

two panels, that difference can be straightened out.

You also have the additional safeguard that the intermediate court can grant re-arguments in cases where they find that there is really some vital difference between them, but to simply add to the numbers on the highest court, I submit would be a great mistake and would weaken instead of strengthen our judicial system in Maryland.

I hope that the amendment will not prevail.

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

DELEGATE CHABOT: May I ask a question of the maker, of either maker of the amendment?

THE CHAIRMAN: Delegate Singer, do you yield to a question?

DELEGATE SINGER: Yes, Mr. Chairman.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: The effect of your amendment if adopted would seem to be that the legislature could add two judges so that the court would consist of nine members and yet the concurrence of only four, which is less than a majority of the whole number, would be sufficient to decide a case. Was this intended?

THE CHAIRMAN: Delegate Singer.

DELEGATE SINGER: No, this was not intended. We did not wish to include in the provision such things as how many judges would have to confer in a decision; we thought this was more probably handled by rule and that the court itself would work out such a detail as that. Although I would classify it as a detail, it is nonetheless an essential one.

DELEGATE STORM: Mr. Chairman.

THE CHAIRMAN: Just a second, Delegate Storm. Does any other delegate desire to speak in opposition? Delegate Adkins.

DELEGATE ADKINS: Mr. Chairman, I think this is a very dangerous amendment. Unless the size of the Court of Appeals is established by the constitution, it is left open for the potential manipulation of future legislatures as to decisions which that court may make and lest you think this is a change made completely out of the air, I can only refer you to the re-

cent history of the attempt to pack the Supreme Court of the United States, which was, of course, thoroughly and finally defeated.

I think it would be unfortunate to leave the Court of Appeals in a position where in the event of an unpopular adverse decision by that court, the size of the court could be changed by legislative enactment and thus affect what could be crucial, major political and current problems of the day.

I do not suggest that that is intended by the amendment. I do suggest it is a potential effect of the amendment.

We are entitled to stability in the decisions of our highest court; be they right or be they wrong, we at least need them to be stable. Lawyers will realize that they do not always get this, but at least this is one thing that we do need.

If the size of the court is subject to fluctuation without the final consent of the people by constitutional amendment, I suggest that we will have lost this value.

I would urge the amendment's defeat.

THE CHAIRMAN: The Chair recognizes Delegate Storm to speak to the amendment.

DELEGATE STORM: I rise, Mr. Chairman, to answer Delegate Chabot's question, with a different answer than my co-sponsor.

THE CHAIRMAN: You may speak on the amendment any way you choose.

DELEGATE STORM: I did intend that only four out of five judges could continue to decide cases, even though there might be nine or even ten members of the Court of Appeals. Please note that we did not change the number of a quorum.

I will admit that this would enable the court if it wanted to sit in panels, but I have enough faith in the court to know that they would not so panelize themselves as to lose a cohesive and general policy, so this was simply a labor-saving device, and I see no manipulation, because even regardless of how many judges are members, the chief judge will be able to assign five as a quorum, and I do not think he would go over that unless he became a manipulator. I do not believe that the chief judge would be a manipulator in the bad sense of the word as suggested, so I submit to you that leaving the five judges as a quorum and four as required to concur in an opinion, would accomplish exactly what