

your intention that the General Assembly in establishing an agricultural class could then further establish a class limited in size to farms over a thousand acres? Would that be a legitimate type of class?

DELEGATE CASE: Well, these are questions which the courts are going to have to decide ultimately. Again, as I say, the question is one of reasonableness. Now, the General Assembly has not to this time used any one single factor as determinative. It has used twenty-nine factors in combination. What you are asking me is could they say any property which has more than one thousand acres is ipso facto a farm? I am saying to you, I do not know the answer to that.

DELEGATE WHEATLEY: I think perhaps it would be better to refer it to the Department of Agriculture because that is not the primary intent of my question. Could age in itself be a class such as people who reach the age sixty-five are in a class?

DELEGATE CASE: It is pretty well established that the age sixty-five is a delineation of a class for social security, tax purposes, income credit purposes, and real estate tax purposes. I think that is pretty well established.

DELEGATE WHEATLEY: Further, under 8.02-2 this same class could be granted as an exemption as to age?

DELEGATE CASE: If it were uniform, that is correct.

DELEGATE WHEATLEY: Finally, we could use the existing method of tax credit for the same type of allowance for age.

DELEGATE CASE: There is nothing in this which would prevent the use of the credit or in any way intend that it be abolished.

DELEGATE WHEATLEY: So, in essence, we are giving the General Assembly and local government as to class, exemption and credit, what differentiation is made by the Committee as to whom, and we have gotten to this a little bit, as to whom this would apply. Would the State be able to control class alone or would it be regulated by the local government?

DELEGATE CASE: As this is now written, as far as exemptions are concerned, definitively only the State, but through the inference that exemptions follow the taxing power under section 8.01-b, the local political unit can do it. If it were a county as we established earlier, they

could do it through a grant by a single application to that county. If it were a municipality, on the other hand, it would be a general law.

THE CHAIRMAN: Delegate Wheatley.

DELEGATE WHEATLEY: As to class—

DELEGATE CASE: The same would be true.

DELEGATE WHEATLEY: In either event, it would be local or state as the case may be.

DELEGATE CASE: Yes.

THE CHAIRMAN: Delegate Maurer.

DELEGATE MAURER: Delegate Case, your answers to Delegate Miller raised several questions in my mind, and I would like to ask you something further about section 8.01(a) and the phrase "exercising legislative powers". As I understand section 8.01(a) it is basically what was in the draft constitution with the thought, and I quote from the commentary,

"the purpose of this draft section is to prevent the imposition of taxes without consent of the legislative representatives that delegations of taxing authority to local subdivisions have been held proper, but in some instances the principle appears to have been eroded through the delegation of taxing authority to non-elective administrative boards".

Does your phrase, "by the elected representatives of the people exercising legislative powers" equate with the phrase, "by popularly elected representative bodies", or is it more restrictive?

DELEGATE CASE: That question was answered last night, Delegate Maurer. It was asked by Delegate Clagett, and I said it meant exactly the same thing and the Committee still felt the word "popularly" should be in the draft. We would have no objection to it.

DELEGATE MAURER: I know the word "popularly", but there are other bodies exercising legislative functions than as you describe it. I do not see physical independence for school boards, but we do have an elected school board in Montgomery power.

DELEGATE CASE: It does not exercise legislative power.

DELEGATE MAURER: Then your phrase is not the same as "by a popularly elected legislative power"?