

1 Martineau can elaborate. If this fear is in existence
2 and happens to be well founded, there is nothing that
3 prevents the Supreme Court from acknowledging this, isn't
4 that true?

5 MR. MARTINEAU: That is correct. My own view
6 of what Mr. Sykes' discussion is about is, I think, mis-
7 directed. The flavor of his discussion is, though we
8 were eliminating any requirement for mandatory retirement
9 at age 70. It is not that. This provision is carefully
10 drafted so that not only must the chief justice but also
11 a majority of the Supreme Court must approve the assign-
12 ment of a retired judge to perform temporary judicial
13 duties. This is not going to mean that all judges who are
14 retired will continue sitting.

15 I think it means quite to the contrary, and we
16 put it in this way to provide the flexibility that is
17 necessary. I can't help but think that this power is not
18 going to be exercised foolishly or arbitrarily by the
19 chief justice of the Supreme Court. They are not going
20 to assign to temporary judicial duty a judge who shouldn't
21 be assigned to temporary judicial duty. And it seems to