

us today for consideration as the Committee of the Whole the General Provisions Recommendation, GP-2, the section concerning oaths. I sincerely hope that it will not be as controversial as the last non-controversial item, GP-1. Perhaps the action by the Supreme Court today will smooth some of the rough waters.

At this stage, Mr. Chairman, the General Provisions Committee would like to pay special recognition and gratitude to the subcommittee who worked on oaths, headed by Delegates Blair, Singer, Lord and Wheatley. It has been our custom in the General Provisions Committee to thoroughly discuss each item, but because of the many ramifications of each item and the variety of items referred to us, we have thought it more expedient to delegate into special subcommittees some specialization, and this is the purpose of the Subcommittee on Oaths. After the subcommittee made its report back to the full Committee, of course we then had full discussion; and I am very happy to report to my knowledge there are no minority reports on this section.

The Committee on General Provisions considered, we thought, every aspect of the oath. We considered that the judicial meaning of the phrase "an office of profit or trust" in many cases were in these terms defined. The Committee considered the use of the words "swear or affirm", and we felt that the authority for usage is in the Constitution of the United States, Article VI, in the presentation oath of office. The affirmation was initially designed to rectify the practical injustice that resulted to suitors where witnesses, who possessed a prerequisite belief in God were nevertheless prevented from testifying because of their conscientious scruples against taking a solemn oath.

The English Parliament and the legislatures of many of the American states enacted legislation to enable those believers, conscientiously scrupulous of taking the oath and to qualify therefor as witnesses by affirmation.

State constitutional provisions similarly provided for the affirmation as an oath substitute in a variety of instances.

The oath is identical, as we present it, with the draft and existing Constitutions, in the essential areas to support the Constitution of the United States, to be faithful and bear true allegiance to the State of Maryland, and to support the constitution and laws thereof.

The proposed oath that we present to you differs, however, from the existing Constitution only in the last part, where it delineates, or deletes the provision that a governor, a senator, a member of the House of Delegates or judge will not directly or indirectly receive profits from any part of the profits of any other office during his term of acting in such capacity.

This was deleted because it was not felt appropriate for an oath of office.

The Committee noted that the prohibition as to the members of the General Assembly has been retained in draft section 3.09. The Committee further recommends that the provision contained in article 35 of the Declaration of Rights pertaining to plurality of office be deleted, and is of the opinion that the matter should be left to the Legislature, or elsewhere in the constitution in the area pertaining to qualification for office or conflict of interest.

The final change recommended by your Committee was the omission from the draft constitution of the words "or political test", where the phrase reads, "no other oath or political test shall be required".

This was done because of the ambiguity of the construction that might be given to such language. Does age, qualification, commission of crime, declaration of party registration as a Democrat or Republican, constitute a political test? It was the opinion of a representative of the attorney-general's office who testified in connection with oaths that there could be some question raised as to the construction of this provision.

The Court of Appeals has held that the Ober Law, a loyalty law, does not constitute an oath; although the draft constitution does not include section 7 of the present Constitution, your Committee was of the opinion that such a statement should be contained in the Constitution in the event of refusal or neglect to take an oath of affirmation. This is the last paragraph of the blue recommendation.

This would establish the time when the office would be vacated and how it should be filled as prescribed by law would include constitutional as well as statutory fiat. Finally, your Committee reviewed the historical transition from belief in the Supreme Being and theistic principles relating to oaths to the present interpretation enunciated under Schowgurow and other cases. After reviewing the age-old battle between personal liberty and gov-