THE FAMILY PARLIAMENT.

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QUESTION V.—OUGHT TRIAL BY JURY TO BE ABOLISHED?

OPENER'S SPEECH.

MR. SPEAKER,

I cannot help feeling, Sir, that I am about to do a very bold thing—no less than to attack that jury system which has been described by eminent legal authorities as "the glory of the English law," and "the bulwark of our liberties." I am well aware that trial by jury is regarded by many with an almost superstitious reverence, and is held by them to be one of the soundest and most important institutions of the realm. And yet, Sir, when in one part of the kingdom a judge is heard to assert that "trial by jury has become a farce and a mockery;" when the Lord Chancellor's Legal Procedure Committee has decided in favour of trial by a judge without a jury, for all but special cases; and when the Committee of the Incorporated Law Society declare themselves of a similar opinion, surely there are full and sufficient grounds for introducing this subject to the notice of the Family Parliament, and for seeking an opinion either for or against the existing system.

Undoubtedly trial by jury has performed good and true service for the past ten centuries, and in olden times has often rescued the oppressed from the oppressor, the defenceless from the tyrant. It may at once be admitted that trial by jury in the past is worthy of all the praises lavished upon it by its most enthusiastic admirers; but at the same time it may be argued that, like other good things which have in time become obsolete, the system has had its day, and that at the present time not only do its defects outweigh its merits, but that it bids fair to become an abuse and a crying evil. This at any rate, Sir, is my case, and I hope to be able to prove it to the satisfaction of the Family Parliament.

The main arguments against the jury system seem to be four in number: the first and second being the incapacity and partiality of the jurors; the third and fourth being the cumbersomeness and expense of the system. As regards the first point, it may be admitted that special juries are, as a rule, composed of fairly intelligent men; but since nine-tenths of our civil and criminal cases are disposed of by common juries, I have a right to claim that by common juries the system must stand or fall. And is it not well known that common juries rarely comprise the most educated and intelligent men on the list, but rather those who may be depended upon by the summoning officer, and who have not found some method of earning that officer's special favour? Is not this particularly the case in the country, and in the suburbs of large towns, where clerks and others whose avocation compels them to travel to and fro rarely get called upon to serve, while the local "butcher and baker and candlestick maker" are continually finding themselves on the panel? On this point a legal paper has very well said:—"In no other concern of life are important issues committed to persons who possess no special qualification whatever for the duties thus assigned them. If we desire the services of any particular craft, we go to the man who has made this craft his special study. For medicine we go to the physician, for legal advice to the lawyer; yet for justice we go to twelve men, not one of whom may have been in a court before, or have had any experience of the arts of debate, the subtleties of counsel, or the difficulty of weighing the doubtful evidence of opposite witnesses." And another authority has put the case in a stronger light still, in declaring, "Our jurymen quit their shops for the courts of justice; they march straight from the weighing of candles to the weighing of testimony—from the measuring out of tape to the measuring of fate—from dealing in bacon and cheese to dealing with the lives, properties, and liberties of men." And when we think of the absurd verdicts jurymen often return, when we hear revelations as to how damages have been assessed on a principle of averages, of how a man has been adjudged guilty or not guilty accordingly as to which side of a coin falls down uppermost, can we say that this condemnation is too severe?

And if juries are often incapable, are they not almost as frequently partial? It may be granted that they are rarely wilfully so, and that in important criminal cases, such as trials for murder, they are painstaking and laborious; but in minor actions, such as for damages, disputed accounts, &c., their unconscious partiality becomes painfully evident. For instance, they themselves are tradesmen, and if they have to try an action in which one of their class is plaintiff or defendant, the probability is strongly in favour of his obtaining a verdict, mainly because his view either in bringing or defending the case is the trade view, and therefore the view of the jurymen engaged. Instances might be multiplied, and many amusing stories bearing upon the partiality of juries might be told; but time presses, and I must ask your consideration of other points.

The jury system, from beginning to end, is cumbersome in the extreme. The process by which the lists of those liable to serve are prepared; the manner in which the "twelve good men and true," together with a surplusage, are summoned; the way in which jurors are detained till wanted; the unnecessary repetition of arguments if the twelve men are at all inclined to loquacity—these are but instances of the heavy

machinery which, be it oiled never so well, cannot be made to work smoothly.

Moreover, the system is expensive, and entails a large annual loss on the country. Who can estimate the number of working days spent annually by jurors, in investigating cases which might have been settled in half or quarter the time by trained and experienced judges? And what is the approximate value of the labour thus thrown away? And, beyond these indirect losses, there are the direct ones: the cost of preparing the lists and summoning, and the fees, small though they be, paid to common and special jurors. All this would be saved, for the number of judges need not be increased ten per cent.

As I have already stated, the Lord Chancellor's Legal Procedure Committee, and a specially appointed Committee of the Incorporated Law Society, have decided in favour of the ordinary mode of trial being by a judge without a jury, except in a few specified cases, such as libel, slander, false imprisonment, malicious prosecution, and breach of promise of marriage. And, after a careful consideration of the demerits of the system, are we not disposed to agree?

In short, Sir, I have to submit that juries are unsuited to the requirements of the day; that their season, long though it has been, is over; and that the sooner the system is abolished, the better the chance of justice being administered, the safer the freedom and welfare of the country at large.

OPPONENT'S SPEECH.

MR. SPEAKER,

I am indeed glad to hear, Sir, that the Opener of this debate has deemed it necessary to preface his arguments with apologies. Trial by jury is in very truth one of the most revered and fundamental institutions of Great Britain, and he is indeed bold who will dare to propose its abolition. Are we to lightly forget the numerous instances in our history when an English jury has manfully defended the liberty of the subject—to take one instance only, how in the reign of King Charles II. a London jury gave a true verdict according to the evidence, in the case of the trial of two Quakers, and how the jury in consequence suffered imprisonment for a time because of their opposition to an unjust judge? Are we to forget that this institution originated in the early daybreak of civilisation, and has ever since been the main safeguard of our liberties? Are we to forget that if the jury system had been abolished in the past, tyranny and despotism—represented by sycophantic judges—would have flourished, and the rights of the people would have been trampled under foot? He is indeed bold who dares to assail that which Blackstone, the greatest exponent of our law, has declared to be not only "the palladium of British liberty," but also "the most transcendent privilege which any subject can enjoy or wish for."

And what are the arguments adduced in favour of doing away with this "transcendent privilege"? First of all, that juries are incapable and partial! Surely my honourable friend, the Opener of this debate, must be a professional man, or he would not have tried to sneer at the capacities of tradesmen as he has done! I am bold to maintain that the essential quality in a juror is common-sense, and that is possessed in an eminent degree by tradesmen, dealing as they do with all classes. And I have no hesitation in saying that a jury of barristers and solicitors, if such a thing were possible (and, fortunately, it is not), would be the very worst assembly from which to expect economy of time, and they would be the jury least likely to return a just and unanimous verdict.

Furthermore, I am ready to defend juries to the very last against the charge of partiality. All men are fallible, and now and then instances occur where juries suffer themselves to be swayed by personal sympathies, but is it not notorious that such is also the case with some of our judges? To take an instance: one judge justly holds prize-fighting to be a heinous crime, while another, who has probably been a champion athlete at college, looks upon it as a venial offence; where is the distinction between the partiality of this judge, and of a jury who say they consider that goods ordered by a man's wife, and delivered at his house, should be paid for, whether the order be given with or without the husband's cognisance? And surely, Sir, the case of the Opener of this debate must be weak indeed when he quotes an Irish judge's dictum of Irish juries as a defence of his charge against the system, quite regardless of the fact that that Irish judge had in view special circumstances arising from the national sympathies of the time, and that, from the very nature of his remark, he would probably have been the last person to condemn the jury system as a whole.

And even if, as asserted, the system be cumbersome and a few thousands a year more costly than a trial before judges, what matters it if our liberties be more firmly secured? Judges are too apt to be guided by precedent, to refuse to look at anything but the strictly legal aspect of a question; they are often not sufficiently acquainted with the habits and mode of life of the class to which the prisoner or defendant may belong, to be able to take the place now so well filled by a jury. And, moreover, what a safeguard is there in the unanimous verdict of twelve men! If only one of their number be convinced that a man is not guilty of the crime imputed to him, and have strength of mind to adhere to his conviction, a verdict of "Guilty" cannot be returned. Let us for one instant put ourselves in the place of a prisoner in the dock: which should we choose to finally determine the question of our guilt or innocence—a judge who, if biassed at all, is biassed in favour of assuming the guilt of a prisoner before proof, or a jury who hold it as the inestimable privilege of an Englishman that no man is guilty until his crime is clearly proved?

Moreover, trial by jury, while a privilege for the person tried, is of no mean value to the jury themselves. True it is that to serve on a jury takes away a man maybe some days annually from his ordinary business avocations, but in return for this he receives a valuable legal training, his ideas are enlarged,

and his small part in the administration of the law gives him more advanced ideas of privileges, and a healthy pride in the country of his birth. I cannot forbear quoting Dean Stanley's words on this subject, who said of trial by jury: "I have myself only witnessed it once, but I thought it one of the most impressive scenes on which I had ever looked. The twelve men, of humble life, enjoying the advantage of the instruction of the most acute minds that the country could furnish; taught in the most solemn forms of the English language to appreciate the value of exact truth; seeing the whole tragedy of destiny drawn out before their very eyes, the weakness of passion, the ferocity of revenge, the simplicity of innocence, the moderation of the judge, the seriousness of human existence—this is an experience which may actually befall but a few, but to whomsoever it does fall, the lessons which it imparts, the necessity for any previous preparation for it which can be given, leap at such moments to the eyes as absolutely inestimable."

And what is to be the substitute for the jury? A single judge—a man who, admittedly, is superior in intellect and learning to an ordinary juryman, but whose decision is infinitely less trustworthy than the unanimous decision of twelve men! If it be found that loss of time is caused by the fact that juries often cannot agree upon a verdict—although I maintain that such cases are a healthy sign of the system, and a safeguard which in days of lesser freedom would not be lightly parted with—then let the Scotch system be adopted, and let us accept the verdict of a majority. But, in the name of freedom itself, and of all that we hold dear, do not let us part with that which has served us so well in the past, and may once more be needed to preserve our liberties and lives!

TO OUR READERS.—The Editor will be happy to receive the opinions of any Readers on the above Question, on either side, with a view to the publication of the most suitable and concise communications in the July Part. Letters should be addressed "The Editor of CASSELL'S MAGAZINE, La Belle Sauvage Yard, London, E.C.," and in the top left-hand corner of the envelope should be written, "Family Parliament." The speech should be headed with the title of the Debate, and an indication of *the side taken by the Reader*. All communications on the present Question must reach the Editor not later than May 10.

An Honorarium of £1 1s. will be accorded (subject to the discretion of the Editor) to the *best speech on either side of the Question*; no speech to exceed 50 lines (500 words).

QUESTION III.—ARE EARLY MARRIAGES UNTHRIFTY?

H. K. ROADS:—I think, Sir, the hon. Opener is mistaken in his view of early marriages being unthrifty. All women are not milliners' dolls! But many, both in education and intellect, are fitted to be true help-meets to the bread-winner; while with all—and especially young women—*love* is a strong motive-power, which makes them capable of any self-sacrifice and devotion, to promote the honour and welfare of those they love. The younger the wife, the more easily does she adapt herself to circumstances. I know, personally, a young wife who since her marriage keeps her husband's books during his clerk's annual holiday, and constantly writes numerous business letters for him; no wearisome details of her husband's affairs being uninteresting to her. This is one instance of thousands. Few wives, doubtless, receive such a glowing tribute to their intellectual help as that uttered by John Stuart Mill in his dedication to his wife's memory; but every wife can be—and is, in far the greater majority of cases—an incalculable help, encourager, and blessing to her husband, whatever station of life he may occupy. Are not the words of the poet true of a wife?—

> "His house she enters, there to be a light
> Shining within when all without is night;
> A guardian angel o'er his life presiding,
> Doubling his pleasures and his cares dividing."

An early marriage provides every possible incentive to thrift a man can have, inasmuch as they are rarely entered upon from sordid motives, but generally from mutual affection; and will not a man's love for his wife, and it may be children too, encourage him to work far harder and more successfully in whatever career he lays out for himself, and purify and ennoble his aims? The weaker and more pleasure-loving natures amongst us are often saved from extravagance and vice through the very strength of their affection for a wife or child. In support of the view that early marriages are not unthrifty, I might mention the names of Sir Richard Arkwright, married when only twenty-two years of age, who from a barber became High Sheriff and received the honour of knighthood; of the sculptor Flaxman, of the industrious historian Niebuhr, of George Washington, and of the Chevalier Bunsen. I believe that to the prevalence of early marriages in this country we owe in no small degree our high standard of morality—in contrast to that of France, where late marriages are customary—and not only our morality, but also our wealth and prosperity as a nation.

OPENER'S REPLY.

MR. SPEAKER,

I am afraid, Sir, that at the very outset my Opponent misunderstood the position. Thrift certainly consists in making the most of the resources at one's disposal, but can it be called thrifty to enter upon new responsibilities clearly beyond one's resources, and whose limits cannot well be defined?

Young married people with slender means may, and do at times, live very happily, but only by the exercise of exceptional qualities, and in dealing with the present question we ought to consider what is the *general* result of early marriages. For the reasons I have already given, and which do not seem to have been controverted, I still venture to maintain that early marriages *are* decidedly unthrifty.

SUMMARY OF SPEECHES RECEIVED.—In favour of Early Marriages—51; Against—67; Neutral—4. Total 122.

END OF DEBATE ON QUESTION III.

VOTING ON QUESTION II.—A majority of 143 readers has declared that Public Examinations *are* Beneficial to Young People.

VOTES OF READERS.

Attention is called to the **Voting Paper** on Question IV., which will be found facing the Frontispiece of this Part, and which is to be filled up and sent to "The Editor of CASSELL'S MAGAZINE, La Belle Sauvage Yard, Ludgate Hill, London, E.C.," in accordance with the directions given on page 250 of our March issue. The Voting Paper may be enclosed either in a stamped envelope or in a halfpenny wrapper.

THE FAMILY PARLIAMENT.

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QUESTION IV.—SHOULD WE SEND OUR GIRLS TO BOARDING-SCHOOLS?

CATHERINE D. LOGAN:—Mr. Speaker,—Being a governess, and having had fourteen years of personal experience in boarding-school life, first as scholar and then as teacher, I think I may be able to give a few hints regarding the all-important subject of sending our girls to boarding-school. Although I have been connected with the very best schools, in which the moral as well as the intellectual qualities in girls are cultivated and developed, I would on no account send my girls to boarding-school—at least until they have reached an age when their characters are formed, and they are fairly able to discern between right and wrong.

Girls who are early sent to boarding-school lose much of a mother's love and care, which can never be replaced by any one else, be the principals and governesses ever so kind. The children are liable to grow up without understanding their mother or being understood by her; for all will agree that to know a person thoroughly one must live with him or her constantly.

Thus it not unfrequently happens that when they leave school and go home for good, the girls get on indifferently or badly with the mother. Not having been brought much together, their dispositions clash, at any rate for a time, until they get used to each other.

Then, too, the conversation and manners of the elder pupils are often anything but a good example to the younger ones, whose ears and eyes are always open, and who too readily pick up anything that would be better left alone.

They become "grown-up," talking of Stephen Heller's Tarantelles, and Macaulay's essays, when they ought to be playing at "shops" or nursing dolls.

If they are nervous they get bullied by the elder pupils, and thus may become cowed, reserved, and what the world calls uninteresting, to say nothing of their timidity leading them to falsehood or deceit.

I think that girls' ideas get narrowed by living for years shut up in a boarding-school, always being overlooked by a governess, never going out alone or relying on themselves, and seldom meeting visitors; so that when they do begin to mix with the world one cannot be surprised if they are awkward, silent, and peculiar. While I hold these opinions I do not disregard the many advantages that may be derived from girls mixing with others, and competing with them in their studies, which often result in the naturally idle and perhaps even stupid girls becoming well-educated and bright women, but the preponderance seems to me to lie on the side of the disadvantages.

After all, a good education is not the only or chief thing we want for our girls, but rather a training that shall fit them to become good and useful women, well able to bear their part in the battle and bustle of life.

OPENER'S REPLY.

MR. SPEAKER,

Being fearful, Sir, of trespassing upon the patience of the House, my opening speech was very incomplete. Happily, some of my unuttered thoughts have found voice through my supporters. To my so-called Opponent I reply, "To express an opinion is not to controvert an argument." Hon. members on the other side have misunderstood the drift, and have not risen to the level of my reasoning. Standing upon higher ground, looking at matters in a broader light, and sounding the depths of things, I have ignored the trifles at which they have gazed with microscopic eyes, and have considered rather the weightier matters of Justice, Happiness, Liberty.

Parents may not wantonly delegate their authority, otherwise a child of ten years might have power over a girl of eighteen. "Authority unlawfully delegated may be lawfully resisted." Children may claim to be ruled by their parents, and by them alone. That is my answer to a certain hon. member.

Believing with Carlyle that all falsities die out, I rest assured that the fashion of parents handing over their families for other people to bring up will sooner or later cease to exist. The day is coming when the moral hideousness of the idea of tearing boys and girls from their homes, collecting them in batches like flocks of sheep, placing them in large buildings under the control of strangers who have no business to interfere with them, and making them lead the life of monks, nuns, and prisoners, will be clearly seen, and our posterity will condemn the barbarity of their forefathers.

SUMMARY OF SPEECHES RECEIVED ON QUESTION IV.:—Against Boarding-Schools for Girls—37; In favour of Boarding-Schools for Girls—42; majority of speeches in favour of Boarding-Schools—5; Total—79.

Two hundred and thirty-two votes were recorded on the question "Should we send our Girls to Boarding-Schools?"—resulting in a majority of twelve for the Opener of the Debate. A large number of votes had to be disallowed owing to non-observance of the published regulations.

QUESTION V.—OUGHT TRIAL BY JURY TO BE ABOLISHED?

(*Debate continued.*)

G. H. RIMMINGTON:—On reading the speeches of the Opener and the Opponent, one can scarcely help feeling, from the general tone of the latter, that it is a very ingenious attempt to defend, with a number of far-fetched though at first sight plausible arguments, a system whose only recommendation is its antiquity. As an instance of this, I would call your attention, Sir, to that part of the speech in which the hon. gentleman is putting the question whether, if we were in the prisoner's place, we would rather confide our case to the decision of a judge or of a jury; where he says, "a judge who, if biassed at all, is biassed in favour of assuming the guilt of a prisoner before proof," &c. From what premises the hon. gentleman draws this conclusion, he has thought fit to omit, and I must confess that, after carefully thinking the matter over, the reason for such a statement still escapes me. This may be due to my exceeding obtuseness of understanding, but that question must be left to the decision of the Family Parliament, in whose hands I place it with the greatest confidence. Then again, we have the quotation from Dean Stanley, but this, although expressing in a very pleasing manner most beautiful sentiment, can hardly be looked upon as satisfactory from a practical point of view. One could understand men who were simply listening in a disinterested manner deriving great pleasure, and it may be valuable information, from a visit to one of our courts of law. But this is not the

position of a juryman, for on him devolves the responsibility of helping to decide the case, and if he is to do justice to his country, it is evident that his whole attention must be fixed most firmly on the point at issue.

The argument, however, which presents itself to my mind as telling most against trial by jury, is the incompetence of the class of men who form our juries to follow the thread of a case through such a maze of verbiage as often surrounds it, and at the end to come out of what, to an untrained mind, appears a hopeless muddle, with anything like a clear idea of what their verdict ought to be.

Moreover, it is no uncommon thing to see a stout old juror, when a case becomes at all irksome, having his quiet forty winks up in a snug and shady corner of the box; and can we doubt that although the eyes of his companions are open their minds are far away, some shepherding their flocks, others driving imaginary bargains which are to make their fortunes, but all wandering wide of the point, which the shrewd old judge, who is to instruct them, is labouring hard to solve. In nine cases out of ten, therefore, we find that the verdict of the jury is really the judgment of the judge, which is gathered by them from his summing-up, to which they pay most strict attention.

Why then should this mockery be allowed to continue, to the disgust of the tradesmen whose valuable time is unnecessarily taken, to the cost of the parties to the case, and to the disgrace of our England of the nineteenth century?

J. A. COMPSTON:—Mr. Speaker,—I have the pleasure, Sir, to support the opener on the negative side of this question, although his able speech leaves little to be said.

Can the hon. gentleman who supports the opposite side have considered the effect of his statement that "not only do the defects of trial by jury outweigh its merits, but . . . it bids fair to become an abuse and a crying evil"? I think surely not. We are all well aware that the province of a jury is simply to decide questions of fact upon which the parties are at issue, and this subject to the direction of the judge, by whom all questions of law are decided. Must it not be admitted that twelve men can do this better than one, that they are better able to discriminate between truth and falsehood from the demeanour and statements of those before them than one man, no matter how shrewd and learned he may be? How often have we seen that a judge has been influenced to a great extent by counsel pleading before him, and so led over to the side represented by that counsel! No doubt the judge was unconscious of the leading, but still the fact remains.

I trust the House will show its decided sympathy with the hon. member on the negative side.

J. CARSON:—Mr. Speaker,—In my opinion the arguments adduced on both sides point, not to the abolition, but to the improvement of our present system of trial by jury, both in civil and criminal cases. The Opener admits that it has worked admirably in the past, and has proved one of the best "safeguards of the liberty of the subject," but pleads that it is not suited to the times we live in. Our country's laws have been gradually built up, and amended to suit exigencies as they arose, and the argument as to age if once admitted might equally well be applied to the abolition of many of our best judicial forms and methods in existence from remote periods. So that we should pause well before coming to the conclusion that the jury system should be abolished. If it was a good institution when the men summoned were comparatively ignorant, and many could neither read nor write, what may it not become in the future when even the poorest can claim the advantages of education, and the means of forming an intelligent judgment? The argument of incapacity will constantly acquire less force as education is extended. What the jury system affords is that a common-sense view is taken of the facts and motives brought before the court, and these are not so likely to be lost sight of by men who have no strictly legal training, as by those who always approach the settlement of cases with a decidedly legal bias in looking at things.

WILLIAM YATES:—I quite agree with the Opener's speech that it is high time trial by jury was abolished. I have served on juries three different times. In one case a man was tried for stealing; upon retiring to consider our verdict, the votes were: three for conviction and nine for acquittal; after an hour's consultation the votes were reversed, ten for conviction and two for acquittal; eventually the man was found guilty. Astonished at the change of opinion, I asked one of my fellow-jurymen the following day the reason; his reply was, "That little man who was so determined to convict the prisoner, said 'that he would stay there all night rather than let him off,' and my friends who were for giving him the benefit of the doubt then gave way." In another case, upon being locked up to consider our verdict, one of the jurymen, prepared for the occasion, took out his lunch (it was past two o'clock), and after he had eaten it, held out against the united opinion of the eleven tired and hungry jurors, until the amount of compensation which was decided to be given to the plaintiff was reduced from £20 to £5. It is all very well to say a man should not swerve a hair's breadth from his conscientious opinion, but the class from which jurymen are selected do not feel competent enough to decide on conflicting evidence, and are therefore easily led by obstinate strong-minded men. I would also add that many men are summoned to act as jurymen who are struggling "to keep the wolf from the door," and to whom a week's loss of time is a serious matter.

J. TAYLOR:—After a week's experience on the petty jury of the assizes, and paying particular attention to the working of the system, I can say that as a rule the jury was composed of men who during the trial had well weighed the evidence and formed their own opinions, and on retiring to consider their verdict were most careful to err on the side of mercy. But whether justice would not sometimes be better administered if the verdict of the majority were taken is worthy of due consideration, and whether the candid opinion of twelve men would not be preferable to what for the sake of unanimity might frequently be called the forced opinion of a small number of the jury. In one case this week a prisoner was detained in prison until the next assizes, owing to ten of the jury being of one opinion and two of another. The jury were consequently discharged without giving a verdict, but the two who stuck to their opinions were an exceptional type of men, and in most cases the ten would not have had much difficulty in winning over the remaining two.

That juries in criminal cases are of great service, any close observer of an assize court cannot fail to see, for were it not for the jury the members of the bar would not have so much inducement for a searching cross-examination of the witnesses, and the prisoner's friends would not be so satisfied, and where capital punishment ensued the country would not.

The Debate on this question will be continued in our next issue, but no further speeches can be received.

Other speeches supporting Opponent's argument received from J. Harrison, J. Stenash, J. R. Leaven, Jane Menzies, L. Kimmins, J. Allen, T. W. Erle, H. B. Harris, Zanoni, T. M. Jones, M. E. Rangdale, T. Elly, J. F. Binnie, W. Forbes, R. J. Dingley, W. King, A. E. Howse, G. W. Fletcher, J. A. R., James Beckett, W. Speakman, Frank Thompson, Kate Brookes, Scotch Reader, George Williams, M. Rogers, G. L. Selby, J. M., Sparkhall Brown, Hugh Hughes, J. Maule, C. Boyce, J. Twomly, J. T. M. Davis, J. B., A. Thorpe, George Caine, and others.

Other speeches supporting Opener's argument received from R. L. J., N. Walbank, A. McKechnie, &c.

SUMMARY OF SPEECHES RECEIVED:—For the Abolition of Trial by Jury—11; Against—54; Total—65.

The Honorarium of One Guinea has been awarded to Charlotte A. Pritchard, Dumbleton, near Evesham, Worcestershire, whose speech will be given at the close of the Debate.

mind I would be revenged? My opportunity soon came, and I took it. In the course of a few days we were away together in another division of the county. Notwithstanding the fire of indignation within me through having been "sold," I remained friendly towards my fellow-reporter, though I firmly, albeit courteously, declined to "join" with him in sending off a telegram giving the town we had left news of how the voting had gone. Without his knowledge, I had written out as far as I could the words of the telegram I intended to despatch, so that when we entered the returning officer's room I had only to insert opposite the name of each candidate the number of votes polled for him. My friend pressed eagerly forward when the figures were being read out, while I remained quietly behind, and, having inserted the figures in the proper places in my telegram-form, sped away to the Post Office. I fought my way through an excited populace, unheedful of the questions asked of me, and arriving, breathless almost, at my destination, I handed in my telegram and had the exquisite satisfaction of knowing my message was away before he who had so lately "sold" me arrived in the Post Office with other reporters. Need I say I added at the foot of my despatch, "First on wire"? or need I attempt to describe how I revelled in the idea that my friend would see the words in my journal the following day? I trow not. To say the least of it, here was a Roland for an Oliver!

Such are the little trials and triumphs of a provincial newspaper reporter.

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QUESTION V.—OUGHT TRIAL BY JURY TO BE ABOLISHED?

(*Debate continued.*)

REV. C. B. BRIGSTOCKE:—Sir, the question brought before us now is one of the gravest importance, and when one finds the Lord Chancellor's Legal Procedure Committee and the Committee of the Incorporated Law Society on one side, and Blackstone, the renowned exponent of English law, on the other, the members of the Family Parliament may well be excused if they hesitate before they give in their votes on one side or the other.

We are dealing here with one of the existing institutions of the country, one that dates back to the times of Alfred the Great, and which is admitted by the Opener of the debate to have done "good and true service for the past ten centuries," and in olden times to have "often rescued the oppressed from the oppressor, the defenceless from the tyrant." From its very antiquity it claims at our hands gentle treatment. It is, moreover, a serious thing to shake the public faith in one of the established institutions of the country, nor is the Opener's case made out till he has not merely convicted it of certain defects, for all human institutions are imperfect, but shown that it has been fruitful in glaring abuses and thwarted the great ends of justice.

The system may be cumbersome and expensive, but this is after all but a small price to pay, assuming that we thereby gain the impartial administration of justice, for on this depend the nation's life and prosperity. On the other hand, we may dismiss as irrelevant the fact of its benefiting the jurymen themselves. No doubt it does give them "valuable legal training," but as the system originated, not for the benefit of the juryman, but for the protection of the oppressed, its value must be measured by the degree in which its great object is promoted, not by any incidental advantages it may confer upon the jury.

Opener does indeed contend that jurymen are often incapable, and as often partial, and here he touches the very root of the matter. Proved inability to weigh the force of evidence, or a constant bias in favour of persons, must indeed interfere very seriously with the due administration of justice, and lead to disastrous results; but if such miscarriage of justice had been common, it is not easy to understand how the institution could have existed so long.

That trial by jury "has become a farce and a mockery" in Ireland recently is only too well known, but to contend that it should be abolished in England on that account is as illogical as it would be to demand the repeal of the Habeas Corpus Act because it has been found necessary occasionally to suspend it.

I cannot, then, think that the days of trial by jury are numbered. We need clearer evidence of the incompetency and partiality of common juries than we possess at present, and till that is forthcoming I for one must vote in favour of the existing system of trial by jury.

J. A.:—I am in favour of the abolition of trial by jury, and there can be no doubt, I venture to think, that such trials are now inappropriate. It is all very well to say that they have done good service in the past, but that is nothing to the purpose. We might just as well say that the stage-coaches should not have been superseded by the railway, and yet no one now denies that the change was really imperative. When jury trial was first established, our laws, and indeed our people, were in an entirely different condition, and such trials no doubt served the purpose. But law has been gradually expanding until it has become quite a science, and my contention is that only those who have studied the law are able properly to administer it. In medicine we never seek outside help to assist the physician in dealing with the cases under his charge—why then should a jury be needed to assist in applying the law? No one will say that our judges are not impartial, and the fact that they are entrusted with presenting the case to the jury in a consecutive form, and ridding it of all unnecessary matter, is a strong reason why he should be allowed to determine what the decision is to be.

J. T. MARPLE:—Mr. Speaker,—A celebrated statesman once said that "some men make speeches better without facts than with them," and I think, Sir, the Opener of this debate is one of that number. I quite agree with his hon. Opponent that he must be a professional man, for his speech from beginning to

end is a decided case of special pleading. The arguments which he advances (if indeed they are worthy of the name) in favour of the abolition of trial by jury are four in number. In the first place he charges jurors with being incapable, and secondly with being partial, and the only ground on which he attempts to justify this sweeping assertion is that juries are generally composed of tradesmen. This statement, Sir, I consider a gratuitous insult to that class who form the backbone of our commercial prosperity, and whose verdicts will, I feel persuaded, compare favourably with those given by magistrates, who often by the mere "accident of birth" have been placed in more affluent and responsible positions.

With regard to the hon. Opener's second point, that juries are frequently partial, I take the strongest objection, and I challenge him to point out above one or two cases of importance in which a jury has given a verdict in direct opposition to the weight of evidence. Firmly as I believe in the impartiality of our judges, I am equally convinced of the impartiality of our juries. The "absurd verdicts" which he states have often been returned are only the outcome of his own imagination, and have no foundation in fact. There is no system however perfect but what is liable to abuse, and my hon. friend must indeed have a weak case if he can bring forward no stronger argument in favour of the abolition of trial by jury than that the system has sometimes been abused.

With respect to his third and fourth objections, that trial by jury is expensive and cumbersome, the same argument would apply to our whole representative system of government, but there are very few persons indeed who would on this account wish to see it abolished, and all power centred in the Crown and hereditary legislature. Then, again, it must be remembered that the jury system was established not only for the vindication of the law, but also for the protection of the subject; and it behoves us as Englishmen to resist to the utmost any attempt to deprive us of our privilege. The consensus of opinion which the hon. member says exists amongst the legal profession on this question, is to my mind only an additional argument in favour of our retention of a system which has, according to Blackstone, been for ages "the palladium of British liberty, and the most transcendent privilege which any subject can enjoy or wish for;" and I think, Sir, the Opener of this debate has entirely failed to establish his case in favour of the abolition of trial by jury.

G. DOMLEO:—To my mind the question which requires consideration is not the abolition of juries, but rather the extension of their powers. Some of the sentences, decisions, and verdicts of our judges and country magistrates are infamous, and I trust the time is not far hence when all trials shall be by jury, and when they will not only have the responsibility of finding a true verdict, but shall also possess the power to mitigate or add to the punishment assigned.

E. W. K. LOW:—The honourable Opponent appears to rest one of his main arguments in favour of the continuance of the jury system on the services which the jury has rendered in times past, and adduces one instance in the time of Charles II. to support his statements. Well, Sir, I don't think any one will deny that the jury has been of great benefit to the people in times when judges were not altogether the dispensers of justice. But I hold with the honourable Opener that the time has now come for its abolition; for though its present defects would have held good in former times, yet its recommendations, in a tyrannous age, outweighed these defects; but now its advantages have disappeared, while its bad points remain.

As to the incapacity of juries, I am disposed to agree with the honourable Opponent that the principal qualification of a juryman is common sense, but from the curious verdicts often returned a person would be led to think there was a lamentable lack of common sense amongst them. Think of the verdict of a Welsh jury, "Not Guilty, but we recommend him not to do it again;" and another jury, after the prisoner had confessed, returned him "Not Guilty" because, as they said, he was a most notorious liar, unworthy of belief, and they adhered to their verdict. And a great many equally clever conclusions could be mentioned.

J. COOK:—I would, with all due respect, point out that in cases where the "liberty of the subject" is involved, or, in other words, in criminal cases, it would be difficult to uphold the grand principle of English law that "every man is innocent until he be proved guilty" if tried before a judge alone; for during a trial, I believe, a judge is generally cognisant of a prisoner's antecedents, and in many cases of "previous convictions."

With a jury, however, this cannot happen. During the progress of a trial they know nothing of the accused's antecedents, and can only judge of a case as laid before them; and it should be borne in mind that in the future the common jury is likely to be composed of a better class of men than hitherto, if the remarks of the present Lord Chief Justice and other learned judges upon this subject bear the fruit it was doubtless intended they should do. Whilst, however, inclining to the preservation of the "common jury," it is not so with the "grand jury." I think this jury can well be dispensed with.

H. J. WATKINSON:—A slur seems to have been cast upon the juryman who goes from the weighing of tea to the weighing of evidence, from the measuring of cloth to the measuring out of justice; as a rule, these men take with them free, unbiassed minds, and the same sound common sense that has enabled them to make or to carry on their business, which, without any legal training, is quite sufficient for the work required of them.

There is an old saying that two heads are better than one, and where it is only a question of fact, and not of law, ordinary people will consider that twelve are certainly better still. No doubt a few abuses exist, but, because of these, the Opener would sweep away what has served us so well for ten centuries, and put in its place a system fraught with many evils. If we must have an evil, by all means let us choose the least. Why destroy the grand old tree that has given shelter to many a persecuted one, to many a poor wretch who has happened to be the victim of circumstantial and official evidence, and whose only hope has been in reaching the shade of its outstretching branches? Lop off the dead and dying members, dig about it, improve the soil from whence it comes; but uproot it—never.

T. H. J. PORTER:—I think, Sir, there can be no doubt as to the charge of partiality against juries being only too true, and I am afraid it would be very hard to prove otherwise. For instance, what can be said to the following? A landlord entered a distress for rent on a farm; the bailiff (with the consent of the tenant) sold all the goods, instead of only sufficient to satisfy the distress. The tenant (probably with the advice that the jury would most likely for the principal part be composed of farmers, and that therefore he would stand a good chance of getting a verdict in his favour) brought an action for illegal distress. At the trial it was shown beyond doubt that the tenant had consented to the arrangement, and that the goods were sold at a great advantage to him. The judge in summing-up clearly put all the facts of the case before the jury, with the result, one would have thought, of a verdict for the defendant, but no, it was for the plaintiff, with somewhat heavy damages; and, more than this, on the foreman of the jury being questioned by some of his friends as to the reason of such a verdict in the face of such evidence, he made the reply that "the farmers are very badly off just now, and we must do something for them when we have the opportunity." Surely, this cannot be said to be justice, and it is unfortunately only one of many instances of partiality shown by juries. And then how often are the jury carried away by the pitiful tale of an eloquent counsel, and a wrongful verdict given?

The debate on this question will be concluded in our next, when the Prize Speech will be printed. No further speeches on this subject can be received.

THE FAMILY PARLIAMENT.

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QUESTION V.—OUGHT TRIAL BY JURY TO BE ABOLISHED?

(*Debate continued.*)

RIENZI :—Mr. Speaker,—It is gratifying to hear the honourable member who opened the debate admit that, although he considers trial by jury to be now reprehensible, it really was an effective system in past days. If it answered so well in times gone by, it will have to be proved to us how the overthrow of such a system will tend to the better dispensing of justice before adopting so bold a departure. The honourable gentleman complains of the incapacity and partiality of the jurors. That is a sentiment in which few will join. It cannot be denied that jurors are sometimes of dull intellect, but, as a rule, they are fully fit to discharge the duties entrusted to them. The honourable member asks why we do not go to the gentlemen who have made the subject their special study. I maintain that we do. The honourable gentleman refers, I suppose, to the lawyers and judges; but it is not law alone that we want—we want common sense. The majority of cases requiring juries refer to matters of every-day life, in which the opinions of a number of persons on the case—persons living in the same mode of life—are especially requisite. It is very well to complain of incapacity; special cases have special juries—what more is wanted?

J. TREWAVAS :—Undoubtedly, Sir, the jury system is a relic of antiquity; and I willingly admit that it was the bulwark of England's freedom in times when our monarchs were tyrants —or tried to be—and the judges "sycophants," holding their positions at the will of the Crown. But kings are no longer what they once were. Their power has gradually shifted into the hands of the people, and the judges are independent of anybody's caprice, and hold their office—to use a legal phrase—*quamdiu se bene gesserint;* though they are removable on address of both Houses of Parliament. So far from a judge being "biassed *against* a prisoner if at all," as the Opponent says, it is well known that the judge is the prisoner's counsel if he has no professional assistance in the conduct of his case.

MRS. HICKS :—There is a certain harmony in a system by which, whilst a trained intellect disposes of legal issues, questions of fact are settled upon the judgment of men who are presumed to bring to bear upon them the common sense gained in every-day life. Then, also, the sentimental part of the question must not be forgotten. We ought to recognise that there is a great prejudice, not perhaps wholly reasonable, but undoubtedly existing, in favour of trial by jury, and it would be lamentable if the people were to form the conclusion, however incorrectly, that a "safeguard of their liberties" had been removed, and thus their confidence in the administration of justice were to be shaken. Finally, I cannot admit that the inconvenience of discharging a public duty is a valid argument why that duty should cease to be performed, and the argument is opposed to the healthful principle which recognises that the privileges of citizenship entail responsibilities. For these reasons, although admitting that the system may be capable of amendment—as, for instance, in regard to the absolute unanimity of the jury—I give my vote against the Opener of this debate.

REFORM (a solicitor) :—Sir, it is surprising to me that the system of trial by jury should have been tolerated so long. The experience, mental training, and legal knowledge of a judge eminently fit him for determining questions of fact; while the deficiency of a jury in these respects often prevents them from exercising their functions with justice to the parties interested. If the judge were to supply the place of a jury, he would give his reasons for his verdict, which would be exposed to public criticism—a valuable check upon partiality and despotism. It is well known that juries seldom follow the evidence of the witnesses as they appear in the witness-box, but invariably draw their conclusions from the arguments of counsel, or, which I believe is more frequently the case, the summing-up of the judge, who calls their attention to the facts, and in doing so lays particular stress upon what he considers the more important features of the case. It almost amounts to a contradiction to say that a judge, who is admitted to be capable of distinguishing the more important from the less important facts of the case, is incapable of drawing conclusions from those facts. On the principle that two heads are better than one, it has been urged that a jury are more competent to find a verdict than a judge. It is obvious that this principle only applies if each of those who make up the majority is as competent to form an opinion as each of those who compose the minority, for the judgment of 1,000 ignorant persons cannot be compared favourably with the judgment of one well-informed person; and it is also necessary that those who make up the majority should unanimously agree to a verdict for the same reasons. If they differ as to the reasons for their verdict, there cannot be a unanimous verdict. In some instances a jury will contain one or two men who rule or dominate over the others, and it may be the feeble ones are persuaded against their will. Advocates are often successful in diverting the minds of the jury from the main issues by appealing to their passions, and in putting a false complexion upon evidence. In fine, a common jury cannot be relied upon. Serjeant Cox has said, "From what I have seen of juries, I should be sorry to commit to them any matter in which I was interested, and in which I was satisfied that I had right on my side."

* C. A. PRITCHARD :—Sir,—I should like Mr. Opener to imagine himself standing in the prisoners' dock, his fate lying in the hands of *one* man, who, with calm, immovable face, stands summing up the evidence for and against him—would he then *really* believe in that "experienced judge's" infallibility to err? Would he feel thankful that the verdict declaring him innocent or guilty—in the one case restoring him to his friends and the world as an honourable man, in the other branding him for ever with the stigma of disgrace—would he then, I ask, really feel thankful that that verdict was not to be returned by those "butchers, bakers, and candlestick-makers" who, in nine cases out of ten, are impartial, honest, and clear-headed men? Would he then believe that "at the present time the defects of 'trial by jury' far outweigh its merits?"

And what are its defects? Partiality and incapability? I grant that out of twelve men there may be found one or more not quite equal to their work, but what of the others? Are they also to be deemed incapable of deciding the evidence laid before them? Why is it constitutional to have *twelve* jurors? Why would not a lesser number suffice? Because the larger the number, the more chance of perfect justice being accorded the prisoner. No; if we do away with juries the

* To this speech the honorarium of One Guinea has been awarded.

whole power is vested in one man, the judge. And now comes the question, Would this judge be always more impartial than the jury? Is it impossible that he also might have some reasons—public or private—which would influence him, perhaps imperceptibly to himself, in his judgment of a prisoner? Look at some of the judgments of our county magistrates! A poor boy may—either in a fit of thoughtlessness or because he is really hungry—pull up a turnip from some rich farmer's field, and, being "caught in the act," may be marched off to the nearest justice-room, where he is convicted of theft, and sentenced to some days' imprisonment. He goes to prison, and when the period of his confinement is over he comes out an altered boy. For, sensible that his character is gone, and smarting under the injustice of the sentence which deprived him of it, he commits crime after crime, until at last he becomes a notorious "gaol-bird." Would this have happened had twelve jurors tried his "petty case"? I think not. This may sound to some ridiculous, but I believe there have been quite as absurd facts recorded in our daily papers, where the judgment given was quite out of proportion to the offence committed; therefore I say, let us hold fast to every Englishman's lawful right, "trial by jury."

SOME RATHER ODD DISHES.

THERE is nothing about which we more unjustly abuse our ancestors than their habits at the table. "Probably," says one writer on the subject, "the bullock, or the eternal 'swine' they seemed to live on, was seldom cooked through, and each guest flung himself upon his favourite food, tore it in his hands, and crammed it into his mouth, and what he could not swallow he would cast upon the table-cloth, which, as no plates were used, must have been drenched with grease."

What a foul libel is this on an age which had tastes almost as exquisite as those of Brillat Savarin, and cooks nearly as dexterous as Soyer! Why, strange as the assertion may seem, our ancestors of the thirteenth and fourteenth centuries were scarcely less "nice" in their eating than are the epicures of to-day. So far from limiting themselves to roasted bullocks, and the "eternal swine," they had a choice of at least 300 curiously devised dishes; and, as for insufficient roasting, those who care to do so may read in the "Liber Niger Domus" of Edward IV. how even Hardicanute, who, the historian observes, "deyed drinking at Lambithe," engaged "cunyng cookes in curiositie," that "the honest peopull resorting to his courte" might be decently and abundantly fed.

Our ancestors had, indeed, their books of cookery, two of which have descended to us; and it is particularly noticeable that, whilst they contain some hundreds of recipes, there is nowhere any mention of the roast bullock, and scarcely a single reference to the "eternal swine."

The most authentically dated of all ancient books of cookery is "that choice morsel of antiquity" the "Forme of Cury," compiled by the "Maistre Cookes" of Richard II. It seems, however, to have been preceded by another cookery book, a manuscript of which is also extant, and which, although its precise period is in doubt, is supposed to date as far back as 1285.

Either of these ancient documents furnishes a complete refutation of the libel that our ancestors ate half-raw food with their fingers. On the contrary, they were somewhat dainty, preferring soups before joints, and having many varieties of sauce and garniture. This, for instance, is how they dealt with cabbages:—"Take cabaches and cut hom on foure, and mince onyons therwith, and the white of lekes, and cut hom smale, and do all togedur in a pot, and put therto gode broth, and let hit boyle; and colour it with saffron, and put therto pouder douce, and serve hit forthe." Saffron was the most popular of all articles for colouring and garnishing. It is mentioned in almost every ancient recipe, and was used indiscriminately with green peas or "Boor in Brasey." "Raisynges of Corance" were also used very frequently, and in very singular combinations, as, for instance, with the aforesaid boar, with "conynges," and with "drye stewe for beeff."

Whether the "drye stewe" would please present-day palates is perhaps doubtful. The "cunyng cooke" was directed to make the following singular mixture:—"Take a great glass and do thi beef therin, and do therto onyons mynced, and whole clowes, and maces, and raisynges of Corance, and wyn; then stop it welle, and sethe it in a pot with watur or in a cawdron, but take gode care that no water goe in; or take a fair urthen pot, and lay hit well with spentes at the bothum, that the flesh neigh hit not; then take ribbes of beef, and couche hom above the splentes, and do thereto onyons mynced, and clowes, and maces, and pouder of pepur, and wyn, and stop it well that no eyre goo oute, and sethe it wyth esy fyre."

Among our ancestors, as these ancient manuscripts show, roasting and boiling were processes frequently used as auxiliaries to each other. Here, for example, are directions to cook "felettes in Galentyne:"—"Take felettes of porke, and roste hom till thai byn nere ynogh, then take hom of the spitte and do hom in a pot, and chop hom, if thowe wyl, on gobettes, and do thereto gode broth of beef, and draw up a lyoure of brede steped in broth and vynegur, and do thereto powder of clowes and maces, and put thereto galentyne, and let hit sethe, and colour hit with saunders, and serve hit forthe."

Again, we have this recipe for making "Goos in Hochepot:"—"Take a goos not fully rosted, and chop her on gobettes and put hit in a pot, and do thereto broth of fresh flesh, and take onyons and mynce hom, and do therto; take brede and stepe hit in brothe, and

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QUESTION V.—OUGHT TRIAL BY JURY TO BE ABOLISHED?

(*Debate concluded.*)

J. J. COCKSHOTT:—Mr. Speaker,—It was the duty of the Opener of this debate either to prove that the modern jury system is inferior to that which he admits was in the past worthy of lavish praise, or else to show that even a praiseworthy system is unsuited to the exigencies of the nineteenth century. I submit that he has entirely failed to establish either of these propositions. He does not suggest that jurors are now less intelligent or impartial than they formerly were, or that the system has become more cumbersome and expensive. It is true that the two committees named by him have recommended its *partial* abolition, but how far is their opinion shared by the legal profession generally? Since 1875 trial by jury has in civil causes been permissive only, and not compulsory; but, although solicitors have been enabled to give notice of trial *without a jury*, they have very rarely done so. I infer from this that trial by judges alone is not popular amongst lawyers. The Opener of this debate seems to be unaware that suitors choose whether their causes shall be tried by special or common juries. If nine-tenths of the causes entered for trial be disposed of by common juries, it is because litigants and their advisers are satisfied that the average common juryman is "fairly intelligent." A new trial may be obtained where the verdict can be shown to be contrary to the evidence, or the sum awarded by the jury proved to be excessive. Few verdicts are, however, appealed against, and fewer still are set aside; and I submit that this fact in favour of the contention that juries are, on the whole, intelligent and impartial, is of immeasurably greater value than the "revelations" and "amusing stories" relied upon by the Opener.

J. EATON FEARN:—Mr. Speaker,—Supposing, Sir, that a gentleman advertised for a servant of some description—say a coachman—and supposing the man he hired turned out to be idle, stupid, negligent, and everything that was bad, what should we think, however, of this gentleman, if he not only turned the man away, but declared that *all* coachmen were idle, stupid, negligent, and so on—that they *all* were a useless class of servants—and firmly resolved never to have another coachman? Why, we should instantly declare the man was *insane*. And yet, Sir, this is the very argument, and the only argument, that the Opener of this debate has brought forward for the abolition of that time-honoured and laudatory custom of trial by jury. He asserts that the present men who occupy the position of jurymen in our law courts are stupid, devoid of brains, and, therefore, the system of trial by jury ought to be abolished. Now, Sir, supposing all these strange assertions were true—which, however, no man of business or the world would for one moment admit—must we abolish trial by jury because the Opener of this debate asserts that the present class of jurymen are all fools? Most certainly not; no more than we should dispense with the office of coachman because the last man who acted in this post for us did not understand his work.

Most certainly, men of good common sense and experience of daily life are required in order to answer the ends of justice, and I think there are a sufficient number of intelligent tradesmen in every town who are not only willing to act in this important capacity, but who possess every qualification for the work, and I certainly think their decisions in the past are a sufficient reason for us to retain the system.

S. P. MITCHELL:—With regard to the incapacity of common jurors, I fail to see the slightest force in his (Opener's) argument. He acknowledges that they are principally constituted of respectable tradesmen, and is evidently of opinion that they belong to an ignorant and illiterate class. I am entirely ignorant of the reasons he has for such an opinion, but whatever they may be, I am sufficiently daring to say that they are entirely without foundation; for, taking the generality of tradesmen and householders, they will be found, although not highly educated, to possess a sufficient knowledge to fit them, in every particular, for the duties which devolve upon a juror.

OPENER'S REPLY.

MR. SPEAKER,

The interest, Sir, which this debate has excited makes it very evident that the question is one which has largely exercised the public mind; but previous speakers have so dealt with the various aspects of the subject, that it seems hardly necessary for me to say much in reply. One thing, however, I think I may assert: that my opponent and those who followed him on the same side have based their case mainly upon sentiment, while strong arguments, deducible from facts, have been brought against their views. The question resolves itself indeed into one of expediency *versus* antiquity; and it seems probable that ere long expediency will gain the day.

One speaker asks me to imagine myself in the prisoner's dock, with only a judge to try me, and with my fate lying in the hands of that one man, and he wishes to know how I should feel then. Well, Sir, if I should ever be unfortunate enough to find myself in such a trying position, I trust I should be innocent of the offence imputed to me, and in such a case I would infinitely prefer to be in the hands of a trained and competent judge, rather than be left to the mercy of a common jury. I fear it is the *guilty* who, defended by an eloquent counsel, often escape scot-free at the hands of a jury, and *not* the innocent.

But even if the jury be in no way influenced by the counsel on either side, is it not often the case that they are guided by the summing-up of the judge, and so return the same verdict which he would have given without their aid? Or, again, even if the jury retire to consider their verdict with perfectly "open" minds, do they not frequently follow the lead of the foreman or some other of their number, who shows that he is quite decided and has no doubts in the matter? In all of these cases the prisoner is just as much in the hands of one man as if the jury system were abolished.

Only recently another case of the incompetency of jurors has appeared in the public press. A man was tried for some crime, but the jury could not agree; brought up for trial a second time, the jury actually stated, before they had heard a word of the defence, that they had decided upon a verdict of "Guilty"! And in the result, when they had been compelled to listen to the defence, they found the man guilty of a lesser offence than that with which he had been charged!

Surely the days of trial by jury are numbered!

The next subject of debate will be, "CAN FICTION BE MADE A POWER FOR GOOD?"