

THE CHAIRMAN: Delegate Mudd, could you yield to a question?

DELEGATE MUDD: Yes, Mr. Chairman.

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: Chairman Mudd, twice in section 5.25, in the first and in the second sentences thereof, you state that the Court of Appeals having power either respectively to remove or to retire a judge. Two things occur: First, a recommendation of the Commission on Judicial Disability, and secondly, and I quote, "a finding after hearing", of either misconduct or of other deficiencies.

Now, which finding is this? Is this a finding of the Commission, or is this a finding that the Court of Appeals subsequently makes after receiving the Commission's recommendations?

DELEGATE MUDD: What this proposal contemplates is that the commission on judicial disability shall first have its own investigation, findings of fact, and make a recommendation if the facts warrant. Then, Delegate Carson, the court then has the ultimate disposition of the matter, and may remove, retire or censure. The commission has no function other than to make a recommendation to the Court of Appeals.

THE CHAIRMAN: Delegate Carson, do you have a further question?

DELEGATE CARSON: I have not received an answer to my question.

THE CHAIRMAN: Would you restate it?

DELEGATE CARSON: Twice you use the words "upon a finding after hearing" and these words follow a requirement that a recommendation of the commission be received and then it requires a finding after hearing certain things.

Now, does this refer to a finding after hearing of the commission or a finding after hearing of the Maryland Court of Appeals?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: A finding after hearing by the Court of Appeals.

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: Chairman Mudd, in section 5.27 there are a number of powers given to the Commission with

regard to hearings, subpoenas, et cetera. Do I take it that it is expected that the commission will first hold a lengthy hearing itself and that then later in addition to that hearing, the Court of Appeals will also have a full hearing?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Yes, that is possible.

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: Only one remaining question, Chairman Mudd. These questions are not asked in criticism but so that I may know because I think the sections—

THE CHAIRMAN: Your inquiries are pertinent. You may proceed.

DELEGATE CARSON: Chairman Mudd, could the Court of Appeals by rule or could the General Assembly by law restrict in any way the time limit that the hearing before the Court of Appeals might take? I suggest that a lengthy hearing might take a month of the Court of Appeals' time.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: That question had not occurred to me, and was not discussed in Committee to my best recollection, Delegate Carson. I would assume it could be ruled by law or by the Court of Appeals, requiring a decision or finding by the Court of Appeals in so much time after the commission had made its recommendation or report, if this is responsive to your question; but how long the trial might last, I just think that would be something that would have to be under control of the trier of the facts.

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: Thank you.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Mr. Chairman, could the Court of Appeals not appoint a master to make these findings and take the evidence?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Yes, I would think that would be well within the rule-making power covering this matter.

THE CHAIRMAN: Delegate Miller, do you have a question to address?

DELEGATE B. MILLER: Yes, Mr. Chairman.