

5.19 since in fact there will not be a judicial member of the nominating commission, and we cannot urge this too strongly.

Under 5.20 it would be nothing more than a simple housekeeping amendment. We would suggest that the term "non-judicial" as used on line 16 and on line 19 be deleted, because it would not be necessary.

Under section 5.21, that can be approved one of two ways: we could either retitle it "Terms of Office of Appellate Court Judges" and keep the language intact up to the sentence that ends with the word "State" on page 38, so that judges on the appellate court could in fact run against their record every ten years.

The rest of the language in that section, if our proposals are adopted, in our opinion would be unnecessary.

That is essentially our position with respect to selection and tenure of judges, Mr. Chairman.

THE CHAIRMAN: Are there any questions of the minority spokesman?

Delegate Macdonald.

DELEGATE MACDONALD: Mr. Johnson, under your proposal, what would be the term of the judges of the superior court?

DELEGATE JOHNSON: Fourteen years.

DELEGATE MACDONALD: What would be the term of the judges of the two appellate courts?

DELEGATE JOHNSON: They would be ten years, but running against their record. We see an obvious division in a judge who would run in an open election and a judge who would run against his record. We frankly felt that inasmuch as the Commission recommended a ten-year non-competitive election, if in fact we were going to carry through a non-competitive election every ten years, we saw no reason to argue with that term as proposed by the Commission and the majority of this Committee.

THE CHAIRMAN: Delegate Macdonald.

DELEGATE MACDONALD: Is it true that the pattern in other states is that the higher the court, the longer the term?

DELEGATE JOHNSON: I am not certain about that, but I believe there are some statistics that indicate that is a trend of a type, but please bear in mind, Mary-

land is unique with its fifteen year term. We might be talking about other states where they have a four or six year term on trial court level, and maybe ten, twelve or up to fifteen on the appellate court level, but very, very few States go over ten years for the term of any judge on any court, I might add.

THE CHAIRMAN: Delegate Macdonald.

DELEGATE MACDONALD: Why do you break at 14?

DELEGATE JOHNSON: We recommend fourteen because it is in line with our present system of fifteen, and in order to keep the date consistent with the biennial election at a fifteen year term when a judge's term runs out and he has to be reappointed for a period of time until the next election. The only reason we suggest fourteen is because we thought it made better sense. A judge could run and fourteen years later, when the term was up, there would be another election.

THE CHAIRMAN: Delegate Macdonald.

DELEGATE MACDONALD: If you approve of the Niles Plan for the two highest courts, why do you not approve of it for the superior court and the district court?

DELEGATE JOHNSON: I thought I commented on it. Let me answer this way: the minority does not particularly favor the Missouri plan at any level. However, we recognize the fact that there is some evidence that indicates that this is a viable and proper procedure. Because of the clear division that we find and see with respect to appellate court judges and trial court judges, and the fact that appellate court judges are for all practical purposes insulated from the people and try issues and cases, rather than individuals and hear witnesses, we thought if we are going to try a system of this nature in the State of Maryland, this certainly would be the area to try it, on the appellate court level.

For that reason we endorsed it on the appellate court level, only.

THE CHAIRMAN: Delegate Macdonald.

DELEGATE MACDONALD: Do you think it is wise to experiment with the courts at the two highest levels?

DELEGATE JOHNSON: We do not view it as experimentation, really. To the best of my knowledge there has been very little, if any election activity with respect to judges running on the appellate court