

1 scribed number, is that correct?

2 MRS. BOTHE: I have seen cases, not in connect-
3 ion with our research here, that hold that there is no
4 necessity for a jury of twelve, and a number of States
5 provide for smaller sizes.

6 THE CHAIRMAN: And, secondly, this provision,
7 unlike the corresponding provision in the Declaration
8 of Rights with respect to criminal trials, does not require
9 a unanimous verdict, so that the adoption of this pro-
10 vision would leave it to the Legislature to provide in
11 some or all cases for a jury of other than twelve and pro-
12 vide for a majority or some other proportionate vote,
13 other than a unanimous vote.

14 MRS. BOTHE: Mr. Chairman, I would flag that.
15 Speaking off the top of my head, because the Committee
16 certainly didn't go into it, but I don't think it is a
17 matter of absolute record that the Legislature would be
18 able to prescribe less than a majority because under that
19 philosophy they might prescribe a minority.

20 THE CHAIRMAN: Not less than a majority, less
21 than unanimous. I point out to you the only reason for