

oppression? Co-operation is a modern tendency, and in the commercial and industrial world it usually takes the form of incorporation. I do not know how it is in the State of Nebraska, but in some other States and in some other countries it is becoming more and more difficult for a corporation to obtain fairness and justice from a jury. I should not venture to make so serious a statement, and so bluntly, were I not confident that it accords with the weight of opinion in the profession. Kipling says that the very worst thing you can do with a fact is to deny it. If this be a fact, and I frankly believe it, no good purpose is to be served by closing our eyes to it, or dismissing it with a half humorous euphemism. Are the intellect and conscience actuated by novel and occult considerations whenever individual and corporate interests compete? It is perhaps not exactly a modern tendency for sympathy to supplant reason, or for arguments not founded on pure ethics to be addressed to jurymen. Old Aristophanes in "The Wasps" makes Philocleon, the Athenian dicast, or elected jurymen, tell of the arguments he was accustomed to hear. "I listen," he says, "to them uttering all their eloquence for an acquittal. Come let me see; for what piece of flattery is it not possible for a dicast to hear there? Some lament their poverty, and add ills to their real ones, until by grieving he makes his equal to mine; others tell us mythical stories: others some laughable joke of Æsop; others cut jokes, that I may laugh and lay aside my wrath. And if we should not be won over by these means, forthwith he drags in his little children by the hand, his daughters and his sons, while I listen. And they bend down their heads together and bleat at the same time. And then their father, trembling, supplicates me, as a god, on their behalf to acquit him from his account." And later, when the dog Labes is being tried for stealing a Sicilian cheese and every argument has failed, his advocate exclaims: "Where are his puppies?" "Mount up O misérables and, whining, beg and entreat and weep."

I hold some opinions upon trial by jury, but I shall not attempt to develop them now further than to notice one re-