

THE CHAIRMAN: Does any delegate desire to speak in opposition to the amendment?

DELEGATE BOYER: Mr. Chairman, I have already previously indicated our opposition to the amendment. We feel that this, as a suggested amendment, would make the entire section meaningless. It is perfectly obvious now that the General Assembly may do this. We want to make it obligatory, mandatory, and have this Convention indicate its intent that the General Assembly shall do it.

I think the one thing I do like about the amendment is that it is very concrete, succinct, very clear, and changes only one word. I think everyone understands it. I sincerely hope that we could expeditiously and currently vote on this now.

THE CHAIRMAN: Does any delegate desire to speak in favor of the amendment?

Delegate Henderson?

DELEGATE HENDERSON: Mr. Chairman, I have listened with great interest to the discussion here this morning. I have been a conservationist all my life, and I have the greatest sympathy with the objectives to be obtained, but I have been very much concerned by the discussion, which seems to suggest that by using the word "shall" in this amendment it would open, or it would require or permit any taxpayer who is disgruntled or does not think the legislature has gone far enough, to take the matter into court. If that sort of thing is permitted, and I know of no precedent for it in this field, certainly in this State or anywhere else, that the court can compel the legislature to act, I think it would open a Pandora's box. It would violate fundamental principles.

I find no support in the reapportionment cases for anything like this and therefore, ladies and gentlemen of the Convention, I urge that this amendment changing "shall" to "may", which leaves it permissive with the legislature, but still states an objective in which some people are interested, prevail.

THE CHAIRMAN: The Chair recognizes Delegate Burdette to speak in opposition to the amendment.

DELEGATE BURDETTE: Mr. Chairman, I really should like to ask a question of Delegate Adkins, which flows to—

THE CHAIRMAN: You are not in order at this point, if that is your purpose. I will recognize you in a moment.

Delegate Gleason, do you desire to speak in opposition to the amendment?

DELEGATE GLEASON: Yes.

THE CHAIRMAN: You may proceed.

DELEGATE GLEASON: Mr. Chairman, we are losing sight of what we are doing here. If this amendment is adopted, then I have to suggest that the whole provision has absolutely no place in the Constitution, because it is basic that the General Assembly already has plenary power to carry out and pass legislation in this field.

I might just suggest to Judge Henderson that it is also basic court history that no person can go in and mandate a legislature. The essential purpose of the committee proposal as I understand it is that the waste of our natural resources has become a problem of such significance, not only in Maryland but around the country, that the Constitution of Maryland, the new Constitution, should place a positive mandate on the legislature to do something about it.

If the legislature decides not to do something about it, the only recourse is to the voters of the State, and that is the issue.

I hope this amendment is defeated.

THE CHAIRMAN: Delegate Adkins, do you yield to a question from Delegate Burdette?

DELEGATE BURDETTE: Yes, sir. I tried to see if I could not answer it privately but I could not.

THE CHAIRMAN: Delegate Burdette.

DELEGATE BURDETTE: I should like to deal on the record with a problem which perhaps appears in both the Adkins amendment and in the Committee position.

If we were to read these proposals in the light of another proposal not yet on motion, but before us, that counties have powers not denied to them, is there any intent, Delegate Adkins, in your motion to make this an exclusive legislative power, or may this question still be left to later determination as to whether or not it is legislative power or a concurrent power?

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: I should think it was concurrent. All my amendment purports to do is to indicate that if there is question, as there seems to be, about the right of state government to act in this area, this provision clearly permits it to so act.