

system let us extend it to the decision of all questions of fact" in all the courts. "If it is a system of doubtful utility, and a bungling and uncertain means of arriving at justice, let us then curtail it, at least in civil cases."

After quoting many authorities and adducing many facts to shew how often very little confidence could be placed in the finding of juries in civil cases, the writer goes on to point out why this is so, the reason being the incompetence of jurors generally, from want of education, experience, and general knowledge, to judge and sift testimony, and to detect falsehood, for which something more than common sense is required. "Jurors are emotional, sympathetic, frequently prejudiced, and often regard their oath as a mere matter of form. It is sometimes a task beyond their powers to apply the propositions of law laid down by the court to the facts of the case." The writer's conclusion is that all issues of fact in civil cases can be more safely, certainly, and satisfactorily determined by one or three impartial, experienced, and learned judges, than by a jury, however honest and well-intentioned.

This is the answer to the first question, and in pursuance of it the writer proposes that "all civil actions should be tried by three *nisi prius* judges who should rotate and thus avoid all possible local influence, prejudice or favour." But however desirable and however much desired, such a change may be, there are constitutional difficulties in the way which must be removed before it can be effected, and these the writer proceeds to consider, and to point out how, until they are removed, the system of trial by jury may be improved. Into this part of Mr. Hinsdale's address we cannot enter as it deals with conditions differing from ours, and with which we are not concerned. Enough has been said upon the general question to shew what a strong feeling exists among those engaged in the administration of justice in the United States in favour of the substitution of judges for jurors in all civil cases for the trial of questions of fact as well as of law.