

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: You open up a great many problems then, it seems to me.

THE CHAIRMAN: This is a period for questions. Delegate Case.

DELEGATE CASE: I was going to answer Delegate Bennett's question. I do not know whether that is appropriate or not.

DELEGATE KOSS: I would appreciate it if one of you did.

THE CHAIRMAN: I think Delegate Koss would like to have an answer.

DELEGATE CASE: In the case you cited, the item would not be referable. There are only two ways the appropriation could be made, either in the budget bill, which is not referable, or in the supplemental appropriation bill. That is not referable because it must carry a tax to support the appropriation; so in either event that type of a matter is not referable today, and never has been.

THE CHAIRMAN: Are there any other questions? Delegate Marion.

DELEGATE MARION: Delegate Koss, directing your attention to your recommendation, Section 4, under the presently existing constitutional provisions, what verification is there as a matter of practice or procedure before a petition law is placed on the ballot for referendum as to whether or not the required number of signatures had been obtained, whether or not those persons are, in fact, registered voters, and whether or not no more than one-half come from any one political subdivision.

DELEGATE KOSS: As you know, under the present law, the present constitutional provision and its implementation, signatures are delivered to the Secretary of State, at which time whoever delivers them indicates how many signatures are included in terms of numbers and distribution. Unless there is any challenge, there is usually no normal procedure for verifying any of the facts. If any of the signatures are challenged and are found to be wanting, then the burden of proving all of the elements, the legitimacy of the signatures, the residence, numbers, et cetera, are put upon the gatherer of the petition; but until there is a challenge, at the moment, there is no great effort spent at verification. In terms of the signatures themselves, no one initiates any check to see whether they are in fact bona fide voters.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Does the challenge you speak of come from the Secretary of State, or does it come from the Office of the Attorney General or must it come from some other interested citizen?

DELEGATE KOSS: It does not have to come from any one of those places, but it can be initiated by any.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Has your study of this particular problem indicated whether, and if so, how many times challenges have been made to the validity of the constitutional requirements, and were sustained?

DELEGATE KOSS: We do not have any figures on that offhand. I can say that at some point, representatives of the Attorney General's Office who testified before us, said that they were hard put to find one which they felt was bona fide. I cannot give you any answer at this point on the number that were found wanting in terms of the signatures or the distribution.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Do I understand your last answer to mean that in almost every petition where a law has been placed on referendum, that it would be the opinion of the Attorney General that the petition requirements were not met?

DELEGATE KOSS: I would hesitate to put it in that strong language.

DELEGATE MARION: Was that the thrust of what you were saying?

DELEGATE KOSS: Generally, yes.

DELEGATE MARION: Thank you very much.

THE CHAIRMAN: Are there any other questions? Delegate Clagett.

DELEGATE CLAGETT: Madam Chairman, with reference to your Section 2, you nevertheless contemplate that as suggested in the local government section 7.02 that where a referendum is provided specifically of less than statewide impact, that same law may still be subject to the statewide referendum, do you not?

In other words, to simplify the question, where the General Assembly has provided for the alteration of boundaries of a county, and a special referendum or mandatory referendum is built into any such law, that