

DELEGATE MUDD: That language was designed to accommodate a situation where there is a district judge for more than one county, where the district created by the legislature encompasses more than one county.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: But is it the intention of section 5.08 that there be a superior court in each county?

DELEGATE MUDD: Yes, but not in 5.10.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: One last question concerning the last sentence of section 5.10. Why did you not allow the General Assembly the power to prescribe functional divisions of the district court?

DELEGATE MUDD: We think it is more peculiarly a matter within the knowledge and experience of the court in its rule-making power.

THE CHAIRMAN: Delegate Singer.

DELEGATE SINGER: Mr. Chairman, I take it that the Committee did not consider that the maintenance of the jails throughout the State would be one of those functions taken over by the State related to the judicial process.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Is your question did we assume they would?

DELEGATE SINGER: Yes.

DELEGATE MUDD: No.

DELEGATE SINGER: Jails to be taken over.

DELEGATE MUDD: No.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: Mr. Chairman, I wonder if in the first provision of section 5.01, "Judicial powers of the State vested exclusively in a unified judicial system," do you mean by that the separation of powers doctrine or are you talking about the fact that the judicial powers are to be executed only by the four courts rather than as a separation of powers. I know you tried to distinguish it but I had a great deal of difficulty understanding your reasoning. Are you trying to get at separation of powers in that language.

DELEGATE MUDD: Sorry if I wasn't clear. Basically as the Committee con-

ceives it, this mandate in the constitution and subject to change only by constitutional amendment provides for two appellate courts and two trial courts, that is, a four-tier system. Anything over and above that would have to be the functional divisions created by rule of the court.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: In some of the testimony we received on separation of powers it was indicated that when the Commission used the language you apparently adopted, the intent was to no longer need a separation of powers clause in the present Declaration of Rights in that in other sections, the executive power was vested in the governor and legislative power was vested with the legislature made up of the two houses. In your use of this, the Commission makes the same comment you do in your report, that this is not to prevent a quasi-judicial function from being handled by administrative agencies. I have a great deal of difficulty finding how you could use the word exclusively and not prevent the quasi-judicial functions from being handled by administrative agencies. I wonder if you could explain that?

DELEGATE MUDD: They will not exercise judicial power.

THE CHAIRMAN: Delegate L. Taylor.

DELEGATE L. TAYLOR: Mr. Chairman, in section 5.10, line 30, it is stated the State shall be divided by law into districts. Each district shall be composed of one or more entire and adjoining counties. If Montgomery County were allocated a district court would Montgomery County in any way suffer from the fact that due to the population they would require more judges, more staff, and other facilities? Will larger counties suffer under this provision?

DELEGATE MUDD: I think the answer to your question, Delegate Taylor, is that section 5.10, "Composition of District Courts," contemplates the need for more than one district judge in some districts. I would guess Montgomery County would be one.

THE CHAIRMAN: Delegate Taylor.

DELEGATE L. TAYLOR: Would the division of the districts be based upon population?

DELEGATE MUDD: It is entirely within the wisdom of the legislature.

THE CHAIRMAN: Before recognizing