

first section, bears the same relationship to the rest of the Article.

DELEGATE SCANLAN: I do not know that the issue under the present Constitution was ever posed in the context raised by Judge Sybert. Judge Sybert's point was, as I gather in his question to me that you vested the full legislative power in the legislature. Now if you think the referendum power of the people also should be protected, you should vest the full referendum power; but for instance, if in the legislative article we had vested what purported to be the legislative power of the legislature, and then enumerated certain powers that they had, the question would be raised whether indeed they had more powers.

I think that the section can only be wrongful if it is ever cast in the future. In other words, in the future a situation could arise, not covered by sections 2 through 6, and the question would be, under section 1, is this the power that the people have, that the legislature cannot deal with, that nobody else can deal with? I just think it is necessary. If the referendum power that you want to vest, the referendum power that you want to provide for, are the sections or the powers and limitations set forth in sections 2 through 6, then I think to be on the safe side, aside from the unnecessary aspect of it, you should delete Section 1.

THE CHAIRMAN: Delegate Chabot, do you desire to speak in opposition to the amendment?

DELEGATE CHABOT: I would also like to ask Delegate Scanlan a question if I may.

THE CHAIRMAN: I think we will have to give the floor to someone speaking in opposition first. Delegate Weidemyer.

DELEGATE WEIDEMEYER: Mr. Speaker, members of the Convention, inasmuch as all of the power resides in the people, and inasmuch as they are making specific grants and they have granted the legislative function to the legislative branch, I think that any reservation of power should be clearly expressed in the constitution as a right. It might have belonged in the Declaration of Rights, but we have always seen fit to carry it in the referendum provisions.

There may be some merit to what Delegate Scanlan says, but I will say this: that it could be easily rectified by putting a comma after the word "referendum" in-

stead of the period, and adding the words, "as in this article set forth". Then the subsequent paragraph becomes definitive and describes the powers reserved to the people, and I do not think that there could be any doubt but that the power there is clearly reserved and as set forth in the article.

THE CHAIRMAN: Delegate Scanlan, do you now yield to a question from Delegate Chabot?

DELEGATE SCANLAN: Of course.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: Delegate Weidemyer stated affirmatively what I was going to ask in the form of a question as to whether or not that language would satisfy the substantive point that had been raised by Delegate Scanlan.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: I am not quite sure of the language that Delegate Weidemyer had in mind. I think it would be less objectionable than the section as it is now, but again I do not think it would answer my argument that it is truly unnecessary. If what you really intend to be the referendum provisions of the Constitution exclusively are those that follow in sections 2 through 6, if your answer to that is Yes, section 1 is still unnecessary.

THE CHAIRMAN: Delegate Henderson, do you rise in opposition or in favor?

DELEGATE HENDERSON: I would like to ask a question of Delegate Scanlan, if I may.

THE CHAIRMAN: Delegate Scanlan, do you yield to a question?

DELEGATE SCANLAN: Yes, your Honor.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: Is it not true that there is an historic reason for the inclusion of this language? As I understand it, this referendum provision, which started up sometime prior to 1915 and has rather swept the country, was a qualification of the accepted age-old principle that the legislature had plenary power and that having delegated that power, the people had to abide by it. What I have also is the decision holding that the legislature itself could not make its action contingent upon a referendum; that it had to act Yea or Nay on a proposition put up to it. Is it not