

vention Commission, which preceded this conclave, a fact which gives heart to those of us who have been concerned by the devastating defeat of the New York Constitution recently, and the notable lack of success of the Rhode Island Convention.

I say this because some participants and observers of these two experiments have expressed the feeling that these two states made fundamental error in not providing for and relying on well-prepared Commission studies.

I must admit I have heard some dissidents in this State complain that the Maryland Convention is nothing more than a ratifying body for the Commission draft. However, lest the majority of the Committee on the Judicial Branch be chastised for being wedded to the Commission draft, let me be the first to confess the minority loves the draft too.

Although we feel we are as morally committed to our task as the majority upon the grounds let's say of incompatibility, we are filing for a divorce a mensa, a partial divorce if you will, with the hope that at the conclusion of the debate the Committee of the Whole have effected a reconciliation.

It is interesting to observe the staffing of our Judicial Committee with fourteen lawyers and six non-lawyers. One might surmise that the line-up would be lawyer versus layman. That perhaps was the case for a while, but as lawmakers as well as law enforcers and those responsible for adjudication appeared before the Committee, the thoughtful and penetrating analyses of some of the supposedly naive laymen, complemented I might say by many members of the Judiciary, convinced at least a few of us who have intimate day-to-day contact with the courts that we should not be meek sheep following a legal shepherd. No pun intended, Mr. Chairman.

Thus some differences arose among lawyers on the Committee and that produced a somewhat different minority than might have been anticipated.

In passing you should be made aware of the fact that on several incidental issues over one-third of the Committee voted against the majority. Analysis of the votes on this matter does not indicate a consistent pattern. Indeed we have sought to provide a sounding board for several members of the majority by including some of these issues in our Report because they should be considered, not necessarily debated at length but considered by this body.

Some other matters of very considerable importance contained in our Report missed being the majority by only one vote. We do indeed, as Chairman Mudd has indicated, endorse many provisions in the Committee Recommendation JB-1, although I understand that some of the members of the majority are still searching for those areas of agreement. Let us keep constantly in mind that the judicial branch is the most potentially tyrannical of the three branches of government with respect to individual liberties: first, because its actions directly and explicitly affect specific individuals; second, because its officers are most insulated from popular control; third, because its activities receive the least public scrutiny.

Let me emphasize that we are in no way criticizing past or present members of the Maryland bench. Indeed, when we recall the names of such outstanding jurists as Carroll T. Bond, Edward S. Delaplaine, Simon E. Sobeloff, presently a distinguished member of the U. S. Court of Appeals, F. Neal Parke, Frederick Brune and Hall Hammond, presently our chief judges of the Court of Appeals. I should say at this point that I will not embarrass the noted judges sitting among us by personal reference, wherein we recall these men, ones I mentioned and many others. We know the state bench has been and is manned by highly qualified dedicated public servants.

I would also note that these men have served under the present appointive elective system, a system which the Institute of Judicial Administration has called, and I quote, "basically sound with some features far in advance of those found in many other jurisdictions, a system that ought not to be scrapped but one that deserves and needs to be improved and strengthened."

We of the minority are anxious to improve and strengthen the courts by modifying and in some cases going beyond the recommendations of the majority of the Committee on the Judiciary.

As the majority was dedicated in the performance of its task, again let me emphasize the dedication of the minority to the improvement of the state judiciary within the framework of a republican form of government. To give just one example, the very significant matter of establishing a Commission on Judicial Disability would not have passed this Committee without the wholehearted support of the signatories of this Minority Report. That, we submit,