

APPENDIX<sup>35</sup>

JUDGE ADKINS: May I ask a question? Is the compact theory of government still the generally accepted philosophy of government under which we are operating? It has been pretty well repudiated.

Is the philosophy that a government is a compact among people current? I realize that it was well ingrained in our political philosophies at the time this document was written. I am querying if it is now the modern concept. I do not know, I am asking professors on the other side of the room.

DR. MICHENER: (In response to a question by Professor Asper.) I think the compact theory of government is not accepted now.

DR. BURDETTE: The compact theory of the origins of government has been largely discredited on the grounds that nobody could find the compact. It is significant that this Constitution is a compact between the people of Maryland and those elected to represent us. This supports the second clause which says that the people, adequately represented as a totality, have a right to alter the government in such a manner as they deem expedient. This wording does not deal with violent revolution. I favor Mr. Case's basic position that the traditional language can be preserved to great purpose, but that it can be tightened in places. I think that it is valuable to preserve the right to disagree with state government.

DR. WINSLOW: Article 1 of the present Declaration of Rights does not say "peaceable revolution." It says "abolish their form of government in such manner as they may deem expedient." Article 1 says that we may take up our arms and upset the government and set up a new State. I doubt if we believe this or sanction it any longer.

MRS. FREEDLANDER: People tend to get emotional about the Bill of Rights. We should stick to a consistent policy; namely, include things that are enforceable, brief and expressive of consistent thinking.

<sup>35</sup> 3 PROCEEDINGS OF THE MARYLAND CONSTITUTIONAL CONVENTION COMMISSION 1966, Meeting of August 21, 1966, at 117 ff (unpublished papers of the Commission in ENOCH PRATT FREE LIBRARY, UNIVERSITY OF MARYLAND LIBRARY, MARYLAND STATE LIBRARY, JOHNS HOPKINS UNIVERSITY LIBRARY).

MR. GENTRY: In Section 1, the Committee on Elective Franchise and Declaration of Rights departed from the approach of an enforceable Declaration of Rights. We provide everything that is in Article 1 of the present Declaration, except for the right of revolution which we did not want to recommend.

MR. CLAGETT: The philosophy of government has changed from the day of the 1867 Constitution. Certainly, now the attitude of all people should be peaceful, rather than violent. On the basis of your reading, is reconciliation between the historic and modern approach possible?

THE CHAIRMAN: I think it is possible in some instances to incorporate ideas from both more than is done in this draft. On the other hand, Mr. Case's motion to substitute Article 1 of Section 1 raises the question of whether the Declaration should contain a recital of the right of revolution by forcible means, as opposed to governmental change by constitutional means. In this case, the ideas of the proposed section and the existing one are wholly irreconcilable.

MR. CASE: I am advocating primarily the language of the 1867 document, not the philosophy.

If my motion loses, I would move that the philosophy of Section 1 be accepted by the Commission but that the section be returned to the Committee to be rephrased in the language of the present Declaration of Rights as much as possible.

*The Chairman suggested that the motion be amended to refer Section 1 back to the Committee to include the substance of Articles 1 and 6 without provisions for violent overthrow. Mr. Scanlan added: "and include as much of the original language as possible."*

*Mr. Case accepted the amendments.*

MR. GENTRY: Some of this beautiful language in the Maryland Constitution is not unique, but appears verbatim in other constitutions. The Committee felt that it was not peculiarly the language that the Maryland forefathers developed, but a justification of the Revolution of 1776.

MR. SCANLAN: I am against Mr. Case's motion because I think the exhortation should be in a preamble, rather than in the first section.