

DIRECT LEGISLATION¹

(Initiative, Referendum, and Recall—how they apply in Maryland, how they are used in other states, with supporting state-by-state data on questions submitted, signatures required, sponsors, and related facts.)

THE REFERENDUM IN MARYLAND

In Maryland, an act of the General Assembly may be submitted to the people in two ways. First, the measure may contain a section which provides that it shall be voted upon by the people. This is authorized only when the measure is a constitutional amendment or a local law.² Second, a bill can be brought to referendum by petition as provided for in Article XVI of the state Constitution. This provision applies to both general and local bills, but only to those local laws affecting either Baltimore City or a county; it does not apply to local bills for municipalities other than Baltimore City.³

REFERENDUM BY LEGISLATIVE ACTION

The rule established by the Court of Appeals is that, although the legislature may add a referendum provision to a local bill, any attempt to do so on a statewide bill amounts to an unconstitutional delegation of legislative power.⁴ The court says:

“ . . . that the people of Maryland, having delegated to the Legislature of

Maryland the power of making its laws, that body could not legally or validly redelegate the power and authority thus conferred upon it to the people themselves; [also] that the people of the State, from whom the legislature itself derives its powers, having prescribed in the Constitution of the State the manner in which its laws shall be enacted, it is not competent for the Legislature to prescribe any other or different way in which its laws may be enacted.”⁵

If the bill is local in its operation, the legislature can refer it to the people of the locality because its power over its “derivative creations” is unlimited except by the state and federal constitutions.⁶

REFERENDUM BY PETITION UNDER ARTICLE XVI

Article XVI was proposed by the General Assembly of 1914 and ratified by the voters in 1915. It provided only for referendum and excluded both the initiative and recall powers adopted in many other states. The article provides that:

“The people reserve to themselves power known as The Referendum, by petition to have submitted to the registered voters of the State, to approve or reject at the polls, any Act, or part of any Act of the General Assembly, if approved by the Gover-

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² G. BELL & J. SPENCER, *THE LEGISLATIVE PROCESS IN MARYLAND* 73 (2d. ed. 1963).

³ *Strange v. Levy*, 134 Md. 645, 107 Atl. 549 (1919).

⁴ Everstine, *The Legislative Process in Maryland*, 10 MD. L. REV. 91, 141 (1949).

⁵ *Brawner v. Supervisors*, 141 Md. 586, 595, 119 Atl. 250 (1922).

⁶ *Id.* at 594.