

Address to the Office

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21 Moor St, Fitzroy
Melbourne. 26 September 1870

Dear Andrew,

Many thanks for your last kind letter which has still further increased my obligations to you & strengthened the bonds of our friendship. It would be three weeks of time for me to attempt to put in words my gratitude. I should become tiresome & my language fulsome. My acts and not my words must hereafter prove that the seed you have sown has not fallen on ground that it altogether barren.

I am sitting in my quiet office room when I commence this. It is a lovely early-summer morning - one of those days that forcibly recalls my recollection of poor Kendall's true & beautiful poem - "September in Australia". It is early as yet; so early that I have had to open the office myself. I was up at 6; had my bath, took the usual "before-breakfast breathers" round the baston gardens; read the papers, had breakfast, & perused the notes I made last night at the Library & sauntered slowly slowly down with Mackenzie (vide my last to Hutton) to whom I have become somewhat attached - realizing the truth of my last favorite's words: x x "the songs, the stirring air, the life re-orient out of dust & cry through the senses to heaven trust - In that which made the world so fair." Nature has some influence over me, so my frame of mind is somewhat more composed than is usually the case with me when writing to you.

There is so much to be said in this, so much of interest to both of us, that I scarcely know how to commence. I postpone for a few hours the ~~occupy~~ discussion of the question that fills the greater part of your last & which will occupy some space in this. It is needless to say I refer to Religion. In the absence of some notes on that subject, let us begin with Mazzini. Struck by your earnest & devoted attachment to the life & writings of this greatly-maligned thinker - an attachment

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which is plentifully displayed in your speeches & writings - I had
for some time preceding the advent of your last letter begun to deem
it a duty I owed ^{to} both to your ourselves to endeavour to make
myself acquainted with him & his work. On arrival of yours,
then, I repaired to G. Robertson's & enquired for the Memoir. Great
was my disappointment on learning, after a prolonged search,
that what few copies they had had were out of parcel with that
there was no likelihood of a second supply. However they named
several places where I might obtain it. This list (which
includes W. Robertson, Mullens, Mackies & the Public Library)
I have unsuccessfully ^{perused} gone thro' & if the 3 that remain
cannot avail me I must reluctantly return the P.O. order you
kindly sent & content myself with the somewhat scanty resources
of the Public Library & these ^{which} are The Duties of Man. Life
& Writings & The Pope in the 19th Century.

As to legal matters. I give utterance, for the first time
& to you alone, to a thought that has for some months past
been troubling me. Why should I, who might perhaps do
better, remain ^{any longer} a slave to 2 Victorian Ignorance? Frankly,
my coming here at all was an error. 18 mos Experience has
shown - taught - me this much; - 1st that in the present state
of the law - a state that is not likely to be altered - I cannot
be admitted - 2^{oly} If I could be so admitted I doubt the wisdom
of staying in Victoria for the reasons mentioned in ^{previous} letters, & 3^{rdly}
suppose (a most unlikely supposition) I gain the top most place
on the Clerical ladder & realize the magnificent income of
£400 per annum, is this to be the goal for which I have
been striving so many years? Might I not do better, with
less exertion & with the sweets of irresponsibility in another
land? This thought has not yet matured but it received a
fresh impulse from your last, wherein you say that C. Hall
is reported to me to be doing well on the N.E. Coast & that

There may be room for another³ Solicitor on that coast. Why
should that other not be I? It grieves me to think that
individuals, who are at least not my superiors are passing
me in the legal race while I am content to occupy
the position of an underling in a colony I do not particularly
care for, & far from (inter alia) friends whose worth & cannot
be surpassed & has scarcely been approached here. Still, I
hesitate. There is a contra. My time has not been
lost here. I am - especially just now - gaining valuable
experience & moulding the fruits of my somewhat doctory
previous & reading. Tasmania, too, has, so far as I can
gather, ~~has~~ certainly not advanced since I left. Emigration
seems as large as ever; the project that was to recreate
here ruined fortunes - the M. L. Kelly - has proved a failure
& the mineral wealth in which you seem to place so
much trust may but lead to the same dispiriting results.
Then again, rightly or wrongly, I can't help thinking N.Z.
is the place & with this object I have written to & enclose
with this a letter to my old friend W. H. D. Church, who is
I learn in Hobart Town just now. Will you give it
to him? You will find him a pleasant mannered, scholarly
man & one from whom much valuable information may
be gleaned. The letter referred to will therefore be one
of introduction & if he is not changed he will gladly
give any information in his power to any one who comes
from me. But to return. I have determined to come
over, ^{on the holiday} at or shortly after Xmas & between this time & then
many things may & probably will happen, some of which
will determine the duration of my stay; but whether for
"good" or for a visit I look forward to it; believe me, with
anticipations not one jot less lively or pleasurable than
your own. The pleasant summer months, ^{that interest me} will quickly pass
of when "the time draws nigh the birth of Christ" your
Posternus will be restored to your arms.

I have not done with this Tasmanian business yet. If it will
not encroach on your time I wish you would let me know if

there are any such prospects on the N. E. Coast: more to
satisfy satisfy me that I am not losing any chance than for any
other purpose. I should scarcely care about going there direct.
But what am I saying? I speak as if I had £15 to
my name instead of £15. It will be pretty hard work
for me to save up the needful for my visit, but you may
rest assured it will be done. This is a pleasant
state of affairs is it not? Here have I been in this
blessed City ~~£~~ 15 mo +, although I defy anyone
to try harder to alter his circumstances, have not
advanced one iota in material prosperity. There must be
something wrong in a state of affairs like this. Well, I
have made my own bed + must lie on it, till the
end of the year, at all events.

The reading fit is very heavy on me at present this
been for the last 2 months; but it has been of an entirely
legal cast. Nearly every Evening has been passed in
the Public Library - where there is a very fair law division.
Reading over a quiet stroll usually succeeds, though,
if it rains, ^{it rains} a quiet something else succeeds. But you
need have no paternal fears aroused. Though this child
has wandered far from father + foe he has behaved himself
very fairly. He has not forgotten old scenes, faces,
memories. He often thinks of these with regretful yearning
in his better moments, which last are not so rare + spasmodic
as of yore. Experience has taught him in grimly-humorous
style that he is not "a certain great one", but ~~at~~ it has
done no further harm than to render him ~~in~~ a quieter
being if a trifle more cynical, in a one sense, more faithless.
This brings us to the old arena again, but I push the
temptation to wrangle aside for the present + finish in
the manner I had determined on.

Before answering the legal query you put me, let me
propound one to yourself. You will see the point on comparison
of the Acts. (I have been looking up my Tassanian law
with a view to) ^{the} ~~the~~ proviso to sect. 29 of 18.V. No. 9 + the full sect. of 19.V.
No. 16 in any way repealed by the procedure laid down in 24 V. No. 4 (The
Bills of Exchange + Amended Process Act)? The answer is, I believe, in the
negative, but I wish to be certain. The Victorian Law is different; ~~in the~~
~~first case~~, the Debt appears as of course.

I find it a difficult one, with a deed not having been drawn, in practice. Its a suppositious case is it not? ^{if you} ^{once you} ^{know what it} ^{concerns} ^{to find} ^{the} ^{parties} ^{involved} ^{into} ^B ^{this} ^{has} ^{to} ^{do} ^{with} ^{the} ^{case} ^{of} ^B ^{plus} ^{how} ^{to} ^{deal} ^{for} ^C ^{then} ^{is} ^{it} ^{not} ^{clear} ^{that} ^{dealing} ^{with} ^{the} ^{estate} ^{of} ^A ^{will} ^{be} ^{necessary} ^{to} ^{deal} ^{with} ^{the} ^{question}, ^{by} ^{reason} ^{of} ^{it} ^{by} ^{somewhat} ^{loosely} ^{worded}, ^{from} ² ^{points} ^{of} ^{view}, ^{viz.}

1. ^{to} ^{be} ^{made} ^{for} ^{valuable} ^{consideration}
2. ^{to} ^{not} ^{be} ^{made}.

In the first case B. ~~having~~ ^{being} ^{appointed} ^{Trustee} ^{for} ^{her} ^{life} ^{and}, ^{after}, ^{the} ^{determination}, ^{of} ^{her} ^{life} ^{Est}, ^{for} ^{the} ^{right} ^{heirs} ^{of} ^A. - C. can dispose of her ^(Estate) ^{life} ^{estate} ^{by} ^{Deed} ^{or} ^{if} ^{she} ^{chooses} ^{to} ^{appoint} ^{may} ^{do} ^{so} ⁱⁿ ^{fee} (for aught that appears to the contrary in the query) by Deed or Will in the nature of an assent. And this would be the best course. Any disposition thus made would be valid as agst the grantor & there is no need to obtain his consent. Of course this infers that she cd claim the orchard as agst him. This ^{will} ^{not} ^{affect} ^{the} ^{settlement}.

In the 2nd case (a view that is necessary in consequence of the relationship existing between the parties) a more extended notice is required.

The old rule applies :- Voluntary Deeds are good as between the parties but void as agst creditors & bona fide purchasers for valuable consen. Thus A might avoid his deed by conveying it to purchaser for val ^{or} ^{mortgaging} ^{estate} ^{consen} (no mae other that purchaser ^{or} ^{mortgagor} had notice of the voluntary conveyance or not) But a bona fide purchaser ^{or} ^{mortgagor} for value from the volunteer (C) could not be disaffected by a subsequent purchaser for value from A. This suggests a mode of getting out of the difficulty again by 13 Eliz c. 5 Voluntary deeds are void as agst creditors to whom the grantor was indebted at the time of making - a saving being made in favor of purchasers for value. See also the Provisions of 33 Vic No 34 (the Bankrupt Act) as to grantor ^{being} ^a ^{trader} becoming Bankrupt within 2 or 10 yrs after making. In this 2nd view of the case she cd (1) Hold the ppty as agst B & dispose of it as above - provided he had not sooner conveyed to a purchaser for value. and (2) A devise by A would not defeat her ^{prior} ^{life} ^{estate}. for A had already parted with the estate. ^{If} ^{you} ^{wish} ^{my} ^{opn} ^{on} ^{the} ^{precise} ^{reading} ^{of} ^{the} ^{gtr} ^I ^{think} ^{the} ^{legal} ^{right} ^{will} ^{fall} ^{over} ^{the} ^{fee} ^{is} ⁱⁿ ^{the} ^{hands} ^{of} ^B ^{is} ^{free} ^{for} ^{his} ^{off}. But ^{as} ^{you} ^{seem} ^{to} ^{be} ^{sharply} ^{progressing} ⁱⁿ ^{your} ^{studies}. I read with interest your various remarks on legal topics & don't think I can give you any suggestions on the course of reading, unless I re-iterate my advice to pay the greatest attention to Step: Com & make this the basis, as it were, of on which subsequent reading should be rested. Also pay the greatest attention to the practice you see & store up in your ^{mind} ^{whatever} ^{you} ^{see} ^{of} ^{novelty}. You ^{will} ^{find} ^{Williams} ^{on} ^{Planting} ^a ^{very} ^{useful} ^{book} & you will also derive much information from Wharton's Law Lexicon. The book I miss most is Petersdorf's abridgment. Please keep me posted up as usual.

You should get me copy of the English Acts & leave to Dr. Williams to make up your book as you go along. It would be a paper of little value to me.

C. L. G.

You ask me whether "Hypatia" has failed to introduce order into my confused notions.
I reply ^{Yes, I reply} I have read & re-read that noble dialogue between Hypatia & the
quondam pupil & I have honestly struggled to be convinced by Raphael's arguments,
but I cannot. I grant you that Hypatia's notions of a supreme God were made
up of her "intellectual notions, or, rather, of negations of them - of infinity & unity
& "impassibility". I dimly conceive a perfect and archetypal God and, perhaps
with hesitancy, an ^{ideal} perfect and archetypal Son or Man, ^{existing eternally in the mind of God,} that such a Son
must resemble such a Father. So far so good; but I break down utterly
at the sudden violent transition from ideas to fact: - the existence of
~~such~~ ^{actual & visible} an ^{immediately} Son proceeding from such a father; and if there be or ever
was such what is to show us that the uncalled-for Christ was such
a one: prove his supernatural birth, and I am convinced. It does
but bring us to the old point. The old query re-arises. "Why?"
Where is the necessity & why does the Son of God make his appearance
in Judaea, & why in that small portion, & above all, why amongst
that "peculiar people" whose dream it is & ever has been that they & they
alone can produce the Christ? Again, is or was he the
only perfect & form of man? ^{A father may have more sons than one,} Can there not be, have there
not been others who might claim the same distinction? such
men as Emerson for example - ^{men} of wide views, all-comprehensive
intellect & pure & lovely lives - do not they approach this
archetypal form. I can't help thinking that if such a one
had added to his other gifts a power of fervid oratory
that had lived 1875 ^{years or so} ago ~~ago~~ the sect might have had the
pleasure of killing two Christs. (I rather pride myself on this
idea. The mind becomes overpowered with awe when it begins
even to imagine the glorious wars, fights, rows, sects, bickering &
that would ensue if we had 2 sets of Christians) - I cannot
yet see that Christ was anything more than a martyred reformer;
a man of the widest & most enlarged views; a liberal democrat,
an earnest, sincere & fearless man. His preaching & personally attractive qualities
gathered around him a host of disciples; semi-ignorant men & ~~men~~ ^{men} drawn from
humble ranks, carried away by the force of his oratory & the undisiplined
strength of their own imaginations; their feelings took captive their judgments.

7 In those days when any sect was only too ready to credit their leader with supernatural birth powers they too fell into the same error. They felt they were aided by the innate righteousness of their ~~own~~ cause; they mistook the moral - the great mainstay of their ~~knob~~ - for the Divine, Earnest able men - ^{such as} like Paul - pushed on with skill & industry the great work - a work that was helped by the fact that men were weary of the hollow, Hypocritical ~~like~~ dogmas that had long mocked their hopes & to which their judgment had never assented - & thus to them we owe nearly all that makes us happy & good. But what if this & much more to the same purpose be true? Does not the same tradition (as of the ~~foundational~~ Creation) occur in the traditions of every nation? Do we not find a legendary Christ in many mythologies? But why continue? How can I, who am scarce convinced, convince others? Moreover the discussion is premature. As I have said before I am unfit to cope with the subject & have only just realized the fact that it is easy to pull down but hard to rebuild. ~~How~~ Rejecting the spiritual food offered me, I have nothing ~~where~~ with which to satisfy the hunger of the soul. Thus, once more, I am forced to confess that my religious beliefs are in a state of "hopeless confusion."

I have not been put my train of reasoning in so clear a light as I could wish: my argument is this:-

I grant all your premises. I acknowledge the correctness - from a dialectic point of view - of the Archetypal Father too. All I want is further proof of identity: a proof that we require for these reasons:-

1. The apparent want of necessity
2. The suspicion we naturally have in consequence of his office in the Jewish race
3. Similar historical parallels

The other question is still more important & difficult: viz the existence of a God of Righteousness or of an eternal standard of Righteousness. To this idea I at present give ~~me~~ my belief, though even in this view of the case I often fear that the wish is father to the thought -

8 I haven't yet learnt to disregard that bogie - total extinction - To me
~~it~~ it seems a dreadful thought and one that sometimes we can't
help fearing may be true. For what is life? A Dream! Is there
any future life? What if the grandly-dismal ^{Atomic} theory of Democritus
& Leucippus be the true one? Existence seems unshippable under these
circumstances. All that makes life lovely vanishes; Faith, Hope & Virtue die:
ἀνοχη δὲ πλοῦτος, βλαστὰν δ' ἀπλοῖα. And what ^{have} we to show
for in support of our fanciful dreams of Immortality? Nothing!
"Again the dream, the fancy" - We do not know nor ever
can will or ever know anything of the Hereafter. We can but
hope & nourish Faith. Do not our very hopes spring from our
own conceit; "we seem in our notions of superiority & pre-eminence to
think that it is impossible ^{that} creatures so highly gifted as we
are can "fade as the leaf fades" & pass unnoticed into oblivion.

I read the other day a remark that rather took my fancy.
Orthodoxy spoke thus: "I respect the man that hopes & has
"faith. I despise the man who do timidly doubt a little, but
"I respect the man who goes to extremes & having entered the
"labyrinths of doubt & having 'completed the circle' winds up by
"doubting his own existence." I thought this true. Once having
commenced we must go on & finally find ourselves like Raphael
Aben Ezra 'At the bottom of the Alps' disquieting on the firm floor
of the primaeva nothing & actually doubting the truth of the
proposition that "I am I". This last named Chapter had a real
& abiding interest for me. It graphically illustrated my own sentiments,
and I thought the inductive logic better than that by which
Raphael Aben Ezra was persuaded to become a Christian.

However let us conclude this subject of which you are no doubt
as weary as myself. If necessary we can renew it on a future
occasion.

Your notice of the proceedings of the A.S. Lett. &c. Socy pleased me
greatly. I need not say how much I was interested & how I desire to be
kept au fait with the doings of that same scene of former struggles

9 Another sentence or 2 + I am done. Do you know a gentleman
from Melbourne named Dunlop. He is residing I hear in Tessa.
He is at present in Hobart Town. Make his acquaintance if you can.
He is a friend of my sister + of mine. + is one of the ^{most} gifted
+ cultured men I have ever met. His stay in Melbourne was brief
+ unsatisfactory, for the educational supply is far greater than the
demand, + he made the ~~the~~ mistake I referred to in my last to Wilton
of supposing this place an El Dorado. I will send you a note
of introduction if required.

By a rather curious coincidence I was expressing your article
in the Quad on "Our Austr. Constitutions" when happening shortly
afterwards to take up a N. Z. paper I noticed that the "Timely
Check" has been at its old games in Tasmania. and that a popular
popular ministry with a good working majority in the Lower
House has its measures thwarted by these obstructive fossils,
to the manifest injury of public business. How long is this
going to last? I can

I send you some papers. They contain some interesting matter
especially an article - a sketch - oniginbotham.

Now I am finished. I nothing to say as to myself or my
belonging at least nothing that will suffer by its being
hung up till Xmas, when we shall fall on sympathetic
bosoms + I will pour out my tale of hope + fears.

"My way of life is narrowed down". I am very quiet
but tolerably happy + comfortable - thanks for your kind
Enquiry - A little philosophy + some self denial will
pass the months + seas that divide us.

Accept this apology for a letter; excuse errors +
"In thy wisdom make me wise"

Taswell!

Your affectionate friend W. Hill

19 You ^{ask} ~~can~~ me if my opinion of ye Palladium has suffered a change
- in Victoria. Slightly so. It looks worse & the abuses are greater
than even I gave it credit for. It would take me ^{too} long to
enumerate the failures of justice more or less glaring that I have
come under my notice but every paper affords a case in point.
I don't think you could convert me.

Your notes re C.P. I are very interesting. I trust you
will keep me informed as to his ventures. You don't answer my
query as to Naiven. Please remember me to ~~Naiven~~ both of them
& to any others who still remember my existence ~~to~~ including
Wilton & Ivey to the latter of whom I am leisurely writing.

Poor little R. P. "Fraud" as he was I liked him &
certainly it seems hard that he should be cut out by such
a one as Bromby, whom you certainly describe in unflattering
colors. Perhaps the tide will soon turn.

You speak of your visit to Melbourne. How Eagerly I
should welcome it I need not say, but fear greatly that
I shall not be here to show the lions & do the honors. How
You will find much food for reflection here ^{from} whatever point of
view the place be seen. You are rather "warm ^{of} me"
in my allusion to the Cup Day & Wilton's proposed visit. You mis-
understood me. I did not mean that that spectacle should be
the sole or principal attraction, but that Melbourne being
both busy & gay about that time, it would be a favorable
opportunity for seeing the place at its best. I care as little
for huge assemblies as any one - in fact like to take my fellow
man in homoeopathic doses - & certainly don't feel the slightest
interest in horse racing, but I should nevertheless advise
anyone to see Melbourne about that time, for its attractions (I
don't mean pleasures) are far better seen in summer than in
winter - which is but a dull time here.

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The foregoing was concluded last Sunday, and all this week there is no mail to Jas: Since that date I have recd yours of the 21st inst wch I have carefully perused & my answer thereto is written in time to go with the larger letter. [By the bye you will notice that when I have leisure I am not so dilatory as you imagine]

My objections to Trial by Jury continue almost as strong as before. My convictions recd the rudest shock from by that part wherein you say that perhaps all the admitted defects in the present system may be curable by a reform of the personnel of Juries & that this reform would not necessarily impede the institution itself. I confess I had not given this idea any consideration & that a ^{review} ~~reconsideration~~ of the argument induces me to tone down my other objections.

When I conducted the debate on the ~~sub~~ subject I did so in my usual slovenly style & don't remember reading anything ~~on the subject~~ ^{before} beyond the 2^o of the Westminster referred to. My objections were based on my own cogitations & individual experience.

Of the arguments you mention, I relied only on the first 3. & rejected those relating to the influence of counsel & probability of Bribery, considering the first as far fetched & the 2^o absurd.

The point to which I invited most attention shd be given was that ^{it is a} notorious & well-evidenced fact that the verdicts of Juries are every day increasing either in glaring absurdity or in open & flagrant violations of the laws of probabilities & the dictates of our common understanding; that this fact being so (for it is scarcely denied) we must either offer some satisfactory reason or, failing that, conclude that the institution is corrupt, unfit to be any longer retained & ready for the fate of all such effete contrivances; and, assuming this, that the ~~present~~ ^{present} system must be substituted, with ~~the~~ ^{the} system appeared to me to

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debate

This took place more 2 years ago & since then my views on this & many other subjects have been, as you know, undergoing a steady but gradual change.

I am so fond of using the argument that if a certain institution be corrupt it is not the fault of that institution but rather of the society which produces it & to which it is only one representative feature, that when I come to apply the same reasoning in the present case I succeed in rather staggering myself.

I wriggle out of the difficulty by flatly denying that it is a representative institution: for the community, as such, have no voice in the selection of a Jury & ~~that~~ ~~as~~ their election is a matter of accident not of an expressed desire (as in case of a representative chamber) & that you could only, ^{depend on} drawing a really typical jury in a country where there are no classes; - as for example, in a ^{Utopian} pure democracy of education, and that it is not true to assert that a certain number of men drawn from various classes are representative of the country with those classes composed ^{True} and each class ^{may be} represented by its members present in the box, but the whole community is not. In other words you cannot secure ^{just} representation where diverse classes & interests oppose each other. If, then, it is not the society but the institution which requires reform, let us see if this can be done without abolishing the Empire itself.

It is easy to say "Reform the system" but it is a very difficult matter to do. After casting about for means I do not discover them & you do not specifically suggest any. Moreover, I do not possibly see how you are to get over the primary difficulty of selection. Men are men however you train & educate them. They will (from whatever station you select them) also be being to the task the same amount of ignorance - in the complex speciality of the law; the same inability to follow the clue through a

labyrinth of facts & there always ^{will} be an increasing feeling of disclination to be taken from their own pursuits or pleasures & "each mans good" grows, century after century, more & more a matter of indifference to others. [you see I believe that "the year that bring the philosophic mind" bring what I believe to be the more inevitable product of philosophy - pure Egotism].

There is, so far as I can see, but one remedy. The abriter of fact must be one - or more - ~~so~~ whose integrity, intellect, and industry ~~is~~ have raised above the mass. Our legal system is complex, nay, even a fact ~~them~~ ^{difficult of comprehension} ~~whole~~ part of the procedure of such a system, become laboriously ~~careless~~, therefore it needs a trained intellect, a cool judgment & in fine, one who is unswayed ~~on~~ by ~~at~~ feelings either of passion, prejudice or ignorance. This you will find in its bright reform in ~~it~~. (No doubt you have had the virtues of the Bench ~~too~~ ^{too} ~~dimmed~~ ^{sufficiently} ~~into~~ your ears lately, so I spare you.) However, here we are at the old starting point.

I do not care to discuss the ~~point~~ ^{at} ~~much~~ length but you can gather the rest of my arguments, from my replies to your own in answering Mr Taylor

As regards the general spirit of your arguments it appears to me that your democratic views unduly colour the discussion lead you into remarks that cannot be substantiated and into extreme & untrained suggestions. This is strongly shown in your answer to the first argument.

1 You have no right to designate Judges by the contemptuous designation of "Officials" & thus degrade them into contemptible Govt. Juries. Strictly, you are right but its a straining of language; for the term "Official" justly implies ^{something of} a reproach & ^{of} means of a ~~body~~ - a creature of the lower order, a subservient, plastic being. They to whom you give this term deserve better of us, for if there is one feature which more than any ~~other~~ ^{other} ~~characteristics~~, the Bench it is independence

If "class legislation" ^{of the} ~~mind~~! you're on your hobby] has not died out in England, at all events the Bench has not since the beginning of the century been in any way subject to it, & its traces are now so faint that this argument which might have been excusable 150 years ago it has now lost all its force.

You have no right to give such an extreme case as the hunting, sheep-owning Judge, but ^{even} ~~supposing~~ the case; it is absurd to ~~say~~ ^{suppose} that in the event of a conviction his proclivities ~~not~~ make any material differ in the sentence. ~~Although~~ your notes I ~~conclude~~ you take up this position ~~of~~ ^{that} is a ~~fact~~ ^{is} a despotic, ~~unfounded~~ ^{unfounded} ~~assumption~~. This is not so. You ~~must~~ ^{must} make allowance for the influence of public opinion & to the effect that the ~~whole~~ ^{whole} study of justice

must produce on any mind, especially a well balanced one.

You do not appear to notice the objection that the juries are not usually content to be the judges of fact. To all intents they (sometimes overtly) endeavour by their verdicts to make out the punishment, instead of confining themselves to the question at issue. In other words they endeavour to blend Justice with Mercy: you remember this vegetable of Aristotle. I will not revive it, but who is so competent to deal out the first as one whose life has been spent &c.

The right of challenge is not the power you imagine it to be. Recompitory challenges are but few & it always difficult to challenge with cause. Besides they only this right only applies to known partiality &c.

Your argument as to compulsory attache is quite correct in theory "is damnable in practice". Experience has shown us that the man who is dragged unwillingly to set ⁱⁿ upon some fellow being's life & property can & will not bestow that close attention which is so requisite. I am beginning to doubt very much in the applicability of general principles to cases where I once unhesitatingly applied them & this is a case in point.

You say we have had a fair sample of Trial by Jury. This is clearly against you. On what ground are two Trials most usually granted: - That the verdict was agst the weight of Evidence. In other words that the Palladium (bah!) was as densely stupid as it is wont to be. Misdirection & reception of improper evidence are no doubt common, but both spring not from ignorance but from our complex legal pieties & hairs splitting. The Law wants reforming not the Tribunal. I notice that "Excessive damages" are becoming a more frequent ground & this lends some weight to the "bancal" argument.

Speaking of Judges you say "Let us then never commit ourselves into the hands of irresponsible, imperfect, second men". Upon my word this is good! If these are the peculiarities of the most leavened & gifted of our race, what are the common ones? - Juries, to wit?

I say that the present system is not trial by Jury & Jury; it combines the faults of both without the advantages of either. You cannot reconcile the discordant parts; either cool judgment, clear & unobscured logic, & unerring sagacity govern undisciplined sympathies & special ignorance, or they do not. If they do, reject the useless branch; if they do not they are so opposed in nature that it is a farce to attempt to reconcile them. At present one is about as effective a ~~check~~ "check" on the ~~the~~ other as the House of Peers is over the Commons. In fact I notice a similarity of argument in the case cited.

"Esprit de corps" is another unjustifiable institution without the slightest show of Experience in the past or likelihood in the future to warrant its being put forth. According to your own showing many trials ^{are} set aside for misdirection &c. If then the judges can calmly reverse a brother judge's Law - such is his most jauberly, priggy claim to distinction - with far greater show of reason wd they reverse his decision when he had to be the Judge both of Law & fact; for in the difficulties of each there is ground for excuse.

Besides, you should not run away with the idea that there must be but one judge; have 3, & see if you think the same objections hold

+ tendency as usual, in virtue of presence of

You will notice many signs of evident haste or carelessness in the foregoing. You will excuse these when I tell you that I am suffering from the "blues" again about the part relating to Trial by jury was penned in office hours & with many interruptions. I do not feel a languid interest in the subject & should not have written at such length had not ~~not~~ ^{you} evidently ~~had~~ taken a great interest in the question. I do not pledge myself to my own views of the question & perhaps future discussion may convert me.

Thanks for the 'meceway' containing your letter, which I of course perused with care. Although, as you say, those in sympathy with the writer will readily recognise the train of ideas - as I do - yet I am sorry you did not put it so clearly to the general public as, judging from your previous writings on the subject, you might have done. Not only ~~this~~ does this objection hold in the particular case & but I think you will agree with me that public opinion having been roused to interest in the question it was a

articles they otherwise can be
written of a special award did
not obtain here.

The mis-framed

capital opportunity not only to call attention to the local legislature,
but also, by a little skilful manipulation, to have given the
question a wider range & laid the way clear to bring on the
thin edge of the Republican wedge by ~~calling~~ allusion to the
obstruction tendencies of the House of Lords. However the two
ideas of antagonism of kindred interests & needless division of the
public will are clearly brought out. Have you written anything
further on the subject? If so please send me the papers in
which your contribution appears.

Once more Good bye
W. J. G.

P.S. In the last law column of to days (Saturday) Argus you will notice that W. M. M. has been
refused his admission here, on the ground that though
he has passed the Matric & the final Law Exam
as he required by law, he did not pass the
2 ~~or more~~ intermediate exams.

He acted under false advice so you see the Rules are
confused & how hardly they will bear on me who have never been