

1 provision is unnecessary and that it harms the accused as
2 much as it helps him.

3 DELEGATE JAMES: Anyone wish to speak against the
4 amendment? Delegate Willoner?

5 DELEGATE WILLONER: Mr. Chairman, when I spoke on
6 this in presenting the majority report, I indicated to the
7 body when I came down here that I thought this provision was
8 archaic and outmoded until I began to do some research on
9 it and began to develop some questions which I may add in
10 discussing with Delegates Bothe and Moser have not been
11 satisfactorily answered.

12 The case of Sharp and Hanson v. The United States
13 is a case of first degree murder where the judge was pre-
14 cluded from instructing or refused to instruct on the issue
15 of manslaughter.

16 The Supreme Court held that this was appropriate
17 since the evidence was only susceptible of one interpreta-
18 tion, first degree murder, and therefore a manslaughter in-
19 struction was inappropriate.

20 We in Maryland do not follow that practice. I
21 contend that when the Commission took this out of the present