

tation to fraud and collusion in the way indicated.

But what is to become of the honest creditor who fairly enters his suit and receives judgment in the Division Court before any attachment is sued out? What is his proper course in order to obtain the benefit of his judgment? The only method we can perceive open to him is to sue out an attachment in the Division Court, and make claim for a distributive share of the proceeds of the goods seized.

TRIAL BY JURY.

As we survey the machinery used in the Courts for the dispensation of Justice, no part is more conspicuous than that of Trial by Jury. Its importance is only equalled by its antiquity. Long before man had correct notions of Jurisprudence, including the formula of an action, he was wont to refer questions in dispute to the arbitrament of disinterested parties. Is there anything more natural? In the case of a dispute between two parties, an appeal to a third is both rational and natural. What are Jurors but arbitrators called together to pronounce upon facts disputed? What is the Judge but an superior arbitrator, whose duty it shall be to direct the Jury in matters of law? The trial of a man by his peers, is in Britain the sacred right of every subject, be he lord or peasant. It has existed time out of mind, and is supposed to be coeval with civil government itself. The number of Jurors varies in different countries, but the principle is everywhere the same. In England the number has ever been twelve at least. Originally called together to testify, but latterly to judge between the parties, their verdict must be unanimous. Why the number should be twelve, and neither more nor less, has never been satisfactorily explained. There is nothing but conjecture to supply the place of authority upon this point. Why the verdict should be unanimous, and not that of the majority, we are left to decide for ourselves. *Ita lex scripta est*—let the reasons be ever so frail or so forcible.

Here a vexed question in jurisprudence presents itself—it is one of no common difficulty—Shall the verdict be that of the majority or that of the twelve? Much has been said and can be said upon both sides. Perhaps when Jurors were in olden times summoned from the vicinage or locality where the

cause of action arose, having of themselves knowledge of the facts in dispute, the reasons for an unanimous verdict were unquestionable. We do not say that they are less so to-day. To pronounce an opinion upon a topic so momentous requires at our hands more time for deliberation than at present we are able to give. But we have every confidence in English legislation. The march of Englishmen in law reform is slow but sure. Little by little the great fabric of Law is repaired, amended, simplified and beautified. The process is so gradual, so easy, and so even, that ever changing, the body of the law appears to be unchanged. In this respect it is not unlike one human body. Take two periods of English history remote from each other: let a comparison of the laws of the two periods be made, and the result will not a little astonish the credulous. The transition from youth to old age may not be felt or seen—but the man of eighty is easily distinguishable from the child of four. Great changes in the English laws are wrought by slow degrees; there is in consequence no retrogression. Steady and persevering as are the people, the laws are made to keep pace with the spread of civilization and of commerce, and the consequent diffusion of wealth. In this, perhaps more than in any other aspect, we behold our laws with pride. Other States may tear down in a day, but not build for ages. England builds *peu a peu* for ages, but never tears down. To this national trait of English character the Jury laws are no exception. They have been undergoing a gradual reform. And who knows what an age may bring forth? Juries, not long since, were locked up “without meat, drink or fire.” They were coerced into a verdict, and that nothing less than an unanimous one. They were deprived of all necessary comforts, and deprived of liberty itself, until forced into unison. Twelve men of divers minds, brought together by chance, were compelled by duress to arrive at one and the same conclusion. No meat, no drink, no food of any kind to assist nature, sinking under the pains of hunger and the fatigues of close confinement. These men, too, from the country, better accustomed to the bracing air of the fields than the noxious miasma of the Juror’s room; better accustomed to ploughing and other out-door exercise than the solution of abstract question of facts and the application of knotty points