

SUFFRAGE AND ELECTIONS

appropriation is subject to referendum. The main problem here has been with the meaning of the word "appropriation."¹⁰ The second exception is contained in Section 6 of the article. It relates to licensing, regulating, prohibiting or submitting to local option, the manufacture or sale of malt or spiritous liquors. This particular restriction was at issue in *Poisel v. Cash*.¹¹ "The Court held that while the 'manifest' purpose of this section was to deny a referendum by petition on acts having to do with alcoholic beverages, it had not limited the General Assembly to submit such questions to a popular vote."¹² In *Berlin v. Shockley*,¹³ the court held that ". . . although Article 16 speaks of referring both acts and parts of acts, a

part of an excepted law is not referable to referendum."¹⁴

Another limitation on the use of Article XVI is the injunction. A court of equity may preliminarily enjoin a referendum vote prior to a hearing on the merits.¹⁵ In *Tyler v. Secretary of State*,¹⁶ the Court of Appeals upheld a mandatory injunction placing a question on the election ballot pending further action by the chancellor on the sufficiency of the petitions either before or after the election.

The use of referendum has been frequent for local bills, but on statewide matters it has been used sparingly. Since 1915 it has been used in only seven elections for a total of eleven questions:

				Per cent of total number of votes cast for governor
1964	Amend. Art. 49B of Ann. Code of Md. titled "Interracial Commission," subtitled "Discrimination in Public Accommodations."	for	342,715	
		against	301,505	
		majority	41,210	for
		total vote	644,220	57.8
1962	Added new Secs. 161A-161KK to Art. 23 of Ann. Code of Md. titled "Corporations," subtitled "Building or Homestead Associations."	for	278,951	
		against	52,706	
		majority	226,245	for
		total vote	331,657	43.1
	Amend. Art. 33 of Ann. Code of Md. titled "Elections," and adding Sec. 166A creating a new eighth congressional district.	for	115,557	
		against	211,904	
		majority	96,347	against
		total vote	327,461	41.4

¹⁰ See *Dorsey v. Petrott*, 178 Md. 230, 13 A.2d 630 (1940); *Bickel v. Nice*, 173 Md. 1, 192 Atl. 777 (1937); *Winebrenner v. Salmon*, 155 Md. 563, 142 Atl. 723 (1928).

¹¹ 130 Md. 373, 100 Atl. 364 (1917).

¹² *Everstine*, *supra* note 4, at 142.

¹³ 174 Md. 442, 199 Atl. 500 (1938).

¹⁴ *Everstine*, *supra* note 4, at 148.

¹⁵ *Sun Cab Co. v. Cloud*, 162 Md. 419, 159 Atl. 922 (1932).

¹⁶ 230 Md. 18, 185 A.2d 385 (1962).