

comments. One, I take it from the consideration of the recommendation on local government that the Committee of the Whole has already in effect approved the concept that you just expressed disapproval of, namely the fact that the local subdivisions, at least the counties, could act in this area, keeping in mind, however, the provision that is in that local article, this is the second point, that the legislature would have to grant the express power to tax.

Presumably the grant of the power to tax would include the grant of the power to grant or withhold exemptions. So that it is not a part of the reserved or shared powers of the local subdivision, but would depend upon legislative enactment.

Delegate Henderson.

DELEGATE HENDERSON: Is it my understanding, then, I would like to have the sense of the Committee on it, that while this section dealing with exemptions is silent as to local exemptions, that it still would be within the power of the legislature to withdraw that at any time? Is that correct?

In other words, if the local government granted an exemption or granted different exemptions, could they be made uniform by the General Assembly by adopting a general law on the subject?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: If the word "exemption" is embraced within the words "taxing powers", this would be correct, and I think it is.

THE CHAIRMAN: Delegate Gullett.

DELEGATE GULLETT: Delegate Case, going back to section 8.01, paragraph a, where it says elected representatives of the people exercising legislative powers, the intent I assume here is that the legislative powers these elected representatives would exercise would be for that particular body for which they were in fact elected, in the event that say, two sets of county commissioners were given legislative power to sit over a bi-county agency, and actually legislate for that bi-county legislature.

For instance, would this interpretation allow the Maryland National Capital Parks and Planning Commission to tax on the bi-county basis?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Not if they were elected as county commissioners, but served as appointed officials to this board. They

would have the power to impose a tax necessary for their respective counties which could be used in combination for the agency, but not as an agency as such, I would not think.

THE CHAIRMAN: Delegate Gullett.

DELEGATE GULLETT: In the local government section under regional governments, in a couple of places we did put in the words "popularly elected representative."

Did you consider this wording?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: This is something the style people can work out. We have no brief for one or the other.

THE CHAIRMAN: Delegate Hanson.

DELEGATE HANSON: In section 8.02 there is language relating to the farmland assessment act.

Will this in any way require a change in the status of that act or in any way affect the status of that act or its administration as it now stands?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: I thought I would be hearing from you sooner or later about this subject. Yes, as I tried to state in answer to the question from Delegate Macdonald, the idea here is to overrule the Alsop Case. The Alsop Case was based primarily on the language in section 43 of the present Declaration of Rights. What the Court of Appeals said in its Alsop case was that it could not pass upon or inquire into the efficacy of the regulations which had been promulgated by the State Department of Assessments and Taxation, because Article 43 mandated that if property was devoted to farm or agricultural use and it was so used, that was the end of the matter, no matter whether the fellow who owned it was an investor, speculator, or true farmer.

The question was the use vel non. That was the end of it. Our language seeks to change this by saying that there shall be a classification for farm use but that classification shall be defined by law. And this envisages the General Assembly passing a definitional law which will either itself define what a farm is or is not or delegate the authority to make that definition to the department of revenue and taxation.

In the Alsop case the Court said "The question here is not whether the owner and taxpayer is engaged in a bona fide farm