

DELEGATE HENDERSON: No.

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

Delegate Marvin Smith.

DELEGATE M. SMITH: Delegate Johnson, you have just made a statement here about a number of judges being opposed to this appointment power on the part of the commissioner. Now, my notes show that there was one judge who made the statement, one from a metropolitan area, not familiar with the problem, and no others.

Now, maybe you have a better recollection than I and can enlighten me.

DELEGATE JOHNSON: My recollection, Delegate Smith, is that with very little exception, and that may be just the one exception that you are speaking of, no judge came before our committee and urged the adoption of the appointive power in the judiciary of the commissioner.

I draw an analogy between clerks and commissioners, and I felt that the matter was fairly evenly divided on that subject. I felt that there were a number of judges, according to my notes, who said that they did not want the power; there were a few that said with respect to clerks that they did; and there were some who did not comment on it, either way.

THE CHAIRMAN: Delegate Smith.

DELEGATE M. SMITH: What you were really talking about, then, was not having to do with the commissioners at all, but something else?

DELEGATE JOHNSON: If you will accept the fact that either no judges or only one even commented upon the subject of commissioners, I would say that that is correct. My recollection is that there was no specific request by the judiciary to have this appointive power with respect to commissioners.

THE CHAIRMAN: Delegate Bradshaw, do you have a question?

DELEGATE BRADSHAW: Yes, Mr. Chairman.

I would like to ask Delegate Johnson this question, which may in part be a repetition of a question I asked yesterday.

I note that in his proposed suggestion for change in 5.11 that he says, "The General Assembly may provide for commissioners," et cetera, and "may provide for their appointment."

My question specifically is whether or not, if his suggestion is adopted by this Convention, that this would not permit the General Assembly to retain the so-called green bag method of appointment?

DELEGATE JOHNSON: I guess it really depends on whether or not you want to put the green bag — and that is your term, Delegate Bradshaw — in the hands of the judiciary. I do not think the transfer of the appointive power is necessarily going to lose the "green bag" aura. I would prefer to see the judiciary insulated from this type of appointment, and if it is going to be done by way of green bag, so be it.

In my opinion, the new legislature will create the professional office of commissioner, and will provide for an appointive system, and tenure under the merit system. I have confidence in the new legislature.

THE CHAIRMAN: Are there any other questions?

Delegate Hargrove.

DELEGATE HARGROVE: Delegate Johnson, I am troubled in the minority report by a term used on page 3. You say that you call the function of the commissioner a non-judicial function.

Is that your understanding of the function of the bailiff, to issue warrants of arrest?

DELEGATE JOHNSON: I do not have that before me.

DELEGATE HARGROVE: The end of the first paragraph.

DELEGATE JOHNSON: We say the appointment of the commissioner, the selection and appointment of the commissioner, is a non-judicial function in our opinion. In other words, we would prefer to see the judges not get involved in selecting, interviewing, appointing, having to deal with this number of applications for the position of commissioner. We consider the manner of selection and appointment, of interviewing job applicants non-judicial in nature.

DELEGATE HARGROVE: In regard to the commissioners, do you anticipate that there would be commissioners in Baltimore City, Montgomery County, Prince George's and perhaps Anne Arundel County, in all these instances where they do have county magistrates today?

DELEGATE JOHNSON: In our view it would be clearly up to the legislature.