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## CHANGES IN THE ENGLISH JURY IN THE 19<sup>TH</sup> AND 20<sup>TH</sup> CENTURIES

**Abstract:** *The present paper deals with the short history of the English jury in the modern age. The main goal of the author is completing a historical research and finding the most important features concerning legal institutions of the Anglo-Saxon type of lay jurisdiction in England and Ireland. The historical perspective gives a chance to examine the institutions of the jury as a court of citizens integrated into the jurisdiction of the state for a brief period of time. The author takes the view in several periods from the early 19<sup>th</sup> century up to the end of the 20<sup>th</sup> century. It is not the procedure but the organisational rules which are under discussion here with special attention to the conditions which determined the role of the jury as a part of county courts and sessions as well as the central tribunals in London. The literature was collected in the British Library during research intervals to have the opportunity to work from special sources not cited by Central-European scholars yet.*

**Keywords:** *jury, assize, courts, England, lay jurisdiction, 19–20<sup>th</sup> centuries.*

### 1. THE “GOLDEN AGE”

In the early 19<sup>th</sup> century, the former glory of the traditional English jury was overshadowed by a number of problems, and the public law of the island country was generally ripe for reforms.<sup>1</sup> As Douglas Hay aptly put it: „the preparation and control of state jury trials were undoubtedly a sophisticated and mysterious art”.<sup>2</sup>

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<sup>1</sup> John H. Langbein, The English Criminal Jury on the Eve of the French Revolution. In: *The Trial Jury in England, France, Germany, 1700–1900*. Editor: A. Padoa Schioppa. Berlin, 1987. 13–39.

<sup>2</sup> Douglas Hay, The Class Composition of the Palladium of Liberty: Trial Jurors in the Eighteenth Century. In: *Twelve Good Men and True: The Criminal Trial Jury in England, 1200–1800*. Editors: J.S. Cockburn, T.A. Green. Princeton, N.J., 1988. 305–357, especially: 352.

Jeremy Bentham, a renowned jurist of the time, also took the view that the jury should be maintained only in a reformed form, reducing the number of its members, rethinking its relationship with professional judges and, above all, restricting its powers.<sup>3</sup> And in the practice of the time, the series of acquittals in banknote counterfeiting cases put the jury in the spotlight of criticism since, fearing the real danger of death penalty – despite the disapproval of judges and the protests of bankers – they regularly acquitted even the obviously guilty perpetrators.<sup>4</sup>

At the initiative of Sir Robert Peel – around that time Home Secretary in the Tory cabinet – Parliament eventually enacted a comprehensive reform of the jury system, which went down in legal history as the Juries Act of 1825 (*6 Geo. 4, c.50*).<sup>5</sup> As part of this reform, the qualification criteria were modified in such a way that common jurors were required, as a general rule, to have a permanent residence (household) with an assessed value of up to 20 pounds (or 30 pounds in London and Middlesex County) annually, or to be owners of a freehold worth at least 10 pounds, instead of having to meet the former property and income census criteria of the early modern era. A householder did not necessarily have to be the owner. The secondary qualification option required a lease of at least two decades on a property with a value of minimum 20 pounds, or ownership of a house with at least fifteen windows. Jurors had to be men between 21 and 60 years of age. If these conditions were met – and there were no exclusionary reasons, – the given person could serve as a juror in all Westminster forums: in civil and criminal high courts, as well as in juries convened in the counties for possessory actions, indictment, fact-finding and judgement. In Wales, only three-fifths of the above property census requirements had to be met.<sup>6</sup>

The administrative part of the reform was not negligible, either, as it removed the task of listing those qualified to serve as jurors (jurors' book) from among the duties of insufficiently reliable constables and assigned it to churchwardens and overseers of each parish and township. The jury panels were selected for the courts by the local sheriffs. This act established more liberal conditions for jury qualification than the parliamentary electoral law in effect in 1825 (the latter is known to have been reformed in 1832). The material scope of the law did not extend to juries associated with coroners, and it failed to be consistently enforced *de facto* in borough courts.<sup>7</sup>

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<sup>3</sup> Jeremy Bentham, *Elements in the Art of Packing as Applied to Special Juries*. London, 1821.

<sup>4</sup> Philip Handler, *The Limits of Discretion: Forgery and the Jury at the Old Bailey, 1818–21*. In: “*The Dearest Birth Right of the People of England*”: *The Jury in the History of the Common Law*. Editors: J.W. Cairns, G. McLeod. Oxford, 2002. 155–172.

<sup>5</sup> James Kennedy, *Treatise on the Law and Practice of Juries: as Amended by Statute 6 Geo. IV c. 50, including the coroner's inquest, & c.* London, 1826. 131–172.

<sup>6</sup> An Act for consolidating and amending the Laws relative to Jurors and Juries [*6 Geo. 4, c.50* (1825, June 22)] §§ 1–3, 31–32, 50.

<sup>7</sup> John Hostettler, *The Criminal Jury Old and New: Jury Power from the Early Times to Present Day*. Winchester, 2004. 111.

It is interesting that although the law was favorably received by the public, Peel and Bentham did not agree on this reform either. Bentham stated: in his opinion, it was uncertain whether in the long term this law was intended to maintain or abolish the practice that had developed regarding juries – although, in fact, this was the main issue for him – and he also disapproved of his literary work on the subject being ignored during drafting. And in a letter written in December 1826, he put it bluntly: „indeed, Sir: instead of putting an end to the practice of ‘packing and vetting’ juries (which I believe was the majority’s expectation), you rather established it: you established it with an Act of Parliament, which was passed in line with the bill you had submitted”.<sup>8</sup> In the end, the Juries Act of 1825 proved to be long-lasting: it remained in force for a century and a half!

The jurisdictional changes of 1832 also affected the functioning of the jury, albeit this time indirectly,<sup>9</sup> and then thanks to the action of the Bank of England and other bankers petitioning against the acquittal of counterfeiters, as well as to the opinion of a delegated parliamentary preparatory committee, finally in 1837–38 the English legislation significantly narrowed the range of crimes punishable by death penalty. Capital punishment was replaced with deportation to penal colonies. Strangely, perhaps, this step met with the approval of the jury: the number of merciful discretions, which circumvented the law so to speak, began to decrease noticeably.<sup>10</sup>

## 2. THE VICTORIAN ERA

Overall, the first third of the 19<sup>th</sup> century was the golden age of the jury in Great Britain and the second half of the century on the European Continent.<sup>11</sup> In the middle of the century, the countercurrent – which eventually resulted in the jury being pushed into the background – started in England.<sup>12</sup> First, the Summary

<sup>8</sup> James Oldham, *Trial by Jury: the Seventh Amendment and Anglo-American Special Juries*. New York–London, 2006. 168, 296–297.

<sup>9</sup> Mainly the following acts: 1832, *2&3 Will. 4, c.33* [Service of process out of the jurisdiction (England and Scotland) Act], *c.39* [Process in courts of law at Westminster Act], *c.58* [Contempt of court Act], *c.60* [King’s county assizes Act], *c.62* [Punishment of death Act], *c.123* [Forgery, abolition of punishment of death Act].

<sup>10</sup> Hostettler 2004, 114; Thomas A. Green, *The English Criminal Trial Jury and the Law-Finding Traditions on the Eve of the French Revolution*. In: *The Trial Jury in England, France, Germany, 1700–1900*. Editor: A. Padoa Schioppa. Berlin, 1987. 41–73, especially: 71–73.

<sup>11</sup> Claudia Passarella, *From Scandalous Verdicts to “Suicidal Sentences”: The Reform of the Courts of Assize under the Fascist Regime*. *Studia Iuridica LXXX*, Wydawnictwa Uniwersytetu Warszawskiego, Warszawa, 2019. 251–264, especially: 251–252.

<sup>12</sup> Joshua Getzler, *The Fate of Civil Jury in the Late Victorian England: Malicious Prosecution as a Test Case*. In: *“The Dearest Birth Right of the People of England”: The Jury in the History of the Common Law*. Editors: J.W. Cairns, G. McLeod. Oxford, 2002. 217–237, especially: 218–226.

Jurisdiction Act of 1848 (*11&12 Vict., c.43*) removed a significant part of the criminal trials of „juveniles” – those under the age of 16 – from the powers of the jury and transferred them among the duties of summary police magistrates. In relation to petty larcenies, the Criminal Justice Act of 1855 (*18&19 Vict., c.126*) made it possible for the case to be decided without a jury, also before a police magistrate, if the ordinary judge also consented and the offender did not object to it. The limit for „petty” value was then set at 12 pence. This was a real turning point in the history of the English jury since petty thefts constituted a considerable part of criminal trials. In numerical terms: while 29,359 criminal cases were tried by jury in the kingdom in 1854, this number decreased to only 19,437 in 1856. Considering the average of the five years before and after the aforementioned Act of 1855, the number of trials by jury decreased by 34.9%. The new Summary Procedural Act of 1879 (*42&43 Vict., c.49*) went even further: for offenders under the age of 12, it opened up the possibility of sanctioning all crimes – except homicide – before police magistrates, if it was accepted by the ordinary judge, the accused and the latter’s legal representative. At the same time, the relevant value limit for petty larcenies was raised to 40 pence.<sup>13</sup>

Juries used in private law disputes (assizes) also struggled with operational problems in the Victorian era. The higher courts, which were trying increasingly complex cases, required more and more highly qualified so-called special juries (developed by the 18<sup>th</sup> century legal practice), while the number of jurymen qualified for this did not increase, and they were often able to opt out of actual service. In 1870, Parliament decided (*33&43 Vict., c.77*) to modify the census for the special juries: besides merchants, bankers and esquires, men could also be members of the commercial special jury if the value of their immovable property exceeded 100 pounds in the cities and 50 pounds in the counties, or if they owned a building worth 100 pounds in the given year. All this noticeably increased the number of persons qualified for jury service, but did not affect the qualification of common jurors.<sup>14</sup>

The Common Law Procedure Act of 1854 (*17&18 Vict., c.125*) provided for the first time the possibility that the use of a civil law jury in higher courts was not always mandatory in determining facts: the decision of a professional judge could replace the verdict. After 1883 (*46&47 Vict., c.49*), the jury was no longer normatively desirable in civil actions – especially in economic and commercial ones – not even for traditional fact-finding. If the parties did not want lay judgement, they could litigate before the professional judges of the specialized Commercial Court, or other judges could also decide to exclude the jury’s involvement

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<sup>13</sup> Hostettler 2004, 118–121; Richard M. Jackson, The Incidence of Jury Trial during the Past Century, *Modern Law Review*, Sept. 1937. Vol. 1, No. 2, 132–144, especially: 138–143.

<sup>14</sup> Michael Lobban, The Strange Life of the English Civil Jury, 1837–1914. In: “*The Dearest Birth Right of the People of England*”: *The Jury in the History of the Common Law*. Editors: J.W. Cairns, G. McLeod. Oxford, 2002. 173–209, especially: 199–201, 207–209.

in specific cases. Thus, while 90% of civil actions were tried by juries until 1883, only 50% of them took place before juries after that.<sup>15</sup>

In 1846 (*9&10 Vict., c.95*), the modern county courts were established, which were not identical either with the shire assemblies that had existed from the 11th century, or with the general eyre, the medieval circuit judgement. In the second half of the 19<sup>th</sup> century, the counties were divided into jurisdictional districts (circuits), and these circuit courts were presided over by a judge appointed by the Lord Chancellor, acting as a single judge or with a five-member jury in the first instance<sup>16</sup> – reminiscent of the German *Schöffengericht*, which was modernized at the same time.<sup>17</sup> From among the changes in the jurisdictional organization at the end of the century, the complex reorganization of the high court system (Judicature Acts, 1873, 1876, 1880) should be noted, but this did not affect the juries directly, although – with the exception of the Law Lords – special juries were sometimes used in the new forums (His/Her Majesty's High Court of Justice, His/Her Majesty's Court of Appeal) as well.<sup>18</sup>

It is important to emphasize that juries were not forums that met permanently, not even in the Golden Age, but they usually operated in sessions, and in this they differed significantly from other courts. Depending on the scope of authority, originally there were juries in England that met four times a year (quarter sessions), while some others met only twice or, in northern England, once a year (Oyer and Terminer, court of assize). London was an exception, as court days were usually held there in every six weeks due to the large number of cases in the 19<sup>th</sup> century. The relevant trials were always held in blocks with jurors summoned for the blocks separately.

In 1870, an outstanding Hungarian lawyer, Dezső Szilágyi – later Minister of Justice – found the average juror in London to be objective, exact-minded, and not someone who dispenses some kind of mercy. He believed that this was not just his feeling, but the English barristers were satisfied with this legal institution, too, and did not oppose jurors as sharply as it happened on the Continent.<sup>19</sup>

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<sup>15</sup> Getzler 2002, 221; Conor Hanly, The Decline of Civil Jury Trial in Nineteenth-Century England, *The Journal of Legal History*, Nov. 2005. Vol. 26, No. 3, 253–278.

<sup>16</sup> A.T. Carter, *A History of the English Courts*. London, 1944. 141–142; Jackson 1937, 143–144.

<sup>17</sup> Peter Landau, Schwurgerichte und Schöffengerichte in Deutschland im 19. Jahrhundert bis 1870. In: *The Trial Jury in England, France, Germany, 1700–1900*. Editor: A. Padoa Schioppa. Berlin, 1987. 241–304.

<sup>18</sup> Carter 1944, 109–114. On reforms of the Victorian era, see also Catharine MacMillan, Stephen Martin Leake: A Victorian's View of the Common Law, *The Journal of Legal History*, Apr. 2011. Vol. 32, No. 1, 3–29.

<sup>19</sup> Tamás Antal, *Az angol esküdtszék története*. [A History of the Jury in England] = *Fundamenta Fontium Iuris Historici 2*. Szeged, 2019. 112–113. See also: Tamás Antal, The Jury in Hungary, *Зборник радова Правног факултета у Новом Саду* (Collected Papers), Vol. XLII, 1–2/2008, 927–939.

### 3. A BRIEF OUTLOOK: THE JURY IN IRELAND

The Parliament in London made laws not only for England, Wales and Scotland, but also for the then unindependent Ireland. In the 19<sup>th</sup> century, the juries were organized and maintained there in a partly different way taking into account the specific characteristics of the people, which usually meant concessions in terms of qualifications, adjusted to the social and income conditions.

For example, the compilation of the jurors' books was done essentially in the same way as in England, with the difference that from 1833 (*3&4 Will. 4, c.91*) the registers were taken by the officer-in-chief of the local police and the tax inspector, and then sent to the competent justice of the peace. The latter made it public for the inhabitants, and after the necessary corrections the names were copied into the jurors' book. From this basic register, the service panel was created by the sheriffs there as well, so that it consisted of at least 36 and at most 60 men.

The institution of the Irish special jury also reflected the English solution, however, as there were fewer bankers and wholesalers in Ireland, the high-level census were somewhat distinct: barons, esquires, magistrates and the sons of peers, and those who had been sheriffs or jurors in grand juries previously, as well as bankers and merchants who were not engaged in retail trade, and finally trades who had a fortune of at least five thousand Irish pounds, and the eldest sons of the latter, could be special jurors.<sup>20</sup>

According to the researchers, in Ireland the parties exercised their right to recusation (challenging) more often than in Great Britain, as Roman Catholics preferred to avoid Protestants sitting in the jury-boxes due to the fact that they did not trust them on religious grounds. In any case, legal service was more politicized in Ireland after the Union Act (1801) constituting the United Kingdom. Sheriffs often summoned citizens who were known to be Royalists; it is said that there was also an example where only three of the 60 prospective jurors were Catholics. At the same time, Irish jurors had a greater tendency to acquit than their British "colleagues". They were less willing to convict the accused men, especially in bagatelle cases. The activities of defense lawyers, who played an increasingly important role in criminal proceedings, also acted in this course. All this accompanied the entire 19<sup>th</sup> century despite the political pressure of the English government.<sup>21</sup>

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<sup>20</sup> R. Blake Brown, „A Delusion, a Mockery, and a Snare”: Array Challenges and Jury Selection in England and Ireland, 1800–1850, *Canadian Journal of History*, April 2004. Vol. XXXIX, No. 1, 2–26, see: 5–15; Níamh Howlin, Controlling Jury Composition in Nineteenth-Century Ireland, *The Journal of Legal History*, Dec. 2009, Vol. 30, No. 3, 227–261, especially: 233–244.

<sup>21</sup> Howlin 2009, 228–233, 244–252.

## 4. THE TWENTIETH CENTURY

During the First World War, even the remaining civil law actions tried by jury were suspended, and it was clear that the English legislation did not intend to restore the former status of the civil jury even after the end of the state of war. The need for lay involvement remained only in actions of defamation and libel, and in some special procedures (e.g., compensation for unlawful deprivation of liberty, false accusation, fraudulent seduction and wilful breach of marriage promise). In this way, after 1918, the jury became exceptional in civil litigation and the professional role of ordinary judges became increasingly decisive.<sup>22</sup>

After the World War, the most important modification of jury service was its extension to women in 1919 – after their parliamentary suffrage – while requiring them to meet the property qualification requirements (Sex Disqualification Removal Act; *9&10 Geo. 5, c.71*). The really interesting thing was that, at the same time, the judge presiding over the trial was granted the power until 1971 to order that the jury acting in the particular case be composed of representatives of only one sex. Until 1969, judges generally did not exercise this special right, when a homicide case raised serious questions as to its sustainability, and the possibility of such discrimination soon ceased following the clearly negative opinion of higher courts.<sup>23</sup>

So the number of eligible jurors increased considerably, but it was still true that the exercise of this right and obligation remained to be tied to property census. After the Great War, the jury bills and laws did not bring any substantial changes in this regard, but the proportion of actual jury trials further decreased in all types of proceedings; so much so that those before the county courts ceased *de facto* in 1934/35,<sup>24</sup> and the grand juries ended their operation *de jure* in 1933 (*23&24 Geo. 5, c.36*) with the provisory exception of some London courts.<sup>25</sup>

Despite the political rise of the working class – which gained ground especially after the formation of the first Labour Party-supported government in 1924<sup>26</sup> – the requirement of property qualification for jury service – maintained in 1922 with the exception of the census of a house with fifteen windows – did not cause any major practical movements until the Juries Act of 1949 (*12&13 Geo. 6, c.27*),

<sup>22</sup> John H. Baker, *An Introduction to English Legal History*. Oxford, 2007. 92–93; William R. Cornish, *The Jury*. London, 1968. 75–76.

<sup>23</sup> Graham Stewart, *Britannia: 100 Documents that Shaped a Nation*. London, 2012. 303–307; Martin Pugh, *Votes for Women in Britain, 1867–1928*. London, 1994. 31–36; A.P. Sealy – W.R. Cornish, Jurors and their Verdicts, *Modern Law Review*, Sept. 1973. Vol. 36, No. 5, 496–508, especially: 498–499; see also Peter Leyland, *The Constitution of the United Kingdom: A Contextual Analysis*. Oxford–Portland, 2012. 18–19.

<sup>24</sup> Jackson 1937, 140–142, 144.

<sup>25</sup> Sir Patrick [Lord] Devlin, *Trial by Jury*. London, 1956. 9–10.

<sup>26</sup> Chris Cook – John Stevenson, *The Longman Handbook of Modern British History, 1714–1987*. London–New York, 1988. 76–77, 94–98.

since no wages were paid for the time of jury service, and therefore white-collar workers did not really strive for such participation in the legal system. In 1956, the number of relevant persons – mostly middle-aged and middle-class men<sup>27</sup> – was estimated to be around one and a half million in the United Kingdom.

In civil procedural law, the jury was “dethroned” after 1945. There were already signs of this during the years of the Great Depression, and after the Second World War, the courts clearly did not exercise their discretionary power to refer cases to a jury, and only a few types of actions required a mandatory jury trial. Nor were the parties themselves enthusiastic about trial by jury, which now entailed higher litigation costs: in the 1960s, less than 4% of the cases heard in the Queen’s Bench were assize actions. The jury system – mainly in the form of the special jury – was mostly limited to some personality rights protection, liability, compensation and commercial actions; but overall, professional judges were favoured even in these types of cases, as well as an increasingly used (third) option: arbitration.<sup>28</sup> Finally special juries were terminated in 1949, too.

The timely reform of the jury system was only addressed in 1965 when an eleven-member government commission headed by Lord John William Morris met, which from the outset took the position that jurors should authentically reflect adult society in the composition of the jurors’ books as well: it was therefore recommended that the basic lists should be brought closer to the parliamentary electoral rolls, making participation in the jury a true civil right. Meanwhile, property prices rose, and by the end of the decade, the number of properties that could be considered for property qualifications, established as early as in 1825 – and still in use! –, increased significantly, to millions, even without legal reforms.<sup>29</sup>

The comprehensive report of the Morris Committee<sup>30</sup> provided a perfect snapshot of the state of the British lay judgement by subjecting both its legal institutions and practice to critical analysis.<sup>31</sup> At this time, two private authors also examined the issue in depth: Lord Devlin and William Cornish, whose books, which we have already cited, also provide a good insight into the arguments for and against the English trial by jury.<sup>32</sup>

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<sup>27</sup> Devlin 1956, 20–21.

<sup>28</sup> Cornish 1968, 76, 227–241. On the summary of the jury experience of the middle third of the 20<sup>th</sup> century, see also Devlin 1956, 41–57.

<sup>29</sup> Cornish 1968, 27–28, 31–44.

<sup>30</sup> The special commission on jury service headed by John William Morris, an outstanding lawyer and judge and also a Law Lord in the House of Lords of the British Parliament, was established to prepare a detailed report and present several recommendations on the legal conditions and practical problems of the existing jury system in Great-Britain. It eventually gave rise to the Juries Act 1974.

<sup>31</sup> *Report of the Departmental Committee on Jury Service*. Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty (Cmnd. 2627). London, 1965. [153 p.]

<sup>32</sup> Devlin 1956, Chornish 1968.



Although the government supported the commission's recommendation, it took until 1974 for the law to be enacted. Movements of a century and a half: the debate between the supporters of the jury and the abolitionists finally came to a standstill, and the property census was abolished. Under the adopted new Juries Act (1974 c.23) – which also served as a model for the Irish Juries Act of 1976<sup>33</sup> – all men and women between the ages of 18 and 65 became eligible for jury service if they had lived legally in the territory of the United Kingdom for at least five years after the age of 13 and were included in the electoral rolls for parliamentary or local government elections – compiled according to special rules.<sup>34</sup> The number of potential candidates rose to around 30 million.

At the same time, cases of incompatibility were redefined; among others, those who served in the broadly defined field of justice, as well as members of the clergy and those who, despite their adulthood, were incapacitated could not be jurors. In 1984, the list was extended to include those sentenced to various forms of imprisonment.<sup>35</sup> These exclusionary criteria existed until 2003 (c.44), since then, in addition to health reasons, there have been only two main types of incompatibility: (1) peers, Members of Parliament and members of the English Parliament under any other legal title, (2) full-time members of the armed forces, as well as the professions of medical practitioners, dentists, veterinarians, nurses, midwives, pharmacists and pharmacological chemists. Furthermore, the list is extended to offenders who are subject to the disadvantages associated with a criminal record.<sup>36</sup>

However, to complete the picture, it is necessary to note that the Criminal Law Act of 1977 (c.45) and then the Criminal Justice Act of 1988 (c.33) further extended the list of criminal offences to be tried without a jury by a professional judge or by a quasi-administrative authority for misdemeanors acting in a summary procedure. Since 1993, there have been approximately thirty criminal offences in which the use of a jury is optional, based on the agreement between the public prosecutor and the defence (either-way offences). In 1967 – presumably on the recommendation of the aforementioned Morris Commission – Parliament also abandoned a six-hundred-year-old rule:<sup>37</sup> it abolished the requirement of unanimity, and since then the jury is allowed to reach a verdict by a qualified majority vote (at least ten „guilty” against two „not guilty” votes) provided that they have been deliberating

<sup>33</sup> On Ireland, see: *Law Reform Commission's Report: Jury Service*. President: Mr. Justice John Quirke. First published: April 2013, Dublin. 9–11, 19–27.

<sup>34</sup> An Act to consolidate certain enactments relating to juries, jurors and jury service with corrections and improvements made under the Consolidation of Enactments (Procedure) Act 1949 [1974 c.23 (1974, July 9)], §§ 1–7.

<sup>35</sup> Juries Act 1974, Schedule No. 1; and an Act to make further provision for disqualification for jury service on criminal grounds [1984 c.34 (1984, July 12)], §§ 1–2.

<sup>36</sup> Hostettler 2004, 125–127.

<sup>37</sup> Baker 2007, 75–76.

for at least two hours. In this case, but only when a guilty verdict is reached, the jury foreperson is also obliged to inform the court of the voting ratio. At the Central Criminal Court (Old-Bailey) in 1963 there were 699 contested cases, in 27 of which the jury disagreed, at the London Sessions in the same year there were 1087 contested cases, in 29 of which the jury disagreed. As a result, fewer cases are now brought before a new jury due to the jury's inability to reach a lawful verdict (1967 c.80).<sup>38</sup>

## 5. AFTERWORD

Juries were examined here as legal instruments, and I did not consider them primarily political institutions. In general, science at the end of the 19<sup>th</sup> century started from the idea that the good jury could not be a purely political institution, as in France. At the same time, there is no doubt that it was also related to civil rights.

While the provision of all other civil rights for men was exemplary and self-evident in the United Kingdom from the turn of the 19<sup>th</sup> and 20<sup>th</sup> centuries as „the rule of law”, the institution of jury eligibility was a permanent exception to constitutional law reforms. And by the time it became a true civil right through the abolishment of property qualification, procedural laws narrowed the scope of the institution's applicability to such an extent that the British lay public can rarely exercise this hard-won right *de facto*.

### *Appendixes*

*Section I* of an Act for consolidating and amending the Laws relative to Jurors and Juries – (6 Geo. 4, c.50) [22d June 1825]

“Whereas the Laws relative to the Qualification and summoning of Jurors, and the Formation of Juries in *England* and *Wales*, are very numerous and complicated, and it is expedient to consolidate and simplify the same, and to increase the Number of Persons qualified to serve on Juries, and to alter the Mode of striking Special Juries, and in some other respects to amend the said Laws; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That every Man, except as herein-after excepted, between the Ages of Twenty-one Years and Sixty Years, residing in any County in *England*, who shall have in his own Name or in Trust

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<sup>38</sup> Hostettler 2004, 130–131; *Report of the Departmental Committee on Jury Service* (1965), 113–114.

for him, within the same County, Ten Pounds by the Year above Reprizes in Lands or Tenements, whether of Freehold, Copyhold, or Customary Tenure, or of Ancient Demesne, or in Rents issuing out of any such Lands or Tenements, or in such Lands, Tenements, and Rents taken together, in Fee Simple, Fee Tail, or for the Life of himself or some other Person, or who shall have within the same County Twenty Pounds by the Year above Reprizes, in Lands or Tenements, held by Lease or Leases for the absolute Term of Twenty-one Years, or some longer Term, or for any Term of Years determinable on any Life or Lives, or who being a Householder shall be rated or assessed to the Poor Rate, or to the Inhabited House Duty in the County of *Middlesex*, on a Value of not less than Thirty Pounds, or in any other County on a Value of not less than Twenty Pounds, or who shall occupy a House containing not less than Fifteen Windows, shall be qualified and shall be liable to serve on Juries for the Trial of all Issues joined in any of the King's Courts of Record at *Westminster*, and in the Superior Courts, both Civil and Criminal, of the Three Counties Palatine, and in all Courts of Assize, Nisi Prius, Oyer and Terminer, and Gaol Delivery, such Issues being respectively triable in the County in which every Man so qualified respectively shall reside, and shall also, be qualified and liable to serve on Grand Juries in Courts of Sessions of the Peace and on Petty Juries, for the Trial of all Issues joined in such Courts of Sessions of the Peace, and triable in the County, Riding, or Division in which every Man so qualified respectively shall reside; and that every Man (except as hereinafter excepted) being between the aforesaid Ages, residing in any County in *Wales*, and being there qualified to the Extent of Three-fifths of any of the foregoing Qualifications, shall be qualified and shall be liable to serve on Juries for the Trial of all Issues joined in the Courts of Great Sessions, and on Grand Juries in Courts of Sessions of the Peace, and on Petty Juries for the Trial of all Issues joined in such Courts of Sessions of the Peace, in every County of *Wales*, in which every Man so qualified as last aforesaid respectively shall reside.”<sup>39</sup>

*Section 1* of An Act to consolidate certain enactments relating to juries, jurors and jury service with corrections and improvements made under the Consolidation of Enactments (Procedure) Act 1949 – (1974 c.23) [9<sup>th</sup> July 1974]

“Subject to the provisions of this Act, every person shall be qualified to serve as a juror in the Crown Court, the High Court and county courts and be liable accordingly to attend for jury service when summoned under this Act, if –

(a) he is for the time being registered as a parliamentary or local government elector and is not less than eighteen nor more than sixty-five years of age, and

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<sup>39</sup> *A Collection of the Public General Statutes [of the Parliament of the United Kingdom of Great Britain and Ireland]*. London, 1825. 457–458.

(b) he has been ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man for any period of at least five years since attaining the age of thirteen,

but not if he is for the time being ineligible or disqualified for jury service; and the persons who are ineligible, and those who are disqualified, are those respectively listed in Parts I and II of Schedule 1 to this Act.<sup>40</sup>

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<sup>40</sup> *Elisabeth II, Chapter 23 of 1974, Juries Act 1974*. Published by Her Majesty’s Stationery Office. London, 1974, 1988. 1 (Schedule 1: 12–15).

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## Промене у енглеској пороти у XIX и XX веку

**Сажетак:** У овом раду обрађена је крајња историја енглеске пороте у савремено доба. Главни циљ аутора је да изврши историјско исцртавање и пронађе најважније момените у вези са правним установама англосаксонског периода поротне суђења у Енглеској и Ирској. Историјска перспектива пружа прилику да се истинита установа пороте као суд трађана стављен под надлежност државе за крајњи временски период. Аутор се осврће на неколико периода од почетка XIX до краја XX века. Овде предмет расправе није институција, већ уредбе о организацији, с посебним освртом на услове који су одредили улогу пороте као део средњих судова и заседања, као и централних судова у Лондону. Литература је прикупљена у Бриџанској библиотеци током периода исцртавања у којима је аутор имао прилику да ради с посебним изворима на које се средњевековски научници нису позивали.

**Кључне речи:** порота, асизе, судови, Енглеска, поротно суђење, XIX и XX век.

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