

There was a proposal in the local government article that there be a county clerk perhaps who would be elected in each county. This clerk would be elected to perform the non-judicial functions, the functions not related to the court office. He would in effect be the highest elected resident official in that county.

The judge does not want to be bothered with the sale of license and beer stamps as I have mentioned and there are many features that are now performed by the circuit court clerks which the judge does not want to be concerned with; he is interested in the efficient administration of his court.

Our proposal and our Minority Report would provide for an appointment clerk to the judge who would perform the judicial functions, who would recommend that the committee reconsider the proposal before it to have an elected county clerk.

In our Committee we could not get agreement on court clerks. We could not get majority agreement on whether the clerk of the circuit court should be elected or appointed. Finally, in a compromise we came up with a proposal which is before you on the floor, the proposal that we leave to the legislature the method to select the circuit court clerk.

The history in Maryland, of court clerks, I think is somewhat important. In the original Constitution all clerks were appointed. It was not until 1851 that clerks were elected. In 1857 for the first time the Constitution provided that the Court of Appeals clerks were elected, but in the constitutional amendment adopted by the people in 1956, this was removed and that clerk was appointed.

Also, the appointment of the county clerk was reduced from six years to four years.

Most of you received the study on the Maryland judicial system. I would like to read one section on page 50 which reads as follows: "Another desirable change would be to make clerks full time officials, functioning under the general supervision of the judges. As indicated above, many court clerks today are performing additional functions unrelated to judicial business, and trying to serve many masters."

This need not be so in the future, when there will be ample work in a properly organized judicial system for full time court clerks answerable to the judges alone. As the National Conference of Chief Justices said in 1966: "Within the limits set by law, courts should have full responsibility

for supervising the employees upon whom they must rely to administer the business of the courts. Thus the independent authority of courts to hire and fire their employees, to fix and adjust their salaries, and to assign them duties, should not be subject to the approval or control of any non-judicial agency."

We suggest that the circuit or superior court clerk should be appointed under the articles we now have that the clerk of the Court of Appeals be appointed, that the clerk of the Intermediate Court of Appeals be appointed, and that the clerk of the district Court be appointed.

The only loophole or the only hole is leaving the superior court clerk up to the legislature. Here we have a clerk who probably will be elected and responsible to the judge and who is also responsible to a chief judge who is appointed. We therefore strongly urge that you adopt the minority report on this article.

THE CHAIRMAN: Are there any questions of the minority spokesman?

Delegate Darby.

DELEGATE DARBY: Delegate Dulany, did you say the appointed superior court clerk is solely responsible to the judges?

THE CHAIRMAN: Delegate Dulany.

DELEGATE DULANY: If he is appointed by the judge, yes. But the article would prescribe that he be appointed by rule.

THE CHAIRMAN: Delegate Darby.

DELEGATE DARBY: But the purpose of your forthcoming amendment would serve to take it out of your appointed offices, isn't that correct?

DELEGATE DULANY: Yes.

THE CHAIRMAN: Delegate Darby.

DELEGATE DARBY: Do you not feel he has some functions for which he should be responsible to the people?

THE CHAIRMAN: Delegate Dulany.

DELEGATE DULANY: There are two basic reasons for that, either because he is a policy maker or because he is dealing with the public generally from time to time, and the entire public. I think that the court clerk is not a policy-making job, so that is not a reason for electing him. At the present time, for all the duties he has been saddled with, maybe he is responsi-