

THE CHAIRMAN: Amendment No. 7, having been seconded, the Chair recognizes Delegate Bamberger to speak to the amendment.

DELEGATE BAMBERGER: Mr. Chairman, section 5.08 provides that the legislature will set a number of judges who are in the superior court, and will allocate them among the counties. The sense of this amendment proposes to strike that sentence which says that in allocating the superior court judges the General Assembly must have a judge in each county.

If you will recall when the Chairman of the Committee spoke in presenting his report, I understood him to say that that meant that every county would have a superior court judge who resided and made his home there; and that also it meant that there would be a superior court sitting in every county.

That seems to me to be untidy judicial housekeeping. The fact of the matter is that there is not now enough judicial business in every county in this State to occupy a judge fulltime.

The committee report quite well proposes to attend to that by providing for the power to assign judges, for example, the judge in Worcester County when he is not busy, even though it may be in the hunting season, to Baltimore County or Baltimore City, where the business of the court is more pressing and there are not enough judges to attend to the business.

But I suggest that requiring the appointment of a judge from every county very much restricts the ability of this State in some instances to get the best lawyers to serve on the bench. I must say that I intend to support as strongly as I can those provisions of this report which deal with the selection and the tenure of the judges, but in some counties there are very few lawyers. In Garrett County, I am informed, there are only six lawyers, which means the job of that nominating commission will be very difficult, considerably restricted, if in selecting a judge for the superior court in Garrett County there are only six lawyers to whom they may speak, although as a matter of fact because there may not be enough judicial business in Garrett County to occupy that judge all of the year he will be assigned to sit in other counties.

I should point out now that if this amendment is adopted it will require a further amendment in section 5.13, which

provides that to be eligible for appointment to the superior court the judge must be a resident of the county where that particular superior court vacancy exists.

If this amendment is adopted I would suggest that that could be amended by providing that the person must be a resident of the appellate circuit. The State will be divided into seven appellate circuits. That would mean that in the Eastern Shore the judge who sat in that county some of the time and some other county some of the time would come from that area of the State.

The purpose of the amendment is to strengthen the hands of the nominating commission in selecting judges, not to impose upon it and upon the legislature a requirement that a judge must live in a particular county, to compel them to go to a very small bar, as I say in Garrett County, to pick a judge among six lawyers and a judge, moreover, who probably will not sit very often in that county because the business of the courts will not keep him there, and under the other provisions of this article, can be assigned to sit in another county in another court.

THE CHAIRMAN: Does any delegate desire to speak in opposition to the amendment? Delegate Grant.

DELEGATE GRANT: I am one of the six lawyers. Mr. Bamberger never intends to practice law there.

We started back in 1894 to try to get a judge up in Garrett County. They finally decided to increase the membership of the Allegany Bar, we were in the same circuit, with two more judges. One judge faithfully promised he would come to our county every Monday to take care of our business. As I recall the story, in July of 1895 or something like that, he came up the first Monday and he never came up again.

*(Laughter.)*

It is a very serious matter actually to do business in an area like this where you are so far from the judge. We finally did get our own judge up there in 1958 and the practice of law has been tremendously improved. I am quite sure if we lost a judge we would probably be unable to hold six lawyers. If one needed an order signed, it was a two and a half hour trip to Cumberland through the snow if you could get through, to get any order or small piece of business taken care of. We used to pass it around and have one lawyer gather up all petitions and take them down. It is a