

the judges, to file separate opinions;²⁰ there was no fixed practice.

There are some enlightened contemporary comments on the work of the court in a pamphlet published in Baltimore in 1846, over the name of INA, "Paragraphs on the subject of Judicial Reform."²¹ Some recommendations made in it have since been adopted. A few of its comments may be worth reproducing. It is remarked that in the disposal of 1157 cases from 1806 to 1842,²² there were 568 affirmances and 576 reversals of the judgments of trial courts, and that this had brought a suggestion that the trial courts were more frequently wrong than right. It was conceded that the result was a bad one, but the suggestion made failed, of course, to allow for the fact that only a very few cases were appealed. And it overlooked a practice which was permitted up to 1825 of raising on appeal questions which had not been presented to the trial courts at all. Efforts made by the Legislature by an act of 1763, chapter 23, to secure judicial decisions by the courts of law:

according as the very right of the cause, and matter in law shall appear to them, without regarding any such omission, defects, advantages or pretences as aforesaid, so as sufficient shall appear in the proceedings upon which the court may proceed to give judgment,

had failed because of lack of cooperation by the courts; and a statute passed in 1785 (chapter 80), and repeated in 1809 (chapter 153), for a liberal allowance of amendments had applied, by its

20. 4 Harris & Johnson, 165, 456, 481; 5 Harris & Johnson, 199.

21. Peabody Library, Baltimore, Vol. 143, Bound Pamphlets. The identity of the author has not been learned.

22. An average of thirty-two cases through these years, but the count is only of reported cases.