

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: It is our understanding that it is as clear as a bell that the General Assembly when it would act would provide by law that this would require a constitutional majority of both houses first to pass the law, which would have to be signed, of course, by the governor. When it says appointed by the General Assembly, this would require a majority of each House of the General Assembly.

THE CHAIRMAN: Is there any further discussion? The question arises on the motion to substitute for Committee Recommendation SF-1 the provision "the General Assembly shall provide by law for post-audit of state finances by an agency of the General Assembly directed by a person appointed by it and under its control".

In order to avoid any misunderstanding, the Parliamentarian suggests that I call to your attention that if anyone desires to offer amendments to the substitute, now is the appropriate time to offer such amendments and not after the substitute shall have been voted upon. Is there any further discussion of the motion to substitute or any amendments to be offered to the substitute?

*(There was no response.)*

Are you ready for the question?

*(Call for the question.)*

A vote Aye is a vote in favor of the substitution; a vote No, a vote against the substitution. All in favor, signify by saying Aye; contrary, No. The Ayes have it. It is so ordered.

The question now arises on Committee Recommendation SF-1 as amended by the substitution. Is there any further discussion? Are you ready for the question? A vote Aye is a vote in favor of Committee Recommendation SF-1 as amended by the substitution by Amendment No. 1. All in favor, signify by saying Aye; contrary, No. The Ayes seem to have it. The Ayes have it. The motion is carried. The Committee Recommendation SF-1 is approved and will be so reported to the Convention.

DELEGATE SHERBOW: Mr. Chairman, I rise on what I suppose would be a matter of personal privilege. I would like the record of this Committee and of this Convention to show that Delegate Koger had introduced the earliest proposal relating to post-audit. He has worked on it day in and day out. We have not had a session

but that he has produced some item of interest relating to this subject matter and on behalf of our Committee and myself I want publicly to express to him our appreciation for the service he has rendered in connection with this particular matter.

*(Applause.)*

THE CHAIRMAN: The next item on the Agenda of the Committee of the Whole is Committee Report SF-1. The Chair recognizes Delegate Sherbow, Chairman of the Committee on State Finance and Taxation and requests he come forward to the reading desk.

DELEGATE SHERBOW: Mr. Chairman, ladies and gentlemen of the Committee, this is a report where all we ask is that it be received, accepted and so placed in the archives that the fact that something is being omitted will be available to those who may be seeking knowledge of why it was omitted and would clarify any open question that might hereafter arise with respect to this subject matter.

This requires that we go into a little bit of history. We have in the present Constitution a requirement that nothing shall exempt the salaries or compensation of any judge or other public officer from the imposition by the General Assembly of a non-discriminatory tax upon income.

That got into the Constitution in this fashion. Maryland adopted a state income tax. When this state income tax was adopted, it was provided therein that all persons within the classes subject to the exemption and exceptions would all be liable for the payment. You know that when April 15 comes around.

However, we had another provision in our Constitution which said that you cannot diminish the salary of any judge during his term of office. So the question arose, are you diminishing the salary of a judge by requiring him to pay a state income tax?

The rule had been that you really were deducting something from a judge's salary which was obvious. The Supreme Court in the case of *Evans v. Gore*, which is cited on the Committee Report, held that you were literally reducing it in violation of the law.

At or about that time the Chief Judge of the Supreme Bench of Baltimore, the late Honorable Samuel K. Dennis, whom most of us or all of us really remember with deep affection and regard, wanted to