

society, and not release him. That is one of the reasons why I think that this section is wrong.

DELEGATE JAMES (presiding): Delegate Chabot.

DELEGATE CHABOT: So the device the judge would use would not be setting a high bail but rather committing him to the examination of some psychiatrist?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: That is absolutely right, and this section as it is written would prevent the judge from doing just that.

DELEGATE JAMES (presiding): Delegate Chabot.

DELEGATE CHABOT: In what way would that device, that is, the examination by psychiatrists, be forbidden by section 5-B?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: Because section 5-B says that he shall be entitled to release, conditioned only upon such bail or other security necessary to produce him in court.

DELEGATE JAMES (presiding): Delegate Chabot.

DELEGATE CHABOT: Let me go to another point. Did I understand correctly that you said to Delegate Gill that if 5-B were not part of our constitution, a judge could decide to deny bail, or set extremely high bail, simply based on his prediction that the accused is apt to commit crimes in the future?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: I would say so, yes.

DELEGATE JAMES (presiding): Delegate Chabot.

DELEGATE CHABOT: And do you feel that that prediction would not be a proper basis for denying bail if section 5-B were in our constitution?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: Right.

DELEGATE CHABOT: Thank you.

DELEGATE JAMES (presiding): Delegate Hargrove.

DELEGATE HARGROVE: Judge Child, in your Committee, on this question, did you

consider the cases dealing with the criteria for setting bail on purpose?

What I have in mind is whether you find any cases which allow the court the discretion in determining a prior criminal record as a basis for the setting of bail?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: There is none in Maryland, because this section which we now have in the Constitution has acted so well that I could not find under the constitutional provision here any decision which has gone to the Court of Appeals regarding bail under that.

DELEGATE JAMES (presiding): Delegate Hargrove.

DELEGATE HARGROVE: Did you check the federal authorities, where they do have some cases dealing with the setting of bail? I believe the only criteria used in any cases that I have seen is the question of whether or not the person facing trial has a prior criminal record.

Did your Committee consider this?

DELEGATE JAMES (presiding): Judge Child.

DELEGATE CHILD: I do not know what the so-called majority, which is now the minority, considered, because I was perfectly satisfied, and have always been satisfied with the old constitutional provision. I do not think we need anything else, in view of the statutes and the rules which have been passed under them.

DELEGATE JAMES (presiding): Delegate Hargrove.

DELEGATE HARGROVE: My question is whether or not your position is consistent with the legal opinion, on the question of the setting of bail, the question of whether or not you can deny a person the right to bail simply because you feel he is going to commit a crime, as opposed to setting bail regardless of how much it is.

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: Not the setting of bail, but the amount of bail.

DELEGATE JAMES (presiding): Delegate Hargrove.

DELEGATE HARGROVE: Then you would need both provisions, section 5-B and section 8, under those circumstances, would you not, because excessive bail would be another question, would it not?