

THE CHAIRMAN: Delegate Marvin Smith.

DELEGATE M. SMITH: Mr. Chairman, I agree with Judge Henderson. I am afraid there is a little bit of misapprehension about just what a chief judge is and what he does. Really, I think some of our brethren would have us believe that he was some superpowerful individual.

Now, the first three years of my practice, and I guess the last ten, have been before a judge who was chief judge of the circuit, and I have not seen in that capacity that he had any more power than he had previously. The difference has been that a process was issued in his name, and if somebody were disqualified, why he was the one who made the assignment.

We have a concept here of a change in our judicial system. We know that this judicial system operates more efficiently in some areas of the State than it has in some others. We believe that it could operate more efficiently. We believe it would be the duty of these chief judges to act insofar as the administration of that system is concerned, to see that it does operate efficiently. They would be the equivalent in some respects of the Fred Invernizzi who is head of the administrative office of the courts at the present time.

Now, I submit to you, Mr. Chairman, that to charge a chief judge of the Court of Appeals with the overall responsibility for the administration of the judicial system of Maryland, and then to tie his hands by telling him that he is responsible for the administration of this system, but that he may have nothing to say about the right arms to assist him in administration, is a ridiculous premise.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: May I yield three minutes to Delegate Rosenstock, Mr. Chairman?

THE CHAIRMAN: Delegate Rosenstock.

DELEGATE ROSENSTOCK: Mr. Chairman, fellow delegates, we have created here a unified system of courts on a four-tier level. The purpose of section 5.29 is to permit the chief judge in the Court of Appeals the powers presently given him under the present Constitution.

In addition, we are spelling out how he may make that system work effectively, namely, by naming the chief judges of the three other tiers of courts.

By so doing, he will have under him a responsible judge and person with administrative abilities who will see that the various judges in the several tiers work in the rendering of justice to the people of Maryland.

We all know that while most of our judges are very dedicated, once in a while we find some who just cannot get up the energy to say on the bench for much more than nine months out of the year, and he continues his vacation.

Under this system we feel that the chief judge will be able to work out vacation schedules, which must be kept. And who will police this? The chief judge of the respective tier of courts.

There has been a good deal of wasted judicial power in this State under the past administration of the courts. We envisage that the power given to the chief judge, as you will notice in the Committee's draft, has been a limitation on absolute power, because many of the duties are prescribed by rule, which means a consensus of opinion between the chief judge and his other associates on the Court of Appeals.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: Mr. Chairman, and fellow delegates, perhaps those of us on the minority, have a little more confidence in our judges on all levels than those of the majority.

If the majority's premise is correct, namely, that the chief judge of the Court of Appeals has to have "his men", to run a unified judicial system, and I submit that that is not saying very much for any chief judge of the Court of Appeals, and if that premise is correct, does that not also mean that after the chief judge of the Court of Appeals retires, and a new chief judge is designated by the governor, he will then have to dismiss all of the other chief judges, those on the other three tiers so that he can appoint his own "men" in order to run a proper unified judicial system?

It makes absolutely no sense whatsoever.

Under our proposal there would be tenure on all levels by the chief judges, the same as on the Court of Appeals; and if you want to create a situation that will cause chaos and embarrassment in the judicial system, then go along with the majority and permit a chief judge designated by the governor to appoint anyone, including getting rid of appointments that have previously been designated by the former chief judge.