

to every case and I am not in favor of a right of removal in every case because it would create an ultimate amount of confusion and delay which there is enough confusion and enough delay in the courts as they are now.

DELEGATE JAMES (presiding): A point of inquiry to Delegate Johnson. Does this include appellate cases, where the superior court would be exercising appellate jurisdiction?

DELEGATE JOHNSON: No, Mr. Chairman. It specifically includes only the superior court and the district court.

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

DELEGATE JOHNSON: I just missed your comment, Mr. Chairman. Did you make a comment?

DELEGATE JAMES (presiding): I said I was a little in doubt, as to where you have an appeal from administrative tribunal to the superior court where the superior court would be exercising appellate jurisdiction. For what purpose does Delegate Dukes rise?

DELEGATE DUKES: To speak in favor of the amendment.

DELEGATE JAMES (presiding): The delegate may proceed.

DELEGATE DUKES: Mr. Chairman, there is no question, I suppose, in the minds of any lawyer who practices to any degree before the courts of the State that the right of refusal is used from time to time. I agree with Judge Powers that it is abused far more than it is used correctly. I cannot recall that I have ever filed an affidavit of removal in a civil case, except once, and that time the other lawyer took weeks before the trial. I can think of ten or twelve times it has been used the morning of the trial. Nevertheless the right is very important. It gives a chance for the client, for the party bringing suit, not to have his case heard before the judge whom he feels would be prejudiced.

It is not always a question of whether or not the judge wants to be prejudiced. It is very important to my mind that clients not have their cases heard before a prejudiced court. The issues should be presented to the judge and have him rule on it. The problem is to present the issues and the judge may remove himself. The fact is no judge I know of ever bothers to force a person to sustain his affidavit.

DELEGATE JAMES (presiding): Delegate Dukes, I am afraid your time has expired.

DELEGATE DUKES: I do not think the right is worth the cause.

DELEGATE JAMES (presiding): I think the ten-minute time on debate has expired.

I think the Chair can stretch the rule for 30 seconds.

DELEGATE KOSS: Mr. Chairman, I wanted to just ask a question, and that was if somebody would please direct me, what section of the present Constitution provides for this right?

DELEGATE JAMES (presiding): Will Delegate Kiefer give her that information?

DELEGATE KIEFER: Yes, article 4, section 8. You will find it on page 342 of your blue book, your bound book.

DELEGATE JAMES (presiding): Are you now ready for the question, a vote on Amendment No. 57? For what purpose does Delegate Weidemeyer rise?

DELEGATE WEIDEMEYER: Mr. President, I wanted to ask Delegate Johnson if in view of the fact that Personal Rights and Preamble has a specific recommendation on this matter, and when our report comes up, everyone will have ample opportunity to study it and come in with any amendments and suggestions or changes and corrections as they might have, it is rather difficult for us at this time to get amendments to amendments, to correct all possible objections. I am just wondering if Delegate Johnson, without considering any defeat in any way on this matter, would withdraw it and then come in with amendments to the recommendation of personal rights and preamble when that comes up, and I think then we can better consider it by amendments to that, rather than with hurried amendments to the amendment that he has brought in today.

DELEGATE JAMES (presiding): Will Delegate Johnson yield to that question?

DELEGATE JOHNSON: Mr. Chairman and Delegate Weidemeyer, in spite of the fact that I was given to understand that our amendment was a better answer to the problem than that which has thus far been prepared by the Committee on Personal Rights and the Preamble, if there is confusion in the mind of the delegate, and I might also add that apparently a number of the members of the Committee on Per-