

## CHAPTER X.

## CIVIL LAW.

PLAINTIFF AND DEFENDANT.—ACTIONS FOR NON-PAYMENT OF DEBT.—TRESPASS.—BREACH OF CONTRACT.—LIBEL.—JURY FIND VERDICT FOR PLAINTIFF OR DEFENDANT.—LOSER HAS TO PAY COSTS OF ACTION.—JURY WHO CANNOT AGREE ARE DISCHARGED.—NEW TRIAL ALLOWED.—VERDICT BY DEFAULT.—APPEAL TO HIGHER COURTS.—TO PRIVY COUNCIL IN ENGLAND.—JUDGES SIT WITHOUT JURIES IN CERTAIN CASES.—LOCAL COURTS.—ENGLISH BIRTHRIGHT OF TRIAL BY ONE'S PEERS.

CIVIL law has to do with the disputes as to their rights between one citizen and another. In these cases the Queen is not the prosecutor, as she is in cases of crimes and misdemeanors. Thomas Nokes, the **plaintiff** or **complainer**, summons Richard Stokes for **not paying a bill**, and Richard Stokes is called the **defendant**, who has to show some satisfactory cause for not paying it. William Jones summons James Harris for **trespassing on his land**, and James Harris defends himself by trying to prove that he has as good or a better right to the land than William Jones. If anyone considers himself wronged by another person **not fulfilling a contract**, or by his **character being libelled**, he brings, as plaintiff, a civil action. Each party employs his own lawyer, and the case for and against is argued before a jury, who find **for the plaintiff** or **for the defendant**, and settle what money is due as a just debt, or the amount of damages or compensation for the wronged person to receive from the other. The judge reads over the evidence on both sides, and lays down the law that

bears on the matter ; but the jury settle the amount of compensation. The party whom the jury find to be in the wrong has generally not only to **pay damages**, but **all the law expenses** on both sides. If the jury cannot agree upon their verdict within a reasonable time, they are discharged by the judge. There may be a new trial next civil sessions, if the parties cannot settle their dispute privately in the meantime. If the defendant does not appear in court to plead for himself, or send an attorney to defend the case for him, when it is proved that he received a summons, he is held to admit the claim made upon him, and the verdict or judgment is given for the plaintiff. His goods may be seized and sold to pay the debt sued for or the damages awarded.

As many of the civil causes in dispute involve difficult questions of accounts, and some knowledge of commercial law and customs, the **litigants**, that is the people who go to law with each other, often demand the services of a **special jury**. These are men of more education than the ordinary common jurymen. The common jurors get only five shillings a day for their services, whether the cases are criminal or civil. In criminal causes this money is paid by the government ; in civil causes the loser must pay all costs, and in a case of special jury the jurymen each get a guinea a day, and sometimes a case lasts several days.

If a plaintiff or defendant is dissatisfied with the verdict, he may apply for a new trial ; and if he can show that he has any fresh evidence to bring, he may get it. Sometimes the loser of a case appeals from the decision of the Supreme Court in Adelaide to the Privy Council, the highest court in England. This is very rarely done, for it takes a great deal of time and costs much money. But when there is a very large sum of money, or some important point of law in dispute, it is a good thing to have a court of appeal. Permission to appeal to a higher court must be granted by one of the judges.

There are some kinds of disputes that are not tried by a jury, but before several judges sitting together **in banco**, or on the bench. These are causes for **divorce** of marriage, **admiralty** causes as to shipping rights, and **equity** causes, which are supposed to be too difficult for a common jury.

Many trifling causes are not brought before the Supreme Court, but before the **local courts** of justices of the peace, presided over by a special magistrate. When the case is not about a large sum of money, or a wrong carrying heavy damages, it is far easier and cheaper to have it settled near the spot where the witnesses are. If anyone is dissatisfied with the decision of the local court, and if he is willing to go to the expense of a new trial, he may appeal to the Supreme Court, and have it tried over again by a judge and jury.

Among the **civil rights** of an English subject, it has always been considered one of the best that if accused of a crime he is tried by a **jury of his peers**, or equals, and that if he has suffered a wrong he can bring the matter before such a jury. It seems a very simple thing, but it has had a wonderful effect in checking despotic power.

