

words, so many dollars for so many children, therefore, in that sense nobody loses anything, but if a county through exemptions or some other purpose, say, is underestimated by, say, ten thousand dollars, that ten thousand dollars in the overall has to be made up by the rest of the State.

DELEGATE CASE: That is correct.

THE CHAIRMAN: Delegate Grumbacher.

DELEGATE GRUMBACHER: That was just my machine gunning off.

DELEGATE CASE: I hope it was not aimed at me.

DELEGATE GRUMBACHER: Would the equalization clause in here not straighten out some of these problems?

DELEGATE CASE: That is the intention of it. That is correct.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: Delegate Case, I am interested in the interplays between 8.01(a) and (b), and I am aware of the fact that a number of questions have been directed to you concerning this, but may I ask you whether or not a political subdivision can be delegated the taxing power provided it meets the two criteria set out in 8.01(a)? That is to say, that it is elected and that it possesses legislative powers?

DELEGATE CASE: I am sorry, Delegate Hardwicke, I did not get the thrust of your question.

DELEGATE HARDWICKE: If a political subdivision meets the points of section 8.01(a), if it is elected and possesses taxing power—

DELEGATE CASE: If the governing agency is elected, and if the governing agency possesses legislative powers, then, but only then, can it be granted the taxing power.

DELEGATE HARDWICKE: In your comment on 8.01(a), you say that this paragraph is intended to express the principle, no taxation without representation.

DELEGATE CASE: That is correct.

DELEGATE HARDWICKE: As I understand that principle historically, the idea is that the people who imposed the tax must be the people whom the taxed persons have elected?

DELEGATE CASE: That is correct.

DELEGATE HARDWICKE: So if that is true, then, would it be possible for a governmental unit to be given the power to tax persons who did not actually vote for them?

DELEGATE CASE: No, sir.

DELEGATE HARDWICKE: It would not be possible?

DELEGATE CASE: It would not in my opinion, no, sir.

DELEGATE HARDWICKE: Would it then not be possible, then, for a governmental unit to impose a payroll tax which would cover persons who did not have the power to vote for them, but who for some reason or another came within the jurisdiction of that governmental unit?

DELEGATE CASE: Of course, as you know, Delegate Hardwicke, the question of the constitutionality of payroll taxes has been before a great number of states, particularly in Pennsylvania and Ohio, and the argument has always been made that people whose residence or domicile was in a non-taxing jurisdiction were improperly hit with the tax of the taxing jurisdiction and the cases have almost uniformly held that this is not true because generally the theory is that the taxpayer did not have to work in that particular area and did so by choice and, therefore, subjected himself to the tax.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE CASE: This is a neat constitutional question.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: Then I would like for the record of this Convention to be clarified with respect to one of the criteria that you set out in 8.01(a), namely, that these elected representatives of the people can impose this tax on people who had no right or power to vote for them. I am particularly anxious that that clarification be made, especially in view of your great emphasis, both in your comments here and also in the written commentary, that you were intending to perpetuate the principle of no taxation without representation. In other words, I would like to see the point clarified so that in later case law, in arguments before the Court of Appeals, you do not give greater impetus to this argument of taxation without representation and this possible perversion or subversion of it.

DELEGATE CASE: I think that is a salutary clarification. It is accepted.