

cause they felt they were merely fact cases that did not add anything to the lexicon of Maryland law.

Complaints were lodged with the court, and just as the sponsor of this amendment has suggested, the state's attorney of Baltimore City got all of the opinions, the attorney general got all of the opinions and there were some people who came before that court who felt that they were at a disadvantage. When this point was made known to the court of special appeals, they adopted a rule whereby all of the opinions of that court, I am told, will be published in the future. This seems to indicate to me that the matter can be brought to the attention of the court, and that it can be corrected by rule.

THE CHAIRMAN: Is there any further discussion? Delegate Stern?

DELEGATE STERN: I would like to comment on Mr. Case's remarks, that in his presentation to the bar association, of which he was then chairman, it states that, under section G, the judge of the Court of Appeals should be required to write an opinion in every case and present it to the court and such opinion should be published. If this is what Mr. Case presented, we have heard from him and from others that this same thing was brought before the bar association and voted on unanimously at the time. However, it is the same language as he presented there then. It is the written fact also. We are not just talking publication, but this amendment also goes back to 1851, in the Constitution, mandating the court to have written opinions on everything they state. Obviously to date the rules have been inadequate. The court now realizes and is making changes slowly. We still have sufficient flexibility in this amendment for the court to do what they wish as to publication, or mandating the written opinion and I urge you to vote for it.

THE CHAIRMAN: Is there further discussion? Delegate Byrnes?

DELEGATE BYRNES: Mr. Chairman, I would like to direct a question to Delegate Stern.

THE CHAIRMAN: Delegate Stern, do you yield to a question?

DELEGATE STERN: Certainly.

THE CHAIRMAN: Delegate Byrnes.

DELEGATE BYRNES: Just in response to your last comment, he said that the mandate goes to the first sentence but not to the second and the first sentence reads,

"they shall file their written opinion in every case. They also shall provide for publication of such opinion."

I would imagine such means the written opinion in every case. I am not sure they have the flexibility that you suggest.

THE CHAIRMAN: What is your question, Delegate Byrnes?

DELEGATE BYRNES: Do they have the flexibility you suggest?

THE CHAIRMAN: Delegate Stern.

DELEGATE STERN: Yes, they do. Publication can be what they do now; simply reduce to writing and leave it in their office. This was a form of publication. Publication can also mean putting in reports which they may do. It is still there.

THE CHAIRMAN: Is there any further debate? Are you ready for the question? The question arises on the adoption of Amendment No. 58. The Clerk will ring the quorum bell.

A vote Aye is a vote in favor of the amendment. A vote No is a vote against. Cast your vote.

*(Whereupon, a roll call vote was taken.)*

Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 49 votes in the affirmative and 69 in the negative, the motion fails and the amendment is rejected.

The Chair has no other amendments to add to sections after 5.31. This concludes consideration of Part 3 under the debate schedule.

Delegate Weidemeyer, do you desire to offer amendment DT?

DELEGATE WEIDEMEYER: I do, Mr. President.

THE CHAIRMAN: The pages will distribute the amendment DT. This will be Amendment No. 59. The Clerk will read the amendment.

READING CLERK: Amendment No. 59, to Committee Recommendation JB-1, by Delegates Weidemeyer, Ritter, Rybczynski and Rush: On page 9 section 5.29 Administration of Judicial System line 36 after the word "rule" insert the following: "except that a district court judge may not be assigned to sit in an appellate court".