

and the established modes of procedure as theretofore practiced be always the subject of jury trial. It could never have been intended to embrace every species of accusation involving either criminal or penal consequences."

Still later the Court of Appeals reaffirmed this rule in the case called *Danner v. The State of Maryland*, in which the court said the following, and I am now again quoting from 89 Md., at page 226. The Court of Appeals said:

"The right to demand a jury trial, being as we have thus seen guaranteed only to such crimes and accusations as had by the regular course of the law and established modes of procedure as theretofore practiced, it becomes necessary to inquire as to what class of offenses entitled the party to its enjoyment. It is clear that it cannot be demanded in many minor offenses."

Ladies and gentlemen of the Committee, this same rule is the rule in the Supreme Court of the United States. As you know, the Sixth Amendment is an absolute guarantee of the jury trial in all criminal cases, but the Supreme Court has faced this problem in many situations, and I am merely quoting from one of the most recent cases, *Cheff v. Schnackenberg*, in which the Supreme Court said the following, citing many cases: "It is settled by the decisions of this Court that the right of trial by jury does not extend to every criminal proceeding. At the time of the adoption of the Constitution, there were numerous offenses commonly described as petty which were tried summarily without a jury."

So the posture that we find ourselves in this particular matter is this. There is a body of law in this State, cases which I have read, together with the decisions of the Supreme Court, which hold that where you have a petty offense it is not necessary to have or to require constitutionally a jury trial. If the Chairman of the Committee is correct in his assumption that the blue paper does not seek to change this, then, of course, we have no problem. But, if his words taken literally mean that in every case a trial by jury is required, then I say that that is not the law of this State, has never been, and I think we need an amendment to clarify it.

I may point out one other facet of this. The Maryland cases generally speaking, which have addressed themselves to this question, have dealt not with Article 21 of the Declaration of Rights from which the

Committee took its words, but rather from Article 5 of the Declaration of Rights. That article says, and I am quoting, "that the inhabitants of Maryland are entitled to the common law of England and the trial by jury according to the course of that law".

What the cases have said over and over again is that the words, according to the course of that law, means that there could be these petty cases in which a jury trial would not be required.

THE CHAIRMAN: You have two and a half minutes, Delegate Case.

DELEGATE CASE: Now, thank you, Mr. Chairman. It is the position of the sponsors of this particular amendment that what should be made clear is that we are trying to preserve that particular facet of the law.

Let me make it clear that what we are not trying to do here and what this amendment does not do is to deny a jury trial to anybody who is otherwise entitled to it. Let me make that perfectly clear and restate it again: this does not deny to anyone a jury trial who would not be entitled to it today under the laws of the State of Maryland. All it does is to preserve these classes of petty cases from the complete requirement that there must be a jury trial.

We think that probably this is what the Committee really intended, but we feel that because of the colloquy that is on the record, it is necessary to clear the record and to preserve and maintain the law of Maryland as it stands today.

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

Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Mr. President, I would like to ask Delegate Case, in order to make clear in this amendment itself, if it should be adopted, rather than in a colloquy here, or by reference to reports, if he would mind adding after the word "offenses" the statement "for which trial by jury is not required by law at the time of the adoption of this constitution"?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: I do not think, Delegate Weidemeyer, that that really adds anything because there could be a petty offense that would be developed sometime in the future. The whole idea of this, of course, is to free the courts of the laborious handling of jury cases, let us say, parking