

The Chair recognizes Delegate Boyer, Chairman of the Committee on General Provisions for the purpose of presenting Committee Recommendation GP-1. Delegate Boyer, will you please take the Clerk's desk?

DELEGATE BOYER: Mr. President, fellow delegates of this Convention, your General Provisions Committee is very proud to have this singular honor of making its first Committee report to this distinguished body. As we unfurl the canvas of our proposal, our recommendation for today, and sail out of the relatively safe, serene and calm harbor of our committee rooms onto an unexplored and uncharted sea, it appears that this Convention is entering into a new phase of deliberations.

I think Senator Malkus has made a very pointed recommendation. If I were to place myself in his position, I could see where it would be impossible for those who are not on the General Provisions Committee to understand exactly how we came to this point today.

If you allow yourselves to pretend to be placed behind our chairs as we in our Committee worked over the proposal on militia, you might find it helpful in understanding why we are making this recommendation.

One thing we have in common here today, is that all of us are on the same footing. I assume this is the first Constitutional Convention that we each have attended. Certainly, it is the first I have ever attended. Perhaps so with my friends. With your patience if I pull a boo-boo on some of this, we will work it out some way or other.

You have in your books GP Recommendation No. 1. I think it would be superfluous and time-consuming to read it to you now. You also have in your books the memorandum accompanying this recommendation. I think it would be a waste of time to read that. Perhaps what we can do now is supplement what you have before you.

The first basic question we asked in the General Provisions Committee was is a militia necessary? After one questionnaire on it, we decided there should be something in the Constitution on a militia. From there we tried to formulate the language that would cover what at that time seemed to be the sense of the Committee. Remember again this was all new to us as it is to you.

So the recommendation that you have in your books at the time it was passed by

the Committee, was the form in which the Committee believed this recommendation should come before you. Since that time, I understand there have been some second thoughts. Actually, there were and are to the best of my knowledge only two points of dispute in the Committee. The first one was whether to use the word "shall" or "may" in empowering the General Assembly to provide for a militia. We took several votes on this question. At the time the recommendation was finally reported out of the Committee, it was by an 8 to 10 vote that it should be "may" rather than "shall" to make it permissive rather than mandatory. The Committee felt that it should be left up to the General Assembly to establish the militia.

It was the Committee's view that if the General Assembly were mandated to provide a militia with no further authorization for getting into the many wrinkles of detail, it could fulfill its obligation perhaps by appointing a token force of three or five or ten men or something like that. The General Provisions Committee believed that compelling the General Assembly to create a militia would be an exercise in futility unless it were to spell out in great detail all the ramifications and facets of its organization. The Committee felt that this would be superfluous and unnecessary, therefore, it left the details to the legislative representatives of the people.

The second area of dispute and conflict in the Committee was whether or not the governor, who by unanimous agreement should have been and will be the Commander-in-Chief, should appoint "all other officers" or whether he should appoint "the Adjutant General and other officers". This, too, passed by an 8 to 10 vote. I understand that today a minority report is being offered and that the majority of the Committee has signed the minority report. You will hear more about that later, I am sure.

There was no dispute in the Committee about the governor being the Commander-in-Chief, or about his having the authority and responsibility to appoint militia officers, but there was great discussion about creating in the Constitution an adjutant general specifically. By an 8 to 10 vote it was decided not to designate this particular office because it was thought that changing times, conditions, or mores, could necessitate elimination of such a specifically named official and create conditions calling for another executive officer by perhaps another name.