

DELEGATE CARSON: We are talking about the same dates; the word "existing" relates to the same time.

THE CHAIRMAN: Is there any further question, Delegate Chabot?

DELEGATE CHABOT: Yes.

At the time of the effective dates of this constitution, since the old Constitution will have passed out of existence unless we do something, the existing powers referred to in line 21 will no longer include what is now in Article XI-E; is that correct?

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: That is my exact fear, Delegate Chabot.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Mr. Chairman, so there can be no doubt about this point, and to answer Delegate Hardwicke's statement that Article 23A does grant the power to amend, I would like to state categorically that it does not and that it states only the procedure for amending.

Section 11 of Article 23A says: "Every municipal corporation in this State shall proceed as in this subheading provided in exercising and applying the powers for the amendment of municipal charters, which are granted thereto by Article XI-E of the Constitution."

So it is very clear in my judgment that municipal corporation powers to amend stem not from Article 23A of the Code, which I grant is preserved, but from Article XI-E of the Constitution, which is not preserved.

Now, Delegate Hardwicke has said that there is no reason for the emergency, and I would like to speak to that. There are many charters in this State, and we have dealt with a great many of them, particularly charters of small communities on the Eastern Shore of Maryland, where the charters themselves either provide for no method of amendment at all, or provide for a method that is so cumbersome as to make it almost impossible.

These communities from time to time need charter amendments to authorize the issuance of bonds, to make needed public improvements. We do this in our office all the time, draw up charter amendments to permit the issuance of bonds.

Now, if in my judgment this section does not go in, and the legislature of course would not act in this area, then it would

mean that these municipalities would be without a method of obtaining needful funds for capital improvements that they otherwise would have. I know of no bond counsel in the State who would pass a bond issue for a municipality, without a provision of this character, until after the legislature could act in 1969. I think this would be an emergency, and I think therefore the section does not fit the requirements which have been set out before us, so I think on both counts the section is needed, and I hope this amendment is adopted.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: I think we may be belaboring something which, the more we discuss it the less important it becomes. It is almost impossible to knock down bugaboos, skeletons, unexpressed and undetermined fears, and authoritative legal opinions not based upon any particular case law, or any particular provision of law, but I want to point out that in 10.01, as amended today, we inserted this language, and listen to it very carefully. This is the amendment that we adopted today:

"A law in effect on June 30, 1968, shall not be deemed in conflict with this constitution solely because it was enacted pursuant to authority granted by provision of the prior Constitution."

We adopted this language —

THE CHAIRMAN: Just a second, Delegate Hardwicke.

You may proceed.

DELEGATE HARDWICKE: We adopted this language for this kind of problem, and it was our express intention that where a statute established a procedure, set up a mechanism, that simply because that mechanism or procedure was adopted pursuant to a provision of the prior Constitution, the mechanism or procedure was not invalidated and was not in any way less lawful under the new constitution.

Frankly, I am perfectly satisfied that the thing probably does not do anything, but in the final analysis if you vote it in you are just cluttering up the constitution. I think we could have put in a dozen or more provisions like it on the same philosophy of scare, fear, fright, that we might be leaving something out, and I still oppose the amendment.

THE CHAIRMAN: Are you ready for the question?

Delegate Clagett.