"Thirdly, the same muteness of the jury prevents counsel from grappling with the points which are really affecting them. The judge usually lets counsel know what is pressing on his mind, so that counsel can direct his evidence and his arguments to meet the difficulties. Not so the jury. It is almost entirely fighting in the dark, so far as they are concerned, and undetected prejudice or external influence is often at work in a manner which it is impossible to counteract.

"Fourthly, if a verdict is obtained, no one knows on what grounds it is given, and on appeal the matter is only open to conjecture. A judge, on the other hand, gives his reasons, which can be dealt with and considered in the Court of Appeal.

"Fifthly, the jury panel cannot, in practice, be strictly scrutinized, and 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 is sometimes unduly impregnable, because he impresses the jury with his view, and yet the ultimate finding is, nominally at all events, that of the jury, whose reasons are inscrutable, and can only be set aside if twelve reasonable men could not have so found. Whereas, if he is alone, the judge must stand or fall in the Court of Appeal upon his own findings, and, as before stated, must formulate his reasons if he desires his judgment to have its proper weight.

"Seventhly, while allowing due weight to the importance of defining the issues of fact and law, and to the value of commercial views of business in some classes of cases, I think 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, as a last, but not least, important reason, I maintain that jurymen engaged and jurymen in waiting are put to great loss and expense in attending for trials which could often be better and always more expeditiously conducted without their presence, and in which that presence is often, by consent, dispensed with after much time has been wasted.

"For these, amongst other reasons, I venture to suggest that the rights of either party to insist on a jury should be largely curtailed, and that the onus of showing that in a given case a jury is desirable should rest on the party who asks for it.

"In the past, when judges were supposed to be unduly influenced against the people, trial by jury may have been the 'palladium of our liberties,' though I believe the history of the institution is not wanting in illustrations of an opposite character.

"At the present day, however, I see no reason why, as a rule, on the common law side, a single judge should not try all sorts of civil causes involving, on the whole, probably less important issues than those which have been so long and so ably disposed of by single judges on the Chancery side."