

Also, I would like to call attention to the model article of the American Bar Association, which recommends a unified court system, but does not use the word specifically, unified. We of the minority are in favor of a unified court system. We feel, however, that the use of the word "exclusively" puts a limit on the flexibility.

Secondly, may we look to the experience of others. Not one state constitution uses the term "exclusively" in its document. There are 38 state constitutions containing a provision to the effect that the General Assembly may provide for the establishment of various courts.

Now, it is true that eleven of these state constitutions provide general power; that is, there is no limit as to the type of court, be it limited jurisdiction, or regional jurisdiction or whatever it might.

I would also like to point out that there are only four constitutions which limit the type of courts to those provided within the constitution itself.

Further, I would like to point out that only five state constitutions remain silent on the question of the establishment of other courts.

Thirdly, I would like to point out that only three state constitutions do not specify any court structure whatsoever, and hence provide a great deal of flexibility, perhaps too great.

THE CHAIRMAN: Delegate Siewierski, you have a little less than a half-minute.

DELEGATE SIEWIERSKI: I will now come to the third decision-making process, the supplemental arrangement, and ask you to consider the problems that will come about from too much restriction. I ask you to consider that the requirements of one restriction do not result in control of other courts, and finally ask you to consider the minority's amendment and provide for a unified but flexible court system.

THE CHAIRMAN: Before recognizing Delegate Mudd, the Chair would like to acknowledge the presence in the gallery of the rostrum of twenty-five students from Kenwood Senior High School in Baltimore County, and in the rear gallery fifty-five students from St. Michaels Elementary School in St. Michaels. We are delighted to have you with us.

*(Applause.)*

The Chair recognizes Delegate Mudd to speak against the amendment.

DELEGATE MUDD: Mr. President, I rise to speak in opposition to the amendment. I am opposed to section 5.01. The amendment proposes to eliminate from the majority recommendation the word "exclusively".

Admittedly the word "exclusively" is not in the present Constitution. However, under the existing court structure in operation in Maryland, the constitutional court structure, the courts have in every instance except one been accomplished by constitutional amendment, as would be permitted under the same flexibility of the language proposed by the majority report.

It is the view of the majority that the unified court system proposed can only be as strong as the weakest link in the chain.

If the amendment is adopted, which allows other courts that may be provided by law to be created at the will of the legislature, it is inevitable, it seems to the majority, that such authority could impair the unified, possibly uniform jurisdiction of the court structure proposed.

Only by a constitutional amendment, adopted by this State, to provide for a special Court of Appeals has Maryland heretofore allowed its legislature to provide by law for other courts, and in that instance the allowance to the legislature providing for other courts was only at the appellate level. Accordingly, the use of the word "exclusive" in the proposed draft does nothing more than emphasize the system as it has prevailed in Maryland under our hundred-year-old Constitution, and we respectfully suggest that the inclusion in the constitution of an affirmative grant of power to the legislature to provide for unified courts could operate to the great prejudice and disorganization of the proposed new type of court. We respectfully suggest that the recommendation of the Committee is the protection that we need to preserve the unified, uniform court structure under the four-tier idea, which is the most progressive thinking in the legal word today regarding court structure.

It is not inconsistent with the ABA model approach to the judiciary article, and we, therefore, respectfully urge a vote against the proposed amendment.

THE CHAIRMAN: The Chair recognizes Delegate Johnson.

DELEGATE JOHNSON: I will call upon Delegate Gleason and allot three minutes to Delegate Gleason.