

hears none. In line 6 after the word "may" insert the words "by law".

For what purpose does Delegate Hargrove rise?

DELEGATE HARGROVE: To ask a question.

THE CHAIRMAN: Very well.

DELEGATE HARGROVE: Will this interfere with a situation with an eleven-person jury if one gets sick?

DELEGATE HENDERSON: No. There is nothing to interfere with the consent of the parties if they agree you can have less.

THE CHAIRMAN: I think what Delegate Hargrove was asking was whether or not this amendment would, in effect, provide that if you had a jury of 12 and one became sick so that you ended up with a jury of only 11 at the time they retire, whether that would be permitted since there would still be 10 available, to render a verdict; was that your question, Delegate Hargrove?

DELEGATE HARGROVE: Yes, sir.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: Well, that is a problem which I have not considered, and I do not believe the other draftsmen had.

My view is that they would still require ten for a verdict, even though one might be taken sick and they might agree to go on with a lesser number.

I still think that the proper construction of the amendment would be that ten is required for a verdict.

THE CHAIRMAN: The Chair would take it that what your answer meant was that in view of the language of the complete clause "to have a speedy and public trial by an impartial jury of twelve", and so forth, provided the General Assembly may authorize by law majorities, so if one juror became sick, you would not have a jury of 12, is that your answer?

DELEGATE HENDERSON: Correct.

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: You use the words non-capital cases. There is a movement to abolish capital punishment. That phrase would be obsolete.

Would you object to insert instead of "non-capital cases" the following words:

"Cases not punishable by death or life imprisonment"?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I would have no objection to that; if the other sponsors agree, that would be a matter for the Style Committee.

THE CHAIRMAN: All of your co-sponsors agree.

Is there any objection to the change? The Chair hears none.

In line 8 strike out the words "non-capital" and after the word "cases" and before the period, insert the words "not punishable by death or life imprisonment."

The Chair recognizes Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman and ladies and gentlemen of the Committee, I rise respectfully to urge the rejection of this amendment. This is a discussion concerning the personal inalienable rights of individuals.

That is what this Bill of Rights is all about. This would be a diminution of individual personal rights. I suggest that it is not called for nor necessary. I suggest that the federal Constitution provides for a unanimous verdict in criminal cases, I suggest that for 200 years or more we have had the same thing here without any difficulty.

We have had testimony from judges who are trial judges. We have had it from lawyers who are trial lawyers. The all are urging the retention of the unanimous verdict.

I am completely unimpressed by the argument that it takes more time to do it this way. When a man's honor and freedom are at stake, he is entitled to all the time the jury needs to protect his interest.

It has worked well. I urge you without further ado to reject this amendment.

THE CHAIRMAN: Delegate Mitchell.

DELEGATE MITCHELL: Mr. Chairman and fellow delegates, I rise to speak in opposition to the amendment, if I may.

THE CHAIRMAN: Does any delegate desire to speak in favor?

Delegate Scanlan.

DELEGATE SCANLAN: I will not repeat the arguments in favor of the amendment that I made last week. I would just