

THE CHAIRMAN: Delegate L. Taylor, for what purpose do you rise?

DELEGATE L. TAYLOR: I would like to speak against the amendment.

THE CHAIRMAN: Does any other person desire to speak in favor of the amendment? Delegate Singer?

DELEGATE SINGER: Mr. Chairman, will the sponsor of the amendment yield to a question?

THE CHAIRMAN: Delegate Chabot?

DELEGATE CHABOT: Yes, sir.

THE CHAIRMAN: Delegate Singer.

DELEGATE SINGER: Would this amendment not open the door to a governor so disposed to try to convince one of the nominees to remove himself from a list to that the governor would have the opportunity of getting the list back from the nominating commission and possibly having another chance of getting someone he wants on the list?

THE CHAIRMAN: Delegate Chabot?

DELEGATE CHABOT: I suppose that this is possible. I suppose that almost anything we do here is subject to misuse. I am suggesting that we ought at least to provide for proper situations where nobody is attempting to misuse the method, and under those circumstances, there is a possible gap here. If you can see a way of taking care of both a world where everybody acts properly and a world where everybody acts improperly I am quite willing to join with you in that.

I am satisfied with trying to deal with the world where a reasonable number of people try to act reasonably properly.

THE CHAIRMAN: Delegate L. Taylor.

DELEGATE L. TAYLOR: Mr. Chairman, fellow delegates, I believe Delegate Chabot has a very good intention in mind, but I feel that this violates a very good merit plan for the appointment and selection of judges.

When the nominating commission has made up a list of candidates for a judgeship, and if one candidate decides that he does not want to receive the office or he finds that somehow he cannot serve, I think the other two may be qualified candidates for the office. I think this can take advantage of the other two candidates or the other candidate. I believe that if the nominating commission has elected several candidates, they will select the best and if

you study the civil service system and other merit plans of employment, you will find that within the civil service employment system, you will find that a list of five or more people are submitted.

If one person refuses to accept the position then the next person is in line for the position. I have known of situations where three or four people were in line for a position and one person was asked to resign or not to try to get a particular job, and consequently the whole list was thrown out and a new list was drawn up.

I believe that a governor or someone could use this type of device to throw out a list of qualified candidates for judgeships. This is why I oppose the amendment and the reason I feel delegate Chabot has a good aim in mind.

THE CHAIRMAN: Does any other delegate desire to speak in favor? Delegate Cardin.

DELEGATE CARDIN: Mr. Chairman, I would like to ask a question, if I may.

THE CHAIRMAN: To whom is the question addressed?

DELEGATE CARDIN: I believe it would be Chairman Mudd.

Not being trained legally, if we do not make such provision in the constitution, what would happen in effect if this constitution were adopted and this situation arose?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: If a substitute list or a list was made sufficient that had become deficient and a question were raised, I assume it would have to be judicially determined, if there were no provision in the constitution such as this.

In other words, If a list were furnished the governor, in conformity with requirements of this section, and because of some happening to one of the nominees, the list became insufficient, and if without this provision a new list were sent, or a new name or names were substituted for the party who might have died or decided not to accept, and then the question were raised that such procedure was not allowed by the constitution, the only answer I could see would be for the court to determine whether it had been done as implicitly provided in the other sections of the constitution.

That is a long answer, and may not be helpful but I have no other suggestions as to how it might be solved.