

(1) The legislative article should express only fundamental law and omit procedural details.

Since the Constitution is supposed to embody a more basic and inferior presence, matters of less importance should be left to the discretion of the legislature so that immediate problems can be handled within the framework of the Constitution.

The last Constitution is very brief and conservative in providing the legislative procedural details. Section 12 simply provides that the house shall adopt its own rules of procedure, and it shall keep a journal. Section 13 sets up a very brief article reaffirming the rule that every bill shall relate to one subject, and that subject shall be described in its title.

Finally, section 14 relates to the passage of bills, saying that the legislature shall establish a procedure for the enactment of bills, and the law then says Ayes and Nays on final passage shall be entered in the Journal.

Also it requires the entire vote of the entire membership.

The point I am driving at is that as a general principle, the Constitution should be very conservative in providing procedural details. Most of this should be handled by rule. I might say the federal Constitution is very, very conservative in required procedural details. Maryland did run into this snarl on numerous occasions. In 1949, the case of *Maryland v. Lang* involved a situation in which the legislative practice was not to enter into the recorded roll call how each member voted on final passage; however, there is a constitutional provision in Maryland which reads as follows: "Each House shall keep a journal of its proceedings and cause the same to be published. The Yeas and Nays of the members on any question shall, upon any call of five members of the house, be entered on the journal."

Section 8 says, "No bill shall become law unless it be passed by the majority of the whole house by the members elected, and on this final action the whole Yeas and Nays shall be recorded."

They did not list this vote on the changes of the bond issue, and the Court of Appeals ruled since this constitutional requirement was not technically complied with, the bill was invalid. So the point I am making is that the courts construe these constitutional requirements procedurally very strictly.

Now, the amendment I am offering would eliminate the requirement that the committee vote be made part of the journal. This simply is going to mean that every bill may be subject to attack if the journal does not have the committee vote, and I assume the committee vote will mean a main committee and not a subcommittee of a standing committee. It will require a normal vote, and every bill will be established whereby the chairman of the committee will have to certify the committee vote with the bill, and it will have to be entered into the record.

It will mean the question of whether there was a quorum in the committee, what the membership of the committee was, what is a quorum, whether the failure to have a majority of a quorum or a majority of all the membership voting in favor — in other words, the committee procedure will become a matter of constitutional importance, and I submit to you that this is really an area which should be controlled by rules of the General Assembly, and that it should not be a matter which can be attacked in the court because some rule of procedure within a committee which could be reflected in the journal is not complied with.

THE CHAIRMAN: Are there any questions of the sponsor of the amendment?

DELEGATE GALLAGHER: Mr. Chairman.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Senator James, is it not true that when a bill receives an unfavorable committee vote that the bill generally is never reported to the full floor of either chamber, so that in effect, therefore, a great deal of action is taken in committee, namely the killing of legislation, both important and unimportant. In effect what is accomplished in committee is equally as important as what is accomplished on the floor?

DELEGATE JAMES: I would say you are absolutely correct, but this would not help that situation one bit — the procedure of holding a bill in the committee. However, in defense of the legislative procedure I can say this to you, that the General Assembly in Maryland is not like Congress in that it is very easy to get a bill out of committee for a vote on the floor, even though there is an unfavorable report.

The Congressional policy sets up all sorts of roadblocks to having a bill come out of the committee in the face of unfavorable committee action. It may even do so in the