

DELEGATE CLAGETT: Through the long day yesterday, and almost the same number of hours before we complete the digestion of this judiciary article today, as I have voted today in support of the plan of the Committee, the so-called Niles plan, I have heard a whisper going from these walls, particularly from the far right rear corner, where Governor Robert Bowie's portrait hangs, because it was his son who was my great grandfather, during 1851 as a delegate from Prince George's who led the fight for judges reversing the seventy-five-year practice which had proceeded the second constitutional convention when the judges had been appointed.

It was after that 1851 Convention and for the 116 years up to the present time that the judges were elected, and General Thomas Field Bowie was apparently the man who swung the tide in the 1851 Constitutional Convention.

After finding that debate among the records of that Convention, I have had them extracted, and I have had the 20 pages of that debate before me, and as the debate on this floor has taken place, I have checked off the points one by one by one, and find them all to be the same; consequently, there was no necessity of rising, as I saw the tide moving in the direction it was, to answer back to those whispering voices of the past.

However, on this point, that is, tenure of office, I find that my worthy ancestor and I come together, because here is what I find he says:

"It is not the mode of appointment but the tenure of the office which constitutes an independent judiciary," and this was after words he had spoken earlier, "The great battle to be fought here in the first instances would be between those who are friends of the elected judiciary and those who are opponents. Let the terms of office be long enough to place the judges beyond the influence of caprice, and their independence will be effectively secured by the people, as if they were appointed in any other mode."

Then on the following page he says, "The bill reported by the Committee on the Judiciary requires elections for judges to be held every ten years. I wish it were still longer, but I shall vote for that recommendation."

And so shall I.

THE CHAIRMAN: Does any other delegate desire to speak in favor of the amendment?

Delegate Koger.

DELEGATE KOGER: Mr. Chairman, I would like to speak in support of the amendment. Some of the reasons why you continually hear this matter brought up daily and so many hours is because people hate to make this change and because the election of judges in the past had been a successful thing.

You will find in some ways—Italian people are judges, Jewish people are judges, and Negroes are judges, and in some ways we get all representation. I was trying to get at that in 40 states you have a population of judges and it is hard to give up. We sometimes think that long tenure of office makes for a good judge but you can imagine how bad it is when you have a bad judge for so long.

I think we should change it around, if you want to change it around. But we should not have it so long one way without trying it the other.

THE CHAIRMAN: The Chair recognizes Delegate Weidemeyer in favor of the amendment.

DELEGATE WEIDEMEYER: If no one else will speak, I will remain silent.

THE CHAIRMAN: Delegate Weidemeyer, do you also want to remain silent?

DELEGATE WEIDEMEYER: I want to ask Delegate Clagett a question.

THE CHAIRMAN: Delegate Clagett, do you yield to a question?

DELEGATE CLAGETT: Yes, sir.

THE CHAIRMAN: Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Do you agree with your ancestors that it is not the mode of appointment but the tenure?

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Fortunately, the whispers were not shudders so I disagree with you.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: I think there might be a great fear on the part of the people that this new system of appointing judges is going to create a type of a dictatorship. I think we can answer that argument by saying that there will be a frequent review of the judge's record on the part of the people and in so doing we will