

THE PRESIDENT: What commas did you want to change?

DELEGATE KIEFER: The language originally was the "right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures, interception of their communications, or other invasions of their privacy".

I would leave out the last two commas.

THE PRESIDENT: The last two meaning the comma after "communications"?

DELEGATE KIEFER: And "privacy".

THE PRESIDENT: That I should think would come by separate amendment, then.

Is there any further discussion?

Delegate Marion.

DELEGATE MARION: Just as a question of information, Mr. President, does the first half of the amendment or the question as divided involve the title of the section and the number of the section as proposed by the Committee on Style?

THE PRESIDENT: I understood Delegate Willoner's motion to go to the title to restore the words "right to privacy".

Is this correct?

DELEGATE WILLONER: No, Mr. Chairman.

THE PRESIDENT: Very well, then the amendment would be considered as limited to the portion of section 1.05 embraced in lines 26 to 30, inclusive.

Is that correct, Delegate Willoner?

DELEGATE WILLONER: Yes.

THE PRESIDENT: I had assumed the contrary simply because the amendment had restored the old title and I thought it was what you wanted.

DELEGATE WILLONER: I did not even notice that, frankly.

THE PRESIDENT: All right. Is there any further discussion?

Delegate Bennett.

DELEGATE BENNETT: Mr. Chairman, members of the Convention, I hope that the amendment of Delegate Willoner will be voted down.

The recommendation of the Committee on Style is a compromise between those of us who wanted to outlaw completely all interceptions of communications and all inva-

sions of privacy and those who did not. If it remains as it is in the Committee on Style Report, I think the courts will know what we have in mind and construe the word "unreasonable" or "unreasonable interceptions" with discretion.

This is a fundamental point, I think, in the whole constitution, Mr. Chairman, namely, whether we are actually, as in the New York Constitution and many others, going to outlaw completely interceptions of communications, wire tapping, and other invasions of privacy, or not, and I think the Committee on Style has done a most commendable job.

THE PRESIDENT: Is there any further discussion?

Delegate Henderson.

DELEGATE HENDERSON: I hope that the amendment will prevail. It seems to me that it would be most unfortunate to have built up in this State two bodies of law dealing with the same subject matter, one based on the federal decisions and the other on state decisions.

The only way that we can keep the two in accord, it seems to me, is to adopt the precise language of the federal Constitution, as we have done in virtually all the other sections.

We have not attempted, for example, to rewrite the question about due process of law and equal protection, and by adopting those phrases we have adopted the gloss put upon them by the Supreme Court.

Now, we know that this field of law is in a particular state of flux. The recent decision only last week by the Supreme Court, where they extended the doctrine in one direction but withdrew it in another to some limited extent to permit action by search through court procedures, illustrates the point that I am trying to make.

It would be most unfortunate to have two bodies of law in this field, and the only way, it seems to me, that we can keep in step completely with the Supreme Court and the holdings of that body which construe authoritatively the federal Constitution is to adopt the same language, and I hope that this will be the conclusion of this Committee.

THE PRESIDENT: Delegate Hardwicke.

DELEGATE HARDWICKE: Mr. President, I would like to ask a question of Chairman Kiefer, if I may, please.