

Ireland, when an Act of Parliament suspends the *Habeas Corpus* Act, persons can be detained in prison without being tried and convicted; but this measure is in force for a limited period only, and in the disturbed part of the kingdom mentioned in the Act of suspension. Moreover, the representatives of the people in the House of Commons would never sanction the suspension of the *Habeas Corpus* Act, were it not necessary for the safety of the realm. It may be as well to explain to the general reader, that *habeas corpus* is the name of a writ, by which every person who is imprisoned before trial, &c., may demand to be brought before some competent court, that he may be either convicted or liberated.

Respecting the beneficial influence of trial by jury on the public, as a national institution—politically, socially, morally—the preceding part of our essay sufficiently explains the political branch of this subject. We shall now proceed to the consideration of the beneficial influence of the institution.

I. The beneficial influence of trial by jury on the judges must be evident to every person who has considered the subject in the spirit of a free-born Briton. It is an old proverb "that two heads are better than one." Solomon, the wise man, has written—not once but twice—that "in the multitude of counsellors there is safety." The strain upon the intellectual faculties of the judges if they were to unite the functions of judges and jurors, would be undesirable for many reasons. The value of the division of labour is acknowledged in most pursuits, and it is not improbable that if the minds of judges were continually overtaxed, they would not be able to follow all the facts of the multifarious causes brought before them with the same energy as jurymen, whose minds would be less fatigued. Then again, there is the responsibility. Twelve men who can share it between them, are less troubled by the weight of it than one or two men who have to bear it, especially in very perplexing cases—in which the life, or the character, or the fortune of a fellow-creature, depends upon the issue. In such cases, it is not unlikely that a judge of a severe disposition would be too severe, and that a judge of a mild disposition would be too lenient; thus justice would not be so well meted out. In a jury of twelve men it is to be supposed that there is a greater chance of obtaining men of various positions, which would serve to counteract the tendency to an excess of either undue severity or leniency. "In acting for the public," said a magistrate, "he regretted that the case could not be sent before a jury—for it was always more satisfactory to him to have the opinion of twelve men, than to take the responsibility of deciding himself."

To prove that in certain cases one man is not equal to twelve men to decide a cause—suppose a jury to consist of *one* man? Is it to be imagined that the results would be as satisfactory to the public, as though the jury were to consist, as at present, of twelve men?

Would the *one* jurymen have in all cases the same clear views of the causes?—would he discriminate with the same accuracy?—would he decide with the same amount of judgment?—would he be able to sift the true from the false with the same nicety—since one mind, instead of twelve minds, would be engaged in weighing the evidence, and, in all probability, would not be competent to take so extended a view of the case, and unravel the complications that might exist? It is to be remembered that some cases are very intricate—not only from the result of circumstances, but from artfulness, or fraudulent designs. In a word, would the public have the same confidence in the soundness of the verdict of this one jurymen, as in that of twelve jurymen? If you—I say to the reader—were a plaintiff or defendant in a cause, would you *prefer* your cause to be decided in this manner? If anyone would not prefer one jurymen instead of twelve jurors, why should he prefer one judge to act alone, instead of twelve jurymen, with a judge to assist them and the case? The same argument will hold good respecting one or two, or more jurymen or judges, deciding causes, instead of the present number as established by law. It may be said that judges are more able and learned in the law than jurymen; and this leads us to the consideration of the question, whether one or more judges to decide trials would not be preferable to having any jury at all—in fact, to abolish the use of a jury, and allow the judges to adjudicate. It has been argued, judges are learned, and jurymen are often, comparatively, very ignorant, or, at all events, they are inferior to the judges in legal lore. It is preferable, some may say, to rely upon the decisions of men profoundly skilled in the law. Sir John Hawles, who was solicitor-general in the reign of William III., observes in a celebrated work of his:

"Though judges are more able than jurymen, yet jurymen are likely to be less corrupt than judges—especially in all cases where the powers of the prerogative and the rights of the people are in dispute. * * Less dangers will arise from the mistakes of jurymen than from the corruption of judges—besides improper verdicts will seldom occur; since juries will avail themselves of the abilities and learning of the judges, by consulting them on all points of law—and thus, to the advantage of information will be added that of impartiality. * * Had our wise and wary ancestors thought fit to depend so far upon the contingent honesty of judges, they needed not to have been so zealous to continue the usage of juries." "Although we live at present under a benign government," says a modern writer, "and our Crown lawyers—Liberal or Conservative—are pre-eminent for private and public integrity, yet Lord Brougham and Lord Lyndhurst, and other great statesmen, have warned us that it 'may not always be so.' *Trial by Jury, the Birthright of the people of England*, p 81

The salutary effect of juries saving judges from the temptations and unpleasant positions which might occur to them if they were allowed to decide all cases without juries, could