Mansfield says: "The writ of attaint is now a mere *sound* in every case; in *many* it does not pretend to be a remedy. There are numberless *causes* of false verdicts, *without* corruption or bad intention of the jurors. They may have heard too much of the matter before the trial, and imbibed prejudices without knowing it. The cause may be intricate; the examination may be so long as to distract and confound their attention. Most general verdicts include *legal consequences* as well as propositions of fact; in drawing these consequences the jury may mistake, and infer directly contrary to law. The parties may be surprised by a case falsely made at the trial, which they had no reason to expect, and therefore could not come prepared to answer. If *unjust* verdicts, obtained under these and a thousand like circumstances, were to be conclusive for ever, the determination of civil property, on this method of trial, would be very precarious and unsatisfactory. It is absolutely *necessary to justice* that there should upon many occasions be opportunities for *reconsidering* the cause by a new trial."

These observations seem equally applicable to *all* trials by jury. Some forty years after the decision above referred to, we find Lord Kenyon, C. J., declaring judicially from the Queen's Bench that "in *misdemeanours* there is no authority to show that we cannot grant a new trial in order that the guilt or innocence of those who have been convicted may be again examined into." But "in one class of offences, indeed," said his lordship, "those greater than misdemeanours, no new trial can be granted at all" (*Rex* v. *Mawbrey and others*, 6 T. R. 638); and up to the year 1851 no single case is reported in which even an application for a new trial in *felony* had been made. Yet, strange as it may seem, the Court of Queen's Bench at that date actually granted a new trial in a case where an indictment for felony had been removed from sessions by *certiorari* and tried at York Assizes (*Regina* v. *Scaife*, 17 Q.B. 238). Of three prisoners the jury convicted two apparently guilty, and acquitted one against whom the evidence would seem to have been more conclusive. "In the following term a rule *nisi* was obtained for a new trial, on the grounds of improper reception of evidence and misdirection. The case was argued at some length; and neither in the course of the argument, nor in the judgments which followed, was a syllable uttered on the point now in question; the attention both of the counsel and the judges seems to have been exclusively confined to the questions of evidence and misdirection; but after the judgments pronounced making the rule absolute this occurred: The counsel for the rule suggested that there was a difficulty in ascertaining what rule should be drawn up, 'no precedent having been found for a new trial in felony.' Upon which Lord Campbell is reported to have said: 'That might have been an argument against our hearing the motion.' Still, however, the rule was made absolute, and a new trial, in fact, took place." This account of the proceedings is extracted from the judgment delivered by Sir John T. Coleridge in the case of *Regina* v. *Bertrand*, before the Privy Council (1867), where they were carefully considered, after which the learned judge continued: "It appears, then, from this examination of the case that a most important innovation in the practice of our criminal law was here made without a word of argument at the bar upon it, or the attention of the Court having been for a moment addressed to it, until after the opinions of all the judges had been expressed on the point really debated. And the decision has taken no root in our law, and borne no fruit in our practice." Sir John Coleridge intimated that the Lords of the Privy Council felt at liberty to disregard it; and then reviewed the arguments adduced in favour of the principle of extending the practice of new trials, viz., the improvement of justice, "that new trials had commenced in civil matters, and advanced in them gradually, and upon consideration, from one class of cases to another; that thence they had passed to criminal proceedings, first where the substance was civil, though the form was criminal; and thence to misdemeanours, such as perjury, bribery, and the like, where both form and substance were criminal. Hitherto it was admitted that they had, except in the instance of *Regina* v. *Scaife*, stopped short of felonies, but that the principle in all was the same; and that, where there was the same reason, the same course ought to be permitted. There may be much of truth in