

would continue that right and guarantee that right of grand jury in certain instances.

DELEGATE JAMES (presiding): Delegate Bothe.

DELEGATE BOTHE: Delegate Weidemeyer, did the Committee on Personal Rights hear any evidence or find any evidence that there was a need to constitutionalize the grand jury system in the State?

DELEGATE WEIDEMEYER: Well, I do not know that we discussed it. Well, we did consider that, too, and you were there at the hearings. We intended that the right, implied in Article 21 of the Declaration of Rights, to be indicted by the grand jury in certain cases be continued and be guaranteed.

All we intended is that the right not be taken away. We had knowledge of the fact that the rules of the Maryland Court of Appeals, 708 and 709, had been passed dealing with this subject, but we know that the legislature can give one day and take away the next. We wanted it constitutionally guaranteed.

DELEGATE BOTHE: Delegate Weidemeyer, I understood you to say that we had taken away a right to grand jury indictment.

DELEGATE WEIDEMEYER: I did not say that. I said that we do not have the provision of Article 21 of the Declaration of Rights. I said that in our previous Constitution the only thing that we had was by implication, coming out of Article 21, which said that the defendant should be entitled to be presented with a copy of the indictment. By implication, that meant the indictment of the grand jury. It also can be interpreted to mean a copy of the presentment.

DELEGATE BOTHE: Substitution for which we made provision that the defendant was not entitled to a copy of the charge.

DELEGATE WEIDEMEYER: Yes, and in that we have it by implication, too. But we did not want to do away with the grand jury indictment. Getting a copy of the charge might mean just the state's attorney's charge. We did not want it that way. We wanted the right of grand jury indictment in certain cases guaranteed.

*(At this point, President H. Vernon Eney resumed the Chair.)*

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Again I would ask for an answer to a question originally asked and that is whether there was any evidence before the Personal Rights Committee which would justify the necessity for including the right to grand jury indictment in the constitution.

DELEGATE WEIDEMEYER: Yes, there was, and I think that was on one of the days when you were out on some due process work or something, and we had State's Attorney Charles Moylan and we had him there at length going over this matter.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: You are aware, I trust, that a large number of petty offenders who may or may not be charged with infamous crimes, since that word is uncertain, are proceeded against by waive of information in the State?

DELEGATE WEIDEMEYER: The minor ones are preceded by presentment and even some of the major crimes are preceded by presentment, especially when they waive them.

DELEGATE BOTHE: Have you any authority for your statement that the rights, if set out as proposed in section 11, could be waived by a person accused of an infamous crime?

DELEGATE WEIDEMEYER: Yes, under Maryland Rule 709 the waiver can be had, and I think the procedure here if without any special statute has been that they could waive if they wanted to and they could waive under this. They could waive jury trial, or a lot of the rights that they have.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Have you any authority in support of that contention?

Some rights are waivable, others are not.

DELEGATE WEIDEMEYER: There are a lot of rights that we can waive in this world.

DELEGATE BOTHE: That is your reply?

DELEGATE WEIDEMEYER: I could waive the right to talk back to my wife and let her go off in the wrong direction, but sometimes I talk back to her.

THE CHAIRMAN: Delegate E. J. Clarke.

DELEGATE E. CLARKE: I suggest the absence of a quorum.