

makes several changes. First, the language of the present Constitution infers that the governor has power to nolle prosequi the case.

Only one instance of exercise of this power has been found. The Committee feels that the governor should not be able to intervene in criminal proceedings until criminal prosecution has ended. Therefore, this section does not give the governor that power.

Second, the requirements of public notice of instances of the exercise of the governor's power of clemency have been altered. The requirement of newspaper notice publicizing the exercise of this power has been deleted because of the embarrassment it might occasion the pardoned offender. At the same time the Committee feels that a public record of the instances of the exercise of the clemency power is an essential safeguard. Therefore, this section requires that the governor file an annual report with the Court of Appeals which shall be a public record.

Third, this section expressly gives the governor power to grant commutations. Although the governor has long exercised this power, it is not expressly given to him by the Article II, section 20 of the present Constitution.

The last section of the Committee Recommendation deals with the office of state's attorney and provides that there shall be a state's attorney popularly elected. The Committee recommends, however, that all public matter of the requirement that he be popularly elected be left to the legislative determination, such as matters relating to the geographical areas which each state's attorney shall represent, the filling of vacancies and the terms of office, qualifications for holding office, all of which are found in Article V, sections 7 to 12 of the present Constitution.

The Committee feels that the state's attorney should be elected to assure that he will be responsive to the dominant law enforcement views of the community, but that the details should not be included in the constitution so the General Assembly can from time to time make changes if this is necessary.

That concludes my presentation of the Committee Recommendation.

(James Clark, First Vice President, assumed the Chair.)

DELEGATE J. CLARK (presiding):
The Chair recognizes Delegate Dorsey.

DELEGATE DORSEY: A point of personal privilege. I see two distinguished citizens of St. Mary's County, Mr. Steve Young and Mr. James A. Somswell.

Mr. Young is President of the St. Mary's County Branch of the N.A.A.C.P. I would like to introduce them to the Convention.

DELEGATE J. CLARK (presiding):
We are very glad to have them here.

(Applause.)

DELEGATE J. CLARK (presiding):
Are there any questions of Chairman Morgan?

The Chair recognizes Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, I am sure you went over this in your presentation, but with respect to section 4.12, page 5 of the Report, will you go over again the justification giving the governor the power to call back one chamber of the legislature, just the Senate instead of calling both chambers back?

It is section 4.13.

DELEGATE J. CLARK (presiding):
Delegate Morgan.

DELEGATE MORGAN: The governor in the case of the heads of the principal departments must appoint the heads of those departments only with the advice and consent of the Senate.

It is perfectly true that the governor under another section of our recommendation has the power to fill vacancies temporarily by making an interim appointment if the legislature is not in session, but the Committee thought that on occasion some people would not desire to have interim appointments. They would want to know before they took office whether they were satisfactory to the Senate or not.

Under those circumstances, the governor could call the Senate back into session and ask the Senate to give its advice and consent with respect to the appointment.

DELEGATE J. CLARK (presiding):
Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, would you agree that the power to call a chamber of a legislature, back into special session is a power that should only be used under extraordinary occasions? Would the appointment of a head of the department justify in your judgment and in the members of the Committee's judgment the utilization of that kind of power?