

The jury came in and found her guilty on four counts of manslaughter. She had killed all four of her children. This would have been impossible under the District law. She would have been acquitted. Therefore, this rule does not have the practical effect even today. We do still allow inconsistent verdicts.

The second thing is whether or not, as a practical matter, the power is important and since we do not allow special verdicts in criminal cases, in other words, you do not direct a jury to bring back a limited verdict and find certain facts, it does make a certain amount of sense to keep this in our law.

Our own Judge Henderson wrote a law review article, or actually, he gave a speech which was very well received, to the Maryland Bar Association, I believe, in Atlantic City, where he approved this particular doctrine after the General Assembly had refused to propose a constitutional amendment in 1946 on this particular point. The complaints that he had in this particular area were removed when the judges were allowed to determine the sufficiency of the evidence.

Now, it boils down really to the situation where you have inconsistent verdicts, where the juries, in fact, disregard the instructions of the judge, and where the attorneys are allowed to argue any law to a jury, that is, as long as it is law. You cannot object that there is no such law. They generally have to cite cases. It is said to be abused by the defense counsel, by the State. I have seen it on occasion abused by defense counsel. I have objected and had those objections sustained, assuming there was no such law, and where law was clearly erroneously given to the jury.

In any event, it seems to me and it seems to the Committee that this historic right that we have had for at least the last one hundred and fifty years in Maryland should continue, and despite the fact that it has fallen into some disuse in the other states, it is important to continue it in Maryland.

The other position, or the other point that I am to give, is on the question of governmental immunity. We had several proposals on that. If you all remember, in our present Constitution we have a clause that says all men are entitled to a remedy. I wish I could find it very quickly to read it to you. Essentially, it is Article 19 of the present Declaration of Rights. It is beautiful language. Remedy for injury to persons or property: "That every man, for

any injury done to him or in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land."

Now, this is the present language of our Maryland Constitution. When we came to it, we liked the language, but we found out that in a hundred years it had not meant a thing and so we decided to give some meaning to the language. We have come up with the proposal that abolishes the governmental immunity. This is the doctrine that grows up out of the old concept that the king can do no wrong, and, in fact, we feel that in this day and age, we have no kings. Sovereignty rests in the people, not in a king.

The original concept was that all justice came from the king, and if justice came from him, you could not very well sue him. Well, we feel that this doctrine has no application. However, it is limited. It is not a dramatic change with the past in one sense because it does provide for exceptions to be made by statute, and this is done to avoid objections to it so that there can be an orderly development.

In excess of thirty states have now abolished governmental immunity, four by way of constitutional provision. We feel it is an important right, and when we wrote this Bill of Rights, we intended these things to be justiciable provisions, to have meaning. We took out the lovely language of Article 19 and put in something that means something to the people of Maryland.

In other words, this will spread the cost of injury, of damages under the concept of the common law as we as individuals are all liable for. This will spread the cost among all the citizens, and will prevent the horrible situation that a single citizen has to pay for the wrong that the whole State does.

That is essentially the provision that I am going to present. If there are any questions, I will be glad to answer them within my rather limited ability.

DELEGATE J. CLARK (presiding): Are there any questions of Delegate Wil-
loner?

The Chair recognizes Delegate Byrnes.

DELEGATE BYRNES: Delegate Wil-
loner, did you cover section 4? I see nothing in the Majority Report. That is on page 2.