

Whole yesterday concerning the creation and appointment of commissioners by the judiciary was arrived at mainly out of the fear that we would perhaps be retaining the committing magistrate system that now very unfortunately flourishes throughout Maryland.

When the minorities strongly and repeatedly supported the Committee on the Judicial Branch on a unified court system, it willfully, knowingly, and happily wiped out the magistrate system and the committing magistrate system as it exists in Maryland today.

A new creature was thereby born in Maryland as a result of the Judicial Committee's action and we named him commissioner. In the opinion of the minority any resemblance to the commissioners in the committing magistrate was purely coincidental. The minority committee wanted to allow the reapportioned legislature an opportunity to meet the new responsibilities partially because of the pleas of the Legislative Branch Committee to strengthen this important branch of government, and because we felt the legislature would not only rise to the occasion but would relieve the court of this awesome judicial responsibility.

I can appreciate the fears of the Committee of the Whole although personally we see no connection between justice of the peace and the commissioners. I can live with this action although as a practicing attorney, I will cringe every time our judicial system is given a black eye because of some charge, however unfounded, of politics and patronage.

Perhaps it will all work out and the system will work well. I sincerely hope it will. Undoubtedly in the minds of some delegates late this Friday evening is the thought that that was yesterday and why bring it up today? Several reasons why really.

First because I deem it important to set the record straight. Second, our actions of today on the district court set-up may require us to reconsider our actions on the commissioners. Third, this appointment power, as it now stands, must be considered in the light of what checks and balances we are going to retain in the people on judicial discretion. Fourth, if we can ponder the constitutional history of Maryland over the last hundred years, certainly we can consider our actions of less than 24 hours ago, particularly when we are still at sea.

So with nothing more than a backward glance and the satisfaction, slight as it may be, that I said something for me at least that had to be said, I now embark with you on our journey to Missouri by way of the River Niles. On the matter of selection and tenure, the first question the Convention must decide is are we going to change our method of selecting and electing judges? My first inclination as a traditionalist and admirer of the present Maryland judiciary and a nongambler, if you will, when the stakes are high, is to say emphatically no.

Is it not answer enough to the majority's proposal calling for nominating commissions and non-competitive elections to point out that Maryland has had and still has one of the most outstanding judiciaries in the country? That over 100 years ago Maryland departed from a system where judges were appointed and served during good behavior because of the hue and cry from citizens who rightfully wanted some say in the judiciary branch of government, that there has been no creditable evidence offered that the judiciary in Maryland will be better under this system. That by installing a 15-year term, which is the second largest term in the country, that Maryland in fact removed judges from politics many, many, many years ago. That it would be an erosion of democratic principles in our republican form of government to refuse the citizens some say on matters of selecting their judges. That under the proposed selection and election system not one popularly elected representative of the citizens of Maryland has more than a token voice in the final outcome of judicial selection and that voice, that lone voice, will be but a whisper from our governor, the chief executive of this great State, who will be assigned the embarrassing task of picking from as little as two nominees from a nominating commission and is then told if that is not enough, that if he does not pick from this list, the chief judge who has a representative on the commission will do so anyway.

If the foregoing is not reason enough for Maryland to abandon its great heritage and envied tradition in a democracy second to none consider with me the following. Under the proposal of the majority there is no manner in which members of the nominating commission can be held accountable to anyone. There are no guidelines for the qualifications of the members of this commission. We have no guarantee whatsoever that they will have the