

Trial by Jury

By Dónal Thompson



Trial by jury is a fundamental right in British and North American justice. The idea that one should be judged by one's equals is central to the concept that we are all equal under the law. Its importance can not be overstated.

Since 1215 juries have the duty, "to judge the justice of the law, and to hold all laws invalid, that are, in their opinion, unjust or oppressive, and all persons guiltless in violating, or resisting the execution of, such law."

That's important.

According to Magna Carta, where English law is rooted, the jurors do not just decide if you are innocent or guilty. They also decide if the law is correct or not. What an excellent example of common sense justice! No surprise then that the Home Office (for 'Home' read 'Interior?') wants to change that.

Governments (left and right) makes laws, appoint judges and regulate what evidence is admissible and how important it is. There is an immense temptation to manipulate even in mature democracies. So without trial by jury you effectively get trial by government.

In a 2002 survey over 80% of Britons said they thought the jury system was the most just way of conducting a trial. 73% said the jury system reflected their values.

Of course some trials, such as fraud, are very complicated. Can ordinary people understand the twists and turns of such complexities? Well, yes. If

the law is too complicated, simplify it. Right and wrong, possession and theft surely can be explained by an able lawyer to twelve members of the public. There will be miscarriages of justice of course. Human nature. But I believe there will be fewer.

Research shows that ethnic minorities feel they will receive fairer treatment from juries that contain some of them, than from a pair of white, old, middle or upper class men. Hugo Young of Britain's "Guardian" newspaper says "Juries are part of a decent British society. They add to the perception of justice. They speak for a whole community, as well as deciding an individual's innocence or guilt. They are elements of a social fabric that in some places is breaking apart."

In the six counties that constitute Northern Ireland trial by jury was suspended. It was argued that it was impossible to find an unbiased jury for crimes related to the "Troubles". It is generally accepted though that the standard of justice suffered greatly during this period.

The law belongs to you and me. So do the judges and the lawyers and the police and the courtrooms and the money used to maintain them.

The question is not how do we justify having a jury but rather how can we justify not having one.

Sir Robin Auld, a senior judge, was recently asked by the British Government to make a comprehensive review of the British legal system. About juries he reported "Criminal trials are all about the lives of other people. "Trial by your peers" may be an old-fashioned phrase, but there is nothing out-of-date about its application. The jury is much more likely to comprise people who are "the peers" of defendants, victims and witnesses than any other tribunal. Every summing-up invites 12 people to bring to bear on the case their accumulated experience of people and the world in which we all live, their combined common sense and their collective wisdom."

'Justice' is Just us.