

DELEGATE SCANLAN: Delegate Grant, I believe he has changed the phrase to public peace rather than public safety.

THE CHAIRMAN: Public peace is the phrase.

DELEGATE SCANLAN: Would your phrase, public peace, as you propose it, permit the committing judge to take into account the propensity or proclivity of the accused to commit crime, the likelihood he might commit crime during the period he is released on bail and before he is tried?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: I refer Delegate Scanlan to the case of this *Elwood v. Ocean City* and approximately this same case came up in which public peace was discussed, curfew orders and violators were held. It was a question of whether they would be legitimately held. The case essentially defined what was public peace, what were the public interests involved and made the decision that in this case the holding was lawful, in which they made temporary holding but did not grant bail because of the Ocean City riots.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: In other words, I gather your answer to my question was yes.

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: That is right, yes, under well defined legal concepts.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Delegate Grant, is it your intention by substituting the word "peace" for "safety" to make the provision more or less restrictive?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: The answer is yes, it is to make it restrictive, but restrictive within a well defined legal concept, that is, what is necessary for the prevention of a breach of peace and what is necessary for the safeguarding of public peace. That would be the only restriction on a man's absolute right to bail other than these capital cases.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: As I understand the legal authorities you cited in your answer to Delegate Scanlan's question, disturbance of the public peace would involve any act which interfered with the good

order of the State. For instance, I will give an example of a drunk and disorderly individual who wants to get out on bail, and who is still in a condition where he might disturb the neighborhood. Is it your intention to state by this provision that a drunk would be entitled to bail as long as he still was inebriated or in danger of going to another bar?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: The intention of this amendment is essentially as described by Judge Child this morning, of granting to the judge judicial discretion, and if he felt that by judicial discretion the public peace was involved he would be authorized to take the appropriate action. He would not be constitutionally bound to turn the man loose.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Are you then suggesting that a person who is arrested would be subjected to two trials, one by the judge to decide whether he will be peaceful until he is tried for the offense for which he was arrested, and the other, of course, being his principal trial? Is that the plan of this amendment?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: I suggest to Delegate Bothe that there be two considerations: the consideration of guilt and innocence is something to be determined at the trial. However, there is often another consideration and that is, public peace, and public peace is something that can or cannot be affected by the manner of granting bail. This allows the judge judicial discretion. I point out this is not unfair judicial discretion but judicial discretion within well recognized legal concepts.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: You are aware, I assume, of the present state of the Maryland law which except in capital cases gives an accused an absolute right to bail, assuming that he has the funds to post. How would this provision conflict with that, if at all?

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: I am well aware of the present state of Maryland law and am also well aware of the present state of Maryland practice. This would simply make practice and law conform.

THE CHAIRMAN: Delegate Bothe.