

DELEGATE BURDETTE: I am simply uninformed whether there is some other provision at law which will take care of the perhaps rare, but nonetheless real problem, that there is no real good faith question about the accessibility of a person for trial. The problem really is that he is a dangerous criminal and would continue to repeat the crimes, such as in the case of some person who killed a number of nurses in Chicago. What are you going to do with him even if you can definitely prove that he would be available for trial?

THE PRESIDENT: Delegate Grant.

DELEGATE GRANT: Actually, it is a two-headed question.

First of all, if you have someone who is a menace to public peace, then he should be charged with that and this practice that they have of picking up somebody on a very minor offense when they are actually after him on a major offense and could not pick him up on the major offense because they did not have the evidence, is one of the rottenest practices in all American law and should be stopped.

As far as keeping the peace, you could always put him under a peace bond. Also, the question comes up as to what restraint is necessary. You could restrain him as you find necessary. If you find a man like the one in the Speck case who is a homicidal maniac, you can certainly have him committed as insane and put him in an institution. This does not allow you to pick someone up on a speeding ticket when you are after him on a murder rap. In other words, you have to have the evidence. You cannot proceed to put him in on one offense when you are after him for another.

DELEGATE BURDETTE: I think you answered my question, but you still leave me puzzled. Does this constitutional language not simply say that all of these restraints upon a person who may be imagined to be insane or who may be homicidally criminal cannot be employed because of this language?

DELEGATE GRANT: This amendment says either fish or cut bait.

THE PRESIDENT: I think you are missing the question that Delegate Burdette is putting to you if I may restate it. His question is: if this amendment is incorporated in the constitution, will a person charged with crime, any crime, serious or minor, about whose appearance at trial there is not any question, be restrained because he is a menace either to himself or

to the public, or would this provision prevent what you now say is possible?

DELEGATE GRANT: This would not prevent someone who is a menace to the public from being charged as a menace to the public and being dealt with that way. It would prevent someone who is a menace to the public from being charged with another offense and held on a pretense under the other offense. They have got to arrest him for the offense of which he is suspected.

DELEGATE BURDETTE: Suppose he is a menace to the public and there is no question that he would appear for trial as a menace?

DELEGATE GRANT: The judge would simply have to issue a bench warrant and charge him with the other offense. That is what would be the procedure.

THE PRESIDENT: Again, I do not know that you quite caught the question. If you charged him with the other offense, namely, being a menace to himself or the public, but there was still no question about his appearing to answer that charge, would this prevent his incarceration pending the trial?

DELEGATE GRANT: I follow what you mean. No, I do not interpret it that way. The only thing you can get into is a sanity area and you can charge that right there and give the necessary mental examination. You would have to do it promptly and then do what is necessary if he is criminally insane.

THE PRESIDENT: Delegate Carson.

DELEGATE CARSON: Mr. Chairman and ladies and gentlemen, I would like to speak against the amendment. I had the experience of prosecuting a large number of criminal cases for several years and in that time I found that there were many cases in which dangerous defendants who had threatened witnesses, who had threatened others, and sometimes even had threatened the courts came before the court for consideration for bail.

Now, I am in favor of bail reform, but I do think the court ought to have the discretion to consider in those rare cases where a person has threatened others whether or not he ought to be released, and I think this is necessary and desirable. I am sure in my experience people are walking the streets today, witnesses and victims of crime, who might well not be walking the streets had their assailants and