

covered by sections 5.25 through 5.28. As indicated before, this matter was considered at some length by your Committee on the Judicial Branch. We have made a substantial departure from the existing law as contained in the present Constitution as well as the recommendation by the Study Commission.

In essence the Committee on the Judicial Branch in its majority report has adopted the California plan. It sets up the Judicial Disabilities Commission, and provides the manner in which such Commission shall proceed.

It shall make recommendations for removal or retirement and ultimately the Court of Appeals has the final authority to determine whether a judge on the recommendation of the Commission might be removed, retired or censured, the "or censured" being, I understand, the only inclusion in this Recommendation not presently part of the California plan.

It is our information that those familiar with the California Plan now say its plan should include the power of censure.

By virtue of that recommendation, the Majority Report includes the power of the court of appeals to censure.

The next subject matter dealt with in the Committee Report is that of administration of the judicial system and which to the Committee seemed a most integral and necessary part of its responsibility.

Basically, the recommendation in this regard is that the chief judge of the Court of Appeals be the administrative head of the court system. He has the right to appoint chief judges who shall perform some administrative duties as shall be prescribed by rule, and in addition the Court of Appeals by rule may provide for other administrative judges in addition to the chief judges to perform such functions as prescribed by rule.

The administrative responsibility under the court system as proposed of course will be a substantial responsibility and in the view of the majority of the Committee it was imperative that the recommendation of the Committee include guidelines in this area to be covered by the rule-making power of the Court of Appeals.

With respect to the matter of clerks of court, the Committee Recommendation is identical with the draft article except in one respect. That is that the clerk of the superior court in each county on the basis

of the Committee Recommendation shall be selected as prescribed by law. In other respects this section follows the substance at least of the draft proposed by the Study Commission.

The final section, that dealing with rule-making power of the Court of Appeals, likewise follows the existing situation and the proposed draft by the Study Commission.

It is the conclusion of the majority of the Committee on the Judicial Branch that the present system has worked well. There has been complete compatibility between the Court of Appeals and the General Assembly in the exercise of their respective functions in this area, and the only thing that the Committee Recommendation does that in our view was not entirely clear in the draft submitted by the Study Commission was to emphasize by language we have added that the last in point of time, that is, rule or law, shall supersede, the language exactly being this, the later in time, that is in event of conflict when rule and law shall supersede it prior to the extent of the conflict, we do define the rule in this article to mean rule adopted by the Court of Appeals.

That ladies and gentlemen of the Committee of the Whole hopefully within the suggested time limit is a brief summary of the recommendation of the Committee on the Judicial Branch as to what should be included in Article V to improve and reform to some extent the judicial arm of government in the State of Maryland in the new Constitution.

THE CHAIRMAN: As I indicated earlier in response to the questions of Delegate Malkus, there is a period now for questioning but this is only a general presentation. Time is limited under debate schedule. I would hope questions would be limited only to the arrangement of the section. There will be ample time for questions as each part of the article is presented.

Are there any questions as to general presentation? If not, the Chair recognizes Delegate Johnson to make a general presentation of the Minority Report.

Delegate Johnson, please come forward to the reading desk.

DELEGATE JOHNSON: Mr. Chairman, I would like to open by noting that we all have a deep moral commitment to our task here. I would note further that our task has been greatly facilitated by the remarkably fine efforts of the Constitutional Con-