

of the chief judge as the head of the judicial system.

With respect to section 5.31, titled, "Rule-Making Power," may I first call your attention to the first few words thereof, which say that, except as to matters specifically provided by this constitution to be prescribed by rule, the Court of Appeals by rule and the General Assembly by law shall have concurrent power.

Now, our Committee Recommendation as presented to you contains many provisions to be governed exclusively by rule. Some of those have been deleted by action of the Committee of the Whole, and the remaining matters in this area that can be controlled exclusively by rule-making power of the Court of Appeals are these:

Establishment of the number, qualifications and duties of the commissioners, and of the judges to appoint them. Number two, establishment of provisions for lawyers' poll; number three, establishment of rules, practice and procedure of the whole Commission on Judicial Disabilities.

Next, establishment of manner of designating administrative judges and their duties.

Next, provision for the assignment of judges, and lastly, provision for appointment and terms of clerks of the district courts.

Therefore, you will please understand that the committee recommendation is that within those six areas the power is exclusively within the Court of Appeals, to be exercised by its rule-making authority. In all other areas, namely, those of concurrent power, the power is concurrently within the legislature and within the rule-making power of the Court of Appeals. These are areas, concerning first, regulations governing procedures in the courts, second, those governing admission of persons to practice law in this State and the discipline of persons so admitted, and third, those governing administration of the courts, officers of the judicial branch, and to the extent their duties directly relate to the enforcement of judicial orders, officers of the executive branch.

Accordingly, it is the recommendation of your Committee on the Judicial Branch that as provided in section 5.31, the Court of Appeals shall have exclusive authority with respect to the six matters previously detailed, but with respect to all other matters in the categories just mentioned, the power shall be concurrent with the legislature.

As indicated in our supporting memorandum, this concurrent power is not novel and is in fact a continuation of the existing situation.

The testimony before our Committee indicated that there has been no problem about the concurrent authority of the legislature and the Court of Appeals in the exercise of its rule-making power. There has for many years been a continuing 16-man Rules Committee. That committee has worked harmoniously and cooperatively with the legislative leaders in concurrently providing for matters of substance and matters of practice and procedure, where there is need concurrently for improvement in this area.

Accordingly, we suggest that what is proposed by our committee recommendation in these two sections, 5.29 for administration, and 5.31 under the rule-making power, is nothing more than is required for the proper administration of the four-tier court system as exclusively a state function, and we respectfully suggest that the administrative responsibilities which now devolve first upon the chief judge of the Court of Appeals and the chief judges of the other three courts, and such other administrative judges as may from time to time be required, will be a much greater responsibility than heretofore, and these administrative powers, plus the rule-making power of the Court of Appeals, be exercised in most areas concurrent with the legislature is a necessary part of our Report and essential to the efficient functioning of the four-tier system with the manpower to be provided under the selection and tenure provisions which so far have been approved.

I feel that this is a readily understood area of the subject matter covered by our recommendation, but I will be happy to try and answer any questions you may have in this area and would like the opportunity to yield to Judge Henderson, a member of our Committee, who has had extensive experience on the bench, was a member of the Court of Appeals and who by virtue of current membership on the Committee on Rules is perhaps more conversant than any delegate in this Convention with the need and accomplishment that has been made in that area.

I will answer any questions, Mr. Chairman.

*(At this point, the First Vice-President James Clark assumed the chair.)*