

THE CHAIRMAN: Delegate Willoner, do you desire to speak in favor of the amendment?

DELEGATE WILLONER: Mr. Chairman, much has been said that I would have said, but I would like to indicate to the body that this is a problem that really bothers me.

I have had experiences where I have been, not the lone member, but a lone member in association with a judge, and whether you like it or not, if you have to practice before the gentleman, he has a very definite effect on your thinking.

Now, it is true that if it were a question of choosing between an animal and a reasonably competent individual, you would probably get up on your haunches and choose the man who is competent; but it is a problem, and this nominating commission will be made up of, I would hope, practicing lawyers, and I think if the judge were there, it would have an adverse effect on the decision of the lawyer members of the commission.

I might point out that the discussion that was had with the commission in Missouri was in the presence of a judge, and in reading it, I had to think that this might very well have affected some of the conversation, although it was a very impressive telephone call.

THE CHAIRMAN: Does any other delegate desire to speak in opposition? Delegate Scanlan.

DELEGATE SCANLAN: I just wanted to ask a question, when that was proper.

THE CHAIRMAN: To whom did you wish to address the question?

DELEGATE SCANLAN: The Chairman of the Committee.

THE CHAIRMAN: Does another person desire to speak first? The Chair recognizes Delegate Winslow.

DELEGATE WINSLOW: Mr. Chairman, I am a layman and I am disturbed by the idea that laymen are more prone to accept someone else's opinion than are lawyers.

I had never known this about myself until this moment, but it seems to me that it is quite unwarranted for anyone in this Committee of the Whole to make a judgment about a layman. If you want to judge your fellow lawyers, go ahead and do it; but we will speak for ourselves.

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

DELEGATE MASON: Mr. Chairman, I rise to speak in favor of the amendment. Despite the disclaimer by some of the lawyer delegates that they would not be influenced by the presence of a judge on the nominating commission, I suggest to you that most lawyers would be influenced in some degree by the presence of a judge.

Now, if perchance the lawyers are not influenced, I can assure you that the lay persons on the commission would be, just as they are when they sit as jurors. Therefore, I will vote in favor of the amendment.

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

DELEGATE MUDD: Yes, sir. I would like to have it in writing, but I will attempt to answer.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: Chairman Mudd, are there any states using nominating commissions, either in whole or in part, on which commissions' judges do not sit; and secondly, if there are such instances, has the operation of the nominating commission system suffered from the fact that judges did not sit on them; and thirdly, in your personal opinion, would the operation of the nominating commission system proposed by your Committee suffer if a judge did not sit on the Commission?

DELEGATE MUDD: I respectfully suggest he asked me three questions.

DELEGATE SCANLAN: I will accept three answers.

DELEGATE MUDD: In response to your first question, our research indicates that there are five states now using the nominating commission process, on which commissions a judge does not sit.

I have no information as to whether those commissions operate better or worse than those with the judge, and what was the third question — my personal opinion? My personal opinion is that I am embarrassed for those lawyers as advocates who here admit that they are not going to try to influence a judge.

THE CHAIRMAN: The remaining time allowed for debate in this period is now only three minutes. There are three delegates seeking recognition. I ask each of