in court, and then others were chosen who were acquainted with the facts in dispute. But if some did and some did not know the facts, the latter only were removed, and others summoned in their place, until twelve, at least, were found who knew and agreed upon the points in dispute.

If the jurors could not all agree, others were added to the number, until twelve, at least, were found in favor of one side or the other. This process was known as "afforcing" the assize. The verdict of the jury was final, and there could be no subsequent action brought upon the same claim. If the jurors were guilty of perjury, and were convicted or confessed their crime, they were deprived of all their personal property, and were imprisoned for a year at the least. They were declared to be infamous, and become incompetent to act as witnesses or compurgators in future, but were allowed to retain their freeholds.

This proceeding by assize was nothing more than the sworn testimony of a certain number of persons summoned, that they might testify concerning matters of which they were cognizant. So entirely did the verdict of the recognitors proceed upon their own pre-judgment of the disputed facts, that they seem to have considered themselves at liberty to disregard the evidence which was offered in court, however clearly it might disprove the case which they had come to support. Although the usual number of jurors was twelve, it was not the invariable number of jurors of assize for some years. When the institution was in its infancy, the number seems to have fluctuated, according to convenience or local custom.

Unlike Modern Jury.

The trial by jury, as finally established, both in civil and criminal cases, by Henry II, the function of the jury continued for a long time to be very different from that of the jury of the present day. The jurors were still mere recognitors, giving their verdict solely on their own knowledge of the facts, or from tradition, and not upon evidence produced before them. This was the reason for their selection from the vicinage or hundred in which the question arose. Trial by jury was, therefore, in the infancy of the institution, only a trial by witnesses, and jurors were distinguished from other witnesses, only by customs which imposed upon them the obligation of an oath, and regulated their number, and which prescribed their rank and defined the territorial qualifications from which they obtained their status and their influence in the community. Jurors, in determining their verdict, were for a long time entitled to rely upon their own knowledge in addition to the evidence. Early in the reign of Queen Anne, however, the Court of Queen's Bench decided, that, if a jury gave a verdict of their own knowledge, they ought so to inform the court, that they might be sworn as witnesses. This and a subsequent case in the reign of George I, terminated all remains of the ancient functions of juries as recognitors.

Origin of Office of Coroner.

The commencement of the office of coroner is involved in obscurity. The earliest statute, regulating and defining the process of holding an inquest,is that entitled *De Officio Coronatoris*, 4 Edward I, St. 2, (year 1276 A. D.) and this enacts, that when coroners are directed by the baliffs of the king, or *probi homines* of the county, to go to those who are slain or who have died suddenly, or have been wounded, or to housebreakers, or to places where treasure is said to be found, they shall forthwith proceed there, and command four of the next towns, or five or six, to appear before them in such a place, and when they are come thither, the coroner, upon oath of them, shall inquire, if it concerns a man slain, where he was slain, whether it were in a house, field, bed, tavern or company, and if any and who were there.

"Likewise, it is to be enquired who were, and in what manner culpable, either of the act, or of the force; and who were present, either men or women, and of what age soever they be (if they can speak or have any discretion), and how many soever be found culpable by inquisition, in any of the manners aforesaid, they shall be taken and delivered to the sheriff, and shall be committed to jail; and such as be found and be not culpable, shall be attached until the coming of the justices, and their names shall be written in the coroner's rolls."

Then follow a number of minute regulations, respecting the different kinds of investigation. Although the jurors are required to be summoned from the nearest township, nothing is said concerning their number; and the probability is, that at this period, it was not always the same, being determined by the special circumstances of the case. Afterwards, however, following the analogy of the jury system in other cases, it became a fixed rule of law that twelve at least must concur in the finding of the inquest, in order that the persons charged thereby, might be put upon trial before a petit jury. The number taking part in the inquest was immaterial, provided that twelve agreed. When the jurors were not unanimous, it was the duty of the coroner to collect the votes, and to take the verdict, according to the opinion of the majority. If twelve could not agree, the jury was to be kept without meat, drink or fire, until they gave a verdict; but this rule was never enforced so as to endanger life or health. Formerly (in England, of course) if the jury was unable to make a legal presentment, it was the custom for the coroner to adjourn the proceedings from one place to another, until Chief Justice Holt, about the year 1700, held that this was wrong, and that the case ought to be adjourned to the assizes, "where the judge will inform them (the jurors) better."

[CONCLUDED NEXT WEEK.]