

*(At this point, the President, H. Vernon Eney, Chairman of the Committee of the Whole, resumed the Chair.)*

THE CHAIRMAN: Are there further questions of the Committee Chairman? Delegate Chabot.

DELEGATE CHABOT: Section 5.30. I see the Minority Report would prefer to have the chief judges of the three lower levels appointed by the governor.

Did the Committee give any consideration to having the entire Court of Appeals make the decision with regard to the chief judges at the other levels rather than the chief judge of the Court of Appeals alone?

DELEGATE MUDD: I do not recollect that that was considered. We felt, as best I can recollect, that consistent with the provisions of the present Constitution to make the chief judge of the Court of Appeals responsible for the functioning of the court, it could best be accomplished by him designating his subordinates or his associates in the other three tiers. The Minority Report does propose that all four chief judges be appointed by the governor, I believe.

THE CHAIRMAN: Any further questions of the Committee Chairman?

If not, the Chair calls on Delegate Johnson to present the Minority Report and would ask him to come forward to the reading desk.

While Delegate Johnson is coming forward, the Chair would like to take the opportunity to recognize the presence in the gallery of ten boys from the Boys' Village of Maryland, here with their teachers, Mr. Johnson and Mr. Marshall. Delighted to have them with us.

*(Applause.)*

DELEGATE JOHNSON: Mr. Chairman, fellow delegates, administration of a unified court system is extremely important, but not at the expense of creating a dynasty.

The majority would have you believe that unless we provide for the exclusive judicial operation of all the functions of the court, the entire system will break down in chaos. That will be the result. I feel I know a little something about the general problems of administering a judicial system. Therefore, I can fully appreciate the concern of judges in our system when they have urged, as many have, that we, members of this Convention, would be making a serious

mistake and placing too much power and too much administrative detail in the judiciary, or in the chief judge of the judicial system.

Benjamin Franklin at the United States Constitutional Convention spoke of his concern in a similar matter when he argued against appropriations that would have provided for an appointed president for life. Perhaps he had Washington in mind when he said that his concern was not for the first man appointed to the position, but the uncertainty of the others who might come thereafter.

Fellow delegates, if we could be guaranteed the services of the highly distinguished Hall Hammond, Chief Judge of the Court of Appeals today, if we could be guaranteed his services forever, or someone identical to him, these matters would not concern the minority. Interestingly enough, Chief Judge Hall Hammond commented unfavorably on a section of the commission draft calling for the power of the chief judge to move judges up and down the ladder in the judicial system, and he cautioned members of our Committee that this would simply be too much power to place in any one man.

The Committee accordingly amended the section slightly.

The rule-making power of the courts has been adequately handled by the Committee of the Whole to date. However, I urge your further study of similar matters which you may or may not find to be substantive issues in nature.

The administration problem with respect to the court boils down to the two main sections, sections 5.29 and 5.30. Chairman Mudd has already commented briefly on sections 5.29 and 5.30. I would like to take this time equally briefly to giving the minority view.

You have perhaps noted that section 5.29 in the Majority Report calls upon the chief judge of the Court of Appeals to designate chief judges of the intermediate appellate court, superior court and district court. In the view of the minority, there is absolutely no need, and in fact an inherent danger, to concentrate this measure of power in the hands of any one man.

I call to your attention that under section 5.04 of the Majority Report, agreed upon by minority members of the Committee, the governor appoints the chief judge of the Court of Appeals. There is no rationale, I submit, for the appointed chief judge