

the jury who chooses to take the lead. Again, as to experience, it is very unlikely that any judge should have greater experience of the kind required upon a criminal trial than all the twelve men in the jury box put together, unless indeed they are unusually stupid. A really good special jury will usually consist of, or as a rule contain, men in every respect as competent to judge of the effect of evidence as any judge, and the probability that they or some of them will possess experience bearing on the case which has not come in the judge's way is considerable. I think that as far as skill and intelligence go it would be impossible to have a stronger tribunal than a jury of educated gentlemen presided over by a competent judge. I cannot, however, say much for the intelligence of small shopkeepers and petty farmers, and whatever the fashion of the times may say to the contrary, I think that the great bulk of the working classes are altogether unfit to discharge judicial duties, nor do I believe, rare exceptions excepted, that a man who has to work hard all day long at a mechanical trade will ever have either the memory, or the mental power, or the habits of thought, necessary to retain, analyse, and arrange in his mind the evidence of, say, twenty witnesses to a number of minute facts given perhaps on two different days. Jurors almost never take notes, and most of them would only confuse themselves by any attempt to do so, and I strongly suspect that a large proportion of them would, if examined openly at the end of a trial as to the different matters which they had heard in the course of it, be found to be in a state of hopeless confusion and bewilderment. I should be far from saying this of good special juries, but I think that the habit of flattering and encouraging the poor, and asserting that that they are just as sensible and capable of performing judicial and political functions as those who from their infancy have had the advantages of leisure, education and wealth, has led to views as to the persons qualified to be jurors which may be very mischievous. I think that, in all criminal cases of any considerable difficulty or importance, there ought to be at least a power to summon special juries. In short, I think a good judge and a good special jury form as strong a tribunal as can be had, but I think a judge without a

jury would be a stronger tribunal than a judge and an average common jury.

"There is a third point of view from which trial by jury must be considered, namely, its collateral advantages, and these, I think, are not only incontestable in themselves, but are of such importance that I should be sorry to see any considerable change in the system, though I am alive to its defects. They are these:—

"In the first place, though I do not think that trial by jury really is more just than trial by a judge without a jury would be, it is generally considered to be so, and not unnaturally. Though the judges are, and are known to be, independent of the executive Government, it is naturally felt that their sympathies are likely to be on the side of authority. The public at large feel more sympathy with jurymen than they do with judges, and accept their verdicts with much less hesitation and distrust than they would feel towards judgments however ably written or expressed.

"In the next place, trial by jury interests large numbers of people in the administration of justice and makes them responsible for it. It is difficult to over-estimate the importance of this. It gives a degree of power and of popularity to the administration of justice which could hardly be derived from any other source.

"Lastly, though I am, as every judge must be, a prejudiced witness on the subject, I think that the position in which trial by jury places the judge is one in which such powers as he possesses can be most effectually used for the public service. It is hardly necessary to say that to judges in general the maintenance of trial by jury is of more importance than to any other members of the community. It saves judges from the responsibility—which to many men would appear intolerably heavy and painful—of deciding simply on their own opinion upon the guilt or innocence of the prisoner. If a judge sums up for a conviction and the jury convicts, they share the responsibility with him and confirm his views by their verdict; and the same may be said if they follow his suggestion in acquitting. If they acquit when he suggests a conviction, he is spared from what is always a painful task—that of determining on the sentence to be passed. If they convict when he suggests an acquittal, he can, if he is