

DELEGATE J. CLARK (presiding):
The Chair recognizes Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, may I at this time yield three minutes to Delegate Rosenstock to speak against the amendment?

DELEGATE J. CLARK (presiding):
Delegate Rosenstock.

DELEGATE ROSENSTOCK: Mr. Chairman, and fellow delegates, the Committee has attempted to make use of judicial manpower that is available to judges who have reached the age of constitutional senility of seventy to help out where the need is indicated to the Court.

As we know, we have attempted to create a unified effective judiciary in the State of Maryland. You have evidence in our own body of the delegate who, although he has reached that age, is well qualified to carry on judicial duties if the Constitution permitted the same.

Now, there are times when because of disqualification, illness and other matters that the chief judge would find it necessary, with the concurrence, as the Committee wrote in so that the chief judge would not be solely responsible for such an assignment, to use such a retired judge whom the people of Maryland had confidence in, whose faculties were sound and who would be able to help the court in the conduct of its business.

In fact, there are a number of judges in Maryland who although they have been retired would be perfectly effective in signing motions so that the judges who were of a younger age could stand the rigors of trial, could preside over the trials of causes.

For that reason we feel, fellow delegates, that as we are attempting to modernize our court system, make it responsible that we should be able to call on this reserve of judges who although they have passed seventy are still able to carry on the work of the judiciary if the chief judge in the Court of Appeals and his six associates would so deem it.

DELEGATE J. CLARK (presiding):
Does anyone wish to speak in favor of the amendment? Delegate Rybczynski.

DELEGATE RYBCZYNSKI: Mr. Chairman, needless to say, it takes some amount of consideration on my part to rise on a proposition such as this. However, my experience in the courts of the City of Baltimore indicates that this is a good amend-

ment and that the report of the majority is not good.

Now, those of you who have been in the federal courts of the City of Baltimore, or the district of Maryland, all remember a certain judge who was a very scholarly gentleman but who sat up at the judge's bench with an eyeshade so that the lights would not hurt his eyes, and who sat there with a tremendous magnifying glass so that he could read the documents, who had difficulty distinguishing the people who were appearing before him, who took time to tell all sorts of stories and who, on occasion, when he found fault with the proceedings, would commence to take a half-hour or three-quarters of an hour to chastise people in a matter of no consequence that should have taken two or three seconds.

That is just one example.

Another example which comes to me is a judge who at nearly seventy was at the point where he simply could not remember anything and would have to retire to his chambers with the court stenographer to have all the testimony read back to him again so that he might render an opinion.

As I said before, it is not easy for me to arrive at an answer on a question like this but as I told you yesterday, I have to live with this system for thirty-five more years if I live that long.

Now, what is another aspect of the same question? Another aspect is if Judge A at seventy-two is capable and Judge B at seventy-two is not capable and Judge A gets assigned for ten days, who wants the job of telling Judge B that he is not capable? Who wants to meet him eye to eye or on the telephone and say "Judge, you are over the hill now, and even though we gave ten days of duty to Judge A he is all right, but we think you are senile."

Who wants that job? Who would like to be the clerk to have to sit behind that desk to tell the judge that he is no longer capable?

Ladies and gentlemen of this Committee, you have a perfectly valid first sentence on line 6. Each judge shall retire at the age of seventy. There is a reason why that sentence is there.

True, it is an arbitrary figure, the same as the voting age of twenty-one is an arbitrary figure, but you hope to strike a happy medium.

DELEGATE J. CLARK (presiding):
Your time is up.