The actual date is specified rather than provided by calculation in order to emphasize the deadline.

The fifth and sixth sentences are designed, one, to allow charter adoption procedures now under way pursuant to existing law to continue, as in Howard County where the proposal will be submitted to vote in November 1968; two, to make it clear that existing charters qualify as instruments of government and need not be readopted. This would apply in the five areas that have charters now, Baltimore County, Anne Arundel County, and so on. Three, it will continue all existing governments, including county commissioner forms, until they are changed in accordance with the Constitution.

Section 7.04 reads as follows: "An amendment to an instrument of government of a county shall become effective only after the affirmative vote of a majority of the voters of the county voting on the amendment. An amendment may be proposed by the governing body, or by petition of the voters in accordance with the instrument of government or by such additional means as may be provided in the instrument of government or by the General Assembly by public general law."

The section makes clear that by whichever method is utilized, amendment must be submitted to referendum of a majority of the voters of the county voting on the amendment. You will note there is also an initiative procedure. Again, the importance of this is that if the legislature adopts or prepares an instrument for a county which has not adopted its own, the voters can change it if they wish to do so.

Recommendation section 7.05, Powers of Counties, is the heart of home rule for counties. It provides that counties share the State's powers rather than that the General Assembly must be relied upon to grant specified powers to counties.

As I said already, the shared powers concept provided by this section clearly recognizes that the General Assembly is vested with plenary legislative power under section 301, which we adopted the other day in the Committee of the Whole, and provides that the legislature may by public general law withdraw any and all power from the counties. Until the General Assembly directly denies the power by public general law or preempts the field by legislation, each county will be free to perform any function not denied to it with two exceptions.

First is the judicial power. Counties cannot exercise judicial power. This is covered by Article 5 of the Constitution. This denial is not intended to prevent counties from establishing boards and agencies, even though these might exercise a quasi-judicial function.

Second, this excludes the power to tax from among the powers shared by the counties. Several witnesses, eminently knowledgeable in the area of Maryland's financial and tax structure, testified that any broad grants of taxation power to counties could well result in either deterioration of the state's excellent credit rating or proliferation of nuisance taxes, or both.

Moreover, both the Committee on State Finance and Taxation and the Legislative Liaison Committee unanimously recommended that the tax power be constitutionally retained in the State.

Accordingly, section 7.05 provides that the counties may only exercise such taxation powers as the State grants to them. The grant of tax power may vary from county to county as you know. Existing tax powers are also preserved.

I should observe for the benefit of the Committee on Style, Drafting and Arrangement that I think section 8.01-1 proposed by the Committee on State Finance and Taxation does basically what we do here. As the intention is the same, it is not necessary to have this provision in both places.

The major factors leading to our recommended section 7.05, adopting the shared powers approach are these: first, the restrictive Dillon rule would be reversed. I allured to this earlier. Under this rule a local unit can exercise only the stated powers and no others. It could exercise only those granted in express words, those necessarily or fairly implied in or incidental to the powers granted, those essential to the declared objectives and purposes of the corporation, not those that were convenient but those that were indispensable.

This narrow rule of interpretation arose in 1870. In fact before then. It was enunciated in an 1873 volume of Dillon on municipal corporations, but I think he expressed the same idea in his first edition. Efforts to repeal the Dillon rule by directing a broad construction in favor of granting local units powers has been notably unsuccessful.

New Jersey tried it in 1947 and we understand it did not work. We are convinced