

report three. It requires them to report three eligible members. Now, if in their judgment only two are eligible, could they not then report two and further report that only two within the jurisdiction are found to be eligible, and hence avoid the dilemma that is created in these small counties?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Within that interpretation it might be correct in that way, but that seems to be a rather difficult solution and interpretation. That is my view.

THE CHAIRMAN: Is there any further discussion?

Delegate Key.

DELEGATE KEY: I have a question.

THE CHAIRMAN: To whom is the question directed, Delegate Key?

DELEGATE KEY: Delegate Chabot, I suppose.

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

DELEGATE CHABOT: Yes, sir.

THE CHAIRMAN: Delegate Key.

DELEGATE KEY: Delegate Chabot, I too am quite concerned about the smaller counties, and their judicial problems, but I do know, as Delegate Sherbow stated, that the larger city and the counties in the metropolitan areas do have more crime. Therefore, the need for good judges there I would think is a little greater, and my question is this: If the smaller counties cannot have three names on the eligible list, how can they have two permanent judges from their county, one in the superior court and one in the district court?

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: With all due respect, I do not really believe that this is a question relevant to this issue. It was a matter that we had decided upon last week, and I may say on some of the votes I voted with Delegate Key; but I think that is beyond us.

THE CHAIRMAN: Delegate Key.

DELEGATE KEY: Mr. Chairman, I think that that is the point. If we are saying that the smaller counties have enough judge material available to have two permanent judges in each county, I feel that we can make the allowance for the need of the larger metropolitan areas by allowing this amendment to be as Delegate Adkins

proposes, with three to five names being submitted to the governor; certainly the counties can have enough eligible people available to have three on a list.

THE CHAIRMAN: Delegate Scanlan, for what purpose do you rise?

DELEGATE SCANLAN: I would like to speak against the amendment.

THE CHAIRMAN: Does anyone else desire to speak in favor of the amendment?

Delegate Scanlan, you may proceed.

DELEGATE SCANLAN: I am not unsympathetic to what Delegate Chabot is trying to do. I think overall that Delegate Adkins' amendment would best serve our purposes. We have now, or we either have or are about to circumscribe the power of the executive of this State in appointing judges we have elected, and I think rightly by the governor's nominating commission plan.

However, we must recognize that to that extent the executive power has been circumscribed. Obviously Delegate Adkins' amendment is an attempt to eliminate or minimize possible abuses where powerful forces, often from the bar associations, the lawyers of the community, could present just two names, one a man who obviously the governor would never appoint under any circumstances, and in effect make the appointment himself.

I think it is far less dangerous to have this happen in the higher level courts where the circuits are large and where the focus of public attention is great; where the evil is most likely to occur, if it ever does occur, is in connection with the nominating commissions' recommendations of eligible appointments to the superior court, or to the district court. It is there that the governor should be protected by making his choice at least a real one, by giving him the opportunity to pick at least three men.

I am sorry that the case of Garrett County comes back and plays a part in so many of our deliberations. Hard cases make bad law. They have six lawyers there anyway, and I think they will be able to find three eligible appointees.

In any event, on the one side you are protecting the executive power from the possibility that the nominating commissions will be abused in the local areas, especially with respect to the district court and superior court judges. Balanced against that you have the purpose of the Chabot amendment, which is laudatory, to take