

the Committee on Personal Rights and the Preamble.

It is a very interesting article but I do not feel that its position there does anything to specifically guarantee the right. It is merely a catch-all situation. In case the courts decide they have a right, they might rely on that provision to vindicate it.

I think the Supreme Court — and the federal Constitution contains a similar provision — has only consulted it twice in history, so nobody except Delegate Hardwicke, perhaps, knows what it means.

DELEGATE DARBY: Delegate Bothe, I think this is more or less the same question that Delegate Neilson just asked but if this amendment passed it would mean the legislature could not exempt any particular group. Is that correct?

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: When you say exempt, —

THE CHAIRMAN: Delegate Darby.

DELEGATE DARBY: In other words, if you are saying in your memorandum that there are 135,000 employees of the state, I assume that you are including even the assistant or deputy attorneys general, state's attorneys, and deputy or assistant state's attorneys. I assume that they would also be included and the legislature could not exempt any group; is that correct?

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: It depends on what you consider to be employees. There is a body of law construing the meaning of that. I do not think assistant attorneys general or other policy-making employees of the State or of private employers would be considered employees.

THE CHAIRMAN: Delegate Darby.

DELEGATE DARBY: You would consider, let us say, an assistant attorney general an employee of the State. He would not be a policy-maker, would he?

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: I think my answer would have to be qualified in the same way as an earlier one was.

If the members of the attorney general's staff decided they wanted to organize and bargain collectively and their boss uses constitutional powers to hire and fire them, it would be a matter for the court to decide. I do not see the situation arising.

THE CHAIRMAN: Delegate Darby.

DELEGATE DARBY: This wording is certainly all-inclusive. It would include probably all employees of the State and employees of anybody, is that correct?

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: It would insofar as the construction of the word employees included anybody. We have other places in the constitution. We talk about the militia in terms of war and peace.

THE CHAIRMAN: Delegate Darby.

DELEGATE DARBY: Would This possibly include the militia. It could be a group of anywhere —

THE CHAIRMAN: I do not think you gave her an opportunity to answer your other question. I do not know whether you heard it, Delegate Bothe. He said this would possibly include the militia; would it?

DELEGATE BOTHE: Apparently the Chairman likes that question.

THE CHAIRMAN: I just want it answered.

DELEGATE BOTHE: I do not have a case at hand, Mr. Chairman, but I do not think that the militia are employees. I point to the model state constitution proposal which separates or talks about a right to organize, but talks about the militia separately, so obviously the constitutional draftsmen of the National Municipal League do not think they can cover militia by speaking of employees.

THE CHAIRMAN: Delegate Darby.

DELEGATE DARBY: Are you excluding militia, then?

DELEGATE BOTHE: Of course. Militia are not employees.

DELEGATE DARBY: All right.

THE CHAIRMAN: Are there any other questions?

Delegate Vecera.

DELEGATE VECERA: Delegate Bothe, the word "employees" goes to the heart of some of the matter that was discussed by Delegate Darby previously. You mentioned there was a body of law concerning the word "employees". Could you please just define that a little more clearly for us and perhaps give us an indication of what employees are?

THE CHAIRMAN: Delegate Bothe.