

eral Assembly and these laws may be subject to referendum or petition.

In the case of a popularly elected representative local government, it would depend on what the charter of the local government said. For instance, as to counties, some counties do permit referendum on tax laws, but probably most do not.

THE CHAIRMAN: Delegate Pascal.

DELEGATE PASCAL: I am saying that we are in an area of popularly elected regional government, and one or two of the counties have different stipulations in their charters.

Was it the Committee's desire that when they impose these service charges, they would be subject to referendum in that particular region?

DELEGATE MOSER: This would be subject completely to what the General Assembly did in setting up the government.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: Delegate Moser, in your colloquy with Delegate Marion about 7.05 I believe you tried a brief definition of preemption. I wonder how it would apply to the situation of the State's open housing law and Montgomery County's open housing ordinance, which prohibits some of the things that the state law does not prohibit.

Since the State has entered that field, would you interpret section 7.05, subsection (3), to prohibit the county from entering that field?

DELEGATE MOSER: No.

THE CHAIRMAN: Delegate Chabot.

DELEGATE MOSER: I think that normally in a law such as your examples, the local units could have a stricter law. I think basically it is a question of legislative intent. A law that the General Assembly obviously intends should not be changed by local ordinance of the county or it would constitute a preemption.

If I can avoid it, I would just as soon not set forth any standards here. I think it would be up to the courts to interpret the intention of the legislature.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: May I take it that by section 7.05, subsection (3) you mean simply the doctrine of preemption? You do not mean to vary it to set forth standards?

DELEGATE MOSER: I would say that would be correct.

THE CHAIRMAN: Delegate Koger.

DELEGATE KOGER: Delegate Moser, in the Committee Recommendation submitted, what protection does the municipality have from being bullied or taken advantage of by a county government?

DELEGATE MOSER: I do not understand the question, sir.

DELEGATE KOGER: In other words, suppose a newly incorporated town wanted a special right-of-way or perhaps water brought to it, and some powers of the county wanted to prevent it. In the Committee Recommendation, do you have anything to give that particular municipality any redress or appeal?

DELEGATE MOSER: A new municipal corporation?

DELEGATE KOGER: Yes. Suppose a new town wanted to have water or something brought to them, and had factions or organizations in your county that would prevent this. What right of appeal would a town or municipality have against being taken advantage of?

DELEGATE MOSER: I refer you to section 7.08, which relates to new municipal corporations. To begin with, the county has to provide by law for the creation of new municipal corporations. It may by law grant new municipalities and withdraw from them all powers of the county, subject to procedures the General Assembly might provide.

If the General Assembly has not provided any procedures, I would say that the county would be in strict control of new municipalities; but the General Assembly could provide certain standards. They might provide precisely the same arrangement for new municipalities as for existing ones. If it were boundary problems, it might involve a boundary commission arrangement or something like that.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Mr. Chairman, my problem still is definitional. Perhaps this time I can approach it a little differently, by way of an example that we can all understand.

The Harford County Sanitary Commission, which exists under a public local law guided through the General Assembly by Senator James, provided that none of