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IS TRIAL BY JURY IN THE INTERESTS OF JUSTICE

The Precious Heritage of a Fair Trial is Preserved By British Commonwealth

(The Daily Mail, while it finds "Observer" articles interesting and popular, does not always agree with what is said and is not responsible for the writer's opinions).

Much comment has appeared recently, inspired by certain cases, on the efficacy of jury trial. Arguments are put forth both for and against the value of a jury, and it might not be amiss to consider some of them.

The fundamental purpose of a jury is to arrive at a decision in regard to a case in accordance with the evidence put before it. Jury trial was originally instituted to ensure the accused a fair trial by his peers.

Now the original meaning of the word "peer" is an "equal." Therefore a man should, theoretically, be ensured a fair trial by his equals. To enlarge on the connotation of this word "equal" would lead us to see that a man's equals must have more than one characteristic in common with him and in the same measure.

For example, to be my equal a person must possess the same amount of intellectual, physical and moral elements in his makeup, and should occupy a corresponding position in society. I think that very few will maintain that an accused person is ever tried by a jury bearing those qualities in relation to himself. If we are going to stick strictly to our theory, we would have to allow that the mentally or morally deficient person should be tried by a jury of similar individuals, which would, of course, defeat the ends of justice. So the theory can become reduced to an absurdity.

Nevertheless, if we take the case of an accused person who is presumably possessed of normal characteristics, the fact remains that he has in theory the right to be tried by a jury all of whom are possessed of normal characteristics in approximately the same measure as himself. That this seldom or never happens, furnishes one argument against jury trial.

Again, it is alleged that the average jury, no matter what its percentage of intelligence may be, is, as a rule, not well up in the intricacies of the law. The members are dealing, it may be, with a case involving life and death, but they must take their instructions on the legal aspects of the case directly from the judge, and indirectly from the counsels. No one would argue that the judge's instructions would be deliberately misleading, but it is all very confusing to the layman. This difficulty is magnified tenfold when the jury is definitely below the average in intelligence, as quite often happens. In this way do miscarriages of justice occur.

It is urged by the opponents of jury trial that the evidence should be weighed by those skilled in the law and legal procedure. A jury of judges is often advocated.

Another criticism that we often hear of juries is that they are apt to bring in a decision not in accordance with the evidence because they become weary of the whole case, and are anxious to get through. By this it is not meant that a jury would consciously deviate from what it thought was its duty, but in a long-drawn out trial in which the jury has had to remain out a long time to arrive at a decision, many strange things may happen. Cases are known in which a particularly strong-minded juror or two may by their persistence win over all the rest to a decision which is not in accordance with the evidence.

There are grave deficiencies in the jury system, it must be admitted, and the system being what it is, these deficiencies are hard to overcome. What then can be said in favor of the jury system as it now exists?

Most precious of all is the motive by which jury trial was originally inspired. That must never be lost sight of. The desire, which breathes the very spirit of democracy, to give every man a fair trial. No matter how distorted the system may have become in the process of time, nor how far it may have fallen from its high ideal, still that ideal must be preserved.

In these days of dictatorships and authoritarian rule, it is refreshing to know that in the British Commonwealth at least, the precious heritage of the principle of fair trial is still preserved, although errors may creep into its administration. Very serious thought should be given to the matter before any proposal to abolish the jury system is carried out. Even though juries of experts might conceivably be established, the great danger would be that such bodies would lose the common feeling of sympathy and understanding with the prisoner in the dock, which our present juries of ordinary men and women are apt to have.

Many a juryman, as he regards the accused must say to himself, "There, but for the grace of God, am I." How many juries of judges or legal experts would be apt to think as much? It is vital that we do not lose that common touch that makes all men kin. —OBSERVER.

PLANS TO PLACE JOBLESS ON FARMS

WINNIPEG, Seut. 23—Part of a Dominion-wide farm-improvement programme, 3,300 jobless men will be placed on Manitoba farms, it was decided recently at a conference between Humphrey Mitchell, member of the Federal Unemployment Commission, and Provincial Government officials.

Cost of the farm-placements will be borne equally by the Dominion and Manitoba Governments, it was announced. The plan will go into operation on October 1, Mr. Mitchell said. Each man will receive $5 monthly, and each farmer taking a man a similar amount.

Mr. Mitchell said the Commission hopes to take 50,000 men from urban centres across Canada and place them on farms as a permanent arrangement.

SHERIFF'S SALE

The following property will be sold at Public Auction in front of the County Court House, Fredericton, N.B. at **twelve o'clock noon SATURDAY, the 26th DAY of SEPTEMBER, 1936,** for assessed taxes and cost, property of **DAVID M. STAIRS, Estate, Southampton, York Co. N.B.**

"All that certain lot, piece or parcel of land situate, lying and being in the Parish of Southampton in the County of York, and Province aforesaid and bounded as follows to wit; Beginning in the southwest angle of Lot No. 6 on the northeast side of Campbell Settlement Road, thence by the magnet of 1854 north 49 degrees 30 minutes east one hundred chains of four poles each or to lands heretofore deeded to Messrs. Straw Bros., thence north 63 degrees west 10 and one-half chains or to Lot No. 4, thence south 49 degrees 30 minutes west one hundred chains to an iron stake standing along the road above mentioned, thence easterly along said road ten and one-half chains to the place of beginning, containing one hundred acres more or less, and known as Lot. No. 5."

Del. Parish & County Tax, 1935 ...		$ 3.01
" " " " " 1936 ...		3.94
" " " " " 1936 ...		3.94
		$ 6.95
" Non-Resident Road, 1935..	$1.16	
" " " " 1936..	$1.16	
	$2.32	2.32

School District No. 8, Southampton.
Harry E. Daniels, Secretary.

Del. School Tax, 1934....	$ 3.85	
" " " 1935....	3.25	
" " " 1936....	3.50	
		$10.60
Total		$19.87

C. N. GOODSPEED,
High Sheriff for York County, N.B.
Fredericton, N. B.,
Aug. 26th, 1936.

MOTOR CARRIER BOARD ISSUES INTERPRETATION

Pointing out that a misinterpretation of the Motor Carrier Act, 1927, is evident on the part of "some of those particularly interested in transportation in the province," the New Brunswick Motor Carrier Board in private session has issued its interpretation of the provisions of the Act.

Speaking through its chairman, H. A. Carr, K.C., Campbellton, the board emphasized its desire to construe the act publicly, "with a view of clarifying the situation."

The sections of the act most frequently misconstrued were given as recorded in the statute, followed by the detailed interpretation placed upon the provisions by the board. The statement follows:

Section 5

"Except as hereinafter provided, no person, firm, corporation, lessee, trustee or receiver, personally or by agent or employe, shall operate a motor vehicle upon a public highway in the province for the transportation of persons or property for compensation, without holding a certificate, issued by the board, allowing such motor vehicles to be so operated for compensation."

Section 15

"The provisions of this chapter shall not apply to school motor vehicles for which maintenance is paid by municipalities or by the Board of Education, nor to motor vehicles when being operated wholly within cities, town, incorporated villages or the Parish of Lancaster in carrying persons or property for hire or compensation, nor to a motor vehicle hired and operated for one trip or one trip and return over a route, different from or not co-terminus with any route specified by any certificate issued and in force under this chapter; provided however, that the lieutenant-governor-in-council may, by proclamation, declare that such provisions shall apply to motor vehicles when being operated between two or more cities or towns which are contiguous."

Section 2, (d)

"The term 'motor carrier' means any person, firm, corporation, lessee, trustee or receiver operating any motor vehicle, with or without trailer or trailers attached, upon any public highway for the transportation of persons or property for compensation, between fixed termini or over a regular route, even though there may be periodic or irregular departures and travel from, between or over the said fixed termimi or route."

Board's Interpretation

"Section 5 cited above provides that no one shall operate a motor vehicle upon the highways of the province for transportation of persons or property for compensation without holding a certificate from the Board. The term 'motor vehicle' used therein as interpreted by section 2 (d) means a certain vehicle operated for compensation by a motor carrier (not by any other person but a motor carrier).

"What then is a motor carrier? Coming then to the last part of section 2 (d) 'motor carrier' involves fixed termini over a regular route even though there may be some digression as indicated in the section.

"The provisions then of the Motor Carrier Act apply only where you have fixed termini or a regular route.

"At the last meeting of the board a list of some three hundred and sixty-three (363) truck drivers, who were alleged to be operating on the highways in contravention of the provisions of the Motor Carrier Act, was submitted. Many of these alleged cases, which include trucks operating in the hauling of gravel, etc., do not come within the provisions of this act, and the interpretation of the provisions is given with a view of clarifying the situation so that any who are operating in contravention of the act may be dealt with.

Recently Discussed

"A recent conference of the Permanent Committee on Highway Transportation, at which practically all the provinces were represented, was held at Ottawa, whereat the problems of motor transportation of goods and passengers for hire in the respective provinces, realized as one of our largest public utilities, was considered, and the report of that committee is interesting. It is realized by all those interested in the subject that the regulation of motor passenger busses can be more easily regulated than that of trucks carrying goods, wherein in some provinces a classification is made of trucks operating as private carriers and trucks operating as public carriers and wherein in all cases the safety of life and property should be adequately protected by insurance."

METER-PARKING TEST URGED

BUFFALO, Sept. 23—The City Safety Commission has recommended to the City Council a ninety-day trial of metered parking. Under the system motorists would deposit a nickel in the meters for an hour's parking.

POLITICAL AND OTHER FISHING

In the arena of politics President Roosevelt and Governor Landon may be regarded as "at daggers drawn," but this is forgotten when these contenders for the Presidency of the United States discuss fishing. Evidently both are anglers, as the chief item of news coming from their meeting in Des Moines was that, while they sat together at dinner eating fried chicken and corn on the cob, fishing was the subject of conversation.

As with golf, fishing is a great leveller. On the banks of a stream "all men are equal"—more on an equality, perhaps, than anywhere else, even in "the land of the free" The proof? An office boy may catch more fish than a corporation president, which shows that fish are no respecters of persons.

Said the President to the Governor: "Now remember, Governor Landoe, if you take my place in the White House, be sure you don't use too big a boat to go fishing." Real anglers will interpret this as meaning that a President who goes fishing in a palatial yacht will miss the thrill of the pastime. There is too much comfort. The party does not need fish for supper; there is plenty of other food in the larder. The great test of the angler's skill comes when he realizes that if he doesn't catch a few fish he may go hungry to bed. There never is any hunger on a Presidential yacht; therefore, not the incentive to use all the wiles known to the line-caster whose mind is on the next meal. Happily, Governor Landon is warned in time.

Facetious persons may claim that all this talk about fishing between two candidates for the highest office in their country was but camouflage for their thoughts. There is such an occupation as angling for votes, and this is the kind of fishing the President and the Governor are engaged in. In many a political stream each will use his best bait.

There was significance also in another conversational exchange. Said the President to the Governor: "You had a long, hard motor trip to get here." Replied the Governor: "Yes, I did. But I got here on time." Who will say that this also was not a figure of speech indicating the ending of the Governor's journeying toward the White House? Public men sometimes clothe their thoughts in nice subleties of language. However, there is something interesting and refreshing in the thought that two eminent men, met to discuss drought conditions and what could be done for its victims, found common ground, as it were, in talking about fishing—and, as a rule, fish do not suffer from drought.

MORE STUDENTS ENROLLED

One new freshman and two sophomore were enrolled today as the University of New Brunswick commenced the second day of its fall term. More are expected to register within the next week or two. The new freshman is Wiley Carlisle Spicer, of Chatham, (English), and the sophomores are Miss Isabel I. Willis of Saint John (Science), and Phillip W. Willis, of Saint John (Arts).

NOTICE OF SALE

TO George W. Kitchen, of the Parish of Queensbury, in the County of York, in the Province of New Brunswick, Farmer, and Margaret A. Kitchen, his wife, and all others whom it may in any wise concern:

Take Notice that there will be sold at Public Auction in front of the City Hall at Fredericton, in the County of York, on Saturday the 3rd day of October next, at the hour of 12 o'clock, noon, the lands and premises described as follows: that certain lot, piece or parcel of land and premises situate, lying and being in Springfield Settlement in the Parish of Queensbury in the County of York, conveyed to the said George Kitchen by William J. Telfer and wife, by Indenture bearing date the twenty-fourth day of June, A.D., 1932, and therein described as follows: "Bounded on the eastern side by lands owned by Isiah Whitehead and on the front or westerly side by the road leading through the said Springfield Settlement, and on the northerly side by lands owned by John Timmins, on the rear by the New Brunswick and Nova Scotia Land Company's Land, and formerly known as part of Lot number 3 and 4 in Block U and granted to the late John Saunders bearing date the third day of September, A.D., 1831, and more recently conveyed to William H. Anderson and by him conveyed to the said James V. Hallett and said described land and premises containing in the whole one hundred and fifty acres more or less." Being the same lands and premises as deeded by James V. Hallett et uxor to William J. Telfer by deed dated April 27th, 1918 and registered in York County Records on June 29, 1918 in Book 168 pages 373-375 under Offilicial number 68678. Together with the buildings and improvements thereon and the appurtenances thereunto belonging."

The sale hereinbefore stated will be made under and by virtue of the Power of Sale contained in a certain Indenture of Mortgage bearing date the sixth day of July, A.D., 1932, Registered in York County Records in Book 217, page 405 et sequitur and made between the said George W. Kitchen, and Margaret A. Kitchen, of the First Part, and Hurd A. N. Belyea, of the City of Fredericton, in the County of York, Locomotive Engineer, of the Second Part, default having been made in the payment of principal and interest of said mortgage contrary to the provision in the said Indenture contained.

Dated this thirty-first day of August, A.D., 1936.

HURD A. N. BELYEA,
Mortgagee.

F. H. PETERS,
Solicitor.
Sept. 2, 9, 16, 23, 30.

FRESH YOUNG PIG PORK
Western Beef and Lamb
Slipp and Flewelling Sausages
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BUS SERVICE
Effective Sept. 10, 1936
Daily Except Sunday
Leaving Woodstock in morning

Read Down		Read Up
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Lv. 9.00 a.m.	Meductic	Lv. 5.50 p.m.
Lv. 9.20 a.m.	Pokiok	Lv. 5.30 p.m.
Ar. 9.40 a.m.	Moonlight Inn	Lv. 5.10 p.m.
Lv. 9.50 a.m.	Moonlight Inn	Ar. 5.00 p.m.
Lv. 10.30 a.m.	Kingsclear	Lv. 4.30 p.m.
Ar. 11.00 a.m.	Fredericton	Lv. 4.00 p.m.

Fare to Woodstock: One way $2.25
Return $3.50
Bus leaving Woodstock 10.00 a.m. daily for Bangor, Boston and New York
Highway Transport Ltd
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See us now and get cost estimates at present low price levels for materials and labor.
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4 p.c. SINKING FUND DEBENTURES
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PRICE: 100 and interest, to yield 4%
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These bonds are a legal trustee investment in the Province of New Brunswick
Orders may be telephoned or telegraphed at our expense.
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