with an infraction of law a year's breathing time before answering. If the rule of *Magna Charta*, four courts a year in each county, and every case in readiness tried, was a good one six hundred years ago, nothing less should satisfy us now. In some of the States their Constitutions may not allow the establishment of courts enough to clear off all the cases as they arise. The Constitutions then are at fault, and the people who are the ultimate sources of justice, as of all other attributes of government, can by amendment make their Constitutions elastic enough to allow courts and judges to be increased or diminished according to the urgency of demands for justice. And we venture to affirm that the State fails in its duty to its people when it allows its courts of justice to adjourn leaving untried any case ready for trial.

If any thing could make one doubt the capacity of a people for self-government, it would be the spectacle of its Legislature, profuse in its general expenditures and niggardly in its appropriations for the administration of justice. Nothing can excuse the neglect to provide a judicial force sufficient for all the legal business of the country or the State, sufficient in quality and quantity, for one is of no use without the other; and yet we see cases everywhere waiting for trial, without courts to try them, and we see in many quarters judges so poorly paid that judicial places offer no temptation to those who are fit to fill them. We have even seen Congress twice within three years failing to make appropriations for the pay of jurors, so that for awhile in some of the Circuits of the United States no jury trial could be had.

The trial being opened, should be carried to its end just as fast as can be done with safety. But its duration depends more upon the judge and counsel than upon legislation. The law indeed can do but little to counteract mismanagement or supply the want of discipline in the court. It can indeed impel the judge whenever he is halting in his duties. The judge, if he will, can be prompt, strict and firm; he can so control the cause as to leave no chance for dawdling or impertinence; he can exact implicit obedience to legal rules; can require quick questioning and short speeches; reject repeated or insolent questions, whether objected to by counsel or not, and can continue the sitting longer or shorter as he finds expedient. The respective counsel can assist the judge in all this, and at the same time protect every right of their clients. Among other things, the judge can prevent a trial from degenerating into a contest of abuse toward clients and counsel or an onslaught upon witnesses.

It is painful to see reported, as we do so often, the insulting language thrown at parties, counsel and witnesses, without a word of rebuke from the judge, who sits with as much apparent unconcern as if it were a a thing of course. There are too many of these instances to be lightly passed over. It might do in Coke's time to address a party as he addressed Raleigh, with "Thou viper, I *thou* thee, thou traitor," but it will not do in these our days. It is high time that an end were put to the unseemly exhibitions in some of our modern courts.

Most of us can call to mind two judicial districts, side by side, in one of which the judge is alert and firm; he keeps his business well in hand, and clears his calendar every time; the other is a good lawyer and a good man, but he is feeble and indulgent; the lawyers run away with him; and the suitors run from him; he is always in arrears, and the arrears grow year by year. Yet these two judges are holding office under the same authority and administering the same laws. Is it impossible to make the last judge follow the example of the first?

We have said that much cannot be done by legislation to shorten trials. But where so much depends upon the judge, we suggest the advantage of concerted action, and recommend that the judges of each State, meet from time to time for consultation upon the best methods of maintaining the discipline and efficiency of the judicial establishment. Legislation however can provide that the verdict of the jury be special in every case, if required by either party or the court. This, as has been said already, will often save the necessity of a new trial, even though some of the exceptions may be found to have been well taken. The practice prevails in England under the Judicature Act and has lately been adopted in Nova Scotia, where it is said to have proved successful.

There is a provision in the law of New York that "An error in the admission or exclusion of evidence, or in any other ruling or direction of the judge upon the trial, may in the discretion of the court which reviews it be disregarded, if that court is of opinion that substantial justice does not require that a new trial should be granted." This is comprehensive enough, one would think, to prevent new trials, except for grave reasons; nevertheless the instances are few in which an error at the trial has been shown without drawing after it a new trial of all the issues. This is greatly to be regretted. Indeed we do not see how the assumption that an error at one trial must entail after it a new trial unless it appears that it could not possibly have affected the verdict, can result in any thing but delay heaped upon delay. Where there is no constitutional provision to prevent it, the judges might well be intrusted with power to dispose of the case upon the evidence or special findings without sending it back to a jury, unless the issues are of a kind which specially require the interven-