

"The governor shall," and to me that means it is a mandate, which the governor would oppose.

When we elect a governor we elect him because we think he is driven by certain things; he stands for certain things; and it is because of those things and his character that he is elected as governor. It is unreasonable to assume that as governor he would refuse to uphold the Constitution, so for that reason I would like to ask Mr. Mudd a question, and then, according to his answer, address myself to the Convention.

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

DELEGATE MUDD: Yes, Mr. Chairman.

THE CHAIRMAN: Delegate Gill.

DELEGATE GILL: If we would strike the last sentence from 5.14, according to your previous statement, would you still maintain the form of a mandate to the governor?

DELEGATE MUDD: Yes, because you lose the word "shall" in the last line. I think striking the last sentence leaves a void in the section.

THE CHAIRMAN: Delegate Gill.

DELEGATE GILL: You think it leaves a void that would be taken care of when he takes his oath to uphold the Constitution?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: No. I think the governor would be very derelict, in my judgement, and not a good governor if he did not exercise the appointive power he is given here, but the possibility nevertheless exists that, for reasons known only unto him, he might not appoint, and a vacancy could exist for ad infinitum, which could indefinitely affect the court calendar or seriously affect the administration of justice.

THE CHAIRMAN: Delegate Gill.

DELEGATE GILL: It seems to me that the Committee on Style might be able to rewrite the amendment that Delegate Mitchell and I have, because we have a duplication of words meaning the same thing. Our idea in the amendment and the idea that I had in striking the last sentence I think go to the same point. If it does not change the meaning of it, I wonder if the

Committee on Style could make the necessary changes in language.

THE CHAIRMAN: The question has to be decided on the amendment. We cannot simply decide it in principle and leave it to the Committee on Style.

Delegate Gill.

DELEGATE GILL: My last statement in support of the amendment is that I hope that the delegates will support this with a favorable vote, because it is a very vital issue not only with respect to conflict of interest, but also in mandating the governor to do something which one reasonably would expect him to accomplish on his own.

THE CHAIRMAN: The Chair recognizes Delegate Marvin Smith to speak in opposition.

DELEGATE M. SMITH: Mr. Chairman, I would like to make a few quick statements to you.

First of all, the proposition that a provision in the constitution would in itself be unconstitutional under that constitution is to me a novelty I fail to comprehend.

Secondly, I would say to you, sir, that this is a safety valve, purely and simply. If this is put into the constitution, I am sure that no governor will ever have to exercise that power. If it is not in the constitution, then we could well find ourselves, because of some dispute of some kind that has arisen, in a situation in which the courts of this state could be paralyzed while the litigation surrounding a potential writ of mandamus and whether or not it could be issued, and the appeals in connection with it were all fought out.

I think that the amendment is a bad one, and the proposal here is a wise safety valve.

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

Delegate White.

DELEGATE WHITE: I wonder if Delegate Smith would yield to a question?

THE CHAIRMAN: Delegate Smith, will you yield to a question from Delegate White?

DELEGATE M. SMITH: Yes.

THE CHAIRMAN: Delegate White.

DELEGATE WHITE: I wonder if you find the last sentence of section 5.14 which