

legislature will determine the method of selection of the clerk. Do you think that there is the slightest chance that the legislature will provide that this person be selected under the merit system?

THE CHAIRMAN: Delegate Dulany.

DELEGATE DULANY: Yes, I am a former member of the legislature and I have confidence in the legislature. It is possible that the legislature could come up with the exact proposal that I am recommending.

Since we have all the other clerks in the constitution and the method of selection specified, this should be specified. I do not think we ought to make an exception of the superior court here.

THE CHAIRMAN: Are there any further questions of the minority spokesman? If not, we will ask him to return to his desk and take up the amendment.

Pages will please distribute amendment X. This will be Amendment No. 55.

The Clerk will read Amendment No. 55 to accompany Minority Report No. JB-1 (B) to Committee Recommendation No. JB-1, by Delegates Dulany, Bradshaw, Hargrove, and Marion.

READING CLERK: Amendment No. 55 to Accompany Minority Report JB-1 (B) to Committee Recommendation JB-1, by Delegates Dulany, Bradshaw, Hargrove, and Marion: On page 9 section 5.30 Clerks of Court strike out all of the last two sentences in the section on lines 46 through 49 and insert in lieu thereof the following: "The clerk of the Superior Court in each county and the clerk of the District Court in each county shall be appointed in the manner and for the term prescribed by rule to perform those judicial functions and administrative duties with respect to their courts as are prescribed by rule."

THE CHAIRMAN: The amendment having been seconded the Chair recognizes Delegate Dulany to speak to the amendment.

DELEGATE DULANY: I would like to yield three minutes to Delegate Marvin Smith.

THE CHAIRMAN: Delegate Smith.

DELEGATE M. SMITH: I have searched my soul as much on this as anything before the commission. Although I voted against this proposition in the Committee, I rise to support it. I might say, sir, in my talks with at least one or two clerks, I

found that many of their fears were allayed when they found out about the transitory provisions here. I would like to quote to you from a letter that I received from a long-time chief deputy clerk who is no longer a chief deputy clerk, having resigned.

And he said, "It would seem to me that the reward which competence in office should merit would eventually result in the steady progress of the employee in the clerk's office from the position of least responsibility to that of highest eminence.

"The office of the clerk of the circuit court is far too important to be subject to the realm of politics and the demands of politicians. The clerk has been termed the hand of the court and when the hand is not in a position to control the hand a most dangerous situation can develop.

"From sad personal experience I know that the appointment and retention of experienced deputies should be the prerogative of the court and this can best be given effect by making the clerk appointive by the court at its pleasure.

"You will recall that I served as chief deputy clerk from January 10, 1927, or shortly thereafter, until February 17, 1960 when I resigned. In other counties I served when competent deputies had been discharged by political clerks. I also served in Kent and Queen Annes Counties when illness made this necessary. Twice, in 1938 and again in 1942, I was only retained in office through the insistence of the court that my services were necessary to the proper conduct of the office and following, in each instance, the rejection by the judges of the nomination by the clerk of totally unqualified persons."

THE CHAIRMAN: The Chair recognizes Delegate Mudd.

DELEGATE MUDD: Mr. Chairman and ladies and gentlemen of the Committee of the Whole: I rise to speak in opposition to the amendment. As indicated by Delegate Dulany in presenting his Minority Report, this matter has been discussed in great length in our Committee and after a protracted hearing with the representatives of the Clerk of the Courts Association, the clerks serving the state so well.

We would leave this to the legislature as prescribed by law and we think that it can be adequately worked out in this manner. We did discuss at some length the idea of dividing the responsibilities of the clerk of the court as now constituted.