

1 found that it was true, albeit in a minority of cases, and
2 very old cases.

3 The Federal rule in this case is that the judge
4 cannot direct a verdict of guilty. The rationale is not
5 based, however, on constitutional right to trial by jury
6 but is based on the logic that the judge cannot do
7 indirectly what he can't do directly -- that is, the judge
8 could not direct the verdict of N.O.V., that is a verdict
9 notwithstanding the verdict of the jury, of acquittal,
10 therefore he could not direct a verdict of guilty before-
11 hand. That is the logic in Sharp and Hanson v. United States.

12 That particular case is still the law, and it
13 was decided by Justice Holmes in an opinion in Horning v.
14 D.C. in 1920, and that is the last statement the Supreme
15 Court apparently has had on the issue.

16 The most shocking thing I found in this research
17 was not so much that the judge can direct the verdict, but
18 that the judge can blackjack a jury into a decision. This
19 is what really bothered me, and in the Horning case, this is
20 Justice Holmes' opinion, the trial judge told the jury he
21 was not permitted to direct a verdict of guilty but he would