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Opera Theatre of Northern Virginia (OTNV) presents

An Evening of Mirth and Misery



John Edward Niles, Artistic Director/Conductor
Jane Christenson, Director

Riders to the Sea Features

Leslie Mutchler (mezzo-soprano) as Maurya – *company debut*
Cathy Carlin (soprano) as Cathleen
Daniele Lorio (soprano) as Nora – *company debut*
Don Bicoy (baritone) as Bartley

Trial By Jury Features

Christopher Austin (bass) as Learned Judge – *company debut*
Cathy Carlin (soprano) as Plaintiff
Ole Hass (tenor) as Defendant

Two Performances

April 4 at 8:00 pm
April 6 at 2:00 pm

Join OTNV as we bring two one act operas to life: Ralph Vaughan Williams' beautiful and emotionally charged *Riders to the Sea* and *Trial by Jury*, a courtroom farce that was the first big hit for Gilbert and Sullivan. Both sung in English.

Trial By Jury: Study Guide:

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Trial By Jury

Background:

Trial by Jury is a comic opera, often referred to as an *operetta*, written in one act. The music was written by Arthur Sullivan to a *libretto* by W.S. Gilbert. The work premiered in 1875 at the London Royal Theatre where it ran for 131 performances and was considered to be a hit. This opera was the second collaboration between composer and librettist who had completed the opera *Thespis* four years earlier. The success of *Trial by Jury* initiated a series of twelve more collaborations between the two which would become known as the Savoy Operas, after the theatre that was built for them by the impresario Richard D'oyly Carte. *Trial by Jury* is notable among Gilbert and Sullivan's operas because it is the only one that is written in only one act, running about thirty minutes long, and it is the only one of their works that is completely sung; meaning that there is no spoken dialogue. Due to its short length, *Trial by Jury* is usually performed as part of a "double-bill", alongside another short opera, frequently *The Sorcerer* or *H.M.S. Pinafore*.

The story of *Trial by Jury* was originally written by Gilbert in 1868 as one of his "Bab Ballads", humorous skits written entirely in verse. Drawing from his own training and brief experience as a barrister Gilbert came up with the idea of a spoof of the law, lawyers, and the legal system in general. This ballad describes the proceedings of a "breach of promise" trial which goes comically awry. In the Victorian era a man could be required to pay compensation to a woman to whom he was engaged but failed to marry. In 1873 Gilbert set about to have the skit transformed into a one-act libretto with the aid of Carl Rosa, who was to write the music, and his wife, who was to sing the role of the plaintiff. The project was dropped after Rosa's wife died following complications during childbirth. Later that same year Gilbert offered the libretto to D'oyly Carte. Soon after D'oyly Carte found himself in need of a short opera to follow Offenbach's *La Périchole* and he remembered Gilbert's skit. Having been familiar with their collaboration on *Thespis*, D'oyly Carte recommended that Sullivan compose the music. Sullivan accepted and the opera was completed in weeks. The

work was an immediate hit in London and toured throughout the province. The opera has well outlasted its companion piece, *La Périchole*.

Cast:

The Learned Judge (comic baritone)	Usher (bass-baritone)
The Plaintiff (soprano)	Foreman of the Jury (bass)
The Defendant (tenor)	Associate (silent)
Counsel for the Plaintiff (baritone)	First Bridesmaid

Chorus of Bridesmaids, Gentlemen of the Jury, Barristers, Attorneys, and Public

Synopsis:

The opera begins as jurors and reporters gather for a highly publicized trial in which the plaintiff, Angelina, is suing the defendant, Edwin, for breach of promise for failing to marry her. The usher begins the proceedings with a rather biased introduction to the jurors (“Now, Jurymen, Hear My Advice”) in which it becomes clear that the court sympathizes with Angelina. Edwin is met with great hostility as he pleads his case and attempts to attribute his shortcomings to the follies of youth (“When First My Old, Old Love I Knew”). Being as they all are respectable gentlemen, the jurors do not accept this as an excuse (“Oh, I Was Like That When I Was a Lad”).

The Judge enters in a great spectacle and begins by telling how he rose to his position. The jury is then sworn in and the plaintiff and defendant summoned into the courtroom. Angelina arrives in her wedding dress with all her bridesmaids in attendance. Their over the top weeping and lamenting (“Comes the Broken Flower” and “With a Sense of Deep Emotion”) describing Edwin’s betrayal quickly wins them sympathy from the judge and jury. Edwin suggests that he marry both women as a compromise, but the counsel declares this “burglaree” and it is rejected. Angelina insists that she still loves Edwin (“I Love Him, I Love Him”) and that damages should be awarded to her. Edwin counters this by saying that because he is a drunk, a smoker, and a bully she would have been unhappy thus the damages would be small. The judge comes up with the idea of getting Edwin drunk to see if he would really “thrash and kick” the plaintiff as he promised, but this idea, too is quickly

rejected (by all except Edwin). Frustrated by the stalemate the judge resolves to settle the case once and for all by marrying Angelina himself. This is acceptable to all and the opera concludes “With Joy Unbounded”.

The Topsy-Turvy Relationship of Gilbert and Sullivan

Sir William Schwenk Gilbert is a celebrated English dramatist, poet, librettist and illustrator. He is best known for his collaborations with Arthur Sullivan which resulted in the production of more than a dozen beloved comic operas in the late 19th century, many of which are performed regularly to this day. Among these are *H.M.S. Pinafore*, *The Pirates of Penzance*, *The Mikado*, and *Trial by Jury*. In his librettos Gilbert coined several phrases that have become part of the English vernacular, including, “let the punishment fit the crime”, from *The Mikado*.

Despite their overwhelming success, the relationship of the two men was often strained. Gilbert’s prose was often imbued with a quality described as ‘topsy-turvy’ in which social order was parodied to the point of being completely turned upside down and the plots full of outlandish unbelievable situations. This was often a bother for Sullivan who wanted more realism in his works. Quarreling between the two and a rift between Gilbert and Carte led to the demise of the partnership in 1890. An attempt at reconciliation produced two more operas of little note, *Utopia, Limited* and *The Grand Duke* before the two parted ways for good. In 1904, four years after the death of Sullivan, Gilbert would write, “...Savoy opera was snuffed out by the deplorable death of my distinguished collaborator, Sir Arthur Sullivan. When that event occurred I saw no one with whom I felt that I could work with satisfaction and success, so I discontinued writing libretti.”

Sir Arthur Seymour Sullivan is an English composer best known for the Savoy Operas, but included in his musical output are 23 operas, 13 orchestral works, 8 choral works, 2 ballets, incidental music for plays, as well as many hymns, songs, ballads, piano works, and chamber pieces. Many of his hymns and songs are still well-known today, including “Onward Christian Soldiers”. Although most of his operatic output was comic, Sullivan did produce one grand opera, *Ivanhoe*, which had a successful run, but is rarely performed today.

In 1856 Sullivan left home to study music at the Royal Academy of Music until 1858. He continued his studies at the Leipzig Conservatoire where he was influenced by the

compositions of Felix Mendelssohn. Sullivan began composing works for the voice very early in his career and several oratorios and other choral works were commissioned early on. He also had an affinity for the theatre and composed incidental music for many plays, including Shakespeare's *The Tempest*. Despite these commissioned works Sullivan still had to work as a church organist as well as a private instructor of voice and piano to make ends meet.

After the end of the partnership with Gilbert, Sullivan had a few modest attempts at comic opera with other librettists, but the operas were marked with a much more romantic feel and less silliness.

Opera: A Brief History

Opera is typically defined as a type of drama which is sung throughout. Defining opera can be quite difficult, however, as it has transformed over the centuries and given birth to many offshoots and related genres, such as the Singspiel, zarzuela, musical theatre, and operetta. Even within opera there are many distinct types such as opera buffa, opera seria, and Grand Opera, each with unique stylistic and musical features. One musical feature that is common to all of opera is the use of the trained, natural voice. This means that opera singers do not use any means of amplification, like a microphone, to project their voice over the orchestra and to the audience.

The first operas were intended as courtly entertainment, commissioned by various wealthy aristocrats. This changed in 1637 when impresarios in Venice decided to stage operas in public theatres for the first time paid for by revenue from ticket sales. These early operas often featured heroic or mythological plots, often interspersed with comedic interludes. This juxtaposition of comic and often tragic elements offended many patrons and led to the first of many reforms of opera which led to the formation of two divergent strains; *opera seria*, which would remain in fashion until the late 18th century and *opera buffa*. *Opera seria* was based on noble and serious subject matters. The typical cast consisted of two pairs of lovers with several confidants, and the action took place in three scenes of two acts each.

There were two distinct styles of singing for soloists, *arias* and *recitative*. Recitative singing is often used to express dialogue, or other non-poetic texts. Recitative is characterized by a speech-like approach to singing, with the pattern of the notes (high and low) and the rhythm of the music (speeding up and slowing down) attempt to mirror human

speech. The singer is usually accompanied by very few instruments while singing recitative. An aria is a much more expressive type of singing in which the character reflects on the action of the story and often ponders important decisions. Aria singing features the accompaniment of the full orchestra. The aria is the musical equivalent to a dramatic soliloquy.

Opera buffa was the counterpart to *opera seria*, and it is also the historical forerunner to the operas of Gilbert and Sullivan. In contrast to the heroic plots of *opera seria*, *opera buffa* often depicts average citizens and a more simplistic style. The most distinguishable feature of *opera buffa* is “patter singing”, a style in which many words must be sung rapidly, and often repeat over and over. This type of singing is often seen in the choruses of Rossini’s operas as well as in the operas of Gilbert and Sullivan. In *opera seria* the focus was on the high singing voices; the male castrati and the powerful operatic soprano, low male voices were rarely used. *Opera buffa* on the other hand introduced the important role of the *basso buffo*, a low male voice who was the predominantly comedic character in the opera.

Throughout the 17th and 18th centuries opera singers began to emerge as stars, and composers began to write music that was technically very difficult and could show off the singer’s ability. Some composers felt that this new style put the emphasis on the performer over the story and attempted another reform of opera. This time led by the composer Gluck, who encouraged a return to the original operatic ideals of “beautiful simplicity” in which the music served as a vehicle to express the text. Mozart was influenced by Gluck’s ideas when he composed three of his most famous operas, *The Marriage of Figaro*, *Don Giovanni*, and *Così fan tutte*, but contrary to Gluck, Mozart always believed that music was more important than the text in conveying the drama,

Composers in the 19th century gave rise to a type of opera known as *bel canto*, which literally means “beautiful singing”. This type of opera was exemplified by Rossini, Bellini, and Donizetti. The *bel canto* movement grew out of important developments in vocal technique during this time, in which singers were striving for technical control and evenness throughout the entire range. Singers were also required to negotiate fast *coloratura* passages, which feature rapid runs up and down scales often ranging from the lowest to the highest notes of the singer’s range.

Opera composers of the late 19th century, such as Verdi and Puccini sought a type of realism in their operas, called *verismo*. The pinnacle of this genre is Puccini’s *La Bohème*, which tells the story of a group of struggling artists in Paris.

While Italian traditions have dominated opera throughout its history, different countries have developed their own unique operatic traditions. In Germany, a form called Singspiele emerged which was written in the German language and often included spoken dialogue. In the 19th century Richard Wagner wrote “music drama”, which he considered to be the greatest union of voice and orchestra. These music dramas were longer, featured a much larger orchestra, and consisted of almost continuous singing, with little distinction between recitative and aria. There was also a greater importance of the role of the orchestra in Wagner’s opera.

The type of opera that developed in France in the 17th and 18th centuries features recitative that was more conducive to the peculiarities of the French language, and often incorporated ballet. In the 19th century a style known as Grand opera emerged which is characterized by a longer opera, a huge cast, lavish sets, and spectacular special effects. These operas often depicted historical events.

In England, *operetta* or “light opera” grew out the French *opera comique* tradition of the 19th century and continued into the 20th century. Operetta often features spoken dialogue and comic or even farcical plots. Operetta is the musical forerunner to the modern musical comedy

Opera Voices

There are many categories of voices in opera. The most basic ones are soprano, mezzo-soprano, tenor, baritone and bass. Even within these voice categories there are several different types. The soprano is the highest female voice, followed by the mezzo soprano. To both of these voice types several prefixes can be added which describe particular qualities of a singer’s voice. The “range” of a singer refers to the distance between the singer’s highest and lowest notes that they can comfortably sing. *Coloratura* refers to a singer whose voice is very agile and can articulate notes very rapidly. Coloraturas often sing very florid series of scales and runs, often stretching to the very top and bottom of the range. *Lyric* refers to a lighter, tuneful voice, which is not expected to display the same vocal athleticism of a coloratura. A *dramatic* soprano refers to the largest of operatic voices; they are much weightier than lyric voices and often have a dark color or timbre. Dramatic voices can cut through even over the huge orchestras of Richard Wagner. There is a rare female voice below the mezzo soprano, known as a contralto.

The tenor is the highest of the male voices. A tenor with a very high light voice is often described as a lyric tenor. A Heldentenor or “heroic tenor” is a voice type often associated with the music of Wagner. The voice is very full and substantial, with a low range extending almost to the realm of a baritone. The baritone is the middle male voice, between the tenor and bass. The prefixes lyric and dramatic also apply to the baritone voice. A high bass voice is often referred to as a “bass-baritone”, this a voice lower than a baritone but not as low as the “basso profundo”.

STUDY QUESTIONS

1. Gilbert and Sullivan are famous for the element of satire in their operas. What elements and characters of *Trial by Jury* are satirical and why?
2. Discuss the different types of voices that appear in the opera (soprano, tenor, etc.). What do you notice about each, and how are the particular voices suited to specific characters?
3. Describe the character of the Learned Judge; what voice type is he and how is this depicted in his characterization and music?

Opera Vocabulary

Aria- solo song performed by an opera character; unlike recitative which furthers the plot, an aria is usually a moment in which the character reflects on the action so far or makes pivotal decisions

Baritone- male voice type between bass and tenor

Bass- the lowest male voice; can be comic as in the “basso buffo” or very deep as in the “basso profundo”

Contralto- the lowest female voice, very rare

Grand Opera- style that emerged in 19th century France featuring historical plots, lavish sets, huge choruses, and an emphasis on spectacle

Libretto- the textual basis for an operatic production; usually adapted from a book or play, but sometimes newly written by the composer (as was the case in many of Wagner’s operas)

Mezzo-Soprano- the middle female voice, can be classified as coloratura, lyric, or dramatic

Opera- a fully staged dramatic work featuring continuous orchestral accompaniment that is sung throughout

Operetta- “light opera”; usually lighter and more comedic in nature than traditional opera, often featuring spoken dialogue in addition to singing

Oratorio- one of opera’s many “cousins”; a semi-staged sacred work featuring choruses, soloists and orchestra usually depicting important biblical events; very similar to an opera in form, but the singers do not wear costumes or use sets

Recitative-a musical setting of dialogue or other conversational text that attempts to emulate the natural stresses of speech; recitative can be accompanied by the full orchestra or very sparsely

Singspiel- German variety of opera, literally “sing-play”; like many operatic offshoots Singspiel features spoken dialogue

Soprano- the highest female voice, it can be classified as coloratura, lyric, or dramatic

Tenor- the highest male voice

After reading about the opera, *Trial by Jury*, and the world renown collaborators, Gilbert and Sullivan, who brought the courtroom farce to us, it might interest you to look behind the curtain and guess why the great librettist, William S. Gilbert (born in November 1826), may have chosen this for his subject. While trained as a barrister, Gilbert was at heart a writer. Before he wrote the lyrics for *Trial by Jury*, Gilbert had written nearly thirty plays and libretti, as well as several short stories and a considerable output of comic verse. Gilbert, nevertheless, had his earlier barrister training to draw upon. So maybe having learned about the right to a trial by jury while training to be a barrister, it stayed in his head for a topic that could work so well as a spoof!

We in the United States accept the right to an impartial trial by a jury of one’s peers in a rather nonchalant way. We are going to ask you to be rather serious and let us tell you about this basic right which was brought here from the English Common Law and put into the first draft of the U.S. Constitution.

Trial by Jury

In our modern concept of a trial, we take for granted that twelve people sit in a jury box, hear the evidence presented by two attorneys and a number of witnesses, and render a verdict. That system, so ingrained in our collective minds, developed and evolved over the course of centuries in England and then in the United States.

The jury trial dates back to the twelfth and thirteenth centuries in England. Original juries were selected not to be objective, but to provide (and, if necessary, gather) information. They were called “self-informing” juries and were chosen from the same locality as the parties. They had two jobs in trial: to provide the evidence and to render a verdict. No one presented information to them. By the sixteenth century, however, the population had grown and begun to move regularly. Then, jurors were still drawn from the local county, but they were no longer expected to already know the facts of the case. Their new role was to hear the complainant/victim, the defendant, and witnesses, and then to reach a decision.

In this new system, the parties each presented all their information, the judge oversaw the proceedings, and the jury made a decision. The jury soon assumed a significant role in ensuring fairness. Like the President appoints judges today, the King or Queen hired judges in sixteenth century England. But, unlike today, the monarch could also fire judges whenever he or she wanted. Possibly the most famous sixteenth century trial, that of Sir Nicholas Throckmorton, exemplifies the important role the jury filled then and still fills today – a check on the power of the government. Sir Throckmorton was tried for high treason in 1554. As the law then required, Sir Throckmorton represented himself alone at trial (the right to defense counsel did not begin to emerge until nearly fifty years later). A judge oversaw the trial, but if the Queen lost, she could fire the judge. The defendant also could not call witnesses to testify for him. Throckmorton, when given the chance to speak, spoke mostly of the disadvantages he faced as a defendant and reminded the jurors that if he lost and was killed (the sentence for high treason was death), his death would be on their consciences. The judge blatantly encouraged conviction, but the jury rebelled against an unfair trial and acquitted.

The judge's role has evolved since this time. First, most judges cannot be removed without strong reasons. Also, the law draws a distinct line between questions of law and questions of fact. Judges decide questions of law, and juries decide questions of fact. For example, in a suit for breach of contract, the judge decides what evidence can be presented to the jury and explains how the law defines a "contract" and a "breach." Based on the facts presented to them, the jury then decides if the parties had a contract and if it was, in fact, breached.

The significance of the jury to America's founders is evidenced by guarantees of jury trials in certain circumstances under Article III of the Constitution and the Sixth and Seventh Amendments. Article III, Section 2 of the Constitution directs that the "Trial of all Crimes . . . shall be by Jury." The Sixth Amendment requires that "[i]n all criminal prosecutions, the accused shall enjoy the right to . . . an impartial jury" and gives the defendant the rights to "be informed of the nature and cause of the accusation; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense." As noted above, all of these rights were denied to defendants in the early days of the trial by jury. Yet the right to a jury in criminal trials made its way into the Constitution itself, while the others were only added with the Bill of Rights.

Additionally, the Seventh Amendment guarantees that "[i]n [civil suits for money] . . . the right of trial by jury shall be preserved." Civil suits are not trials in which the defendant is accused by the government of committing a crime, but rather involve claims of private parties against one another. With respect to this right, protected by the Seventh Amendment, Thomas Jefferson wrote a letter in 1789 saying: "We think in America that it is necessary to introduce people into every department of government as far as they are capable of exercising it; and that this is the only way to insure a long continued and honest administration of its powers"

Because the founding fathers had escaped the rule of a King they considered to be a tyrant, the ability of ordinary citizens to overrule the decisions of corrupt government officials was crucial to them. If the government arrested a man, that very government had to convince a jury of his peers that he had indeed committed an illegal act. If one man were to

sue another over a breached contract, common men, not the King, would decide who was right and who was wrong.

By the time of the writing of the U.S. Constitution, a RIGHT to a trial by jury was of such importance that it was included in Article III of the basic document that guides our country and still is part of how we are governed today.

Take a look at the U.S. Constitution and after running past its prologue, look to Article III, referred to as the Judicial Power of the United States, in which the authors of the Constitution set forth the structure by which the judiciary of this emerging nation would be directed. This section creates and sets up the court system in the United States. Check Article III, Section 2 to see the inclusion of a right to a trial by jury in a criminal matter.

It is said that James Madison and Alexander Hamilton were tasked to “clean up” and put into coordinated form the **Articles of Confederation**, which followed the **Declaration of Independence**. The Articles of Confederation had been quickly drafted in 1776 and were not very organized and far from ready for permanent use as the structure of the infant nation. So in 1777 a Constitutional Convention was called and out of it came a nice new document: the U.S. Constitution.

The fifty-five delegates at the Constitution Convention represented twelve states—Rhode Island boycotted the convention. They were white, educated males and mostly affluent property owners. A majority were lawyers and hence sensitive to precedent. They averaged forty-two years of age; Hamilton was thirty-two and Madison thirty-six. The big issue was should the new government muddle on as a confederation or form a true united nation. Were the 13 states susceptible to one government or whether each state needed a separate existence connected only by leagues?

On September 17, 1787, the convention ended when 39 delegates from twelve states signed the Constitution. By scrapping the Articles of Confederation and placing the states under a powerful central government, it represented a monumental achievement. The delegates decided that the Constitution would take effect when nine state conventions approved it. It was not very much later when Alexander Hamilton infused life into this

parchment and made it the working mandate of the American government. In October 1787, Alexander Hamilton conceived an ambitious writing project to promote the Constitution's ratification by the State of New York. His project was to write a detailed explanation and analysis of each part of the Constitution, which resulted in the FEDERALIST PAPERS, consisting of 85 essays...

It is pretty well accepted that it was Alexander Hamilton wrote Essay No. 83 in response to objections coming in from the various State Governments—and especially from New York. Before ratifying the document, States wanted clarification about WHY only matters involving CRIMES would have a right to a trial by jury. Hamilton went on for nine pages in Essay No. 83 trying to explain that the inclusion of a right to a jury trial in criminal matters did not exclude a judge or a State for allowing a jury trial in non-criminal matters or civil matters as they are known.

Evidently, Hamilton's Essay No. 83 did not convince its intended readers and Amendments VI and VII were added to the Constitution. In referencing *The Federalist Papers*, Theodore Roosevelt commented "that it is on the whole the greatest book" dealing with practical politics. *The Federalist Papers* is so renowned as the foremost exposition of the Constitution that it is easy to forget its original aim: ratification of the Constitution in Hamilton's home state.

Discussion Questions:

Compare Article III, Section 2 with the two amendments, VI and VII, and explain the difference.

What were the big issues underlying ratification of the U.S. Constitution?

Which were the 13 original colonies?

When was the U.S. Constitution finally ratified and approved? Why did it take so long?

The CONSTITUTION of the United States

We the People

insure domestic Tranquillity, provide for the common Defence
and our Unity, all which we and our Posterity do hereby bind ourselves to

Article I.

Section 1. All legislative Powers herein granted shall be
of Representatives.

Section 2. The House of Representatives shall be composed
in each State shall have the Qualifications requisite for Senators of the

House shall be a Representative who shall not have
and who shall not, when elected, be an inhabitant of that State in

Representatives and direct Taxes shall be apportioned among
the States, which shall be determined by adding to the whole Number

not exceed three fifths of all other Persons. The actual Enumeration
and within every subsequent Term of the same, in each State
being increased, but each State shall have at least one Representative

and three shall be, Representatives in the House, which shall not
increase more than once in any Term, but shall have the same

as the House of Representatives, from any
The Officers of Representatives shall choose their Speaker and

Section 3. The Electors in the United States shall be, any person,

and The Declaration of Independence

and Electors.
The Electors shall be chosen in each State shall be a Representative who shall not have
and who shall not, when elected, be an inhabitant of that State for which



Article. III.

Section. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish...

Section. 2.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution...The Trial of all Crimes, except in Cases of Impeachment; shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the congress may by Law have directed.

Bill of Rights

Amendment VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Amendment VII.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.



The Federalist No. 83

The Judiciary Continued in Relation to Trial by Jury

Independent Journal

Saturday, July 5, Wednesday, July 9, Saturday July 12, 1788

[Alexander Hamilton]

To the People of the State of New York:

THE objection to the plan of the convention, which has met with most success in this State, and perhaps in several of the other States, is *that relative to the want of a constitutional provision* for the trial by jury in civil cases. The disingenuous form in which this objection is usually stated has been repeatedly adverted to and exposed, but continues to be pursued in all the conversations and writings of the opponents of the plan. The mere silence of the Constitution in regard to *civil causes*, is represented as an abolition of the trial by jury, and the declamations to which it has afforded a pretext are artfully calculated to induce a persuasion that this pretended abolition is complete and universal, extending not only to every species of civil, but even to *criminal causes*. To argue with respect to the latter would, however, be as vain and fruitless as to attempt the serious proof of the *existence of matter*, or to demonstrate any of those propositions which, by their own internal evidence, force conviction, when expressed in language adapted to convey their meaning.

With regard to civil causes, subtleties almost too contemptible for refutation have been employed to countenance the surmise that a thing which is only *not provided for*, is entirely *abolished*. Every man of discernment must at once perceive the wide difference between *silence* and *abolition*. But as the inventors of this fallacy have attempted to support it by certain *legal maxims* of interpretation, which they have perverted from their true meaning, it may not be wholly useless to explore the ground they have taken.

The maxims on which they rely are of this nature: "A specification of particulars is an exclusion of generals"; or, "The expression of one thing is the exclusion of another." Hence, say they, as the Constitution has established the trial by jury in criminal cases, and is silent in respect to civil, this silence is an implied prohibition of trial by jury in regard to the latter.

The rules of legal interpretation are rules of *common sense*, adopted by the courts in the construction of the laws. The true test, therefore, of a just application of them is its conformity to the source from which they are derived. This being the case, let me ask if it is consistent with common-sense to suppose that a provision obliging the legislative power to commit the trial of criminal causes to juries, is a privation of its right to authorize or permit that mode of trial in other cases? Is it natural to suppose, that a command to do one thing is a prohibition to the doing of another, which there was a previous power to do, and which is not incompatible with the thing commanded to be done? If such a supposition



Congressman Jim Moran, provides free of charge, booklet copies of the United States Constitution for educators and constituents in order to encourage the study and appreciation of the basic documents upon which our government is based.

If you would like a booklet for yourself please contact- Brian Spoon, Administrative Assistant to Congressman Jim Moran at 333 N Fairfax St., Suite 201 Alexandria, VA 22314, (703) 971-7557. Or by e-mail at: bryan.spoon@mail.house.gov

For Tickets call O-T-N-V at 703-528-1428

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Questions? Comments?

Please call us at 703-536-7557, or E-mail us at MCDM1@verizon.net

www.operaguiltnova.org

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