

own charters. It seems so to me and to the Committee, which specifically considered this after a meeting with a subcommittee of your committee, as you know.

THE CHAIRMAN: Delegate Raley.

DELEGATE RALEY: On section 7.11 there have been questions that might leave some confusion. I think we ought to remember what the State Finance and Taxation Committee is going to recommend.

First I am going to say that taxes can only be imposed by the elected representatives of the people exercising legislative powers.

My question to you, Mr. Chairman, is that 7.11 says only that elected representatives can put a tax into effect. It does allow elected representatives of any type of governmental authority to collect taxes or administer them. Is that not correct? Is that not all that says?

DELEGATE MOSER: Yes, it makes clear something that may be clear in the case law but is not so clear in the Constitution, that is, that these bodies can also impose benefit charges and service charges.

The answer is, it is not intended to run afoul in any way of the provision, with which I am familiar, which you said the Committee on State Finance and Taxation is proposing.

THE CHAIRMAN: Delegate Weidemyer.

DELEGATE WEIDEMEYER: Mr. Chairman, do you have in this recommendation any clear-cut grant of authority for referendum to the local subdivision, or any clear-cut provision mandating the legislature to set forth a referendum provision for each local subdivision?

DELEGATE MOSER: I understand the last part of the question. If I can restate it, do we say to the legislature, "set forth referenda procedures that must be adopted by the counties" is that correct?

DELEGATE WEIDEMEYER: That is right.

DELEGATE MOSER: The answer to that question is no. We do not. The reason, we do not, is that there is no present provision to that effect in the Constitution. With all the words in the present constitution with respect to home rule, Articles XI(A) and XI(E), where charters are involved, there is no requirement of local referenda.

THE CHAIRMAN: Delegate Weidemyer.

DELEGATE WEIDEMEYER: In that instance Article XI-A did not require that charter governments permit a referendum, but Baltimore County, Anne Arundel and, I assume, Montgomery County adopted it in their charters. There has always been doubt as to whether or not this was correct.

DELEGATE MOSER: I see your point. The categorical answer is that it is clear that a county may adopt a referendum procedure in its charter. That is absolutely clear.

I think it is also clear that the legislature could pass a law requiring all counties to have a referendum procedure. If the matter affected all counties, the General Assembly could require the same procedure in all counties.

THE CHAIRMAN: Delegate Weidemyer.

DELEGATE WEIDEMEYER: With such a provision is it possible that the General Assembly could likewise withhold the right of referendum from the newly formed counties; whereas, under expressed provisions of your recommendation, the General Assembly might not be able to do so for the counties and municipalities already in existence?

DELEGATE MOSER: I do not follow that question.

DELEGATE WEIDEMEYER: The question is, is it possible under the proposal for the legislature to withhold from these newly organized subdivisions the right of referendum and prohibit them from having referendum on local legislation?

DELEGATE MOSER: The answer as to local legislation is "yes." In the case of change of structure of county government, requiring charter amendments, section 7.04 would present the prohibition of a referendum to amend. The Charter referendum and initiative procedures must be permitted.

I suppose if the legislature in its wisdom were to say that no counties may have referenda of any kind for local ordinances, then this would be a valid law.

THE CHAIRMAN: Delegate Marion.

DELEGATE MOSER: They could do just that under present law, I believe.

THE CHAIRMAN: Delegate Marion.