

many trial judges I encountered. He picked a bad example, I suppose Judge Chester would not have been designated to serve had not the Court designated him.

I think it is a matter that could be controlled by the Court of Appeals; if a man had obviously declined in intellectual powers he would not be asked to serve temporarily. If he still possessed them, it would be ridiculous in the public interest to deny his abilities not only to the public, to the people at the appellate level, but even trial court.

Even to this day, U. S. Judge Reed sits in the Court of Appeals and has anyone ever appeared before him and felt that he had no right to sit there or that he did not know what was going on? He is in his eighties but equal to any judge or young lawyer in this nation.

DELEGATE J. CLARK (presiding): The proponents still have some time. Would anyone like to speak in favor of the amendment?

*(Call for the question.)*

DELEGATE J. CLARK (presiding): The question arises on the question of Amendment No. 46 to Committee Recommendation JB-1.

A vote Aye is a vote in favor of Amendment No. 46. A vote No is a vote against. The Clerk will call the roll.

Has everybody voted? Does anyone want to change his vote?

*(There was no response.)*

If not, the Clerk will record the roll.

There being 22 votes in the affirmative and 94 in the negative, the motion is lost. The amendment is rejected.

Are there any other amendments to section 5.22? The Chair hears none. Are there any amendments to Section 5.23? The Chair hears none. Section 5.24?

Delegate Johnson, do you still propose to offer your amendment?

DELEGATE JOHNSON: Yes, we do, Mr. Chairman.

*(President H. Vernon Eney resumed the Chair.)*

THE CHAIRMAN: The page will distribute the amendment. This will be Amendment No. 47. The Clerk will read the amendment.

READING CLERK: Amendment No. 47 to Committee Recommendation JB-1, by Delegates Johnson, Harkness, Hickman, Kahl, Murphy, Siewierski, Rush: on page 7 in section 5.24 Restriction of non-judicial activities in lines 33 and 34 strike out the words: "or make any contribution to".

THE CHAIRMAN: Is there a second?

The amendment having been seconded, the Chair recognizes Delegate Johnson to speak to the amendment.

DELEGATE JOHNSON: Mr. Chairman and fellow delegates: The reason the minority prepared and urges adoption of this amendment is because frankly we questioned the wisdom of having a section with respect to the restriction of the nonjudicial activities of the judge and no section with respect to the restriction of the judicial activities of a judge.

We tried our best to go along with the majority report which is practically the same as the draft of the Constitutional Convention Commission with respect to our amendment, but very frankly, we just could not find any reason whatsoever to prevent a judge from making a contribution to the political party of his choice.

We do not believe that when a judge is sent to the bench that he give up his right to vote or his right to back the party of his choice so that we would urge that the phrase "or make any contribution" be deleted.

Now, please bear in mind that the majority's recommendation does not prevent the judge from making a contribution to a candidate of his choice. We do not argue that, but we think it is foolish to provide in the constitution that a judge cannot make a contribution to the Democratic or Republican party if he chooses to do so.

We are not concerned about what contribution a judge makes after he becomes a judge, and therefore we urge adoption of this amendment.

THE CHAIRMAN: The Chair recognizes Delegate Mudd for five minutes.

DELEGATE MUDD: This is controlled time, Mr. Chairman. May I yield two minutes to Delegate Hargrove.

DELEGATE HARGROVE: Mr. Chairman, this Convention has put together a judicial article which purpose is to keep the judges out of politics. If this amendment is adopted, then I would suggest that we would be doing just the opposite of what we have done for the past two days.