

in and change the rule and frustrate the will of the people as it comes through their legislature.

Also in another study that was prepared by a grant of Columbia University, "Survey of the Judicial System of Maryland", in reference to the rule-making power of Maryland it states: "Ordinarily, rules of court administration and rules regulating the legal profession are not dealt with by constitutional provision", as I said before the Court prohibits the parties. "—but left to ordinary legislation and to the exercise of inherent rule-making power by the courts over matters of their own special concern. Traditionally the courts are given free rein over such matters as the hours for holding court, the times for judges to take vacations, the records to be maintained, and so forth. Nevertheless, there can be a public interest in such matters, so that the legislature should have some redress if courts act unreasonably in this area. The same is true of rules governing the legal profession. Since lawyers are not only officers of the court, but also counsel to their clients, it is not unreasonable that representatives of the public in the legislature should have something to say about what persons may be admitted to practice, and what regulations shall govern them."

This goes on to recommend the concurrent power in this particular section, but the point that I am trying to get at is this: that the rule-making power of the court should not be superior to the actual legislature and while practically speaking it has not been a problem in the past, and I would applaud the judges that we have in the State of Maryland who have worked these problems out with the legislature, and I would expect that it would continue to occur that way, that it would not be a problem. But should it, then the legislature could solve the problem at least for a period of two years, and this would act as a restraint on the abuse of this rule-making power.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman and ladies and gentlemen of the Committee of the Whole: I must rise in opposition to this amendment. It seems to me that the arguments advanced by the proponents are really the arguments that suggest that his amendment be rejected.

He has admitted that the concurrent power in this area as heretofore exercised by the legislature and the courts has worked well. As a matter of fact, the infor-

mation before our Committee is that it most often works cooperatively, one to supplement the other, or the rule to correct some error in the law or the law to supplement the rule in some respects.

We therefore feel that this amendment which suggests a two-year lapse before some such co-operative effort by the courts in clarifying a law or providing a rule which is necessary to supplement the law, would be an unnecessary or unreasonable restriction on the concurrent power and which we feel could not help but in some instances at least bring about a decision.

We, therefore, oppose the amendment.

THE CHAIRMAN: Does any other delegate desire to speak in favor of the amendment?

Does any other delegate desire to speak in opposition?

*(There was no response.)*

Are you ready for the question?

*(Call for the question.)*

THE CHAIRMAN: The Clerk will ring the quorum bell. A vote Aye is a vote in favor of the amendment; a vote No is a vote against. Cast your votes.

The question arises on Amendment No. 56 to Committee Recommendation JB-1. Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the votes.

There being 40 votes in the affirmative and 87 in the negative, the motion is lost. The amendment is rejected.

Are there any other amendments to section 5.31? The Chair hears none.

There are several amendments pending to add sections to the end of the article. The Chair has hoped very much we would be able to conclude consideration of Committee Recommendation JB-1 this morning but I am afraid consideration of the remaining amendments would consume certainly more than a half-hour. The Chair therefore recognizes Delegate Powers.

DELEGATE POWERS: Mr. Chairman, I move that the Committee of the Whole rise and report to the Convention.

THE CHAIRMAN: The motion has been seconded. All in favor signify by saying Aye; opposed, No. The Ayes have it. It is so ordered.