

After careful consideration of Commission on Judicial Disability provisions of the present Constitution, as well as the Study Commission draft of its section on removal of judges, and hearing a wealth of testimony from proponents of delegate proposals and others on this subject, the committee recommendation adopts the so-called California Plan. This recommendation spells out the essential details of the plan, but the provisions covering this proposal again point up that the suggested Article 5 must be considered as a package, because the broad rule-making power vested in the Court of Appeals by section 531 of the recommendation is needed to implement this plan.

The committee recommendation provides that the chief judge of the Court of Appeals be administrative head of the judicial system.

The power thus vested in the chief judge coupled with the power of the highest court to provide by rule for other administrative judges to be appointed by the chief judge is essential to the efficient and orderly functioning of the proposed unified courts.

Without mandating the administrative responsibility and granting power to make the system operable, our recommendation would have been incomplete.

In drafting its recommendation the Committee has thus attempted to adopt a middle ground; that is, the general approach wherever possible, but essential detail in those areas where guidelines for the General Assembly and the Court in exercising its rule-making power were deemed basic to accomplish the desired improvements.

The organization of the committee recommendation is patterned generally on Article V drafted by the Constitutional Convention Commission. A brief explanation of the recommendation by comparison with the Study Commission draft and the corresponding provision in the present Constitution may be helpful to the Committee of the Whole.

In this brief review, therefore, ladies and gentlemen of the Committee of the Whole, I now would like to direct your attention to those sections of the Committee Recommendation JB-1 Nos. 501 through 511 which deal with the vesting of the judicial power of the State, the composition of the courts and their jurisdiction.

These eleven sections initially vest the judicial power of this State exclusively in

the four tier system composed of two appellate courts and two trial courts namely the Court of Appeals, intermediate court of appeals superior court and district court.

In this regard you may note it was the majority view of our Committee that the name Court of Appeals be retained and that the name supreme court suggested by the Commission draft not be used; retaining the name of the Court of Appeals of course necessitated in our view that intermediate be used to further identify the second tier court, namely, the intermediate appellate courts.

The superior court is the trial court, whose original jurisdiction replaces the one now named circuit court, and district court replaces the trial magistrate system and people's court where they exist in the several jurisdictions.

Section 5.02 vests in the Court of Appeals such appellate jurisdiction as prescribed to it by law and the original jurisdiction prescribed by this constitution. In that regard there is slight variance from the suggested draft language in the Commission's recommendation. It seemed desirable from the viewpoint of the majority of our Committee that appellate jurisdiction be vested exclusively in the highest tribunal of the State except in the areas in which it is given original jurisdiction by the Constitution. Those three instances being first with reference to reapportionment, redistricting, second the matter of manner of succession in the event of vacancy in the office of the governor, and third, in the manner which this draft is adopted will delegate to the highest court, that is dealing with the matter of retirement, censure, and removal of judges.

The composition of the Court of Appeals remains the same as at present namely seven judges, and the only addition we made in that section is to provide that one of those shall be designated chief judge as is subsequently provided, be appointed by the Governor.

The intermediate appellate court shall have the jurisdiction prescribed by law on the basis of the recommendation of the Majority Report.

In that regard it is anticipated that the work of this court must necessarily be expanded and conceivably it may be desirable to vest in that court original jurisdiction in some limited areas, for instance, as has been suggested, possibly in the area of disbarment proceedings.