

April 9, 1973

capacity and particularly the judiciary is subject to a greater longevity of service than most any other area. It's an appointment for life in the absence of an age requirement although for all practical purposes although they are subject to the yes or no vote on the ballot every six years but we've found that that generally is not an indication of an individual's competence or ability whatever to hold the job unless there's a great public outcry and even in the recent case we had in Omaha, the result at that election, particular election really didn't reflect on the individual's qualifications but more substantially on his personality. So that, our present system really doesn't direct itself to a man's capacity, but I feel that a certain, a reasonable age limit and I didn't feel that 70 was unreasonable in this case for the judiciary, is necessary just to insure a certain amount of turnover within the judiciary and I think when a man serves for 20 or 30 years even if his physical and mental abilities have not been impaired, which is a lot to expect, that certainly at least the community and the society is entitled to a change of a point of view and to certain extent just a change of personnel after that period of time. Senator Carpenter has spoke eloquently in the newspaper and on the floor this morning as to the corruption and villainy in public service. Apparently he feels that the judiciary is substantially above that human fault that permeates the whole rest of our society and he would like to see them serve indefinitely and uninterruptedly up to death. Well, I don't have quite as much faith in the sainthood of the judiciary and I think the value of this bill is certainly to insure at least a reasonable turnover in our judiciary from time to time. I'd oppose the amendment.

PRESIDENT: Senator Carpenter.

SENATOR CARPENTER: May I ask Senator Cavanaugh a question?

PRESIDENT: Senator Cavanaugh, will you yield to a question?

SENATOR CAVANAUGH: Certainly.

SENATOR CARPENTER: Do you think that this body could limit the age of its membership?

SENATOR CAVANAUGH: No, Senator Carpenter, I don't. I don't think it should.

SENATOR CARPENTER: Well, I didn't ask you that. Do you think we could? There's no limitation in the Constitution, is there?

SENATOR CAVANAUGH: No, I suppose we could.

SENATOR CARPENTER: So then if that's not limit, I would think that this body could limit our own terms.

SENATOR CAVANAUGH: Well, no, excuse me, I think, no I don't believe we could, I don't think we could limit the top, put a top age on this body. I think that would have to be done by Constitutional Amendment.

SENATOR CARPENTER: Well, would you support that?

SENATOR CAVANAUGH: No, I don't believe I would.

SENATOR CARPENTER: Well, Mr. President, in answer to Senator Stahmer, he forgot if I recall right in the bill he's talking about that man can be retained year after year upon the consent of himself and the man who supervises him. Is that not right? Now it seems to me that what we're talking about is