

Delegate Rybczynski.

DELEGATE RYBCZYNSKI: Delegate Hardwicke. I am looking for something. I cannot find it. I am sure you have taken care of it. On page 5 and section 16, I am looking for the transfer of duties and powers of the Orphans' Court. To which levels are these duties and powers transferred?

DELEGATE HARDWICKE: Delegate Rybczynski, they expire, and their functions will be picked up by the power of the legislature to assign the duties and the responsibilities of the four-tier court system.

DELEGATE JAMES (presiding): Delegate Rybczynski.

DELEGATE RYBCZYNSKI: In other words, my recollection of our discussion during the judicial branch session was that these duties and powers were to be picked up by the superior court. You are now saying this is not so in the transitional provisions?

DELEGATE JAMES (presiding): Delegate Hardwicke.

DELEGATE HARDWICKE: They may be picked up by the superior court, but not necessarily so. It is not our intention to dictate to the legislature with regard to the functions of any of the four levels of courts. If they want to take the Orphans' Court functions and give them to the district court, I cannot say that this Convention has any intention to object to that.

I think, however, as a matter of logic and plausibility, they will probably go to the superior court.

DELEGATE JAMES (presiding): Delegate Rybczynski.

DELEGATE RYBCZYNSKI: If I might remind you, you have taken care of every other existing court and placed it in a tier. I am just wondering why you have deliberately left this one court alone?

DELEGATE JAMES (presiding): Delegate Hardwicke.

DELEGATE HARDWICKE: I can conceive of a situation where the legislature might assign the function of the Orphans' Court to the clerks of the superior court in the several counties and not have a judicial function at all with regard to what the Orphans' Court does.

DELEGATE JAMES (presiding): Before further questioning, the Chairman of

the Publicity Committee has advised the Chair that we have cameramen in the balcony who are helping update the "Mighty Oak", the film which is going to be utilized, so if you are of a mind to be part of the motion picture, it would be a good idea to stay here for the benefit of film improvement and for the purpose of personal publicity.

Delegate Bennett.

DELEGATE BENNETT: Then perhaps I better delay my question for a little while until the cameraman gets up there.

But, Delegate Hardwicke, further with regard to section 16, I assume you are empowering the General Assembly to make changes in the jurisdictions of those courts and so on before January 1, 1971, are you not?

DELEGATE HARDWICKE: That is correct.

DELEGATE JAMES (presiding): Are there any further questions on section 16?

Delegate Groh.

DELEGATE GROH: You intended to include justices of the peace in magistrates' court on line 36, for instance?

DELEGATE HARDWICKE: There is a question of terminology here. Theoretically there are no magistrates' courts as such. There are justices of the peace who are designated as magistrates and the language "justice of the peace" will pick up the magistrate.

DELEGATE JAMES (presiding): Are there any further questions as to section 16?

*(There was no response.)*

Section 17?

Delegate Grant.

DELEGATE GRANT: Looking at sections 17 and 18, it seems to me that there is a possible hiatus. I cannot determine what happens where there is an appeal at jurisdiction from the trial magistrates in-between the time that this article becomes effective and that appeal at jurisdiction that is dealt with in section 17. It says that any cases there will then be disposed of, and then you have the district courts coming into existence on December 31, 1969. It looks, however, as if for about an eighteen-month period you do not have any appellate jurisdiction other than this one thing in article 3, section B, where you say you can try it de novo if a man is acquitted.