

administered in the backend of a barber-shop in courts of limited jurisdiction. Another witness I believe testified that a very competent judge who was also a carpenter or cabinet maker, the only thing necessary to transform his shop into a court room was to sweep up the shavings, and then court was in session.

Some of the testimony of that nature I think prompted the continued use in our Committee of "chaotic," which I have used here to be factual.

THE CHAIRMAN: Delegate Rybczynski.

DELEGATE RYBCZYNSKI: The word "chaotic" would apply to the facilities, rather than to the actual administration, I think it is fair to say.

DELEGATE MUDD: Yes.

DELEGATE RYBCZYNSKI: You alluded to, or you just touched on the Montgomery County situation as to the orphan's court. Would you tell this Committee the information that you learned on this transformation; that is, from the orphan's court of Montgomery County to the supervision and administration of these matters by the circuit court of Montgomery County? Did that work well, or did it not work well?

DELEGATE MUDD: I would say preliminarily that if the testimony before our Committee could be counted in pages, probably somewhere between a third and a half of the pages would deal with Montgomery County. But the conclusion of our Committee was that the problem in Montgomery County, if there was one, regarding orphan's court jurisdiction being taken over by the superior court, was not in the system, but in the administration.

THE CHAIRMAN: Delegate Rybczynski.

DELEGATE RYBCZYNSKI: I have a very pointed question.

If we accept the fact that functional division would be a good thing for the district court, why is functional division also not applicable to the superior court?

DELEGATE MUDD: It is so provided for in section 5.08.

DELEGATE RYBCZYNSKI: Sorry; right.

THE CHAIRMAN: Delegate Clagett.

DELEGATE MUDD: I am glad I got one easy question.

DELEGATE CLAGETT: Delegate Mudd, with respect to section 5.11, I note that the principal difference between the majority and minority is that the commissioners would be appointed by the court, rather than provided by law.

DELEGATE MUDD: Yes.

DELEGATE CLAGETT: The objection of the minority seemed to have some merit in that it would relieve the district judge of the responsibility of interviewing, selecting and granting special appointments to the successful applicant as a commissioner.

DELEGATE MUDD: The first observation you made was persuasive. Our Committee was anxious to relieve the district judge of any appointive responsibility. But on the other hand as I recollect the testimony and discussion in Committee it was our considered opinion after careful deliberation that the work of these commissioners was the function of the judiciary. To a great extent the responsibility for administration of the court system carried through to these commissioners, and it was just impractical in the final analysis for a district court judge to have to try to properly administer justice in his district if he had no control over the commissioners.

By experience there was a wealth of testimony before our Committee that some present committing magistrates are not capable of performing the functions required of commissioners.

THE CHAIRMAN: Delegate Clagett, do you have a further question?

DELEGATE CLAGETT: I would presume, if I am not correct, will you please correct me, that the committing magistrates and justices of the peace, as presently designated, would automatically shift over and become commissioners or at least to a large extent or percentage. Is that not true?

DELEGATE MUDD: Under our proposal they would continue under the transfer provisions until this four-tier proposal becomes operable. But the appointment would be up to the district judge. I would guess in many instances as I assume would happen to clerks of courts and registers of wills, those who are capable and competent would be appointed.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: My last question also is with respect to section 5.11 and