there is a difference of opinion? To indulge such an expectation would be to form a very low estimate of the morality and integrity of the individual judges. Why three judges in each of our three Superior Courts, and nine in the Court of Appeal? It is because a difference of opinion may arise in which even the opinions of the majority will be taken as the judgment of the Court. In the Court of Appeal the decision of five against four is the decision of the Court. In the remaining Courts, that of two against one. Now let us ask, are jurymen better able to reason and reflect than judges, chosen because of tried ability, so that while we demand unanimity from the one class of men we are contented with a majority decision from the other? Notoriously such is not the fact. Then why not have a change? The answer is that the element of conservatism keeps down the element of reform. Instead of boldness and decision there is fear and trembling. To satisfy all, even the most apprehensive, the change might be brought about gradually and imperceptibly, as a man ventures he knows not where. Only let us move forward and the light of knowledge will shine upon us—with knowledge, confidence—with knowledge and confidence, true progress. Let us retrace our steps instantly, if we encounter dangers which cannot be overcome, and which if not overcome will be at all injurious.

We would propose as follows:—

1st. That in criminal cases verdict should be unanimous, as at present.

2nd. That in civil cases *if possible* the verdict should be unanimous.

3rd. That if after being locked up for twelve hours the jurors cannot agree, then that the verdict of a two-thirds majority be the verdict of the jury.

In this proposal we essay nothing rashly. The substance of our propositions are the same as that of the Common Law Commissioners, who in 1831, after the expenditure of much thought, concluded as follows:

"We propose that the jury shall not be kept in deliberation longer than twelve hours, unless at the end of that period they unanimously concur to apply for further time, which in that case shall be granted, and that at the end of such twelve hours or such prolonged time for deliberation, if any nine out of them concur in giving a verdict, such verdict shall be entered on record, and shall entitle the party in whose favor it is given to judgment; and in failure of such concurrence the cause shall be made a remanet."—*Communicated.*

We give the above well written article, not as endorsing the views of the writer, but because he speaks the sentiments of a respectable body of thinking men within and outside of the profession: the subject is one of great importance to every member of the community, and no change should be made except upon grave consideration.

Averse to change except upon urgent necessity, yet we must in candour admit evils in the present jury system, and that they are becoming more formidable every year since the duty of selection was taken from Sheriffs and transferred, to the most part, to the ballot box. At every Court men are found acting who are wholly unfit for the task imposed by law upon them as jurors, and as a natural result verdicts are so uncertain and capricious that no sane lawyer would hazard a decided opinion upon the result of a case to be decided by jury.

This evil, one striking at the root of the administration of justice, needs some remedy; what that remedy should be, neither the profession nor the public are united upon. Some propose altogether abolishing trial by jury as only fit for a very primitive state of society, where no cases arise but such as are mere questions of damages, and they say that trial by jury never can be properly adapted to an intricate system of law like that of real property, or in relation to commercial transactions; others are for partial abolishment in all cases except where the Government is a party interested or where the opposite party demands a jury: others again think that juries ought not to be abolished but should be composed of persons better adapted than those now usually obtained for the disposal of the business brought before them; while another class of persons see with the writer of the foregoing article, a cure by changing the unanimous finding into a majority one.

With none of these do we agree. We would retain the trial by jury and the unanimous verdict, but we would secure the services of *the best men* to serve on juries,—and extend the principles of the Common Law Procedure Act so as *positively to withdraw* from jurors cases which experience has proved cannot be well and satisfactorily decided on a *Nisi Prius* trial.

In the preceding article we believe the reasoning unsound in some particulars; for instance, in the assumed analogy between the Houses of Parliament,