

FIRST REPORT OF THE
GOVERNOR'S TASK FORCE
ON CIRCUIT COURT UNIFICATION

JANUARY 7, 1976



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I. BACKGROUND

On December 31, 1974, the Commission on Judicial Reform filed its final report. Perhaps the most far-reaching recommendations contained in it was the proposal that Maryland take the final major step needed to unify its court system - the unification of the circuit courts of the counties and the Supreme Bench of Baltimore City.¹

The Commission envisioned a single, State-wide court of general jurisdiction, fully funded by the State, and headed by a Chief Judge, on the model of the District Court. The Commission rejected the concept of a single trial-level court, thus producing a proposal for horizontal, as opposed to vertical, consolidation.

The concept of a unified court system is gaining increasing acceptance in the United States.² As we expect more effective

1. The Commission also considered the Orphans' Courts, a matter which probably should be addressed at some point, but not a sine qua non of circuit court unification, see Commission on Judicial Reform, Final Report (1974), 65-67, 82-85 (hereinafter cited as Final Report).

2. See Ashman and Parness, "The Concept of a Unified Court System", 24 DePaul L. Rev. (1974). The concept has been endorsed by the American Bar Association, ABA Standards Relating to Court Organization (1974), Standards 1.10 and 1.11, the National Advisory Commission on Criminal Standards and Goals, NAC Courts Standards (1973), Standards 8.1 and 9.1, a Committee of the Section of Judicial Administration, MSBA, 80 Trans, MSBA No. 1, pp. 66-88 (1975); and Chief Judge Murphy's January 29, 1975 State of the Judiciary Address, 1974-75 Report of the Administrative Office of the Courts, pp.19-20; among others.

delivery of services by agencies in the Executive branch of government, so we demand more effective administration of justice in the Judicial branch. As one writer has expressed it:

The courts have a job to do. The job is one single, unified job (with many parts, of course) and the courts have a much better chance of doing a good job if they approach it as a unified whole rather than as an agglomeration of separate and independent courts.³

The American Bar Association puts it this way:

The aims of court organization can be most fully realized in a court system that is unified in its structure and administration, . . . that has uniform rules and policies, clear lines of administrative authority, and a unified budget.⁴

The Commission on Judicial Reform also recognized (as have others) the vital importance of allocating resources pertaining to the administration of justice in an equitable fashion, so that citizens throughout the State may obtain the benefit of an effective justice system.⁵

But the Commission also recognized that the implementation of its recommendations would be a difficult and complex undertaking. There are various models of unified court systems, and study must be given to the adaptation of any given model to Maryland conditions. There is also the necessity of working out not only structural but also personnel and financial problems. All this should be done on the basis of careful investigation and study, in order to assure both the adoption of the best possible system and the smoothest feasible transition from old to new.

3. AOC, Unification of Maryland Circuit Courts, (1975), p. 2, quoting Glenn Winters, former Executive Director, American Judicature Society.

4. ABA, Standards Relating to Court Organization, (1974), Standard 1.10.

5. Final Report, pp. 66-68.

Accordingly, the Commission urged, as did Chief Judge Murphy and others, that the Governor appoint a Task Force to effectuate its unification proposal.

On July 28, 1975, Governor Mandel designated an 18-member Task Force, chaired by Hon. William S. James, State Treasurer, and former President of the Senate, member of the House of Delegates, and second vice-president of the Constitutional Convention of 1967.⁶ The Governor informed the Task Force:

The purpose of the Task Force is to investigate the desirability, method, costs and effects of unifying the circuit court system and to investigate and make recommendations with respect to the adequacy of existing court house facilities and need for improvements thereof.⁷

II. OVERVIEW OF COMMISSION ACTIVITY

In response to the Governor's request, the Task Force convened initially in September, 1975, and has met monthly since that date, except that it held two meetings in December, 1975.

At its first meeting, the Task Force identified several major areas for consideration. These included:

1. Consolidation of the courts of the Supreme Bench of Baltimore City.

2. Unification of the circuit court system including the Supreme Bench.

6. Full Membership of the Task Force is listed in Appendix A.

7. Governor Mandel's letter of July 28, 1975, to Task Force members.

3. Funding of the circuit court system, including the Supreme Bench.

4. Capital needs of the circuit court system, including the Supreme Bench (court house facilities).

5. Personnel system matters, including the method of selecting clerks of courts, functions and structure of the clerks' offices, and structure of judicial personnel system or systems in general.⁸

It will be observed that these major areas could be considered as a group, or singly, or in various combinations.

Furthermore, some objectives, such as consolidation of the Supreme Bench Courts, could be achieved only by Constitutional amendment, while others, such as full State funding of the circuit courts, or the establishment of a judicial personnel system could be accomplished by legislation.

Given this complex set of choices and approaches, the Task Force decided that its first assignment should be to work out a set of priorities, to enable it to address its assignment in careful and logical fashion.

A. 1976 Legislative Proposals

1. Consolidation of the Supreme Bench Courts.

After careful discussion of the several alternatives, the Commission decided that consolidation of the six Supreme Bench courts would constitute its first major proposal to the 1976

8. Task Force Minutes, 9/29/75, p.2.

General Assembly. The administrative advantages of the recommendation are so obvious as to require scarcely any further discussion. The Commission on Judicial Reform noted that the Supreme Bench has "unusual features . . . that make consolidation particularly urgent for that jurisdiction."⁹

It is clearly important that special attention be paid to the State's largest and busiest group of trial courts of general jurisdiction. Moreover, consolidation of the Supreme Bench courts is a needed step, whether or not the State proceeds with full circuit court unification. And the step will not necessarily have major adverse fiscal impact on the State budget; since the Task Force proposes a Constitutional amendment which will become fully effective on January 1, 1979, if ratified by the voters in November, 1976, policy decisions about funding, personnel and other aspects of implementation, can be made and put in statutory form in the interim. Details of the 1976 consolidation proposal will be discussed in Part III of this Report.

2. Courthouse Physical Facilities.

Traditionally, the county courthouse in Maryland has been the situs of the executive and legislative branches of county government as well as the judicial branch. As subdivisions have grown, there has been a tendency to separate these functions. For example, in Baltimore City, Baltimore County, Montgomery County,

9. Final Report, p. 88.

and Anne Arundel County, the courthouse is substantially devoted to judicial functions, with a separate facility provided for local executive and legislative activities. This also appears to be the trend in Prince George's County, and perhaps elsewhere.

Nevertheless, problems remain as to the adequacy of court facilities and the sources of funding if additional facilities are needed. Additional problems arise because of transfer from political subdivision to State of a number of functions, such as parole and probation and the District Court.

The judicial function itself relates to more than provision of circuit court courtrooms, judges' chambers, jury facilities, and the like. District Court facilities and numerous penumbral agencies, such as medical and psychiatric offices, parole and probation, social services, defenders, prosecutors, sheriffs, police, and others, must be considered.

Some of these may remain county funded. Others may become, or already are, State funded. In any county, all must be planned for in a logical fashion, as part of a comprehensive plan providing for reasonable physical proximity. In this regard, a system of sharing of intermingling State and local responsibilities should be established.

An effort in this direction was made in SB 1093 of the 1975 Session of the General Assembly (copy attached as Appendix B). This bill was referred to the Legislative Council, but in effect re-referred to the Task Force in the summer of 1975.

While the Task Force thinks that SB 1093, in its funding and enforcement provisions, was an attempt to go too far too soon,

it does urge legislation to establish a Commission which would establish standards and guidelines for the design and construction of court and court-related facilities in the light of the standards and guidelines, inventory existing facilities in the light of those standards and guidelines, and make recommendations as to appropriate procedures for providing facilities in compliance with the standards and guidelines. This proposal is discussed in detail in Part III of this Report.

B. Summary of Task Force Time Schedule

In the earlier sections of this Report, we have identified the two major proposals we intend to present to the 1976 General Assembly. Each of these recommendations can be supported on its individual merits, whether or not the State eventually accepts the concept of circuit court unification. Clearly, however, to stop with these two suggestions - meritorious as they may be - would not perform fully the responsibility the Governor has laid upon us. Accordingly, we have decided upon a long-range time schedule for our activities. That schedule may be summarized as follows:

1. 1976 Legislative Proposals.

(a) Constitutional amendment to consolidate the six Supreme Bench courts and six clerks' offices into a single Circuit Court for Baltimore City effective January 1, 1979.

(b) Creation of a statutory Courthouse Evaluation Commission.

2. Other 1976 Activities.

(a) The Task Force will undertake a detailed study of the funding of the circuit court system. This study will

consider various funding alternatives with respect to circuit court operations. Results of the study will be presented to the 1977 General Assembly to the extent feasible.

(b) The Task Force also will be giving consideration to personnel matters - both with respect to the clerks' offices and a judicial personnel system in general. In connection with personnel matters, the Task Force will be working in tandem with the Committee on Court Officers established by the Section of Judicial Administration, Maryland State Bar Association, Inc. This Committee is chaired by Richard W. Case, Esq., of Baltimore, and includes a number of people who are also members of the Task Force. This Committee will submit to the Task Force recommendations in the broad area of court personnel other than judicial personnel.

Proposals with respect to personnel of the clerk's office of the proposed Circuit Court for Baltimore City will be high on the agenda.

(c) The Task Force will also study other matters involved in consolidation of the Supreme Bench courts.

3. 1977-1978 Activities.

(a) To the extent necessary, the studies and activities undertaken in 1976 will be continued in 1977.

(b) The Task Force will study and make recommendations with respect to whether to unify the circuit court system. Since 1978 is a general election year, the Task Force intends to be prepared to submit to the legislative session in that year any

recommendations for full circuit court consolidation required to be accomplished by Constitutional amendment. It is at this point that the Task Force proposes to address the issue of a single State-wide circuit court; the appropriate allocation of responsibilities for funding the system; the nature of the judicial personnel system; the question of elected vs. appointed clerks; and the problem of functions to be assigned to clerks.

Since the concept of a unified circuit court, if recommended, might well involve phasing-in over a period of years, the Task Force's 1978 recommendations could involve a number of implementing statutes, effective upon the adoption of any constitutional amendment submitted in that year. This schedule would coincide nicely with the January 1, 1979 effective date proposed for the consolidation of the Supreme Bench courts.

Thus, the Task Force's function should be substantially accomplished by 1979, although the full creation of a unified circuit court, if recommended, might in some respects be delayed beyond that date, especially if funding or personnel phasing-in makes it desirable to extend the final date for full implementation.

While the Task Force feels that its assignment should be concluded as expeditiously as feasible, it is aware of the enormous problems generated by the extremely short time provided for organization of the District Court in 1971. As we carry on the movement towards court modernization, we recognize that it is sometimes vital to make haste slowly. We are primarily concerned with

establishing the best possible circuit court structure, rather than with creating any particular model of trial court by hasty change.

III. ANALYSIS OF 1976 LEGISLATIVE RECOMMENDATIONS

A. Supreme Bench Consolidation

The central concept behind the Task Force's proposal for consolidation of the six Supreme Bench courts is that the resultant product be a circuit court structurally like the circuit courts in the seven other judicial circuits. The major difference (other than size) should these recommendations be adopted flows from the fact that the Eighth Circuit (Baltimore City) is unique in that it involves but one political subdivision. The other seven circuits include from two to five counties.

The Constitutional amendment proposed by the Task Force (Appendix C) would repeal Section 27-39 of Article IV of the Constitution - these being the sections that expressly establish the Supreme Bench and its constituent courts. It would also repeal obsolete Section 13A, the substance of which is now provided by Section 18A.

The proposal would also amend sections 1, 3, 4A, 11, 18A, 20, 22, and 23 merely by modifying nomenclature to reflect the abolition of the Supreme Bench and its component courts and the substitution therefore of a single Circuit Court for Baltimore City.

Section 5 would be amended to accomplish the appropriate change in nomenclature, and also to make it consistent with Section 3.

Section 9 would include a minor modification to reflect actual practice with respect to fixing compensation for court officers.

Section 20 grants to the new Circuit Court for Baltimore City the jurisdiction possessed by the circuit courts in the first seven circuits on December 31, 1978. Because of the possible implications of the decisions of the Court of Appeals in Murphy v. Yates, ____ Md. ____ (No. 68, Sept. Term 1975, Dec. 22, 1975) language has been added to Section 20 to make it clear that, as is presently the case, the General Assembly may increase or decrease circuit court jurisdiction.

Section 21 would be considerably modified. In addition to the changes required in connection with the new Circuit Court for Baltimore City, it would permit statutory increase in numbers of judges in the First and Second Judicial Circuits (this being now permitted in all other circuits); and would provide for a chief judge in the Eighth Circuit (Baltimore City) determined by seniority of service (as in the case of the other seven circuits). The ultimate question of whether or not there should be a chief judge in any of the circuits (as opposed to administrative judges) will be considered in connection with any overall circuit court unification proposal.

Sections 25 and 26 would reflect the consolidation by providing for a single clerk of the new Circuit Court for Baltimore City, grandfathering in existing deputy clerks and employees. An elected clerk of one of the present Supreme Bench Courts, or one serving by appointment in replacement of an election clerk, would also be grandfathered in, if he wished to remain in the clerk's office and did not choose to run for election as the clerk of the new Circuit Court of Baltimore City. Section 26 also authorizes establishment

of a personnel system for the personnel of the clerk's office.

Transitional provisions in new Sections 27 and 28 transfer jurisdiction, retain judges in office, etc., and make it plain that existing Supreme Bench clerks retain office until January 1, 1979, the basic effective date for the amendment. However, in 1978 only one clerkship - that of clerk of the new Circuit Court for Baltimore City - would be open for election.

The Task Force deferred consideration of the appointed/elected clerk issue pending recommendation from the Case Committee and study of the full spectrum of issues involved in circuit court unification.

B. Courthouse Evaluation

Courthouses devoted only to court activities should nevertheless be multifunctional structures. They must house not only the court and its personnel (judges, law clerks, bailiffs, secretaries, court reporters) and facilities, (library, chambers, court rooms, jury rooms, conference rooms, lockup) and the clerk's office, but also a variety of State and local employees who do business daily with the court:

- State's Attorney
- Public Defender
- Parole and Probation
- Juvenile Services
- Medical Services
- Psychiatric Services
- Social Services
- Domestic Relations Services
- Courthouse Security
- Sheriff
- State Police
- County and Municipal Police
- and Others.

Sometimes the court personnel themselves are from two different employment areas - State employees in the District Court system and county employees in the circuit court system.

The situation becomes even more complex when the courthouse is used to house various non-judicial functions of county or State government.

Who decides on the appropriate design and construction of a courthouse or a building housing court or court-related facilities, or both? Who pays for it? The Department of State Planning has undertaken valuable work in this general area, especially with respect to development of multi-functional centers including District Court facilities.^{9a/} But that Department, by express instructions, has not involved itself in circuit court matters. Also, some steps have been taken, through the Department of General Services and other agencies, to promote mutual cooperation and State/county fund sharing in courthouse construction, Frederick County being a good example of this.

Nevertheless, many of our Eighteenth and Nineteenth century courthouses fall far short of meeting the needs of the last quarter of the Twentieth century - let alone the first quarter of the Twenty-first.

^{9a} The Maryland Multi-Service Center Study conducted by the Department of State Planning has found placing the District Court and State Court-related activities in proposed multi-service centers to be feasible. The study also recognizes the interaction that occurs between Parole and Probation, the Public Defender and Juvenile Services, the Circuit Court and human service activities such as Employment Security, Health and Vocation Rehabilitation. Therefore, it recommends that proximity to other government facilities be considered for the multi-service centers. Colocation with the Circuit Courthouse should be pursued in each county seat where it is feasible to do so.

The provision for coordinated service delivery within the MSC is a feature worth noting. It should prove helpful to the Courts in the handling of juveniles, probationary and parole cases by helping identify the nature of assistance required, reducing the problems of referral and coordination and facilitating follow-up to insure that adequate and effective help is rendered.

To provide a planned approach to the solution of these problems, the Task Force believes that an agency should be established to:

1. Develop standards and guidelines for design and construction of courthouses and related facilities;
2. Inventory the existing facilities and relate them to the standards and guidelines; and
3. Recommend the steps to be taken to close the gap between what exists and what ought to exist in order to comply with the standards and guidelines.

Other states have attempted to cope with these problems. In 1971, New Hampshire established a courthouse accreditation commission. This commission established standards for courthouses, and then rated all courthouses in the state either as "Not Accredited" or as "Accredited - Excellent" or "Accredited - Satisfactory." It was hoped that the commission could persuade and guide the communities with substandard facilities to undertake improvement.¹¹

More recently, several states (Alabama, Georgia and Kentucky are recent examples) have undertaken comprehensive inventories of court facilities.

The Task Force proposal would combine these steps. It calls for the establishment of a seven-member Courthouse Evaluation Commission (draft legislation attached as Appendix D) consisting of two legislators, a judge, a representative of local government, a member of the Department of General Services, a member of the Department of State Planning, and the State Court Administrator. The Commission would be staffed by General Services, State Planning, and the Administrative Office of the Courts. It could call upon federal

10. New Hampshire RSA 490:5-a

11. Report of New Hampshire Court Accreditation Commission (1973).

funds and technical assistance to help it get underway.

The Commission would first establish standards pertaining to courthouse construction and design.

Next, it would inspect courthouses to evaluate their conformance with the standards. It would list the needed improvements, estimate their cost, and perhaps make recommendations for apportioning the cost between State and local governments.

The proposal for a Courthouse Evaluation Commission is compatible with the concept of a unified circuit court system. As in the case of Supreme Bench consolidation, this proposal is also desirable whether or not the State proceeds further with circuit court unification.

GOVERNOR'S TASK FORCE
ON CIRCUIT COURT UNIFICATION

William S. James
Chairman

William H. Adkins, II
Acting Secretary

Vaughn J. Baker
Robert H. Bouse
Benjamin C. Cardin
J. Joseph Curran, Jr.
Michael J. Kelly
Laurence Levitan
Ernest A. Loveless, Jr.
Solomon Liss

Marvin B. Miller
J. Max Millstone
Wayne W. Ransom
Donald B. Robertson
Thomas Schmidt
Madeline Schuster
J. Basil Wisner
Alan M. Wilner

APPENDIX A

Members of Governor's Task Force on Circuit Court Unification

<u>Name</u>	<u>Office or Affiliation</u>	<u>County</u>
William S. James, Chairman	State Treasurer	Harford
William H. Adkins, II Acting Secretary	State Court Administrator	Talbot
Vaughn J. Baker	Clerk, Circuit Court of Washington County	Washington
Robert H. Bouse	Clerk of the Superior Court, Baltimore City	Baltimore Cit
Benjamin C. Cardin	Chairman, House of Delegates Committee on Ways and Means	Baltimore Cit
J. Joseph Curran, Jr.	Chairman, Senate Judicial Proceedings Committee	Baltimore Cit
Michael J. Kelly	Dean, University of Maryland School of Law	Baltimore Cit
Laurence Levitan	Senate Budget & Taxation Committee	Montgomery Co
Ernest A. Loveless, Jr.	Circuit Administrative Judge, 7th Judicial Circuit	Prince George County
Marvin B. Miller	Lawyer; Section Council, Section of Judicial Administration, MSBA	Prince George County
J. Max Millstone	Assistant Secretary, State Department of General Services	Baltimore Cou
Wayne W. Ransom	Deputy Secretary, State Department of Personnel	Baltimore Cou
Donald B. Robertson	House of Delegates, Ways & Means Committee	Montgomery Co
Thomas Schmidt	Deputy Secretary, Department of Budget & Fiscal Planning	Anne Arundel

APPENDIX A (continued)

	<u>Office or Affiliation</u>	<u>County</u>
ine Schuster	Deputy Secretary, Department of State Planning	Baltimore City
sil Wisner	Chief Deputy Comptroller	Carroll County
M. Wilner	Chief Legislative Officer Executive Department	Baltimore <i>County</i>
on Liss	Associate Judge, 8th Judicial Circuit	Baltimore City

APPENDIX B

SENATE OF MARYLAND

No. 1093

By: Senator Boyer
Rules suspended.
Introduced and read first time: March 7, 1975
Assigned to: Budget and Taxation

A BILL ENTITLED

AN ACT concerning	35
Courthouse Accreditation Commission	38
FOR the purpose of creating a Courthouse Accreditation Commission; and making provisions relating to the Courthouse Accreditation Commission.	42 43
BY adding to	45
Article - Courts and Judicial Proceedings	48
Section 13-501 through 13-505 to be under the new subtitle "Courthouse Accreditation Commission"	50 51
Annotated Code of Maryland (1974 Volume and 1974 Supplement)	53 54
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That new Sections 13-501 through 13-505 to be under the new subtitle "Courthouse Accreditation Commission" be and they are hereby added to Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1974 Supplement) to read as follows:	57 58 59 61 63
Article - Courts and Judicial Proceedings	66
COURTHOUSE ACCREDITATION COMMISSION	68
13-501.	71
THE EFFECTIVE OPERATION OF OUR SYSTEM OF JUSTICE DEPENDS IN SUBSTANTIAL PART ON THE AVAILABILITY OF ADEQUATE COURTHOUSE FACILITIES. THE LACK OF THESE FACILITIES IMPEDES THE FUNCTIONING OF THE COURTS, AND DELAYS THE PROMPT AND EFFICIENT DISPOSITION OF CLAIMS FOR THE REDRESS OF CIVIL WRONGS AND PROSECUTIONS FOR	74 75 76 77 78

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.

VIOLATION OF THE CRIMINAL LAWS. ACCORDINGLY, IT IS 78
 ESSENTIAL TO PUBLIC HEALTH, SAFETY, AND WELFARE THAT 79
 ADEQUATE PHYSICAL FACILITIES BE PROVIDED FOR THE COURTS 80
 AND THEIR RELATED AGENCIES.

IT IS THE OBLIGATION OF THE COUNTIES AND BALTIMORE 82
 CITY TO PROVIDE, RESPECTIVELY, FACILITIES FOR THE CIRCUIT 83
 COURTS OF THE COUNTIES, THE SUPREME BENCH OF BALTIMORE 84
 CITY, AND VARIOUS STATE'S ATTORNEYS, CLERKS OF COURT,
 SHERIFFS, REGISTERS OF WILLS, AND ORPHANS' COURTS. THE 85
 STATE IS OBLIGATED TO PROVIDE FACILITIES FOR THE DISTRICT 86
 COURT AND SUCH COURT-RELATED AGENCIES AS PAROLE AND 87
 PROBATION AND JUVENILE SERVICES OFFICIALS.

THE ADMINISTRATION OF JUSTICE CAN OFTEN BEST BE 89
 SERVED BY PROVIDING FACILITIES FOR ALL OR SEVERAL OF 90
 THESE AGENCIES IN A SINGLE FACILITY OR A COMPLEX OF
 RELATED FACILITIES, BUT THERE IS PRESENTLY NO SYSTEM FOR 91
 PLANNING AND COORDINATING EFFORTS TO THIS END, AS WELL AS 92
 SECURING THE CONSTRUCTION OF APPROPRIATE FACILITIES. TO 93
 ACHIEVE THESE OBJECTIVES, THE GENERAL ASSEMBLY OF
 MARYLAND PROPOSES TO ESTABLISH THE COURTHOUSE 94
 ACCREDITATION COMMISSION.

13-502. 96

(A) THE COURTHOUSE ACCREDITATION COMMISSION IS 98
 CREATED. IT CONSISTS OF SIX APPOINTED MEMBERS AND ONE EX 99
 OFFICIO MEMBER. THE SIX APPOINTED MEMBERS ARE APPOINTED 100
 AS FOLLOWS: A MEMBER OF THE MARYLAND SENATE; APPPOINTED
 BY THE PRESIDENT OF THE MARYLAND SENATE; A MEMBER OF THE 101
 MARYLAND HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF 102
 THE HOUSE; A JUDGE OF ONE OF THE MARYLAND COURTS, 103
 APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS; A
 REPRESENTATIVE OF LOCAL GOVERNMENT, APPOINTED BY THE 104
 GOVERNOR FROM LISTS SUBMITTED BY THE MARYLAND ASSOCIATION 105
 OF COUNTIES AND THE MAYOR OF BALTIMORE CITY; AND A MEMBER 106
 OF THE DEPARTMENT OF GENERAL SERVICES APPOINTED BY THE
 SECRETARY OF GENERAL SERVICES. THE STATE COURT 107
 ADMINISTRATOR SERVES EX OFFICIO, BUT HAS FULL VOTING AND 108
 OTHER MEMBERSHIP RIGHTS.

(B) THE TERM OF EACH APPOINTED MEMBER IS SIX 110
 YEARS, EXCEPT THAT OF THE MEMBERS FIRST APPOINTED, ONE 111
 SHALL BE APPOINTED FOR ONE YEAR, ONE FOR TWO YEARS, ONE 112
 FOR THREE YEARS, ONE FOR FIVE YEARS, AND ONE FOR SIX
 YEARS. AN APPOINTED MEMBER IS NOT ELIGIBLE FOR 113
 REAPPOINTMENT FOR A TERM IMMEDIATELY FOLLOWING THE 114
 EXPIRATION OF HIS SERVICE OF A FULL SIX YEAR TERM. EACH
 MEMBER SERVES UNTIL HIS SUCCESSOR IS APPOINTED. UPON THE 115
 OCCURRENCE OF A VACANCY IN ANY CATEGORY OF MEMBER, THE 116
 APPROPRIATE APPOINTING AUTHORITY SHALL FILL THE VACANCY 117
 AS PROVIDED IN SUBSECTION (A). A VACANCY OCCURS IF A
 LEGISLATIVE MEMBER CEASES TO SERVE IN THE GENERAL 118
 ASSEMBLY OR IF THE JUDICIAL MEMBER TERMINATES HIS ACTIVE 119

JUDICIAL SERVICE, OR IF THE APPOINTEE FROM THE DEPARTMENT OF GENERAL SERVICES CEASES TO BE A MEMBER OF THAT DEPARTMENT.

(C) THE MEMBERS OF THE COMMISSION ANNUALLY ELECT A CHAIRMAN AND SECRETARY FROM AMONG THEIR NUMBER.

(D) A MEMBER OF THE COMMISSION IS NOT ENTITLED TO COMPENSATION FOR HIS SERVICES IN THAT CAPACITY, BUT IS ENTITLED TO REIMBURSEMENT FOR COSTS OF TRAVEL AND OTHER EXPENSES REASONABLY INCURRED IN THE PERFORMANCE OF HIS DUTIES.

13-503.

THE DEPARTMENT OF GENERAL SERVICES, THE DEPARTMENT OF STATE PLANNING AND THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL PROVIDE STAFF AND LOGISTICAL SUPPORT FOR THE COMMISSION.

13-504.

(A) THE COMMISSION SHALL ESTABLISH STANDARDS PERTAINING TO THE QUALITY AND ADEQUACY OF THE PHYSICAL FACILITIES HOUSING THE COURTS OF THIS STATE. THE STANDARDS SHALL RELATE TO THE PLANNING OF COURTHOUSES, THE AVAILABILITY AND QUALITY OF LAW LIBRARIES; THE ACCOMMODATIONS FOR THE PUBLIC, BENCH, BAR, LITIGANTS, WITNESSES, JURIES, AND COURT PERSONNEL; SECURITY ARRANGEMENTS; PROVISION FOR SUPPORTING AGENCIES SUCH AS POLICE, SHERIFFS, PAROLE AND PROBATION, AND JUVENILE SERVICES PERSONNEL; THE DESIRABILITY OF LOCATING IN SINGLE OR RELATED FACILITIES COURTS OF SEVERAL LEVELS AND THEIR RELATED SUPPORTING SERVICES; AND OTHER MATTERS RELATING TO COURTHOUSE CONSTRUCTION AND DESIGN AND THE GENERAL ADEQUACY AND APPROPRIATENESS OF COURTHOUSE FACILITIES. THE STANDARDS SHALL BE ADOPTED AND PROMULGATED IN THE MANNER PROVIDED FOR AGENCY REGULATIONS UNDER THE ADMINISTRATIVE PROCEDURE ACT.

(B) AFTER ADOPTING THE STANDARDS, THE COMMISSION SHALL FROM TIME TO TIME INSPECT THE VARIOUS COURTHOUSES AND RELATED FACILITIES IN THE STATE TO DETERMINE WHETHER OR TO WHAT EXTENT THE COURTHOUSES AND RELATED FACILITIES OR ANY OF THEM COMPLY WITH THE STANDARDS. IF NONCOMPLIANCE IS FOUND, THE COMMISSION, WITH THE ASSISTANCE OF THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF STATE PLANNING, SHALL COMPILE LISTS OF DEFICIENCIES AND NEEDED IMPROVEMENTS, TOGETHER WITH THE ESTIMATED COST OF PROCURING COMPLIANCE WITH THE STANDARDS AND ANY RECOMMENDATIONS THE COMMISSION DEEMS APPROPRIATE. THE COST SHALL BE APPORTIONED BETWEEN THE POLITICAL SUBDIVISION AND THE STATE IN ACCORDANCE WITH THE EXTENT TO WHICH COMPLIANCE WITH THE STANDARDS IS RELATED TO A STATE-SUPPORTED FUNCTION OR A LOCAL FUNCTION. THE STATE

SHALL MAKE PROVISION FOR PAYING ITS PORTION OF THE COSTS 162
THROUGH THE BOARD OF PUBLIC WORKS. THE COMMISSION SHALL 163
INFORM THE POLITICAL SUBDIVISION IN WRITING OF ITS SHARE
OF THE COSTS AND OF THE IMPROVEMENTS REQUIRED TO PROCURE 164
COMPLIANCE WITH THE STANDARDS.

(C) IF THE POLITICAL SUBDIVISION FAILS TO ACT 166
PROMPTLY TO IMPLEMENT COMPLIANCE WITH THE STANDARDS IN 167
ACCORDANCE WITH THE COMMISSION'S FINDINGS, THE COMMISSION
MAY ISSUE AN ORDER REQUIRING THE POLITICAL SUBDIVISION TO 168
TAKE THE REQUISITE ACTION AND SHALL NAME IN ITS ORDER A 169
REASONABLE DATE FOR THE COMPLETION OF THE WORK. UPON 170
FAILURE OF THE POLITICAL SUBDIVISION TO COMPLY WITH THE
ORDER, THE STATE, THROUGH THE SECRETARY OF GENERAL 171
SERVICES, MAY Sue IN A COURT OF COMPETENT JURISDICTION TO 172
OBTAIN APPROPRIATE RELIEF TO REQUIRE COMPLIANCE. 173

13-505. 175

TO ASSIST IN ITS FUNCTIONS THE COMMISSION MAY CALL 177
UPON THE SERVICES OF ARCHITECTS, ENGINEERS, PLANNERS, 178
DESIGNERS, AND OTHER CONSULTANTS KNOWLEDGEABLE IN THE 179
AREAS OF THE PLAN, DESIGN, CONSTRUCTION, AND USE OF
COURTHOUSES AND RELATED FACILITIES. IF ANY PERSON SO 180
RETAINED BY THE COMMISSION IS NOT IN STATE SERVICE, HE 181
SHALL BE COMPENSATED AS PROVIDED IN THE BUDGET.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act 185
shall take effect July 1, 1975. 186

SENATE OF MARYLAND

No. 1093

By: Senator Hoyer
Rules suspended.
Introduced and read first time: March 7, 1975
Assigned to: Budget and Taxation

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BY adding to 45

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subtitle "Courthouse Accreditation 51
Commission"

Annotated Code of Maryland 53
(1974 Volume and 1974 Supplement) 54

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 57
MARYLAND, That new Sections 13-501 through 13-505 to be 58
under the new subtitle "Courthouse Accreditation
Commission" be and they are hereby added to Article -- 59
Courts and Judicial Proceedings, of the Annotated Code of 61
Maryland (1974 Volume and 1974 Supplement) to read as 63
follows:

Article -- Courts and Judicial Proceedings 66

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13-501. 71

THE EFFECTIVE OPERATION OF OUR SYSTEM OF JUSTICE 74
DEPENDS IN SUBSTANTIAL PART ON THE AVAILABILITY OF 75
ADEQUATE COURTHOUSE FACILITIES. THE LACK OF THESE 76
FACILITIES IMPEDES THE FUNCTIONING OF THE COURTS, AND
DELAYS THE PROMPT AND EFFICIENT DISPOSITION OF CLAIMS FOR 77
THE REDRESS OF CIVIL WRONGS AND PROSECUTIONS FOR 78

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.

APPENDIX C

BILL ORDER - CONSTITUTIONAL AMENDMENT

Requested by _____ -Drafted by _____
Date _____

AN ACT concerning

The Judiciary Department

FOR the purpose of revising generally the Judiciary Article to the Constitution by creating the Circuit Court for Baltimore City and providing for its jurisdiction, organization, judges, clerks, officers, and employees; repealing provisions concerning the Supreme Bench of Baltimore City and its courts; correcting, clarifying, and conforming certain language; making certain provisions concerning the circuit courts uniform throughout the State; repealing certain obsolete and inconsistent provisions; providing certain interim provisions; making certain provisions contingent upon the ratification of Chapter 551, Acts of 1975;

relating generally to the Judiciary Department; and submitting this Amendment to the qualified voters of the State of Maryland for their adoption or rejection.

ca)BY proposing an amendment to the Constitution of the State of Maryland

Article IV - Judiciary Department

Section 1, 3, 4A, 4B(a), 5, 9, 11, 18A, 20, 23, 25, and 26.
See supplemental sheet.

a) SECTION 6. AND BE IT FURTHER ENACTED, That the foregoing sections hereby proposed as ~~Amendments~~ to the Constitution of Maryland, at the next general election to be held in this State in November, 1976, shall be submitted to the legal and qualified voters thereof for their adoption or rejection in pursuance of the directions contained in Article XIV of the Constitution of this State. At that general election, the vote on these proposed amendments to the Constitution shall be by ballot, and upon each ballot there shall be printed the words "For the Constitutional Amendments" and "Against the Constitutional Amendments" as now provided by Article XIV. Immediately after the election, all returns shall be made to the Governor showing the vote for and against the proposed amendment, as directed by Article XIV of the Constitution, and further proceedings had in accordance with ~~Article XIV~~ law.

BILL ORDER - SUPPLEMENTAL SHEET - CONSTITUTIONAL AMENDMENT

(byca) BY proposing an amendment to the Constitution of the
State of Maryland

Article IV

Section 5

BY proposing an amendment to the Constitution of Maryland

BY repealing

Article IV - Judiciary Department

Section 13A, 21 and 27 through 39

BY proposing an amendment to the Constitution of Maryland

BY adding to

Article IV - Judiciary Department

Section 21 and 27

BY proposing an amendment to the Constitution of Maryland

BY adding to

Article IV - Judiciary Department

Section 28

SECTION 1.

1.

The Judicial power of this State [shall be] IS vested in a Court of Appeals, [and] such intermediate courts of appeal, as [shall be provided by law by] the General Assembly MAY CREATE BY LAW, Circuit Courts, Orphans' Courts, [such Courts for the City of Baltimore, as are hereinafter provided for,] and a District Court [; all said]. THESE Courts shall be Courts of Record, and each shall have a seal to be used in the authentication of all process issuing [therefrom] FROM IT.

The Judges of the several Courts other than the Court of Appeals or any intermediate courts of appeal shall, subject to the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and in each county, by the qualified voters of the city and of each county, respectively, except that in the First and Second Judicial Circuits the said Judges of the several Courts shall be elected by the qualified voters in each respective Judicial Circuit as hereinafter provided, all of the said Judges to be elected at the general election to be held on the Tuesday after the first Monday in November, as now provided for in the Constitution. Each of the said Judges shall hold his office for the term of fifteen years from the time of his election, and until his successor is [[elected] SELECTED and qualified, or until he shall have attained the age of seventy years, whichever may first happen, and be re-eligible thereto until he shall have attained the age of seventy years, and not after. In case of the inability of any of said Judges to discharge his duties with efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each House concurring, with the approval of the Governor to retire said Judge from office.

4A.

There is created a Commission on Judicial Disabilities composed of seven persons appointed by the Governor of Maryland. The members of the Commission shall be citizens and residents of this State. Four members of the Commission shall be appointed from among the judges of the appellate courts, the Circuit Courts for the Counties AND BALTIMORE CITY, [the Supreme Bench of Baltimore City]

and the District Court; two members shall be appointed from among those persons who are admitted to practice law in the State, who have been so engaged for at least fifteen years, and who are not judges of any court; and one member shall represent the public, who shall not be a judge, active or retired, and who is not admitted to practice law in this State. The term of office of each member shall be for four years commencing on January 1 [, except that of those persons first appointed to the Commission one shall be appointed for a term of one year, one for two years, one for three years, and two for four years and provided further that the additional lawyer member added by these amendments shall take office January 1, of the year next following adoption of these amendments by the voters and the additional judicial member on January 1, of the year after the additional lawyer member is to take office and thereafter all terms shall be for four years]. Whenever any member of the Commission appointed from among judges in the State ceases to be a judge, when any member appointed from among those admitted to practice law becomes a judge, when any

member representing the public becomes a judge or is admitted to the practice of law in this State, or when any member ceases to be a resident of the State, in such case the membership of this member shall forthwith terminate. Any vacancies on the Commission shall be filled for the unexpired term by the Governor in the same manner as for making of appointments to the Commission and subject to the same qualifications which were applicable to the person causing the vacancy. No member of the Commission shall receive any compensation for his services as such but shall be allowed any expenses necessarily incurred in the performance of his duties as such member.

4B

(a) The Commission on Judicial Disabilities has the power to investigate complaints against any judge of the Court of Appeals, any intermediate courts of appeal the Circuit Courts, [the Supreme Bench of Baltimore City,] the District Court of Maryland, OR the Orphans' Court; and to conduct hearings concerning such complaints, administer oaths and affirmations, issue process to compel the attendance of witnesses and the production of evidence, and require persons to testify and produce evidence by granting them immunity from prosecution or from penalty or forfeiture. The Commission has the power to issue a reprimand and the power to recommend to the Court of Appeals the removal, censure or other appropriate disciplining of a judge or, in an appropriate case, retirement. All proceedings, testimony, and evidence before the

Commission shall be confidential and privileged, except as provided by rule of the Court of Appeals; the record and any proceeding filed with the Court of Appeals shall lose its confidential character, except as ordered by the Court of Appeals'. No judge shall participate as a member of the Commission in any proceedings involving his own conduct, and the Governor shall appoint another judge as a substitute member of the Commission for those proceedings. The Court of Appeals shall prescribe by rule the means to implement and enforce the powers of the Commission and the practice and procedure before the Commission.

5.

Upon every occurrence or recurrence of a vacancy through death, resignation, removal, disqualification by reason of age or otherwise, or expiration of the term of fifteen years of any judge, or expiration of the office of any judge, or in any other way, the Governor shall appoint a person duly qualified to fill said office, who shall hold the same until the election and qualification of his successor; except that when a vacancy shall exist in the office of Chief Judge of the Supreme Bench of Baltimore City, the Governor may designate an Associate Judge of said Supreme Bench as Chief Judge of said Supreme Bench, and such appointee as Chief Judge shall hold such office for the residue of the term for which he was last elected an Associate Judge of said Supreme Bench. His successor shall be elected at the first biennial general election for Representatives in Congress after the expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such general election after one year after the occurrence of the vacancy in any other way than through expiration of such term. Except in case of reappointment of a judge upon expiration of his term of fifteen years, no person shall be appointed who will become disqualified by reason of age and thereby unable to continue to hold office until the prescribed time when his successor would have been elected.

9.

The Judge, or Judges of any Court, may appoint such officers for their respective Courts as may be found necessary, [; and such officers of the Courts in the City of Baltimore shall be appointed by the Judges of the Supreme Bench of Baltimore City. It shall be the duty of the] THE General Assembly [to prescribe] MAY PROVIDE, by Law, FOR [a fixed] compensation for all such officers; and [said] THE Judge or Judges shall, from time to time, investigate the expenses, costs and charges of their respective courts, with a view to a change or reduction thereof, and report the result of such investigation to the General Assembly for its action.

11.

The election for Judges, [hereinbefore provided,] and all elections for Clerks, Registers of Wills, and other officers, provided in this Constitution, except State's Attorneys, shall be certified, and the returns made, by the Clerks of the Circuit Courts [of the Counties, and the Clerk of the Superior Court of Baltimore City, respectively,] to the Governor, who shall issue commissions to the different persons for the offices to which they [shall] have been, respectively, elected; and in all such elections,

the person having the greatest number of votes, shall be declared to be elected.

18A.

(A) The Chief Judge of the Court of Appeals shall be the administrative head of the Judicial system of the State. He shall from time to time require, from each of the judges of the Circuit Courts, [for the several counties, of the Supreme Bench of Baltimore City] of the District Court and of any intermediate courts of appeal, reports as to the judicial work and business of each of the judges and their respective courts. He may, in case of a vacancy, or of the illness, disqualification or other absence of a judge or for

the purpose of relieving an accumulation of business in any court assign any judge except a judge of the Orphans' Court to sit temporarily in any court except an Orphans' Court. Any judge assigned by the Chief Judge of the Court of Appeals pursuant to this section [shall have] HAS all the power and authority pertaining to a judge of the court to which he is so assigned; and his power and authority shall continue with respect to all cases (including any motion, or other matters incidental thereto) which may come before him by virtue of such assignment until his action thereon shall be completed. In the absence of the Chief Judge of the Court of Appeals the provisions of this section shall be applicable to the senior judge present in [said] THE Court of Appeals.

(B) The powers of the Chief Judge [under the foregoing provisions of] SET FORTH IN this section shall be subject to such rules and regulations [, if any,] as the Court of Appeals may [make] ADOPT.

(C) The Court of Appeals from time to time shall [make] ADOPT rules and regulations [to revise] CONCERNING the practice and procedure in and the administration of the appellate courts and in the other courts of this State, which shall have the force of law until rescinded, changed or modified by the Court of Appeals or otherwise by law. The power of courts other than the Court of Appeals to make rules of practice and procedure, or administrative rules, shall be subject to the rules and regulations [prescribed] ADOPTED by the Court of Appeals or otherwise by law.

(A) [A Court shall be held in each County of the State, to be styled the Circuit Court for the County in which it may be held.] THERE SHALL BE A CIRCUIT COURT FOR EACH COUNTY AND FOR BALTIMORE CITY. The [said] Circuit Courts shall have and exercise, in the respective counties, AND BALTIMORE CITY, all the power, authority and jurisdiction, original and appellate, which the [present] Circuit Courts of [this State now have and exercise] THE COUNTIES EXERCISED ON DECEMBER 31, 1978, [or which may] AND THE GREATER OR LESSER JURISDICTION hereafter [be] prescribed by law.

(B) The [several] judges of the Circuit Court for Montgomery County [on and after the Tuesday next after the first Monday in November, nineteen hundred and sixty-six,] shall each, alternately and in rotation and on schedules to be established by the said judges, sit as an Orphan's Court for said County, and shall have and exercise all the power, authority and jurisdiction which the present Orphans' Court now have and exercise, or which may hereafter be prescribed by law.

(C) The [several] judges of the Circuit Court for Harford County [on and after the Tuesday next after the first Monday in November, nineteen hundred and seventy-four,] shall each, alternately and in rotation and on schedules to be established by the said judges, sit as an [Orphan's] ORPHANS' Court for said County, and shall have and exercise all the power, authority and jurisdiction which the present Orphans' Courts now have and exercise, or which may hereafter be prescribed by law.

23.

The Judges of the respective Circuit Courts of this State[, and of the Courts of Baltimore City,] shall render their decisions, in all cases argued before them, or submitted for their judgment, within two months after the same shall have been so argued or submitted.

25.

There shall be a Clerk of the Circuit Court for each County AND BALTIMORE CITY, who shall be elected by a plurality of the qualified voters of said County OR CITY, and shall hold his office for four years from the time of his election, and until his

successor is elected and qualified, and be re-eligible, subject to be removed for wilful neglect of duty or other misdemeanor in office, on conviction in a Court of Law. In case of a vacancy in the office of Clerk of a Circuit Court, the Judges of said Court shall have power to fill such vacancy until the general election for Delegates to the General Assembly, to be held next thereafter, when a successor shall be elected for the term of four years.

26.

The Clerks shall appoint, subject to the confirmation of the Judges of their respective Courts, as many deputies under them, as the Judges shall deem necessary, to perform, together with themselves, the duties of the office, who shall be removable by the Judges for incompetency, or neglect of duty, and whose compensation shall be [according to existing, or future provisions of the General Assembly] DETERMINED BY LAW. In Washington County, all deputy clerks and other [clerks] EMPLOYEES OF THE OFFICE OF THE CLERK shall be appointed pursuant to and be removable according to the merit system procedure established by law for these deputies and [clerks] EMPLOYEES. All deputy clerks and other employees of the office

of the Clerk of the [Criminal] CIRCUIT Court [of] FOR Baltimore City, excepting the Clerk, shall be selected pursuant to and be removable according to [the merit system] A procedure established by law for these deputies and [clerks] EMPLOYEES. [Any employee of the office of the Clerk of the Criminal Court of Baltimore who has been employed for at least six months on July 1, 1974 shall be a member of the classified service of the State.]

SECTION 2

5.

Upon every occurrence or recurrence of a vacancy through death, resignation, removal, disqualification by reason of age or otherwise, or expiration of term of fifteen years of any judge OF A CIRCUIT COURT [OR OF THE SUPREME BENCH OF BALTIMORE CITY], or creation of the office of any judge, or in any other way, the Governor shall appoint a person duly qualified to fill said office, who shall hold the same until the election and qualification of his successor [; except that when a vacancy shall exist in the office of Chief Judge of the Supreme Bench of Baltimore City, the Governor may designate an Associate Judge of said Supreme Bench as Chief Judge of said Supreme Bench, and such appointee as Chief Judge shall hold such office for the residue of the term for which he was last elected an Associate Judge of said Supreme Bench]. His successor shall be elected at the first biennial general election for Representatives in Congress after the expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such general election after one year after the occurrence of the vacancy in any other way than through expiration of such term. Except in case of reappointment of a judge upon expiration of his term of fifteen years, no person shall be appointed who will become disqualified by reason of age and thereby unable to continue to hold office until the prescribed time when his successor would have been elected.

The election for Judges, [hereinbefore provided,] and all elections for Clerks, Registers of Wills, and other officers, provided in this Constitution, except State's Attorneys, shall be certified, and the returns made, by the Clerks of the Circuit Courts [of the Counties, and the Clerk of the Superior Court of Baltimore City, respectively,] to the Governor, who shall issue commissions to the different persons for the offices to which they shall have been, respectively, elected; and in all such elections FOR OFFICERS OTHER THAN JUDGES OF AN APPELLATE COURT the person having the greatest number of votes, shall be declared to be elected.

SECTION 4

21.

(A) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) THE GENERAL ASSEMBLY SHALL DETERMINE BY LAW THE NUMBER OF JUDGES OF THE CIRCUIT COURT IN EACH COUNTY AND CIRCUIT. THESE JUDGES SHALL BE SELECTED IN ACCORDANCE WITH SECTIONS 3 AND 5 OF THIS ARTICLE.

(B) IN THE FIRST AND SECOND JUDICIAL CIRCUITS, IF A CANDIDATE FOR THE OFFICE OF JUDGE OF THE CIRCUIT COURT RECEIVES SUFFICIENT VOTES TO CAUSE HIM TO BE ELECTED, BUT HIS ELECTION WOULD RESULT IN MORE JUDGES BEING RESIDENT IN A PARTICULAR COUNTY IN THE CIRCUIT THAN IS PROVIDED FOR BY LAW,

(1) THERE SHALL BE DECLARED ELECTED ONLY THAT CANDIDATE OR CANDIDATES RESIDING IN THE COUNTY, IN THE ORDER OF THE MOST VOTES RECEIVED, WHOSE ELECTION WILL PROVIDE THE PERMITTED NUMBER OF JUDGES FROM THAT COUNTY, AND

(2) THERE SHALL ALSO BE DECLARED ELECTED THE CANDIDATE OR CANDIDATES RESIDING IN ANOTHER COUNTY IN THE CIRCUIT WHO ARE NOT SIMILARLY DISQUALIFIED, HAVING THE NEXT HIGHEST NUMBER OF VOTES IN THE ELECTION.

IF, BECAUSE OF THIS CIRCUMSTANCE, OR IF BY REASON OF AN EQUAL VOTE FOR TWO OR MORE CANDIDATES, A SUFFICIENT NUMBER OF JUDGES DULY QUALIFIED AS TO RESIDENCE ARE NOT ELECTED, THE GOVERNOR SHALL ORDER A NEW ELECTION FOR THE UNFILLED OFFICE OR OFFICES.

(C) THERE SHALL BE AT LEAST FOUR CIRCUIT COURT JUDGES RESIDENT IN EACH CIRCUIT, AND AT LEAST ONE CIRCUIT COURT JUDGE SHALL BE RESIDENT IN EACH COUNTY. THERE SHALL BE AT LEAST TWO SUCH JUDGES RESIDENT IN ANNE ARUNDEL COUNTY, AT LEAST THREE RESIDENT IN BALITMORE COUNTY, AT LEAST FOUR RESIDENT IN PRINCE GEORGE'S COUNTY, AND AT LEAST FIVE RESIDENT IN MONTGOMERY COUNTY.

(D) THE SENIOR JUDGE IN LENGTH OF SERVICE IN EACH CIRCUIT SHALL BE THE CHIEF JUDGE OF THE CIRCUIT. THE OTHER JUDGES SHALL BE ASSOCIATE JUDGES.

(E) EXCEPT AS OTHERWISE PROVIDED BY LAW, ONE JUDGE SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY BUSINESS.

(F) THE TERMS OF THE CIRCUIT COURTS SHALL BE DETERMINED BY LAW.

(G) A PERSON IS NOT INELIGIBLE FOR APPOINTMENT OR ELECTION AS A JUDGE BECAUSE HE WAS A MEMBER OF THE GENERAL ASSEMBLY AT A TIME WHEN THE NUMBER OR SALARY OF JUDGES WERE INCREASED OR DECREASED.

27.

(A) EACH JUDGE OF THE SUPREME BENCH OF BALTIMORE CITY, WHO IS IN OFFICE ON DECEMBER 31, 1978, SHALL CONTINUE IN OFFICE AS A JUDGE OF THE CIRCUIT COURT FOR BALTIMORE CITY, FOR THE REMAINDER OF THE TERM TO WHICH HE WAS APPOINTED OR ELECTED, SUBJECT TO THE PROVISIONS OF SECTIONS 3,4, 4A, 4B and 5 OF THIS ARTICLE.

(B) EACH DEPUTY CLERK OF A COURT OF THE SUPREME BENCH OF BALTIMORE CITY WHO IS IN OFFICE ON DECEMBER 31, 1978 SHALL BECOME A DEPUTY CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY WITH NO DIMINUTION OF SALARY, SUBJECT TO THE PROVISIONS OF SECTION 26 OF THIS ARTICLE. EACH PERSON OTHERWISE EMPLOYED IN THE OFFICE OF A CLERK OF A COURT OF THE SUPREME BENCH OF BALTIMORE CITY ON DECEMBER

31, 1978, SHALL BECOME AN EMPLOYEE OF THE CIRCUIT COURT FOR BALTIMORE CITY WITH NO DIMINUTION IN SALARY, SUBJECT TO THE PROVISIONS OF SECTION 26 OF THIS ARTICLE.

(C) EACH CLERK OF A COURT OF THE SUPREME BENCH WHO DOES NOT FILE AS A CANDIDATE FOR NOMINATION OR ELECTION AS CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY IN THE PRIMARY OR GENERAL ELECTION IN 1978, SHALL BECOME A DEPUTY CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY WITH NO DIMINUTION OF SALARY, SUBJECT TO THE PROVISIONS OF SECTION 26 OF THIS ARTICLE.

SECTION 5

28.

EFFECTIVE DATE AND INTERIM PROVISIONS:

(A) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION THE AMENDMENTS PROPOSED BY SECTION 1, 2, AND 3 OF HOUSE

BILL _____, SENATE BILL _____ (1976), IF APPROVED BY THE VOTERS AT THE GENERAL ELECTION IN NOVEMBER, 1976, SHALL TAKE EFFECT ON JANUARY 1, 1979. THIS SECTION 28, PROPOSED BY SECTION 4 OF SAID

BILL, IF APPROVED BY THE VOTERS AT THE GENERAL ELECTION IN NOVEMBER, 1976, SHALL TAKE EFFECT IN ACCORDANCE WITH ARTICLE XIV, SECTION 1 OF THE CONSTITUTION.

(B) NOTWITHSTANDING THE DELAYED EFFECTIVE DATE OF THE AMENDMENTS PROPOSED BY SECTIONS 1, 2, AND 3 OF SAID BILL, AT THE PRIMARY AND GENERAL ELECTIONS OCCURRING IN 1978 IN BALTIMORE CITY, THERE SHALL BE ELECTED ONE CLERK, WHO SHALL BE DESIGNATED AS CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY, IN THE SAME MANNER AS IF THE AMENDMENTS PROPOSED BY SAID SECTIONS 1, 2, AND 3 WERE THEN EFFECTIVE; AND THERE SHALL BE NO ELECTION FOR THE CLERKS OF THE COURTS COMPRISING THE SUPREME BENCH OF BALTIMORE. THE CLERK SO ELECTED AT THAT ELECTION SHALL TAKE OFFICE AS CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY ON JANUARY 1, 1979.

(C) IF THE AMENDMENT TO SECTIONS 5 AND 11 OF ARTICLE IV PROPOSED BY CHAPTER 551, ACTS OF 1975, IS RATIFIED BY THE VOTERS AT THE ELECTION IN NOVEMBER, 1976, THE AMENDMENTS TO THOSE SECTIONS PROPOSED IN SECTION 2 OF HOUSE BILL_____, SENATE BILL_____ (1976) SHALL TAKE EFFECT. IF THE AMENDMENTS PROPOSED BY CHAPTER 551 ARE NOT SO RATIFIED, THE AMENDMENTS TO SECTIONS 5 AND 11 OF ARTICLE IV PROPOSED IN SECTION 1 OF HOUSE BILL_____, SENATE BILL_____ (1976) SHALL TAKE EFFECT.

APPENDIX D

A BILL ENTITLED

AN ACT concerning

Courthouse Evaluation Commission

FOR the purpose of creating a Courthouse Evaluation Commission;
and making provisions relating to the Courthouse Evaluation
Commission.

BY adding to

Article - Courts and Judicial Proceedings
Section 13-501 through 13-505 to be under the new subtitle
"Courthouse Evaluation Commission"
Annotated Code of Maryland
(1974 Volume and 1974 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That new Sections 13-501 through 13-505 to be under the new subtitle
"Courthouse Evaluation Commission" be and they are hereby added
to Article - Courts and Judicial Proceedings, of the Annotated Code
of Maryland (1974 Volume and 1974 Supplement) to read as follows:

Article - Courts and Judicial Proceedings

COURTHOUSE EVALUATION COMMISSION

13-501.

THE EFFECTIVE OPERATION OF OUR SYSTEM OF JUSTICE DEPENDS IN
SUBSTANTIAL PART ON THE AVAILABILITY OF ADEQUATE COURTHOUSE
FACILITIES. THE LACK OF THESE FACILITIES IMPEDES THE FUNCTIONING
OF THE COURTS, AND DELAYS THE PROMPT AND EFFICIENT DISPOSITION OF
CLAIMS FOR THE REDRESS OF CIVIL WRONGS AND PROSECUTIONS FOR VIOLA-
TION OF THE CRIMINAL LAWS. ACCORDINGLY, IT IS ESSENTIAL TO PUBLIC
HEALTH, SAFETY, AND WELFARE THAT ADEQUATE PHYSICAL FACILITIES BE
PROVIDED FOR THE COURTS AND THEIR RELATED AGENCIES.

THE ADMINISTRATION OF JUSTICE CAN OFTEN BEST BE SERVED BY
PROVIDING FACILITIES FOR THE CIRCUIT COURTS FOR THE COUNTIES, THE
SUPREME BENCH OF BALTIMORE CITY, THE DISTRICT COURT OF MARYLAND,
CLERKS OF COURT, AND SUCH RELATED AGENCIES AS STATE'S ATTORNEYS,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

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SUPREME BENCH OF BALTIMORE CITY, THE DISTRICT COURT OF MARYLAND,
CLERKS OF COURT, AND SUCH RELATED AGENCIES AS STATE'S ATTORNEYS,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

PUBLIC DEFENDERS, SHERIFFS, POLICE, ORPHANS' COURTS, REGISTERS OF WILL, PAROLE AND PROBATION, JUVENILE SERVICES, AND OTHERS IN A SINGLE FACILITY OR A COMPLEX OF RELATED FACILITIES.

HOWEVER, THERE IS PRESENTLY NO SYSTEM FOR ESTABLISHING STANDARDS AND GUIDELINES FOR THE DESIGN AND STRUCTURE OF THESE FACILITIES; TO INVENTORY AND EVALUATE THE EXISTING FACILITIES; AND TO MAKE RECOMMENDATIONS FOR FUTURE CONSTRUCTION INCLUDING THE EQUITABLE ALLOCATION OF COSTS BETWEEN STATE AND LOCAL GOVERNMENTS.

TO ACHIEVE THESE OBJECTIVES, THE GENERAL ASSEMBLY OF MARYLAND PROPOSES TO ESTABLISH THE COURTHOUSE EVALUATION COMMISSION.

13-502.

(A) THE COURTHOUSE EVALUATION COMMISSION IS CREATED. IT CONSISTS OF SIX APPOINTED MEMBERS AND ONE EX OFFICIO MEMBER. THE SIX APPOINTED MEMBERS ARE APPOINTED AS FOLLOWS: A MEMBER OF THE MARYLAND SENATE, APPOINTED BY THE PRESIDENT OF THE MARYLAND SENATE; A MEMBER OF THE MARYLAND HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; A JUDGE OF ONE OF THE MARYLAND COURTS, APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS; A REPRESENTATIVE OF LOCAL GOVERNMENT, APPOINTED BY THE GOVERNOR FROM LISTS SUBMITTED BY THE MARYLAND ASSOCIATION OF COUNTIES AND THE MAYOR OF BALTIMORE CITY; A MEMBER OF THE DEPARTMENT OF STATE PLANNING APPOINTED BY THE SECRETARY OF THE DEPARTMENT OF STATE PLANNING; AND A MEMBER OF THE DEPARTMENT OF GENERAL SERVICES APPOINTED BY THE SECRETARY OF GENERAL SERVICES. THE STATE COURT ADMINISTRATOR SERVES EX OFFICIO, BUT HAS FULL VOTING AND OTHER MEMBERSHIP RIGHTS.

(B) THE TERM OF EACH APPOINTED MEMBER IS SIX YEARS, EXCEPT THAT OF THE MEMBERS FIRST APPOINTED, ONE SHALL BE APPOINTED FOR ONE YEAR, ONE FOR TWO YEARS, ONE FOR THREE YEARS, ONE FOR FOUR YEARS, ONE FOR FIVE YEARS, AND ONE FOR SIX YEARS. AN APPOINTED MEMBER IS NOT ELIGIBLE FOR REAPPOINTMENT FOR A TERM IMMEDIATELY FOLLOWING THE EXPIRATION OF HIS SERVICE OF A FULL SIX YEAR TERM. EACH MEMBER SERVES UNTIL HIS SUCCESSOR IS APPOINTED. UPON THE OCCURRENCE OF A VACANCY IN ANY CATEGORY OF MEMBER, THE APPROPRIATE APPOINTING AUTHORITY SHALL FILL THE VACANCY AS PROVIDED IN SUBSECTION (A). A VACANCY OCCURS IF A LEGISLATIVE MEMBER CEASES TO SERVE IN THE GENERAL ASSEMBLY OR IF THE JUDICIAL MEMBER TERMINATES HIS ACTIVE JUDICIAL SERVICE, OR IF THE APPOINTEE FROM THE DEPARTMENT OF GENERAL SERVICES OR THE DEPARTMENT OF STATE PLANNING CEASES TO BE A MEMBER OF THAT DEPARTMENT.

(C) THE MEMBERS OF THE COMMISSION ^{SHALL} ANNUALLY ELECT A CHAIRMAN AND SECRETARY FROM AMONG THEIR NUMBER.

(D) A MEMBER OF THE COMMISSION IS NOT ENTITLED TO COMPENSATION FOR HIS SERVICES IN THAT CAPACITY, BUT IS ENTITLED TO REIMBURSEMENT FOR COSTS OF TRAVEL AND OTHER EXPENSES REASONABLY INCURRED IN THE PERFORMANCE OF HIS DUTIES.

13-503.

THE DEPARTMENT OF GENERAL SERVICES, THE DEPARTMENT OF STATE PLANNING AND THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL PROVIDE STAFF AND LOGISTICAL SUPPORT FOR THE COMMISSION.

13-504.

(A) THE COMMISSION SHALL ESTABLISH STANDARDS PERTAINING TO THE QUALITY AND ADEQUACY OF THE PHYSICAL FACILITIES HOUSING THE COURTS OF THIS STATE. THE STANDARDS SHALL RELATE TO THE PLANNING OF COURTHOUSES, THE AVAILABILITY AND QUALITY OF LAW LIBRARIES; THE ACCOMMODATIONS FOR THE PUBLIC, BENCH, BAR, LITIGANTS, WITNESSES, JURIES, AND COURT PERSONNEL; SECURITY ARRANGEMENTS; PROVISION FOR SUPPORTING AGENCIES SUCH AS POLICE, SHERIFFS, PAROLE AND PROBATION, AND JUVENILE SERVICES PERSONNEL; THE DESIRABILITY OF LOCATING IN SINGLE OR RELATED FACILITIES COURTS OF SEVERAL LEVELS AND THEIR RELATED SUPPORTING SERVICES; AND OTHER MATTERS RELATING TO COURT-HOUSE CONSTRUCTION AND DESIGN AND THE GENERAL ADEQUACY AND APPROPRIATENESS OF COURTHOUSE FACILITIES. THE STANDARDS SHALL BE ADOPTED AND PROMULGATED IN THE MANNER PROVIDED FOR AGENCY REGULATIONS UNDER THE ADMINISTRATIVE PROCEDURE ACT.

(B) AFTER ADOPTING THE STANDARDS, THE COMMISSION SHALL FROM TIME TO TIME INSPECT THE VARIOUS COURTHOUSES AND RELATED FACILITIES IN THE STATE TO DETERMINE WHETHER AND TO WHAT EXTENT THOSE COURTHOUSES AND FACILITIES CONFORM TO THOSE STANDARDS. IF NONCONFORMITY IS FOUND, THE COMMISSION, WITH THE ASSISTANCE OF THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF STATE PLANNING, SHALL COMPILE LISTS OF DEFICIENCIES AND NEEDED IMPROVEMENTS, TOGETHER WITH THE ESTIMATED COST OF BRINGING ABOUT CONFORMITY WITH THE STANDARDS AND MAKE ANY RECOMMENDATIONS THE COMMISSION DEEMS APPROPRIATE. THE COMMISSION MAY RECOMMEND TO THE GENERAL ASSEMBLY A FORMULA FOR ALLOCATING THE COST BETWEEN THE POLITICAL SUBDIVISIONS AND THE STATE.

(C) FROM TIME TO TIME, THE COMMISSION SHALL SUBMIT ITS RECOMMENDATIONS TO THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE GOVERNMENT OF ANY POLITICAL SUBDIVISION IN WHICH IS OR WILL BE LOCATED AN EXISTING OR PROPOSED FACILITY AFFECTED BY THE RECOMMENDATIONS.

13-505.

TO ASSIST IN ITS FUNCTIONS THE COMMISSION MAY CALL UPON THE SERVICES OF ARCHITECTS, ENGINEERS, PLANNERS, DESIGNERS, AND OTHER CONSULTANTS KNOWLEDGEABLE IN THE AREAS OF THE PLAN, DESIGN, CONSTRUCTION AND USE OF COURTHOUSES AND RELATED FACILITIES. IT MAY ACCEPT GRANTS AND CONTRIBUTIONS. IF ANY PERSON SO RETAINED BY THE COMMISSION IS NOT IN STATE SERVICE, HE SHALL BE COMPENSATED AS PROVIDED IN THE BUDGET.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1976.

SECOND REPORT
OF THE
GOVERNOR'S TASK FORCE ON CIRCUIT COURT UNIFICATION

January 12, 1977



ADMINISTRATIVE OFFICE OF THE COURTS

COURTS OF APPEAL BUILDING
ANNAPOLIS, MARYLAND 21401

269-2141



STATE COURT ADMINISTRATOR
WILLIAM H. ADKINS, II

DEPUTY STATE COURT ADMINISTRATOR
ROBERT W. McKEEVER

SECOND REPORT

OF THE

GOVERNOR'S TASK FORCE ON CIRCUIT COURT UNIFICATION

January 12, 1977

I. BACKGROUND.

On July 28, 1975, pursuant to recommendations of the Governor's Commission on Judicial Reform, Chief Judge Murphy, and others, Governor Mandel appointed a Task Force on Circuit Court Unification. The initial activities of the Task Force are summarized in its First Report, dated January 7, 1976.

In the First Report, the Task Force recommended:

1. A constitutional amendment to consolidate the six courts of the Supreme Bench of Baltimore City and their respective clerks' offices into a single circuit court for Baltimore City, effective January 1, 1979; and
2. Creation of a statutory Courthouse Evaluation Commission in an attempt to ameliorate problems of inadequate courthouse facilities, particularly at the circuit court level.

The administration caused to be introduced S.B. 390 and H.B. 972 to effectuate the Supreme Bench Consolidation. H.B. 1368 was introduced to establish the Courthouse Evaluation Commission. While the courthouse evaluation proposal did not obtain much support in the General Assembly, S.B. 390, in amended form, passed the Senate and H.B. 972 passed the House. However, these two bills were

submerged in the struggle over the budget and the Baltimore subway, and neither passed the opposite House in 1976.

II. 1976 ACTIVITIES OF THE TASK FORCE.

The Task Force reconvened on May 17, 1976, basically for the purpose of considering its agenda for the remainder of the year. While a committee of the Task Force did conduct some preliminary studies of the cost of full State funding of the circuit court system, the Task Force's conclusion at the May meeting as well as at subsequent meetings on June 14 and November 29 were that all its efforts with respect to the 1977 session of the General Assembly should be focused on support of the Supreme Bench consolidation proposal.

Task Force members believed that the opposition that developed with respect to the 1976 constitutional amendments did not relate to the concept of Supreme Bench consolidation, but rather to concern over personnel matters in the offices of the various clerks of court. Recalling that the Commission on Judicial Reform had observed that the Supreme Bench has "unusual features ... that make consolidation particularly urgent for that jurisdiction",^{1/} the Task Force members also concluded that the continued support for Supreme Bench consolidation from Chief Judge Murphy and the Maryland State and Baltimore City Bar Associations rendered still relevant the conclusion stated in its First Report:

It is clearly important that special attention be paid to the State's largest and busiest group of trial courts of general jurisdiction. Moreover, consolidation of the Supreme Bench courts is a needed step, whether or not the State proceeds with full circuit court unification.^{2/}

1/ Commission on Judicial Reform, Final Report, p. 88.

2/ Task Force on Circuit Court Unification, First Report, p. 5.

As Mr. Edward T. Kriener, Executive Director of the Maryland Classified Employees' Association, put it when he appeared before the Task Force at its November 29 meeting, consolidation of the Supreme Bench is "long overdue".

Accordingly, the Task Force set about consideration of new proposals to achieve consolidation, including a proposed constitutional amendment (attached as Appendix A-1, a bill to create a new clerk's office (attached as Appendix A-2), and a proposed statute (attached as Appendix B). The Task Force strongly urges the enactment of these pieces of legislation. They are discussed in more detail in the following section of this Report.

III. ANALYSIS OF 1977 LEGISLATIVE PROPOSALS.

The constitutional amendment (Appendix A-1) takes essentially the same approach as did the 1976 proposal so far as the actual consolidation of the Supreme Bench courts is concerned. The six courts now existing within the Supreme Bench would be consolidated into a single Circuit Court for Baltimore City, similar to the circuit court now existing in each of the 23 counties of the State. As in the other seven circuits, the senior judge would be the chief judge of the circuit.

There are the usual transitional provisions pertaining to jurisdiction and retention of offices. Article IV, §20 of the Constitution would be amended in light of Murphy v. Yates, 276 Md. 475, (1975) to make it clear that the General Assembly retains authority to modify jurisdiction of the new court; Article IV, §11 would be rewritten to reflect the actual current practice with respect to certification of election returns; and an obsolete provision, Article IV, §13A, would be repealed along with the present constitutional provisions establishing the various courts within the Supreme Bench.

The major differences between the present proposal of the Task Force and the 1976 proposal is found in the provisions dealing with the clerks of the

existing six Supreme Bench courts.

Under both proposals, a new position, that of clerk of the proposed Circuit Court for Baltimore City, is created. Under the 1976 approach, an incumbent clerk of one of the Supreme Bench courts would have had to decide either to run for the new position or to retain his present clerkship. In the latter event, he would have been grandfathered in as a deputy clerk of the new court.

The new approach allows both incumbent clerks and others broader options with respect to seeking office. Under this approach, elections would take place in 1978 for the statutorily created office of clerk of the Circuit Court for Baltimore City (Appendix A-2). In addition, there would be elections for the clerkships in the six existing courts. An individual could run both for the new position and for one of the existing clerkships. Were he elected to the new position, he would become clerk of the new circuit court upon the effective date of the constitutional amendment. Were he elected to one of the existing positions, he would be grandfathered in as a chief deputy clerk; were he elected to both, he would have to choose as to which office he would occupy.

Should the constitutional amendment not be ratified in 1978, the election for the new clerk's office would be void.

Essentially, the drafts provide that all of the constitutional amendments would take effect on July 1, 1979, except the provisions relative to the election of the clerks, which would take effect immediately upon ratification of the constitutional amendments at the 1978 general election.

It will be observed that this procedure - that is, submission of a constitutional amendment creating an office at the same election at which the incumbent is elected - is essentially the same as that utilized in 1970 in connection with the creation of the Constitutional office of Lieutenant Governor. That procedure was discussed by the Court of Appeals in Bourbon v. Mandel, 258

Md. 252 (1970). The procedure now proposed by the Task Force with respect to the clerks has been deemed constitutional by the Attorney General in an opinion dated August 9, 1976 (61 Opinions of the Attorney General).

The proposal also takes account the employees of the present six clerks' offices and by an amendment to Article IV, §25 would require that those employees be covered by a merit system prescribed by law. Of course, the appropriate transitional provisions grandfather in employees employed on the effective date of the constitutional amendment.

It is important to emphasize here the commitment of the Task Force to the concept that these employees be given merit system status. To further make this clear, the Task Force also recommends the bill contained in Appendix B. This is a statement of policy by the General Assembly of its commitment to merit system procedures for these employees.

It is important to observe that neither the Constitution nor the statute set forth in Appendix B spells out in detail the mechanics of this merit system. It could be essentially the system set forth in Article 64A of the Code or it could be some other version of a merit system. The choice under both the constitutional amendment and the bill contained in Appendix B is entirely up to the General Assembly.

The benefits of this approach seem clear. The legislature can state its approval of the concept of consolidation in Baltimore City and the concept of merit employment at the 1977 session. Both it and the Task Force will then have the 1978 and 1979 sessions, if necessary, to prepare legislation and other implementing provisions required for the actual establishment of the merit system.

IV. FUTURE ACTIVITIES OF THE TASK FORCE.

During the 1977 session, the Task Force will use all its efforts to secure enactment of the constitutional amendments and legislation appended to this Report.

If successful in this regard, the Task Force would then hope to concentrate its efforts in two areas: working for ratification of the constitutional amendments at the 1978 election and working with the General Assembly, the Maryland State Court Clerk's Association, the Maryland Classified Employees' Association, and other interested parties to draft appropriate merit system legislation to be presented to the General Assembly at the 1978 session.

Upon the conclusion of these efforts, including further work on the merit system matter at the 1979 session should that be required, the Task Force will return to study of the remaining aspects of circuit court unification, including those outlined in its First Report.

V. CONCLUSION.

For the reasons stated, the Task Force again recommends that Governor Mandel seek introduction of and that the General Assembly support and enact the constitutional amendment and legislation attached to this Report and identified as Appendix A-1, Appendix A-2, and Appendix-B.

Respectfully submitted,

William S. James, Chairman
William H. Adkins, II
Hon. Vaughn J. Baker
Hon. Robert H. Bouse
Hon. Benjamin L. Cardin
Hon. Harry Cole
Hon. J. Joseph Curran, Jr.
Dr. Michael J. Kelly
Hon. Otto A. Klier
Hon. Laurence Levitan
Hon. Solomon Liss
Hon. Ernest Loveless
Marvin B. Miller, Esq.
Hon. J. Max Millstone
Hon. Edward T. Podufaly
Hon. Donald B. Robertson
Hon. Thomas Schmidt
Alan M. Wilner, Esq.
Hon. Basil Wisner

3/ During 1976, there were some changes in Commission membership. A full listing of the current commission membership is attached as Appendix C.

APPENDIX C

Hon. William S. James
Chairman

William H. Adkins, II, Esq.
State Court Administrator

Hon. Vaughn J. Baker
Clerk, Circuit Court for Washington County

Hon. Robert H. Bouse
Clerk, Superior Court for Baltimore City

Hon. Benjamin L. Cardin
Member, House of Delegates

Hon. Harry Cole
Supreme Bench for Baltimore City

Hon. J. Joseph Curran, Jr.
Member, Senate of Maryland

Dr. Michael J. Kelly
Dean, University of Maryland School of Law

Hon. Otto A. Klier
Deputy Secretary, Department of Personnel

Hon. Laurence Levitan
Member, Senate of Maryland

Hon. Solomon Liss
Court of Special Appeals

Hon. Ernest A. Loveless
Circuit Court for Prince George's County

Marvin B. Miller, Esq.
Section of Judicial Administration, MSBA

Hon. J. Max Millstone
Deputy Secretary, Department of General Services

Hon. Edward T. Podufaly
Deputy Secretary, Department of State Planning

Hon. Donald B. Robertson
Member, House of Delegates

Hon. Thomas Schmidt
Secretary, Department of Budget and Fiscal Planning

Alan M. Wilner, Esquire
Chief Legal Officer, State House

Hon. Basil Wisner
Chief Deputy Comptroller

BILL ORDER - CONSTITUTIONAL AMENDMENT

Requested by _____ Drafted by _____
Date _____ Date _____

(ib) AN ACT concerning

The Judiciary Department

FOR the purposes of revising generally the Judiciary Article to the Constitution by creating the Circuit Court for Baltimore City and providing for its jurisdiction, organization, judges, clerks, officers, and employees; clarifying the jurisdiction of the circuit courts generally; repealing provisions concerning the Supreme Bench of Baltimore City and its courts; correcting, clarifying, and conforming certain language; making certain provisions concerning the circuit courts uniform throughout the State; repealing certain obsolete and inconsistent provisions; providing certain interim provisions; relating generally to the Judiciary Department; and submitting this Amendment to the qualified voters of the State of Maryland for their adoption or rejection.

(byca) BY proposing an amendment to the Constitution of the State of Maryland

Article IV - Judiciary Department

Section 1, 3, 4A, 4B(a), 5, 9, 11, 18A, 20, 23, 25, and 26

(edca) SECTION 5. AND BE IT FURTHER ENACTED, That the foregoing section hereby proposed as an amendment to the Constitution of Maryland, at the next general election to be held in this State in November, 1978, shall be submitted to the legal and qualified voters thereof for their adoption or rejection in pursuance of directions contained in Article XI of the Constitution of this State. At that general election, the vote on this proposed amendment to the Constitution shall be by ballot, and upon each ballot there shall be printed the words "for the Constitutional Amendments" and "Against the Constitutional Amendments" as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Constitution, and further proceedings had in accordance with Article XIV.

BILL ORDER - Supplemental Sheets - CONSTITUTIONAL AMENDMENT

(byca) BY proposing an amendment to the Constitution of Maryland
BY repealing

Article IV - Judiciary Department

Section 13A, and 27 through 39, inclusive

(byca) BY proposing an amendment to the Constitution of Maryland
BY adding to

Article IV - Judiciary Department

Section 27

(byca) BY proposing an amendment to the Constitution of Maryland
BY adding to

Article IV - Judiciary Department

Section 28

(byca) BY proposing an amendment to the Constitution of Maryland
BY adding to

Article _____ - _____

Section _____

Section 1

1.

The Judicial power of this State [shall be] IS vested in a Court of Appeals, [and] such intermediate courts of appeal, as [shall be provided by law by] the General Assembly MAY CREATE BY LAW, Circuit Courts, Orphans' Courts, [such Courts for the City of Baltimore, as are hereinafter provided for,] and a District Court [; all said]. THESE Courts shall be Courts of Record, and each shall have a seal to be used in the authentication of all process issuing [therefrom] FROM IT.

3.

The Judges of the several Courts other than the Court of Appeals or any intermediate courts of appeal shall, subject to the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and in each county, by the qualified voters of the city and of each county, respectively, all of the said Judges to be elected at the general election to be held on the Tuesday after the first Monday in November, as now provided for in the Constitution. Each of the said Judges shall hold his office for the term of fifteen years from the time of his election, and until his successor is [elected] SELECTED and qualified, or until he shall have attained the age of seventy years, whichever may first happen, and be re-eligible thereto until he shall have attained the age of seventy years, and not after. In case of the inability of any of said Judges to discharge his duties with efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each House concurring, with the approval of the Governor to retire said Judge from office.

4A.

(a) There is created a Commission on Judicial Disabilities, composed of seven persons appointed by the Governor of Maryland. The members of the Commission shall be citizens and residents of this State. Four members of the Commission shall be appointed from among the judges of the appellate courts, the Circuit Courts for the Counties AND BALTIMORE CITY, [the Supreme Bench of Baltimore City] and the District Court; two members shall be appointed from among those persons who are admitted to practice law in the State, who have been so engaged for at least fifteen years, and who are not judges of any court; and one member shall represent the public, who shall not be a judge, active or retired, and who is not admitted to practice law in this State. The term of office of each member shall be for four years commencing on January 1 [, except that of those persons first appointed to the Commission one shall be appointed for a term of one year, one for two years, one for three years, and two for four years and provided further that the additional lawyer member added by these amendments shall take office January 1, of the year next following adoption of these amendments by the voters and the additional judicial member on January 1, of the year after the additional lawyer member is to take office and thereafter all terms shall be for four years]. Whenever any member of the Commission appointed from among judges in the State ceases to be a judge, when any member appointed from among those admitted to practice law becomes a judge, when any member representing the public becomes a judge or is admitted to the practice of law in this State, or when any member ceases to be a resident of the State, in such case the membership of this member

shall forthwith terminate. Any vacancies on the Commission shall be filled for the unexpired term by the Governor in the same manner as for making of appointments to the Commission and subject to the same qualifications which were applicable to the person causing the vacancy. No member of the Commission shall receive any compensation for his services as such but shall be allowed any expenses necessarily incurred in the performance of his duties as such member.

4B.

(a) The Commission on Judicial Disabilities has the power to investigate complaints against any judge of the Court of Appeals, any intermediate courts of appeal, the Circuit Court, [the Supreme Bench of Baltimore City,] the District Court of Maryland, OR the Orphans' Court; and to conduct hearings concerning such complaints, administer oaths and affirmations, issue process to compel the attendance of witnesses and the production of evidence, and require persons to testify and produce evidence by granting them immunity from prosecution or from penalty or forfeiture. The Commission has the power to issue a reprimand and the power to recommend to the Court of Appeals the removal, censure or other appropriate disciplining of a judge or, in an appropriate case, retirement. All proceedings, testimony, and evidence before the Commission shall be confidential and privileged, except as provided by rule of the Court of Appeals; the record and any proceeding filed with the Court of Appeals shall lose its confidential character, except as ordered by the Court of Appeals. No judge shall participate as a member of the Commission in any proceedings involving his own conduct, and the Governor shall appoint another judge as a substitute member of the Commission for those proceedings. The Court

of Appeals shall prescribe by rule the means to implement and enforce the powers of the Commission and the practice and procedure before the Commission.

5.

Upon every occurrence or recurrence of a vacancy through death, resignation, removal, disqualification by reason of age or otherwise, or expiration of the term of fifteen years of any judge of a circuit court [or of the Supreme Bench of Baltimore City], or creation of the office of any such judge, or in any other way, the Governor shall appoint a person duly qualified to fill said office, who shall hold the same until the election and qualification of his successor [; except that when a vacancy shall exist in the office of Chief Judge of the Supreme Bench of Baltimore City, the Governor may designate an Associate Judge of said Supreme Bench as Chief Judge of said Supreme Bench, and such appointee as Chief Judge shall hold such office for the residue of the term for which he was last elected an Associate Judge of said Supreme Bench]. His successor shall be elected at the first biennial general election for Representatives in Congress after the expiration of the term of fifteen years (if the vacancy occurred in that way) or the first such general election after one year after the occurrence of the vacancy in any other way than through expiration of such term. Except in case of reappointment of a judge upon expiration of his term of fifteen years, no person shall be appointed who will become disqualified by reason of age and thereby unable to continue to hold office until the prescribed time when his successor would have been elected.

9.

The Judge, or Judges of any Court, may appoint such officers for their respective Courts as may be found necessary.[]; and such officers of the Courts in the City of Baltimore shall be appointed by the Judges of the Supreme Bench of Baltimore City. It shall be the duty of the] THE General Assembly [to prescribe] MAY PROVIDE, by Law, FOR [a fixed] compensation for all such officers; and [said] THE Judge or Judges shall, from time to time, investigate the expenses, costs and charges of their respective courts, with a view to a change or reduction thereof, and report the result of such investigation to the General Assembly for its action.

11.

The election for Judges, [hereinbefore provided,] and all elections for Clerks, Registers of Wills, and other officers, provided in this Constitution [, except State's Attorneys,] shall be certified, and the returns made, [by the Clerks of the Circuit Courts of the Counties, and the Clerk of the Superior Court of Baltimore City, respectively,] IN THE MANNER PROVIDED BY THE GENERAL ASSEMBLY, to the Governor, who shall issue commission to the different persons for the offices to which they shall have been, respectively, elected; and in all such elections for officers other than judges of an appellate court, the person having the greatest number of votes, shall be declared to be elected.

18A.

(A) The Chief Judge of the Court of Appeals shall be the administrative head of the Judicial system of the State. He shall from time to time require, from each of the judges of the Circuit Courts, [for the several counties, of the Supreme Bench of Baltimore City,] of the District Court and of any intermediate courts of appeal,

reports as to the judicial work and business of each of the judges and their respective courts. He may, in case of a vacancy, or of the illness, disqualification or other absence of a judge or for the purpose of relieving an accumulation of business in any court assign any judge except a judge of the Orphans' Court to sit temporarily in any court except an Orphans' Court. Any judge assigned by the Chief Judge of the Court of Appeals pursuant to this section [shall have] HAS all the power and authority pertaining to a judge of the court to which he is so assigned; and his power and authority shall continue with respect to all cases (including any motion, or other matters incidental thereto) which may come before him by virtue of such assignment until his action thereon shall be completed. In the absence of the Chief Judge of the Court of Appeals the provisions of this section shall be applicable to the senior judge present in [said] THE Court of Appeals.

(B) The powers of the Chief Judge [under the foregoing provisions of] SET FORTH IN this section shall be subject to such rules and regulations [, if any,] as the Court of Appeals may [make] ADOPT.

(C) The Court of Appeals from time to time shall [make] ADOPT rules and regulations [to revise] CONCERNING the practice and procedure in and the administration of the appellate courts and in the other courts of this State, which shall have the force of law until rescinded, changed or modified by the Court of Appeals or otherwise by law. The power of courts other than the Court of Appeals to make rules of practice and procedure, or administrative rules, shall be subject to the rules and regulations [prescribed] ADOPTED by the Court of Appeals or otherwise by law.

(A) [A Court shall be held in each County of the State to be styled the Circuit Court for the County, in which it may be held.] THERE SHALL BE A CIRCUIT COURT FOR EACH COUNTY AND FOR BALTIMORE CITY. The [said] Circuit Courts shall have and exercise, in the respective counties, AND BALTIMORE CITY, all the power, authority and jurisdiction, original and appellate, which the [present] Circuit Courts of [this State now have and exercise] THE COUNTIES EXERCISED ON DECEMBER 31, 1978, [or which may] AND THE GREATER OR LESSER JURISDICTION hereafter [be] prescribed by law.

(B) The [several] judges of the Circuit Court for Montgomery County [on and after the Tuesday next after the first Monday in November, nineteen hundred and sixty-six,] shall each, alternately and in rotation and on schedules to be established by the said judges, sit as an Orphan's Court for said County, and shall have and exercise all the power, authority and jurisdiction which the present Orphans' Courts now have and exercise, or which may hereafter be prescribed by law.

(C) The [several] judges of the Circuit Court for Harford County [on and after the Tuesday next after the first Monday in November, nineteen hundred and seventy-four,] shall each, alternately and in rotation and on schedules to be established by the said judges, sit as an Orphans' Court for said County, and shall have and exercise all the power, authority and jurisdiction which the present Orphans' Courts now have and exercise, or which may hereafter be prescribed by law.

23.

The Judges of the respective Circuit Courts of this State [, and of the Courts of Baltimore City,] shall render their decisions, in all cases argued before them, or submitted for their judgment, within two months after the same shall have been so argued or submitted.

25.

There shall be a Clerk of the Circuit Court for each County AND BALTIMORE CITY, who shall be elected by a plurality of the qualified voters of said County OR CITY, and shall hold his office of four years from the time of his election, and until his successor is elected and qualified, and be re-eligible, subject to be removed for wilful neglect of duty or other misdemeanor in office, on conviction in a Court of Law. In case of a vacancy in the office of Clerk of a Circuit Court, the Judges of said Court shall have power to fill such vacancy until the general election for Delegates to the General Assembly, to be held next thereafter, when a successor shall be elected for the term of four years.

26.

The Clerks shall appoint, subject to the confirmation of the Judges of their respective Courts, as many deputies under them, as the Judges shall deem necessary, to perform, together with themselves, the duties of the office, who shall be removable by the Judges for incompetency, or neglect of duty, and whose compensation shall be [according to existing, or future provisions of the General Assembly] DETERMINED BY LAW. In Washington County, all deputy clerks and other [clerks] EMPLOYEES OF THE OFFICE OF THE CLERK shall be appointed pursuant to and be removable according to the merit system procedure established by law for these deputies and [clerks] EMPLOYEES. All deputy clerks

and other employees of the office of the Clerk of the [Criminal] CIRCUIT Court [of] FOR Baltimore City, excepting the Clerk, shall be selected pursuant to and be removable according to [the merit system] A procedure established by law for these deputies and [clerks] EMPLOYEES. [Any employee of the office of the Clerk of the Criminal Court of Baltimore who has been employed for at least six months on July 1, 1974 shall be a member of the classified service of the State.]

Section 2

(Repeal §13A, 27-39)

Section 3

27.

(A) EACH JUDGE OF THE SUPREME BENCH OF BALTIMORE CITY, WHO IS IN OFFICE ON DECEMBER 31, 1978, SHALL CONTINUE IN OFFICE AS A JUDGE OF THE CIRCUIT COURT FOR BALTIMORE CITY, FOR THE REMAINDER OF THE TERM TO WHICH HE WAS APPOINTED OR ELECTED, SUBJECT TO THE PROVISIONS OF SECTIONS 3, 4, 4A, 4B AND 5 OF THIS ARTICLE.

(B) EACH DEPUTY CLERK OF A COURT OF THE SUPREME BENCH OF BALTIMORE CITY WHO IS IN OFFICE ON DECEMBER 31, 1978 SHALL BECOME A DEPUTY CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY WITH NO DIMINUTION OF SALARY, SUBJECT TO THE PROVISIONS OF SECTION 26 OF THIS ARTICLE. EACH PERSON OTHERWISE EMPLOYED IN THE OFFICE OF A CLERK OF A COURT OF THE SUPREME BENCH OF BALTIMORE CITY ON DECEMBER 31, 1978, SHALL BECOME AN EMPLOYEE OF THE OFFICE OF THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY WITH NO DIMINUTION IN SALARY, SUBJECT TO THE PROVISIONS OF SECTION 26 OF THIS ARTICLE.

Section 4

28.

EFFECTIVE DATE AND INTERIM PROVISIONS:

(A) THE AMENDMENTS PROPOSED BY SECTIONS 1, 2, AND 3 OF HOUSE BILL , SENATE BILL , (1977) IF APPROVED BY THE VOTERS AT THE GENERAL ELECTION IN NOVEMBER, 1978, SHALL TAKE EFFECT ON JULY 1, 1979. THIS SECTION 28, PROPOSED BY SECTION 4 OF SAID HOUSE OR SENATE BILL, IF APPROVED BY THE VOTERS AT THE GENERAL ELECTION IN NOVEMBER, 1978, SHALL TAKE EFFECT IN ACCORDANCE WITH ARTICLE XIV, SECTION 1 OF THE CONSTITUTION.

(B) NOTWITHSTANDING THE DELAYED EFFECTIVE DATE OF THE AMENDMENTS PROPOSED BY SECTIONS 1, 2 AND 3 OF SAID HOUSE OR SENATE BILL, AT THE PRIMARY AND GENERAL ELECTIONS OCCURRING IN 1978 IN BALTIMORE CITY, THERE SHALL BE NOMINATED AND ELECTED ONE CLERK FOR EACH OF THE SIX COURTS OF THE SUPREME BENCH OF BALTIMORE CITY. IN ORDER TO FILL INITIALLY THE OFFICE OF THE CIRCUIT COURT FOR BALTIMORE CITY THERE SHALL ALSO, AT THOSE TIMES, BE NOMINATED AND ELECTED ONE CLERK WHO SHALL BE DESIGNATED AS CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY AS CREATED UNDER THE AMENDMENTS PROPOSED IN SECTION 1 OF SAID HOUSE OR SENATE BILL, IN ACCORDANCE WITH CHAPTER (HOUSE BILL , SENATE BILL), ACTS OF 1977. AS OF JULY 1, 1979, EACH PERSON ELECTED AS A CLERK OF A COURT OF THE SUPREME BENCH OF BALTIMORE CITY SHALL BECOME A DEPUTY CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY, WITH NO DIMINUTION OF SALARY, BUT SUBJECT TO THE PROVISIONS OF SECTION 26 OF THIS ARTICLE; AND THE PERSON ELECTED AS CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY, AS CREATED UNDER THE AMENDMENTS PROPOSED IN SECTION 1 OF SAID HOUSE OR SENATE BILL, SHALL TAKE OFFICE AS CLERK OF THAT COURT.

SECTION 5. AND BE IT FURTHER ENACTED, That all references

elsewhere in the Maryland Constitution or the Public General Laws or Public Local Laws of Maryland to the Supreme Bench of Baltimore City, or any of the courts thereof, shall be deemed to mean the Circuit Court for Baltimore City as created by this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That if any other amendments or additions to the Maryland Constitution are approved at the general election in November, 1978, and if such amendments or additions are inconsistent with any of the provisions of this Act, the provisions of this Act shall be deemed to govern.

BILL ORDER - MISCELLANEOUS USES

Requested by _____ Drafted by _____ AMW
Date _____ Date 6/30/76

An Act concerning

The Clerk of the Circuit Court for Baltimore City

FOR the purpose of creating the office of Clerk of the Circuit Court for Baltimore City and providing for his nomination, election, term, and duties for the sole purpose of permitting the implementation of certain proposed Constitutional Amendments if they are approved by the voters, providing certain contingencies, and relating generally to the Clerk of the Circuit Court for Baltimore City.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND THAT:

(a) The office of Clerk of the Circuit Court for Baltimore City is created for the sole purpose of permitting the implementation of the Constitutional Amendments proposed by Chapter_____ (House Bill_____, Senate Bill_____) of the Acts of 1977, if they are approved by the voters at the General Election occurring in November, 1978.

(b) In the primary and general elections occurring in 1978, candidates for the office of Clerk of the Circuit Court for Baltimore City shall be nominated and elected in the same manner as candidates for the offices of Clerk of the various courts of the Supreme Bench of Baltimore City are nominated and elected.

(c) A person may run as a candidate for nomination and election to both the office of Clerk of one of the courts of the Supreme Bench of Baltimore City and, at the same time, the office of Clerk of the Circuit Court for Baltimore City created by this Act. However, if he is elected to both offices, he shall cease to be Clerk of the court of the Supreme Bench of Baltimore City to which he was elected at the time he assumes the office of Clerk of the Circuit Court for Baltimore City.

(d) If the Constitutional Amendments proposed by Chapter_____ (House Bill_____, Senate Bill_____) of the Acts of 1977 are approved by the voters in accordance with Article XIV of the Constitution, at the General Election in November, 1978, the Clerk of the Circuit Court for Baltimore City elected pursuant to this Act shall take office on July 1, 1979, and shall have the term, and duties provided for in the Constitution as so amended.

Section 2. AND BE IT FURTHER ENACTED, That this Act shall take effect on July 1, 1977; however:

(1) This Act is contingent upon the passage by the General Assembly of House Bill_____ or Senate Bill_____ (1977) proposing certain amendments to the Contitution of Maryland, and if neither of such bills are passed, this Act shall be null and void without the necessity of further action by the General Assembly; and

(2) If the Constitutional Amendments proposed by said House or Senate Bill are not approved by the voters at the general election occurring in November, 1978, the election of a Clerk of the Circuit Court for Baltimore City pursuant to this Act shall be null and void, and, on the day following that election this Act shall also be null and void without further action by the General Assembly.