

sonal Rights and Preamble feel that this matter should rightfully be in the judicial article and not in the personal rights article, and if it will be an aid to the delegates to this Convention, I would be willing to withdraw the amendment at this time, although I frankly feel that the amendment properly belongs in the constitution and properly belongs in the judicial article. However, with the suggestion from you, and apparently the agreement by Delegate Kiefer, the chairman of that committee that maybe something else could be worked out at a later date, I will withdraw this with the assurance that at a later time I will either introduce it again or amend whatever section pertaining to right of removal comes before this body.

DELEGATE JAMES (presiding): If there are no objections to the withdrawal the amendment is withdrawn.

For what purpose does Delegate Sherbow rise?

DELEGATE SHERBOW: Personal privilege.

DELEGATE JAMES (presiding): The delegate may proceed.

DELEGATE SHERBOW: I hate as an ex-judge to be accused of any partiality, and as a grandfather of twelve, I assure you I do not want to be accused of any partiality, but it so happens that four of my grandchildren are in the gallery, Julie, Jill, Mollie and Mitchell, and I would like us all to welcome them.

*(Applause.)*

DELEGATE JAMES (presiding): The next amendment is Amendment No. 58, presented by Delegate Stern and Willoner. Do you all have copies of the amendment? I will ask the Clerk to read the amendment.

READING CLERK: Amendment No. 58, to Committee Recommendation JB-1, by Delegates Stern and Willoner: On page 10 after Section 5.31, add the following new section:

"Section 5. Written and Published Opinions. The Court of Appeals and the intermediate appellate court shall file a written opinion in every case. They shall also provide for the publication of such opinions."

DELEGATE JAMES (presiding): This is marked AG, on the top of your amendment. The chair recognizes Delegate Stern.

DELEGATE STERN: This amendment serves one purpose. It mandates the appel-

late courts to deliver written opinions and that the opinions be published. Written opinions have been mandated by the Constitution since 1851 and publications have been allowed since that year.

It is obvious to lawyers here that what effect it will have on opinions delivered by the courts orally and are not reduced to writing but are left for publication by the court. This amendment gives greater flexibility to the courts than what is in the present Constitution, which is a mandate for a written opinion within three months. It would appear that technical cases now coming before our courts would come in the future, such as tax, finance cases, or technical improvement cases, could last longer than the three-month period that would be mandated. However, we ask only that the opinion be reduced to writing.

Secondly as to publication. Here again it states that they shall also provide for publication of such opinions. This is a little more liberal than the current Constitution, which specifically requires that they be put in the reports.

Now, we do not ask for it here to be specifically put in the reports; just that they make arrangements for some sort of publication.

The special court of appeals by its rules arbitrarily chooses what cases shall or shall not be published. I have here in my hand over 20 cases that the courts have given opinions on and have marked either not for publication and later change in terminology, or unreported. Going through twenty that I picked up, I found four cases which I feel should have been published. One case is a complete new law in the State of Maryland. There are no cases reported anywhere on it but it is marked, "not for publication."

I am told by the state's attorney in Baltimore City, who is president of the State's Attorneys Association, that he has gathered more than one hundred cases from the special court of appeals, made copies of them and submitted them to his members. It is obvious he puts all defense attorneys at a sharp disadvantage. It also puts defense attorneys at a disadvantage when they go before the special court of appeals because the attorney general, as the attorney of record in every criminal case, receives every case of the court. Therefore, when I or you go before the court and have your case heard, the man opposing you, the attorney general, has had the benefit of every case that the court has had where