

provide for the restoration in this constitution. Of status which is real and meaningful to many people.

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman and ladies and gentlemen, I rise to oppose this amendment, and I will do so by saying to you that this is a concept of probation and restoration of criminals. I do not have any objection to it *per se*, but this is purely a statutory matter. We could literally load this constitution with all kinds of things similar to this.

This is not of constitutional statute. I hope you will defeat it.

THE CHAIRMAN: Is there any further discussion?

*(There was no response.)*

Are you ready for the question?

*(Call for the question.)*

The Clerk will ring the quorum bell.

The question arises on the adoption of Amendment No. 18. A vote Aye is a vote in favor of the amendment. A vote No is a vote against.

Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 23 votes in the affirmative and 82 in the negative, the motion fails and the amendment is rejected.

DELEGATE KEY: Mr. Chairman.

THE CHAIRMAN: Delegate Key.

DELEGATE KEY: I have a question. I wonder if Delegate Kiefer could tell me, would not section 3 cover those persons referred to, in this amendment that we just defeated?

DELEGATE KIEFER: Delegate Key, I think it might very well, particularly if it involved the due process of law.

THE CHAIRMAN: Are there any other amendments to section 8?

Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman, I have an amendment to section 8, but it is merely to clarify, and perhaps if the Chairman would respond to some questions

about section 8 it would not be necessary to offer the amendment.

THE CHAIRMAN: Has the amendment been printed?

DELEGATE BAMBERGER: I have not yet seen it.

THE CHAIRMAN: Very well.

Delegate Kiefer, will you take the floor to yield to a question?

DELEGATE KIEFER: Yes.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman and Delegate Kiefer.

On line 5 the prohibition is against cruel and unusual punishment being inflicted. I presume it was not the intention of the Committee that the issue of whether or not punishment is cruel and unusual could not be raised until it had actually been inflicted, that is, until the sentence had been served or the execution had been held?

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Well, Your Honor, I have got to look at this. This is fairly standard language. Let me take a look at it. I do not mean to be facetious, Delegate Bamberger, but you will just have to give me a minute.

The first answer I could give you is that it is almost exactly the language of the Eighth Amendment to the United States Constitution: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

THE CHAIRMAN: That is exactly the same as what is in Article 25 of the Bill of Rights.

DELEGATE KIEFER: He can complain before he is punished.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Why did you not follow the language of the commission's draft which prohibits both excessive fines and cruel and unusual punishment whether provided by laws or imposed by the courts?

In other words, as I read your section, this would not prohibit the General Assembly from passing a statute which provided for an excessive fine or a cruel and unusual punishment.

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: That I can answer. We thought this was more inclusive.