

Before leaving the consideration of section 5, the Chair understands that Delegate Willoner feels that the colloquy between Delegate Kiefer, Delegate Case, Delegate Carson and the Chair leaves something to be desired. The Chair recognizes Delegate Willoner.

DELEGATE WILLONER: Mr. Chairman, it is with great reluctance that I rise. It bothers me a great deal to rise on this question but I think that the committee history on this particular provision should be made a bit more clear.

We had a full discussion of the validity of a jury trial for the most minor offenses and in answer to my questions during the presentation by the Chairman he answered that we did intend to include the most minor offenses.

When we discussed coverage of traffic offenses, we discussed, as I remember, one particular crime—exceeding 70 miles per hour—which is a traffic offense that carries one year. We discussed that and thought the jury trial was appropriate in that case. In any event, the present law of Maryland is to provide for a jury trial in all offenses. The Constitution apparently is not provided with this because the Court of Appeals has chosen to read all criminal matters in connection with Article 5 of the present Constitution which says, those matters in which you had a right to trial by jury, and to common law.

I think it should be clear that at least in my opinion it was the intent of the Committee that all minor offenses be covered, as they are by statute. I think it was the intent of the Committee that the present state of the law be given constitutional status and that jury trial be required for the most minor offense.

THE CHAIRMAN: Delegate Kiefer, if Delegate Willoner's recollection is correct, the Chair's question to you as to whether when referring to present law you meant the present Constitution or present statute law, and in view of Delegate Willoner's statement, do you desire to add anything to the statement you made as to whether when you referred to the intent of the Committee as being not to change the present law, whether you meant not to change the present statute law which guarantees a jury trial in every case, or whether you meant not to change the present Constitution, which does not guarantee a jury trial in every case?

Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, as Mammy Yokum says, "I has spoken". I thought I made it clear the first time. I do not care to add anything more. If Delegate Willoner wants to talk, it looks as if there is more than one French girl around here.

THE CHAIRMAN: Very well.

Are there any other amendments to section 5?

(There was no response.)

THE CHAIRMAN: The Chair hears none.

Are there any amendments to section 6?

(There was no response.)

THE CHAIRMAN: The Chair hears none.

Are there any amendments to section 7?

(There was no response.)

THE CHAIRMAN: The Chair hears none.

Are there any amendments to section —
Delegate Johnson.

DELEGATE JOHNSON: I have an amendment.

THE CHAIRMAN: What section?

DELEGATE JOHNSON: Seven.

THE CHAIRMAN: Do you desire to offer your amendment AL?

DELEGATE JOHNSON: Yes, Mr. Chairman.

THE CHAIRMAN: The pages will distribute amendment AY, all love.

The Clerk will read the amendment.

READING CLERK: Amendment No. 17 to Committee Recommendation R&P-1 by Delegate Johnson.

On page 3, section 7, Right to Jury Trial in Civil Cases, in lines 41 and 42 strike out the words: "The jury shall consist of not less than six as may be fixed by law" and insert in lieu thereof the following: "The jury shall consist of either six or twelve as provided by law".

THE CHAIRMAN: The amendment has been submitted by Delegate Johnson.

Is there a second?

Delegate Kirkland.

DELEGATE KIRKLAND: Second.