

This amendment in the first instance is an effort to restrict the application of our recommendation on how best to select judges in Maryland, to the two appellate courts, the Court of Appeals, and the Intermediate Court of Appeals. I call your attention to the fact that the Minority Report said in the first line that it was a minority and not a dissent. If the system we propose has merit and the Minority Report admits that it does, and is a better system than we now have, the first question is why limit it to selecting 12 judges, seven to the Court of Appeals and five for the present membership on the Intermediate Court of Appeals. Why not have it apply to the selection of approximately 150 judges, if we are to have a district judge in every county?

The amendment here has attempted to be divided. The effect of it is to splinter or pick at the selection and tenure proposal of our Committee, which it has considered at great length after hearing a wealth of testimony; and our recommendation is in full accord with the substantial weight and quantity of testimony before our Committee. We respectfully suggest that if the method to approve the selection of judges in Maryland is good, then it must be good for all of the judges and not only for the twelve at the appellate level. We, therefore, respectfully suggest and urge the rejection of this amendment.

THE CHAIRMAN: Delegate Mudd, Delegate Johnson has indicated he does not wish to allocate any more of his time at the moment. Do you wish to allocate any of your time? For what purpose does Delegate Grant rise?

DELEGATE GRANT: For the purpose of parliamentary inquiry, Mr. Chairman. As I understand it, the part that is to be amended, that is section 5.14, deals with all the judges, but the amendment itself simply deals with the Court of Appeals and the Intermediate Court of Appeals. I question whether this is an amendment to section 5.14, or is something missing; it does not say what is to be done with the rest of the judges.

THE CHAIRMAN: I take it from what Delegate Johnson, Chairman of the minority, has said that if this is adopted they will have other amendments with respect to other delegate positions. Is that correct, Delegate Johnson?

DELEGATE JOHNSON: Yes.

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: A matter of information: Since the Committee proposal 5.14 deals with all judges, is it possible to consider an amendment which strikes the entire section dealing with all judges and consider an amendment dealing with judges of the tiers?

THE CHAIRMAN: The Chair thinks so. This poses a problem with which we have been confronted. The alternative is to consider in connection with this amendment several other sections. Delegate Mudd, do you desire to allocate part of your time?

DELEGATE MUDD: Yes, I would like to yield to Delegate Henderson as much time as he wants.

DELEGATE HENDERSON: Mr. Chairman and fellow delegates: I understand that we are now squarely presented with the issue as to whether the merit selection of judges should apply at any level, and I shall address myself to that. The American Judicature Society which is composed of judges, lawyers, and laymen, has devoted itself to judicial reform for more than thirty-five years. The spokesman for this Society appeared before us and told us that they consider the first and most important item of judicial reform to be the merit selection of judges, the object being to get the best men on the bench free of political obligation.

I shall not attempt to discuss now the facts stressed by those who have served on bar associations: that our ablest lawyers are unwilling to run for judicial office in an open election, and that they ought to be able to serve at an age when they would be eligible for retirement in the business world.

For example, Joseph Oppenheimer was sixty-five when he went on the bench and Judge Markel sixty-two and Judge Bloom was over sixty. We are not getting the best judges and we are not getting them at the early age when we deserve to get them, but I shall stress what I think is the most vital point of all. I think we must all agree that justice must be handled by independent and impartial judges without fear or favor.

If a candidate must campaign for election which is contrary to the code of judicial ethics, if he must seek the support of political parties or factions, sooner or later he will be asked to do favors; whether he complies or not is beside the point. Justice like Caesar's wife must be above suspicion.