

The Jury in the United States and Iowa

INTRODUCTION AND BACKGROUND

The jury system in the United States is a key component of our democracy and our freedom. Juries are composed of average citizens who actively participate in deciding the outcome of legal disputes brought to trial.

Today, people who make up the jury are chosen at random from the community. After hearing evidence presented during the trial, they deliberate in secret and reach their decision, called a verdict, which the jury then presents to the judge and which generally brings an end to the trial and to the underlying dispute. The jurors then return to their regular jobs and daily lives.

As Americans, each of us has the right, guaranteed by the Constitution, to have most of our civil disputes and any criminal charge against us tried by a jury of our fellow citizens. Based on the democratic belief that a community's collective wisdom is the best judge of the actions of others in the community, juries represent the most open kind of democratic government. Only a government that trusts the people's judgment can support an impartial jury system like ours.

THE EVOLUTION OF THE JURY

"Justice" was not always as fair as it is today. Indeed, early attempts at criminal justice, in particular, were often cruel. As far back as 1000 B.C., ancient societies, and later the church, conducted "trial by ordeal." Hot irons, boiling water and dunking the accused in cold water were used to determine guilt or innocence. Sometimes, simply surviving the ordeal was considered "proof" that the accused was guilty.

Today's jury system actually has its origins in ancient Greece where, in about 400 B.C., governors of Athens asked males over 30 to listen to the arguments of alleged wrongdoers. As Aristotle explained it, these men were counseled to apply their understanding of "general justice," not to interpret the law. Huge juries of hundreds of volunteers would listen to evidence from both sides and reach a verdict. The Greeks believe that jury trials were the best way to ensure that the community's sense of justice—not just the beliefs or leanings of one person—would prevail. In Europe in the Middle Ages, the Greek system was adapted slightly, as juries were composed of neighborhood witnesses who passed judgment on the accused based on what they personally knew about him or her.

In 1215, a handful of English barons threatened to kill King John unless he signed the Magna Carta. This famous document contained one of the first written expressions of the right to a trial by one's peers. Eventually, the earliest English colonists brought the concept of the jury with them to America. British attempts to deny colonists the right to trial by jury provided the Founders with yet another reason for seeking independence. The Declaration of Independence, in fact, condemned King George "[for depriving (the American colonists)] in many cases, of the benefits of Trial by Jury," and listed that injustice among the Founders' grounds for seeking independence.

After independence was won, the Founders reaffirmed the right to an impartial jury of fellow citizens in the Sixth and Seventh Amendments to the United States Constitution:

- 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 witness in his favor, and to have the assistance of counsel in his defense.

- 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 reexamined in any Court of United States, then according to the rules of the common law.

The fact that two of the ten amendments to the Constitution representing the Bill of Rights dealt with the right to a jury demonstrates the importance of the jury to America's democratic system of government.

HISTORY OF THE JURY TRIAL IN IOWA

Trial by jury is also well-established in Iowa history. On July 13, 1787, Congress passed the North West Ordinance, which provided the right to trial by jury to the area that would become the Territory of Iowa. On May 20, 1834, when the area which is now the state of Iowa was part of the Territory of Michigan, the first trial for murder was held under the branches of a large elm tree in Dubuque. Bystanders selected a prosecutor, and the defendant chose his attorney from the people present. The defendant chose jurors from the same group of people. Three or four witnesses testified, and the jury deliberated for an hour before finding the defendant guilty and sentencing him to death by hanging.

The right to trial by jury was included in the constitution of the Territory of Iowa, which voters approved in 1846. Iowa was admitted to the United States on December 28, 1846, and the territory constitution became the first state constitution. Iowa voters adopted a new constitution in 1857, which remains in effect today. Article I, section 9 of the Iowa Bill of Rights states that "The right of trial by jury shall remain inviolate."

Nearly sixty years later the Nineteenth Amendment to the United States Constitution gave women in all states the right to vote. In Iowa, a person could serve as a juror only if he could vote, or as the Iowa Code put it, was a "qualified elector." In 1921, the Iowa Supreme Court ruled that because the Nineteenth Amendment made women qualified electors—they could vote—women also had the right and the duty to serve as jurors at trials.

PUTTING THE JURY TOGETHER—VOIR DIRE

Adult U.S. citizens representing all races, religions, occupations and ethnic backgrounds can become jurors, and more than five million Americans are called for jury duty every year. In Iowa, prospective jurors are selected by combining the lists of licensed drivers and registered voters. In some states, jurors can volunteer for service, but this practice is not followed in Iowa. Those selected receive a summons—an official demand—to report for jury duty on a specific date.

When they arrive at the courthouse, citizens report to a central location from which they are divided into smaller "jury panels" and sent to individual courtrooms where jury trials are scheduled to begin. The jury panel is always larger than the number of persons needed for the final jury. For example, in certain criminal trials, 32 or more potential jurors will be sent to a court, while only twelve are chosen for the jury. After the prospective jurors are led into the courtroom, they are given an oath, requiring each member to tell the truth, and are then questioned by lawyers (and sometimes the judge). This process is called *voir dire*, a French phrase that means "to speak the truth."

The *voir dire* process helps the judge and attorneys to choose jurors who have not prejudged the facts of the case and who are as fair and impartial as possible, to ensure a just trial. It is important that jurors not know the lawyers or each other. It is also important that they not have strong opinions about the issue—or premature views about how a case should be decided. If a juror demonstrates one of these criteria, then one of the lawyers may *challenge the juror for cause*, and the judge will usually allow the juror to be removed (or excused) from service on the jury.

Additionally, each side in a case has the right to challenge a certain number of jurors without giving any reason. These are called *peremptory challenges*. A lawyer may exercise her right to a peremptory challenge if she believes that a prospective juror has had some experience, such as a similar lawsuit, that makes it less likely that the juror could be fair in the case to be tried that day. Or the juror might indicate some race or class prejudice or some social or business connection that, while not necessarily allowing a challenge for cause, might yet be a good reason for excusing a

juror. The United States Supreme Court has held, however, that under no circumstances may the race, gender or ethnic background of a prospective juror play a part in a lawyer's decision to exercise a peremptory challenge.

In Iowa, each side is given four peremptory challenges in a misdemeanor trial, four in a civil trial, six in a felony trial, and ten in a class A felony trial, such a first-degree murder or first-degree kidnapping.

For at least 800 years, since the time of England's Henry II, the number of jurors selected to complete a jury has tended to be twelve. In recent years, however, the size of juries has been reduced to six, eight or ten in some states. In Iowa, only six people serve on simple misdemeanor juries and only eight people serve on civil juries. After the final trial jury is selected, prospective jurors who were not selected are either sent to another courtroom, where the voir dire process begins again in a different case, or are allowed to return to their homes or jobs with the thanks of the court, the attorneys and the parties.

THE TRIAL

Once the jury is selected, the judge explains the jury process. After that, the lawyers present the case. There are generally two lawyers involved in the trial—one for each side—but in more complex cases, there might be many more lawyers participating. The lawyers bring in witnesses and present evidence—through those witnesses and through documents—so that the jury can determine the facts and what they mean. The judge presides over the trial, ensuring that it proceeds properly and fairly, and sometimes stopping the action to preserve fairness.

After the lawyers have presented their entire case, the judge instructs the jury on its obligations and on the factual issues that the jury is required to decide. The jury then goes to a separate room in the courthouse to deliberate, that is, to discuss the issues before them and to reach a decision. After carefully considering the evidence presented during the trial, the jury reaches its verdict.

In most criminal cases, jury verdicts must be unanimous. Unanimous verdicts may not be required in civil cases; many states, including Iowa, allow verdicts of fewer jurors to stand in some circumstances. If the required number of jurors cannot agree on a verdict, the judge declares a mistrial, which means that the case, unless it is withdrawn, must be tried again.

CONCLUSION

Jurors are the "collective conscience" of our communities. The jury system calls upon the sound judgment and character of our neighbors, friends and relatives to decide what is truth and what is fair compensation for those who have been wronged. Juries bring the courts to the people. America's juries truly represent democracies at work.

When you are summoned to jury service, answer the call. It is your civic duty. It is your chance to participate directly in our democracy. It is your chance to serve your country and to preserve our freedom.

The right to serve on a jury is not absolute. All jurors must be "qualified" to serve. Persons who are not United States citizens, who are under eighteen years of age, who cannot read or write English, or who have been convicted of a felony may not serve as jurors. Other persons may be exempt from jury service, including full-time students and senior citizens over the age of 70. Finally, employers are not required to pay employees while serving on a jury; a person cannot be terminated, however, for fulfilling the duty of jury service.