

ries with it the power of removal if it is an appointment for an indefinite term. If it is for a definite term, then it does not carry the implied power of removal. Then you get into the situation where he serves at the pleasure of the appointed official and then he may be removed whether his term is definite or indefinite. In the executive article we provide that the heads of the executive department shall serve at the pleasure of the governor. For those twenty people the power of removal is already implied in the constitution. However, were some other offices to be created, as they undoubtedly will, for the governor to appoint, and if they were appointed for a four-year term, there would be no implied power of the governor to remove the people concerned.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: And then the words "except as otherwise provided", on lines 5 and 6, mean that if nobody else has the power to remove for cause, then and only then does this section apply?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: Does this section apply to elected or appointed officials, counties or municipalities?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: This would apply to any elected or appointed official that is not otherwise provided for in the constitution. Now, the question comes up: what would you do with local officials? It would be presumed that the General Assembly would deal with the question by law. They would elect certain standards. If the county officials decided to implement these standards and go beyond them, they could. But it would be a universal standard across the State. Something that was illegal in one county would not be legal in another. You would have to have a uniform standard.

THE CHAIRMAN: One more question.

Delegate Bamberger.

DELEGATE BAMBERGER: I just do have one. This will take some consideration of the language.

You say, first, the General Assembly shall provide by law for investigation and you restrict that to two areas, one, misconduct and, two, incompetency. Then you provide for removal, but removal while it is for good cause which would seem to me to be rather broad is restricted to removal of officers who have been investigated. So,

in effect, what you are saying is that the General Assembly may provide for removal for misconduct for incompetency and not for any other reason.

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: That is correct because the phrase "misconduct in office" as I read the definition includes wilful malfeasance, misfeasance, nonfeasance and any act involving moral turpitude or contrary to justice, honesty or principles or good morals if performed by virtue of or under authority of an office and incompetency includes any physical moral or intellectual qualities which incapacitates an officer to perform his duty. The incompetency must be one which has arisen since and did not exist prior to the election.

These are the two words that are used in the old Constitution. They are the two words of broadest definition in the lexicon of the impeachment victim.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Mr. Chairman, with your indulgence and the indulgence of the Committee of the Whole, I think this is such a far-reaching and encompassing suggestion, that I would beg leave to ask Delegate Grant a few more questions because I am confused as to what this covers.

THE CHAIRMAN: Very well, you may.

DELEGATE CASE: You say it does not cover the judiciary and it does not cover the legislative branch. You have established with Delegate Bamberger that it does not cover the heads of departments whom the governor can appoint, am I right up to this point?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: It covers the heads of the departments who serve at the governor's pleasure which is indicated in the article to be, so far, twenty people. If they serve at his pleasure then he can remove them whether they serve for a definite or indefinite term. He can remove an appointed official if he serves for an indefinite term. He cannot remove him if he is serving a definite term, unless he is one of the officials serving at his pleasure. There are going to be twenty of them serving at his pleasure as the constitution now stands.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: I suggest to you that section 4.22 of the executive branch says exactly that, that the heads of prin-