

THE CHAIRMAN: To whom is your question addressed?

DELEGATE B. MILLER: Delegate Mudd.

THE CHAIRMAN: Will Delegate Mudd yield to a question?

DELEGATE MUDD: Yes, Mr. Chairman.

THE CHAIRMAN: Delegate Miller.

DELEGATE B. MILLER: Under the California plan the commission has the power to make recommendations to the Court of Appeals, but does it have any other powers and responsibilities?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: It is my recollection that the powers of the commission there are identical with the powers we have here given, and that our overall recommendation is identical, save in one respect. We give here to the Court of Appeals the power to censure, which is not in the California plan, but which is being recommended as an addition to the California plan.

THE CHAIRMAN: Delegate Sollins, for what purpose do you rise?

DELEGATE SOLLINS: May I ask a question of Chairman Mudd, please?

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

DELEGATE MUDD: Yes, Mr. Chairman.

THE CHAIRMAN: Delegate Sollins.

DELEGATE SOLLINS: Delegate Mudd, the courts these days are much concerned about the rights of defendants, and rightfully so. Would this commission accord the same rights to a judge who was brought before it, or do they have right to counsel, do they have right to face their adversaries? What procedures are prescribed?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: I am confident that the rules would give every protection to the judge under fire that they would to any other accused, and perhaps the judge might be advised with the admonition that I have often heard about the lawyer who represents himself.

THE CHAIRMAN: To further amplify that question and the answer, Delegate Mudd, would you say that the use of the

words "after hearing" in line 2 on page 8 were intended to indicate a hearing at which there was due process of law, with all that that means?

DELEGATE MUDD: Yes, Mr. Chairman.

THE CHAIRMAN: Is there any further question of Chairman Mudd? Delegate Koss.

DELEGATE KOSS: I would like to address a question to Chairman Mudd.

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

DELEGATE MUDD: Yes, Mr. Chairman.

THE CHAIRMAN: Delegate Koss.

DELEGATE KOSS: I suspect it is covered, but I want to make sure.

Suppose a judge who has a hearing before the commission on judicial disability decides to retire rather than to subject himself to the possibility of removal.

Who then has the authority to determine rights of pension and that sort of thing?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: I think the last sentence of 5.25 answers that: A judge retired under this section shall have the rights and privileges prescribed by law for other retired judges.

THE CHAIRMAN: Delegate Koss. Do you have a further question?

DELEGATE KOSS: I am satisfied if you include in here voluntary retirement rather than retirement under order.

THE CHAIRMAN: Delegate Mudd, if I could paraphrase the question, I think what Delegate Koss is getting at is whether the last sentence to which you just referred, the last sentence in 5.26, applies whether the judge retires voluntarily under fire or before he is shot down or whether he retires after he is shot down. Is that your question, Delegate Koss?

DELEGATE KOSS: Yes.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: My opinion is if he retires voluntarily he receives a pension prescribed by law. If he is retired involuntarily, then the Court of Appeals may do what it decides with respect to any pension he may otherwise have been entitled to by virtue of his service.