

all of the racetracks in Maryland because some people are compulsive gamblers?

Fellow delegates, there are just some things that we have to learn to live with, and I think it would be a very serious mistake if we would eliminate this election process.

I submit that there is a difference between appellate court and the district court level, and I urge you to give this matter very serious consideration, in spite of all the actions of this Committee to the contrary.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, I would like to yield three minutes of my controlled time, or more if he likes, to Delegate James.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Mr. Chairman, fellow delegates, I would like to argue in favor of the judge running against his record.

Under the present law a governor appoints a judge in the first instance. There is probationary service of a minimum of one year. Then there is an election. The election consists of the primary, it permits cross-filing, and then the general election, which has no party designation. The election is for fifteen years, and again for fifteen years if the judge has not achieved the age of seventy. He is reappointed in the normal customary practice, and then he goes through the process of reelection. This reappointment is customary. It is seldom the judge is not reappointed; so in practice, the Maryland system is really an appointive system. Seventy per cent of Maryland's judges presently serving were appointed by Governor Tawes. Not one of these appointments, Democrat or Republican, was defeated at the polls. Governor McKeldin's record was almost as good.

In practice, an appointive judge is seldom defeated.

The reason simply is sitting judges are backed by the press and the bar, and this is known to everyone. In most cases there is simply no contest. Reappointment, let's say in fifteen years, is customary. I do not know of a single instance in which a judge has not been reappointed, except possibly in a situation where he is approaching the age of seventy.

Unfortunate results of this system are numerous: The first and most serious ob-

jection is that a sitting judge must risk violation of judicial ethics to get the elected fifteen-year term.

Let me read to you from the Canons of Judicial Ethics, the American Bar Association Canons, as adopted in Maryland.

"Section 258, Partisan Politics. He should avoid making political speeches, making or soliciting payment of assessments or contributions to party funds, the public endorsement of candidates for political office, and participation in party conventions. He should neither accept nor retain a place on any party committee nor act as party leader, nor engage generally in partisan activities."

This is so tight in Maryland that the Maryland Bar Association added this amendment: "Where, however, it is necessary for judges to be nominated and elected as candidates of a political party, nothing herein contained shall prevent the judge from attending or speaking at political gatherings or making contributions to campaign funds of the party that has nominated him and seeks election or reelection."

Now, paragraph 30 in part reads, under Candidacy For Office—"If a judge becomes a candidate for any judicial office, he should refrain from all conduct which might tend to arouse reasonable suspicion, that he is using the power and prestige of his judicial office to promote his candidacy, or the success of his party. He should not permit others to do anything in behalf of his candidacy, which would reasonably lead to such suspicion."

If it is possible to run for office and comply with all of those rigid rules of ethics, it would be a surprise to me.

Now, the next objection is that he simply must spend a large sum of money for election expenses to secure the fifteen-year term. Of course, everyone knows the problems of raising money and placing enough money in the campaign fund to get the advertisements and what is necessary, and this places any candidate, who is in a stringent financial situation, in a very difficult situation, especially if he is a candidate for the judiciary.

So the alternative is that he has lawyers and bar associations to promote his candidacy. This inevitably leaves a judge indebted to these people who have actively promoted his campaign.

The spacing of this process eliminates many qualified lawyers. Moreover, the