

THE PRESIDENT: Any further question of the sponsor of the amendment?

The Chair recognizes Delegate Mudd.

DELEGATE MUDD: Mr. President and ladies and gentlemen of the Convention:

It is my recollection that an amendment of the same substance or similar to this was proposed in the Committee of the Whole, and it was not successful. It was rejected, or it was withdrawn. We agree that there is an extremely remote possibility that the nominating commission may not furnish the list as this article contemplates, but we feel that this is an unnecessary addition to section 5.15, number one, because of the extremely remote possibility that the governor will not have a list from which point, as is contemplated. More particularly we feel that this does open up the field to appointments in the manner that is now allowed, and which we feel the committee recommendation, as heretofore adopted, is designed to avoid and in that respect improve the method of selecting judges.

Accordingly, the Committee will oppose this amendment, and I urge the delegates to vote against it.

THE PRESIDENT: Delegate Johnson.

DELEGATE JOHNSON: Mr. President and ladies and gentlemen: This is a clarification amendment, and one that I ask you to consider in light of the fact that we now have an even number of individuals, lawyers and non-lawyers, serving on the nominating commission.

This action was not taken until we met in the Committee of the Whole. It was in the Committee of the Whole that we deleted the judicial member of the nominating commission.

Now, all this amendment proposes to do is to sort of spur the nominating commission on to do the job that he has been appointed or, in the case of attorneys, elected to do. Currently we believe that the governor may not appoint from the list, and we provided in section 5.15 a phrase that the chief judge shall make appointments. It seems to me perfectly consistent to take steps to protect the possibility of the nominating commission either reaching an impasse, or not doing the job it is appointed to do.

We feel perfectly confident that if the nominating commission does that, the gov-

ernor will be able to appoint outside the list after the lapse of 60 days and the nominating commission will get down to business and will submit the list.

You tell me what is going to happen if they do not. We have not provided for the nominating commission reaching an impasse, or for the nominating commission not submitting a list to the governor. I suggest we take care of it by way of this amendment.

THE PRESIDENT: Delegate Schneider.

DELEGATE SCHNEIDER: This would not spur the nominating commission on. This would cause it perhaps to pass the buck to the governor. If the governor were of the nature that he wanted to pack the committee, he could just pack the lay members in there. He could balance it off so they could not get a vote out of the committee on a nomination, and then they would have to throw the appointment back to him.

This would also depend upon procedures adopted by the nominating committee. If they required a majority vote or three-fifths vote, and some of the members could not show up, and the committee could therefore not appoint a nominee. The governor would then be given the nomination, thus defeating the whole Niles plan. So I would suggest defeat of the motion, and I would urge defeat of this amendment. If Mr. Johnson worries about an even Committee, perhaps we could worry about that and change the makeup of the Committee.

THE PRESIDENT: Any further questions?

Is there any further discussion?

*(There was no response.)*

The Clerk will ring the quorum bell.

The question arises on the adoption of Amendment No. 8 to Committee Recommendation JB-1 as amended by Report S&D-8. A vote Aye is a vote in favor of Amendment No. 8. A vote No is a vote against.

Cast your votes.

Has every delegate voted?

Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.