

than twelve-man jury or unanimous verdict in a capital case.

The point is this: This State has always had a requirement for a unanimous verdict. We had judges come before us and tell us that in their experience they found that this was a very wise and helpful thing. One judge related a situation where in a capital case the jury was hung up eleven to one. One man refused to be convinced. The case was retried and evidence was brought in which resulted in his being released. The judge said that he originally thought this man had been guilty, but he thanked God that there had had to be a unanimous verdict.

Ladies and gentlemen, we have been through this thing in Committee. We went into it very carefully. It was the overwhelming opinion of the Committee that the verdicts should be unanimous in criminal cases, and that there should be a jury of twelve. This may be, it may sound like it is old-fashioned, it may sound like it is conservative, but this is still the basic law or constitutional provision in the federal cases, the federal Constitution and we saw no reason for changing it.

One final thing—

THE CHAIRMAN: Delegate Kiefer, you have less than one-quarter of a minute.

DELEGATE KIEFER: All of the judges that we talked to said that hung juries were so infrequent as to not to be a matter of concern. I hope that you will reject this amendment.

THE CHAIRMAN: Delegate Bamberger, do you still desire to speak?

DELEGATE BAMBERGER: No.

THE CHAIRMAN: Does any other delegate desire to speak in favor of the amendment?

Delegate Mentzer.

DELEGATE MENTZER: I have a question, Mr. Chairman.

THE CHAIRMAN: To whom?

DELEGATE MENTZER: I wanted to ask Judge Henderson.

THE CHAIRMAN: You will have to wait until he gets the floor again.

Delegate James.

DELEGATE JAMES: Mr. Chairman, fellow delegates, I would like to say a word in favor of this amendment.

I would like to cite the English experience and read from an article entitled, "Less than Unanimous Jury Verdicts in Criminal Trials", by John B. Ryan, an article prepared at Northwestern University School of Law:

"During the year 1965, forty percent of the defendants who pled not guilty to criminal charges in England were acquitted. 'Quite a lot of them', according to the Home Secretary of England, were known to be guilty 'by everyone connected with the case'; and among those who 'got off', some were the 'centres of networks of criminal activities'.

In offering an explanation for England's high percentage of acquittals, the Home Secretary, Mr. Roy Jenkins, expressed the view that it was through 'the power to intimidate or corrupt jurors'. He proposed, as a remedy, that less than unanimous jury verdicts be made permissible. A bill to that effect was introduced in Parliament on November 29, 1966." I believe as a result of that, the English now permit a verdict, ten, in a twelve man jury.

The article concluded by saying:

"None of the arguments on either side demonstrate that unanimity is or is not essential to trial by jury. But, on balance, the arguments on behalf of majority jury verdicts carry more weight. The Home Secretary of England wishes to enact a majority verdict rule because jurors are being intimidated or corrupted, especially by those in organized crime. Since the United States has organized crime, one may assume jury tampering goes on in the United States as well."

I have been of the opinion for some time that the integrity of the judicial process, of the jury system, certainly will be more stable and beyond corruption, if we permit majority jury verdicts. This amendment gives flexibility to the General Assembly, permits adjustment of the jury trials to the particular court, to the particular crime, and thus, while giving a strong measure of protection, the jury trials to the criminal defendant. At the same time it recognizes the public has an interest in the enforcement of the law and enables the General Assembly to adjust the procedure to fit the particular crime, and to adjust the procedure in accordance with the administration of justice as it deems proper.

THE CHAIRMAN: Does any other delegate desire to speak in opposition?

Delegate Child.