

DELEGATE SCHLOEDER: Mr. Chairman, it seems again in the last four days we have heard a lot about insulating the judiciary. I rise to support this amendment because I believe — we not only — I would, as a matter of fact, take Delegate Weidemeyer's reasoning and come up with a different conclusion: It seems that while we pretend to protect the judiciary, I think the special electorate of lawyers, also, is an electorate, and we ought to take the judiciary from them. It seems also to me that it is not constitutional to set up a constitutional electorate which is exactly what we would be doing if we were to pass the committee recommendation for setting the attorneys up as a special constitutional electorate. I would trust to their good judgment that they could do what they had to do, that they could discharge their responsibility without putting it into the constitution.

For those reasons, I would support this amendment.

THE CHAIRMAN: The Chair recognizes Delegate Schneider to speak in opposition to the amendment.

DELEGATE SCHNEIDER: Mr. Chairman, the reason this section should be left in the constitution and the reason this amendment should be defeated is that this is a fundamental and basic part of the selection and tenure of judges that your Committee has recommended. This is not something that can be left to rule. When you want something and it is important to you, you make sure it is there. You do not leave it to chance or leave it to the Rules Committee to provide for it.

This is a necessity if we are to have a meaningful non-competitive election. Without this the non-competitive election will find very few voters taking part; they are just keeping the judge in office and giving him the benefit of the doubt.

Under the present system we hear from the bar associations how they feel. If we did not have this, we would still hear from them. It is a small part of the lawyers, it is a private club within the committees that decide what the bar association is going to do. This makes sure that the people know just how the entire bar and the county feels, and how they feel about this judge, and it gives them some guidelines.

I do not think it is really going to have any more effect than it should, and I think it is a very important provision. I urge the defeat of this amendment.

THE CHAIRMAN: Is there any further discussion? Would you like to speak in favor, Delegate Bard?

DELEGATE BARD: I have a question of Delegate Mudd.

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

DELEGATE MUDD: Yes.

DELEGATE BARD: Delegate Mudd, would there be a notation in regard to abstentions, not only those who vote Aye and Nay, but those who abstain?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: That was not discussed in Committee, Delegate Bard, but the matter was voted on by you.

DELEGATE BARD: Then I would like to speak in favor of the amendment, if I may.

THE CHAIRMAN: Proceed.

DELEGATE BARD: It would be perfectly possible in a small county such as Garrett, and we have heard of this on two or three occasions, that there would be but six lawyers who were voting; if some of them were named as judges there would be two or three lawyers. This would mean that the whole concept of secret ballot would certainly disappear. Suppose of those three or four who vote, there are two abstentions? Of what value would this entire poll be to the public as a whole?

In other words, it may well be that abstentions could indicate the fact that there is no strong feeling in terms of the judges.

On the basis of this, should he be returned, and because I have the feeling that there would be a number of abstentions, I believe the whole concept has very little value.

THE CHAIRMAN: Are you ready for the question?

*(Call for the question.)*

The question arises on the adoption of Amendment No. 43 to Committee Recommendation JB-1.

A vote Aye is a vote in favor of Amendment No. 43. A vote No is a vote against. Cast your votes.

Have all the delegates voted? Does any delegate desire to change his vote?

*(There was no response.)*