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FOREWORD: JURIES RULE

*John B. Attanasio**

I.

TOGETHER with speaking and voting, jury service ranks among the three most fundamental powers held by an American citizen. This prerogative in Anglo-American jurisprudence dates back at least as far as the Magna Carta. Perhaps no society in human history has embraced the jury system, and an individual's right to a jury trial, as much as the United States. Many countries do not afford a right to jury trial at all; some, like England, confine the right to certain kinds of criminal cases.¹ As with many aspects of the American constitutional system, our extensive right to jury trial is part of a great experiment in the rights and responsibilities of popular government.²

The jury is a unique institution. It is selected randomly, not based on any expertise; it can have no prior knowledge of the issues that it is deciding; it does not give reasons for its decisions; it has virtually no accountability to anyone; and its decisions are difficult to reverse by a court, particularly when it acquits a criminal defendant.³

II.

The jury is one of the key protections of individual rights, shielding the individual against the government. Before government can fine, imprison, or kill a member of the community, that person has a right to a jury trial. As Alexis de Toqueville once said:

He who punishes the criminal is therefore the real master of society. Now, the institution of the jury raises the people itself, or at least a class of citizens, to the bench of judges. The institution of the jury consequently invests the people, or that class of citizens, with the

* Dean and William Hawley Atwell Professor of Constitutional Law, Dedman School of Law at Southern Methodist University. I want to thank Michelle Hartmann, Misty Birdsong, Kathleen Spartana and Jason Myers for their excellent work on this essay. Ms. Hartmann and Mr. Myers were particularly helpful in analyzing the statistics. I also want to thank Tina Brosseau for her patience in typing this manuscript.

1. See generally, Guido Calabresi & Philip Bobbitt, *Tragic Choices*, Chapt. 1 (Norton C. 1978).

2. The Sixth Amendment guarantees the right to jury trial in criminal cases. Jury trial applies not only to the federal government, but also to the states. The Seventh Amendment guarantees a right to jury trial in civil cases involving more than twenty dollars. Although the Seventh Amendment has not been incorporated against the states, many state constitutions provide for trial by jury in civil actions.

3. Calabresi & Bobbitt, *supra* note 1.

direction of society.⁴

When an individual sues the government for violation of his constitutional rights, he also has a right to a jury trial. It is the judge's responsibility to prevent the jury from convicting someone in violation of his constitutional rights. On the other hand, if the jury thinks that the government or judge is violating the defendant's constitutional rights, it can simply acquit without giving reasons.⁵

Jury trials are generally longer, more cumbersome, and more expensive than bench trials. Among the reasons supporting this less efficient process is community participation in meting out punishment, an important validating factor that can undergird community acceptance of government punishment. That the jury need not give reasons for its decision allows it to weigh equities that the letter of the law may ignore. The randomness of jury selection helps to alleviate objections of prejudice that are often associated with lack of accountability. Additionally, the goal that the jury be drawn from, but not necessarily comprise, a representative group of the community alleviates the danger of prejudice.

The institution of trial by jury—especially in criminal cases—has its hold upon public favor chiefly for two reasons. The individual can forfeit his liberty—to say nothing of his life—only at the hands of those who, unlike any official, are in no way accountable, directly or indirectly, for what they do, and who at once separate and melt anonymously in the community from which they came. Moreover, since if they acquit their verdict is final, no one is likely to suffer of whose conduct they do not morally disapprove; and this introduces a slack into the enforcement of law, tempering its rigor by the mollifying influence of current ethical conventions.⁶

Perhaps the central theme of the United States Constitution is division of power. The involvement of the jury decentralizes the most devastating exercise of government's power over its own citizens. After all, juries exercise the most crucial powers that government has over citizens—the power to execute, imprison, or fine—other citizens. The power of the jury also extends to many civil cases. Before government can recover money from a citizen or company in a civil suit, a citizen may compel government to convince a jury of ordinary citizens that these actions are warranted. As Tocqueville also observed, the jury is one of the principal school houses of American democracy: "The jury . . . may be regarded as a gratuitous public school, ever open, in which every juror learns his

4. ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 361 (Francis Bowen Trans. 1862) (1835).

5. "It is left therefore to the juries, if they think permanent judges are under any bias [sic] whatever in any cause, to take upon themselves to judge the law as well as the fact. They never exercise this power but when they suspect partiality in the judges, and by the exercise of this power they have been the firmest bulwarks of English liberty." Letter from Thomas Jefferson to Abbe Arnoux (July 19, 1789) (in *Papers of Thomas Jefferson* 15:283, Julia P. Boyd ed. 1958).

6. *United States ex rel. Mccann v. Adams*, 126 F.2d 774, 775-76 (2d Cir. 1942) (Learned Hand, J.).

rights.”⁷ Moreover, by investing citizens with power over some of the critical governmental functions, jury service requires citizens to learn something about the art of governance.

III.

During my first few months as dean of this law school, Mark Curriden of the *Dallas Morning News* told me about a jury study that he and his colleague Allen Pusey of the *Morning News* had designed. They asked that SMU Law School participate in this process. I spoke with Shawn Cleveland, then Editor-in-Chief of the *SMU Law Review*. Mr. Cleveland reacted with great enthusiasm to this idea, and we began meeting with Mark Curriden and Allen Pusey to help with the study. Mr. Cleveland’s successor, Ted Eades, advanced the project through diligent research, and his successor, Thomas Chandler, oversaw its publication in the *Law Review*. In sum, this publication required the cooperation of three different law review staffs and three different editors-in-chief.

The *Morning News* deserves tremendous credit for the study. When we first met with Messrs. Curriden and Pusey, they had already developed a draft questionnaire and had secured the support of Chief Justice Thomas Phillips of the Texas Supreme Court to encourage Texas trial judges to respond to the questionnaire. Several other professors from the law school became involved in the project, particularly William Dorsaneo. We offered suggestions as to how to modify the questionnaire to make it clearer or to gather additional information.

Much to everyone’s surprise, the first questionnaire, distributed to all Texas trial judges, achieved a response rate of 70%. Following this tremendous success, I suggested that we extend the study to federal trial judges. This move would dramatically expand the project’s scope and importance. The expansion also would give us the opportunity to compare results of the federal judiciary with those of the trial courts of the second largest state in both area and population.

Mr. Curriden and I vetted the questionnaire with Judge Patrick E. Higginbotham of the United States Court of Appeals for the Fifth Circuit, Judge Morris Arnold of the United States Court of Appeals for the Eighth Circuit, and Chief Judge Jerry Buchmeyer of the United States District Court for the Northern District of Texas. They each offered a number of changes, and we sent the questionnaire to all federal judges with a cover letter from Judge Higginbotham, urging them to respond. With only one follow-up letter, 65% of all federal trial judges responded to the survey. These amazing response rates afford the study great value. In his introduction to the symposium, Mr. Curriden describes the survey’s methodology in detail. The judges’ questionnaires are the foundation of the jury study. We purposely made the federal questionnaire quite similar to the Texas questionnaire so that we could easily compare the results.

7. TOCQUEVILLE, *supra* note 4, at 364.

The *Dallas Morning News* and *SMU Law Review* also pursued a number of other investigatory tactics. Notably, we sent a separate questionnaire to Dallas County jurors who did not appear for jury duty, trying to ascertain the reasons for the high rate of no-shows in Dallas County. The *Morning News* also obtained information about jury verdicts in Dallas County over the past fifteen years. In addition, Mr. Curriden followed jurors through a particular trial to ascertain their reactions.

Various facets of the study produced interesting results, particularly the judges' survey. Overall, judges tended to be very complimentary of juries. For example, the surveyed judges were nearly unanimous in believing that jurors did very well or moderately well in actually reaching a just and fair verdict.⁸ In addition, approximately 90% of federal and Texas judges believe the jury system is "fine just the way it is," or is "good" and only needs "minor work, although the impressions of the federal judges were far more positive."⁹ Over 90% of federal and Texas trial judges said that they agreed with jury verdicts in their cases "most of the time."¹⁰ While judges thought juries perform well, they disagree about the role of a jury. For both Texas and federal judges, the leading response was "truth-seekers,"¹¹ but other prominent roles included "score-keepers,"¹² "conscience of the community,"¹³ and "arbiters of justice."¹⁴ If a responding judge were personally a defendant in a criminal case, over 77% of Texas and federal trial judges preferred that a jury decide their case. A majority of the judges also said that they would prefer to be tried by a jury in a civil matter.¹⁵

8. 98.6% (586) of federal trial judges, and 98.3% (385) of Texas trial judges thought that jurors did "very well" or "moderately well" in reaching a just and fair verdict.

9. Texas judges responded: 29.0%—"fine just the way it is;" 58.8%—"good condition/needs minor work;" 9.4%—"fair condition/needs minor work;" 1.0%—"poor condition/needs overhaul;" 1.8%—"no answer." To the same question, federal judges responded: 47.8%—"fine;" 43.3%—"good;" 6.4%—"fair;" 0.8%—"poor;" 1.7%—"no answer."

10. Federal judges agreed with the jury: 4.7%—"all of the time;" 92.1%—"most of the time;" 1.7%—"half of the time;" 1.0%—"less than half of the time;" 0.5%—"no answer." Texas judges agreed with juries: 5.1%—"all;" 90.5%—"most;" 2.8%—"half;" 0.8%—"less than half;" 0.5%—"no answer."

11. 46.1% of Federal judges and 40.5% of Texas judges thought juries were "truth-seekers."

12. 23.6% of Federal judges and 23.8% of Texas judges thought they were "score-keepers."

13. 15.5% of Federal judges and 22.3% of Texas judges thought juries were the "conscience of the community."

14. 11.6% of Federal judges and 11.8% of Texas judges thought juries were "arbiters of justice."

15. The judges were asked: "If you were personally a litigant in a civil case, how would you prefer the dispute be decided?" Of the federal trial judges, 20.7% (123) said by a judge; 59.3% (352) by a jury; 6.9% (41) by arbitration; and 10.8% (64) said it would depend on the case. For Texas trial judges, the responses were: judge - 15.3% (60); jury - 57.9% (227); arbitration - 14.5% (57); depends - 9.7% (38). For a similarly worded question regarding criminal cases, federal trial judges responded: judge - 10.6% (63); jury - 79.3% (471); depends - 6.7% (40). The responses for Texas trial judges were: judge - 12.8% (50); jury - 77.8% (305); depends - 6.9% (27).

Not all of the findings were positive, however. A significant minority of the responding judges believed that the use of jury trials should be scaled back. For example, 30.1% of Texas trial judges stated that juries should decide fewer types of cases, and 19.7% of Texas trial judges said the right to jury trial should be reduced or eliminated. Both statements were supported by 27.4% of the federal trial judges.¹⁶ However, despite over 90% of the judges responding that they agreed with the jury verdict "most of the time," 23.7% of the Texas judges, and 62.5% of the federal judges asserted that they had decreased or eliminated a damages verdict.¹⁷

Although over 81% of federal trial judges said that most jurors favored neither side in a civil case, only 66% of Texas trial judges expressed this opinion.¹⁸ In criminal matters, over 57% of federal trial judges and over 68% of Texas trial judges said that most jurors favor the prosecution coming into a trial; in contrast, only 0.5% of federal trial judges and 1.5% of Texas trial judges stated that most jurors favored a criminal defendant coming into a trial.¹⁹ Approximately 26% of federal trial judges and over 13% of Texas judges said that they had had a jury verdict that they believed had been based on racial discrimination.²⁰ Over 53% of federal trial judges and 36% of Texas trial judges said that they had made a legal finding of a *Batson*²¹ violation during voir dire.²² Nevertheless, 73% of both federal and Texas judges thought that the number of peremptory challenges should be "left the same."²³ Interestingly, approximately 23%

16. Federal judges responded, "The right to jury trial needs to be:" "expanded" 4.9% (29), "reduced" 26.1% (155), "eliminated" 1.3% (8), "left the same" 66.5% (395), and "no answer" 1.2% (7). To the same question, Texas judges responded: "expanded" 7.1% (28), "reduced" 19.4% (76), "eliminated" 0.3% (1), "left the same" 71.4% (280), and "no answer" 1.8% (7).

17. In one question, judges were asked their opinions about the frequency of use of juries. 27.4% (163) of the federal judges polled stated that they would like to see: "fewer types decided by juries", and 2.9% (17) stated that they would like to see "more types decided by juries", while 67.8% (403) said that the "jury system is fine" 67.8% (403), and 1.9% (11) gave "no answer." For Texas trial judges the responses were: "fewer types decided by juries" 30.1% (118), "more types decided by juries" 4.1% (16), "jury system is fine," 62.5% (245) and 3.3% (13) "no answer."

18. Of the federal trial judges, 10.3% (61) said most jurors "favor the plaintiff," 4.7% (28) "favor the defendant," and 81.6% (485) "favor neither side." Texas trial judges responded: "favor the plaintiff" - 6.9% (27); "favor the defendant" - 19.9% (78); "favor neither side" - 66.3% (260).

19. Federal trial judges responded: 57.4% (341) of jurors "favor the prosecution/state;" 0.5% (3) "favor the defendant;" and 40.4% (240) "favor neither side." For Texas trial judges: 68.4% (268) "favor the prosecution/state;" 1.5% (6) "favor the defendant;" 28.1% (110) "favor neither side."

20. When asked "have you ever had a jury verdict you believe was based on racial discrimination?" 26.4% (157) of federal trial judges responded "yes," and 72.1% (428) said "no." Of the Texas trial judges in the survey, 13.5% (53) said that they had, while 85.5% (335) said they had not.

21. *Batson v. Kentucky*, 476 U.S. 79 (1986).

22. For federal trial judges, 53.5% (318) said they had made a *Batson* finding, while 46.0% (273) said that they had not. Texas trial judges responded: "yes" - 36.0% (141); "no" - 63.5% (249).

23. 3.4% of federal judges thought that peremptory challenges should be "increased," 9.4% thought they should be "decreased," 13.0% thought that they should be "left the

of both federal and Texas judges said that they had presided over what they considered a "runaway jury."²⁴ Even more surprising, over 34% of federal trial judges, and over 22% of Texas trial judges said that they have presided over a case of jury nullification.²⁵

The study also provides information about what judges think juries should be able to do during trial. Over 92% of federal trial judges, and over 85% of Texas trial judges stated that they thought that jurors "should be allowed to take notes during a trial."²⁶ Over 61% of federal trial judges, and over 56% of state trial judges thought that jurors should "be allowed to ask questions during a trial" with appropriate judicial screening.²⁷ Over 40% of federal trial judges, and over 38% of Texas trial judges thought that "jurors should be allowed to discuss the evidence with each other during the trial" so long as there was "appropriate judicial cautioning about not reaching a conclusion."²⁸ In one sharp contrast between federal and Texas judges, 76% of federal judges favored anonymous juries, while only 44% of Texas judges favored anonymous juries.²⁹

Perhaps the most troubling findings occurred in the no-show study. For starters, the no-show rate for Dallas County was 80%. The lack of representation of the poor on juries in Dallas county was particularly alarming. This finding also contradicts a common stereotype that the unemployed are over-represented on juries. This lack of representation of the poor may be partly attributable to the compensation of only \$6.00-per-day to serve on the jury in Texas.³⁰

same," and 0.7% had "no answer." 1.0% of Texas trial judges thought peremptory challenges should be "increased," 20.3% thought they should be "decreased," 4.6% thought they should be "eliminated," 73.2% thought they should be "left the same," and 0.8% had "no answer."

24. When asked, "Have you ever had what you consider a runaway jury?," 23.1% (137) of federal trial judges said "yes;" 76.4% (454) said "no." Among Texas trial judges, 23.0% (90) said "yes;" 76.3% (299) responded "no."

25. Of the federal trial judges, 34.8% (207) said they had presided over a case of jury nullification and 63.5% (377) said they had not. Texas trial judges responded: "yes" - 22.4% (88); "no" - 76.0% (298).

26. Federal trial judges responded "yes, in every case" - 66.5% (395); "yes, in some cases, not in others" - 25.9% (154); "no, not at all" - 7.2% (43). Texas trial judges responded: "yes, in every case" - 56.4% (221); "yes, in some cases, not in others" - 28.8% (113); "no, not at all" - 14.5% (57).

27. When asked "[w]ith appropriate judicial screening, should jurors be allowed to ask questions during a trial?," 24.1% (143) of federal trial judges responded "yes, in every case;" 37.2% (221) said "yes, in some cases, not in others;" and 38.0% (226) said "no, not at all." Texas trial judges responded: "yes, in every case" - 19.1% (75); "yes, in some cases, not in others" - 37.2% (146); "no, not at all" - 43.4% (170).

28. Of the federal trial judges, 21.0% (125) responded "yes, in every case;" 19.4% (115) said "yes, in some cases, not in others;" and 59.1% (351) said "no, not at all." Texas trial judges responded "yes, in every case" - 22.2% (87); "yes, in some cases, not in others" - 16.1% (63); "no, not at all" - 61.5% (241).

29. Texas trial judges responded they "favor in all cases" - 9.7%; 34.2% "favor in some cases;" 45.4% "oppose in all cases;" 10.2% gave "no answer." Of federal trial judges, 5.1% "favor in all cases;" 70.5% "favor in some cases;" 20.2% "oppose in all cases;" and 4.0% gave "no answer."

30. Some solutions supported by a majority of responding judges include increasing the compensation, requiring employers to pay jurors' wages, paying jurors' parking, and providing childcare.

Even more problematical is the under-representation of Hispanics found by the study. We do not know whether these results are peculiar to the Dallas community or are indicative of national phenomena. Several bodies of Supreme Court jurisprudence have tried to ensure that juries fairly represent all minority groups and women.³¹ In a society diverse as ours, such representation is particularly important to promote acceptance of the fairness of this vital process upon which we place so much weight.

IV.

These various studies resulted in a series of articles in the *Dallas Morning News*.³² They also led to the symposium contained in this volume in which members of the *SMU Law Review* have sifted through the immense information elicited by these studies. For example, the authors have started to cross-reference variables to understand their relationships and have examined the similarities and differences between the responses of federal and Texas trial judges. Although these articles highlight some of the valuable information contained in the study, fully analyzing this immense amount of data will take a long time. The articles contained in this issue represent part of a process that we hope will continue to bear great fruit.

In Echoes of the Founding: The Jury in Civil Cases as Conferer of Le-

31. See generally, *Batson v. Kentucky*, 476 U.S. 79 (1986) (invalidating race-based peremptory challenges); *J.E.B. v. Alabama*, 511 U.S. 127 (1994) (invalidating gender-based peremptory challenges).

32. Mark Curriden, *Tipping the Scales: Right to Trial By Jury Fades Under Court Rulings*, *New Laws*, DALLAS MORNING NEWS, May 7, 2000, at A1; *Power Shift: Laws Are Snatching Authority From Jurors and Transferring it to the Hands of Judges*, May 7, 2000, at A5; *Jury Awards Fall Under Weight of Obscure Law: Sometimes, Jurors' Desire to Mete Out Justice is Dashed by State's Limits on Amounts*, May 7, 2000, at A7; *A Weapon Against Liability: Fine Print Often Removes Jury Resolution as Option for Complaints*, May 7, 2000, at A9; *Statutes Can Shield Companies: Sometimes Merit Can Be Irrelevant*, May 7, 2000, at A11; *Judges Rule in Favor of Juries: Surveys by Morning News, SMU Law School Find Overwhelming Support for Citizen's Role in Court System*, May 7, 2000, at A12; *'Runaway' No More: Despite Reputation, Juries Getting Less Likely to Give Big Awards or Buy Novel Defenses*, May 8, 2000, at A14; *Juror's Decisions Defied Lawyers' Stereotypes: Support for Doctors Surprised Defense*, May 8, 2000, at A17; *Deliberate Influence: Juries are Increasingly Using Verdicts to Demand Change, Make Statements*, June 25, 2000, at A19; *Juries that Circumvent, Ignore Law Have Precedent: But Experts Agree on Whether Legal Trend is Healthy*, June 25, 2000, at A24; *Author Debunks Myths About Juries*, September 10, 2000, at A26; *A Poor Reflection: Number of Minority, Lower-Income Jurors Doesn't Mirror County Population*, Oct. 22, 2000, at A27; *High Court Ruling Affects How Jurors Selected: Blacks Were Routinely Rejected, Study Showed*, Oct. 22, 2000, at A32; *Duty Calls, Few Answer: County Must Fill Juries, but Many People Don't Show Up or Say They Can't Make It*, Oct. 23, 2000, at A33; *No Excuses: New Yorkers Who Try to Avoid Jury Duty Find that System Has Gotten Serious About Service*, Oct. 24, 2000, at A37; *Extra Money Helps El Paso Lure More Prospective Jurors: County Success May Spur Legislature to Raise Statewide Pay Rate*, Oct. 24, 2000, at A41; *Lawyer Challenges Jury Pool Legality: County Statistics Cited for Upcoming Trial*, Nov. 10, 2000, at A42; *One Jury's Journey: Thrust Together to Do a Job None Sought, 12 Strangers Struggle to Deliver Justice*, Dec. 17, 2000, at A44; *A Model for Reform: Judge's Ideas Sparked Changes in Arizona's Jury System and Calls for Change in Texas and Other States*, Jan. 7, 2001, at A53.

gitimacy,³³ Dr. Victoria A. Farrar-Myers and Jason B. Myers examine the jury as a political institution. The article develops a statistical model to analyze some of the survey results and to determine the characteristics of judges who supported reducing or eliminating an individual's right to a trial by jury in civil cases. The article concludes that critics of the civil jury system focus too narrowly on the inefficiencies that juries bring to the judicial process and fail to address the important political role that juries play in expressing popular sovereignty.

In *Is It A Short Trip Back to the Manor Farm? A Study of Judicial Attitudes and Behaviors Concerning the Civil Jury System*,³⁴ Michelle L. Hartmann juxtaposes responses to questions gauging judicial attitudes with those targeting judicial behavior in an effort to understand apparent reductions in an individual's jury right. The article analyzes certain responses by the judge's office (federal or state); gender; political ideology; background in public or private service; and, for Texas judges, the population density of the town where their court sits.

In *Revisiting the Jury System in Texas: A Study of the Jury Pool in Dallas County*,³⁵ Ted Eades explores problems of juror under-representation and participation in Dallas County. First, Hispanic, low-income, and younger residents are underrepresented in the Dallas County jury pools. The study shows that while 23% of the population in Dallas County is Hispanic only 9% of the jury pool is Hispanic. Second, 80% those summoned for jury duty in Dallas County refuse to show up. The second part of this paper focuses on ways to increase participation.

In *Juries: On the Verge of Extinction? A Discussion of Jury Reform*,³⁶ Tom M. Dees, III assesses the American jury system's strengths and weaknesses, and offers several suggestions to improve its overall effectiveness. Focusing on Texas law and supplemented with additional references to reform measures in other states, the article divides the trial into separate stages and discusses noteworthy jury reform innovations in each stage.

In *The Jury Consultant—Friend or Foe of Justice*,³⁷ Stephanie Leonard Yarbrough explores at length the many services offered by professional jury consulting firms including: (1) visual aid development; (2) witness preparation; (3) prospective juror questionnaires; (4) community surveys; (5) focus groups; (6) mock trials; and (7) involvement in jury selection. The article examines the positive effect of technology on the jury consult-

33. Victoria A. Farrar-Myers & Jason B. Myers, *Echoes of the Founding: The Jury in Civil Cases as Conferrer of Legitimacy*, 54 SMU L. REV. 1857 (2001).

34. Michelle L. Hartmann, *Is It A Short Trip Back to the Manor Farm? A Study of Judicial Attitudes and Behaviors Concerning the Civil Jury System*, 54 SMU L. REV. 1827 (2001).

35. Ted M. Eades, *Revisiting the Jury System in Texas: A Study of the Jury Pool in Dallas County*, 54 SMU L. REV. 1813 (2001).

36. Tom M. Dees, III, *Juries: On the Verge of Extinction? A Discussion of Jury Reform*, 54 SMU L. REV. 1755 (2001).

37. Stephanie Leonard Yarbrough, *The Jury Consultant—Friend or Foe of Justice*, 54 SMU L. REV. 1885 (2001).

ant's work. Finally, and perhaps most important, the article discusses the risks and potential discriminatory implications of utilizing professional jury consultants.

The jury study has already attracted attention from law professors around the country. Results have also been published in other venues including the *ABA Journal*³⁸ and the *New York Times*.³⁹ Because of the cost of empirical work, law schools do not have a strong history in this enterprise. Even studies on a smaller scale than this one only come along sporadically.⁴⁰ Perhaps, the most acclaimed empirical jury project was that published by the University of Chicago Law School thirty-five years ago.⁴¹ The inquiry questioned how often judge and jury decisions agree or differ by obtaining from 600 trial judges reports on some 8,000 jury trials conducted throughout the nation. The 78 percent verdict agreement rate was a finding of great significance.⁴² As with the *Kalven* study, this project provides an enormous amount of information about the operation of the jury system, particularly the judicial community's understanding of the jury system. This study and the articles that appear in this issue will provide an important resource for judges, scholars, journalists, and policy-makers for a long time to come.

In closing, on behalf of the entire Dedman School of Law community at SMU, I would like to thank Mark Curriden, Alan Pusey, Chuck Camp, and the *Dallas Morning News* for allowing us to participate in this study. The collaboration was quite productive and the *Morning News* pursued this inquiry with the highest level of professionalism. This joint venture between the academy and the press is itself a useful template for future cooperation.

38. See Mark Curriden, *Putting the Squeeze on Juries*, 86 A.B.A.J. 52 (2000).

39. See William Glaberson, *Juries, Their Powers Under Siege, Find Their Role Is Being Avoided*, N.Y. TIMES, March 2, 2001, at A1.

40. See, e.g., Paula L. Hannaford et al., *How Judges View Civil Juries*, 48 DEPAUL L. REV. 247 (1998); Michael J. Saks, *Public Opinion About the Civil Jury: Can Reality be Found in the Illusions?*, 48 DEPAUL L. REV. 221 (1998); R. Perry Sentell, Jr., *The Georgia Jury and Negligence: The View From the Bench*, 26 GA. L. REV. 85 (1991) (a state-level study).

41. HARRY KALVEN, JR. & HANS ZEISEL, *THE AMERICAN JURY* (1966).

42. *Id.* at 58.

