

DELEGATE WILLONER: That is right. There would not be any right of removal in other cases other than absolute right of removal in other cases, except in cases punishable by death or life imprisonment.

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

DELEGATE WILLONER: May I make an additional comment? We have dropped out the rather detailed language providing for the right of removal where it is discretionary on the part of the judge where there is a prejudice. This is inherent in the present Constitution. It seems to me, in line with the Supreme Court cases in the area of fair trial, that the courts can provide, and I am sure the courts provide by rule for the right of removal where there is prejudice actually established to the satisfaction of the court.

*(President H. Vernon Eney resumed the Chair.)*

THE CHAIRMAN: Are there any other questions of the minority spokesman?

*(There was no response.)*

The Chair hears none.

Delegate Child, do you desire to make a presentation with respect to sections 3 and 5?

DELEGATE CHILD: It occurred to me, Mr. Chairman, that it might possibly be best to give a short presentation and then to take these sections up one at a time. I believe we can get along faster that way.

THE CHAIRMAN: That may save us some time.

We will take up for consideration section 1 of R&P-2. Are there any amendments?

The Chair hears none.

The pages will please distribute Amendment M. This will be Amendment No. 1.

The Clerk will read the amendment.

READING CLERK: Amendment No. 1 to Committee Recommendation R&P-2: On page 1 strike out all of section 1, Supremacy of the Constitution of the United States, comprising lines 7 through 19, inclusive.

THE CHAIRMAN: The amendment having been submitted by Delegate Scanlan and seconded by Delegate Moser, the Chair recognizes Delegate Scanlan to speak to the amendment.

DELEGATE SCANLAN: Mr. Chairman, I will be very brief.

My amendment proposes that we strike section 1 which, in effect, would write into the constitution of Maryland the supremacy clause of the Constitution of the United States.

I concede that a similar clause is now found in our 1867 Constitution, but I submit that there is some validity for its insertion in that fatal, critical year when the memory of the most ferocious assault on the supremacy of the federal union was fresh on the mind of all Marylanders.

At that time, although the supremacy clause existed in the federal Constitution, although John Marshall had gone a long way in establishing its full implications, it was nearly shattered in the war between the states. Therefore, there was considerable emotional and historic validity and justification for inserting in a state constitution a similar supremacy clause acknowledging the supremacy of the federal Constitution.

However, the historical reasons which justified this insertion in 1867 no longer maintain. There is no question it is settled beyond any doubt that the provisions of the United States Constitution, when they are in conflict with state constitutions or state law, prevail. The decisions on the point are legion. They are unanimous. As I said, the doctrine is completely settled.

I think the time has come for us all to put a brake on inserting in the constitution unnecessary provisions no matter how lofty the language of those provisions. If we do not stop this process, I am not overstating the case when I say that we will end up with a constitution to submit to the people in May which is longer than the one that we came down here to modernize. There is no necessity for this clause. It adds not one whit of constitutional doctrine in this State or in the United States. I urge its deletion.

THE CHAIRMAN: Is there any further discussion?

Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, ladies and gentlemen of the Committee, I do not rise to oppose or to agree with this. I think that everything that Delegate Scanlan said is quite pertinent.

We put it in because some members of the Committee have been approached by other delegates and thought at least this Committee should have a chance to vote on it. I do not think any discussion is neces-