

The pages will distribute amendment DI. Please mark it Amendment No. 36.

The Clerk will read the amendment.

READING CLERK: Amendment No. 36 to Committee Recommendation JB-1, by Delegate Adkins: On page 5 section 5.17, Lawyer Members of Nominating Commissions, in line 40 strike out the word "rule" and insert in lieu thereof the word "law".

THE CHAIRMAN: That is the amendment as proposed by Delegate Adkins. Is there a second?

*(Whereupon, the motion was duly seconded.)*

THE CHAIRMAN: The Chair recognizes Delegate Adkins to speak to the amendment.

DELEGATE ADKINS: Mr. Chairman, the—

THE CHAIRMAN: I am sorry; would you please mark on your amendment that it is offered by Delegate Adkins and Delegate Fornos?

Proceed.

DELEGATE ADKINS: Mr. Chairman, it is quite simple in its nature. It simply prescribes that the method of procedure of electing lawyer members of the nominating commission shall be prescribed by law by the General Assembly in lieu of provision by the rules of the Court of Appeals.

I have personally great confidence in the Committee on Rules in the Court of Appeals. I suggest, however, that to permit the nominating commission composed of half lawyers and half laymen to have the eligibility and the nature of the selection of the lawyer members in essence prescribed by the court, which is to be the subject of the appointment, is making an inbred situation which is not healthy.

These are not mere matters of procedure in determining the questions which will arise here. There will be substantial questions, particularly in terms of the eligibility of lawyer members to vote. This is the one area in which the people through their elected representatives of the General Assembly have any impact whatsoever in the choice of their judges; they will have no impact directly in the appointment of the lay members because they will be appointed by the governor.

If the proposal of the commission stands, they will have no direct impact in the

choice of the lawyer members because they will be selected as prescribed by rule, and I suggest, as honorable as it is to insulate judges from politics, they should not be put in this insulated condition free of all the people through their elected representatives.

For that reason, I urge the Committee of the Whole to adopt this amendment, the effect of which is really quite simple.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman and ladies and gentlemen: We agree that this is a very clearcut issue, but consistent with the position that we have taken with other matters pertaining to the proposed judicial article, it was the view of the majority of our Committee that the rules regulating the election of the lawyer members of the nominating commission was a matter that might more conveniently and aptly be taken care of by rule, rather than by law. There was no position taken in the Committee that I can recollect that the provision by rule was for the purpose of blanketing this authority within the rule making power of the court for the protection of the lawyers or the judges.

The view of our Committee was simply and purely this, that the rule making power of the Court of Appeals can more conveniently provide the system herein contemplated, and that in the event change is necessary, it can more conveniently be accomplished by amending the rule than by amending the law.

We, therefore, feel that a deficiency in this area and the handling of any changes expeditiously can better be accomplished by rule than by law.

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

Delegate Harry Taylor.

DELEGATE H. TAYLOR: I have a question of the sponsor of the amendment.

THE CHAIRMAN: Will you yield to a question of Delegate Taylor?

DELEGATE ADKINS: Yes.

DELEGATE H. TAYLOR: Some days ago I think Delegate Macdonald had an amendment as to "by rule" or "by law". Would you have any objection to that amendment?

THE CHAIRMAN: Delegate Adkins.