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COMMENTS ON STAFF ORGANIZATION  
AT THE MARYLAND STATE CONSTITUTIONAL CONVENTION  
OF 1967-1968

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SUMMARY OF RECOMMENDATIONS

- I. Staff members for the Constitutional Convention should be hired as soon as possible, preferably at least four weeks before the Convention formally begins. The majority of the staff members at the Maryland Constitutional Convention were hired after the Convention had started and much valuable time was lost as they did the initial background research necessary to get the job done.
  
- II. If a constitutional convention commission has preceded the calling of the convention, as many of the commission staff and consultants as possible should be hired by the convention. There is no question ~~regarding~~ that ~~these~~ staff members with commission experience were able to do a much better job than ~~staff~~ staff members who came to the Convention without previous experience.
  
- III. Research staff should be assigned on a committee basis rather than being assigned from a central pool. The Committee on the Legislative Branch was at a disadvantage in the early stages because it did not have a single research person with expertise in the general area of legislative problems.
  
- IV. Staff members should participate as actively as possible in the drawing of delegate "constitutional proposals" for the members of their committee. This serves the double function of enabling

the staff member to suggest new constitutional ideas to the committee members, and it enables the committee to pre-notify the entire convention, through the filing of the delegate proposal, of the kinds of ideas that are likely to formally emerge from the committee at a future date.

- V. Staff members should urge their committee chairman to break the committee down into small sub-committees for tackling individual problems in specific sections of the proposed constitution. Not only does this divide up the work of the committee, but it gives each delegate who is not a committee chairman the feeling that he has a definite role to play in the work of the committee.
- VI. Staff members should actively participate in the process of securing witnesses to appear before the committee, making a particular effort to seek out witnesses who can dramatically present new and exciting alternatives in constitution writing. Hearings should not be left exclusively to those interested citizens who volunteer to appear before the committee.
- VII. Staff members should urge their committee to hold hearings throughout the state and away from the capital city whenever possible. Putting "the show on the road" tends to get extra coverage for committee hearings in the newspapers and serves as a vehicle for giving the people of the state a sense of participation in the constitution writing process.
- VIII. When the time comes for the committee to begin adopting actual constitutional language, staff members should submit actual language alternatives to the committee in writing. The purpose of

this is to get the committee away from debating solely in terms of principles and to focus ~~the~~ attention on the actual words that will be adopted into the new constitution. A committee can appear to have made up its mind in terms of general principles, whereas all kinds of new disagreements will emerge when these principles are set down in actual writing.

- IX. Staff members should submit memorandums periodically to their committees supporting various suggested language proposals. Such memorandums not only direct the thinking of the committee, but can be used almost directly in the writing of committee ~~memorandums~~ *memorandums* when committee language is officially reported to the convention floor.
- X. Staff members should make an effort to keep as good records as possible, both of minutes of committee discussions as well as recorded roll call votes of committee decisions. Such records prove invaluable when committee recommendations go to the convention floor and questions come up as to precisely what the committee has done and intended to do.
- XI. Committee staff members should urge their committee chairman and committee members to establish a "whip system" on the floor of the convention so that the committee will know ahead of time how its various proposals are likely to fare when presented to the full convention. Such a whip system gives the committee extremely valuable information in critical moments where a decision could go either way on the convention floor.
- XII. Committee staff members should be prepared to instantly prepare

memorandums for the committee chairman to answer various charges made against the committee proposals on the convention floor. All kinds of outlandish statements are likely to be made about committee recommendations in the heat of floor debate, and it is vitally important that the committee staff be able to answer these charges with well reasoned, factual memorandums that can be quickly distributed to every delegate.

- XIII. An informal "staff committee on style" should be formed of the various committee staff members in the final weeks of the convention to make initial style recommendations to the delegates' style committee. Staff members tend to be more aware of the problems that certain style changes can raise than are the delegates themselves, who have had to concentrate on the work of the entire convention rather than on only the work of the particular committee.
- XIV. Similarly, an informal "staff committee on transitional provisions" should be formed to prepare transitional provisions for the delegates' committee on general provisions. Here again, expertise of staff members can serve to get the delegates well down the road to where the real decisions lie and how they must be made.
- XV. A "staff committee on publicity" should be formed in the final weeks of the convention so that staff members can prepare memorandums and fact sheets to be distributed to the general public once the proposed constitution is submitted to a referendum campaign. Such a "staff committee on publicity" would make recommendations to the delegates' "committee on publicity" and help them with general information problems.

XVI. Before final adoption on third reading, the entire proposed constitution should be submitted to statewide public hearings for approximately four to six weeks in an effort to bring out political criticisms at a time when the final draft of the constitution can still be changed. Both staff members and delegates should participate in these statewide hearings on the final document and make recommendations, at third reading of the constitution, for changes that will make the final document more politically palatable throughout the state.

GENERAL ORGANIZATION OF STAFF AT THE  
MARYLAND CONSTITUTIONAL CONVENTION

Staff organization at the Maryland Constitutional Convention was basically divided into three parts: the chief of staffs' office, individual committee staffs, and the research pool.

1. Chief of Staffs' Office

The Chief of Staff of the Convention was John C. Brooks, who also served as Executive Director of the Constitutional Convention Commission. After initially setting up the committee staffs and the research pool, Mr. Brooks mainly devoted his time to finishing ~~the~~ the work of the Constitutional Convention Commission and left the day to day running of the Convention to the Secretary, Robert Martineau, Esq. Mr. Brooks did preside, however, at the weekly meetings of both the committee staff members and the research pool.

2. Individual Committee Staffs

Each individual committee was provided with four basic staff members: a committee adviser, an administrative assistant, a secre-

tary for the committee chairman, and a secretary for the committee members.

The committee adviser was a professional person (a college professor, a law school professor, a consultant on local government problems, a financial official with the telephone company, a well established lawyer, etc.) who had a considerable amount of expertise to offer in the particular area of the committee's concern. Ages of committee advisers ranged roughly from the ~~late~~ <sup>late</sup> 20's to the middle 50's. Committee advisers were mainly given the responsibility of organizing all of the research for the committee, participating in committee hearings, questioning witnesses at committee hearings, providing alternative language to the committee, and writing the committee memorandums which were submitted with the committee proposals to the convention floor. On the convention floor, committee advisers <sup>were seated</sup> ~~were~~ next to their committee chairman when the committee's particular article was the matter under discussion. In one case, a committee adviser was encouraged to participate formally on the record in the convention floor debate of a complex section of the committee's recommendation.

Administrative assistants tended to be younger persons with varying amounts of graduate training and work experience (a recent graduate of the University of Maryland Law School, an assistant at the Telephone Company, a former <sup>copy writer</sup> ~~employee~~ with an advertising agency, a graduate student at Johns Hopkins University with considerable teaching experience, etc.). The major duties of administrative assistants were to take care of most of the routine correspondence and bookkeeping of the committee. They scheduled

witnesses, published schedules of committee hearings and committee meetings, ordered books from the library for committee members, and helped the committee advisers with research in the general area of the committee's concern.

The secretary to the committee chairman was used basically to handle the chairman's correspondence and the formal secretarial work of the committee. The secretary to <sup>(full)</sup> the committee ~~generally~~ tended to a much smaller volume of correspondence but took on a number of <sup>(additional)</sup> activities, <sup>such as</sup> ~~including~~ sending newsletters to the constituents of the individual delegates, etc. Both secretaries tended to work together at certain peak work times, such as when a major committee recommendation and committee memorandum was being reported to the convention floor.

### 3. Research Pool

Instead of being assigned to individual committees, research staff members were assigned on a problem by problem basis. Thus when a committee adviser had a problem to research, he would fill out a form and whichever member of the research pool was not employed at the given moment would be sent down to carry out the project. This system worked fairly smoothly at first, but as might be expected, research personnel began developing expertise in particular areas, and committee advisers began asking for particular research persons because they knew that these persons possessed a broad knowledge in the area of the committee's concern. Thus various researchers were adopted by particular committees despite the fact that the original intention was that no individual researcher would be assigned to a particular committee.

By and large, research staff members had the same qualifica-

tions as administrative assistants. All were college graduates with some degree of graduate training and work experience, although not a great deal (a Ph.D. candidate at the University of Maryland, a graduate of Chatham College who had worked for the Constitutional Convention Commission, a Montgomery County housewife with considerable governmental research experience, etc.).

As far as staff salaries were concerned, the Chief of Staff received an equivalent salary of approximately \$18,000 per annum; committee advisers received an equivalent salary of \$14,400 per annum; administrative assistants an approximate salary of \$8,000 per annum; and secretaries in the neighborhood of \$4,500 to \$5,000 per annum. <sup>Summ</sup> Research assistants were paid in the general area of \$8,000 to \$12,000 <sup>annum</sup> per ~~annum~~ depending on qualifications.

#### FURTHER COMMENTS ON STAFFING RECOMMENDATIONS

- I. Staff members for the Constitutional Convention should be hired as soon as possible, preferably at least four weeks before the convention formally begins. The majority of the staff members at the Maryland Constitutional Convention were hired after the Convention had started and much valuable time was lost as they did the initial background research necessary to get the job done.

#### Comment:

Because no decision was made on staff hiring until the last minute, many of the staff members at the Constitutional Convention were hired and went to work even after the Convention had begun. Thus, I did not learn I was to be the adviser to the Committee on the Legislative Branch until two days after the Convention had formally gathered in Annapolis. The result was that, although I had a good general knowledge of legislative problems, I spent the first four weeks of the Convention doing general research and reading in the area of

state legislative problems. In order to do this, I had to short-change other duties as committee adviser which might have been more profitably followed at that time than doing research all day.

The obvious solution to this problem is to appoint a staff whenever possible approximately four weeks before the convention begins and to inform them on which committee they will be serving. This will enable staff members to come to the convention with the basic research done. They thus can spend the opening weeks advising committee members on which books they should be reading and also preparing memorandums for committee members summarizing books which are too long for individual delegates to read themselves. I feel I could have personally done a much better job if I had had those four weeks free of the day to day administrative chores, that pile up once the convention begins, to get this kind of research done.

- II. If a constitutional convention commission has preceded the calling of the convention, as many of the commission staff and consultants as possible should be hired by the convention. There is no question ~~that~~ that ~~these~~ staff members with commission experience were able to do a much better job than ~~these~~ staff members who came to the Convention without previous experience.

Comment:

One of the difficulties with staffing a convention is the fact that no other form of writing is quite like the composing and refining of constitutional language. Whereas legislation is written at great length and in great detail, constitutional language has to say exactly what it means with a great deal of brevity. Very few people ever face the necessity of writing constitutional language, and thus it is not a very widely practiced art. One of the biggest problems faced by staff and delegates alike at the start of a constitutional convention is simply learning how to put down important constitu-

tional principles in as few words as possible.

For this reason, those convention staff members who had had previous experience composing constitutional language for the Constitutional Convention Commission were in a position of great advantage at the Convention. In all honesty, I think the committee recommendations written by former Commission staff members had a much higher level of quality than those written by staff members who came fresh to the Constitutional Convention with no previous experience whatsoever. In the case of one committee, the committee staff had had no previous experience in writing constitutional language and as a result the committee's initial recommendation to the convention floor was, to put it literally, a mess. The ~~result~~ result was an agonizing afternoon for the committee chairman, Mrs. Helen Koss, who had to defend some very bad language in the face of some very strong criticism by her fellow delegates.

To prevent this at future conventions, I would suggest that the more experienced staff members, particularly those with expertise in writing constitutional language, form an informal sub-committee which would read and criticize each committee recommendation before it is submitted formally to the floor. We ended up doing this eventually, in an informal way, for those committees that did not have experienced staff members, and I see no reason why this institution could not be formalized from the very beginning at future conventions.

I do not think it is necessary for Commission staff members to handle the same area at the convention that they handled for the Commission. I personally handled Local Government for the Commission and switched to the Legislative Branch for the Convention. I think I was able to make the switch easily because the real expertise you

want from a committee adviser comes in the form of knowing how to draft constitutional language rather than in the form of background data in a particular area. Any scholar can acquire the background data fairly quickly if given enough time--in my opinion it is the drafting ability that really counts.

III. Research staff should be assigned on a committee basis rather than being assigned from a central pool. The Committee on the Legislative Branch was at a disadvantage in the early stages because it did not have a single research person with expertise in the general area of legislative problems.

Comment:

I really covered most of this problem in the section on organization. The Committee on the Legislative Branch simply adopted Mrs. Ernie Honig of the research pool and made her the Committee's expert on reapportionment and redistricting. As <sup>proposed</sup> sizes and structures of the legislature changed, Ernie developed a great deal of expertise in being able to quickly and efficiently reapportion the state and tell us exactly how many senators and delegates a particular county would have under a particular plan. In fact, the speed with which our now private researcher was able to get these reapportionment plans <sup>drawn</sup> and distributed became of vital importance when the legislative article moved to the convention floor. When various delegates would attack or question the effects of various reapportionment plans in particular counties, Mrs. Honig could, within minutes, provide factual statistical answers as to how many voters there would be per delegate in any given year, how many delegates a county would have under such and such a plan by the year 2000, etc. I thus would conclude that it is when its article reaches the convention floor that a well organized committee needs its own private researcher at its immediate back and call.

- IV. Staff members should participate as actively as possible in the drawing of delegate "constitutional proposals" for the members of their committee. This serves the double function of enabling the staff member to suggest new constitutional ideas to the committee members, and it enables the committee to pre-notify the entire convention, through the filing of the delegate proposal, of the kinds of ideas that are likely to formally emerge from the committee at a future date.

Comment:

Due to the amicable and cooperative working relationship which I enjoyed with Francis X. Gallagher, Chairman of the Committee on the Legislative Branch, a technique was developed by which Mr. Gallagher introduced, in the form of delegate proposals, all of the various alternatives that might be considered for a state legislative article. Basically, the way the system worked was that, as I found various legislative ideas in the course of my research, I would draw them up as delegate proposals, submit them to Mr. Gallagher, and he in turn would authorize their submission to the entire convention.

Ideas which were presented to the convention in this form included:

- a. the slot system of electing delegates from multi-member districts;
- b. creating a conditional veto for the executive to send amended bills back to the legislature;
- c. a combined unicameral/bicameral legislature, etc.

Although we knew many of these ideas would never be adopted by the convention, the delegate proposal process was intentionally used to get the entire convention membership thinking about various alternatives within the legislative article. The most important advantage, however, was that when the committee made its formal recommendation of a legislative article, none of the ideas was brand new to the delegates.

because they had seen them all previously in the form of individual delegate proposals.

Not only did Chairman Gallagher submit the proposals, but he also submitted short memorandums which I would write for each one explaining how the particular proposal would work and giving various arguments in its favor. These memorandums, I feel, had a double effect of significant value to the committee. First was the obvious one of putting early in the delegates' minds the arguments for various proposals likely to emerge from the Committee on the Legislative Branch. Second, and in many ways more important, however, was the fact that these proposals and memorandums created in the delegates' minds the idea that the Committee on the Legislative Branch and its Chairman were alert to new ideas and were set up in a highly professional way to present them to the convention and defend them. Many people mentioned to me the atmosphere of competence and progress which these proposals and the accompanying memorandums created in the delegates' minds, and I think this intangible atmosphere stood the committee in very good stead when the convention got down to serious debate on the legislative article.

The one change I might make in this procedure in the future would be to spread the various delegate proposals out among the entire committee rather than introducing all of them in the name of the chairman. As a matter of fact, toward the end of the proposal introducing period, I was working to add the names of other members of the committee to Mr. Gallagher's name on the various proposals. I felt this was a good idea because it gave the individual committee members some of the

"publicity" associated with introducing interesting proposals and also gave them a stake in seeing that these proposals were adopted at a later date by the committee.

A peripheral advantage of submitting proposals and memorandums in this way was that they quite frequently resulted in short articles in the newspaper. Since these newspaper articles always carried Mr. Gallagher's name and the name of any other committee member who joined in the proposal, the publicity benefited the individual delegates as well as the convention generally. The effect of this, I think, was to build a much more favorable attitude in the minds of the individual committee members toward introducing newsworthy delegate proposals. Everybody likes to see his name in the newspaper, and one of the most important things which a staff member has to offer any delegate is the ability to give him ideas that will get his name in the newspaper.

- V. Staff members should urge their committee chairman to break the committee down into small sub-committees for tackling individual problems in specific sections of the proposed constitution. Not only does this divide up the work of the committee, but it gives each delegate who is not a committee chairman the feeling that he has a definite role to play in the work of the committee.

Much has been written about "role playing" as a technique used by committee chairmen to maintain control over their committee's members. The theory here is that those chairmen who give the individual committee members some sort of role to play will have much greater success at keeping the committee together and getting the committee members to do what the chairman wishes.

In order to give a wide range of "roles" to each of the members of the Committee on the Legislative Branch, Chairman Gallagher and I

broke the committee down into a large number of substantive sub-committees, each with a chairman and two members. In this way, each committee member was given a specialty (if he desired one) and an opportunity to appear before the committee in the role of expert authority.

This procedure was only moderately successful. Only one sub-committee, the Sub-committee on Legislative Procedure, actually did research and submitted a formal report which included proposed constitutional language. Probably the main reason for the strength of this sub-committee was that its chairman, Delegate Al Scanlan of Montgomery County, was a former member of the Constitutional Convention Commission and knew how to handle these procedures effectively. It is a tribute to the workability of the sub-committee process (when delegates choose to take advantage of it) that almost all of the proposals of the Scanlan sub-committee were adopted with only minor changes by the full committee.

The fact that the sub-committee procedure did not work as well as I had hoped was one of the major disappointments at the Convention. I think the problem was that most of the committee members, not being legislative professionals, did not realize the power which a sub-committee can have when it presents a well written report to a full committee. As a matter of fact, as the end of the Convention neared and the work load for the delegates piled up, the committee staff tended to resolve itself into a general sub-committee that prepared all the language for submission to the committee. In fact, at one point in the process at a late night meeting, the full committee re-

fused to exercise its responsibility for writing detailed constitutional language and simply informed the committee adviser of what it wished and departed with the final words: "You know what we want; put it in good constitutional language."

If I had it to do over again, I would put more pressure on the sub-committees to report, even to the extent of calling meetings of the sub-committees myself instead of leaving it to the sub-committee chairmen to do so. I would also present suggested language alternatives to sub-committee meetings so that they could make a preliminary decision before actual language was presented to the full committee. Although the Committee on the Legislative Branch held together their strength on the Convention floor, I feel committee cohesion would have been further strengthened if I had devoted more time to trying to make the sub-committee system work more successfully.

- VI. Staff members should actively participate in the process of securing witnesses to appear before the committee, making a particular effort to seek out witnesses who can dramatically present new and exciting alternatives in constitutional writing. Hearings should not be left exclusively to those interested citizens who volunteer to appear before the committee.

One of the principal drawbacks of the Maryland State Legislature is that its substantive committees tend to schedule hearings and simply take testimony from those people who take enough interest to appear on their own volition. The result is that <sup>the</sup> legislature often gets a biased view from directly interested parties and does not get the view of people with a more general, and oftentimes a more objective, knowledge of what policy might be best for the State of Maryland. At the Constitutional Convention, the Committee

on the Legislative Branch sought to remedy this problem by actively going out and seeking qualified witnesses, both from within and without the State of Maryland. I think it is particularly important to bring in out of state witnesses, because they are alien to the particular power blocs in the State and thus their judgment is not affected by immediate political ~~situations~~ situations within the State.

The Committee on the Legislative Branch also adopted a policy of inviting every member of the State Senate and the House of Delegates to testify. Chairman Gallagher felt this was vitally necessary because Senators and Delegates possessed a great deal of political power and their support would be essential in getting the final constitution adopted at referendum.

In order to systematize the taking of testimony from witnesses, I drew up a mimeographed list of twenty general questions concerning the legislative branch, and each witness was asked to provide his answers to the twenty questions in writing to go into the committee files. Topics covered included: recommended salaries for Senators and Delegates; recommended session lengths for the State Legislature; recommended sizes for each house of the Legislature, etc. ¶ These written records proved to be of great value later on when the Committee was presenting its recommendations on the Convention floor. The administrative assistant to the Committee would simply get out the question sheets from all the witnesses on a particular issue (for instance, recommended salary level) and summarize them in a single page memorandum. That way, delegates to the full Convention could quickly look over exactly the salaries which more than forty persons had recommended in testifying before the

Committee. We found such memorandums based on a summary of witnesses' answers to questions very persuasive in directing the full Convention toward adopting a particular point of view.

- VII. Staff members should urge their committee to hold hearings throughout the state and away from the capital city whenever possible. Putting "the show on the road" tends to get extra coverage for committee hearings in the newspapers and serves as a vehicle for giving the people of the state a sense of participation in the constitution writing process.

So far as I know, the Committee on the Legislative Branch was the only committee that bothered to hold a hearing away from Annapolis. At the behest of Delegate Stanley Sollins of Baltimore County, the five committee members and the committee staff who lived in the Baltimore metropolitan area conducted a formal hearing in a new library building in Randalstown, a fast growing suburb west of Baltimore City. A crowd of more than seventy persons turned out for the hearing and it was given exceptionally good press coverage in both the daily metropolitan papers and the local newspapers.

If I had it to do over again, I would have urged the Committee to hold one hearing a week away from the capital city and endeavor to have at least one of these weekly hearings in every principal section of the State. Such a series of "on the road" hearings can be made less burdensome to the delegates by only requesting those who live in the immediate area to attend the hearing. This would have been particularly easy to do in Maryland, where 85% of the residents of the State live within one hour's drive of the capital city, therefore never making it overly difficult for the committee chairman and the staff to get to such meetings.

Not only did I feel that good work was accomplished at the one

committee hearing held on the road, but I felt that the citizens who attended the hearing enjoyed having the privilege of participating and being able to catch some of the flavor and excitement of the Constitutional Convention. I feel these people would make strong supporters of the constitution once it is finally written, and I think the benefits of their telling their friends and business associates that they were able to attend and participate in such a hearing would further help to create a favorable atmosphere for the Convention. If every committee at a convention followed this recommendation of holding at least one hearing a week away from the capital city, I think the public relations effect for the benefit of the convention would be extremely good.

VIII. When the time comes for the committee to begin adopting actual constitutional language, staff members should submit actual language alternatives to the committee in writing. The purpose of this is to get the committee away from debating solely in terms of principles and to focus ~~their~~ attention on the actual words that will be adopted into the new constitution. A committee can appear to have made up its mind in terms of general principles, whereas all kinds of new disagreements will emerge when these principles are set down in actual writing.

One of the most persistent problems which I faced as a consultant to the Committee on Local Government of the Constitutional Convention Commission was getting the committee to stop debating broad general principles and to get down to adopting specific language. It is only human to prefer to debate grandiose principles in general terms rather than settling down to the hard work of adopting the specific words that are to make up the new constitution. I found the best way of meeting this problem was to present actual language or language alternatives to the committee at the very start of debate on a particular question. This had the effect of directing the committee's atten-

tion in the initial phases of their discussion to the problem of expressing their ideas in actual constitutional language. Once this technique was adopted, I found that the time required to press to decisions was substantially reduced.

- IX. Staff members should submit memorandums periodically to their committees supporting various suggested language proposals. Such memorandums not only direct the thinking of the committee, ~~but~~, but can be used almost directly in the writing of committee *reports* ~~memorandums~~ when committee language is officially reported to the convention floor.

At the initial stages of the Constitutional Convention, I found the individual committee members were doing a fairly good job of reading general books on legislative problems and studying the various formal documents which were presented to them by the committee staff. As the Convention went on and the work load on the convention floor increased, however, the amount of time individual committee members devoted to study and research quite understandably diminished. I thus found in the last two months of the Convention that the best way to get ideas before the committee was in the form of a short three to five page memorandum, summarizing the major points for adopting the particular policy under consideration.

I found the committee would read these short memorandums and that they had the effect of pushing the committee toward a decision one way or the other. It should be noted that the committee quite frequently would reject the philosophy or the point of view of the *memorandum,* ~~memorandum~~ but at least the ~~memorandum~~ *memorandum* did serve the function of raising the level of discussion and, in my opinion, led to a more rational decision. In the majority of cases, however, the committee would adopt the philosophy and point of view of the memorandum, and this made it very easy to adapt the language of the committee memorandum

into the official memorandum reported to the convention floor.

- X. Staff members should make an effort to keep as good records as possible, both of minutes of committee discussions as well as recorded roll call votes of committee decisions. Such records prove invaluable when committee recommendations to the convention floor and questions come up as to precisely what the committee has done and intended to do.

A concise effort was made on the part of the staff of the Committee on the Legislative Branch to keep records in such a way that we would serve as an example to the Maryland State Legislature, which keeps virtually no records whatsoever and operates in a state of almost complete invisibility where any written documents regarding its activities are concerned. With this thought in mind, the staff of the Committee on the Legislative Branch made an effort to record all roll call votes on any committee decision. A form was mimeographed containing not only the names of the members of the committee and their votes but also leaving a good deal of room for describing the motion being voted upon. In my opinion, the great shortcoming in most roll call votes kept by the legislature is the fact that inadequate description is given as to the nature of the vote and its importance in the decision making process. In keeping roll call votes, I made ~~an~~ <sup>an</sup> effort to describe the question being voted upon in such a way that the exact issue being decided and the importance of the issue were clearly recorded.

In addition to keeping roll call votes, I also endeavored to keep track of which committee members had made the proposals that were finally adopted. This enabled us at a later date, when we began asking the question of why the committee had done what it had done, to see exactly with whom proposals had originated and exactly who had modified these proposals as they developed along toward adoption.

An additional use was made of the roll call votes kept in committee. When major committee recommendations were submitted to the floor, the committee memorandums that accompanied these recommendations also contained the names of those members of the committee who had voted for the specific proposals. So far as I know, the Committee on the Legislative Branch was the only committee to record in its committee memorandums exactly who had supported which specific language recommendations. ~~If~~ My intention here was not only to have a public record of who had supported what, but also to create the impression in the minds of the convention <sup>(Delegates)</sup> ~~that~~ that there was a high level of unanimity on the committee about the issues which were being reported to the convention floor. This was very easy to do because Chairman Gallagher followed a ~~similar~~ policy of trying to report to the convention floor only recommendations which had the support of as many of the committee members as possible. Since most of the recommendations had such support, the long list of names of persons supporting the proposal made an impressive addition to persuasiveness of the committee memorandum.

As a further step toward having as adequate a written record of the committee as possible, the Committee on the Legislative Branch systematically clipped all newspaper articles from the Baltimore Sun and the Washington Post concerning the legislative article. These newspaper clippings were made available to anyone who wanted them, and they saved the committee staff a great deal of time and effort when college students, newspaper reporters, magazine writers, and just interested citizens began stopping by and asking what the Committee on the Legislative Branch had been doing. By simply handing interested persons a package of newspaper clippings, the staff was able

to provide a great deal of information at virtually no trouble to itself at all.

A further step in record keeping adopted by the Committee on the Legislative Branch was to keep a copy of all roll call votes taken on sections of the legislative article on the convention floor. These roll call votes were kept in a looseleaf binder along with the various amendments to committee recommendations that were being voted upon. Although I would not recommend this as a general procedure, I had stored in my computer at Goucher College a system for analyzing each roll call vote at the convention in terms of the census characteristics of the district which the particular delegate represented. As quickly as possible, following key roll call votes, I would have the computer analyze the roll call and make use of the information in future efforts to build favorable support for Legislative Branch Committee proposals on the convention floor.

The major thing we learned from the computer assisted analyses of floor votes was that we had a basic majority of approximately 80 votes on the convention floor made up of the wealthy sections of the suburban counties, the northwestern and northeastern sections of Baltimore City, and the Negro sections of Baltimore City. Generally allied against the proposals of the Committee on the Legislative Branch were the working class, lower-middle class sections of Baltimore City and the Baltimore suburbs plus most of the rural sections of the State, particularly the Eastern Shore. The analysis thus showed us that if we could keep the upper middle class delegates and the Negro delegates working together, a sizable positive majority could almost always be built for proposals of the Committee on the Legislative Branch.

- XI. Committee staff members should urge their committee chairman and committee members to establish a "whip system" on the floor of the convention so that the committee will know ahead of time how its various proposals are likely to fare when presented to the full convention. Such a whip system gives the committee extremely valuable information in critical moments where a decision could go either way on the convention floor.

Mainly due to the efforts of Delegate Royce Hanson, of Montgomery County, the Committee on the Legislative Branch put together a "whip system" on the floor of the convention for pre-testing various committee recommendations. <sup>Delegate</sup> Hanson simply took the 11 or 12 members of the committee who were enthusiastically supporting the proposals of the committee and assigned each of them a group of delegates sitting geographically close to his desk on the floor. The 12 "whip captains" thus could very quickly get the sense of their desk mates and send the results to Royce by page-carried note. The committee Chairman thus knew most of the time which proposals were likely to be in trouble and which were going to be adopted without much debate at all. ¶ This system proved its worth most dramatically the first time the question of single member districts was before the convention. Despite the heated opposition to single member districts put up by delegates from the organization dominated sections of Baltimore City and Baltimore County, Delegate Hanson was able to conscientiously report to Delegate Gallagher that "we have the votes and there is no point in spending a great deal of time answering their arguments." Armed with this knowledge, Chairman Gallagher worked to shorten the debate on single member districts and pressed for a vote as quickly as possible. As the whip system reported, there was a substantial majority on the convention floor for single member districts--a majority which held up despite further assaults on second and third reading.

- XII. Committee staff members should be prepared to instantly prepare memorandums for the committee chairman to answer various charges made against the committee proposals on the convention floor. All kinds of outlandish statements are likely to be made about committee recommendations in the heat of floor debate, and it is vitally important that the committee staff be able to answer these charges with well reasoned, factual memorandums that can be quickly distributed to every delegate.

A group of journalism graduate students once made a study of the number of factual items that appear in a newspaper that simply are untrue. They found that more than 25% of the items reported in a newspaper are untrue and, in many cases, are the exact opposite of the situation as it actually exists. Anyone who has participated in a legislative body knows that an equally rewarding study could probably be made of the truth of the supposedly factual statements made in the course of legislative debate.

When the question of single member districts came up for adoption on second reading, the chief behind-the-scenes opponent of single member districts, Delegate Murray Abramson of Baltimore City, made the remark that "these districts will be so small in Baltimore City they will only comprise a couple of square blocks." This statement was not only picked up by the press but was used over and over again throughout the Maryland State House as an argument against single member districts.

*J* In an effort to mitigate the effects of this argument, I took the U.S. Census <sup>Tract maps</sup> ~~of Baltimore City~~ (of Baltimore City and a Baltimore City street directory and as quickly as possible computed what the average size of a district would be. In about two hours of figuring, I found that the average district size in Baltimore City would be approximately "one hundred square blocks" rather than "a couple of square blocks" as was being stated by the opposition. This factual data was quickly written

up in the form of a two-page memorandum and issued to the delegates under Mr. Gallagher's name. To give further intellectual credence to the memorandum, I purposely included some notes on methodology and a bibliography of source materials in an effort to present a strong contrast between ideas as presented by the Committee on the Legislative Branch and the off-hand comments that were being used against the single member district proposal on the convention floor.

In the same way, later in the debate the statement was made that a single member district in Baltimore City would be so small that "you might have a district comprised of just a couple of high rise apartment buildings." A quick call to the Real Estate Board of Greater Baltimore (undertaken at Chairman Gallagher's suggestion) revealed that you would have to put virtually all the large apartment buildings in Baltimore City in one district before you would have sufficient population for a single member district. Again this information was submitted to the convention in memorandum form and it helped in preserving the committee's ~~recommendation~~ recommendation for single member districts. It is for this reason that I suggest that the ability to produce well-reasoned, factual memorandums where major issues are being debated before the convention is a vital factor in seeing that the committee's recommendations prevail.

## XIII.

An informal "staff committee on style" should be formed of the various committee staff members in the final weeks of the convention to make initial style recommendations to the delegates' style committee. Staff members tend to be more aware of the problems that certain style changes can raise than are the delegates themselves, who have had to concentrate on the work of the entire convention rather than on only the work of the particular committee.

One of the great shortcomings of the Constitutional Convention of

1967 in Maryland was that an inadequate amount of time was available for making style changes in the final document. As a result, there was no time for staff members to carefully study changes made by the style committee before they were reported <sup>(back)</sup> to the convention floor. <sup>(in the legislative article)</sup> Because the style committee lacked experts on legislative problems, many of the style changes <sup>(recommendations)</sup> actually were substantive in nature and changed the original meaning of the committee. <sup>(The unfortunate results were twofold--</sup> in the first instance, the Chairman of the Committee on the Legislative Branch was forced to amend the style committee recommendations quite frequently on the floor, thus making the style committee and its chairman look bad. In fact, at one point, the style committee chairman became somewhat irritated when the Legislative Branch Committee ~~was~~ changed back ~~to~~ many of the style committee recommendations and received sizable support on the floor for making these changes. In the second instance, in the last minute rush of business many style changes that were actually substantive changes were not caught by the Legislative Committee staff and slipped through. The most conspicuous of these was a style change that had the effect of permitting a candidate to run for two seats in the House of Delegates at the same time.

I think the best way to cure this situation would be to have a "staff committee on style" made up of the committee advisers to the major substantive committees. These advisers would become experts in style problems and also would be more familiar than anyone else with the style problems of their particular article of the constitution. The "staff committee on style" would then submit its recommendations to the delegates' committee on style for final adoption and recommendation to the floor of the convention. Not only do I think this technique would produce a better document historically, but I think it

would relieve the delegate members of the style committee of ~~the~~ a burden that is basically a technical job rather than a decision making job. It would reduce the tremendous work load heaped on members of the style committee in the closing days and permit them to concentrate more of their time on the substantive issues before the convention.

## XIV.

Similarly, an informal "staff committee on transitional provisions" should be formed to prepare transitional provisions for the delegates' committee on general provisions. Here again, expertise of staff members can serve to get the delegates well down the road to where the real decisions lie and how they must be made.

A "staff committee on transitional provisions" was actually used at the Constitutional Convention to prepare transitional provisions and schedule of legislation and submit them directly to the convention floor. Originally, Convention President H. Vernon Eney had intended to have the formal committee on general provisions write the transitional provisions and schedule of legislation, but this proved to be such an inadequate committee that the decision was made to give the job instead to a special staff committee.

Although the staff committee at first included all the committee advisers, this initial group was found to be much too large to be workable. The "staff committee on transitional provisions" thus was quickly reduced in size to consisting of William Adkins, staff adviser to the Committee on the Judicial Branch; Vernon Miller, staff adviser to the Committee on General Provisions; and Delegate Hardwick of the Committee on General Provisions. This group basically wrote the transitional provisions, calling in the advisers to the substantive committees as they took up the transitional provisions relating to the adviser's particular article. In my opinion, this technique

was highly successful, and produced an outstanding set of transitional provisions. The fact that these transitional provisions were adopted by the convention with a minimum of debate and amendment indicates to me the strength of this kind of staff procedure.

- XV. A "staff committee on publicity" should be formed in the final weeks of the convention so that staff members can prepare memorandums and fact sheets to be distributed to the general public once the proposed constitution is submitted to a referendum campaign. Such a "staff committee on publicity" would make recommendations to the delegates' "committee on publicity" and help them with general information problems.

Convention President Eney had originally intended to handle the publicity for the convention himself. Because a certain amount of money had been budgeted by the Legislature for publicizing the proposed constitution, however, a delegate basically opposed to constitution<sup>al</sup> reform (Delegate Fred Malkus of Dorchester County) succeeded in creating a delegates' committee on publicity. As might be expected, the committee on publicity tended to spend more time debating than actually publicizing the proposed constitution, with the result that very little was accomplished in the first weeks after the convention adjourned where publicity for the proposed constitution was concerned.

If nothing else, a staff committee on publicity could serve to produce quickly and efficiently a written document summarizing the major articles of the constitution and pointing up the major changes between the existing constitution and the proposed constitution. I think it is extremely important, however, in preparing such publicity materials, to emphasize aspects of the existing constitution that are being retained rather than giving all the attention to the changes. Arguments often heard against the proposed Maryland constitu-

tion were that "it changed everything around" and "does not preserve enough of the existing constitution." By emphasizing what is being retained as well as what is being changed in the publicity materials it prepares, a "staff committee on publicity" could make a significant contribution to reducing the inevitable opposition to a proposed new constitution.

XVI. Before final adoption on third reading, the entire proposed constitution should be submitted to statewide public hearings for approximately four to six weeks in an effort to bring out political criticisms at a time when the final draft of the constitution can still be changed. Both staff members and delegates should participate in these statewide hearings on the final document and make recommendations, at third reading of the constitution, for changes that will make the final document more politically palatable throughout the state.

One of the principal problems faced in the ratification campaign in Maryland has been the fact that no substantial opposition to various sections of the proposed constitution appeared while the convention was going on. In fact, in those few cases where opposition appeared during the convention, the delegates usually were quick to amend the proposed constitution so that it reflected a compromise view on all controversial issues. I am now of the opinion that many groups intentionally did not make their opposition known while the convention was going on because they did not wish the convention to compromise on issues which they felt could be used to defeat final ratification of the new document.

It is for this reason that I suggest a series of statewide public hearings prior to the adoption of the final draft on third reading. I think some honest opposition to the constitution as a whole would be revealed at these hearings. I also think this would present an

additional opportunity to take the convention to the people and give the voters a sense that the convention is interested in what they think and respects their opinions. One of the strongest arguments, however, is the fact that such hearings could be used against those opposition groups that did not appear until after the proposed constitution is finally adopted by the convention. The obvious question that can then be asked is, "Where were you when we were holding the statewide hearings just prior to final adoption?"