

will you please clarify and explain that, including illustration by example?

DELEGATE J. CLARK (presiding): Delegate Sherbow.

DELEGATE SHERBOW: Well, going back to what I said before, we believe the General Assembly should have no additional right to increase any appropriations; this would be in complete destruction of the executive budget.

Let us assume in a complete program there is a governor's estimate of the need for \$50 million. The legislature has a program it would like to have, so it cuts that program from \$50 million to \$10 million and says "Now here is a new program. We are going to pass the law immediately and this new program for \$40 million will take the place of the one the governor has so laboriously put together to balance the budget."

We say no, the legislature cannot do that. If they decide to reduce that budget of the governor, they may make that decision and cut it. But if they are going to introduce their own appropriation, it must come in the form of a supplementary appropriation. That supplementary appropriation must carry with it the means for paying for it and the levying of the taxes that are necessary for that purpose.

To do otherwise would destroy the whole concept of the executive budget as we understand it. Now, if the General Assembly should pass a supplementary appropriation bill of its own, even though they provided for the taxation, the governor still has the right under sections in Article 4 to veto on a line basis any of those particular items, and his veto would, of course, be subject to overrule by the General Assembly by the appropriate enactment.

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Clagett.

DELEGATE CLAGETT: Therefore, in the simplest terms it means it may reduce or strike but cannot substitute?

DELEGATE SHERBOW: It cannot increase without providing the taxes; it cannot substitute one for another. Yes, I guess that is one way of putting it.

DELEGATE J. CLARK (presiding): Delegate Bennett?

The Chair recognizes Delegate Willoner. He has been trying to get the floor since the very beginning.

DELEGATE WILLONER: Judge Sherbow, in section 6.05, in the mandatory appropriations as regards to the court, you say these are as required by law. In the judiciary section, we have given the court concurrent rule-making power and the rules have the force of law.

Is it not the intent of the Committee that the court shall not by rule create any expenses that would be required to be established, or be mandatory appropriations?

DELEGATE J. CLARK (presiding): Delegate Sherbow.

DELEGATE SHERBOW: I would not say that any statement as broad as that could be accepted. I do not know what the Court of Appeals may do in the passage of a rule which may have the effect of creating a cost or an expenditure.

The mere fact that they passed the rule causes an expenditure for printing of that rule. Sometimes it is borne by you and me as lawyers, but you suggest something that is much too broad for us to say that constitutionally the Court of Appeals cannot do something in the far distant future in the passage of a rule which might have the effect of bringing about some expenditure.

No, I could not accept that.

DELEGATE J. CLARK (presiding): Delegate Willoner.

DELEGATE WILLONER: Then in the sense that you are using a law in section 6.05 it also includes rules which are made by the Court of Appeals.

DELEGATE J. CLARK (presiding): Delegate Sherbow.

DELEGATE SHERBOW: Delegate Willoner, I think in this constitution up until now a study made by Walker Lewis shows the word "law" used about seven different ways, public general law, public local law; all of these meanings which the Committee on Local Government has tried to take out are used throughout the constitution in different forms, and Professor Penniman has one job on his hands to straighten it out and say what law means.

Now, you are asking me, and I say to you that as we have passed the provision, the Court of Appeals has a right to pass a rule and that rule has a force of law. It is a law.

DELEGATE J. CLARK (presiding): Delegate Willoner.