

expressed what I regard to be the strong feeling of the Committee, that the language of the motion suggested by Delegate Linton is exhortatory and, therefore, unnecessary. If it is more than that, however, it runs afoul of the Constitutional problems to which Judge Henderson referred and I ask that the amendment be rejected.

THE PRESIDENT: Any further discussion? Are you ready for the question? The question arises on the motion to amend the present motion of the committee to adopt Rule 71C [77], by amending the last sentence in Rule 71C [77], as follows: striking the period after the words "selection committee," and adding the phrase, "to make the nomination, after consulting with the governing body of said county for the purpose of receiving its recommendation."

The vote Aye is a vote in favor of the amendment, and you will then have the further opportunity to vote on the motion of the committee to approve the rule. A vote No simply defeats the amendment. I think we had better take a roll call vote.

All those in favor, signify by saying Aye. Have all delegates voted? Does any delegate desire to change his vote?

(There was no response.)

If not, the Clerk will record the vote. There being 39 votes in the affirmative and 92 in the negative, the motion is lost. The amendment is rejected.

DELEGATE SCANLAN: Mr. President, I would just like to say that I pulled the wrong switch and voted with Mr. Linton.

From now on I will let Mr. Rybczynski do it for me.

THE PRESIDENT: The question is now before you for discussion of the motion to approve the rule as recommended by the Committee. Delegate Bard?

DELEGATE BARD: I was going to say that perhaps Delegate Scanlan pulled the wrong switch earlier.

THE PRESIDENT: Delegate White?

DELEGATE WHITE: Mr. President, while it is recognized that the Rules Committee has done a very excellent job—

THE PRESIDENT: Delegate White, may I ask you to state your motion first? Then you will be given the opportunity to discuss it.

DELEGATE WHITE: I will move that the motion be amended to state the following: that in all legislative districts from

which delegates were elected to this Constitutional Convention where more than one delegate ran and sought election, and vacancies occur in such areas, they automatically be filled by the runner-up candidate and that in other situations, where only one delegate ran who was not opposed the solution indicated be used.

DELEGATE FREEDLANDER: I second the motion, Mr. President.

THE PRESIDENT: I think it is going to be difficult for the Convention to act on the precise language of the motion, and I would suggest, therefore, that procedurally, if the Convention delegates feel that they have the purport of the motion sufficiently in mind, and the motion is adopted, we recommit the rule to the committee to appraise it precisely. Would that be satisfactory to you, Delegate White?

DELEGATE WHITE: Yes, Mr. President, except that it may delay us. Of course, I could offer, and possibly it would be necessary to offer two amendments. I could address myself to one precise amendment dealing with the manner of electing people to fill vacancies where there were more than one delegate seeking an election. I could make that motion precisely.

THE PRESIDENT: I can have my secretary type up immediately what you have said and bring it to you while you are talking, if you would rather see it.

DELEGATE WHITE: Thank you.

DELEGATE SHERBOW: Mr. President, a point of order.

THE PRESIDENT: Delegate Sherbow.

DELEGATE SHERBOW: I rise on a point of order to call the attention of the President to the statute, which says that if any vacancy exists or occurs after the first meeting of the Convention in plenary session is called to order, the vacancy shall be filled by the Convention. I suggest that this Convention cannot automatically do anything now; it must act when the vacancy occurs, and be governed by the rules, which are not in contravention of the statute.

THE PRESIDENT: Is there any further discussion? Delegate Chabot?

DELEGATE CHABOT: As I understand Mr. White's proposal, it is basically that the first runner-up fill the vacancy automatically. I suggest that there will be times when the first runner-up was the next most highly favored of the candidates. There will