

Court line 49 add after the word "court" add the words "in each county" and strike the words "governed by rule" and insert the words "prescribed by law".

Is that correct, Delegate Johnson?

DELEGATE JOHNSON: That is correct.

THE CHAIRMAN: Is there any objection? There being no objection, the amendment is so modified.

The Chair recognizes Delegate Johnson for ten minutes of controlled debate.

DELEGATE JOHNSON: Mr. Chairman, fellow delegates, I will not need the ten minutes of controlled debate.

We believe that the majority was entirely correct in providing that clerks on the superior court level shall be selected in a manner prescribed by law.

For the sake of consistency, for the sake of removing our judges from the task of providing for hiring and firing district court clerks, to save our judges the embarrassment of being accused of delving into politics, to prevent suits, charges and counter-charges concerning disgruntled applicants and clerks who were dismissed, we urge that this entire matter of clerkship be left in the hands of the legislature.

It is without a doubt a non-judicial function, and it is one where we are quite certain will create problems untold in our judicial system if we permit or if we make the great judges in Maryland appoint clerks on the District Court level.

It is properly a legislative matter. It is as clear as a bell to the members of the minority. We can only hope that the Committee of the Whole will agree.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, may I yield three minutes of my controlled time on this amendment to Delegate John Hargrove.

THE CHAIRMAN: To whom?

DELEGATE MUDD: Delegate Hargrove.

THE CHAIRMAN: Delegate Hargrove.

DELEGATE HARGROVE: Mr. Chairman, we have just recently put together a four-tier court system calling for new administration from top to bottom. I would like to first say that the report of the

majority is a compromise. The Convention should know that there was a stalemate on whether or not clerks should be elected or appointed by the court and the majority opinion is a compromise.

However, I would like to point out to you certain things. It is suggested to you that the judges should be removed from the task of appointing clerks and also of hiring clerks. I think the Convention knows what the courts do today.

I would first point out that every clerk except possibly one that I know of in Baltimore City was appointed by the supreme bench in the Baltimore City district. This is a function given to the judge as a part of our present Constitution.

Also, our present Constitution provides for the judge to have visitorial rights in all clerks' offices to give the courts complete responsibility for that office including the authorization of the appointment of deputy clerks and other persons to administer the duties of the office, so we are not really giving the judges much more than they have at the present time.

I would like to next go to the lowest court level, but you remarked that the appointment of clerks at the lower level is a function of the legislature. It does not bear a test of our constitutional history. I will point out that the Constitution of Maryland providing particularly for the lowest court system, the people's court of Baltimore City, for example specifically does give to the judges the power to appoint clerks.

The municipal court, which was created just a few years ago, also provides that the judges appoint the chief clerk of that particular court.

In all of the recently-created people's courts in the state of Maryland, this function is either exercised by the court itself or in conjunction with the county council as it is in Montgomery County.

I would therefore point out to you, that the trend, particularly in the lower court, is away from the legislature making appointments, but in the hands of the court which has the job of administering the court itself which includes the day to day functioning of a clerk's office.

I request that the amendment should be turned down.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, may I yield to Delegate Marvin Smith.