

1 MR. MINDEL: That is correct.

2 THE CHAIRMAN: Is there any discussion of
3 that point?

4 MR. MINDEL: I might point out that the model
5 Constitution provides for right of trial by an impartial
6 jury but makes no reference to unanimous consent. It
7 appears to me that the modern trend is getting away from
8 having a constitutional provision by permitting that
9 particular feature to be decided by the Legislature.

10 MR. SCANLAN: Many States don't require it,
11 at least in their constitutions, and it seems to me that
12 this day and age, when opinions of the Supreme Court are
13 liberalizing, or expanding the protections, perhaps
14 legitimate protections to which an accused is entitled,
15 we shouldn't freeze the hands of the government of this
16 State sometime in the future if they thought that
17 because of abuses in the jury system, a decision by
18 ten jurors would be sufficient in the criminal case.
19 They should be permitted to reach that conclusion without
20 their hands being tied by the Constitution, and the
21 mother country, England, which gave birth to the unanimous