

adopted by many legal authors, of placing these citations in the body of the text, immediately after the quotations from, or references to the cases, instead of in foot-notes.

M. J. G.

* * * *

Forms of Wills. Containing Selected Abstracts of Important Wills and of Gifts made during Lifetime. By Herbert C. Fooks. Baltimore, Md. Albrecht Company, 1924.

This work is a departure from the beaten track in the domain of Form Books. Instead of the usual collection of draftsman's precedents having no ostensible connection with actual cases, here we have a compilation of abstracts from the wills and deeds of many well-known citizens of the United States, whose names are appended thereto. Thus it has an adventitious historical value. We are not informed by the compiler whether any of the dispositions in his thesaurus of particular instances have been the subject of judicial interpretation, but such as we have examined commend themselves as responding to the requirements of sound law. The book ought to prove useful to the practitioner. It possesses a human interest hitherto unknown in its class.

C. M.

CURRENT EVENTS.

We publish below the Address to the Grand Jury by the Honourable Sir Francois Lemieux on the opening of the Criminal Session of the Court of King's Bench at Quebec last month. It is particularly pertinent to the present time when the Jury system, as a whole, is receiving so much attention in England and the United States as well as in Canada.

GENTLEMEN OF THE GRAND JURY:—

There was a time when the Grand Jurors made strong representations, suggested by their experience, to the Executive and to the Attorney-General on matters relating directly or indirectly to the administration of justice or respecting the public welfare.

These were and are still privileges of the Grand Jurors who have the power to make, from time to time, what is called the Great Judicial Inquiry.

I take the liberty to recall this age-old custom, in the hope of provoking from you an expression of opinion on a subject closely related to the working of the criminal law. I refer to the institution of the Jury which, in these latter times, has been subjected to unjustifiable attacks, deplorable changes and whose very existence is threatened.

The employment of the Jury in repressing crimes, introduced, both into Europe and America, an eminently democratic and national institution. For the Jury system is the most powerful means of making the people reign and also the most effectual means of teaching them how to reign. This system has placed the citizen if not on the Judge's Bench, at least on a footing of equality with the Judge. This institution has largely placed the direction of society, in so far as peace, liberty, the honour and life of citizens are concerned, in the hands of the people.

Parliament is a section of the nation appointed to make laws, while the Jury is another section of the nation appointed to apply certain laws passed in the interest of the nation.

Whenever Governments or Sovereigns have destroyed or curtailed the Jury system, they have, thereby, undermined their authority and compassed their early downfall.

The institution of the Jury confers on the people special privileges and prerogatives of an eminently moral character.

It teaches every man not to shrink from the responsibility attaching to his own acts, thus imparting a manly character, without which there is no political virtue. It invests every citizen with a kind of magisterial office; it makes all feel that they have duties to fulfill towards society, and that they take part in its government; it forces men to occupy themselves with something besides their own affairs, and thus combats that individual selfishness, which is, as it were, the rust of the community. (de Tocqueville).

It is, moreover, according to one eminent writer, a great instrument for the education of the people.

It is an ever open school which each juror enters to be instructed in his legal rights, where he is in communication with accomplished and enlightened men, where the laws are taught him in a practical manner, and are brought down to the level of his apprehension by the efforts of the lawyers and the instruction of the Judges. Hence, it is one of the most efficacious means that society can employ for the education of the masses. (de Tocqueville).

The Jury is an old and venerable institution which from the remotest ages down to our own day, has enlisted the sympathies of all independent and enlightened nations. Varying somewhat in form through the course of centuries but upheld by every civilized nation and under every form of government, surely the Jury system cannot be contrary to the spirit of justice and equity.

In my humble opinion, never can the innocent find a surer protector nor the guilty a more impartial judge than the Jury.

Seldom it is, very seldom indeed, that with all the precautions surrounding the accused, the innocent is pronounced guilty or the guilty innocent.

To say that such a thing never happens, to declare that the Jury makes no mistakes, would be to proclaim the infallibility of the human mind and man's equality with God.

The Judge, do you see, is bound to decide according to law, whatever it may be. Sometimes he would be inclined to obey his own sentiments, but he is the slave of the law which is inflexible.

On the other hand, the Juror follows the dictates of his conscience, decides, according to common sense and his experience of life.

He respects the law but his guiding stars are the Christian or Golden rules of equity. In other words he administers the law not according to its strict letter, but in a reasonable spirit and according to rule which varies with circumstances.

As for me I share the opinion of great jurists and, with all due deference to my colleagues on the Bench, I declare that if my honour and

my liberty were at stake, I would rather be judged by twelve conscientious men guided by a competent Court.

There are complaints, criticisms, prejudices against the Jury system. People talk of its ignorance and incompetence, they blame certain verdicts and the jury's disagreement in certain cases. But are the decisions of the most learned and independent judges above criticism? Do they not often, too often, lack unanimity?

After fifty-two years' experience, connected both as counsel and as a Judge, with hundreds of trials by Jury, in civil and criminal cases, we declare that we know of few verdicts rendered in this section of the Province which were opened to serious charges and which could not be explained by extenuating circumstances.

If we want the Jury to be a juridical institution, guaranteed to possess the experience of the things of every day life, let the numerous exemptions from serving as jurors granted to too many citizens, disappear from our statutes.

Do you know that twenty-three classes of citizens are exempted from serving as jurors? Among them are surveyors, professors, managers, cashiers, payers, clerks, bank accountants, municipal officers, pilots, steam-boat masters and crews, railway employees, flour mills employees, all professional men without exception, that is, so many men qualified to share effectually in the administration of justice. In other words, some of the best elements of society, by education, business experience, commerce and industry are excluded from the Jury.

The public wishes to have good and sound justice, and rightly so. It wishes to enjoy the protection of the law, a reasonable thing indeed. Yet, too many citizens take every means, use every device, bring every influence to bear in order to escape their share of responsibility as jurors. And often those very ones are the most prone to criticize justice, to arouse prejudice against Courts, against the Jury and its verdicts, and against the Judge's sentence.

Apart from rare exceptions, all citizens who are property owners should share in the administration of criminal justice, and it would be desirable to abolish the distinction between Grand and Petty Jurors. Citizens should, moreover, be interested in the Juror's functions, by proper compensation for their loss of time. The dignity and importance of their duties should be brought home to them by providing them with well fitted halls wherein, amid comfortable surroundings, they might deliberate like true judges.

There are people who, not realizing the greatness of the Jury, are ever on the alert to belittle it and paralyze its action.

Thus, lately, without any serious protest, permission was granted to appeal from the jurors' decisions even on matters of fact. Such appeals will be heard, in most cases, before three judges, often of unquestionable competency. Yet this appeal is a want of trust, so to say, in the twelve sworn citizens who have rendered a decision with full knowledge of the case, after hearing witnesses and having been instructed by the Judge; for the decision of these twelve common-sense men will be modified or reversed in many cases at least in this Province, by three Judges who will not have heard the trial.

This new legislation permitting an appeal recalls the words of Lord John Russell, one of the Parliamentary lights of England: "Legislators should not impair the system of trial by Jury, by new, trifling and vexatious enactments."

I might enlarge on this great question of trial by Jury but I forebear for fear of overtaxing your attention.

Towards the close of my judicial career, I am not ashamed to declare that I stand for the institution of the Jury, because I deem it the palladium of individual liberties, a bulwark against oppression and the best constitutional means of checking abuses.

And if you share my convictions, I claim the favour to express your opinion thereon in your Presentment to the Court.

You will, perhaps, be the first citizens in Canada to manifest in your official capacity of Grand Jurors, your attachment to a time-tried institution, a monument against which no hand should be raised.

The Province, by your voice, will prove once more that it is refractory to innovations subversive of peace, order and public morality.

Your declaration will solemnly proclaim your respect for the memory of your fathers who secured, at the cost of great sacrifices and even of their blood, the right to be judged by men who, without having the learning of judges, are strong-hearted, intelligent and proud enough to defend the homes, honour, life and liberty of citizens.

This solemn declaration will encourage the Attorney-General, natural protector of civil and criminal laws, and our legislators, to stand by the institution of the Jury.

Gentlemen, I conclude in asking Divine Providence to bless your work and your deliberations. May you discharge your duties with conscience and especially with independence and not suffer that in your persons the Jury loses one iota of its dignity and power!

* * * *

O TEMPORA! O MORES! O JUDICES!
OH—WELL.

(An Episode of the Bar.)

It was the good ship *Montlaurier*
Which ploughed the Northern Sea,
On an evening late in the smoking-room sate
A goodly companie.

And to them there came a youth of high name—
He'd a fearful thirst to cure—
And he said "Judge, I think you could stand a small drink":
Twenty-one rose and said—"Why sure!"

He paid the shot with a five-pound note,
For he was a right good sport;
And he said with a smile, counting change the while,
"Well, I got a unanimous Court!"

W. R. R.