

rect this complaint. Do not hide behind a pair of parentheses.

I strongly urge you to vote against the amendment and to vote with the report.

THE PRESIDENT: Delegate Sickles, do you still intend to offer your amendment?

DELEGATE SICKLES: I had no intention of offering the amendment unless the current amendment were to fail.

THE PRESIDENT: All right.

The Chair recognizes Delegate Scanlan to speak in favor.

DELEGATE SCANLAN: Mr. Chairman, I thought now without further consideration I could move the previous question. I think both sides of the issue have been briefly heard.

THE PRESIDENT: Is there a second?

For what purpose does Delegate Cardin rise?

DELEGATE CARDIN: Before you recognized Delegate Scanlan, I wanted to answer Delegate Rybczynski.

THE PRESIDENT: Would you withdraw your motion to permit Delegate Cardin to reply to Delegate Rybczynski?

DELEGATE SCANLAN: I withdraw my motion, but I understand no delegate can speak more than once on a pending matter.

THE PRESIDENT: You are right. She is a mover, and a mover, under the rule, can speak twice.

Do you withdraw your motion?

DELEGATE SCANLAN: I do.

THE PRESIDENT: Thank you.

Delegate Cardin.

DELEGATE CARDIN: Thank you very much, Delegate Scanlan.

There are two brief statements I would like to make. Before we vote, I would like all of you to look closely at the memorandum that was distributed today, and I believe it was distributed today. In all fairness, I was quite surprised to see the last paragraph, and the explanation of the last paragraph just now was that we should remove any impression this paragraph would give you before you vote.

I suggest that was not the intention of the researcher who prepared this paper. His statements in that paragraph are evidently based on the research that he made.

The second thing that I would like to say, although I would never take issue with Judge Adkins, is that there is a prejudice in a choice. By the very fact that the office taker must make the choice whether or not he wishes that parenthetical phrase, he has prejudiced himself.

If we should have one who refuses to say that, all will know that he has refused. This is something that we will not have if we remove the parenthetical phrase. There will be no possibility of knowing whether or not the person made the choice.

I am a religious person, and I feel very strongly for this reason. I urge you to vote for the amendment.

THE PRESIDENT: For what purpose does Delegate Sherbow rise?

DELEGATE SHERBOW: I would like to be heard in opposition to the amendment.

May I proceed?

THE PRESIDENT: You may proceed.

DELEGATE SHERBOW: I shall be very brief.

Do not fear that anyone who has this choice to make will stand out and be afraid. I have been in court as a lawyer and as a judge and have watched people refuse to take the oath and so solemnly affirm. Nobody was prejudiced. Nobody was concerned. This is a right, and they acted accordingly.

Next, I address myself to Delegate MacDonald's discussion of the law. Our Court of Appeals has held that they will not discuss or act on a matter unless there is a justiciable issue, and the same thing applies to the United States Supreme Court. One who is elected or appointed has to take an oath. If he takes the oath without the parenthetical phrase that is here, there is no problem. If he refuses to take the oath, what is his answer?

He is not required to say that which he is unwilling to say. His position is completely untenable, and therefore he would proceed to take the oath without this provision in it, and there will be no case for anybody to decide.

It seems to me that all we are doing in this constitution is simply saying: here is the oath. You may, if you wish, you may not, if you do not wish, add to it this expression.

On the solemn occasion when one takes his office, this is not a matter which is to