

## IN PRAISE OF JURY DUTY

By Michael C. Maibach – Alexandria Times – January 28, 2007

A jury summons arrives, and we moan. It is a civic duty we hope to avoid. While our obligation to vote is accepted - albeit often neglected - jury service is often seen as an interruption of our daily lives we would prefer just to go away. This is a significant misjudgment of the fundamental importance of juries to our republic. More is at stake than deciding who pays to repair a car, or whether someone stole an iPod. Your sovereignty as a citizen and the long-term success of the nation is wrapped up inside this unappreciated right. We neglect it at our civic peril.

The American Revolution was fought in part for the right to hold jury trials. The Declaration of Independence listed among King George's "repeated injuries and usurpations... depriving us of the benefit of trial by jury." The Virginia Bill of Rights (1776) echoed this appeal, "That in all capital or criminal prosecutions a man hath a right to... a speedy trial by an impartial jury of twelve men of his vicinage [locale], without whose unanimous consent he cannot be found guilty... the ancient trial by jury is... held sacred." "Sacred" is a powerful word, chosen carefully. Americans who died for our independence died for this sacred right.

When the nation's freedom was secured, the new Constitution (1787) stipulated, "The trial of all crimes... shall be by jury." During the debate over the Constitution's ratification, Alexander Hamilton wrote in *The Federalist* (#83) "The friends and adversaries of the [new Constitution], if they agree in nothing else, concur in the value they set upon trial by jury... The former regard it as a valuable safeguard to liberty, the latter represent it as the very palladium of free government... For my own part, the more the operation of the institution has fallen under my observation, the more reason I have discovered for holding it in high estimation... as a barrier to the tyranny of popular magistrates in a popular government... Arbitrary impeachments, arbitrary methods of prosecuting pretended offenses, and arbitrary punishments upon arbitrary convictions, have ever appeared to me to be the great engines of judicial despotism..."

A cause for revolution, a "sacred" right, a protection against tyranny, the very palladium of free government... All of this about that most under appreciated right we call jury duty. Why did our Founders take jury trials so seriously? Why should it still matter to us today? Let us briefly examine why this democratic institution is vital to our Nation.

Above all, the jury is a political institution. The legislature makes laws, the executive carries them out. The courts decide what laws mean and who has violated them. Place citizens on juries and they become sovereign arbiters of the law in daily life. Those

who enforce the law and punish criminals are the true masters of society. When you serve on a jury, you sustain the idea that government rules by the consent of the governed. Jury service and voting are the twin bulwarks of our freedoms.

Juries serve to keep our judges and courts independent and powerful vis-à-vis the legislature and executive. The partnership between judges and juries adds significant legitimacy to the work of courts and reduces the possibility that the other branches of government might seek to render the courts weak. An attack on the judiciary is necessarily an attack on the jury system. In no country are judges more powerful than in those countries with a vibrant jury tradition.

Juries are the starting point of the egalitarian idea emblazoned over the doors of the Supreme Court – “Equal Justice Under Law”. All citizens are eligible to serve, and citizen juries connect execution of the law with the consent of the governed – case-by-case. Juries also teach us equity in practice. Juries are neighbors judging neighbors. Jury service reminds citizens they must be fair, because one day they could be the defendant. This is why both civil and criminal cases must enjoy jury trials. Most citizens will never face criminal charges; all citizens know they could find themselves in civil litigation. Jurors learn to judge their neighbors as they wish to be judged. In dealing with every aspect of community life, juries spread the sense of equal justice to all.

Clearly, more than defendants benefit from jury trials. Citizens learn about the laws that maintain the order upon which freedom stands. We speak of freedom endlessly, but freedom evaporates absent the order law imparts. Jurors also gain a sense of what it is like to rule, and how vital it is that justice be given fairly. Jury duty engenders respect for objective right and wrong in an age where situational ethics are too often the rule.

Finally, jury duty obliges us to turn our attention to the lives of others, rubbing off that private selfishness that Tocqueville called “the rust of society”. Juries establish the people’s rule, while teaching them how to rule. Jury duty is the public school of citizenship. Next time the summons comes, do all you can to be a juror. You owe it to your country, your community, and yourself.

*(c) Michael C. Maibach lives in Old Town Alexandria, Virginia. He served as a jury foreman here in 2001.*