

mode of judging whether this is so or not, has arisen. It is now allowed in most cases that the plaintiff may elect to try by judge alone, or by judge with a jury. When first this was allowed, the number of trials by judge alone were about as many as those by jury; but they have recently decreased, showing the opinion of the people. There would no doubt be fewer still, were it not that in many of these cases it is known that the defendant defends and goes to trial merely for delay, and that there will be no real issue to try. . . .

Believe me, ever yours very truly,

C. E. POLLOCK.

The Croft, Putney, London :  
January 3, 1887.

Dear Herr Fahlerantz,— . . . I have no difficulty in answering your question as to trial by jury in criminal cases. I have never heard it suggested by any English judges or jurists that it should be abolished.

In the ordinary criminal cases there is far less legal difficulty than in the trial of civil disputes, and the questions are such as are best solved by those who are familiar with the habits and motives of their fellow-citizens; and therefore it is desirable that the jury should consist of men who live in that district of the country in which the crime was committed.

Further, the question of not guilty or guilty is best dealt with by stripping away all forms and deciding broadly and upon clear grounds what is the nature and character of the act charged, and what is the motive; and though the reasoning of each jurymen may differ, if all agree to a verdict of guilty, we feel more content than if a single judge had arrived at the same conclusion.

Two more grounds strengthen this view:

- (1) Criminals are usually of the lower orders of the people, and the people are better content to be judged by their fellows than by a judge of higher rank and higher education;
- (2) where the crime is of a political character, unless there is an open rebellion, trial by jury is essential to the freedom of the people. These are but well-known and often repeated views, though I have stated them in my own language.

I enclose you an excerpt from an article in our *Law Quarterly Review* upon County Courts, written by a County Court judge and a very able law writer, Mr. Chalmers, as to juries in civil cases. I am glad to hear that you are treating the subject so fully—shall be pleased to hear the result. . . .

Yours truly,

C. E. POLLOCK.

The following is the extract above referred to:—

'When the parties can afford the expense of a jury trial, I think a jury is a far better tribunal than a judge for dealing with questions of fact. The more I see of juries, the higher is the respect I have for their decisions. A judge is always embarrassed by the feeling that his decision is in some sense a precedent. Juries are haunted by no such spectre, and have only to deal with the particular case before them.' (I think in a former letter of mine I used an argument very like this.—C. E. P.)

Similar views were orally expressed to Herr Fahlerantz by Lord Justice Lindley, Sir James Charles Mathew, and other of the English judges, and were embodied by him in the publications already spoken of.

We are glad to say that we have the renewed promise of an early article from the pen of Herr Fahlerantz upon the curious workings of the Swedish jury called the '*Næmd*.' It may have peculiar interest for our readers, from the fact that our jury system is believed to be of Scandinavian origin.—*American Law Review*.

#### GENERAL NOTES.

ADVISING CLIENTS.—There is nothing in any of the games of chance or skill which engage men's efforts which can compare with the intellectual pleasures of advising clients. The lawyer confronting what at first seems an inextricable confusion, or an insuperable combination of barriers, finds gradually that their aspect yields to his persistent analysis. As he gathers the facts, compares the conflicting representations, weighs the adverse elements of the situation, he begins to see a path opening before him. The task of laying out his policy is often as interesting as the plan of a political or military campaign. He may, just because he knows all the ins and outs of the complex situation, employ one agency to accomplish one move, and another for another move, and sit himself silent and perhaps apparently inactive; but he is at the centre, and the various activities of his office, and sometimes those of others, are only the results of his direction.—*New York Daily Register*.