CONSTITUTIONAL CONVENTION OF MARYLAND

[Jan. 3]

DELEGATE SYBERT: I am sorry.

THE PRESIDENT: The motion to amend was rejected on the last vote which meant that the deletion was rejected and the line remained as it was originally.

Are there any further amendments to section 8.01 and 8.02?

(There was no response.)

The Chair hears none.

The question now arises on the adoption on second reading of Committee Recommendation GP-6 as amended. The Clerk will ring the quorum bell.

The question arises on the adoption of Committee Recommendation GP-6 as as amended on second reading. A vote Aye is a vote in favor of the adoption of the committee recommendation as amended; a vote No is a vote against.

Cast your vote.

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

The Clerk will record the vote.

There being 107 votes in the affirmative and 1 in the negative, the motion is carried and Committee Recommendation GP-6 as amended is adopted on second reading. The recommendation as amended is referred to the Committee on Style, Drafting and Arrangement.

This concludes consideration of the special orders. We revert now to the next item on the calendar for second reading of committee recommendations.

The first item for second reading is the Committee Report S&D-17. This is with respect to Committee Recommendation GP-7 dealing with amendments, GP-8 dealing with constitutional convention, GP-9 dealing with the carryover of common law, GP-12 effective date, R&P-1 suspension and emergencies. This is the committee report that was under discussion at about 2 o'clock when we took up consideration of the special orders.

We had concluded consideration of Amendment No. 6 to section 10.02. We had passed over for the moment further consideration of Amendment No. 5 to section 10.01. The Chair would therefore revert to Amendment No. 5, section 10.01.

I believe this is the amendment made necessary to bring this section into conformity with the schedule of transitional provisions, was it not?

DELEGATE PENNIMAN: Yes. This was our intention at the present.

THE PRESIDENT: Is there any reason why we cannot act now?

DELEGATE PENNIMAN: No.

THE PRESIDENT: Very well.

Is there any further discussion necessary with respect to Amendment No. 5?

Delegate Case.

DELEGATE CASE: Mr. President, I raised the initial question about this because it seemed to me that as a matter of strict theory, laws were not enacted pursuant to authority granted. The prior Constitution or any constitution does not grant the authority to enact laws, but rather acts as a restriction on the plenary power of the legislature to grant laws.

THE PRESIDENT: I think the Chair can perhaps clarify it a little bit because the discussion arose in considering the provisions to be included in the schedule of transitional provisions.

Your comment is, of course, entirely correct except that unfortunately in a number of instances in the previous Constitution the language is so phrased that it would appear to be a grant of power.

It, for instance, says the General Assembly may or shall prescribe by law thus and so. Because of this, persons are concerned with the effect of the section 10.01, not delegates. I think there were some delegates, but these were some members of bar association committees or others. They were a little apprehensive less there be any possibility of contention being made that if the old Constitution died and it granted the authority to pass a law that that grant of authority died with it and carried with it the law enacted pursuant thereto.

The Chair does not share that view, but I did not think it was harmful to include the provision to prevent any doubt.

Delegate Case.

DELEGATE CASE: Mr. President, you expressed quite clearly the point I was seeking to make. The only other query I have of that section is should the saving clause be limited to the Constitution of 1867 when it says a prior Constitution and that is the way that is defined, or should it go on back and save all the laws if any? I wonder if it should say "granted by the provisions of prior Constitution"?

THE PRESIDENT: You have raised the question that somebody else anticipated