TRIAL, in law, is the examination of a cause before a court of justice. It is the stage in the cause next after Pleading *(q.v.).* Advance in legal development is generally marked by difference in the mode of trial. This was especially the case in the history of Roman law, and it has been the same in England (see Action). Many forms of trial, notably those by Ordeal (*q.v.*), by wager of battle or of law (see Wager), and by grand assize, have become obsolete, and new forms have been created by legislation in order to meet altered circumstances of society. Up to a very recent date the tendency of the Roman and English systems was in opposite directions. In the former and in systems founded on it, such as the Scotch, trial by the judge became the rule, in the latter trial by judge and jury. But the Judicature and Summary Jurisdiction Acts have recently made considerable innovations upon the old common-law right to trial by Jury *(q.vf or per pais,* as it was also called. The modes of trial in England are very numerous, as to a certain extent each Court (*q.v.*) has its own procedure. Certain broad rules of justice are observed by all courts, such as that both sides are to be heard, or to have an opportunity of being heard, before decision, and that (unless in very exceptional cases) the trial is to be in public.

For purposes of convenience rather than as a scientific division trials may be divided into civil and criminal. An ordinary trial in a civil case may be either in a court of appellate jurisdiction (in which case it is perhaps more properly called a hearing), in the High Court of Justice before a judge or referee, or in an inferior court. Where the trial is in a court of first instance, it may be either with or without a jury. In Chancery and Admiralty pro­ceedings a jury is not used, and the right to a jury in the Queen’s Bench Division has been considerably restricted by the Rules of the Supreme Court, 1883, Order xxxvi. Before these rules either party had an absolute right to have issues of fact in an action in that division tried by jury. Now, unless in certain actions, mainly of tort, in which a jury is as of right, a jury can only be obtained by application of a party to the action, subject to the power of the court to direct trial without a jury of any issue requiring prolonged examination of documents or accounts or scientific or local investi­gation. The question of Venue (*q.v.)* in civil actions has ceased to be of importance since the Judicature Acts. Most courts are en­titled in proper cases to the assistance of assessors. Trial with assessors is in frequent use in the Admiralty Division. A trial whether by jury or not may be by affidavit or on *νiνα voce* evidence. The latter is the rule where the trial is by jury. In a county court a jury of five is allowed in certain cases on application. In other inferior courts of local jurisdiction a jury is sometimes the rule, as in the (London) Lord Mayor’s Court, sometimes not, as in the Chancellor’s Court at Oxford or Cambridge. In criminal cases the trial is by jury, except where a court of Summary Jurisdiction (*q.v.)* is empowered to try offences of a comparatively unimportant nature. The right to trial by due process of law before condemna­tion is secured to the subject by sec. 29 of Magna Charta. A new trial may be ordered in civil actions and in misdemeanours (in the latter case only after conviction of the defendant) on various grounds, the most usual of which are misdirection by the judge, improper ad­mission or rejection of evidence, and the finding of a verdict against the weight of evidence. In actions in the High Court new trials are less liberally granted than was the case before the Judicature Acts, Order xxxix. considerably restricting the right. An applica­tion for a new trial of an action is no longer made by *ex* *parte* motion in the first instance, as was the course before 1883, but upon notice of motion. Besides the ordinary modes of trial, there are others of an exceptional nature or of rare occurrence. In a trial by arbitration, the tribunal is chosen by the parties themselves, and they are not entitled to object to the trial as conducted by the arbitrator as long as it conforms to rules of ordinary justice. Peers are tried for treason or felony before the House of Lords, or the court of the Lord High Steward if the trial takes place during the recess of parliament. A trial at bar—a survival of the universal mode of trial before the writ of Nisi Prius (*q.v.*) was given by the Statute of Westminster the Second—takes place before three or four judges of the Queen’s Bench Division, and is in use as of right where the crown is interested in the litigation, or at the discretion of the court in other cases where questions of unusual importance or difficulty are raised. The trial of a petition of right (see Petition, vol. xviii. p. 705) is now assimilated to that in civil actions. Trials by record, by certificate, and by inspection, though not expressly abolished, appear to have become obsolete. Impeachment *(q.v.)* is still a right of the House of Commons, but has not recently been exercised. Court-Martial *(q.v.* ) is the mode of trial for offences committed by persons in the naval or military service of the crown.

In Scotland and the United States trials are either with or with­out a jury. The most usual trials in Scotland are those before a judge of the Court of Session or the High Court of Justiciary or in a sheriff court. In the United States trials are either in a United States or a State court ; in the latter case they are regulated by State legislation.

TRIBONIAN, the famous jurist and minister of Justi­nian, was born in Pamphylia in the latter part of the 5th century. Adopting the profession of an advocate, he came to Constantinople and practised in the prefectural courts there, reaching such eminence as to attract the notice of the emperor Justinian, who appointed him in 528 one of the ten commissioners directed to prepare the first *Codex* of imperial constitutions. In the edict creat­ing this commission (known as *Hæc Quæ)* Tribonian is named sixth, and is called “ virum magnificum, magisteria dignitate inter agentes decoratum ” (see *Hæc Quæ* and *Summa Reipublicæ,* prefixed to the *Codex).* When the commission of sixteen eminent lawyers was created in 530 for the far more laborious and difficult duty of com­piling a collection of extracts from the writings of the great jurists of the earlier empire, Tribonian was made presi­dent and no doubt general director of this board. He had already been raised to the office of quæstor, which at that time was a sort of ministry of law and justice, its holder being the assessor of the emperor and his organ for judi­cial purposes, something like the English lord chancellor of the later Middle Ages. The instructions given to these sixteen commissioners may be found in the constitution *Deo Auctore (Cod.,* i. 17, 1), and the method in which the work was dealt with in the constitution *Tanta (Cod.,* i. 17, 2), great praise being awarded to Tribonian, who is therein called ex-quæstor and ex-consul, and also as magister offici­orum. This last constitution was issued in December 533, when the *Digest* was promulgated as a law-book. During the progress of the work, in January 532, there broke out in Constantinople a disturbance in the hippodrome, which speedily turned to a terrible insurrection, that which goes in history by the name of Nika, the watchword of the insurgents. Tribonian was accused of having pros­tituted his office for the purposes of gain, and the mob searched for him to put him to death (Procop., *Pers.,* i. 24-26). Justinian, yielding for the moment, removed him from office, and appointed a certain Basilides in his place. After the suppression of the insurrection the work of codification was resumed. A little earlier than the publication of the *Digest,* or *Pandects,* there had been published another but much smaller law-book, the *Insti­tutes,* prepared under Justinian’s orders by Tribonian, with Theophilus and Dorotheus, professors of law (see Preface to *Institutes).* About the same time the emperor placed Tribonian at the head of a fourth commission, consisting of himself as chief and four others,—Dorotheus, professor at Beyrut, and three practising advocates, who were directed to revise and re-edit the first *Codex* of imperial constitu­tions. The new *Codex* was published in November 534 (see constitution *Cordi Nobis* prefixed to the *Codex).* With it Tribonian’s work of codification was completed. But he remained Justinian’s chief legal minister. He was re­instated as quæstor some time after 534 (Procop., *Pers.,* i. 25 ; *Anecd.,* 20), and seems to have held the office as long as he lived. He was evidently the prime mover in the various changes effected in the law by the novels of Justi­nian *(Novellæ Constitutiones),* which became much less frequent and less important after death had removed the great jurist. The date of his death has been variously assigned to 545, 546, and 547. Procopius says *(Anecd.,* 20) that, although he left a son and many grandchildren, Justinian confiscated part of the inheritance.