

THE CHAIRMAN: Delegate Smith.

DELEGATE M. SMITH: What Delegate Hargrove has told you with reference to the compromise of the Committee on the superior court is correct. The vote was 9 to 9 with one abstention.

On the question of appointing a clerk or electing a clerk—and I suppose that if one of us who had voted some other time or most of the time, had voted the vote for appointment, this is what would have come out on the floor.

The district court system is an attempt for the politicians to reach out and get some things, some goodies. In the area in which I have operated, I have noted that the clerks to the trial magistrates were appointed by the trial magistrates. I would hope that we leave it precisely as it is written here, and what is basically the present system which is that the courts select the clerks at the lowest level.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, I yield three minutes to Delegate Marion.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Mr. Chairman, I will not take all of that time. I do not want to belabor this issue. The arguments have been stated by my two predecessors who have spoken to this; I believe the office of the clerk and the judicial functions which the clerks perform are or should be, if they are not now, an integral part of the proper administration of justice and the administration of the court system.

For that reason, I believe this amendment should be defeated, because I think that that puts a chink in what should be the orderly administration of the clerks' offices to really an arm of a court in handling the courts docket and matters pertaining to court administration.

I urge defeat of the amendment.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: Mr. Chairman and fellow delegates, I would like to point out that the amendment that is before us lost before our Committee by a vote of 9 to 10. I would further like to point out that although an arrangement similar to what Delegate Hargrove indicated is in existence in certain courts in Baltimore City, what we are concerned about is the entire judicial system throughout the State.

Someone will have to spell out for me why is it allegedly evil or political for the

minority to seek consistency in the judicial article by providing for the designation of clerks in a manner prescribed by law on the District court level, when the majority would have you believe that there is a division, and any division should resolve itself on a superior court level.

I guess it really boils down to if you do not want to do something, any reason is as good as any other.

Now, it seems to me if the majority thinks that the superior court judges should be selected in a manner prescribed by law, you should make the majority be consistent in this particular round. You should remove the judges in our state from this political patronage situation, and I believe that one will exist as a result of this, and let the legislature designate clerks of the court, their manner of selection and appointment; first of all their manner of selection on a superior court level, and their manner of appointment for the sake of term on the district court level.

THE CHAIRMAN: Delegate Mudd, you have approximately four minutes.

DELEGATE MUDD: I will use one and a half, Mr. Chairman.

Ladies and gentlemen of the Committee of the Whole: The difference in our recommendations where the spokesman for the minority appears not to see the difference is that with respect to clerks in the superior court, we ask that the legislature, by law, provide for the selection.

That would include the right of the legislature to provide for the election or appointment of superior court clerks which we feel is properly left to the wisdom of the legislature.

With respect to the district court clerks, both the minority and majority agree that they should be appointed. The only difference this amendment proposes to make is in the appointment and terms, that is, the method of appointment, by whom it should be made and terms prescribed by law. We feel it is essential to the proper administration of justice, particularly at this lower level in courts of limited jurisdiction, that the appointment of these clerks be by rule, because it is the function of the rule of court, rather than rule of law, to effectively operate the court system.

We therefore respectfully urge that you defeat this amendment.

THE CHAIRMAN: Any delegate desire to speak in favor of the amendment?