

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

DELEGATE CHABOT: Yes, sir.

THE CHAIRMAN: Delegate Sherbow?

DELEGATE SHERBOW: Delegate Chabot, have you given any consideration perhaps to changing the amendment in such a way that the smaller counties could have the two appointees recommended, while in the larger counties it could be no less than three? In other words, by a population basis, because in Baltimore City, Prince George's and Montgomery you are limiting them with the other counties when you limit them to two. I may say, my same question would be addressed to Delegate Adkins hoping we would find that perhaps as the solution.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: I have found it difficult to see what sort of specific dividing line could be written into the constitution on this point. I do not know just how to handle the problem in the manner that Delegate Sherbow suggests, and as I said, I would hope that the nominating commissions can be expected in general to perform their work in a responsible manner rather than merely the minimal manner.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, ladies and gentlemen of the Committee of the Whole: We have no serious objection to what is attempted to be accomplished here. Delegate Adkins has already pointed out the problem we were trying to allow for in the Committee when we made the minimum number two.

It was to accommodate those political subdivisions where they had only a limited number of lawyers, as has already been eloquently explained to this convention by Delegate Grant from Garrett County.

Today I think Delegate Boyer gave us the number of active members of the bar in his county. Our Committee felt there was some practical difficulty or could be a practical difficulty in this nominating commission coming up with more than two names in some of these less populated areas. We did anticipate that in the areas where the membership of the bar would allow it that the list would not be limited to two but would probably be closer to five than to two. We see no problem with Delegate Chabot's amendment, in line with the matter we were trying to accomplish in the Committee. We do feel, however, that there

is a practical problem involved if the amendment proposed by Delegate Adkins is adopted.

THE CHAIRMAN: Does any other delegate desire to speak in favor? The Chair recognizes Delegate Adkins to speak in opposition to the substitute.

DELEGATE ADKINS: I should like to ask preliminarily if the Chairman of the Committee would yield to a question.

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

DELEGATE MUDD: Gladly.

DELEGATE ADKINS: Am I correct in interpreting the word "eligible" to mean eligible in the opinion of the commission to serve as a judge to fill the vacancy then pending?

DELEGATE MUDD: Say that again.

DELEGATE ADKINS: Am I correct in interpreting the word "eligible" to mean eligible in the opinion of the commission to serve as a judge qualified to serve in the vacancy then pending?

DELEGATE MUDD: Yes.

DELEGATE ADKINS: Would it, therefore, not be constitutional for the commission in the small counties which you concern yourself with to recommend two men and report to the governor that those were the only persons they found within the jurisdiction to be eligible?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: I assume such a report could be made.

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: If that were a constitutional method, would that not solve the amendment and still not encumber the constitution with a rather involved substitute amendment?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: My offhand opinion is no. If the commission were required to report not less than three, it seems to me that the governor, when receiving a report of not less than three, might return to this and say it did not comply with the constitutional requirement.

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: I suggest again that the language does not require them to