

point a judge, then having him run in an open election, the public will be able to express itself on both the wisdom of the governor and the competence of his appointee.

A simple yes or no vote, on a judge who has served for two years or so is not nearly the same as a vote for a specific candidate. An important factor here is that citizens may well either blindly vote yes or, worse, not vote at all when called upon to consider a judicial selection where they have no control over future selection.

Our proposed amendment to the Report of the Judicial Branch would eliminate judicial nominating commissions for Superior Courts and District Courts. It would have the governor appoint judges for two years, then have the new appointees run in open election against any qualified person who either felt the appointee had not adequately performed his duty to date or felt that he could perform the judicial function better.

This is a far more responsible approach than that offered by the majority for these reasons: First, the judge initially is appointed by the governor, our Chief Executive, and not after his alternatives have been reduced to as few as two by a nominating commission responsible to no one. The appointment in this manner we add is arrived at from the whole range of all possible appointees.

Second, the election contest is open rather than limited simply to ratifying the appointment virtually controlled by the nominating commission. The appointee knows clearly he holds office at the will of the citizens of his community or State. Assuming that the citizens of Maryland will always retain the inherent right to control their government, we feel that this is a right and proper policy.

We will admit that our proposal may allow for some politicking in the office of the chief executive. But we ask the majority to consider the possibility of a closed door maneuvering on the part of the nominating commission; at least under our proposal the maneuvering, if any, is out in the open for everyone to see.

These conflicting views, together with the fact that the successful nominee under our proposal ultimately will have to satisfy the public that he is a better man for the job than some other candidate for judge persuades the minority to urge adoption of its amendment to the Majority Report.

Under the proposal submitted by the majority, the appointee will be virtually as-

sured of continuance in office regardless of his lack of capability and misconduct short of removal.

The national history of judicial elections under the so-called Missouri Plan, the plan proposed by the majority, demonstrates that only two judges have been removed from office by the electorate. There are various opinions why this occurred even on those two occasions, but largely these opinions are based on conjecture.

Another factor causing us to oppose this proposal of the majority is the fact that the local court in some counties is too small to produce good men to sit on nominating commissions and for good men to accept judgeships under consideration.

One county in the State has only approximately six practicing attorneys, at least five other counties have fewer than thirty lawyers.

The nominating commission plan promises to work quite effectively for appellate courts which have a much larger geographic jurisdiction, but it seems quite unrealistic to the minority to have this procedure in the localized trial court area.

I have gone into some detail with respect to the selection of judges at trial court level because this issue is illustrative of our concern that democratic principles should be applied to the judicial branch as well as the legislative and the executive branches.

We want to see an independent but responsible judiciary and we are especially anxious that judges at the trial court level fully recognize that they are responsible to the people and have to answer to them at least one time in sixteen years.

Keeping in mind the fact that our concept of responsible representative government calls for reasonable and logical checks of authority, we hope you will cast an especially critical eye on the recommendations in the majority report with respect to the selection of nonjudicial officers of the court; I refer specifically to section 5.11, which deals with appointment by the court of the commissioners after first creating the office of commissioner, and section 5.30 wherein it is provided in the majority report that the court will appoint the clerks on the district court level.

Where control over this matter traditionally has been in the hands of the legislature which, as the representative body of the people, may appropriately use its authority as a check on potentially excessive