

Delegate Grant, do I understand that what you would want to do would be to include section B with the addition that you have proposed in your Amendment AJ?

DELEGATE GRANT: That is correct.

THE CHAIRMAN: You may do that by preparing an amendment to include the new section containing the language you want without a reconsideration of the vote by which Amendment No. 12 is adopted.

If you will have the proper amendment prepared the Chair will submit it.

DELEGATE GRANT: Mr. Chairman, I would rather not delay the work of this Committee in consideration of this section.

THE CHAIRMAN: We can come back to this section. The form of your amendment is improper in either event. It will have to be redone.

DELEGATE GRANT: I will prepare it again, Mr. Chairman.

THE CHAIRMAN: If you will get a page to get Mr. Benson to come to your desk, he can fix it for you very quickly.

Are there any other amendments to any portion of section 5?

Delegate Henderson.

DELEGATE HENDERSON: The Amendment AF is now prepared and on the desk. I would like to have it distributed, please.

THE CHAIRMAN: Delegate Henderson, does the Chair understand that you propose to offer Amendments AF and AG in that order?

DELEGATE HENDERSON: I should prefer if I could do it to offer AH as an amendment to section 7 and then come back to AG, because I think that is the order in which the matters can best be disposed of.

THE CHAIRMAN: Since we have passed over the pending amendment, we can do that when we come back and reach section 7 in due course.

DELEGATE ANDERSON: Mr. Chairman.

THE CHAIRMAN: Delegate Anderson.

DELEGATE ANDERSON: I would like to take up AF first, and then AH and then AG, although they are not all to the same section.

THE CHAIRMAN: I do not believe we can do it that way.

DELEGATE ANDERSON: Very Well.

THE CHAIRMAN: We can take AH and then come back to AG and then come back to AH.

DELEGATE ANDERSON: All right. We will take up AF.

THE CHAIRMAN: In the course of AF you can indicate your purpose with respect to AH.

Pages please distribute amendment AF.

This will be Amendment No. 13. The Clerk will read the amendment.

READING CLERK: Amendment No. 13 to Committee Recommendation No. R&P-1 by Delegates James, J. Clark, Henderson, and Scanlan:

On page 3, section 5, Rights of Accused, on line 11 strike out the word "unanimous"; and in line 12 strike out the period and insert in lieu thereof the following words: "provided that the General Assembly may authorize majority verdicts of not less than ten in non-capital cases."

THE CHAIRMAN: The amendment has been submitted by Delegate Henderson and it is seconded by Delegates James, J. Clark and Scanlan.

The Chair recognizes Delegate Henderson to speak to the amendment.

DELEGATE HENDERSON: Mr. Chairman and fellow delegates, this was a matter that was debated rather extensively yesterday and I do not want to take any longer than is necessary to bring you up to date on the matter.

The proposal, this section 5(A), deals with the right to a trial by an impartial jury and then the original amendment went on to say "of 12 and without unanimous consent he shall not be adjudged guilty".

This amendment strikes out "unanimous" and provides the additional, "provided that the General Assembly may authorize majority verdicts of not less than ten in non-capital cases."

This was the provision which was discussed at some length yesterday, and I do not want to dwell on it.

As was pointed out, England and a great many of the states in this country, provide for less than a unanimous verdict. That seems to be a tendency that seems to be growing. In one way or another, the matter has been modified. This excludes capital cases but permits a less than unanimous verdict in other criminal cases.