

Now, if you leave these words in, "as prescribed by rule" then you are not complying with the intent of 5.31, and that is to give concurrent power; and you are vesting it wholly in the court, rather than giving the concurrent rule-making power to both the court and the legislature.

I would think that if we take it out and the court rules on it, then we are operating under the rule. If the court operates without that and makes the rule, and the legislature finds it inadequate or erroneous, or thinks it ought to be changed to benefit the people, they will be free to do it. However, if you leave the words in, "as prescribed by rule," then that rule-making power is exclusively in the court, and forever removed from the people.

I think the amendment is a very good amendment, and I am heartily in favor of it.

THE CHAIRMAN: Does any delegate desire to speak in opposition?

Delegate Rosenstock.

DELEGATE ROSENSTOCK: Mr. Chairman, fellow delegates: we are facing here a challenge to the judicial system that we as delegates have the opportunity to present to the people of Maryland. We all know that the business of the court is increasing, not arithmetically but geometrically. If the court is to perform the functions that we expect of it in the future, the court must be able to handle its own business. If the court should act corruptly, the legislature has the right of impeachment. We must have confidence in our courts, and the only way to dispense justice to the people of Maryland is to allow the court to run its own business for that purpose.

THE CHAIRMAN: The Chair recognizes Delegate Bard to speak in favor of the amendment.

DELEGATE BARD: Mr. Chairman, I would like to speak in favor of the amendment.

First, I have long felt that a prescription of rule fundamentally involves the procedural step. Thus as I see it, this particular step is a substantive matter. The nature of panels is substantive, as I would see it, and is inherently tied in with the whole nature of what is discussed here.

Second, I do not believe we ought to set each last step in this debate in terms of what is happening to the courts. I for one

believe that the steps that we are taking are highly important, but this particular item, as I see it, is one where we ought to have concurrent powers; and because it is substantive, I believe that they both ought to share in this concurrent responsibility.

THE CHAIRMAN: The Chair recognizes Delegate Carson to speak in opposition to the amendment.

DELEGATE CARSON: I do not rise in opposition. I would like to ask a question, if it is pertinent now, of Chairman Mudd.

THE CHAIRMAN: If persons desire to speak, I would have to give them preference. I will come back to you.

Delegate Key, do you desire to speak in opposition?

DELEGATE KEY: I would like to ask Delegate Bamberger a question, if I may.

THE CHAIRMAN: Does anyone desire to speak in opposition?

*(There was no response.)*

THE CHAIRMAN: Delegate Bamberger, do you yield to a question from Delegate Key?

DELEGATE BAMBERGER: Yes, sir.

THE CHAIRMAN: Delegate Key.

DELEGATE KEY: Delegate Bamberger, not having the advantage of being a lawyer, I do not have such intimate knowledge of the courts, and I just wonder if perhaps the words, "as prescribed by law" in 5.06 do not really give the legislature the upper hand, because they are the ones who have to delegate the judges that are requested by the court, and therefore would examine the use of the judges and could say if they are being adequately used.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: As I understand section 5.06, and if I misstate I hope Chairman Mudd will respond, the words "as prescribed by law" in sections 37 and 38 relate only to the number of the judges who are members of that court, but not to the numbers of judges who would sit at any one time in a panel to hear an individual case.

THE CHAIRMAN: Delegate Bamberger, I am not sure that you understand Delegate Key's question, or at least the Chair understood it. If I could state it, I think she was agreeing with your interpretation of the first sentence by saying that inasmuch as