

DELEGATE WILLONER: In your deliberations, did you consider Article III, section 60 of the present Constitution? Is that considered an exception? Did you consider it?

THE CHAIRMAN: Delegate Boyer.

DELEGATE BOYER: No, I must confess we did not compare the recommendation that we are presenting here with that, either pro or con.

THE CHAIRMAN: Are there any further questions of the Committee Chairman?

*(There was no response.)*

If not, Delegate Boyer will return to his seat and we will consider the amendment.

Are there any amendments to Committee Recommendation GP-11?

THE CHAIRMAN: The Chair has none and hears none.

Is there any discussion on Committee Recommendation GP-11? Are you ready for the question?

Delegate Macdonald.

DELEGATE MACDONALD: A parliamentary inquiry, Mr. President.

If one wanted to vote against this provision, would it be more appropriate to have an amendment to strike it out, or just talk against it and vote against it?

THE CHAIRMAN: Speak against it and vote against it is all that is necessary. It is not necessary to have an amendment to delete it.

Delegate Macdonald.

DELEGATE MACDONALD: Mr. Chairman, I would like to speak against this particular section. I would urge, fellow delegates, that you vote against this. I think this provision is archaic, unnecessary, and just is not true.

In the present constitution the treasurer is provided for and he is elected by the General Assembly, namely by the legislative branch, and yet he performs executive functions.

In addition to his duties as custodian of the monies of the State of Maryland, he sits on the Board of Public Works, and there performs executive functions, yet he is appointed by the legislative branch, so in that instance there is no separation of powers. There is a mixture.

The Maryland Tax Court is supposed to be a branch in the executive branch, but in fact it performs judicial functions. It decides cases just like any other court, except that they involve tax matters only.

In the present Constitution on which we are working right now, section 5.40 of the judicial article provides that the chief judge of the Court of Appeals shall appoint a judge if the governor fails to do so. To me, that is part of the executive function, but yet it will be performed by the judicial branch.

Section 5.31 of the constitution we are now working on gives the Court of Appeals and the General Assembly concurrent rule-making power. The Court of Appeals has the authority to adopt rules and so does the General Assembly. That is either legislative or judicial, or both, but we have two branches of the government doing the same thing.

THE CHAIRMAN: You have one-half minute, Delegate Macdonald.

DELEGATE MACDONALD: In another provision in the legislative article we have a redistricting commission. The members of the redistricting commission are appointed by the General Assembly and the governor, and in a certain series of events, the redistricting plan of that redistricting commission can become law.

I submit that this archaic provision just is not true. It does not do anything except maybe become a sort of litigation breeder. It does not help any, and in the field of local and municipal government it certainly runs contrary to the modern practice. The modern practice approved by the National Municipal League ever since 1916 is the council-manager form of government where the two branches of government, namely, the legislative and the executive are combined or coalesced.

THE CHAIRMAN: Your time has expired, Delegate Macdonald.

Does any other delegate desire to speak in favor of the recommendation?

Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, I would have hoped it would not have been necessary to speak in favor of the committee proposal, but simply because it is extremely difficult to explain the many ramifications that are involved in an adequate discussion of this problem within the time limitations imposed, I think it will be enough for me to say simply that this pro-