

After centuries, the jury is still in

By CHIEF JUSTICE DANA FABE

Today is Law Day, when communities nationwide pay tribute to our justice system. Throughout Alaska, judges and lawyers will visit classrooms and community groups to talk about the laws that affect us and the courts that uphold them.

This week is also Juror Appreciation Week, a time to recognize the thousands of Alaskans who each year set aside their daily lives to help make our justice system work.

A brief look at history shows just how important jurors' service is to the pursuit of fairness and truth.

In medieval times, a person accused of a crime submitted to trial by ordeal or trial by combat. In a trial by ordeal, a suspect who walked over red-hot plowshares without injury or sank when thrown into water would be found innocent of the charges. The unfortunate person who suffered burns from the fire or floated after dunking would be declared guilty and whisked away by authorities. In a trial by combat, the loser in a mortal battle was found guilty, while the winner was presumed innocent and spared punishment.

Fortunately for us today, wise people questioned the reliability of these approaches. While the Romans were fond of their gladiators, they also developed one of the earliest precursors to what we know today as trial by jury. A magistrate would define the law but refer



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factual questions to a group of citizens, who together weighed the evidence and passed judgment. The Scandinavians were among the first to assign such decision making to groups of twelve, followed by Morgan of Glamorgan, Prince of Wales, who in A.D. 725 established juries in England, to be composed of "the king and twelve wise men."

The right to a trial by one's peers became so fundamental to the concept of justice that efforts to infringe upon it drew opposition and even revolt. When the Magna Carta was signed in 1215, among the complaints against King John was his disregard for the right to jury trial. More than 500 years later, signers of the Declaration of Independence attacked the king of England for "depriving us in many cases, of the benefits of Trial by Jury." After the Revolutionary War, the right to trial by an impartial jury was guaranteed by the Sixth and Seventh amendments to the U.S. Constitution. The Alaska Constitution contains the same guarantee.

When federal courts were established in Alaska in the 1890s, assembling juries from the hordes of newcomers was a difficult task. Communities were remote, transportation was limited, and courthouses were few and far between.

In an early case out of Aniak, an old

miner was found dead in his tent, miles from the village. Though the local judicial officer was prepared to travel to the site for a coroner's inquest, he had no jury pool to draw from. So he hitched up his dog team and set out to recruit jurors along the way. He not only enlisted enough jurors but drafted their dog teams as well, and the group reached the tent after a long winter journey. The jury convened quickly, only to determine that the old man, freezing and out of supplies, had died by his own hand.

Ensuring enough jurors for all trials is still a challenge in Alaska. Jurors in rural areas often must leave their villages to report for jury duty. And even in urban areas, setting aside daily activities for days or weeks at a time can pose a hardship for those who serve. Yet each day in our courts, our citizens prove that justice in Alaska is a community enterprise, that the responsibility for our justice system rests with all of us.

Serving on a jury is one of the most important and influential roles that a citizen can have. So the next time you receive a jury summons, remember the jury alternatives of medieval times and the juror hardships of a century ago. Then come to the courthouse and serve proudly and know that your efforts are appreciated.