

and then adjourn and not return this evening, except for the two committees mentioned.

Are there any questions?

Delegate Koss.

DELEGATE KOSS: Mr. Chairman, is it not true that in relation to the sections now under consideration we have to go back to R&P-1 and that there is a Minority Report on part of R&P-1 that we still have to consider as part of R&P-2?

THE CHAIRMAN: I do not believe it would be possible to conclude consideration of the portion of R&P-2 that was to have been R&P-1 this evening. That would have to, under this scheduling, go over until tomorrow morning. We could do it only by coming back this evening. This means that we would have to move pretty briskly this evening and tomorrow morning to handle that schedule, and dispose of the other recommendations of the General Provisions Committee.

Are there any other questions?

*(There was no response.)*

THE CHAIRMAN: Very well. We will resume debate on Amendment No. 17.

Delegate Scanlan.

DELEGATE SCANLAN: I want to briefly support the amendment. Judge Henderson stated the case in very compelling fashion. I think the Convention today has shown wisdom in eliminating from the Constitution provisions that are either archaic, restrictive, or unnecessary. Conversely, I see no reason to add to the Constitution a provision which is unnecessary, and one that has never reflected the system observed in Maryland. This system, as Judge Henderson indicated, has worked very well, and it is in no danger of being overturned by the General Assembly.

I urge that you support his amendment.

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: Mr. Chairman, ladies and gentlemen, I consider Judge Henderson's purpose highly laudable. But, I tell you, I am opposed to the amendment for these reasons only.

I think we have come too fast. I have been running down the law when I should have been listening to the Chairman telling us when and where we go in the next few days, and this is what I find:

The Constitution as we have at the present time has this reference to the indict-

ment in Article IV, section 13: "All indictments shall conclude, 'against the peace, government, and dignity of the State.'" which implicitly means that you cannot have an indictment if you do not have a grand jury.

Now, if you bodily take out this whole section referring to indictments, you then must fall back on the rule of the court. The rule of court in 7.08 and 7.09 quite clearly tells you what you can do with respect to indictments and to information. But if the time should arise when the judges of the Court of Appeals decide, as they would then have the power to decide, that there need not be indictments but that we could allow everything, including the kind of situation that would develop through some form of information, I think through the back door we have destroyed the grand jury system.

I do not know that exactly what I am saying to you is all that is involved, but I am completely frustrated that we do not have the kind of research material in connection with this that would let us know that if by taking this section out, we are destroying the grand jury system. If we are destroying the grand jury system, I am opposed to the amendment. But if we could have the kind of assurances that we ought to have, that all we are doing is simplifying the picture as it is going to be, then I think we can take a second look. But I would not be in favor of this amendment at this time, under these circumstances, until we have got a lot more of the law, the background, and the possibilities that may result from stripping the Constitution of all reference to indictments.

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

*(There was no response.)*

Are you ready for the question?

*(Call for the question.)*

The Clerk will ring the quorum bell.

The question arises on the adoption of Amendment No. 17 to Committee Recommendation R&P-2.

Amendment No. 17 is to delete all of section 11 on page 3. A vote Aye is a vote in favor of the amendment to delete. A vote No is a vote against.

Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote?