

DELEGATE RALEY: Chairman Mudd, is it your intention that there would be at least more than one nominating commission or regional nominating commission? What is the intention of the Committee.

DELEGATE MUDD: It was the thought of the Committee that there would certainly be more than one nominating commission and we used the word commissions, as the Chair pointed out. It was not our expectation that there would be a nominating commission for every political subdivision.

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: Delegate Mudd, referring to section 5.14, you say that the list should contain no fewer than two or more than five eligible persons.

Would you indulge me by giving me the benefit of the Committee's thinking on how you arrived at that figure of as few as two?

DELEGATE MUDD: To accommodate Delegate Grant's Garrett County.

THE CHAIRMAN: Delegate Bennett, can I ask you further whether or not in your consideration it would be possible for the governor to return the list even if it came from Garrett County to ask for a larger number of nominees? May he return the list?

DELEGATE MUDD: It is not so provided but I would certainly assume such procedure might be necessary if the commission sent up a list of two names and something happened to both nominees before either had been appointed. It would be an empty list and there would have to be some corrective procedures. However, it is not contemplated that the governor could deviate from the list or not separate the list except in some unforeseen circumstance.

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: But you think he could return the list to the nominating committee?

DELEGATE MUDD: There is no reason that occurs to me at the moment except if the list were determined not to be a list such as if both nominees were dead or something of that nature before he made the appointment.

THE CHAIRMAN: I think the Chair can paraphrase the question of what Delegate Bennett is getting at which is whether the governor could return the list

if he did not like it and was not satisfied with it? Is that your question?

DELEGATE BENNETT: Partly it.

DELEGATE MUDD: The answer to that is absolutely not and if he did not exercise his power of appointment from the list, it is within the power of the chief judge to make the appointment.

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: As I understand it, as it operates in the City of St. Louis and Kansas City under the so-called Missouri Plan, the governor is able to return the list when there are not a sufficient number of candidates on it. If we are following that plan, I should think he could return it.

THE CHAIRMAN: What do you mean by not sufficient number, not sufficient to fill the vacancy?

DELEGATE BENNETT: No, not more than two. He can return it if there is not a minimum number.

DELEGATE MUDD: Delegate Bennett, may I amplify my answer to your first question. Our minimum of two actually was geared to not bring about an impossible situation in a small area where there were very few lawyers. I illustrated it by Garrett County. If there are only six members of the bar, it would seem at the time of a vacancy there, impractical to require a list of not less than five.

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: Yes, sir, but on the other hand, if it were Montgomery County with, 2200 lawyers in it, and the nominating committee sent up a list of only two candidates, it would seem to me within reason that the governor could return it and ask for a larger number of candidates.

THE CHAIRMAN: What is your question?

DELEGATE BENNETT: Is that possible?

DELEGATE MUDD: No, sir, we think two to five will be the best of the best.

THE CHAIRMAN: Delegate Pullen.

DELEGATE PULLEN: This is the question to Chairman Mudd but I would like to make a brief statement first.

I am in general sympathy with the program; I rather like it. However, there is a