

DELEGATE L. TAYLOR: I wanted to ask a question of Chairman Mudd.

Delegate Mudd, will you yield to a question from Delegate Pullen?

DELEGATE MUDD: Yes, sir.

THE CHAIRMAN: Delegate Pullen, will you state your question?

DELEGATE PULLEN: Thank you, Mr. Chairman. I do not know whether to apologize or congratulate my mistake in calling you, sir, but in any case you are observing.

I am quite serious about this question. Lawyers seem to know what they are talking about, but I am not sure that I do. Is the purpose of this amendment to keep the control of this under the legislature or to give the legislature the right to judge the judges?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Probably the proponent of the amendment can answer that, but I would guess it is both.

THE CHAIRMAN: Delegate Pullen.

DELEGATE PULLEN: Does not the legislature already have the right of control, if the courts were to decide to set up functional divisions, in that they have to go to the legislature to get the money, and by law they have to be set up by the legislature? I think they have got to control, but now it seems to me the real question here is whether you want the legislature to push the courts into performing a particular service?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: I do not believe I exactly follow your question, doctor, but the legislature will prescribe the jurisdiction for the courts in all four tiers. Now, if the power to create functional divisions is as the majority proposes, to be established by a rule, then the courts, through the judges, would establish the functional divisions.

If this amendment is added, then the legislature would have power by law to create functional divisions, as I understand it.

THE CHAIRMAN: One more question, Delegate Pullen.

DELEGATE PULLEN: But it says, the number shall be established by law.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: The number of judges?

DELEGATE PULLEN: Yes.

THE CHAIRMAN: Delegate Pullen.

DELEGATE PULLEN: If the legislature can determine the number and if the courts wish to have divisions they have to have more judges. Therefore, the legislature will have to provide for them. I am not concerned right now with the rightness or wrongness. I want to know what I am voting for.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: I suggest that you have made a proper analysis of it, that by controlling the number of judges the court cannot create a functional division if the judicial manpower is not available through the legislature.

THE CHAIRMAN: Delegate Mudd, do you yield to a question from Delegate Bushong?

DELEGATE MUDD: Yes.

THE CHAIRMAN: Delegate Bushong.

DELEGATE BUSHONG: Delegate Mudd, in these large counties where you have six and eight judges and they do not get along together, what power is there in this constitution? Suppose one of them is appointed by the chief judge of that circuit or superior court, and he does not wish to take the assignment that he gives him? What is there in this whole article that can be done about that?

THE CHAIRMAN: Delegate Bushong, I am not sure that the Chair understands the relevance of that question to this particular amendment. Are you addressing it to this particular amendment?

DELEGATE BUSHONG: Yes, Your Honor, because you are taking power away from the legislature.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: The best answer I can give you, Delegate Bushong, is that the power of the judges to assign judges temporarily is probably the best vehicle I know of proposed in this recommendation, which is not in this particular section, to deal with that problem if it exists—and I am not saying it does exist.

THE CHAIRMAN: Delegate Mudd, do you yield to one more question from Delegate L. Taylor?