

If they are not satisfied with the law, they have the right to call upon their representative in Ottawa or in Toronto in an endeavor to have the law changed. They may communicate with the Minister of Justice or the Attorney-General and may use all the influence which a Canadian citizen has, to have the law made to accord with their views of what it should be. But they have no right in a trial to follow their own views upon what the law is or ought to be—they must accept the law as it is laid down for them by the presiding judge.

I am in the habit of saying to jurors that of the two highest rights possessed by a British subject—the one, the right to select those who will make laws for him, and the other to assist in the administration of the law—the latter is to my mind the more important and the more honourable. To enforce the verdict of the jury, every able-bodied man in the country may, if necessary, be called upon—nay the whole force, military and civil, of the Dominion of Canada and of the British Empire itself may be impressed to make effective the judgment of the twelve in the jury box.

The country has a right to expect that every juror shall bring to his task the highest degree of intelligence of which he is capable; that the jurymen shall cast aside all feelings of prejudice and sympathy; that he will with absolute honesty apply his mind to the questions to be determined, and that he will allow nothing—race, religion, politics—to prevent his giving an honest verdict according to the evidence. As it is the duty of jurors to find the facts according to the evidence, they should carefully observe everything which is said by the witnesses and the manner in which it is said, so as to enable them to determine in their own minds not only what he says, but also how far he is to be believed. It is the right and often the duty of the judge to express his own opinion as to the facts; but it is not his opinion which is to govern. The remarks which he makes concerning the evidence, the views which he expresses in respect of the facts, are intended only to assist the jury in arriving at a correct conclusion. But his view of the facts is not that which is to prevail; it is the jury who in the long run must make up their own minds as to what the facts are; their view must prevail.

Of course, so long as human nature is what it is, men may, and sometimes will, find it hard to rid themselves of feeling and passion and sympathy and prejudice; but it is the duty of jurymen to do their very best to clear their hearts and minds of all these, and honestly to find the facts according to that part of the evidence which they believe.

No matter what care is exercised in the selection of jurors, it will occasionally happen that some are not of sufficient strength of mind to perform satisfactorily what our law demands of them. And sometimes—it must be admitted—sorrowfully admitted—jurors do not act under a full sense of their responsibility, and so there are miscarriages of justice. Nothing human is perfect, and the administration of justice does not claim perfection—we can only do our best.

Many years ago it was the law that jurors who found a verdict not in accordance with the evidence might be themselves tried by another jury, or might be fined or imprisoned by the trial judge. This practice has long been obsolete; and the jurymen who now in violation of his oath degrades himself by giving a verdict differing from his honest belief, is free from any punishment except that inflicted upon him by his own conscience and the contempt of his fellow men. A juror who dishonestly gives a wrong verdict is as bad as a thief; he might just as well put his hand into the pocket of the man he wrongs and steal his money. A juror who dishonestly or weakly acquits one fairly proved guilty of a crime is as bad as an accessory—and worse.

Jurors do not, as they did many centuries ago, determine according to knowledge which they themselves may have of the facts. They are sworn to find a