

Article 23A, which is the municipality section, as part of the schedule accompanying the constitution.

THE CHAIRMAN: Which are you referring to when you say "schedule"?

DELEGATE MOSER: The schedule of laws.

THE CHAIRMAN: The schedule of legislation?

DELEGATE MOSER: Yes.

THE CHAIRMAN: Delegate Maurer.

DELEGATE MAURER: I have a question about section 7.06 and particularly the sentence on page 6 of the committee report referring to the difference.

Question one: Under the natural resources item we adopted this morning, could the General Assembly pass laws which contain county-to-county variations and thus be exempted from section 7.06?

DELEGATE MOSER: I think the answer to that question is yes, with some minor limitation. The Local Government Committee intends that where the phrase "by law" is used anywhere in the constitution the law is subject to whatever limitations are provided in the section that uses the term "by law". Therefore, if under the natural resources provision, the General Assembly operated in just one area, let's say one county, and passed a law relating to, if I may refer to them, oysters, it could do this in a limited area wherever the problem arose. The important point is that the section which we passed this morning fixes this aspect entirely and clearly as a state function; it does not mean it is a function denied the counties.

Let me qualify my explanation in this regard. It is not intended that under a provision such as the natural resources provision the legislature could interfere with the affairs or government, if I may use that expression of one county directly by mandating it to do this or to provide that. So long as it is a state function, I think variation would be pretty clearly permitted.

THE CHAIRMAN: Delegate Maurer.

DELEGATE MAURER: I would like to raise a question in the area of public education. In the present Constitution and presumably in an article which will be presented to us, public education would be a matter left to the General Assembly.

Assuming the wording was that the General Assembly "shall by law" or "the State

shall by law provide free public schools", would this also provide opportunity for county-to-county variation in setting up school boards and thus exempting this area from 7.06 and permitting the kind of variation which now exists, that is, an elected school board in Montgomery County and various kinds of appointive boards elsewhere?

DELEGATE MOSER: Yes, I think it would.

DELEGATE MAURER: Would it then invalidate the comments you made that under local option the county council in Montgomery County could decide whether there would be an elected or appointed school board?

DELEGATE MOSER: I think the General Assembly could do it either way. That is to say, they could provide for it themselves as they do not in Article 77, or if they wanted to, it could permit the local areas to provide that if they wish.

THE CHAIRMAN: May the Chair comment with respect to the first question raised by Delegate Maurer. It is quite obvious that in some committee recommendations which have been filed and not yet considered and in some of the committee recommendations which have been considered by the Committee of the Whole, the expression "by law" has been used without clear indication as to whether the intention is by public general law or by law other than public general law.

For this reason, we have requested the Committee on Style to pay particular attention to this point so that there will be uniformity in the entire Constitution with respect to the meaning of the term "by law", "by public general law", and so forth. Delegate Case.

DELEGATE CASE: Mr. Chairman, in section 7.10, the establishment of multi-county governmental units, I note that the General Assembly may provide by law for a change of boundaries, et cetera, of various new types of government.

The section goes on to provide for a permissive referendum, in line 42 through 45, inclusive. The permissive referendum seems to me to refer to the government and not to the boundaries; I am wondering if I am correct in this.

DELEGATE MOSER: It is intended by the Committee to refer to any phase of setting up the government or affecting its powers. It would be the Committee's inten-