

decided not to be that restrictive with the General Assembly, and merely to hold it to those areas when existing general laws were applicable.

THE CHAIRMAN: Delegate Gallagher, if the Chair may interrupt, I think maybe I can restate Delegate Moser's question to bring it to your attention a little more sharply.

Section 7.06 says "Except as otherwise provided in the constitution," and then proceeds with the general exceptions.

As I understand Delegate Moser's question, it is whether the negative statement in 3.17 would constitute an affirmative provision which would bring you within the first clause of section 7.06. Is that your problem, Delegate Moser?

DELEGATE MOSER: Yes, that is it.

DELEGATE GALLAGHER: What we have to remember is that in most states of the union they usually put together this prohibition, and it usually reads this way:

"The General Assembly shall pass no special or local law."

Maryland, because of its strange history with respect to public local laws, has an entirely different tangent upon which we take off, as explained by the entire section 4. I do not think that stating the special legislation section in 3.17a in the negative contravenes 7.06 or makes the two contradictory.

THE CHAIRMAN: Delegate Gallagher, I think you still miss the point that he is making.

It is not directed to local public laws at all, as the Chair understands it, but to public general laws.

Delegate Moser is suggesting that under 7.06 even though it is under the local government article, under 7.08 unless there is express statutory provision or authorization there is a prohibition against the legislature enacting any law other than public general laws, and he inquires whether your negative statement in 3.17a is sufficient to meet that statement in 7.06.

DELEGATE GALLAGHER: He is asking me whether or not putting it in the negative, combined with the language of 7.06, will make it possible for Maryland ever to pass a special law.

THE CHAIRMAN: The other way around; putting it in the negative may not be "as otherwise provided in the Constitu-

tion" which seems to connote an affirmative statement.

DELEGATE GALLAGHER: Yes, I see the difficulty. I think it has to be differently stated, Mr. Moser.

THE CHAIRMAN: Delegate Moser.

DELEGATE MOSER: Is it the intention of your Committee—and I would agree if it is—that what you want is basically the present practice with respect to continuing with the permission and prohibition of special laws?

DELEGATE GALLAGHER: That is correct.

THE CHAIRMAN: Delegate Moser.

DELEGATE MOSER: For the record I should say that the Committee on Local Government did not intend to take any position one way or the other with respect to special legislation.

May I ask another question?

THE CHAIRMAN: Proceed.

DELEGATE MOSER: Is the last clause, reading, "and whether general law is applicable shall be a matter for judicial determination" really necessary?

I ask the question because I know it is in the model act, but we do not have it in section 7.06, and we certainly do intend the question of whether a law is the general law shall also be subject to judicial determination. I have some question about including it in this section of the constitution but not including it in 7.06. I just want to make sure that your Committee and our Committee mean exactly the same thing.

DELEGATE GALLAGHER: I am told by those more knowledgeable than I that the reason why it is included in the model act is the result of experiences which grew out of the Minnesota Constitution in 1965.

I will yield to Mr. Hanson for a more lengthy discourse on the experience of the Minnesota convention, but that is the reason.

THE CHAIRMAN: I do not know that you have answered Delegate Moser's question.

DELEGATE GALLAGHER: We put it in because we felt with the history of special legislation and the question of whether or not it was a judicial matter, we ought to put it in as a safety factor, and perhaps you ought to do the same thing.