

DELEGATE CLARK (presiding): The Chair recognizes Delegate Stern.

DELEGATE STERN: Chairman Mudd, would you please go over those six exclusive rule powers again, please?

DELEGATE MUDD: Those six categories in which the power is exclusively left with the rule-making power of the Court of Appeals are these: First, establishment of the number, qualifications and duties of the commissioners, the commissioners being the assistants to the district court judges; second, establishment of provisions for lawyers' poll, a matter discussed at some length yesterday; third, establishment of rules for practice and procedure before the Commission on Judicial Disabilities; fourth, establishment of the manner of designating administrative judges and their duties; fifth, provisions for assignment of judges; and sixth, provision for appointment and terms of clerks of the district courts, that is the four-tier courts.

DELEGATE CLARK (presiding): The Chair recognizes Delegate Blair.

DELEGATE BLAIR: Mr. Chairman, in connection with your section 5.29, Administration of Judicial System, is it true that each of the chief judges of the lower three tiers will serve at the pleasure of the judge of the appellate court of appeals?

DELEGATE MUDD: Yes, sir.

DELEGATE BLAIR: My question to you, does this not make for politics in the judiciary? Is it not possible, then, for the chief judge if he were to die and were to be superseded by another, to then bump out of the chief judgeship all those in the under echelons?

DELEGATE MUDD: That is possible, but we think a necessary provision, since the full responsibility of administering the court system is delegated to the chief judge of the Court of Appeals, and to properly and efficiently perform that function, we think it is necessary that his assistants at the other three-tier level shall serve at his pleasure.

DELEGATE BLAIR: But you will admit that it does make for politics in the judiciary, does it not?

DELEGATE MUDD: I do not consider politics an ugly word. It does allow for the appointment by the chief judge of a man he thinks can best do the job.

DELEGATE BLAIR: So that he could then eliminate anyone who had served for

any period of time in the lower three tiers as chief judge, and you would have an entirely new transition of chief judgeships in the lower three tiers of the system?

DELEGATE MUDD: That is correct.

DELEGATE J. CLARK (presiding): Are there any further questions of Delegate Mudd?

The Chair recognizes Delegate Willoner.

DELEGATE WILLONER: Delegate Mudd, other than the exclusive rule-making power under section 5.31, and in light of the fact that you have used completely different language in Article IV, section 18, do you intend any change other than the exclusive rule-making power than is existing in our present system?

DELEGATE MUDD: No. We consider section 5.31 is consistent with the operation under the present Constitution, especially in the concurrent area.

DELEGATE WILLONER: And it is meant to confer no more or no less powers than presently exist?

DELEGATE MUDD: That is correct, except in the six areas I have detailed for Delegate Linton.

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Maurer.

DELEGATE MAURER: I have a question on section 5.31. Did your Committee, for example, consider whether the legislature could if it wished establish a merit system for employees of the courts, such as secretaries, similar to the kind of thing the legislature can enact and has enacted for the executive branch?

DELEGATE MUDD: I think that would be possible under the concurrent jurisdiction in that area of the legislature to legislate, and of course, to exercise its rule-making power. That would be a possible result.

DELEGATE MAURER: Then the courts could by rule-making power in effect veto it?

DELEGATE MUDD: Not necessarily. If it were a matter of substance and not practice and procedure, it would be more appropriately legislated than rule-making. I would say to accomplish what you have required would require two things: legislation and rules—if it were a matter of substance, it would involve matters of procedure.

DELEGATE MAURER: Thank you.