

You are all aware, I am sure, from the Minority Report and from your knowledge of the subject that there are a wealth of duties and responsibilities which now devolve upon the clerk of the court, many of them have no association with the court structure, so to speak, and are not responsive to the administration of justice.

However, our Committee could not reach a conclusion as to a possible division of these responsibilities between an elected and an appointed clerk or two elected and two appointed officials. Accordingly our recommendation is simply this: that the responsibility be shifted to the legislature and we hope that in its wisdom it can cope with the situation and best adapt the orderly administration of justice as well as the other duties of the clerk within whatever manner it may provide for the selection, whether it be appointive or elected.

Accordingly, I urge you to oppose this amendment and adopt the majority view which is that the matter of clerks of the court as to selection and term be left to the legislature and your vote in opposition to this amendment will sustain the Majority Report as you have done in many other instances.

THE CHAIRMAN: Delegate Dulany.

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

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Mr. Chairman, as I observed some moments ago in opposing the amendment offered by Delegate Johnson, I believe that the clerks are a very important integral part of the internal administration of the court system and if they are not so now, they should be under this new constitution.

As Delegate Johnson has observed, the Majority Report of the Committee leaves an inconsistency between the method of selection of the superior court clerk and the district court clerk and I submit that there should be no such distinction for the proper administration of the court system extending from top to bottom from the Court of Appeals down to the district court.

We have provided that the clerk of the Court of Appeals be appointed, that the clerk of the Intermediate Court of Appeals be appointed, that the clerk of the district court be appointed, but for some reason a bare majority of the Committee wished to leave the selection of the clerk of the superior court to the manner pre-

scribed by law and I submit that there is not any slightest doubt that the legislature would provide that that clerk be elected.

In the federal system there is an appointed clerk at the district court, I believe, and it works well. Ladies and gentlemen of the Committee of the Whole: We should provide for a system in which court clerks should do court duties and we should provide that the clerk of the superior court as well as the clerk of the district court perform judicial functions and administrative duties in connection with his respective courts.

At the present time what we have is a political figure elected on a partisan political battle in each county in the middle of the administration of justice and administration of the courts.

We have the possibility by adopting this amendment to put the final correct and refining touch to a properly administered judicial system.

I urge your support of our amendment.

THE CHAIRMAN: Delegate Mudd.

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

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: Mr. Chairman, I do not believe that at the judicial level the clerk who performs strictly judicial duties should be subject to the court direction and I know that in many cases that has worked out.

I recall that Mr. Luther Pittman, who was the deputy clerk before he became clerk, was originally selected by the court and that is true in many other places, but I was persuaded to join the vote with the majority on this proposition because of the numerous practical problems which are presented in unscrambling the office of the clerk.

One thing which has not been mentioned or was only mentioned in passing was the fact that under our new proposal, the whole judicial system will be paid for by the state. It will no longer be a county function. Under the new article on local government, the counties will acquire home rule in many departments where they have not enjoyed it in the past.

It may well be that some of the functions presently occupied by the clerk of the court, that is, the state official and one who