
Editorial

The Time Has Come To Talk . . .

Not of cabbages and kings, but of the pressing need to reduce the burden on an old and faithful servant of the law. The jury has been important in the history of the common law for hundreds of years, but jury service has become a burden that citizens should be asked to bear only when justice requires it. We have seen in recent years that in civil matters justice can be done without a jury, but in criminal matters the protection of the accused must come before all other considerations. Unhappily, modern criminal cases include complicated matters of commercial fraud.

The difficulty of arriving at the truth in fraud cases has led to an enquiry under Lord Roskill, who is concerned with the common law as administered in the UK. But the common law is also powerful in the USA, and there too the problem of fraud trials is being discussed. In at least two complicated fraud cases, the jury foreman told the judge that jurors had reached the limits of their endurance, even with medical help and drugs. After long days in an uncomfortable courtroom they could no longer even hope to understand the evidence. They were out of their depth and were being asked to unravel the details of a scheme originally

devised by an above-average intelligence.

Even volunteers should not be asked to take on the burden of long and complicated trials, and jurors are by no means volunteers. Even so, the Law Society has told Lord Roskill's committee that it is opposed to abolishing juries in fraud trials. It would be a serious matter, it said, to meddle with the jury system. So it would. Reform is always a serious matter, but the Law Society is perhaps not the place to look for reform. Solicitors, in any case, do not often serve on juries, and are not likely to be personally familiar with the great strain on jurors in fraud trials. In spite of its long and honourable history, the jury is not the only way of arriving at the truth. For example, a judge could be helped by assessors.

The Law Society does not have a high opinion of the efficiency of the police in prosecuting fraud cases. The proposals for a new prosecution service will no doubt change the way in which cases are presented, but even a well-presented case needs to be understood. The average jury, well-intentioned and attentive, must appear in fraud cases somewhat like the jury in *Alice in Wonderland*, who " . . . eagerly wrote down all three dates on their slates, and then added them up, and reduced the answer to shillings and pence".

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