

THE PRESIDENT: Committee Recommendation EB-1 is referred to the Committee of the Whole.

I call your attention to the fact that there is accompanying this recommendation, Committee Memorandum EB-1. I believe the Recommendation is printed and distributed, but the Memorandum has not been printed. It will be printed later.

I also call to your attention that this differs from Committee Report EB-1 that you received several days ago. Committee Report EB-1 dealt with certain matters not to be included in the Constitution. Committee Recommendation EB-1 deals with matters to be included in the Constitution.

Are there any other reports of committees?

(There was no response.)

Are there any other motions?

(There was no response.)

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. President, I move the Convention resolve itself into the Committee of the Whole for the purpose of consideration of orders of the day, in accordance with debate control and limitations set forth in Debate Schedule No. 3 previously adopted, and Debate Schedule No. 4, now on the desks of all the delegates.

THE PRESIDENT: Is there a second?

(The motion was duly seconded.)

THE PRESIDENT: The question arises on the motion to adopt Debate Schedule No. 4, and for the Convention to resolve itself into the Committee of the Whole for further consideration of general orders of the day under Debate Schedules 3 and 4. All those in favor, signify by saying Aye; contrary, No. The Ayes have it. It is so ordered.

(Whereupon, at 2:07 P.M., the Convention resolved itself into the Committee of the Whole.)

(The mace was removed by the Sergeant-at-Arms.)

COMMITTEE OF THE WHOLE

NOVEMBER 14, 1967—2:07 P.M.

PRESIDENT H. VERNON ENEY,
PRESIDING

THE CHAIRMAN: The Chair recognizes Delegate Moser, Chairman of the

Committee on Local Government to continue presentation of Committee Recommendation LG-1.

Delegate Moser.

DELEGATE MOSER: Mr. Chairman, ladies and gentlemen of the Committee of the Whole:

Just before the luncheon break I described what we mean by shared powers for counties. I indicated that what it means is simply this: that counties would be able to act freely as may the General Assembly, but the county could not act where a law of the General Assembly occupies the field, as, for instance, a general law such as the uniform commercial code.

Second, that the county could not act if the General Assembly stated that counties generally could not act in the particular area, for instance, gambling.

This leaves to the counties all the purely local matters, such as salaries of county officials, county roads, and power to meet local emergencies such as those created by snow storms, and hurricanes.

The Committee Recommendation rejected the express powers approach as being unduly restrictive on the rights of counties to deal with local matters. It would thus reverse the Dillon Rule, which holds that local units of government may exercise only such powers as have been expressly granted by the state or which must necessarily be implied from the express grant.

The shared powers approach permits freedom to solve local problems at the local level. The General Assembly would no longer have the burden of making specific grants of power each time a county wished to enter a new area of activity.

It avoids the difficulty inherent in the express powers approach in that it recognizes that no permanent line can be drawn in advance between those functions which ought to be performed at the state level and those which are purely local.

Nevertheless, and I stress this as strongly as I can, the power of the General Assembly to set general policy in local matters remains absolutely supreme. At any time, it can withdraw powers from counties in order to perform any function on a statewide basis, or in order to reallocate powers to other units of government for more effective provision of services.

The third major problem area is limitation of local legislation, which is handled