

*(Laughter.)*

THE CHAIRMAN: Delegate Wheatley.

DELEGATE WHEATLEY: I would like to ask Delegate Gallagher in line 15, when it says "30 minutes, then the sponsor shall be quartered," is there a butcher in the house?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: When the vote comes up with respect to attorney general, the answer will definitely be yes.

THE CHAIRMAN: Delegate Johnson, do you still wish to add your amendment N?

DELEGATE JOHNSON: Can we vote on Resolution No. 22 first? It will not be necessary to introduce motion Number N.

THE CHAIRMAN: As the Chair understands it, you have no further amendments to section 5.30. You still have section 5.30 under consideration. And there is another Minority Report JB-1(B).

The Chair recognizes Delegate Dulany to present the Minority Report. Come to the reading desk.

You should have before you Minority Report JB-1B, Delegate Dulany.

DELEGATE DULANY: Mr. Chairman, and fellow delegates, I am sure you know by now that the majority and minority in the Judicial Branch Committee were not necessarily composed of those who represent the majority and minority on the floor. There was considerable debate on many of the provisions in there and we were broken up on several sections and this was one.

The amendment about the selection of court clerks is somewhat, I would say, of a political problem in this State. There was some testimony before our Committee that if we would eliminate the election of court clerks, it might place the whole constitution in jeopardy.

I think we ought to take a look at what we have in relation to the court clerks around the State. First, in the Court of Appeals, we have an appointed clerk, a clerk appointed by the court. We have the same situation in the special court of appeals. We have the same situation virtually in the courts of limited jurisdiction, although they are somewhat at variance.

As you know these courts vary somewhat from county to county. It is only in the circuit court that we have an elected clerk.

You will find that they do many things that really are not judicial functions.

For example consider the clerk of the circuit court. I am told that there are some 600 sections in the code on duties that have been placed on the circuit court clerks. For example, he handles all the recording, the recording of deeds, mortgages, retail sales agreements. He handles the agency lockets, the corporation record and so forth.

He is in most counties the sellor or vendor of licenses for retailers. When beer stamps were sold, no lawyer could get near the courthouse because they were lined all around the courthouse and down the next block.

He also performs the village ceremonies. He collects fees and deposits. He certifies the land for bail. He issues many state commissions, notary commissions, and he handles, as we all know, the filing of election papers.

These are only a few of the things they perform. Actually, the circuit court clerk today is the highest resident state official in the country who is elected, but he must also in addition to all the functions I have given him, perform his services as clerk to the judge of the circuit clerk, which will become the superior court under the article we have adopted.

His obligations are to maintain the dockets, to swear witnesses, to collect fines and perform the normal duties of a court clerk under the direction of the judge.

Our committee debated a long time, long and hard on this particular issue, and we heard some testimony as follows in regard to the circuit court clerks, that in some courthouses in this state you must have political connections in order to secure a job in the courthouse.

Sometimes when you secure this job it may be a lifetime position unless you can be removed for cause but, nevertheless, the original political connection is required. We have a letter from a person who worked in a number of eastern counties and he was removed when new court clerks were elected because he did not fit their political liking.

We have evidence of disagreements which exist between court clerks and judges which cause problems in the judicial operation of the courts. We also have much testimony and much evidence that in many counties where there is a good relationship, the court clerk stays on for years and years—as a matter of fact almost for life.