

of Article 23A provides that an amendment of a municipal charter may be initiated by the legislative body of a municipal corporation, or by petition of qualified voters of a municipal corporation.

Then the Code goes on to spell out at great length the procedure. This is absolutely unnecessary. It is completely inconsistent with what we have done here this evening, and I urge you to defeat this amendment.

**THE CHAIRMAN:** Delegate Barrick.

**DELEGATE BARRICK:** Mr. Chairman, it seems to me that Delegate Hardwicke has missed the point. It is true that it is in Article 23A of the Code, but that is only the procedure, and the authority is in Article XI-E (3) of the Constitution.

Now, I think the Transitory Committee did a wonderful job, but it was very clear in the draft that was submitted for the schedule of legislation of local government that the municipalities would have the power to amend their charters. That vote, as the Chairman knows, and was mentioned a while ago, was 15 to 0. When they take our provisions out of local government and completely ignore them, it seems to me that is going a little too far. There has been no reason expressed here that I have heard, for not putting this in, other than that it would be some extra language in the schedule.

I submit that if we vote against this you will be voting against the complete will of the Local Government Committee, and do an injustice to this particular section.

**THE CHAIRMAN:** The Chair would like to comment that this very extensive discussion has done little to clarify the issue, and I think has caused a great deal of confusion. At the risk of taking a few more moments, I would like to direct a few questions to Delegate Carson, and I say Delegate Carson because he indicated that he undertook to talk to the Municipal League, and in a sense represents some of the views of at least one of the committees.

I think all of us must keep in mind in the background for these questions that what Delegate Hardwicke commented upon is absolutely true. We are not authorized under the enabling act to include in the schedule of legislation matters which we would like to see there, or which we think ought to be there. We are limited to two categories of matters in the present Constitution, which we have eliminated from the Constitution, and which must, not

should or ought, but which must be continued because there is not time for the legislature to act; and, secondly, matters which require legislation before the legislature can act, because of the provision which we had included in the constitution, in the new constitution.

In the light of those two premises, and in the light of Delegate Grant's statement that this provision, section 33(b) is not intended to grant to the municipalities any powers they do not have, and in the light of the provisions of section 7.05, which provides expressly for the continuance of existing powers of the municipality, the Chair suggests that the discussion has left it far from clear that this section meets either of the two requirements, and does not, if it does not merely reaffirm what is in section 7.05.

I would like you to comment on those three things if you could, Delegate Carson. In other words, if this is indeed not new powers, but only existing powers, why is it not covered by section 7.05?

**DELEGATE CARSON:** Mr. Chairman, section 3 of Article XI-E of the present Constitution contains the language that you have here, except for the words, on June 30, 1968, and the reference is identical to that. The case law and the Sobeloff Commission's third report indicate clearly that this is the basis for the section starting with, I believe, section 12 in Article 25A of the present Code, which specifies the exact procedures for municipal corporate charter amendments.

Now, those sections in Article 23A do not state how or for what purposes the charter amendments may be made. They merely specify in what manner they shall be made.

There is a Maryland case, I believe it is Hitchins, but I am not sure, interpreting this particular language we have here, and it makes it clear that a municipal corporation under this language may amend its charter and obtain any powers not denied by general law, by the General Assembly, or by charter amendment subject to referendum of the municipality.

That is all subject to general law passed by the General Assembly, and still would be under our proposal here.

So the underlying basis for municipal corporate changes is in Article XI-A of the Constitution, and the sections in Article 23A of the Code are only the implementation of that. As a matter of fact, the