

We have this specific provision permitting it, a referendum in the case of regional government, because it is not now clear under present law that the General Assembly could provide one. There was extensive discussion of this in connection with the referendum provisions. However, to make sure the General Assembly can do so, we provide the referendum.

We do not recommend inclusion in a new constitution of all the detail regarding popularly elected, representative regional governments contained in the Commission draft section 7.03 through section 7.05. Some Committee members believe regions should be created now by one method or another. However, all of us agree that unless either the General Assembly is mandated by the constitution to divide the State into regions now, or the constitution itself creates the regions, these provisions are unnecessary, and indeed might restrict the General Assembly in establishing regional governments later on if it wished to do so.

Section 7.03 provides for the structure of county government. The first sentence, "Each county shall have a written instrument of government which establishes the structure of its government," requires home rule for all counties. We use the term "instrument of government" deliberately. It includes the term "charter", but charter has in certain areas of the State acquired a rather limited meaning, an instrument of government prepared by a county charter board and only that. To many people it means a form of government requiring a separate executive and county governing council. Actually this form is not required under the county home rule amendment, Article XI-A of the existing Constitution, but people believe it is.

Moreover, "charter" is a term charged with emotion in parts of the State. There are violent anti-charterites and pro-charterites. "Instrument of government" tends to permit continuation of a combined executive-legislative form of government in smaller counties if the people want it. Always, however, an "instrument of government" must be adopted.

In order to make clear to the layman that we intend a broader meaning than the word "charter" may be construed and to remove arguments between pro-charterites and anti-charterites in debates on the ratification of the new constitution, we adopted the term "instrument of government."

The second sentence provides, "Within one year following the adoption of this

Constitution the General Assembly shall provide by public general law a choice of procedures by which an instrument of government in a county may be proposed." Article XI-A of the present Constitution contains elaborate provisions for formation of home rule governments for counties. We believe such detail should not be included in the new constitution. The second sentence, requiring the General Assembly to provide a choice of procedures by which counties may adopt an instrument of government clearly directs the General Assembly to provide more than one procedure, so that the county can select among two or more.

Let me make clear that in view of the discussion which lasted a good part of the morning that there is some difference here. What we are saying is that the General Assembly shall act. We do not mean "may", we mean "shall".

Along with this, we are probably going to recommend adoption of interim provisions which would continue Article XI-A of the Constitution and also Article 25-A of the code, so that there will be something under which the counties can act.

I want to make it clear that this is not a self-executing proposal, but that we depend on the General Assembly to act. We are not fearful of the problem that a court could not make them act, because obviously they will act in this area.

The third sentence clarifies that under any alternative permitted by the General Assembly the governmental instrument cannot become effective until it is approved by the affirmative vote of the majority of the voters in the county voting on the question of whether to adopt or to reject it.

The fourth sentence is intended to assure that an instrument of government provided by the General Assembly will be available and automatically will become effective before July 1, 1972, for each county which has not both prepared and adopted its own instrument of government. The section does not require a referendum to adopt that instrument but under Section 7.04, which I will get to in a moment, the voters of a county will be able to initiate amendments to it. This is similar to the procedure followed with respect to mandatory municipal home rule and I believe Article 23 (B) of the laws of Maryland does have a sample charter for municipalities.

The date recommended for the deadline, July 1, 1972, coincides with the start of each county's fiscal year.