

provision out of our Constitution. That bill failed. I suspect the reason it failed was that there were too many defense attorneys in the legislature at the time. I believe now that with all the provisions that the Supreme Court has given to the criminals, all the advantages that he now receives through the recent decisions of the Supreme Court, that I must agree with Judge Sherbow in that we ought to think about the people.

I think this is imperative now that we do take this out, and it will be for the benefit of the people and maybe help to balance the scale as far as all the other decisions of the Supreme Court passed recently.

DELEGATE JAMES (presiding): Does anyone wish to speak against the amendment?

Delegate Storm?

DELEGATE STORM: That little example I was talking about was provided in Frederick City where a law provides that you can have Sunday movies after a certain hour. Emmitsburg in Frederick County can have Sunday movies after a certain hour. But just outside of Frederick City, there was an outdoor theater which could not have Sunday movies at any time. The gentleman who owned the outdoor movie was brought into court and charged with Sabbath-breaking. The jury in its wisdom said he is not guilty. Technically I suppose he was, but they certainly showed good sense and I think ye of little faith rely on the common sense of the jurors in applying this. They can reach a proper end in justice that no other way can be achieved.

DELEGATE JAMES (presiding): We will now give opportunity for someone who is for the amendment. Delegate Carson.

DELEGATE CARSON: Mr. Chairman, ladies and gentlemen, I will be very brief. With all respect to my good friend Delegate Storm, I think he is wrong. Before being admitted to the bar, I had the pleasure of serving three years as a law clerk for Judge Day in the Circuit Court for Harford County. I saw consistently the state's attorney there reading the jury the law. I saw two murder cases in which the jury returned life imprisonment. Had mandatory instructions been given, I am sure the jury would have returned no greater than manslaughter and two manslaughters are in the House of Corrections today for life because of this provision.

I have no question but that occasionally it lets the guilty go free, but sometimes it

puts the innocent in. It provides even-handed justice. I think we are here to provide for equal justice for all and I support the amendment and urge you to vote in favor of it.

DELEGATE JAMES (presiding): Are you ready for the question?

Delegate Willoner, for what purpose do you rise?

DELEGATE WILLONER: I just wanted to answer one question quickly. One is that Judge Sobeloff this year, 1967, ruled this provision to be constitutional, although he disliked the provision.

I just want to make it clear that I do not think it is an unconstitutional provision. At least until some court says it is. I think we ought to leave it in.

DELEGATE JAMES (presiding): Are you ready for the question?

*(Call for the question.)*

The Clerk will ring the quorum bell.

The question arises on the adoption of Amendment No. 16 to Committee Recommendation R&P-2.

A vote Aye is a vote in favor of Amendment No. 16. A vote No is a vote against.

Has every delegate voted. Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 68 votes in the affirmative, 46 in the negative, the motion carries. The amendment is adopted.

Are there any further amendments? There could be no further amendment to section 10 since the section has apparently been eliminated so we will proceed to section 11 and ask if there are any amendments to section 11.

The Chair hearing none, we will proceed to consider section 12, right of removal of criminal cases.

The Chair recognizes Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, I do not want to prolong this. I do not want to invite trouble, but it has not been explained and Delegate Weidemeyer is prepared to do so and I believe there ought to be a brief explanation of what it is all about.

DELEGATE JAMES (presiding): Dele- Weidemeyer, do you wish to come forward to explain the section?