

those who attacked them been out on bail pending trial. This is a rare instance, but an important one.

Also, with regard to pre-trial mental examination, I do not know the effect of this amendment, and I fear that the effect of it may be to limit and perhaps to destroy altogether the right to have a person examined prior to trial either for his competency to stand trial or his mental condition at the time of this alleged threat.

A vote against this amendment is not a vote against bail reform. This is a vote against putting something in the constitution which goes much too far and should be handled by rule and by statute and, therefore, I urge your vote against it.

THE PRESIDENT: Delegate Bamberger.

DELEGATE BAMBERGER: I should like to respond to Judge Henderson's comment about the Legislative Council. My understanding from the Legislative Council is that they have taken no action on the proposal for bail reform and are making no report at this session of the General Assembly.

Secondly, I think we are missing the point. If a man is a dangerous criminal and has propensities to commit a crime while awaiting trial, he may not be held if he has enough money to make bail. I cannot imagine that in the case of a man who cannot raise bail that if he is a person who is so irresponsible and anti-social as to be a threat to the court or the witnesses or other people, that anybody could disagree with the judgment of the magistrate that a man with those kinds of criminal tendencies is going to be so responsible as to come to trial. Do you believe for a minute that somebody who says "I am going to shoot the judge or shoot a witness" will say "Don't worry, I will come back to trial next Thursday". I think that is ridiculous. That man is not going to come back for trial and he can be held.

All that this says is that the price of your freedom shall not be money; keep that in mind. You may threaten the judge and threaten the witness and be a terribly dangerous person and you have a right to bail and if bail is set and you have the money you can walk out. If you do not have the money, you cannot walk out.

What this amendment does is to insure that judgment shall be made based not upon the person's wealth, but merely upon the essential fact whether or not he will

return for trial. I urge you to support the amendment.

THE PRESIDENT: Delegate Bennett.

DELEGATE HOSTETTER: Mr. President, for three and a half months I have sat in committee meetings and at the Convention and have listened to all the pleas for the poor and downtrodden criminal and at this point, sir, I believe I have heard about as much as I would like to hear, and I should like to move the previous question.

THE PRESIDENT: Any further discussion?

Are you ready for the question?

*(Call for the question.)*

The Clerk will ring the quorum bell.

The question arises on the motion to order the previous question. All in favor signify by saying Aye; contrary No. The Ayes have it. It is so ordered.

The question now arises on the adoption of Amendment No. 11. A vote Aye is a vote in favor of the Amendment. A vote No is a vote against.

Cast your vote.

Has every delegate voted?

Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 46 votes in the affirmative and 64 in the negative, the motion is lost and the amendment is rejected.

The next amendment, Delegate Willoner, do you desire to offer your amendment?

DELEGATE WILLONER: No.

THE PRESIDENT: Thank you.

Delegate Dukes, do you desire to offer your amendment, amendment O?

DELEGATE DUKES: I believe amendment O was the amendment we previously treated as the style amendment, Mr. President, and I did not offer it. It is the only one I know about.

THE PRESIDENT: Amendment O is the one simply to transfer the position of the section on sovereign immunity.

DELEGATE DUKES: That is the amendment that I decided not to offer earlier, and I would still not like to offer it.