



**Dennis Hale.** *The Jury in America: Triumph and Decline.* Lawrence: University Press of Kansas, 2016. 478 pp. \$39.95 (cloth), ISBN 978-0-7006-2200-9.

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## Fukurai on Hale's *The Jury in America: Triumph and Decline*

This book is a superb contribution to the study of the jury system and breaks new ground in our understanding of the success and failure of the revered institution of jury trial in America. The author notes that his interest in the jury system began when he was summoned for jury duty, but sent home without being called for *voir dire*. His continuing interest in the subject is apparent, as he carefully traces the historical contours of the modern American jury from the pre-colonial period to the present era. As noted throughout the book, the jury system is considered to be the epitome of democratic ideals and has developed and flourished in both England and the United States.

The first chapter begins with an analysis of the origin of the medieval jury as developed in England and the democratic residues first evident in Magna Carta and the Assize of Clarendon. This chapter goes on to analyze the gradual transformation of English legal practice and the transplantation of its jury system to three new colonies in North America—Virginia, New York, and Massachusetts. The author observes that the grand jury was empanelled with a greater frequency than petit jurors, as it was effectively equipped with extra investigative power over the conduct of public officials of colonial governments. The changing role of the trial by jury, especially from the pre-Revolutionary mid-eighteenth century to the late nineteenth century, is the focus of chapter 2. Chapter 3 then examines the changing character of popular participation in the justice system from the end of the nineteenth cen-

ture to the civil rights era of the 1960s.

The impact of emerging new legal requirements, court pronouncements, political trials, and controversial verdicts upon the functionality of the jury system is the major focus of chapter 4. The final chapter then explores a set of sociolegal and political factors that have contributed to the vanishing use of popular jury trials in American society. The book concludes with a careful analysis of four recent and prominent jury trials, emphasizing the symbolic virtue and popularity of the jury trial, which, despite its diminished adjudicative role, continues to serve an important political function in American society today. These jury trials include the controversial judgment in the case involving cross-national intellectual property rights, *Apple Computer v. Samsung*; the acquittal of George Zimmerman, accused of murdering African American teenager Trayvon Martin; the infamous McDonald's coffee spill litigation brought by 79-year-old Stella Liebeck; and the controversial trial and jury verdict in the case of Louise Woodward and the alleged murder of an eight-month-old infant boy. Throughout the book, the author makes a strong argument that jury service provides important legal education and entrenches a strong sense of empowerment through active popular participation in government. By situating the jury as the idealized political institution in a democratic society, the author echoes Alexis de Tocqueville's lucid characterization of the American jury as the epitome of the new democratic society, as the latter observed nearly two

hundred years ago.

The author issues warnings about the gradual decline in the use of the jury trial and the diminished opportunities for people's involvement in contemporary American government. A significant decline in the use of jury trials has already been observed in England and other common law countries. In England, where the modern jury was born and flourished for many hundreds of years, the functional utility of jury trials has been significantly diminished in recent years. Similarly, jury trials in civil aspects of dispute resolution have all but disappeared in England, Australia, and Canada. This trend of vanishing juries among common law countries stands in stark contrast to the rising tendency to adopt the jury system in civil law countries, including nations with no history of popular participation in their own justice systems. Since the dissolution of the Soviet Union in 1991, the system of lay participation has been introduced in many former Soviet republics, including Russia, Kazakhstan, Ukraine, Georgia, Kyrgyzstan, Tajikistan, Turk-

menistan, and Uzbekistan. Their Asian neighbors, including Japan, the Peoples of Republic of China (PRC), South Korea, and Taiwan, have also decided to introduce varied forms of popular participation, thus giving citizens new opportunities to participate in their justice systems. Furthermore, Spain, the Baltic States in Europe, Venezuela, Bolivia, and Argentina have all recently introduced the system of lay participation. Popular participation in the justice system has continued to emerge in many countries, while the vanishing trend of jury trials continues in the United States and other common law nations. Yet the author emphasizes throughout this book that the jury is still deeply embedded in the US Constitution and anchored in America's consciousness. Thus, all those who are interested in the jury system should read this extraordinary work, as well as anyone who wishes to engage in serious debates on the jury system's democratic functions, its impact on the justice system, and its sociopolitical influences in society.

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