

DELEGATE WEIDEMEYER: Mr. President and delegates of the Committee, my assignment was to cover two sections, section 11 and also section 13.

Section 11 provides for indictment by grand jury. As you know, we have indictment by the grand jury now, although there was no specific provisions in the Constitution requiring grand jury. However, in our present Declaration of Rights, in Article 21 is was by implication because it said that the accused should be furnished with a copy of the indictment and by implication we had the grand jury.

Under the federal Constitution we had the words which we have in section 11, which specifically require indictment by grand jury. Then we have now, under rule of the Court of Appeals, Rule 708 which requires indictment by a grand jury in capital or other infamous crimes, and also 709, which permits the accused to waive. So I think where we have changed Article 21 of the Declaration of Rights, and where we want to guarantee this right in capital or otherwise infamous cases, we should have it specifically provided either in the Declaration of Rights or in our judiciary article.

That is all I have to say for that, and there has been no amendments offered. I assume that there is no objection to that being in our constitution.

DELEGATE HENDERSON: May I ask a question?

DELEGATE JAMES (presiding): Will Delegate Weidemeyer yield to a question?

DELEGATE WEIDEMEYER: Yes.

DELEGATE HENDERSON: Since section 11, I understood you to say, is not in our present Constitution, and since there is a regular procedure whereby most of the cases come up on information and not by indictment, would there be any intention here to change that present practice which has worked so well?

DELEGATE WEIDEMEYER: No, I do not think so because this follows the wording of the federal Constitution, no person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war, or public danger.

DELEGATE HENDERSON: This is limited then to capital cases, is it?

DELEGATE WEIDEMEYER: This is capital or otherwise infamous crime. On

some of the minor things they come up on presentment.

DELEGATE JAMES (presiding): A point of inquiry from the Chair.

Is this not interpreted in federal law as requiring a jury trial in these important cases?

DELEGATE WEIDEMEYER: No. This only pertains to grand jury and not to the trial jury.

DELEGATE JAMES (presiding): I see.

DELEGATE WEIDEMEYER: For those of you who might not understand, before a man is brought to trial before what is known as the petty or trial jury on a capital or infamous case, he must be indicted by the grand jury. The grand jury has a chance to review with the state's attorneys the facts they have at hand to determine whether or not there is ample evidence to take the case before a jury.

DELEGATE JAMES (presiding): Delegate Cardin, for what purpose does Delegate Cardin rise?

DELEGATE CARDIN: I would like to ask a question of Delegate Weidemeyer.

DELEGATE JAMES (presiding): Do you yield?

DELEGATE WEIDEMEYER: Yes.

DELEGATE CARDIN: In working on the suffrage and elections article, we came across the phrase "infamous crime." We felt the word infamous is one no longer in use by the general public and we suggested changing it to "serious crime." Is this the type of crime which you had in mind?

DELEGATE WEIDEMEYER: Infamous is a serious crime and I think our legislature now is in the process of redefining the statement between felonies and misdemeanors. In some instances probably you have what we would call an infamous crime that is now a misdemeanor, but I would imagine they will get that thing straightened out. But "infamous," to my way of knowing, is a very serious offense.

DELEGATE CARDIN: Would it be in order to suggest that if there is no objection that the Committee on Style and Drafting consider the same terminology?

DELEGATE WEIDEMEYER: I would not agree to that. I think "infamous" has its legal significance and we ought not to tamper with that.