

facilities tremendously. In addition, obviously the orphans' court has to come into one tier or the other; the juvenile work is expanding all the time.

It seems to us that four levels was a better structure than three tiers with the maze of functional divisions in the third tier.

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: Delegate Mudd, I refer you to section 5.03. The question is that after a study of the number of judges, beginning prior to the Bond report, where we had nine judges, it was then reduced to five, and now seven. Did your Committee take into consideration the explosive population we expect between now and 1980 where we might need more than seven judges?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Yes, Delegate Della, but we hope that that can be absorbed in the Intermediate Court of Appeals, where we have fixed the limit of judges at seven. This will really be a court of last resort and the Intermediate Court of Appeals more than the Court of Appeals will absorb the increase in that case load.

THE CHAIRMAN: Delegate Della.

DELEGATE DELLA: It so happens, I am informed, that they are now overworked. It would be better if we could have what you have put in the intermediate court that the judges could be increased by law—in other words, that they could always increase the number instead of having to remain at seven judges.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Apparently I have not made myself clear. If the appellate work and additional jurisdiction in appellate work is granted to the intermediate court of appeals and that court can be expanded and number of judges increased, then that will possibly relieve the Court of Appeals of some of the work it is now doing.

THE CHAIRMAN: Delegate Raley.

DELEGATE RALEY: Chairman Mudd, the minority leader points out that in setting up of this judicial system you do not provide that any other courts could be created in the future by law.

I would like to have your thinking on why you left out the clause they have sug-

gested that any other courts may be provided by law. We cannot always see in the future.

DELEGATE MUDD: I think the point, Delegate Raley, is that we put in the word "exclusively" in section 5.01. Our recommendation establishes the judicial power of the state in four tiers exclusively, which would necessitate constitutional amendment to provide other constitutional courts. Of course our answer to that is functional divisions.

Also, we anticipate that the legislature will be creating additional administrative agencies, which more and more are absorbing some of the work that heretofore found its way into the courts. That also is a flexibility that is reserved to the legislature.

As a matter of fact there are courts, at least one court now existing that is not a court but is an administrative agency. Our emphasis was to mandate in the Constitution the four-tier system and vest the power in that four-tier system exclusively, which means that any other constitutional court can only be accomplished by amendment to the constitution.

THE CHAIRMAN: Any other questions?

Delegate Singer.

DELEGATE SINGER: Mr. Chairman, in reference to section 5.03, since the chief judge is going to be empowered with a great deal of administrative duties, would it not serve flexibility greater if the seven judges named in the constitution were provided as a minimum?

I understand your reference to the intermediate court relieving some burden on the Court of Appeals, but at some future date might it not be well to have this flexibility in the constitution so that with the chief judge devoting a great deal of his time to administrative duties, it might be better to be able to increase the number of judges on the highest court?

DELEGATE MUDD: In our view, Delegate Singer, there is more flexibility increasing the jurisdiction and manpower of the Intermediate Court of Appeals.

We have a four-tier system with two appellate courts and two trial courts. By fixing the number of judges of the highest court at seven, obviously that does limit the amount of work that that court can handle, but by leaving the Intermediate Court of Appeals flexible as to jurisdiction and as to manpower, we feel that that can