

1 DELEGATE WILLONER: I am referring to the
2 selection process of the ten judges that would decide the
3 case for lack of a better word.

4 THE CHAIRMAN: Delegate Boyer, the question
5 Delegate Willoner asks is what number of judges in the
6 Court of Appeals is necessary to concur in the appoint-
7 ment of the special tribunal of ten? A majority of the
8 quorum or a majority of the whole court?

9 DELEGATE BOYER: The recommendation is silent
10 on this, but I would imagine like all other decisions of
11 the Court of Appeals the majority would prevail.

12 THE CHAIRMAN: Delegate Willoner.

13 DELEGATE WILLONER: Of a quorum.

14 THE CHAIRMAN: Delegate Bamberger.

15 DELEGATE BAMBERGER: Mr. Chairman, I just rise
16 because I think we have become confused. My recollection
17 from the judiciary article is that this always requires a
18 concurrence of four judges for any particular decision.
19 Even when they sit as a panel of five, a majority of
20 three is not sufficient to act and that it would
21 require a majority of four. I would suggest that the