

set down in the new list; and the first twelve, or other number sufficient to make a jury, that appeared in the court should be the jury to try the cause. By this method of chusing a jury the disagreeable and captious practice of challenging jurymen would be avoided, which is apt to give rise to animosities between the persons challenged and the parties who object to them.

A majority
of the jury
should carry
the verdict.

Of the jury so chosen a majority should have a right to determine the verdict: the present rule, of requiring an absolute unanimity amongst all the jurymen, being evidently absurd and unnatural, and, amongst other inconveniencies, productive of one of a very important nature, which is the perjury of some of the jurymen in every third or fourth cause: for it happens at least so often that there is a real difference of opinion amongst the jurymen, and that some of them go over to the opinion of the rest, in opposition to their own sentiments, and contrary to the oath they have taken to give a true verdict according to the evidence; which means, as we presume, according to their judgment of it. And it has sometimes happened, that a great majority of the jurymen has gone over to a small but resolute minority. This therefore calls loudly for a reformation; and more especially in a country where the natural and ordinary differences of opinion, that must frequently happen amongst jurymen, are likely to be greatly heightened by national and religious prejudices. If the agreement of twelve men should be thought necessary to establish the truth of a fact, it would be necessary to impanel twenty-three jurors. But perhaps a bare majority of twelve men may be sufficient to answer all the purposes of justice in civil matters.

In criminal matters it might be proper to make the agreement of two-thirds of the jury necessary to the conviction of the accused person.

The juries
should
always give
special
verdicts.

And as the issues, or points of fact, that were to be proposed to the consideration of the jury, were to be drawn up in a minute and particular manner in words dictated by the judges of the courts, so the verdicts of the juries should be always special verdicts, stating the facts, as the jury find them to have happened, with great exactness and particularity. This would prevent juries from encroaching upon the province of the judges, and determining points of law by means of the short and general issues of "*Guilty or Not Guilty*," "*He did or did not undertake*," "*He does or does not owe the sum demanded*," and the like, that oftentimes involve points of law mixed with matters of fact, and thereby give juries an opportunity of committing these irregularities. Whenever these things happen (whether it be from the ignorance or want of discernment in the jurymen, or from their