How often do juries make the worse to triumph over the better cause! How often do their verdicts turn on whim, caprice, compromise! How often does one able-bodied, tenacious juror overcome his eleven empannelled fellow-subjects, more infirm of purpose, or more devoted to the trencher!

No doubt many of the blunders and miscarriages chargeable on juries are a result of the present system, which requires that twelve men shall pass upon the given issues and that *unanimously*. Were the number less, or were the majority system introduced, the anomalies and absurdities that now abound would not so frequently crop up. Some change is needed: either in the way of abolition (which most would hesitate upon) or modification (which most would advocate in principle, though as to details opinions would be variant).

Cases are now and again coming up which shew the ingenious devices made use of by the puzzled and disagreeing jurors to expedite their verdicts. One of the most ancient is given in an early volume of "Notes and Queries," extracted from an old court register, in which it is gravely recorded as follows: "The jury could not for several hours agree on their verdict, seven being inclinable to find the defendants guilty, and the others not guilty. It was therefore proposed by the foreman to put twelve shillings in a hat, and hustle most heads and tails whether guilty or not guilty. The defendants were thereupon acquitted, the chance happening in favour of not guilty." And one of the latest is that wherein the Edinburgh jury awarded £1275 damages against the *Athenæum* for an article couched in disparaging terms in a review of the "New Cabinet Atlas." The amount was arrived at by the following expedient, as described in the *Scotsman*: The jury were not unanimous, there being one gentleman who from the first declined to acquiesce in a finding giving any except nominal damages; but by the other eleven it was agreed that each should, without consulting his neighbour, write down what he considered a fair award; and that these separate sums should be added up, and that the sum total should then be divided by eleven, the product of this division to be taken as the damages to be assessed.

We see it stated that the *Athenæum* is about to move against this verdict, but upon what ground is not mentioned. The *Solicitors' Journal* instances several cases from the earlier reports, where juries have adopted modes of decision which saved them the trouble of arriving at an agreement legitimately, after fair and full discussion. But the *Journal* continues, "we have not met with any authority expressly in point as to the effect upon a verdict of recourse being made to the expedient of taking an average under such circumstances as those disclosed with reference to the Edinburgh case." Decisions, however, on this kind of short-cut are to be found in the American reports, and we shall refer to a few of the more important of these cases. We trust the Scotch judges may see their way to the same conclusions, and set aside the verdict, which is altogether exorbitant and unsatisfactory.

In *Smith* v. *Cheetham*, 3 Caines, 57, the matter came before the Court in the State of New York for the first time. The constable who attended the jury made affidavit that while the jury were in discussion he heard one of them say that one cent damages was enough; another, that six cents damages and six cents costs were enough; that he then saw at least six of the jurors take a pen and mark down, as he understood, the sum that they thought proper to give as damages; and he then understood that the whole sum should be divided by twelve, and the quotient was to be the