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REPORT

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RHODE ISLAND

BI-PARTISAN PREPARATORY

COMMISSION FOR A CONSTITUTIONAL CONVENTION

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July 5, 1984

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## COMMISSION BACKGROUND

The Bipartisan Preparatory Commission for a Constitutional Convention was created by act of the General Assembly in 1983, pursuant to the provisions of Article XLII of the State Constitution, which provides that the question of whether a constitutional convention should be held will be placed on the ballot at least once every ten years. The Article further provides that "prior to a vote by the qualified electors on the holding of a convention, the general assembly, or the governor if the general assembly fails to act, shall provide for a bipartisan preparatory commission to assemble information on constitutional questions for the electors."

Pursuant to this mandate, the legislature enacted 83-H 5907, creating a thirteen member commission, providing for their appointment by the Speaker of the House and the Majority Leader of the Senate and the Minority Leaders of the House and Senate. Under this legislation, the Commission was charged with considering, "...among other issues, the following matters and providing information to the electors thereon:

Four year terms for state elected officials

Legislative pay

Elimination of obsolete constitutional language

Under the original terms of this resolution, the Commission was charged with reporting to the governor, the speaker of the house of representatives, the majority leader of the senate, the minority leaders of the house and senate, and to the public, through the news media, no later than February 15, 1984. This reporting date was later extended by legislation to July 2, 1984.

Acting under the mandates of this legislation, the following appointments were made to the Commission:

Representative Frank J. Fiorenzano  
Representative Christopher Boyle  
Representative John R. Hickey  
Representative Stephen P. Erickson  
Senator Richard A. Licht  
Senator Robert J. McKenna  
Senator Lila M. Sapinsley  
Gary Sasse, Rhode Island Public Expenditure Council  
Victoria Lederberg, Esq.  
Honorable Dennis J. Roberts  
Christopher H. Little, Esq., Common Cause  
John J. Partridge, Esq., Common Cause  
Jane Sherman, Rhode Island League of Women Voters

Meeting at the call of the Speaker on February 27, 1984,  
the Commission elected the following officers:

Chairman: Dennis J. Roberts

Vice Chairman: Christopher Boyle

Secretary: Jane Sherman

#### INFORMATION CONSULTED

In order to prepare this report, a number of sources were consulted. The Commission availed itself of the expertise of Professor Elmer Cornwell of Brown University, author of works on previous Rhode Island constitutional conventions, who served as consultant to the Commission. The records of the committees of the General Assembly concerned with constitutional issues, particularly the House Committee on Special Legislation, were reviewed, and a great quantity of material was provided from these sources.

The Commission reviewed proposals for constitutional reform submitted by all of the members of the Commission: surveyed all the constitutional amendments proposed by members of the General Assembly since the last constitutional convention in 1973; and held a series of public hearings throughout the state to gather information from the general public.

The Commission held 14 meetings including public hearings.

The public hearings were as follows:

Middletown Town Hall

Rhode Island State House

Westerly Town Hall

Woonsocket City Hall

University of Rhode Island

#### COMMISSION PROCEDURE

The process by which the Commission would produce a report, and the general policies to be used in determining what would be included in the report, occupied much of the time of the Commission for the first several meetings. After much discussion, it was determined that the Commission would not actually recommend specific amendments to the Constitution; nor would it necessarily take a position on any issue of substance that might be addressed by a constitutional convention. Rather, the purpose of this Commission would be to examine those issues that are likely to be addressed by a constitutional convention, either because they have occupied a prominent position in public debate in the recent past, or because they are of great significance, or because they address issues that are uniquely appropriate for a constitutional convention.

The Commission decided to gather a list of prospective issues that could be addressed by the Commission. This list was compiled from a combination of internal sources (lists supplied by each commission member) and external sources. Presented with this list, the Commission then took a series of preliminary votes, winnowing down the list to a manageable number of issues that could be the subject of further review and research. This modified list was researched and presented to the public in a series of public hearings, where the public had an opportunity to comment on those issues and others that were not originally included on the list.

Following the public hearings, the Commission had a work session where the substance of the report in each of the issue areas was agreed to. This report is the result of those decisions the Commission made.

#### RECOMMENDATION

##### CONSTITUTIONAL CONVENTION

The commission recommends that the voters call a constitutional convention for Rhode Island at the November 1984 general election.

An overwhelming majority of the Commission members feel that the state is ready for another constitutional convention. It has been eleven years since a constitutional convention has been held. During that time, a number of significant constitutional issues have arisen which deserve the attention of a convention, which will be discussed in the next section of this report. Accordingly, the Commission believes that a convention should be called by the voters in November. It would then be the responsibility of the 1985 session of the General Assembly to enact legislation setting forth an election schedule, determining the method of election, and appropriating sufficient funds for the convention to function. Provisions of the existing constitution mandate only that such a convention would consist of one hundred members, with one member elected from each representative district as currently constituted. It is assumed that the convention would occur sometime in the middle of 1985.

A minority of the Commission pointed out that the process of amending the State Constitution without the use of a convention had been simplified since 1973 and, therefore, many of the things which might have required a convention in the past could be accomplished by having the legislature place proposed amendments on the general election ballot.

The Commission fully recommends that, if called, a constitutional convention be elected on a non-partisan basis. Although the actual process of setting up the election for convention delegates would be the responsibility of the legislature, this Commission is charged with reporting to the legislature as well as to the public. Accordingly, the Commission recommends that any convention election procedure provide that delegates be elected on a non-partisan basis.

The 1985 constitutional convention could have before it a range of choices...it can propose an entirely new constitution for adoption or rejection by the voters, as the 1964 convention did; it can propose individual amendments to the constitution in those areas deemed most vital, such as the convention of 1973 did; or it could choose a middle ground and rewrite the basic document while presenting the most controversial issues to the voters in the form of supplemental amendments, thus allowing individual decisions on each.

#### SPECIFIC ISSUES

The following specific issues were discussed at length by the Commission and, upon vote of the members, are presented to

the people as questions of sufficient importance to be considered by a constitutional convention. The Commission itself did not take a position on these issues, but did conclude that they should be reported to the citizens of Rhode Island for their consideration as they make up their minds on a convention call.

#### GENERAL OFFICERS

Regarding the general officers of the State (Governor, Lieutenant Governor, Attorney General, Secretary of State, and General Treasurer), the Commission felt that the question of giving these officials a four year, rather than a two year term, merited review.

As to the Governor and the Lieutenant Governor, the Commission believes a convention should consider whether candidates for those offices should be bracketted (that is, run as a team on each party ticket). At present, they run as individuals, leaving open the possibility of having a governor of one party and a lieutenant governor of the other party.

The members also voted to suggest that a constitutional convention review the issue of whether or not the secretary of state and the general treasurer should be appointed. These officers are currently elected by the people. It can be argued

that the duties of these officials involve less policy making responsibility than those of some of the other general officers. This is a question the convention might well consider.

In most states, the governor enjoys what is called a line-item veto. The Rhode Island governor, like the President, must veto something like an appropriation bill in its entirety if he disapproves of some portion of it. He cannot veto only the parts he does not like. A line-item veto would allow that kind of selective veto of items in a bill. The Commission believes a convention might consider the merits of granting the Governor the power to exercise a line-item veto in regard to appropriation.

#### LEGISLATURE

Regarding the legislative branch of government, several questions came to the attention of the Commission which should be considered by a constitutional convention. The size and makeup of the two houses, the Commission found, should be considered before a convention. Related to this might be consideration of the length of annual sessions.

As was the case with the general officers, the question of changing the present two year to a four year term for legislators should also come before a convention, in the view of the Commission.

Rhode Island has one of the lowest levels of pay for its legislators in the United States. Legislative compensation, therefore, is an obvious question for a convention. The Commission felt that the issue might best be considered in relation to questions of the size of the legislature and the length of session for which members are paid.

#### REAPPORTIONMENT

There was considerable discussion by the Commission regarding reapportionment of the General Assembly. The Commission concluded that it would be appropriate for a convention to review the subject of whether standards and procedures governing reapportionment should be specified in the State Constitution, including the desirability of a reapportionment commission independent of the legislature.

#### RIGHTS OF CITIZENS

A variety of other questions came up, several of which the Commission believes are worthy of consideration at a constitutional convention. Among these issues are: an equal

rights amendment to the State Constitution, addressed particularly to the rights of women, as well as an amendment addressing the rights of handicapped persons.

#### INITIATIVE AND REFERENDUM

Some states allow citizens, through a petition process, to initiate legislation, and some also allow the people, through a similar petition process, to require that acts already passed by the legislative branch be put on the ballot for approval by the people. Commission members felt that the topic of initiative and referenda should be taken up by the constitutional convention.

#### JUDICIARY

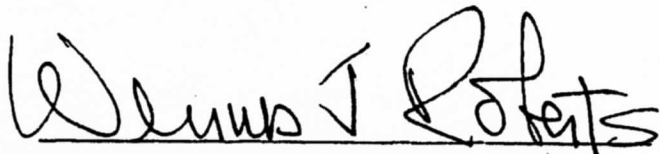
It was also proposed that the present Rhode Island system of electing Supreme Court Justices by vote of the two houses of the General Assembly should be reviewed by a convention. One optional method of selecting Supreme Court Justices could be for the Governor to make appointments subject to legislative confirmation. The Commission also found that a convention should consider the subject of tenure for justices of the State Supreme Court.

SUMMARY

In summary, the Commission felt that there were many subjects which a convention, if called, ought to study carefully and feels that an affirmative vote on a convention call should be seriously considered by the citizens of Rhode Island in November.

ACKNOWLEDGMENT

The Commission expresses its appreciation to Professor Elmer Cornwell and his staff for their assistance throughout the Commission's deliberations and particularly in the preparation of this Report.

A handwritten signature in black ink, reading "Dennis J. Roberts". The signature is written in a cursive, flowing style with a large initial "D".

Dennis J. Roberts, Chairman  
for the Commission

July 5, 1984