

1 THE CHAIRMAN: Any questions?

2 MR. GENTRY: With the exception of the courts  
3 of law has been dropped.

4 MR. MARTINEAU: This doesn't reach the problem,  
5 as I understand it, of the Court of Appeals ruling that  
6 whatever the penalty the Legislature imposes, whatever  
7 makes penalty for a crime, does not conflict with this  
8 constitutional provision against cruel and unusual  
9 punishment. It always seemed to me to be not very good  
10 sense. I wonder, has the Committee considered what  
11 restrictions could be placed upon the Legislature in  
12 imposing, or establishing punishments for crimes that  
13 could be attacked as cruel and unusual punishment.

14 PROFESSOR ASPER: What language could be used  
15 beyond, cruel and unusual?

16 MR. MARTINEAU: Yes. Did you consider doing  
17 this and reject it? I don't see any discussion.

18 MR. GENTRY: We felt, and didn't put a whole  
19 lot of emphasis on it, but we felt again this was an  
20 area where you are going to have the strong Legislature  
21 everyone talks about and a Legislature which we can have