

extent that it can practicably be implemented.

DELEGATE JAMES (presiding): Delegate Hardwicke.

DELEGATE HARDWICKE: Unless Delegate Chabot can say something in addition to this, I am at a total loss to understand what his phrase means.

DELEGATE JAMES (presiding): Does anyone wish to speak in favor of the amendment?

Does anyone wish to speak against the amendment? Delegate Powers.

DELEGATE POWERS: May I address a question to the sponsor of the amendment, Delegate Johnson?

DELEGATE JAMES (presiding): Does Delegate Johnson yield?

DELEGATE JOHNSON: Yes.

DELEGATE POWERS: Delegate Johnson, is it contemplated in this amendment that the rules provide for any safeguards against abuse of the right of removal?

DELEGATE JOHNSON: Yes, I think that it could. If we leave the manner and under the circumstances to the rules, then to the Court of Appeals, Delegate Powers, I fully expect and hope that we will have a similar removal provision as we have under Rule 5.42.

DELEGATE JAMES (presiding): Delegate Powers.

DELEGATE POWERS: Mr. President, I would like to speak against the amendment briefly.

This absolute right of removal has been in and out of the constitution about six times in the history of this State. Every time it went out it went out because it was abused. At the present time, according to much more experienced judges than I am, the use of this device is abused about 99 times for every time that it is legitimately used.

It does not make any difference, particularly to the judge in the case, because he goes on to the next case.

I am not even speaking on behalf of the lawyers who are victimized by this, but litigants could be readily and emotionally involved over a trial and finally the day comes up, they are there; they have their witnesses; they pay for the docket to be there and the attorney on the other side in order to wear them down to a lower settle-

ment than they should receive, can immediately start using a threat that he will file an affidavit of removal. The second he does that, off they go to some county, 20, 30, 40, 50, 60 or a hundred miles away and the case is delayed several more weeks, and there is certainly several weeks—

DELEGATE JAMES: (presiding): Months usually.

DELEGATE POWERS: Weeks, months, sometimes years. Certainly if there is going to be anything about removal, there should be safeguards against that, and I would still be afraid of the language in this present amendment. This is purely on behalf of innocent litigants who are victimized by this, as Delegate Macdonald says, hundreds of times a year, and thousands of times for every time that something legitimately does it. In addition to that in noncapital criminal cases, the right of removal is not absolute, and it is very rarely involved, but when it is revoked, the right of removal at the request of the court is almost always granted. I am very much against this amendment and doing anything that would cause the condition that now exists in this State to continue.

DELEGATE JAMES (presiding): Delegate Dukes.

DELEGATE DUKES: Would Delegate Johnson yield?

DELEGATE JAMES (presiding): Delegate Johnson, do you yield?

DELEGATE JOHNSON: Yes.

DELEGATE DUKES: As I understand the new court system that has been adopted, there are no separate courts in the sense of county to county. There is only one superior court and one district court and therefore it seems to me that under the amendment, removal would be from only one judge to another, not necessarily from one county to another, would it not?

DELEGATE JOHNSON: This would and could be provided by rule. It could be it could be removed, and I trust the legislature and the Court of Appeals to work this out.

DELEGATE DUKES: What is the intention?

DELEGATE JOHNSON: The intention, contrary to what Delegate Powers has said, is simply this: Admittedly there are some abuses in this system, but one day I predict that each and every delegate in this Convention will come before a judge, who,