

THE CHAIRMAN: Delegate Boileau, we thank you.

The Clerk will read the amendment.

READING CLERK: Amendment No. 5 to Committee Recommendation S&E-1, by Delegates Gilchrist, Scanlan and Freedlander: In Committee Recommendation S&E-1: On page 1 strike all of lines 9 through 24; on page 2 strike out all of lines 1 through 50; and on page 3 strike out all of lines 1 through 6; and insert in lieu thereof the following:

"1. Right of Referendum. If, within sixty days from the date on which a bill becomes law, a petition is filed with the office of the governor to refer the law to a vote of the people, the law shall be submitted to a vote at the next general election. If rejected by a majority of those voting on the question, the law shall stand repealed thirty days thereafter. If the petition is filed before the date on which the law is to take effect, then, unless the law is one passed by the affirmative vote of three-fifths of all the members of each house of the General Assembly, it shall not take effect until thirty days after its approval by a majority of those voting on the question in the election.

"2. Referendum Petition. A petition shall be sufficient to refer a law, or any part thereof, to a vote of the people if signed by a number of qualified voters equal to five percent of the total number of votes cast for governor in the most recent gubernatorial election, provided that not more than one-half of such required number shall be voters residing in any one county.

"3. Referendum Restrictions. No plan for legislative districting or apportionment or congressional districting, no law imposing a tax and no law making an appropriation for maintaining the State government or for aiding or maintaining any public institution shall be subject to referendum."

THE CHAIRMAN: The Chair recognizes Delegate Gilchrist.

DELEGATE GILCHRIST: Mr. Chairman, I move the substitution of this amendment, the correct number of which I will say I am uncertain of at the moment—

THE CHAIRMAN: Number 5.

DELEGATE GILCHRIST: Number 5, for the report of the Committee which is

embodied in Committee Recommendation S&E-1.

THE CHAIRMAN: The question arises upon the adoption of the amendment, and the delegate may speak and explain the provisions of the amendment.

DELEGATE GILCHRIST: The amendment is offered for the purpose of trying to clarify a considerable number of uncertainties which appear to us to have arisen in the recommendations of the Committee.

In section 1 of the Committee Report, the Convention will note that there is a reference to every law being subject to referendum. This would include within its terms not only public general laws, but public local laws, special laws and emergency acts, all of which have been recognized in Maryland, and which you will find on many occasions upheld by the Court of Appeals.

These terms are words of art. The reference to special legislation, which is made in the second sentence of section 2 of Committee Recommendation S&E-1 is one which the Committee itself has acknowledged in its memorandum is not an entirely satisfactory requirement.

I might point out that the Court of Appeals has accepted as a definition of a special law that it is one intended for a particular case, one which relates to particular persons or things of a class or for less than all persons of a class.

Section 2 would in its terms also apply to every law presently on the statute books, unless it is to be considered as modified by the last section of section 3 in that respect.

Section 4 of Committee Recommendation S&E-1 is really a statutory matter. Section 5 is also something which could be covered by statute. The legislature certainly has the privilege of implementing the referendum provision by laws which would not be consistent with it.

A problem also arises in connection with the use of the term "date of enactment," which is repeated a number of times in the Committee proposal. It was the impression of some members of the Committee on the Legislative Branch, following testimony by Dr. Carl Everstine that "date of enactment" referred to the date on which a bill was passed by the two houses, both houses, and that actually this should refer to the date on which it becomes law, not its effective date but when it becomes law, which