

THE CHAIRMAN: The Chair recognizes Delegate Gleason to speak in favor of the amendment for three minutes.

DELEGATE GLEASON: Mr. Chairman, fellow delegates, let me say at the outset that I am sure all of the delegates to this Convention believe in recommending for the people of Maryland a strong judiciary; they believe secondly in recommending to the people a strong executive; and thirdly, they believe in recommending a strong legislative branch of the government. The principle involved is that the powers of government should be balanced so that each branch of government can carry out effectively its own responsibilities. However, there is another principle that I think has been traditional in the annals of government in the United States. That principle is that the power of each branch of government should also have some restraints and some checks and I think that it is in this respect that the majority report falls down when it removes from the power of the legislature at some time in the future, when conditions warrant, the ability to recommend and to put into effect additional courts.

I think throughout the entire recommendation of the majority report the strengthening of the judiciary has taken effect in all of its aspects, with respect to appointment, removal, and conduct in office, but I do think that we ought not take away from the legislative branch the ability to adjust itself to conditions that might occur sometime in the future, which the powers of the judiciary in establishing a division within a court, a tier of court would not adjust itself to, so, therefore, I urge that in this respect and on this amendment alone we give back to the legislature the power to adjust itself to situations that might occur sometime in the future.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, I would like to yield three minutes to Delegate Henderson to speak in opposition to the amendment.

DELEGATE HENDERSON: Mr. Chairman, fellow delegates, as Chairman Mudd has pointed out, it seems to me that this amendment would cut the heart out of the basic concept of the unified judicial system. It would open the door to the creation of miscellaneous courts throughout the whole judicial structure.

I suggest that this is quite unnecessary. The proposal of the majority in the ma-

jority report recommends you leave completely to the legislature the creation of such administrative courts, the Appeals Tax Court, the zoning boards, the Workmen's Compensation Commission, and the many other administrative courts. It would still be within the power of the legislature to create courts in that order. It would not and should not be left to the legislature to create courts within the unified four-tier judicial structure. That is a matter of internal housekeeping, which I suggest should be left to the courts.

Let us take just one example; for example, it has been suggested that the legislature might, or some people might advocate or want creation of a domestic relations court. That is a court which would be a composite, I take it, of certain functions which are now assigned to the superior court level. It would probably effect something of a merger, perhaps, or a coordinated effort between the equity courts which are handling divorce cases and the juvenile courts, which are handling children, but the problem is an administrative one, I suggest. It is a question of coordinating existing facilities and providing new ones to deal with this with the aid of expert professional advice, depending not so much on the personality of the judge, but on the professional staff which attacks these problems on a coordinated basis.

Now the legislature under this amendment is left perfectly free to create new courts of action, but I suggest they should not be allowed to create separate courts; that that is a matter which should be left strictly to the judiciary.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: I yield three minutes to Delegate Kahl.

THE CHAIRMAN: Delegate Kahl is recognized to speak in favor of the amendment.

DELEGATE KAHL: I can certainly see the necessity of reforming our state's judicial system by adopting a unified and uniform system, thus eliminating the confusion of having variations of lower courts from one area to another. However, the Committee's recommendation gives us an exclusive unified system, which vests judicial power in a four-tier system, fellow delegates; this word "exclusively", as provided in the Committee's recommendation, has me quite troubled.

We are writing a document which we intend to last at least as long as our 1867