

relate to substantial power, which are given under the language; they are prescribed by law. In the first 11 sections, if my count is correct, "prescribed and provided by law" is included 11 times, and the provision of prescription by rule is only six, and after our action this morning, has now been reduced to five.

I do not think that is an unhappy balance, and would urge that this amendment be defeated.

THE CHAIRMAN: Does any other delegate desire to speak in favor?

Delegate Raley?

DELEGATE RALEY: Mr. Chairman, as I look at this, it seems to me that if this amendment passes as it now stands in the committee report, forever more no one but the court system itself could ever make provisions for any type of new courts, no matter what the needs might be, to meet the needs of our people.

Now, I think this article is excellent, but I do not think either that only the judiciary has a corner on all new and creative ideas, and I might say this, and I say it maybe reluctantly, but our judiciary in this State has not blazed any new trails, as I have seen it, and it seems to me fundamental that somehow people's representatives should have the ability and the power to bring some new and creative ideas into the judicial system of this State in the future.

THE CHAIRMAN: The Chair recognizes Delegate Henderson to speak in opposition to the amendment.

DELEGATE HENDERSON: Mr. Chairman, fellow delegates, I think it is unfortunate that this argument seems to have taken a turn as if we were trying to give some unknown or some extreme power to the courts.

I for one am very much in favor, and have always welcomed and have played a part for the last twenty-five years in the arrangements between the Rules Committee and the Court of Appeals, on one side or the other, and our relationships with the legislature have always been very happy ones.

In some cases the court has yielded, in others the legislature has yielded.

The most recent example, which is even now going on, is a joint meeting of the subcommittee of the Rules Committee, working out with the Legislative Council matters involving the whole subject of bail,

for example, trying to separate the substantive from the procedural and striking a common ground, and I have no fears at all that at least in the procedural field there will be any major disagreements.

The Rules Committee and the Court of Appeals have always been willing to yield to the legislature's suggestions in matters of policy or in matters which affect substance.

The legislature, on the other hand, has left procedural matters almost exclusively to the Court of Appeals. That is the way it should be.

Now, here we are dealing with something, however, which involves the best use of judicial manpower, I take it. The question is whether for example in Baltimore City we should recognize the distinction which is made there between criminal and civil cases in the district courts. They are handled separately.

In the law courts there is a difference between law and equity. There are various other functional divisions which exist and which will undoubtedly be continued, but to say that the legislature can tell the court how best to handle the jurisdiction which the legislature confers on the court seems to me to be a wide departure from both sound practice and the present practice.

THE CHAIRMAN: The Chair recognizes Delegate Weidemeyer to speak in favor of the amendment.

DELEGATE WEIDEMEYER: Mr. President, members of the Convention, again I rise to favor this type of amendment. I imagine whether we adopt the amendment or not, as a practical matter, the court will immediately make the necessary rules and arrangements, but to freeze it into the constitution, and that is the way it will always be, whether it suits the public or not, would be making a very big mistake. I just picked up an article here in the paper where members of the bar in Montgomery County were making a complaint to the bench about functional matters up there.

I would imagine that that court would heed the wishes of the members of the bar, and make such corrections in its function as will please and give service to the public of that area, but on the other hand, if the court did not do it, I would want the power in the legislature to lay down some law to correct the situation, so that the voice of