

TRIAL BY JURY

But it is also true, that the victory of the King's Courts was due to their superior efficiency and procedure, notably in the famous introduction of the jury-system. It is another widely spread belief that the jury is of 'popular' origin, coming down from ancient days. It is nothing of the kind, but a royal privilege which could only be used in the King's courts; because no other courts could compel jurymen to serve. For long after its introduction, it was most unpopular. One of the taunts of a French poet of the late Middle Ages against the rival English was, that they were 'judged by inquest,' i.e. jury, instead of by their 'peers' or fellow vassals; and it was not until the sixteenth century that, as a contrast to the harsh and secret proceedings of the Star Chamber and the Court of High Commission, the jury became really popular, even in England. In Scotland it made little way until much later; in Ireland, it has had a stormy history. But in the colonies, which date since its triumph in England, and even, to a certain extent, in British India, it has long been regarded as one of the characteristic safeguards of liberty.

SAFEGUARDS AGAINST ARBITRARY DECISIONS

It may reasonably be asked, however, whether this almost complete triumph of the royal jurisdiction was not attended by grave dangers, owing to the great increase of power which it brought to the Crown. Undoubtedly it was; but these dangers were ultimately averted by the establishment of two important principles. The first, established so early by the judges themselves that its precise origin is uncertain, is, that the King takes no personal part in the proceedings of his own law courts. This principle was clearly established