

ond the motion made by Delegate Freeland.

THE CHAIRMAN: It has been moved and seconded that the Committee of the Whole rise in a moment of respect to the late President Kennedy.

All in favor signify by saying Aye. Contrary, No. The Ayes have it. It is so ordered.

*(The Committee of the Whole rose and observed a moment of silence in memory of John Fitzgerald Kennedy.)*

THE CHAIRMAN: The Chair recognizes Delegate Mudd.

DELEGATE MUDD: I yield three minutes to Delegate Hodge Smith.

THE CHAIRMAN: Delegate Smith.

DELEGATE J. H. SMITH: Mr. Chairman and members of the Committee of the Whole: As you probably gathered, this was one of the knottiest problems we wrestled with in the Committee. There were a number of conferences and much debate over this thing.

It even divided the Smith over here in the last row. The institution of judicial administration said that one of the essentials of a sound judicial system was efficient and business-like administration of the courts.

The commission adopted the provision that all the clerks and all the courts in the four tiers should appoint their clerks. This is business-like administration. There is no question about that.

I think that each court should appoint its own clerk, but here we run headlong into trouble, and probably at the present clerks of the courts' expense, who theoretically, under this direction that each court should appoint its own clerk, would be in the superior court level of each county—the clerks as we presently know them.

You have heard about the heterogeneous duties that the clerks have at this time. There are some 600 references in the annotated notes of Maryland as to clerks of court that give them duties from marrying people to issuing passports to even being an arm of the U. S. Government for some purposes such as naturalization purposes.

In Montgomery County our clerk employs some seventy people. He has testified before our Committee that approximately eighty percent of his duties do not refer to the court function and to me and to the

bare majority of our Committee, it was just unthinkable that the judges should get into appointing a man who has an office of this magnitude.

It just does not make sense. It is not a judicial function for the court to be appointing a clerk in the county who does not spend all his time working for the court.

THE CHAIRMAN: You have one-quarter minute.

DELEGATE J. H. SMITH: The compromise we reached was to leave this up to the legislature. Perhaps a commission should be appointed to study the whole clerk system and come up with the right answers. We had to leave the flexibility, in our humble opinion, to allow this to be worked out both to the satisfaction of the court and the public.

Let the people decide how this office is going to be run in the future.

THE CHAIRMAN: Delegate Dulany.

DELEGATE DULANY: Mr. Chairman, I submit that the judges do not want the function of handling eighty percent of the county's business and I believe that is one reason we have the proposal that he perform the judicial functions and none other.

In essence we are saying that the clerk be appointed to perform the judicial functions. I believe the Majority Report of our Committee merely avoids the issue by stating that the court clerk in the superior court would be selected as provided by the legislature.

Actually as we know it, the court clerks would probably be continued. The judge of the superior court would probably be deprived in many cases of the services of his clerk because he would be involved in these other duties. The clerk is not a policy-maker. He should not be out shaking hands with everyone in the county as the official greeter.

The clerk should be responsible to the judges who appoint him. We should have an appointive clerk appointed by the superior court judges just as we do in the other courts. It is inconsistent to have all clerks, even the chief clerk, appointed and then have the superior court clerks elected.

I would urge that you all vote for the amendment.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman and ladies and gentlemen: May I observe that