opinions. Nothing more need we apprehend be said upon this head.

In the third place, though it is in the power of a corrupt juror by physical endurance to delay justice, it is *not* in his power to defeat it. He may "hold out" for three, six, nine, twelve, twenty, or twenty-four hours, without food, and may by so doing inconvenience his fellow jurors; but unless they are as corrupt as himself, they will not succumb to the *argumentum ad ventrem*. It is under such circumstances the tendency of man's nature to resist, not to yield to bullying injustice. Besides the case supposed is an extreme case, and one of a very exceptional character. To make it occur at all there must first be the corrupt man, which, owing to the selection, drafting, and empanelling of jurors under the laws of Upper Canada, is more likely not to be than to be. Then this corrupt man must have stronger powers of endurance than eleven other men indiscriminately chosen, which, according to the laws of nature and of chance, is more likely not to be than to be. The argument in every aspect is untenable. But let us turn from theory to practice, and what are the facts? When a jury, after having retired for a certain number of hours, less or more in the discretion of the Judge, are unable to agree, they are discharged, that is, released from the pains of hunger unsullied with the crime of perjury. No verdict is rendered. Plaintiff may again have his case brought to trial, when the chances are ten thousand to one that the corrupt man, with strong powers of physical endurance, will not be on the second jury. We think we hear our casuist say, though there be not the same man there *may* be another equally corrupt. Concede this plethora of corrupt men, and concede also the majority system, what follows? If there *may* be one corrupt juror, why *may* there not be two, three, four, five, six, or more? If four, the two-thirds majority scheme can be no cure of the evil! If six not even the bare majority scheme would be a cure!!

The truth is, and it must be told, that the argument of a corrupt juror, though a very common one, is an idle phantom. If corrupt jurors were as prevalent as we must suppose them to be to make the argument worth anything, there would be more juries discharged for want of unanimity than one in one hundred which is not the fact. Nor can it be the fact, or be taken to be the fact, unless it is argued that in ninety-nine cases out of one hundred there are at least ninety-nine juries, each having at least eleven corrupt jurors, which is absurd.

Now let us turn to the other side, and review the arguments in favor of unanimity.

The object of a trial by jury, as it is commonly called, is the discovery of truth. To discover truth when mixed with falsehood patient and anxious deliberation is essential. Without these any mode of trial, instead of being a blessing, would be a curse. Anything having a leaning towards lessening deliberation in trial by jury ought to be avoided. We submit that a departure from unanimity would have this effect.

First, let us suppose unanimity to be no longer necessary. The first object of the jurors upon retiring would be to marshal numbers. Should it be found that nine are agreed upon a particular verdict the opinions of the minority would be passed over without any discussion whatever. Thus would the necessity for deliberation be removed! Now suppose a unanimous verdict necessary. Any person dissenting would have the right to explain his views and to compel the majority to listen to them. Reason—not mere numbers—would be the characteristic of the jury room. Well has Tacitus said that truth is established by investigation and delay; but falsehood prospers by precipitancy. Under the present system any juror—no matter how humble his attainments—how insignificant his reputation—how lowly his station—if he speak truth, commands respect. Truth forces itself upon the understanding of man, wherever there is any disposition, however trifling, to receive it. One thought, if expressed in the pure atmosphere of truth, may flash conviction upon the willing mind. Investigation at least ensues, discussion takes place, and finally reason prevails.

Secondly, the verdict of twelve men is more likely to be correct than that of nine out of twelve. A learned writer says that *ceteris paribis* two men are more likely to be right when agreed than one, and for the same cause twelve men, than eleven, ten, nine, or any lesser number. Tried after this fashion, according to Poissen in his "Recherches sur les probabilities des judgemens," and Lacroix in his "Calcul des Probabilities," the probability of error in a verdict, when a majority of nine out of twelve is sufficient for decision, is about one to twenty-two, while if unanimity is exacted it is one to eight thousand.

Thirdly, when each juror knows that no verdict can be rendered without his concurrence he retires from the box with a due sense of responsibility. He cannot relieve himself by saying, I shall be content to be in the minority and so take no part in the verdict. I shall retain my opinion and allow the verdict to pass. He will rather say, I must give some verdict, that verdict must be true according to the evidence, if not true I shall be perjured before God and man. With these solemn thoughts he is in a right mood to search after truth. Without them the pretended search is a mockery. Anything which has a tendency to remove individual responsibility makes inquiry after truth by jurors a mockery. The majority system, for the reasons we have shown, has, we think, this tendency.