

as to say that every man who happens to be accused of a crime and the judge thinks he is a bad fellow and should be kept off the street because of some other crime, that he ought to be allowed to keep him in jail. That leaves him accused. He stands before the bench and the judge says, in my opinion, young man, although you will not be found guilty until later, I think you probably are and if I let you go you might go out and do it again. I do not think we run that kind of country. I hope not. I do not think that is any ground for any man, and judges are men, to make that decision. If a man has not yet been convicted, no matter if he was convicted a hundred times before for a hundred other crimes, he should not be able to be held in jail until such time as the judge gets around to confirming what he has already found in his own mind.

THE CHAIRMAN: Delegate Kiefer, do you desire to comment?

DELEGATE KIEFER: I will yield to Delegate Child.

THE CHAIRMAN: Delegate Child.

DELEGATE BOYCE: Mr. Chairman—

DELEGATE CHILD: Mr. Chairman, I do not want to prolong the argument.

THE CHAIRMAN: For what purpose does Delegate Boyce rise?

DELEGATE BOYCE: Should Chairman Kiefer not yield to the majority author of this thing rather than the minority author? This is a point of personal privilege.

THE CHAIRMAN: Anyone who wants to speak has the opportunity and will be recognized. I assume that Delegate Kiefer suggested that Delegate Child speak because he was the sponsor of the amendment that is now being reconsidered.

Delegate Child.

DELEGATE CHILD: Mr. Chairman, I do not want to prolong the debate. I think everyone here has heard this morning the arguments on both sides of this question, and have made up their minds, and I do not care to take any more time of the Committee of the Whole.

DELEGATE MITCHELL: Mr. President.

THE CHAIRMAN: Delegate Mitchell.

DELEGATE MITCHELL: Mr. President and fellow delegates, I voted against this recommendation in Committee because at the insistence of some of the members of

our Committee this clause, "except in cases punishable by death or life imprisonment," was included.

It seems to me that the fact that a man is innocent until proven guilty is the principle upon which our system of justice has been founded. I know a number of persons who have been arrested, many of them on circumstantial evidence, and charged with a capital offense. Many of them have been later found innocent, but a number of these persons who have been found guilty were hampered in finding witnesses to clear themselves because they were held in jail and bail was not available. It seems to me unfortunate that it is the rule, not the exception, that there is a trend that when a man is charged, there is a presumption that he is guilty in the manner of setting bail. I am also opposed to the exception: "except in cases punishable by death or life imprisonment".

The accused is only charged with a crime. He has not been proved guilty, and I think this runs contrary to our whole system. Therefore, I voted against it in Committee. I thought it was an unfair and unjust exception, and it is still here in the document. However, I am for the principle included in the rest of section B, and if I vote for it this time, it will be in the hope that an amendment will be offered to eliminate this un-American and undemocratic exception.

THE CHAIRMAN: Any other delegates desire to speak to the motion to reconsider? What side do you wish to speak to, Delegate Scanlan?

DELEGATE SCANLAN: I am against the motion for reconsideration.

THE CHAIRMAN: You may speak.

DELEGATE SCANLAN: I do not want to belabor the arguments. If the motion for reconsideration passes and the committee proposal as originally suggested is adopted, it will mean that a trial court cannot take into account in fixing bail the possibility of recidivism on the part of the offender.

The judges of the District of Columbia are plagued with this problem now under the federal bail format and it is ridiculous for me to say that a committing judge cannot take into account the possibility that a man charged may commit a crime during the period he is incarcerated. I am sorry we rejected Delegate Grant's amendment. I think it would have preserved the best of both worlds but I say under any circumstances it is utterly ridiculous to deny this privilege to a trial court judge of exercising