

Specifically, I was wondering if you were considering circumstances such as offenses under the juvenile delinquency statutes which are not normally considered as a crime, proceedings under delinquency and items of this nature.

*(First Vice-President James Clark assumed the Chair.)*

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: Specifically, the language that we have used is a broad language quite similar to that of the amendment, actually. It is Article 21 of the present Declaration of Rights and the 6th Amendment.

Now, to answer your question specifically, we are not able to tell you what exactly it does cover. This is a matter where the Supreme Court of the United States has brought the Sixth Amendment over to state action.

As you probably know, just recently it held that juvenile delinquents were entitled to the same treatment as any other accused and consequently, we are bound by and with the interpretations of the Supreme Court.

DELEGATE J. CLARK (presiding): Delegate Grant.

DELEGATE GRANT: I realize that. But the question in my mind was whether in using this language you intended to extend the Maryland section only so far as traditional definitions of crime, accused of a crime and were not including this further sort of penumbra that was brought in by the Fourteenth Amendment.

DELEGATE KIEFER: The Supreme Court has indicated that this penumbra as you call it, and which it has been called actually, does apply to states and the case involving the juvenile delinquents was an Arizona case. It would equally apply to Maryland by Supreme Court interpretation.

In other words, we are not trying to write new language in or new interpretations into the State of Maryland criminal law. What we are doing is making this provision conform to as closely as possible the Sixth Amendment of the federal Constitution, and it is not unlike the present Article 21 of our present Declaration of Rights.

DELEGATE J. CLARK (presiding): Delegate Grant.

DELEGATE GRANT: Then may I ask you, if it were to be in the reverse direction, assuming juvenile delinquency has been brought under this definition, would this prevent the Court of Appeals from proceeding further in the case of defective delinquents—delinquency of the compassionate nature—or other incarcerations or restraints due to mental illness, because of the fact that the Supreme Court had not indicated the “accused of crime” was to extend to this type of proceeding?

DELEGATE KIEFER: Delegate Grant, this is not intended to make new law or change the existing criminal practice or rights of the accused in the State of Maryland any differently from what they presently are.

It simply restates, as a personal right, the matters covered by the Sixth Amendment because the Sixth Amendment is applicable to states, and whether or not the Supreme Court of the United States would cover the situations you have covered, or how our own Court of Appeals would interpret the particular situation you describe is something I cannot answer, and I do not think anybody else can, but it does not change the basic concept of what we are establishing. We are not attempting to write new criminal procedures, but are simply intending to restate in present-day language, that is Sixth Amendment language, the concepts of the rights of the accused.

DELEGATE J. CLARK (presiding): Delegate Grant.

DELEGATE GRANT: Then, as I understand it, it extends at least as far as the present federal interpretation or extension of the Sixth Amendment, but it is not necessarily limited to what the extension of that amendment has been?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: That is correct.

To answer further, it has to extend as far as the federal Constitution, the federal amendment as interpreted by the Supreme Court, but our own court can make it more broad if it wants to. This is not intended to limit it.

DELEGATE GRANT: That would apply even though the federal government was later to retreat from their present extension of the Sixth Amendment?

DELEGATE KIEFER: That is correct.