

Delegate Marvin Smith.

DELEGATE M. SMITH: Mr. Chairman, we lawyers in the back row have been sitting here talking, and we were a little bit concerned about the striking out of the words "bail" and "collateral," and I wonder if the lady would accept an amendment that would, instead of striking out the words "bail" and "collateral," in lieu thereof make an insertion that would read "and the other terms of pre-trial release."

DELEGATE JAMES: "Or terms of pre-trial release."

THE CHAIRMAN: Do you mean the word "and" or the word "or"?

DELEGATE M. SMITH: "Or." We were concerned, Mr. Chairman, about the word "collateral." There was a feeling that it was possible that it might have a connotation of other than pretrial release.

THE CHAIRMAN: You think there is doubt as to whether the expression, "terms of pre-trial release," encompasses bail and collateral, or collateral?

DELEGATE M. SMITH: Mr. Chairman, we were not sure, and as Judge Knox used to say, out of an abundance of caution we thought it better to make an amendment.

THE CHAIRMAN: Delegate Bothe, the suggestion is made that in lieu of striking the words "bail, collateral and," we leave those words in, and add to your addition, before the word "terms," the words "or other," so the whole sentence would read, "Commissioners may exercise powers only with respect to warrants of arrest, bail, collateral, or other terms of pre-trial release, or incarceration pending hearing, and then only as prescribed by rule."

Delegate Bothe.

DELEGATE BOTHE: May I ask Delegate Smith whether his concern is only as to collateral, or whether he feels that the words, "terms of pre-trial release," could also cover cash or money bail?

THE CHAIRMAN: Delegate Smith.

DELEGATE M. SMITH: It would be my conception that it certainly should cover bail. My real concern is with the collateral.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Might I suggest that we strike the word "bail," but leave in the word "collateral"?

THE CHAIRMAN: Delegate Smith.

DELEGATE M. SMITH: That would be acceptable to us, I am sure.

DELEGATE BOTHE: That would be acceptable.

THE CHAIRMAN: In the absence of objection, the amendment would be modified again to strike, in line 2, the word "bail," leave in the word "collateral," strike the word "and," and insert the words "or other terms of pre-trial release, or". Is this the amendment, Delegate Bothe?

DELEGATE BOTHE: Yes, that is correct.

THE CHAIRMAN: Is there any objection to the modification? Is it accepted by the seconder?

DELEGATE MORGAN: Yes, sir.

THE CHAIRMAN: Delegate Burdette.

DELEGATE BURDETTE: Mr. Chairman, before we get lost here, the language continues, "pre-trial release or incarceration." The problem here is we do not know whether it is release or incarceration, whether that is the same thing. Obviously they are not. You have to go to the dictionary to tell that.

THE CHAIRMAN: I would suggest, Delegate Burdette, that that is undoubtedly the kind of problem that the Committee on Style could resolve without any difficulty.

DELEGATE BURDETTE: You want to use the words "pre-trial release, or incarceration pending hearing."

THE CHAIRMAN: I think the intention is to contrast release and incarceration. Is that correct, Delegate Bothe?

DELEGATE BOTHE: That is correct.

THE CHAIRMAN: The Chair will restate—Delegate Chabot, let me restate the amendment, first.

The amendment as modified, as the Chair understands it, will read as follows: On page 4 section 5.11 Commissioners, in line 2 strike out the word "bail," in line 3 strike out the word "and" before the word "incarceration", and insert in lieu thereof the words "or other terms of pretrial release, or."

Delegate Chabot.

DELEGATE CHABOT: Would Delegate Bothe yield for a question?

THE CHAIRMAN: Delegate Bothe, do you yield?