRMAN: One minute, Delegate Hargrove.

DELEGATE HARGROVE: Mr. Chairman, fellow delegates, I think one of the first things we learned in this Convention