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1 MR. FORWARD: It says, "provided, however, that in
2 any event, the vote of each State for the nomination for
3 President shall be announced and recorded (or in the absence
4 of an announcement shall be recorded) in accordance with the
5 results of any binding Presidential Primary or direct
6 election of delegates bound or pledged pursuant to State law."

7 I propose to amend that right at that point to say,
8 "In the absence of an announcement in accordance with the
9 results of State law, as interpreted by the Rules Committee
10 and approved by the convention, the vote so approved shall be
11 announced by the Chairman of the convention and recorded by
12 the Secretary. Any terms by which delegates and alternates
13 are bound under State law shall be first certified by the
14 appropriate official of each State Government, or, in the
15 absence of such an authority statutorily designated in a
16 State, by the State convention, or, if there is no State
17 convention, by their Republican State Committee or governing
18 committee."

19 I think that is a question that --

20 MR. MCGOUGH: Before you speak to that, Mr. Forward,
21 do you make that as a second amendment and do you have a copy?

22 MR. FORWARD: Yes, I do. I will pass it up to you.

23 MR. MCGOUGH: Is there a second to that amendment?
24 This is an amendment to the original text. It is not an
25 amendment to Mr. Wilson's amendment. This is a second amendment

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to the text. Is there a second to Mr. Forward's amendment?

COMMITTEE MEMBER: Second.

MR. MCGOUGH: Now, Mr. Forward.

MR. OLSEN: Point of order. If I understand Robert's Rules of Order, an amendment to an amendment is permitted. I don't see how this amendment is to the text.

MR. MCGOUGH: This is not an amendment to the amendment. This is an amendment to the original.

MR. OLSEN: Then I think it would be out of order if they introduce a new amendment while deciding on the first one.

MR. WILSON: Point of order, Mr. Chairman.

MR. MCGOUGH: If I can answer the first gentleman. On page 129, I believe, of Robert's Rules, it says, "When a motion or substitute is under consideration, the paragraph to be struck out, as well as the paragraph to be inserted, can be permitted by secondary amendment in any of three basic forms: inserting or adding, or striking out, or striking out and inserting." This is the procedure when either the separate motion is to strike out or to insert a paragraph.

I have been informed that by the parliamentarian that a second amendment would be in order to the original text.

MR. WILSON: Point of order, Mr. Chairman. I have read the amendment as proposed by the gentleman from Maryland.

kar 19 1 In reading it even as I stand here, I believe that I made my
2 point and it was to be helpful to this committee and helpful
3 to the clock.

4 I therefore believe that I have made my point
5 regarding the various matters I mentioned while speaking to the
6 issue. So I will withdraw my amendment in favor of the
7 gentleman from Maryland. That will save us time, I believe.

8 MR. MCGOUGH: Is there any objection to that
9 procedure? Mr. Wilson is withdrawing his amendment. We
10 have before us Mr. Forward's amendment. Any objection?

11 Hearing none, it is so ordered and Mr. Wilson's
12 amendment is withdrawn. That was the sheet of paper that
13 was passed out to you earlier.

14 We now have before us Mr. Forward's amendment.

15 MR. FORWARD: Thank you, Mr. Chairman. Thank you,
16 Mr. Wilson.

17 I think what my amendment attempts to do, and I
18 think very clearly, is to accomplish two principal goals.

19 MR. MCGOUGH: Is this amendment typed? We do not
20 have it. The Secretary does not have it. If we could have
21 four or five copies, whoever passed them out, it would be
22 helpful. If we can have the original, I would appreciate that.

23 Thank you. You may proceed.

24 MR. FORWARD: If I may speak to it just a minute,
25 Mr. Chairman. I think two of the things that have bothered

kar 20 1 a lot of us is the enforcement mechanism up here. My amend-
2 ment would provide the certification mechanism through the
3 Rules Committee that is lacking in the current form of
4 Rule 18(a).

5 Rather than allowing the possibility of conflicting
6 interpretations of State law to surface in the convention hall,
7 it would establish the certainty so crucial to a fair
8 convention which I know we all want.

9 Secondly, it preserves the Republican Party as a
10 federation of State party's interpretation and analysis of the
11 applicable State laws, whether it be Georgia or Maryland or
12 wherever, and I am from Maryland and we are bound. It would be
13 left to those authorities at the State level in the State
14 Government or the State party authorities who deal with this
15 on a sustained and regular basis.

16 This proposal is similar to a proposal made by the
17 President Ford Committee, but it was subsequently withdrawn,
18 as I understand it, because of some technical drafting
19 difficulties.

20 I have looked this over. I have talked to counsel
21 on both of this. I think that this language does give us the
22 enforcement procedure that we need, the certification mechanism
23 that we urge. And I urge its adoption.

24 MR. STEIGER: Would the gentleman yield for a
25 couple questions? For the purposes of clarification, would it

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1 be accurate to presume that if the Forward amendment were
2 adopted, that none of this would happen if there had not first
3 been certification, or in the absence of certification by the
4 duly authorized authority in the State, and there had not been
5 a State convention or there had not been certification by the
6 State committee or governing committee, that all of it would
7 go by the board. Would I fairly characterize your language
8 as having that happen?

9 MR. FORWARD: If there was no certification from
10 anyone ever?

11 MR. STEIGER: Yes.

12 MR. FORWARD: If there was no certification from
13 anyone, that would be so. But this is the method of getting
14 the certification, and for this convention we have that
15 certification.

16 MR. STEIGER: That is my second question. Is
17 there now in place a method by which the duly designated
18 State authority and/or the State convention and/or the
19 governing committee of the Republican Party in the State can,
20 prior to the nomination in 1976, provide what is required by
21 your language?

22 MR. FORWARD: That is my understanding, sir.
23 Mr. Cramer has gotten a certification from the various
24 States, yes.

25 MR. STEIGER: Thank you for answering my questions.

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MR. McGOUGH: Mrs. Boatwright from Connecticut.

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MRS. BOATWRIGHT: Thank you, Mr. Chairman. I am quite confused on this Forward amendment, but, of course, I am not a lawyer. I assume there are some others here who are not a lawyer, too.

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I would like an opinion, please, from the general counsel as to whether this amendment clarifies the entire issue in any way or does it confuse it.

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MR. CRAMER: I just saw the final draft of the suggested amendment a few minutes ago. I raise some questions relating to it.

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As the rule is before you, not amended, Rule 18, and as the procedure that has been followed, that procedure is one that is judged by this committee and judged by the Rules Committee of the National Committee; and that judgment resulted in, in effect, the decision that 19 States should be included and that the appropriate information was available to the committee to make the determination, without any such amendment.

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This is the procedure established by the prior committee and by the National Committee. It is my view, there is wording in this that frankly, if asked, I would have a great deal of difficulty in attempting to interpret, such as "vote division."

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MR. WILSON: Mr. Chairman, a point of order. Is it

kar 23 1 fair in all deference to our good friend from Florida to ask
2 him to present personal opinions to this committee on such
3 short notice and as not a member of the Rules Committee to
4 present any personal opinion?

5 MR. MCGOUGH: Mr. Cramer was asked to present a legal
6 opinion. That is what he is doing. He was asked by
7 Mrs. Boatwright.

8 MR. FORWARD: I would certainly say it is fair. I
9 talked to Mr. Cramer before.

10 MR. MCGOUGH: He might not want to, but I think it
11 is in order.

12 MR. CRAMER: Do I have a choice, Mr. Chairman?

13 MR. MCGOUGH: Not really.

14 MR. CRAMER: I was discussing, as I see it, some of
15 the problems that would develop as compared to the present
16 language if this amendment were adopted.

17 The rule as it is presently worded, the amendment,
18 says, "(or in the absence of an announcement shall be
19 recorded) in accordance with the results of any binding
20 Presidential Primary or direct election of delegates bound or
21 pledged pursuant to State law," but the wording used in the
22 first law says, "or in the absence of an announcement in
23 accordance with such State law."

24 MR. FORWARD: "With the results of State law."

25 MR. CRAMER: It does not pick up the language of

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"with the results of any binding" --

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MR. FORWARD: I changed a couple things from what is written there.

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MR. CRAMER: I understand. The reason why certification language was not included in the draft that you have before you was that in many States there is differing authority relating to certification, and some of it is not statutorily spelled out.

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It was felt by the committee that this would be a matter better determined by the Rules Committee itself as to what is satisfactory certification to that committee by the examination of the records available to it. This language, I think, is not necessary under those circumstances.

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MR. STEIGER: Would the general counsel -- I hate to ask you; I apologize. Can I ask you what happens again? If you take the Forward language, would it be correct that the Rules Committee of the convention would have to ascertain the proper interpretation of all of the laws within each State; and, secondly, would that interpretation have to go to the floor of the convention to be adopted by the convention under the language of the Forward motion?

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MR. CRAMER: That is what it says. It says "as interpreted by the Rules Committee and approved by the convention."

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MR. STEIGER: Mr. Chairman?

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MR. MCGOUGH: Mr. Steiger, you are speaking now.

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MR. STEIGER: Mr. Chairman, if I can first indicate at the outset that I am deeply troubled by the fact we even have to consider this whole issue. To be fair, this party has not had this kind of a problem from its very beginning in Ripon, Wisconsin, in the little white schoolhouse, or from the time of its State convention in Jackson, Michigan.

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It is only in the past really eight years that there has developed the number of State primaries in which this kind of an issue has arisen.

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As the members of the Rules Committee know, historically Wisconsin and Oregon have had State laws with Presidential Primaries for 70 years. We were alone for a fair amount of time, and all of a sudden, beginning with the effort in 1968, a number of States went to Presidential Preference Primaries.

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They operate in different ways. Wisconsin historically has been kind of a binding primary. It became more so when the legislature adopted its present law, only about six or eight years ago.

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If there were any fundamental belief that I think Republicans historically have held, it was that we wanted, as Carla Coray so aptly suggested to the members of this committee, to allow the States to make their

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1 We may not like those decisions. We may not agree
2 with those decisions. But it is the strength of this party
3 and it has been the fundamental philosophy of this party that
4 it is the State that makes the decision. And if that State
5 makes a decision to have a binding Presidential Primary, that
6 State law operates and those delegates are bound; and yes,
7 it makes it more difficult for the Wisconsin Delegation to play
8 the role of the delegate from Colorado and be uncommitted and
9 have the opportunity to go to the White House or visit
10 by phone with Governor Reagan and any of the other kinds of
11 things that are available to those who are uncommitted.

12 That is why in all of the work of the Rule 29
13 Committee the theme that flowed through it was that we would
14 at all times and in all places grant to the State the
15 judgment, the decision, as to what we did and why we did it.

16 That is why we did it, and to get to Idaho where
17 the State Legislature didn't change the law and where you could
18 have had a problem to allow that State to make a decision.
19 Frankly, it makes no sense to me to have the Rules Committee
20 of this convention, no matter how good our guidance is from the
21 Reagan lawyers or the Ford lawyers or general counsel Cramer's
22 lawyers, to act as an interpreting body for State law. I
23 don't think we can do it. And to then suggest, as the Dave
24 Forward amendment does, that we take our interpretation and
25 send it to the floor of the convention to be debated, and I

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1 assume modified if it is possible, would mean that then the
2 convention acts as an interpreting body for the State.

3 I think that deprives the State of its fundamental
4 right to make its own decision. And the Justice Resolution,
5 whether we like it or not, and I am sorry we even have to
6 debate the issue, but so long as there is any suggestion by
7 any delegate of any State bound by State law that they
8 want to undo what that State has said to them they must do,
9 then I don't think the National Convention has any choice but
10 to adopt something like the Justice Resolution, to impose on
11 the State that we will in fact abide by what the State does.

12 We don't like to go back and urge the State law.
13 But don't come in to ask us to serve as an interpretation for
14 what the State law does.

15 I think the Forward amendment ought to be defeated.

16 MR. HAYNE: Mr. Chairman, I think it is clear from
17 the opinion that was given to us by the general counsel that
18 the amendment of the gentleman from Maryland, which is now
19 before us, would in effect open a can of worms.

20 It is not subject to precise interpretation. It
21 could create a good deal of confusion and perhaps make it
22 impossible for the convention to require the delegations to
23 vote in accordance with the law of the States.

24 As the general counsel has stated, this meant Rule
25 18 that was submitted to us in writing by the Rules Committee

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1 of the National Convention Rules Committee was worked out
2 very carefully over a long period of time. It has been
3 carefully considered by them.

4 I don't think that we should with this Forward
5 amendment by the gentleman from Maryland, which comes up in
6 effect at the last minute, I don't think we should adopt it
7 and run the risk of not being able to protect the rank and
8 file Republicans in the States.

9 MR. McGOUGH: That will not be in order,
10 Mr. Milligan. The time has not expired.

11 Mrs. Boulton of Oklahoma.

12 MRS. BOULTON: Mr. Chairman, Congressman Steiger
13 made the remark that under this proposed amendment, the
14 convention would act as the interpretive body for State law.

15 It seems to me that this would be better than having
16 one man, the convention Chairman, or even one committee, the
17 Rules Committee, act as the interpreter of State law.

18 If we have to have somebody act as an interpreter
19 for State law, then it seems to me the larger group would be
20 better.

21 For this reason, the Forward amendment appears to
22 be an improvement to me. I think it is too bad that we have
23 to have anybody interpret State law except the State or the
24 people who are electing the delegates, whether it be in a
25 primary or by convention.

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2 It seems to me they are the ones who should be
3 interpreting their own law. But if we have to have someone
4 here in Kansas City interpreting State law, then I think we
5 would be better served for the convention as a whole to
6 interpret it rather than one man. Thank you.

6 MR. McGOUGH: The gentleman from Washington.

7 MR. DERHAM: Thank you, Mr. Chairman. As I
8 listened to Congressman Steiger's speech, there was much in
9 his statement with which I agree: his comments about the
10 difficulty of interpreting laws, his comments about the State
11 rights in trying to leave things up to the States. That is
12 what I was concerned about in my initial comments in opposition
13 to the language that was proposed by the committee to us.

14 I have reviewed Mr. Forward's language, and I find
15 it solves the problems I have. I think it solves the problems
16 that Mr. Steiger pointed out. It does give us, first, a
17 mechanism to find out officially whether the State law is
18 certified by an appropriate official from that State or from
19 that State's party.

20 Secondly, it gives us an opportunity, if anyone
21 challenges that certification, it gives us an opportunity
22 before we even get to the 1980 convention or the 1984
23 convention -- I think we all recognize that the Forward
24 amendment is not operative. It is operative really possibly
25 in the future convention.

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2 If the Attorney General in the State of Oregon
3 gives an opinion on the certification and someone changes it,
4 they have an opportunity to go to court, get a court ruling,
5 at least on a temporary basis, before the convention. So we
6 again have the opportunity for the State to make the decision
7 of what its law says and what its law means.

8 Then we come here. We have a certification before
9 the Rules Committee. That makes our job of interpreting those
10 laws a heck of a lot easier than under the present Justice
11 Amendment.

12 Under the present amendment without the Forward
13 amendment, we are still going to be provided as a body, as I
14 understand it, to adopt a resolution recommending to the
15 Chairman some form of certification. We are going to have to
16 interpret those laws without guidance from the States in the
17 1976 convention.

18 And so by having Mr. Forward's language, we can
19 clear this language up so in 1980 and future conventions we
20 know what the rules of the game are. We know how to determine
21 whether there is or is not a binding State primary. We can get
22 the State officials to solve the problem for us and take it out
23 of the political thicket we get into when we try to interpret
24 laws at the last minute. So I urge the support of the Forward
25 amendment.

MR. McGOUGH: I am going to recognize the gentleman

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1 from Hawaii. I want to read to you, and follow along, the
2 proper language of the Forward amendment. The language before
3 you is not the proper language.

4 The proper language reads: "In the absence of an
5 announcement in accordance with the results of State law, as
6 interpreted by the Rules Committee and approved by the
7 convention, the vote so approved shall be announced by the
8 Chairman of the convention and recorded by the Secretary. Any
9 terms by which delegates and alternates are bound under State
10 law shall be first certified by the appropriate official
11 of each State Government, or, in the absence of such an
12 authority statutorily designated in a State, by the State
13 convention, or, if there is no State convention, by their
14 Republican State Committee or governing committee."

15 The gentleman from Hawaii.

16 MR. DYER: Mr. Dyer, from the State of Hawaii.

17 Mr. Chairman, I have an inquiry to Mr. Cramer. I
18 am particularly concerned with the last sentence of the
19 Forward amendment, the one that refers to the certification
20 of any terms by which delegates and alternates are bound under
21 State law.

22 Mr. Forward said when he was questioned on the
23 initial presentation of his amendment that he understood that
24 Mr. Cramer had already received such certification. I under-
25 stand the gentleman from the State of Washington to say that

kar 32 1 these certifications, of course, haven't been obtained this
2 time but they will be available in the future.

3 My question for Mr. Cramer is, have we received the
4 necessary certifications? Do we have certifications in hand
5 from appropriate officials of State Government or so forth?
6 Or do we not? Does the Forward amendment in effect make the
7 Justice Amendment inapplicable in 1976?

8 MR. CRAMER: It would be effective by its language
9 to this convention. By its not coming into being until this
10 point, it would be questionable as to whether in fact that
11 certification had been acquired consistent with this language.

12 The certification that has been acquired is
13 contained in these files, one for each State, and it is
14 certification deemed by the Rules Committee and the National
15 Committee to be proper certification.

16 I could not say that the language in the last
17 sentence is in every instance our certification consistent
18 with that language.

19 One thing that bothers is that it does not cover
20 certification by district conventions, for instance, as an
21 example.

22 MR. DYER: Thank you, Mr. Chairman, Mr. Cramer. I
23 think that is the question I wanted answered.

24 MR. McGOUGH: Mr. Milligan from Indiana.

25 MR. MILLIGAN: I rise to make comments generally to

kar 33 1 the overall issue in Rule 18 and specifically to support the
2 defeat of the Forward amendment and to support the passage of
3 Rule 18(a) as reported by the National Committee Rules
4 Committee.

5 Basically what we have witnessed right here this
6 morning indicates the problem. This whole controversy with
7 regard to 18(a) started with regard to political statements
8 over whether or not persons would follow the dictate of
9 a binding State primary. It did not start with questions as
10 to which laws were binding. In fact, there was virtually
11 unanimity as to those States which had binding primary
12 provisions.

13 The question that we are addressing here was at
14 by persons speaking politically over whether or not a per
15 could break a binding State commitment. I would have men
16 or reference specifically to Senator Paul Gladstow's statements
17 on May 25 regarding this. "We have a number of delegates who
18 under their State laws are required to stay with the President
19 on the first ballot but are really Reagan supporters. These
20 delegates could probably abstain on an early ballot."

21 There is no question there as to whether or not
22 they are committed. The question and the issue there is whether
23 or not they can violate State law.

24 In another news release the New York Daily News,
25 the following day, May 26, it quotes as follows: "Senator Paul

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2 Lacsaw, Republican of Nevada, referring to Governor Reagan,
3 told reporters today that Reagan's delegate hunters would
4 urge potentially soft Ford delegates to abstain from voting
5 on the first convention ballot and then to vote for Reagan
6 on subsequent ballots when many no longer are bound to the
7 rules of their State party to support the President."

8 We have the same type of thing in releases regarding
9 the law in the State of North Carolina where there were
10 releases on July 28.

11 One particular individual, Malcolm J. Howard, of
12 North Carolina said, "How can you break North Carolina law in
13 Missouri?" He asked that at the delegation meeting. This was
14 as a result of the suggestion that individuals not follow their
15 own State law.

16 We have a quote by the Reagan Chairman, Tommy Thomas,
17 former State Chairman of the State of Florida. In that
18 particular quote it refers to felonious assault on the
19 Presidency. "Mr. Thomas said right now 10 of the 33 Florida
20 GOP delegates bound by law to Ford have said they may want to
21 vote for Reagan. It is felonious, said Tommy Thomas, former
22 State Chairman of the State of Florida. The delegates signed
23 a note. They will vote for the candidates to whom they are
24 committed for two ballots. Breaking that oath would be perjury.
25 I am certainly not encouraging anyone to do that" -- the
article continues -- "but some delegates are considering it,

kar 35 1 especially since the Ford-Reagan race is so close, no one
2 really knows who is ahead."

3 I think that this is well summed up in an article of
4 August 7 in the Washington Post by Edward Walsh, page 83.
5 That article concludes by saying, "But like the others,
6 Mr. Lake" -- Mr. James Lake, Reagan's Press Secretary -- "But
7 like the others, Lake also makes no commitments on how the
8 Reagan strategists will react when the Justice Amendment is
9 offered to the Convention Rules Committee. Suppose, it was
10 asked, the amendment is not adopted? What guarantees are there
11 in that heated atmosphere of the convention that Reagan
12 strategists will not resort to abstention as a tactic? Mr.
13 Lake in response to that question said there are no guarantees."

14 What we have here in this convention obviously is
15 the final step of a long nominating procedure which starts
16 with the first State primary in the State of New Hampshire
17 in February of election year. We no longer have delegates
18 coming to a national convention willy-nilly to do as they so
19 desire.

20 We have a composite of State laws affecting those
21 delegates, and we have by general agreement and by research,
22 by the certainly objective analysis of the Library of Congress,
23 19 States where they are actually bound under State law to
24 vote a certain way on either one or more ballots for
25 nomination.

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MR. McGOUGH: That is five minutes, Tom.

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MR. MILLIGAN: I would urge that we simply defeat the Forward amendment and that we pass 18(a) as originally presented because it embodies the language and the study --

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MR. McGOUGH: That is all of your time.

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MR. MILLIGAN: -- and removes this committee from making a legal decision and puts this committee in a political role as our convention rules provide. Thank you.

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MR. McGOUGH: I will have to call now for the next speaker. I want to recognize the gentleman from Idaho.

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COMMITTEE MEMBER: It has been suggested by the gentleman from North Carolina, and the delegates from North Carolina have no intention of breaking our State law, whether or not it is binding on us and we can be prosecuted.

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MR. McGOUGH: Are you speaking --

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COMMITTEE MEMBER: I wish to announce that we are going to abide by our State law.

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MR. McGOUGH: Thank you.

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Now I recognize the gentleman from Idaho.

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MR. OLSEN: Mr. Chairman, I will only make a couple of brief comments. With respect to the last gentleman's statement, I think that we should be aware that, to my knowledge, nothing has been presented to this Rules Committee yet that would in any way indicate an encouragement that anybody violate the law; nor is anybody asking any delegate

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to do that.

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I think that a substantial portion of the long talk that was given was merely to encourage emotion rather than to get to the crux of the issue. The crux of the issue is simply who makes the determination as to what the delegation is obligated to do? Is it to be done by the Chairman of this convention or is it to be done by the State authority that elected that delegate?

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I think we should make it very clear that no one is encouraging anyone to not comply with the law of their State.

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MR. MCGOUGH: Mr. Milligan, what purpose was that for?

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MR. MILLIGAN: I move the previous question.

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COMMITTEE MEMBER: Second.

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MR. MCGOUGH: The previous question has been demanded. I have heard a second. Mr. Milligan, I have a question. Did you move the previous question on the amendment or the amendment and the motion both?

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MR. MILLIGAN: I move the previous question on Mr. Forward's amendment, that matter which is before us now.

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MR. MCGOUGH: All right. Thank you. That is an appropriate motion. A second has been heard. We will now vote on the question.

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The question is on ordering the previous question.

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Those in favor will say aye; those opposed, no.

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The ayes have it.

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The question has been ordered on Mr. Forward's amendment. Now voting on Mr. Forward's amendment. All those in favor of the Forward amendment say aye; those opposed, no.

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I have to call for a division. All those in favor of the Forward amendment will rise.

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You may be seated.

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Now the nays, those opposed to the Forward amendment will rise.

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Be seated.

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The ayes in the Forward amendment were 47; oppos^d were 50. The amendment is defeated.

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The question is on the adoption of Rule 18.

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COMMITTEE MEMBER: So move.

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MR. FRENZEL: Mr. Chairman?

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MR. McGOUGH: The call for the order has been m

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COMMITTEE MEMBER: I call for the orders of the

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day.

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MR. McGOUGH: Which particular order were you

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referring to?

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COMMITTEE MEMBER: Lunch. I believe that you

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adopted a rule yesterday that said we were going to adjourn 20 minutes ago.

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MR. McGOUGH: I am with you. The gentleman is

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correct. I was going to ask for permission to continue a

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little bit. For what purpose did you rise, sir?

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MR. FRENZEL: I rise for the purpose of moving a question on the resolution now pending.

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COMMITTEE MEMBER: Second.

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COMMITTEE MEMBER: Out of order.

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MR. McGOUGH: That is not in order unless it is without objection, sir. There has not been quite that much debate.

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MR. FRENZEL: Mr. Chairman, I ask unanimous consent that we move to the question of the vote on the Resolution 18.

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MR. McGOUGH: It has been asked for unanimous consent to the vote on the resolution on Rule 18.

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MR. STULL: Withhold.

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MR. McGOUGH: I will take a vote on that. All those in favor say aye; those opposed, nay.

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It is not unanimous.

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COMMITTEE MEMBER: Mr. Chairman, adjourn.

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MR. McGOUGH: Your comments were in order. Unless the assembly consents to continue, and I was going to ask for that consent -- I am going to call for the ayes and nays on the consent to continue. All those in favor of continuing say aye; all those opposed, nay.

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COMMITTEE MEMBER: Mr. Chairman, I would remind you it is two-thirds to suspend the orders of the day.

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MR. McGOUGH: That is correct, sir. All right. We

kar 40 1 will have a division. The aye vote is to suspend the rules
2 and continue. The nay vote will be to accept the orders of
3 the day and go to lunch. An aye vote is to suspend the rules
4 to continue. All those in favor of an aye vote to continue
5 will rise.

6 Will you be seated?

7 The nays on that question will rise.

8 It is obvious in the opinion of the Chair it is not
9 two-thirds. We will be recessed until 2:30.

10 (Whereupon, at 1:15 p.m., the committee was
LF fois 11 recessed, to reconvene at 2:30 p.m. this same day.)
end kar 12

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AFTERNOON SESSION

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olg Karen

(2:30 p.m.)

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3 MR. MCGOUGH: Please take your seats. We are going
4 to start.

5 We are on Rule 18. We have a motion before us to
6 adopt Rule 18. We are going to commence.

7 The Chair recognizes Mr. Lippitt of Rhode Island.

8 MR. LIPPITT: Mr. Chairman, Fred Lippitt of
9 Rhode Island. I rise in support of the National Committee's
10 version of Rule 18 that we are now considering. It seems to
11 me this has been a well-researched rule. The rule as now
12 written has been well-researched by the counsel for the
13 National Committee, and he has advised us that if we adopt the
14 rule in this form, we will be able to enforce it.

15 The chairman of the convention has advised us that
16 he needs our assistance in providing some guidance to him so
17 in case of contest we will be able to know he will be able to
18 rule in accordance with our desires.

19 It seems to me it would be a mistake to try to
20 amend this rule further, for each time we try to amend this
21 rule, I believe it becomes more complicated, and we are less
22 sure that the proper research has been done so that our
23 rulings will be right.

24 It is very important for us to adopt this rule for
25 the purpose that the rule is right. The rule says to the

1 American people that we believe that the State laws with
2 respect to primaries and the State laws with respect to
3 conventions for the delegates pledged should be enforced.

4 It is the policy of our party to see that they are
5 enforced in accordance with the will of the people and in
6 accordance with the will of the people as expressed through
7 their State laws.

8 MR. MCGOUGH: Could we have order, please.

9 MR. LIPPITT: To the extent we attempt to amend this,
10 we make it more complicated. We should say to the American
11 people straight out and simply, we intend that the State laws
12 with respect to the delegations are enforced. We intend to
13 tell the delegates we are going to enforce them. We say to the
14 American people the laws of the State with respect to the
15 delegates are going to be enforced in accordance with the
16 will of the people.

17 It is vital that we do this and that we don't
18 complicate the matter with further amendments. I would hope
19 that we would proceed in due course to the adoption of Rule 18
20 as recommended by the Rules Committee of the National
21 Committee.

22 MR. MCGOUGH: Mr. Conway of Massachusetts.

23 MR. CONWAY: Mr. Chairman, Frank Conway of
24 Massachusetts. I rise in support of Rule 18 as presented to
25 us. The issues are clear. This rule upholds the laws of

lf3 1 the State and assures that the will of the people is carried
2 out. It provides a needed procedure where the delegates are
3 not individually named but are selected according to the
4 proportion of the vote in the Presidential primaries. I
5 think we have debated the proposed amendment to this rule.
6 I think the language is clear as now written and as considered
7 by the counsel for the National Committee.

8 I urge all of our members here today to vote for
9 Rule 18 as now presented.

10 MR. MCGOUGH: Mrs. Carlson from Arizona.

11 MRS. CARLSON: I am Donna Carlson from Arizona. I
12 regret that we have had today so much heated debate on some of
13 our amendments. I think we have created a little bit of ill
14 will because we have interjected into our debate the political
15 campaigns. I would hope that members of the Rules Committee
16 would direct their attention to the rules.

17 Now, I do not like the term "Justice Resolution."
18 I prefer, as the Congressman from Wisconsin has referred to,
19 our old precedents, the past rules we have had wherein we
20 have trusted our delegates to observe their State laws and know
21 their own State laws.

22 However, I sense on this committee there is great
23 sentiment for the Justice Resolution, so I will probably
24 support it.

25 However, I do have a question on this resolution.

lf 4 1 In the event that there are a number of delegates who are
2 pledged to a candidate, and that candidate for some unforeseen
3 reason is no longer a candidate -- say he has a tragic
4 accident or becomes mentally ill or for some reason or other
5 is no longer a viable candidate -- what happens to those
6 delegates that are bound?

7 I direct that question to our legal counsel as to
8 how long these delegates would be bound in that event.

9 MR. MCGOUGH: I am advised in general the State law
10 applies to that, and the State law as to the length of time
11 applies to a certain number of ballots in a different way in
12 different States. And in the event you referred to, State
13 laws generally speak to that.

14 MRS. CARLSON: Thank you.

15 MR. MCGOUGH: The gentleman on the end, are you
16 attempting to be recognized?

17 MR. HURTADO: Alex Hurtado from Utah. I would like
18 to voice an opinion before we pass on this particular rule.
19 I am a little distressed about the rule simply because we are
20 the Republican Party that keeps telling each other and every-
21 one else that we are opposed to government bureaucracy and
22 interfering with things that we know we have to do. So here
23 we have met today like a subcommittee of OSHA, which says,
24 You will be happy, like it or not; this is the way we want you
25 to be.

1 I happen to think those people who were elected ²⁶² under
2 their State laws know their moral and legal commitments, and
3 they intend to honor them. I have yet to talk to a delegate
4 from a State who has State law-imposed restrictions on how they
5 are going to vote who has told me they are going to do
6 otherwise. We are saying, "Just in case, we don't trust you.
7 Therefore, we are going to make certain that you do."

8 The other provision I don't like is this becomes
9 automatic that the chairman can in effect determine for those
10 States. Then as I reflected on it, I said perhaps that is not
11 too bad at all. If we could get all the States to do that,
12 then all we would have to do at a convention is provide the
13 facilities for the chairman to cast the votes and save us all
14 a great deal of effort.

15 Mr. Chairman, I speak against the recommendation
16 to Rule 13.

17 MR. MCGOUGH: Thank you. The gentleman in the third
18 row, you require recognition?

19 Over here, then, the gentleman from Alabama.

20 MR. GRAHAM: A point of legal inquiry of Mr. Cramer.
21 Mr. Cramer, it was the understanding of the Alabama delegates
22 to this convention that we were legally bound for three ballots
23 and under certain other conditions could be released by the
24 nominee or by release of Governor Reagan in our case, or by
25 two-thirds vote of the delegation. Now, it seems that we should

.f 6 1 be on this list and are not. Can you give an explanation to
2 this?

3 MR. CRAMER: Number one, under the wording presently
4 before us, the Congressional Research Service was of the
5 opinion that Alabama is not a State that has a binding
6 Presidential primary pledged pursuant to State law. I have
7 the statute before me in full relating to Alabama, and I
8 reviewed that statute, as did others, with regard to it.

9 The State statute gives the State Committee the
10 choice to have a primary or not to have a primary in the
11 first instance. If the State has a primary, then again the
12 party has a right and has an alternative, an option to
13 determine by its own rules, not by State statute, as to whether
14 or not the delegates shall be bound after the vote has been
15 taken. That, in my view, is not in keeping with the language
16 contained in the present wording in accordance with the
17 results of any binding Presidential campaign or direct
18 election of delegates pledged pursuant to State law, in that
19 the State party has total discretion first as to whether to
20 have the election, and second as to whether the party chooses
21 to be bound by that. Therefore, the State law itself does not
22 bind.

23 MR. GRAHAM: We would be bound by the State
24 committee.

25 MR. CRAMER: I understand. The wording of the

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1 present language is that they are bound pursuant to State law,
 2 and the opinion is that that is a State that is not bound
 3 pursuant to State law, but rather if it chooses to be so by
 4 your State convention.

5 MR. GRAHAM: I am not an attorney, but it seems to
 6 me -- let's say that maybe the legal counsel is incorrect
 7 about Alabama, or let's say in the case of any of these other
 8 States, could it be that Mr. Rhodes, as chairman of the
 9 convention, and perhaps the Republican Committee could be
 10 open to litigation?

11 Let's say you are correct and we are not bound by
 12 State law, as we thought, and that somebody does not vote
 13 for Governor Reagan on the first ballot but votes for Mr.
 14 Stassen, let's say. What would be the legal problem, perhaps?
 15 Could a person who voted from Alabama for Mr. Reagan bring
 16 suit against Mr. Rhodes, for example? It is very close in
 17 Massachusetts, and they are on the list.

18 Or in general if Mr. Rhodes made a mistake in any
 19 of these States, wouldn't he be open to litigation from
 20 voters in those States?

21 MR. CRAMER: Let me first indicate that the
 22 Permanent Chairman has specifically asked, as I indicated
 23 earlier, that this committee make this determination, and he
 24 is willing to be bound by that determination made by this
 25 committee. He personally asked the committee to make its own

1 determination and submit it to him.

2 MR. GRAHAM: He would be subject to litigation then?

3 MR. CRAMER: On the second question of litigation,
4 it is difficult for me to see how anyone could litigate in the
5 middle of a roll call a question of whether or not on that
6 evening of Wednesday evening a ballot cast was in any way valid
7 or invalid -- first, because of the time element involved; but,
8 secondly, because this convention, under Cousins v. Wigoda,
9 regardless of the State law, would have license to do what it
10 saw fit according to its party rules. And what we are talking
11 about is party rules at the present time. This is an
12 amendment to party rules. In my view, under Cousins v. Wigoda,
13 it can do what it sees fit relating thereto.

14 MR. GRAHAM: To me, what you are in effect saying is
15 that the party rules are above the State law.

16 MR. CRAMER: I am saying that Cousins v. Wigoda in
17 effect said that the party can do as it sees fit with regard
18 to delegate selection matters, even though it is totally
19 contrary to State law. We in fact are saying in this amendment
20 that because of Cousins v. Wigoda and because that possibility
21 exists, that therefore, because delegates could, without
22 this resolution, vote contrary to State law, that they shall
23 be bound by State law.

24 MR. McGOUGH: I recognize Mr. Duncan from Kentucky.

25 MR. DUNCAN: Thank you, Mr. Chairman. Reluctantly

lf 9 1 I rise to speak on this issue. I find myself compelled to
2 explain my vote, because we do not have a roll call vote, and
3 I feel that I owe it to the delegation in Kentucky, to the
4 citizens of the Commonwealth of Kentucky, and to you, the
5 committee members to explain why I am against Rule 18, as a
6 delegate from a State that is directly affected.

7 I would like to give you the history of the primary
8 law in Kentucky. The Democrat administration in Kentucky
9 passed a primary law that does not have a penalty clause. Now,
10 this law was passed to give the Democrat Party in the State
11 of Kentucky the opportunity to vote against George Wallace
12 at the Democratic National Convention. They thought
13 Governor Wallace was going to carry Kentucky, and they wanted
14 an out. This is why we have the law.

15 Now, regardless of the history of the law, I spent
16 a couple of sleepless nights thinking about, as a delegate,
17 how I am going to vote. And I am going to tell you, I am
18 voting for Kentucky to have 19 for President Ford and 18 for
19 Governor Reagan, just as our law says, because I think that
20 reflects some semblance of what the Commonwealth wants.

21 I am against Rule 18. I disagree with it. I feel
22 morally bound to vote according to our primary law. I do
23 not wish a rule which was hastily drawn to impugn the integrity
24 of the delegates to this convention. I take this rule as a
25 personal affront, and I take it as an affront to the Kentucky

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1 delegation.

2 I think if we pass this rule, we are cutting down on
3 the flexibility of the political process. The States act as
4 a laboratory for the political process. If the State wants to
5 have a beauty contest, let it have a beauty contest. If it
6 wants a binding delegation, let it be a binding delegation.
7 If it wants a delegation that says, "If we win, you vote one way,
8 but if we lose, you can vote the other way," then I, as a
9 States righter, believe the State has that authority.

10 I believe eventually we will see States that say
11 you must run as the President and Vice President together. If
12 the States want to say that the President must name his
13 Vice Presidential choice, I think the State has that right.
14 They say, "We give you our delegates, if you win our primary,
15 if you name your Vice President."

16 I think we are cutting out flexibility. Personally,
17 I would agree with the lady from Arizona. I think there is a
18 possible horrible hypothetical that we shudder to think about.
19 The lady was given short shift on her point on someone dying
20 before the convention. I am saying someone could win the
21 election and be found out to be a bad moral character, to be
22 a bad actor, and then where would that State be? The delegates
23 would be bound to vote for that person.

24 With this in mind and with the debate, I move the
25 previous question at this time, Mr. Chairman.

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1 MR. McGOUGH: The previous question has been moved.
2 Is there a second?

3 MRS. CARLSON: Second.

4 MR. McGOUGH: There has been a second.

5 What do you rise for, sir?

6 MR. FRENZEL: A point of order, sir, is that the
7 proponents of the motion pending before the house have not
8 used their 10 minutes.

9 MR. McGOUGH: I will have to rule against you,
10 sir. Both sides have used their time. The proponents of the
11 amendment have used 10 minutes and 55 seconds. The people
12 who oppose the amendment have used 12 minutes and 50 seconds.

13 MR. OLSEN: Mr. Chairman --

14 MR. McGOUGH: The call for the question has been
15 demanded. I have heard a second. For what purpose do you
16 rise?

17 MR. OLSEN: For a privilege motion, sir.

18 MR. McGOUGH: You will have to go to a microphone
19 and state your privilege motion.

20 MR. OLSEN: My privilege motion would be this, that
21 in view of the efforts made to modify this rule, and in view
22 of the fact that I am sure that you would not want anyone in
23 this convention to believe you are trying to encourage
24 someone to avoid their State law, I would move that the
25 convention unanimously adopt Rule 18 and instruct the secretary

1 to enter the unanimous ballot in favor of Rule 18.

2 COMMITTEE MEMBER: Second the motion.

3 MR. McGOUGH: I have been informed that is really not
4 a motion but a little debate. I am going to rule the other
5 way. This question has been demanded and I have heard a
6 second. The question has been called.

7 All those in favor will say aye; those opposed, nay.

8 The ayes have it and the previous question is
9 adopted, and the question is now on the adoption of Rule 18.

10 All those in favor of the adoption of Rule 18, say
11 aye; contrary, nay.

12 The ayes have it and Rule 18 is adopted.

13 (Applause)

14 MR. FRELINGHUYSEN: Mr. Chairman, Peter Frelinghuysen
15 of New Jersey. Mr. Chairman, was the vote just taken applicable
16 to section 18(b)? If it is, it seems to me it would be in
17 order to debate the modification of the language by unanimous
18 consent so we should have a roll call in alphabetical order
19 and strike the words "the order established in Rule 12."

20 MR. McGOUGH: I would be happy to do that. I might
21 say the order established in Rule 12 would not change the
22 intent here, because it would be whatever you already
23 established in Rule 12 under whatever event, and it says
24 "alphabetical order."

25 I would like, if I might, to move to Rule 19. Rule