

It seems to me we already decided when we had a choice as to whether we would elect members of our bench or appoint them, that we would use the appointive system, because we thought it was so important we developed a system of refinement and provided for a series of recommendations before the appointment was made.

I think the purpose of the election is sensibly one of having some impact upon the judge himself. Those of us who are members of the bar recognize that being a judge is a very heady wine, and once we have made the appointment, although there could be a good argument for this appointment being provided, that there is a good argument also that there ought to be a periodic review. And the people, when they make this review and they vote yes or no, ought to have some guidance.

I would suggest that we can trust the members of the bar to do what is wise and judicious under the circumstances when they have the secret ballot, and that they will not be distressed because they lost a particular case; but they will do what is right.

The judges know that periodically there will be a recommendation made by members of the bar, and that that will have some impact on his behavior—and I think it will have a healthy impact. It is just enough to keep him friendly with the bar, and it will contribute to justice throughout the State.

THE CHAIRMAN: The Chair recognizes Delegate B. Miller.

DELEGATE B. MILLER: The purpose, if the judicial election is permitted in this article, is to allow the people to indicate their own preference in terms of the judge. The undue influence which would be exercised by the bar and the lawyer members in dominating the opinion of the people has no proper place in a Constitution.

If the people are being asked to give their opinion, it should not be merely to confirm the opinion of the lawyers, who enjoy the same voting privileges as other citizens of Maryland.

Further, since judgment by one's peers is a fundamental of English law, it might be more proper to take a poll of the judges and publicize that.

We are accustomed to having the members of any profession indicate their opinions of a colleague who seeks office. In fact,

this might be considered a professional obligation, but it should not be a constitutional one.

THE CHAIRMAN: Does Delegate Weidemeyer desire to speak in opposition?

DELEGATE WEIDEMEYER: I desire to speak in opposition.

THE CHAIRMAN: You may proceed.

DELEGATE WEIDEMEYER: Believing as I do in free election and the election of judges, and seeing this amendment, I am rather appalled. I remember back in the early days of the New Deal when Senator Jim Reed of Missouri stated on the floor that the people were selling their birth-right for a mess of pottage.

I saw also in the governments of Europe, including Germany, where people, in order to eat, gave up the right of free election.

I also saw this Convention, just before lunch time, in a great hurry to eat, defeat very hastily my amendment providing for the election of the judges.

Therefore, believing in free elections, if I am being denied my right to vote as a citizen I do not want my right as a member of the bar denied, and therefore, Mr. President and members, I am strongly opposed to this amendment.

THE PRESIDENT: The Chair recognizes Delegate Harkness to speak in favor.

DELEGATE HARKNESS: Mr. Chairman, I rise briefly in favor of this amendment. I am not questioning its wisdom; but even assuming it had some merit, it certainly has no part in the constitution. I would like to quote a matter which was discussed in the Committee on the Judicial Branch because I think it spells it out better than I can say. This is a letter from a judge on the circuit court in the sixth judicial circuit, in which he said:

“The Constitution is a basic law of the State of Maryland and as such should set forth the basic law of the State, and it should not invite petitions by lawyers or anyone else in connection with the election to a constitutional office. Such provision has no place in the constitution of this State. There is no sound reason why the lawyers of a particular county or the City of Baltimore can not be polled and the results of such poll published; but for the constitution of Maryland to invite such a procedure is contrary to the very purpose of a constitution. This section of the constitution