

necessary expertise to make what amounts to final selections of our judiciary.

Since the majority position presumes that the governor may pick only his man to fill the job and not the best man available, that is, if we do not adopt their system—and we disagree with this—that this will occur since they presume this is the case, then could he not capture members of the nominating commission, and the public know nothing of it?

No matter how you look at it, would we not be taking away the voice of the citizens of Maryland to select their own judges, regardless of how well-meaning our actions may be?

Lest I be accused of suggesting that this is a concept that is a new one, let me be one of the first to say that variations of this plan have been around over 30 years. I might add, with notable lack of general adoption by other states. While I am making some admissions, let me also say that some of the finest legal minds in the country, as well as in our State, urge adoption of this plan, but I submit that the record will show, if it has not already shown, that as many oppose it, more, I submit, than propose it.

May I also make clear that in my opinion everyone who urges adoption of this plan except those, if any, currently contemplating judicial appointment, do so with deep conviction and with a sincere effort to improve the judiciary in Maryland. I fully anticipate that more than a handful of outstanding delegates of this Convention, friends all, I trust, will urge adoption of this plan, because in its simplest terms what we are talking about is a philosophy of government; I respect the views of others proposing this plan, and I believe that most respect the views of the signatories to this minority report.

I trust you know something about the Missouri plan, but did you know that although it has applied to the appellate court in Missouri and the trial courts in St. Louis and Kansas City since 1940, it has not been extended to any other county in that State? Did you know that no other state in the entire country has the plan that is proposed in the majority report on a statewide basis at all levels of the judicial system, as proposed by the majority?

Are you aware that some of the questions expressed in the minority report of this Committee with respect to the adoption of this plan were shared by Judge Menchine

and other judges of the Baltimore County bench, by Judge O'Donnell and Judge Prendergast of the Baltimore City bench, by Judge Wilson K. Barnes of the Court of Appeals of Maryland, by former Governor Tawes and by Governor Agnew, the Chief Executive of our State, among many, many others?

During the debate on matters pertaining to selection and tenure you will hear from the proponents of this proposal that it is being accepted far and wide, and that every state is either adopting it or will soon do so. That argument, if there is one, can be answered by the notable failure to adopt the plan in any significant form in any state that recently attempted to write a constitution, and its notable absence from the vast majority of the other states.

You will hear how this nominating and non-competitive election procedure has been hailed and publicized far and wide. It has appeared in bar association journals, as distributed to your desks, and in the American Judicature magazine, and many many periodicals and pamphlets flowing from Missouri. I agree with their position concerning its endorsement. You may hear that everyone loves this plan in Missouri. Yet the American Judicature Society article contains reference to the fact that a majority of lawyers polled in Missouri, while approving some of the features of the plan indicated they felt it did not take politics out of the selection process.

You will be told that Maryland is not getting the best of the best for its judiciary because some members of the bar will not accept the position because of the fact that they have to face the citizens in election one time every seventeen years. In a defense of all the outstanding Maryland jurists who have taken this so-called risk, I repeat that no evidence supporting this contention was aired before our Committee or anywhere else.

As a personal note, may I say that I am not at all certain that I want a man to serve as a judge who is unwilling to put his qualifications before the electorate at least one time in sixteen or seventeen years. Reform is really not needed in the selection and tenure of Maryland judges in the opinion of the minority, because something has to be pretty bad before it can be reformed. However, in the spirit of good faith and acknowledgement of the sincerity of many proponents of this measure we endorse it on an appellate court level with a slight revision. We strongly