

1 Delegates Bothe, Macdonald and myself that was distributed
2 to you last Friday, I think, and it gives the historical
3 background of the juries as judges of the law provision
4 which is in our present Constitution and which Section 10
5 would continue. It sets forth the reasons why we suggest
6 this is an anachronistic arrangement and should not be
7 continued in the new Constitution.

8 I am hopeful that by providing the setting the mem-
9 orandum may serve to avoid spending unnecessary time debating
10 and explaining this provision which it does.

11 I also refer to a memorandum which Delegate
12 Churchill Murray distributed and in which is set forth --
13 and in which are set forth his views for the opposing
14 position.

15 By deleting Section 10, "Criminal Jury, Judge of
16 Law and Fact," this Convention will permit the same type of
17 procedure to apply in civil cases as apply in criminal
18 cases with respect to instructions of judges and agreements
19 of counsel. This difference in procedure which exists by
20 reason of Section 10 has been a source of confusion to jurors
21 for years. We submit that the time has now come to remove