to amend the constitution recently to provide a provision for child support, which is similar to the provision here in section 13?

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: I believe that was done.

DELEGATE MACDONALD: If it was necessary to amend the Constitution to allow a father to be imprisoned for nonsupport of a child, why is it not necessary now?

THE CHAIRMAN: Delegate Scanlan.

It seems to the Chair, Delegate Macdonald, you are talking about the converse, if I followed your question.

Delegate Scanlan, I did not mean to interrupt.

DELEGATE SCANLAN: The Chair expressed my own bewilderment, there. I thought he was going in circles, too.

DELEGATE MACDONALD: My question is this: If it was necessary to have the provision in the Constitution previously so that the father who failed to support his children could be held in contempt of court, and in effect imprisoned for that particular debt, why it is not necessary today?

DELEGATE SCANLAN: If the Constitution has a provision preventing imprisonment for debt, problems are raised as to exactly what that means.

As I understand the Majority Report, they concede in their report that the General Assembly has absolute power to prohibit this sort of thing, and that even if the General Assembly took no action the common law would prevail.

The cases of which you speak are traditional. It is imprisonment for failure to obey a court order. I see no reason for retaining this provision in the Constitution.

THE CHAIRMAN: Delegate Macdonald, I could give you perhaps a more direct answer.

Section 38 of Article III of the present Constitution, in the first clause says: "No person shall be imprisoned for debt."

It was because of that provision that the amendment of which you speak was necessary. If that had not been in the Constitution the amendment would not have been necessary. If this section 13 is omitted, this Constitution will not have any similar provision that a person shall not be imprisoned for debt.

Does that answer your inquiry, Delegate Macdonald?

DELEGATE MACDONALD: Not completely, Mr. Chairman.

I may be in error, but it has always been my impression that the provision now in section 38, Article III to which you have referred, namely, that no person shall be imprisoned for debt, was simply declaratory of the common law, and even if we did not have that section in our Constitution today, that prohibition would remain, and it was necessary to include a provision in the Constitution to take care of the child support provision. I could be in error. That is my impression.

THE CHAIRMAN: I think you are. The amendment was made to section 3.8 because of the first clause, because of the way section 3.8 read before the amendment.

In other words the provision or the amendment as to imprisonment for nonsupport of children, was an amendment of section 3.8 of Article III.

DELEGATE MACDONALD: I understand that fully, Mr. Chairman, but if we had no section 3.8 of Article III of the Constitution today, and the matter was completely silent as far as the Constitution is concerned, I do not think a man could be imprisoned in the State of Maryland for debt.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: Mr. Chairman, I think I know the legislative history of why the General Assembly amended the law by way of constitutional amendment.

My recollection is that problems used to occur where separation agreements under which husbands would agree to support wives and children were embodied in decrees.

The courts ruled that the court could not enforce these decrees because this was a contract, even though embodied in a decree. Therefore you were putting a man in jail for failure to pay his debt. So that in order to clarify the situation and make it clear the obligation to support the wife and children was not a debt within the concept of the constitutional protection, this language was adopted to clarify that point. I believe it was by amendment back in 1950.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: Mr. Chairman, as one member of the committee, and I remember committee discussions on this,