

that could be handled by court rule or by statute. However, there is a strong feeling on the Committee of Personal Rights and Preamble that if this is not or some right is not included in the constitution, and the court has no restraints constitutionally, that the Court of Appeals' rules will promptly abolish the right to removal. Whether this is good, bad, indifferent, right or wrong, I am not prepared to say. I only say that this is the feeling apparently of the Committee on Personal Rights and Preamble. Therefore, it has been included in Recommendation No. 2, which is not to be included in the Declaration of Rights, but perhaps ought to be considered or put in some other part of the constitution.

I do not think an inalienable right exists to remove, Judge Sherbow. If it is and this is cured, that is fine. I simply call this to your attention and believe that the detail that is set forth in the recommendations of sections 8 and 10, or 12, of the Recommendation No. 2, are far more so than are necessary. They may go further than they should. Section 8, which is the right of removal in civil cases exactly duplicates what is presently in the constitution. Section 12 goes a step further and will allow removal as a right in any felony case, while now it is restricted to capital and life imprisonment cases. However, I would feel that if the right were insured in the constitution, the details would be better left to the legislature or the rules of the court. This is why I personally rise to support this amendment, because it is less odious in that it sets out fewer details. If we could be assured there would be a right of removal preserved in the rules of the court or by statute, I think possibly the whole thing could be dropped, but we have no such assurance at this point.

DELEGATE JAMES (presiding): Delegate Johnson, have you modified your amendment or are you presenting it in the original form?

DELEGATE JOHNSON: Presenting it in the original form, Mr. Chairman, because Delegate Kiefer correctly reminded me that, although the language in our present Constitution is at best confusing with respect to the right of removal, it does in fact imply that there shall be a right of removal in equity cases, and I feel certain that if we leave this matter to the legislature and to the Court of Appeals, that a proper solution will arise or will be arrived at. I think it is terribly important that we spell out in the constitution that the citizens of this state will be entitled to some

right of removal, and for that reason I do not amend our original amendment.

DELEGATE JAMES (presiding): Does Delegate Macdonald wish to speak against the amendment or for the amendment?

DELEGATE MACDONALD: I do, Mr. Chairman, against.

DELEGATE JAMES (presiding): The Chair recognizes Delegate Macdonald.

DELEGATE MACDONALD: Fellow delegates, please do not adopt this amendment. This would be the greatest step backward that this Convention has taken to date. Right at the present time there is an unqualified right of removal in the Constitution, and it is used as a process for delay, it is used all the time, it is a gimmick, and it is one of the worst things we have in the Constitution. This matter can be taken care of by the rule of the Court of Appeals, but do not put it in the Constitution. Hundreds and thousands of cases in Maryland are delayed by utilizing this gimmick, and that is what it is. All a person has to do at the present time is to file an affidavit of removal the morning of trial and then the case must be removed to another county.

DELEGATE JAMES (presiding): Delegate Chabot.

DELEGATE CHABOT: Will Delegate Johnson yield for a question?

DELEGATE JAMES (presiding): Does Delegate Johnson yield?

DELEGATE JOHNSON: Gladly.

DELEGATE CHABOT: As I read the amendment before us, the only thing that is left to rule or to law is the manner in which one exercises his right to remove. Do I understand correctly that the fact that one will have an opportunity to remove will now exist in every single case?

DELEGATE JOHNSON: The purpose of this amendment is to preserve the right of removal. We do not imply by this right that it will be misused. We are deeply concerned about the fact that if we remove it from the Constitution, there will be no right of removal under this exclusive, unified judicial court system that we have. We think that the details can be and will be worked out by the legislature and the Court of Appeals and for that reason, we feel strongly that a litigant in a manner that is personal and important to him should have that right, that single right of removing his case.