

THE PRESIDENT: Delegate Koss, do you desire to answer?

DELEGATE KOSS: Well, the general rationale for this was, as I pointed out before, to continue the existing provisions. I admit that we had not had the opportunity to hold hearings on this, but we had not received any evidence either that this has done any great disservice to any part of the State that had law imposed upon it, in a case where it is to its detriment, and it had no opportunity to so say.

THE PRESIDENT: Delegate Bamberger, I think there is an addition which may be made to Delegate Koss' answer, and that is that the whole philosophy of the constitution drafted by this Convention is to confine the General Assembly to laws of statewide import, and obviously such laws should be referable only on a statewide basis. The exemptions to that principle, that is, the power of the General Assembly to act other than on a statewide basis, are limited to a few very definite areas spelled out in section 3.23. It was deemed proper to permit a local referendum on the exercise of a power in one of those eight areas in 3.23 if the law was applicable only to one county, but the law's application stretched beyond one county. Then it became one of statewide import, and obviously this line cannot be drawn hard and fast. There are gray areas, but, for instance, a law providing for some sort of multi-county government would be deemed to be one not referable only to the people of the area involved, but would be a statewide question.

Delegate Case.

DELEGATE CASE: Mr. Chairman, that is absolutely correct, with one slight caveat. You remember that when the local government section was before the Committee of the Whole and later the Convention, the question of referendum on questions involving multi-county governmental units was much debated. You will also recall that we adopted an amendment to what is now section 7.08, which provides an exception to the exception, and that is that the General Assembly may provide, on any law related to this subject, for the referendum procedure in that particular area so that what you have here is, as the Chairman stated, an absolute right of referendum statewide, and a provision giving the General Assembly the right, notwithstanding that, to provide for any suitable referendum it deems appropriate in that particular case.

THE PRESIDENT: Delegate Bamberger.

DELEGATE BAMBERGER: If we adopt Amendment No. 12, then I doubt that under section 7.08 the General Assembly could provide for a referendum in less than the whole State. It does seem to me now that Delegate Case points out a conflict between section 7.08 and Amendment No. 12.

THE PRESIDENT: Delegate Case.

DELEGATE CASE: Not at all, Delegate Bamberger. The amendment that is before you, Amendment No. 12, applies where there is only one county involved. It does not apply where you have a multi-county governmental unit, which means more than one county.

Where you have a multi-county governmental unit dealing with more than one county, then it would have, as I said earlier, the general provision for statewide referendum, and/or in the absence of that, the provisions of section 7.08.

THE PRESIDENT: Delegate Sollins.

DELEGATE SOLLINS: A question to the Chair, please. I think what this amendment is directed at are the exceptions contained in section 3.23, those dealing with public education and natural environment and resources. Those are the only two occasions that I could see where this referendum could be applicable, and I wonder if perhaps the Style Committee could not — I see Delegate Penniman wince; I am sorry — could not perhaps redraft this to incorporate the language in section 3.23 in an appropriate manner and solve this problem.

THE PRESIDENT: The effort has been made to do this for considerable time today, and it was thought it had been accomplished in the latter part of this section.

Delegate Case.

DELEGATE CASE: Delegate Sollins, The language is taken right out of what is now section 3.23. That is where the language came from.

THE PRESIDENT: Delegate Koss.

DELEGATE KOSS: I might say also that while, as Delegate Case indicated, the language was taken out, the reason that those two exceptions were not made specifically is that this is a constitution and the constitution is subject to amendment, and we wanted to write this in a lasting fashion if we could.

THE PRESIDENT: Delegate Jett.

DELEGATE JETT: I move the previous question.