

Constitution. Then may I ask how can we project ourselves so far in the future to determine that new courts will not be necessary or needed in Maryland.

The legislature is given no flexibility with which to work. Of course, the Committee feels the functional divisions can provide the flexibility which is needed in a four-tier unified court system. But I am afraid we are going to get so cluttered with functional divisions on our lower court level that divisions will get married within each other and cases will not get the attention they should have.

I visualize so many functional divisions forming that our lower court system will get so large we will be put right back into another hodge-podge system, and confusion will reign.

I frankly see no difference in a system of this type than our present system.

We will have a four-tier system, with such a variety of divisions, that in reality it will not be a four-tier system at all. But my major concern rests with the word "exclusively".

You are in fact tying the hands of our future legislators if indeed they feel specialized courts are necessary.

Many delegates are under the impression that the minority added on other courts that may be provided by law in order to retain such courts as our orphans' court. This is indeed a fallacy and the minority had no intention of doing this; nor could they, if that was their intention.

We must not forget that any specialized court established by the legislature would under the minority draft also be a court of uniform jurisdiction, applicable over the state, not just in one particular area.

THE CHAIRMAN: Delegate Kahl, you have one-half minute.

DELEGATE KAHL: Thank you.

Delegate Mudd stated that the word "exclusively" is not used in our present Constitution. May I also remind you that the word "exclusively" is not provided for in any state constitution.

Thank you.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, may I yield three minutes to Delegate Hodge Smith?

THE CHAIRMAN: Delegate Hodge Smith.

DELEGATE J. H. SMITH: Mr. Chairman, fellow delegates: the minority has told us in their memorandum that this is the fundamental section of the article, and then by the same token they propose to cut the heart right out of this fundamental section.

Yes, sir, the minority spokesman told us that this was not a guts amendment. I took that to mean that they did not feel one way or another, that it was too important, that other amendments that they would offer would be more important, but certainly it is an important amendment.

The Institute of Judicial Administration, which studied the Maryland judicial system and prepared a lengthy and well-documented report, said that the first essential of a sound judicial system is a simple, unified court structure, then good judges, businesslike administration, efficient rules and sound financing. We think we provided these essentials in this article.

Section 5.01 sets up the simple, unified court structure which Maryland does not now have. In this State we have about 16 different kinds of courts. They range from our Court of Appeals to the circuit courts, and six of them in Baltimore City; then we have the multiplicity of orphans' courts, trial magistrates, municipal courts, people's courts, justices of the peace, committee magistrates and housing courts. The aim of section 5.01 is to put all of this structure into a simple unified system. The minority amendment would permit this proliferation of courts, which is the very thing we are trying to get away from.

We have heard a lot about the New York Constitution, and the fact that one of the reasons that it failed was that it did not provide the reforms that the people wanted in the State of New York.

If you look at the judicial article, you can see one of the reasons that no reforms were offered.

THE CHAIRMAN: Delegate Smith, you have a little less than half a minute.

DELEGATE J. H. SMITH: The court system in New York has about 14 different levels, including, if you will, a peacemakers court and an indian court, so they provide something for everybody. I submit to this Convention that the whole purpose of this section is to avoid the proliferation of courts. Please do not adopt this amendment.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: Mr. Chairman, I wonder if I could reserve a few minutes