

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Yes, if the legislature would be so foolish as in the exercise of its power to allocate judges around the state to say that we did not need any judges in Baltimore City that could happen, but that suggests to me a lack of confidence in the legislature that is incredible.

If your question were addressed to whether he sits there or whether he lives there—

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: My question is directed as to whether or not he lives there, not whether he sits there.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: The amendment, as I offered it, does not direct itself to that because that is in section 5.13, which provides the eligibility of the judge. You would have to change section 5.13 and, of course, one of the changes that could be made could guarantee there would be a resident judge from Baltimore City.

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: It was my understanding that you did intend to change section 5.13 to be consistent with 5.08. If you would change it, then it would mean that we would not necessarily have a judge who was a resident of Baltimore City in the Superior Court, is that correct?

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: I would keep an absolutely open mind about your concern for the residence of the judge in Baltimore City. What I am really concerned about is saying to the judicial nominating commissions when you go to pick a judge that there are only six lawyers to look at because they are the only ones living in that county, and furthermore, the judge is not really going to do a lot of his business in that county, he will be in the next county most of the time.

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

DELEGATE GRANT: I would like to suggest to Delegate Bamberger that the problem is simply one of eligibility of the

judge, not residency of the judge. We are concerned about having a judge. If you want to con somebody from Southern Maryland to come up there and live on a mountain top, I see no objection to it. The urgency is to have a judge resident in the county. That is the important thing.

THE CHAIRMAN: In view of the colloquy that has just ensued I want to again call to your attention the two amendments to be submitted to you, one of which will provide that the superior court judge shall preside over the division of the superior court in that county, the other of which will provide that a superior court judge shall sit regularly in each county. Neither would appear to have any application to residence. Delegate Smith.

DELEGATE M. SMITH: I am from the judicial circuit that was the last circuit in Maryland to have a resident judge in each county. It has only been since June a year ago, if I recall correctly, that we have had a resident judge in each of the counties in the second judicial circuit, when Judge Clark was appointed over in Talbot County.

During all of my practice at the bar, our judge, prior to the appointment of Judge Clark, was shared with Talbot County.

Mr. Chairman, you have taken away from us our delegate so far as the House of Delegates is concerned. I would like to echo all that Delegate Grant said and suggest to you, sir, that there is a need for a judge to be available in every county. When Delegate Bamberger wants to get an order signed, he can go down to the Court House in Baltimore City and there are a number of judges available. If we have no judge, then of necessity we have to drive a distance and a hardship is created.

Judge Sherbow will recall, I know, very vividly, that when the Constitutional Convention Commission originally suggested that there be no requirement with reference to a resident judge, that the Committee of which Judge Sherbow was Chairman, insofar as the State Bar Association was concerned, gave a very loud protest. It was a direct result of that protest that the present provision was put into the draft of the constitution.

THE CHAIRMAN: Are you ready for the question?

*(Call for the question.)*

The question arises on the adoption of Amendment No. 7 to Committee Recommendation JB-1. A vote Aye is a vote in