the manor. So likewise, in all other parts of Europe, where the Roman colonies had been, the Goths succeeding them, continued to make use of the same laws and institutions, which they found to be established there by the first conquerors. This is a much more natural way of accounting for the origin of a jury in Europe, than having recourse to the fabulous story of Woden and his savage Scythian companions, as the first introducers of so humane and beneficent an institution."

Such are the opinions of eminent writers, but, as will be seen, we do not entirely agree with them.

Without pretending to decide this question, which has been keenly debated by various authors, we shall merely observe that in our opinion, no particular nation, people, or individual can exlusively claim the merit of having originated the general principle of "trial by jury." We suspect that no one would go the length of affirming that the system of mere trial itself, (setting aside the consideration of the particular form of trial by jury) was invented by a certain nation or person. Who originated trials, according to law or to some custom? It is evident that the idea of deciding certain questions affecting life or death, and to some extent other matters occurred to various peoples that had little or no communication with each other. There is no proof that they borrowed the idea of settling any disputed question by trial, any more than there is proof that they borrowed the idea of settling their quarrels by fighting. It is reasonable to suppose that certain ideas are common property among mankind, and are derived from our common ancestors, the patriarchs. In proof of our assertion we need only mention the custom of some, if not of all the tribes of the North American Indians, to try certain questions of life and death, as well as some other matters, by a tribe in council, in reality, we may say, by a jury.

Describing the trial of a young American Indian warrior by his tribe for the crime of cowardice, an American author writes:—The more aged chiefs in the centre communed with each other in short and broken sentences. Not a word was uttered that did not convey the meaning of the speaker in the simplest and most energetic form. Again, a long and deeply solemn pause took place. It was known by all present to be the grave precursor of a weighty and important judgment."

It is true that this is but a rude and imperfect form of trial by jury, since the accused does not seem to be allowed to speak for himself, and the witnesses are not subjected to regular cross-examination, but still the fate of the prisoner is decided by a jury of his own tribe; in a word, by his peers, and not by any single chief who acts as a judge. How, then, can it be alleged that Woden, the Saxons, the Scandinavians, the Greeks, the Romans, or any other particular people or tribe originated the system of trial by jury, since traces of the custom are to be found among savages in North America? They had not borrowed the form of trial by jury from Europe. We suspect that the germ of the system existed, during the early ages, among many races of mankind, and that it grew into a better regulated and more systematic law among those that made in times past advances in Christianity and its accompanying enlightenment.

Of the judicatures for hearing civil causes among the Athenians, the court called Heliæa was the greatest. All the Athenians who were free citizens were allowed by law to sit in this court; but before they took their seats, were sworn by Apollo Patris, Ceres, and Jupiter, the king, that they would decide all things righteously and according to law, where there was any law to guide them, and by the rules of natural equity, where there was none. This court consisted at least of fifty, but its usual number was five hundred judges. When causes of very great consequence were to be tried, one thousand sat therein; and now and then the judges were increased to fifteen hundred, and even to two thousand. It will be perceived that these courts were in reality composed of jurymen, every free citizen being allowed to sit in them.

A popular form of trial was not unknowm among the Jews. Moses set up two courts in all the cities; one consisting of priests and Levites to determine points concerning the law and religion, the other consisting of *heads* of families to decide civil matters.

After having thus alluded to the probable origin of trial by jury, we must now briefly state what a jury is.

A jury consists of a certain number of men sworn to inquire into and try a matter of fact, and to declare the truth upon such evidence as shall appear before them. Juries are in Great Britain, &c., (Scotland, in some degree excepted) the supreme judges in all courts, and in all causes in which the life and, and in some cases, in which the property or the reputation of any man is concerned.* This is the distinguishing privilege of every Briton, and one of the most glorious advantages of our constitution; for, as every one is tried by his peers (or equals), the meanest subject is as safe and as free as the greatest.

A juror or jurymen, in a legal sense, is one of those twenty-four or twelve men who are sworn to deliver truth upon such evidence as shall be given them touching any matter in question.

The punishment for perjury or fraud committed by a jury for bringing a false verdict was called an "attaint,"—a writ that lay after judgment against a jury of twelve men that had given a false verdict in any court of record, in an action real or personal in which the debt or damages amounted to above forty shillings. The jury that had to try this false verdict consisted of twenty-four, and was called the grand jury. The practice of setting aside verdicts upon motion and of granting new trials, has

* County and other courts now limit the extent of the remarks made on ths subject by various writers.