

Bad and Good Points About Our Jury System.

Text of an Instructive Address Delivered Recently by Justice John Dean of the Pennsylvania Supreme Court Before the Law Academy of Philadelphia.

"The essence of jury trial, as we know it, is the right of the accused to have the facts of his case determined by his peers—his fellows—and of the state to have the facts of its property right determined by the same tribunal. In the first instance on a disputed fact, the appeal is to the twelve men in the box. As concerns power there is not, nor can there be, a higher office than Juror in this nation. There is not a despot on earth exercising power over the subject, who is wholly irresponsible as the Juror. The worst of despots is in some degree sensitive to public opinion; is always subject to the hatred of and sometimes assassination by the outraged subject; and if he perpetrates atrocious crimes, revolutions overthrow him. But the Juror, for a few days, suspends his ordinary vocation; occupies the exalted place of a tier of fact; decides that one of his fellows ought to die on the gallows, another undergo a long imprisonment as a felon, or another receive thousands of dollars of property in possession of his antagonist; after thus passing on the life, liberty and property of others, he falls back into the mass, and is never heard of again in connection with the all-important events in which he was the principal actor. I repeat, in all this broad land of free institutions, which its numerous officials from president to messenger boy, there is no such irresponsible power lodged anywhere as with the Juror. And in a government of the people, by the people and for the people, this terrible power ought to be lodged just there and nowhere else. In my opinion it has been the chief source of strength to our judicial system. The people feel that there remains with them the most important function in the administration of justice, ascertainment of the truth from conflicting evidence; shielding the humble from the assaults of the malicious and powerful.

CHANGE IN PUBLIC OPINION.

"In our own commonwealth, for a full half century after the Revolution, any suggestion of abridgment of right of trial by jury was met in the legislature by most emphatic refusal. Nearly all the chancery powers the courts now possess were most indignantly conferred in the last fifty years. At about that time, fifty years ago, the careful student of our judicial history will note a change in both legal and to some extent public opinion commenced. Whether a jury was the best mode of road to justice in many cases was questioned. Under the old equity rules lawyers of the highest standing began to certify that the client had no adequate remedy at law, and both in the common pleas and supreme court, as is shown by the reported cases, equity was extended to include cases never which, before that time, it had not touched. In the Constitutional convention of 1837 no attempts at radical change in jury trial were made; but in that of 1873 an able minority made many unsuccessful attempts to change the jury changes were made affecting the right but it was substantially unaltered, and the old declaration, "Trial by jury shall be as heretofore, and the right thereof remain inviolable," was retained. The legislature, however, by the acts of 1836 and 1881, under the guise of a regulation of the right, made serious changes. The courts, as early as 1854, held the right existed only as to offenses indictable at the adoption of our first Constitution in 1776, and could not be invoked as to statutory offenses; and again, that it did not exist in common-law courts where the proceedings were out of the course of the common law.

COURTS AND JURIES AT ODDS.

"There appears further in the trial of cases involving rights of property decided antagonism between the trial courts and the juries. The charge of the judge, his comments on the evidence, frequently indicate a different verdict than that rendered; evidently, the verdict does not accord with his view of the evidence; he seems to suspect that his point of view is different from that which will be taken by the jury, and he seeks at the outset of their deliberations to induce them to change their ground. The court frequently after verdict offers to the successful party the alternative of a reduced verdict or a new trial. Caustic comments of the public press on what are termed absurdly unjust verdicts, unknown twenty-five years ago, all are facts which must be taken into account in view of the solemn declarations of great lawyers and statesmen half a century since. I remember well, forty years ago, hearing Thaddeus Stevens declare, after a jury had been sent out in a most important case in which he was counsel, that there was one thing even the Omniscient Himself could not forestall, and that was the verdict of a jury on conflicting evidence; whatever sense he may have meant this to be taken, I have always thought it was the highest possible tribute to the integrity and capacity of the jury. After hearing an impartial declaration of the witnesses, hearing the arguments of able counsel and an impartial summing up by the trial judge, what decision as to the truth will twelve intelligent, honest men, after impartial deliberation, come to? Who knows better what that decision ought to be than they? Who can possibly have a better opportunity for arriving at the very truth than they? Free counsel on either side cannot impartially delude the trial judge, although a trained reasoner, may be a child in knowledge of the common affairs of life which enter into the question of issue, and in which some of the witnesses are experts; the unsworn casual spectators at the trial are never in possession of the whole case in all its bearings as are the jury. It is no imputation on the integrity or intelligence of a jury that their verdict in a contested case on facts cannot be known until rendered. The assaults of later years on the institution today are in large degree prompted by the fact, not that their verdict cannot be known, but that it can be foretold before it is rendered. Given the parties and their financial condition, without regard to the weight or significance of the evidence in a very large number of cases, the verdict can be assumed with proximate certainty. An individual against a corporation, municipal or private; a poor man against a rich one, the underlying tendency in late years is, on conflicting evidence, to find the

disputed fact for plaintiff without giving proper weight to countervailing evidence in favor of defendant.

CONFIDENCE WANING.
 "This statement is made after an experience of forty years at the bar and on the bench; it is not made as an attack upon the institution of the jury, for if there be one part of our judicial system to which I am unalterably attached it is trial by jury. I have seen it but to effectually defend it the truth must be told. If public confidence is becoming impaired in the stability of



SUPREME COURT JUSTICE JOHN DEAN.

what to me seems the most important pillar of our grand edifice, we must know why and proceed at once to restore and repair.

"To sustain my proposition, as to the growing tendency of juries to the verdict of acquittal, to take from him who hath and give to him who hath not, it is hardly necessary to cite proofs within the knowledge of every judge and lawyer in this commonwealth. As just one instance, take the case of one private corporation in this city, the street railway companies. In 1886, when the cars were moved by horses, the verdicts in negligence cases were, aggregating \$18,977.012 passengers, counting single fares. In six years, while still running cars by horse power, the damages almost doubled, increased nearly 100 per cent.; the increase in this last astounding increase, from 124,000,000 to 187,000,000, an increase of about 40 per cent. Then the new motive power was put on, and in 1896 the verdicts in negligence cases reached \$345,410.50, the number of cases being 18. The percentage of increase, however, from 187,000,000 in 1892 to over 261,000,000 in 1896. The increase in travel was again about 40 per cent. In verdicts about 1,000 per cent. The increase in the amount of increase, it may be fairly assumed that much of it is due to the fact that the more powerful motor is the more dangerous. But, assuming that there was an absence of care according to the circumstances in many more cases when the new power came into use than in the cases by horse power, there was, in any fair view, it seems to me, an increase in verdicts out of proportion to increase of passengers. The figures given I obtained from the Department of Internal Affairs at Harrisburg, from the court records and from the officers of the railway companies. I have no reason to believe they are incorrect.

"As I have said, trial by jury, if it be a fair and impartial trial of disputes on evidence, must from its very nature strengthen the administration of justice and add to the stability of free institutions, but if it be perverted from its object, the ascertainment of truth into a means of promoting a redistribution of property without regard to legal right, then eventually there comes revolution under legal forms and the institution will be abolished, thereby placing the administration of justice further from the people and consequently weakening their attachment to its forms, a result to be deplored by every friend of government by the people.

FAULTS OF TRIAL BY JURY.

"Why does trial by jury in later years in cases involving the right of property, so often fail to reach the justice of the cause; so often fail to record the truth? It is usually ascribed to the growth of socialistic doctrines among the masses of the people, and its consequent presence in the jury box. It is not improbable that this has some influence in rare cases, but, from my observation, juries began to waver from the truth since the multiplication of corporations and their growth in power and capital; habits of thought began to change and the moral sense to become dulled. The intangible thing known as corporate life had corporation was but a huge partnership, of which the shareholders were members, they regarded it as a lifeless thing, incapable of suffering loss or of feeling a wrong; they lost sight of the fact that a wrong done to a corporation was suffered personally by individual members of it in proportion to their holdings; that the humble, the helpless, the widow and orphan, must each suffer his or her proportionate share of every wrong perpetrated on the artificial being of which they were members.

It is not a growing deficiency in moral sense, but an ignorant perversion of it, an active sympathy with the individual complainant whom they see and hear, and no sympathy with and often a prejudice against the aggregation of capital, which, to their senses, is devoid of personality. This pervert-

ed moral sense is due in great degree to the education of the public, the demagoguery on the stump, unjust attacks in newspapers and even denunciations from the pulpit; such epithets as bloated head-brother, soulless corporations and robber barons, have been familiar for at least twenty-five years; they are indiscriminately applied to corporations and their members until the tendency, even in intelligent minds, is to consider suitors as belonging to two classes, corporations with no rights and natural persons, whose rights as against them must be strictly guarded. To some extent, the perversion is due to unwieldy conduct of those in charge of corporate property. But unquestionably, popular education has brought about largely a perversion of the popular conscience, and this habit of thought, starting with prejudice against corporate capital, has been incessantly extended to include individual capital, so that in every issue of fact with large property on one side and poverty on the other, the weight of the evidence, by many cases, palpably fails to establish the truth by a verdict.

THE REMEDY.

"Where is the remedy? It is none other than the truth. The remedy is to give the jury the facts as they are, and not as they are distorted by the press and the pulpit. The remedy is to give the jury the facts as they are, and not as they are distorted by the press and the pulpit. The remedy is to give the jury the facts as they are, and not as they are distorted by the press and the pulpit.

THE TONE MAY BE RAISED.

"I would take the banker from his desk, the editor and professor from their respective positions, and put them in the jury box, and let them try a case. I would give them the opportunity to learn for themselves how both courts and juries, with the light they have, are doing. I would give them the opportunity to learn for themselves how both courts and juries, with the light they have, are doing. I would give them the opportunity to learn for themselves how both courts and juries, with the light they have, are doing.

JOHN HAY'S SPEECH ON SCOTT.

At the Unveiling of the Bust of Sir Walter in Westminster Abbey.
 Col. John Hay has begun well in that service of public speaking which, since Mr. Lowell's time, has become so great a part of the work of the representatives of the United States at the court of St. James. He has done so well that the occasion of unveiling a memorial bust in the Westminister Abbey was excellent and from the full text as given in the New York Tribune we quote in part as follows:
 In the most significant and interesting ceremony I should have no excuse for appearing except as representing for the time being a large section of the American people. I have no doubt if anywhere his writings have had a more loving welcome than in America. The books a boy reads are the most ardently admired and the longest remembered; and Americans revelled in Scott when the country was young. I have heard from my father, a pioneer of Kentucky, that in the early days of this century men would saddle their horses and ride from all neighboring counties to the principal post-towns of the region when a new novel by the author of "Waverley" was expected.

All over our straggling states and territories—in the East, where a civilization of a hundred years ago was being born; in the West, where the stern conflict was going on of the pioneer subduing the continent—the books most read were those of the great Scottish novelist, Walter Scott. He had no clique of admirers, no illuminated sect of admirers, no wilder criticism by excess of his own subtlety. In a community engaged in the strenuous struggle for empire, whose dreams and hopes were turned in the clear, broad light of nature's morning to a future of unlimited grandeur and power, there was none too sophisticated to appreciate, none too lowly to enjoy those marvelous pictures of time and space, however, though the times themselves were unilluminated by a people and an age whose faces were set toward a far-distant future.

OUR FAVORITE AUTHOR.

Through all these important formative days of the Republic, Scott was the favorite author of Americans, and while his writings may not be said to have had the same wide-spread national and political development, yet their influence was enormous upon the taste and sentiment of a people peculiarly sensitive to such influences from the glimmer of legend and tradition. The romances of courts and castles were specially appreciated in the woods and plains of the frontier, where a pure democracy reigned. The poems and novels of Scott, saturated with the glimmer of legend and tradition, were greedily devoured by a people without perspective, conscious that they themselves were ancestors

of a redoubtable line whose battle was with the passing hour, whose glories are all in the days to come. Since the time of Scott we have seen many fashions in fiction come and go; each generation naturally seeks a different expression of its experience and its ideals, but the author of "Waverley," amidst all vicissitudes of changing modes, has kept his pre-eminence in two hemispheres as the master of imaginary narrative. Even those of us who make no pretensions to the critical faculty may see the two-fold quality of this enduring masterpiece. Both mentally and morally Scott was one of the greatest writers who ever lived. His mere memory, his power of acquiring and relating serviceable facts, was almost inconceivable to ordinary men, and his instructive imagination was nothing short of prodigious. The lochs and hills of Scotland swarm with the imaginary chieftains with which he has peopled them for all time; the historical personages of past centuries are jostled in our memories by the characters he has created, more vivid in vitality and color than the real scoundrels and lovers with whom he has cast their lives.

SCOTT'S MORALITY.

But it is probably the morality of Scott that appeals more strongly to the many than even his enormous mental powers. His ideas are lofty and pure, his heroes are brave and strong, not exempt from human infirmities, but always devoted to ends more or less noble. His heroes, whom he frankly asks you to admire, are beautiful and true. They walk in womanly dignity through his pages, whether garbed as peasants or princesses, with honest brows uplifted, with eyes gentle but fearless, pure in heart and eloquent in speech, in purity and loyalty—these are the essential and undying elements of the charm which this great magician has soothed and lulled the weariness of the world through three generations. For this he has received the ungrudging love of grateful millions.

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FOR SWEARING PURPOSES.

The English Language Is Not Equal to Some Others.
 A pleasing testimonial to the resources of the English language was given at Manchester. An inquiry was being held as to a house to be used for gambling. It was frequented by poor Jews, and they were stated in a general way to have spoken their own Yiddish—except when they wished to swear. Then they used English. Our oaths appear to be simpler and stronger than those of any other tongue. The Spaniards, though it must be admitted they are coarser, are too elaborate. The same may be said of Italian execrations. French are failures. They beat us in slang, but in simple obscuration they are nowhere. German imprecations mean a good deal, but that is just where they fail. The essence of a good, round oath is mystery. And that is why American swearing, though somewhat missive in its mark, there is too much thought in it.—St. James Gazette.

THE TOBACCO HABIT.

Here Are Some Figures Showing How Harmful It Is.

In 1891 the official physician of Yale university reported that in a class of 147 students who had smoked a pipe, 77 who did not use tobacco surpassed the 70 who did use it to the extent of 10.4 per cent in increase of weight, 24 per cent in increase of height and 26.7 per cent in increase of chest capacity. The abstainers from tobacco gained 21 per cent in weight, 37 per cent in height and 42 per cent in chest girth. But the most striking revelation from the statistics was that respecting lung capacity. The Amherst abstainers having gained 75 per cent over the tobacco users, while at Yale the average gain was 77.5 per cent.

Preparations for The Big Jubilee.

Miss Kaiser Writes of the Appearance of the Queen, of the Precautions Taken for the Public Safety During the Great Celebration, and of Other Things.

Special Correspondence of The Tribune.

London, May 17.—It is with regret that I apologize for not writing last week. But in the old excuse, I was busy. Indeed, I am very busy. The work of the season is already arduous, and as I am soon to leave London and come home to let the light of my countenance shine once more upon you, I must needs make the very most of my time here, and get in all the London and London teaching I can before my de-



BROKER CHAPMAN. The Man Who Is in Jail Because He Refuses to Testify in the Sugar Scandal.

parture. My time verily flies past me. I sit in the principal concerts etc., take from five to eight vocal lessons a week, not to mention lessons in other subjects, go to a few receptions, at homes and theatres, and write a few letters, "and there you are"—as they say at home, time all used up. Sad to very tired indeed, and a few, you, very few things accomplished, for toning-building and such work is of all work the slowest, as you know, and art is indeed long. With all this work there are engagements, for I can boast a few good ones, and one must be always keeping in good shape for these, too. I sit at another Queen's. Has concert this week, and am engaged for some swaggar receptions as well. So you see I am quite busy as usual. I sometimes think that I really would not recognize myself unless in a condition of breathless haste. But I suppose I shall have to calm down sometime or other, and alas! I cannot always live in London, and shall have plenty of time for "malden medicine" when my London life is over for a time.

ABOUT THE MOSQUITO.

A Few Truths About Our Summer Visitor from New Jersey.
 From the Boston Transcript.
 There are four truths respecting the mosquito which modern science has established:
 First—A mosquito cannot live in air free from malarial poison. Untainted air has the same effect on him as a healthy community on a doctor. It deprives him of patients, and he must go to less favorable localities to practice his profession.
 Second—The lymph, which flows through an automatic valve when it inserts its proboscis, contains a modified germ of the malarial fever, and, according to the well-settled law of inoculation, the introduction of the weak germ renders harmless a subsequent attack by the strong germ.
 Third—The mosquito must be a swifter human blood. It cannot. The fact that its body becomes discolored and swells, while probing, is caused by the discoloration of the lymph in contact with the human blood, and muscular effort of inserting the probe.
 Fourth—A mosquito will never insert its lance in a person not susceptible to an attack of malaria. In this respect it is as inflexible as a diamond. The most skilled and experienced pathologist. This also proves, not only its unerring instinct, but that it never wounds unnecessarily. Its thrusts are those of a skilled and humane surgeon, and they seldom are unfruitful, for he never quickens him, nor does the malediction of his patient deter him in the fulfillment of his duty.
 Remember, then, that the presence of mosquito is an infallible sign that malaria is in the air, and that you are exposed to it, and when you hear that well-known but solemn note of warning, do not treat him as a too but as a friend.

AN EXPLANATION.

Ingenious Sambo Tells Why It Was Ninety-Six Hot.
 It was hotter than Topnot, and Sambo and his wife Choe were sitting on the porch of their cabin fanning away for dear life.
 "Deed!" panted Choe, "I reckon dh'yer 'bout us hot as wether kin git."
 "I spee' so, honey," replied Sambo. "I heerd a geman say dis mawin' dat hit wuz ninety-six in de shade."
 "Ninety-six wot?" inquired Choe.
 "Ninety-six hot, ob course," and Sambo's tones indicated just enough uncertainty to call forth further questioning.
 "But dat don't mean nuffin," insisted Choe. "Dat ninety-six has got some more to hit, Sambo."
 Sambo scratched his head a moment, "De geman didn't say no mo'," he said, trying to hedge.
 "But dat is no," she argued woman-like.
 Sambo gave the subject two minutes' thought, and his face shone with an idea in addition to the perspiration.
 "Course dee is, honey," he said, with an air of superiority.
 "Dat's what I see 'spectin'," "An I see in dese yer names what you plays, an' things like dat, dey talks 'bout gittin' so many outer a possible hundred don't you?"
 "I see heerd sumpin' like dat," she ventured cautiously.
 "Well den, honey, dh'yer is like dat. Dat ninety-six mawin' dat de hottest wether dat am possible an' a hundred an' dh'yer we see habbin' is jis fo' pints less dan de most hottest what kin possibly be. Dar now, ain't dat explanation 'nuff for anybody?"
 It seemed to be, for Choe fanned herself and accepted it.—The Sun.

general safety. Although I am not an Anglo-maniac, as yet, still I must say that I admire greatly the thoroughness and carefulness with which the English nation makes preparation for this occasion of national rejoicing. Almost every conceivable turn affairs may take, every possible contingency is to be provided for by guarded against and it only remains for Her Majesty and her large family to kindly and considerately keep alive and well, to make the whole affair regular, rational, blazing, success from start to finish.

A DRAWING ROOM TEA.

I had a great treat the other day. A friend of mine, the wife of an M. P. and a most lovely and lovable woman, at whose house I have often had the honor of dining, sent me cards to her "Drawing Room Tea" and Miss Radial and I went. She had just come home from Her Majesty's Drawing Room, whither she had gone to pay her respects, and was in a magnificent train, were enough to make one imagine herself in fairland, in company with Queen Mab and her attendants. The trains were three yards long, and lined with the same costly material as a composed outside of the gowns, only being of a different color—so that my friend says she will have no less than three party and ball dresses out of her court gown this year, the first being the original dress itself, the second to be made out of the outside of the court train, and the third of its lining. One never wears court trains anywhere but at court, so she will never wear it again, and will use it up in this way. This was Mrs. P's third or fourth appearance at court, and the gowns each time cost a small fortune. What a peace of mind it must be to be rich! One doesn't need to worry over tiny, cheap, badly-made dresses then, for even these gowns are to my friend more a matter of course than are ordinary everyday, workaday dresses to me. But then that is her workaday world, while mine is life different.

Sadie E. Kaiser.

QUEEN VICTORIA.

The Grand Old Lady seemed really to fancy herself in this dainty millinery. She has hit her mark, and has caused the Royal carriage to pause, it was evident that she was discussing arrangements for the Jubilee week in the gayer mood. Her voice—it was beautifully clear—was raised a little, as she said, emphatically, "No, we really cannot do that!" and Princess Beatrice, who was in attendance, answered, with equal energy, "No, we cannot do that." Little could these illustrious speakers guess the delight they gave by these few words. A lady near me on the top of the bus as she hysterically exclaimed in a high key, "Now I can boast of having heard the Queen speak in her Diamond Jubilee year!" Really, the devotion with which the conservative classes of people regard their Queen over here is beautiful. They just love her, and reverence her and glory in her, as if she were little short of supernatural. If it came to it, I do not doubt that they would lay down their lives for her, with pride and gladness in the sacrifice. Of course, there are, on the other hand, those who wouldn't, too.

PRECAUTIONS.

The lesson of the Paris Charity Bazaar has not been lost on the London authorities about superintending a celebration in London of unparalleled magnitude, in which millions of people will take part. The possibility of any untoward incident, creating a panic among the massed crowd which will assemble to witness the Royal procession is really too dreadful to contemplate, and everyone is going to see that already parliament is taking measures to insure the safety of the public on that day. For not only are an enormous number of stands to be erected along the streets, and in every available position, but a command is given of the show, but every house on the line of route will be crammed with sightseers. The safety of the stands, their capacity to support their burdens, and the means of speedy egress are all coming under consideration. As everyone knows, it will be of great importance that the crowds who fill every window along the route shall have a ready means of escape in case of an outbreak of fire. And the risk of fire will be intensified on the evening of June 22, when London will be illuminated from end to end. Questions of private gain or loss are not by any means to be allowed to stand in the way of stringent regulations to insure the