

DELEGATE MARION: Delegate Moser, I rise with some hesitation because you have been under the gun a long time. I think you have been doing an admirable job.

To understand this better I would like to go back to one of the questions I asked you earlier on section 7.05, the third alternative, and the use of the word "denied" in line 19. The word "denied" seems to me to be more stringent than I understand the Committee's commentary on this section in your previous answers referring to the preemption of a particular field would indicate.

In dealing with this on a subject by subject basis, will the General Assembly say either that in acting in a particular field it is preempting the field, thereby denying counties the power to act in that field, or that it is acting in this particular field but that the counties may continue to enact such further laws in that area which are not inconsistent with the action of the public general law of the General Assembly?

DELEGATE MOSER: I believe the answer is no. "Denied" is intended to cover the area, that is, both a specific denial and a preemption. I cannot go further than that. The intention of the Committee is not to require the General Assembly each time it preempts the field to say that no county can enact a law on this subject matter. Denial by preemption could be by implication. I think you have that right now, do you not?

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: At a hearing which was held by your Committee and the Committee on the Legislative Branch one evening several weeks ago, I heard Delegate Fox, a member of your Committee, use the example of acting in the area of regulation of sale of liquor. For example, suppose the General Assembly were to enact a law which said no liquor could be sold on Sundays, no liquor could be sold to persons under 21 years of age, and that was the extent of the law. Would that preempt the field so the counties could not act further than that and regulate beyond that point not inconsistent with the law? A county might want to say that new sales of liquor could be made between 12:00 midnight and 8:00 A.M.?

DELEGATE MOSER: I would think that would not preempt the field. That is to say, because that action is not inconsistent, the county would be permitted to operate in that narrow set of facts.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Then you are saying, as I understand it, that the county might act in a field in which the General Assembly has acted so long as it is not inconsistent with the act of the General Assembly?

DELEGATE MOSER: That would be correct.

Delegate Mitchell.

DELEGATE MITCHELL: Mr. President and Delegate Moser, I think there is the fear of the violation of the political integrity of the already established counties and municipal units, such as Baltimore City.

I would like to ask you to give an illustration, for example, using Baltimore City, Baltimore County and Anne Arundel County of what section 7.10, on multicounty governments, contemplates, and the extent of the alteration of boundaries this Article provides.

DELEGATE MITCHELL: We all recognize the needs of multicounty cooperation, but sometimes we think that it is enough. There is the fear of violating the political powers in the already existing political entities.

THE CHAIRMAN: Delegate Moser.

DELEGATE MOSER: I am not sure I fully understand the question but let me answer it if I may by example, and show you what could and could not be done.

Under the present Constitution, it is fairly clear, for instance, that if the voters in the areas surrounding Bethlehem Steel Company wanted to be annexed to Baltimore City, this could be done. That is to say, it could not be presented by a referendum in Baltimore County, the whole county, making a determination that they do not want these people to become annexed to Baltimore City even though they wanted to.

Section 7.02 would change this picture. Under it, you cannot change boundary lines; you cannot merge counties; you cannot alter the boundaries in any other way; you cannot dissolve a county and, specifically, you cannot annex Bethlehem Steel Company to Baltimore City even though voters in the area to be annexed want that, unless voters in Baltimore County, voting as a county, agreed to it and voters in the City also agreed. That is the only way that could be done. That is one element.