

## The Legal News.

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Mr. Jelf, a barrister of large practice, and leader of the Oxford Circuit, writes to the *Times*, July 28, earnestly contending that trial by jury in civil causes is, generally speaking, a mistake. He would have the right to a jury trial largely restricted, and would require the party asking for a jury to show that that mode of trial was desirable. The objections stated by him to the jury system are, first, the frequency of disagreement and consequent discharge of the jury. Secondly, a judge in a doubtful case may suggest a compromise, and save the parties large costs, but a jury is silent. Thirdly, the silence of the jury during the trial prevents counsel from grappling with the points which are really affecting them. Fourthly, a judge gives reasons for his judgment, while no one knows on what grounds a verdict is given. Fifthly, the presence of a friend or a foe of one of the parties on the jury may, even though it be unconsciously, turn the scale. Sixthly, a strong judge impresses the jury with his view, yet the finding is that of the jury, whose reasons are inscrutable, and can only be set aside if twelve reasonable men could not have so found. Seventhly, trial by jury, in the complicated problems of mixed law and fact which arise in the present day, puts an undue strain upon the ingenuity of the judge in disentangling the points on which the opinion of the jury ought to be taken. A judge with a logical mind can far better deal himself with the questions *seriatim*, eliminating at once those which are obviously open to only one proper answer, than submit them all alike to the jury, who often make contradictory findings and reduce the verdict to an absurdity. Eighthly, jurymen are put to great loss and expense in attending for trials which could often be better and more expeditiously conducted without their presence, and in which that presence is often, by consent, dispensed with after much time has been wasted. Mr.

Jelf's communication will doubtless attract considerable attention. It will be observed that he is contending for a system similar to that which is established in this province.

An eminent doctor once stated that his errors—unavoidable errors—would fill a graveyard. Now we have evidence given by a dentist in a recent case of *Wright v. Neole*, before the Liverpool County Court, that there is not a practitioner in the land who has not at some time extracted a wrong tooth. The action was against a dentist by a victim. The dentist extracted a sound molar, instead of a decayed wisdom tooth, and then, without telling the patient what had occurred, tried to replant the sound tooth, thereby causing the patient great pain. The jury awarded the plaintiff five pounds damages.

The sudden illness of Baron Huddleston while on Circuit led to an unprecedented session at Lewes, Aug. 6. In consequence of a sudden and severe attack of gout in the course of the night the judge was utterly unable to leave his bed, and the medical gentlemen called in declared that the attempt to do so would be dangerous. The learned Baron at once telegraphed to London for assistance, but as no one could arrive within two or three hours, he thought it would not be well to keep the grand jury waiting all that time, so he considered whether he could not charge the grand jury in his bed. Happily, though the case had never before occurred, the terms of the commission of assize were wide enough to allow of it, for it was worded thus—'at such places and times as you may appoint,' and so the Baron 'appointed' his bedroom, and charged the grand jury in bed. The deputy clerk of assize announced in Court at the usual hour (eleven in the forenoon) that, by reason of the judge's illness, the assizes were adjourned to the judge's lodgings, and accordingly the high sheriff, attended by the under-sheriffs and the chaplain and the clerk of assize, and followed by twenty-three gentlemen of the county as grand jurors, walked to the judge's lodgings, and were ushered upstairs to the judge's bedroom. The high sheriff, with the two under-sheriffs, stood at the head of the