

1 MR. WINTERS: I think that would raise a
2 question of constitutional law. You have the present
3 system and if the system provides that the governor
4 shall make an appointment to fill a vacancy and if he
5 has that power by constitution, why, I do not think the
6 legislative can dip into it without constitutional
7 authority, wouldn't you say?

8 MR. MARTINEAU: Well, my own view, and I
9 think what you are saying is, any commission created by
10 statute could be only advisory, could not submit binding
11 recommendations?

12 MR. WINTERS: That is it, yes.

13 MR. MARTINEAU: One question I wanted to ask
14 you, in reviewing the states, isn't it correct that
15 California has the non-competitive election for the
16 appellate court judges?

17 MR. WINTERS: Yes.

18 MRS. BOTHE: Do all of these states have the
19 nominating commission use them from the top courts down
20 to the courts of limited jurisdiction, or do they reject
21 them sometime at the appellate levels?