

of that is that the rules could only provide for the commissioners to exercise authority in those limited matters: warrants of arrest, collateral, and incarceration pending hearing.

THE CHAIRMAN: The Chair is not clear as to your question. If I understand what you say, would not the phrase in line 3, "incarceration pending hearing," cover the subject matter of your question?

DELEGATE WILLONER: That was my next question. I do not know what "incarceration pending hearing" means. Does that mean that they can release without incarceration, or that they can only incarcerate pending hearing?

DELEGATE MUDD: I think that under the wording "as prescribed by rule" it can be both, in my opinion. On incarceration in absence of bail, or whatever rule, the Court of Appeals will make the rule.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: You mean to foreclose the legislature providing any other jurisdiction than what is allegedly spelled out in that paragraph for the commissioners to exercise?

DELEGATE MUDD: Yes.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: I have another question.

You indicated in the event the counties would not provide facilities for the courts that the State would provide for those facilities.

Did I understand you correctly?

DELEGATE MUDD: I indicated more that it would be the obligation of the State if this is adopted to forthwith provide facilities.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: At the present time we have county courthouses as property of the county. Is it contemplated that the State will rent these facilities?

DELEGATE MUDD: Precisely, and Delegate Bradshaw, in assembling the information he did for the subcommittee, I believe in many instances already has the square footage of county buildings now occupied by court facilities.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: Is it also

contemplated that the State will then in those areas which do not have courthouses build courthouses?

DELEGATE MUDD: I think it must follow. I know one jurisdiction that is very anxious for it to do so.

THE CHAIRMAN: Delegate Beatrice Miller.

DELEGATE B. MILLER: Chairman Mudd, as I understand it, under functional division of courts it would be possible to set up a family court or juvenile court or some such court, would it not?

DELEGATE MUDD: Yes.

DELEGATE B. MILLER: Would it also be possible to have specialist judges who would be assigned solely to those courts on the basis of their knowledge in that area?

DELEGATE MUDD: Within the rule-making power, the Court of Appeals has the right to assign judges. It is entirely possible that a judge who is particularly knowledgeable in one field and who prefers that field but now handles many areas may become permanently or for an unlimited time a juvenile judge or traffic court judge. That already happens in some jurisdictions at the present time.

THE CHAIRMAN: Delegate Miller.

DELEGATE B. MILLER: Would there be any recourse if such event were not to happen, if a judge were assigned to a family court, for instance, who did not have the specialized interest that he should have in that court. Would there be any recourse in that case?

THE CHAIRMAN: What do you mean by "recourse"?

DELEGATE B. MILLER: We are faced here with the alternative of having courts prescribed by law or prescribed by rule. I would assume if they were prescribed by law the ordinary citizen could then go about whatever method is necessary to make known his wishes in that area.

How would he do this if the courts are prescribed by rule?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: You mean to have the court provided or to—

THE CHAIRMAN: I take it the question is by what means could a private citizen make known to the court exercising