

Should later developments in this Convention disprove our confidence, the Committee will probably move to strike this exception.

As was mentioned previously, liquor laws are currently exempt from referendum. The research into the purpose of this constitutional amendment indicates that it was stimulated by the bitter struggles over prohibition. You might be interested to know that in the same election in which the referendum article was added to our Constitution, there was indeed a prohibition party candidate for governor in Maryland and he received 2,335 votes.

The Committee has been unable to distinguish between the alcoholic beverage industry and other industries within this state for the purposes of exclusion from the provision of referendum.

One other change that the Committee recommends effects that part of the present Constitution, which provides that any law or part of a law is subject to referendum.

The Committee recommendation strikes "part of the law" so that only total laws or total acts would be subject to referendum.

Research indicates that in some states where the same provision exists that part of a law may be petitioned to referendum, the courts have greatly limited the use of this provision by ruling that when an essential part of a law is rejected, the law falls. This has contributed to confusion about what the effect of a referendum on the part of the law might be.

Maryland legislators have pointed out to us this same danger and the Committee agrees that the continued inclusion of this provision might permit capricious use and lead to confusion of the voter.

One of the most difficult problems confronting the Committee was our struggle with the non-suspendable type of law that is designated in the present Constitution as emergency legislation.

Article 16 contains the only reference to emergency legislation, in the following terminology.

It says that every act that is considered an emergency law shall contain a section declaring such law an emergency law, and necessary for the immediate preservation of the public health or safety, and I would like to underline, public health, or the preservation of the public health or safety. It also requires that such laws be passed

by three-fifths of all the members elected to each of the two houses of the General Assembly.

The Committee agrees that the legislature should certainly have the power to identify those laws which by their nature should not be subject to suspension. Our only concern was with the word "emergency," since this has a very limited connotation.

Although the courts have been reluctant to inquire into the nature of the emergency in the past, the Committee would prefer to obviate the possibility of their doing so in the future by the use of a term somewhat less restrictive than emergency.

I do not know whether you are all aware of the fact that the law setting up the Constitutional Convention was indeed passed as an emergency law. We leave the interpretation of the word "emergency" to you. Delegate Proposal No. 2 solves the problem of emergency legislation by not giving such legislation by name.

The danger inherent in this approach, we think, is that any legislation inadvertently passed by a three-fifths majority may fall into a non-suspendable category for a variety of reasons that are completely unrelated to the essential nature of the bill.

The Committee thinks it important that the non-suspendable aspects of this type of legislation should be apparent early in the legislative process. For this reason, the Committee rejected the approach of Delegate Proposal 2. To avoid what the Committee thinks is a misleading or limiting term in the present Constitution, we suggest the use of the term "special legislation," rather than legislation, but we recommend that such legislation be so identified upon introduction.

The number of signatures for a sufficient petition, the time permitted in which to obtain signatures, and the geographic representation reflected by the signatures were considered interdependent parts of a single recommendation.

In arriving at its decisions on this matter, the Committee was cognizant of the changing patterns of Maryland's population, a greater urbanization and concentration of population, with the same trends continuing for the foreseeable future.

It concluded that five per cent of the number of votes cast in the previous gubernatorial election was a reasonable requirement.