

1 '66 and the constitutional amendment only provides that
2 the Legislature is permitted to create an intermediate
3 Court of Appeals. That is all it says. Then it is in
4 the bills that it creates the court and provides for
5 the districting, number of judges and everything else.

6 JUDGE CARTER: Where does that leave you if
7 the authorizing bill separates the districts and the
8 amendment doesn't do so?

9 MR. MARTINEAU: The Legislature can change it
10 at any time they want.

11 JUDGE CARTER: I don't believe that was the
12 understanding.

13 JUDGE CLAPP: That, in effect, is what Judge
14 Oppenheimer suggested here, doing it another way. The
15 legislative enactment provides that it shall go into
16 effect at any time provided the constitutional amendment
17 is passed, so you do have a simultaneous districting.
18 Without that, you have to apply to the Legislature at a
19 subsequent date.

20 MR. MARTINEAU: They can't do that.

21 JUDGE CLAPP: It makes a difference, changing