

# Exhibit J

that this convention or any convention has to finally adjourn before it may submit to the people anything. It seems to me as though one of our experiences has been the convention not being able to reconvene itself after the decision of the people. Suppose the people should turn down its work. Shouldn't the convention be able to stay in session, and if the people turn down the work, be able to reconvene and perhaps make some changes which would be acceptable rather than to waste the whole effort such as this provision of final adjournment entails? Did you give any thought to that?

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, Delegate Hutchinson, I am afraid the specific question of whether or not we ought to stay in session was not brought up in committee. We did provide that they must finally adjourn at least 90 days before the election is to be held. We have provided that in line 10 on page 2. And in answer to the question as to whether or not they ought to be able to stay in session and make changes in case the people don't accept the whole document, it was not discussed in committee and would be, of course, a major policy decision.

MR. HUTCHINSON: Thank you, Mr. Habermehl. I just wondered if maybe that was of such importance, really, to be given further consideration on the floor, though I have no amendment along those lines.

The next question I would like to ask of Mr. Habermehl is whether the committee gave any consideration to the fact that hereafter, the general election at which this question is to be submitted would always come in the fall, in November, and that by the machinery here set out, the convention actually will not be meeting until 11 months after the people have called for a convention. Wouldn't it be possible to set this convention meeting ahead of October after they call it in the previous November? All you require is 4 months for the election procedure.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, Delegate Hutchinson, yes, that is correct. We did consider it in committee. We considered it in first reading here. There must be 4 months after the November election on the call of the convention, of course, to permit time for the election of delegates, so that after that time, or any time after March of the succeeding year, the convention could convene. The problem then came in trying to find a date at which all segments of our society would be happy. The farmers, of course, don't want it during their busy season. The resort people don't want it during their busy season, and about the best that we could come up with that seemed to be acceptable to most people was a date in the late fall. It allows just about 13 months, less the 90 days that we provided between the convention's adjournment and the election, so it allows 10 months for the convention to do its work, which seemed to be ample time.

The real rationale for the October date in the old convention was due to the fact that the election was held in the spring at the biennial spring election, so actually the date that could be picked in this proposal could be any time from about April 1 to October, but there I suggest that we could get into a real hassle if we tried now to pick a different date. Different areas of the state would be opposed to different dates.

MR. HUTCHINSON: Thank you, Mr. Habermehl. Those 2 questions arose in my mind immediately, and they are simply indicative, at least in my mind, of the problem that we run into when we try, in the constitution, to write out all of this detail of machinery.

I propose to vote against this proposal because I believe that our best course of action would have been to have written into the new constitution a provision quite similar to the provisions in the 1850 constitution which would leave to the legislature in the future the task of writing out all of these details in a way that will fit the situation to the times. I think we are shortsighted here in writing into this constitution this detail of machinery, and I think that when another constitutional convention is called, it will probably be just as embarrassed by this machinery as we were by the machinery which bound us, simply because it is not possible for us here to look into the

future 30 years or 40 years or 50 years and divine what the situation at that time will be. I, for that reason, propose to vote against this proposal.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, I had a couple of questions that I was going to ask Mr. Habermehl. One of the questions has already been somewhat anticipated by Mr. Hutchinson. I agree that it is quite ridiculous to hold a general election in November for the purpose of deciding whether or not the constitution is to be revised, to have the election of delegates not later than the following March, and then to have the delegates wait nearly 7 months until they shall convene in convention. I appreciate the opposition that might be expected to arise from different parts of the state if the date of the convention were held earlier than October. But I think it is a very poor policy to have such a long time lapse between the election of delegates and the summoning of the convention itself.

I do have another question that I want to yield to Mr. Habermehl for an answer to, and that is the following: after the convention has adjourned, I understand the question of popular approval has to be held in not less than 90 days. Does that mean that there is to be a special election for the purpose of approving the new constitution?

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, Delegate Bentley, it isn't to be held, Delegate Bentley, 90 days after final adjournment, but simply not less than 90 days. The 90 day provision was put in there just to insure that there would be adequate time to disseminate information about the proposed constitution.

MR. BENTLEY: Do I understand then, Mr. President, that the convention itself can decide whether or not the proposed new document is to be approved in a general or in a special election? That is entirely a matter within the discretion of the convention?

MR. HABERMEHL: That is correct. They would make the decision as to when it would be submitted and whether it would be at a general or special election.

MR. BENTLEY: One more question, Mr. President: do I understand this convention also has the power to completely rewrite a new constitution or to provide a series of amendments to the existing document?

MR. HABERMEHL: The language used, Mr. President, Delegate Bentley, is precisely the same in that connection as the present constitution. The question voted upon by the electorate is whether or not a convention for the question of a general revision of the constitution shall be had, and I think it has been generally interpreted that the convention is free to amend the constitution, to submit an entirely new document—do as it pleases, in other words.

MR. BENTLEY: Mr. President, one final question along that line: although the voters have approved the idea of a general revision of the constitution, the convention, if it so saw fit, could make as few as a single amendment and then dismiss itself and go home?

MR. HABERMEHL: Mr. President, Delegate Bentley, yes, I believe so. I believe on page 2 we spell it out, line 4, "No proposed constitution or amendment adopted by such convention shall be submitted," and so forth. And on line 8, "Any proposed constitution or amendments adopted by such convention shall be submitted," and so forth.

MR. BENTLEY: The point I am making, Mr. President, is, although the voters would have expressed themselves as being in favor of a general revision of the constitution, the convention, if it so saw fit, could, for all intents and purposes, disregard the idea of a general revision and merely confine itself to a single amendment or a few amendments and leave the basic document unchanged, in spite of the previous expression on the part of the majority of electors; is that correct?

MR. HABERMEHL: Mr. President, Delegate Bentley, I believe that is within the power of any constitutional convention, and I believe it should remain in the power of any constitutional convention. They are sovereign, autonomous bodies.

MR. BENTLEY: Thank you.