

Delegate Mason.

DELEGATE MASON: I would like to direct a question to Chairman Mudd.

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

DELEGATE MUDD: Yes, sir.

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Mr. Chairman, with respect to section 5.24, is a member of the nominating commission an office of profit or trust?

DELEGATE MUDD: The nominating commission is by virtue of an amendment we adopted this morning without compensation. Therefore, it is not an office of profit.

DELEGATE MASON: But is it an office of trust?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Yes, I would say it is an office of trust.

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: No further questions.

THE CHAIRMAN: Delegate Johnson, do you still desire to offer your amendment K?

DELEGATE JOHNSON: It was in our minority report. Yes, Mr. Chairman.

THE CHAIRMAN: The pages will please distribute amendment K. This will be Amendment No. 49. The Clerk will read the amendment.

READING CLERK: Amendment No. 49 to accompany Minority Report JB-1 to Committee Recommendation JB-1 by Delegates Johnson, Harkness, Hickman, Kahl, Murphy, Siewierski, and Rush: On page 7 after section 5.24 add the following section: "Restriction of Judicial Activities. No judge shall sit in any case wherein he shall have been of counsel in the case, or wherein he may have an interest in a case in such manner as shall be prescribed by rule, or where any of the parties to a case are related to him within such degrees as shall be prescribed by rule."

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

DELEGATE JOHNSON: Mr. Chairman, ladies and gentlemen, our suggestions with

respect to the addition of a section of this nature in our constitution has its roots in history and tradition.

I call to your attention that a very similar section appears in Article IV, section 7 of our present Constitution.

It is my understanding that when re-writing or redrafting a new constitution, certain sections or certain portions thereof are deleted; it seems to represent a feeling that these sections are no longer important, or perhaps should not be given any attention or direction.

Now we dressed up considerably old Article IV, section 7, and what we have in fact attempted to do is to submit a mandate to our Court of Appeals and request our Court of Appeals to set up restrictions upon judicial activity.

A very quick review of other State constitutions has indicated at least ten state constitutions that have a similar provision.

It is our understanding that our Court of Appeals, and I will submit in all probability, for good reason, or at least for reasons that in the opinion of the Court of Appeals were good, have not adopted the so-called conflict of judicial interest, or conflict of interest rule, as proposed by the American Bar Association.

All this does, all our amendment does is ask our Court of Appeals to provide for such a rule, and with its history and our constitution and in other constitutions, we urge that the Committee of the Whole give this question serious consideration.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, ladies and gentlemen of the Committee, we were aware of this provision in the present Maryland Constitution, and I can assure you did not treat the matters therein contained lightly.

My notes indicate that the precise question was posed to the Committee on the Judicial Branch, whether this provision in the present Constitution should be included in our recommendation for article 5.

The vote to eliminate it was 2 to 1; only 6 voting in favor of including it, and 12 voting to omit it. Those voting to omit, I am quite confident, were alert to the situation and thought it was a matter that might properly be taken care of within the section 5.31 under the concurrent power of the Court of Appeals by rule, or the legislature by statute, as it is partially taken care of now by an existing statute.