"THE AMERICAN JURY" IN REVIEW

All the Conclusions Seem Absurdly Obvious

MARK DEWOLFE HOWE
The Scientific American

"I am neither competent nor inclined to question the authors’ confidence that they have, within the presuppositions that controlled their inquiry, succeeded in the behavioral aspects of their study. My own confidence in the work rests on the somewhat deflationary fact that virtually all the conclusions the authors have reached by their elaborate statistical and sociological procedures seem absurdly obvious.

This is not to discount instances in which the intelligent and imaginative industry that animated this study has uncovered data casting fresh light on the psychology of the American juror. One is both surprised and reassured to be told that jurors show ‘a modest tendency’ to treat favorably those defendants who have been made the victims of one or another form of police skullduggery or brutality. They also have a wholesome, if somewhat lawless, inclination to look charitably on those defendants who have done injury to persons whose carelessness, violence or aggression induced the defendant’s criminal act. Perhaps the tendency of jurors to allow the instinct of self-help to play a larger part in the control of social behavior than government has officially assigned it reflects a streak of anarchy in the American spirit. In any case, the existence of the tendency is frequently apparent in the data.

... in any of the saloons...

HARRIS B. STEINBERG, Esq.

It is as though one were to try to describe a woman by charting her temperature, height, weight, food ingestion, and sex habits... Aside from the statistics, however, the information furnished and the conclusion offered are for the most part such as seasoned trial lawyers, queried for an hour over a number of drinks in any of the saloons which abound near courthouses, could furnish from their own experience.

The Leading Treatise

W. GILBERT FAULK, JR.
24 Washington and Lee L. R. 158 (1967)

“This reviewer highly recommends this book to all members of the legal profession. The American Jury is undoubtedly the leading treatise on the use of jury in criminal trials.”

The Most Impressive Scientific Effort by a College of Law to Date

THE HONORABLE LEE LOEVINGER
Commissioner, Federal Communications Commission
19 University of Florida L. R. 537 (1967)

"Perhaps the most impressive scientific effort made by a college of law to date has been the study of the American jury system at the University of Chicago Law School pursuant to a grant from the Ford Foundation. The recently published report of the first results of this study should be required reading for every law professor, law student, practicing lawyer and judge, both for the substantive information contained about jury behavior, and, perhaps more importantly, for the illustration it gives of the employment of the empiric method in relation to a legal problem. Unfortunately this first report is confined to data concerning jury behavior in criminal cases, but other reports from the study and similar investigations are promised to be forthcoming.

The Chicago jury project appears to be unique in American law schools as an undertaking of rigorously scientific research in a strictly legal field. Some work has been done at other American law schools, notably Yale and UCLA, but there has not yet been any production of significant empiric legal data comparable to that of the Chicago project."

An Outstanding Contribution

THE HONORABLE ARTHUR J. GOLDBERG
United States Representative to the United Nations

"I have scanned The American Jury and found it a most interesting and excellent book: informative, well-organized, clearly written. It must certainly rank as an outstanding contribution to legal scholarship.

The important thing, however, is the significant first step that has been taken with this work. I believe The American Jury is absolutely indispensable to anyone who would desire full comprehension of the functioning of the American jury. Not only the entire bar but intelligent and interested laymen as well should be profoundly grateful for the efforts of Professors Kalven and Zeisel."

An Almost Unmitigated Delight

JON R. WALTZ
Professor of Law, Northwestern University
62 Northwestern University Law Review 122 (1967)

"This study has intrinsic importance and it is an exciting harbinger of things to come. Surprisingly enough, it
is also an almost unmitigated delight to read because, serious as their purposes are, the authors have given some rein to their well-tuned senses of humor. They thus are careful to remark that their sample of criminal jury business 'ranges... from first degree murder all the way down to a prosecution for the illegal keeping of a mud turtle.'"

**The Sort of Law Book That Appears Once in a Decade**

**THE HONORABLE HENRY J. FRIENDLY**  
Judge, United States Court of Appeals  
for the Second Circuit  
33 University of Chicago L. R. 884 (1966)

"This is the sort of law book that appears once in a decade. If perchance the sensitive ears of Professors Kalven and Zeisel detect in that statement something of a double entendre—embodying, in their terminology, the imposition of a fact judgment on a value judgment—it really wasn't meant that way. This volume has indeed been long in coming. But if the authors had written the book rapidly, they would not have written the book they have. A pioneering work like this needs time. Entirely new tools had to be engineered, tested and remodeled; data had to be collected, analyzed, and reanalyzed. Then came the task of writing; one may guess that few chapters still have the form in which they sprang even from such a pair of fast and fertile minds. Wine from this new species of grape first had to mature in the cask. Now, bottled at precisely the right age, it will keep growing. This is a book to be savored and reread, not one to be gulped at a single sitting. Brilliantly avoiding Professor T. R. Powell's barb at the kind of research where 'counters don't think and thinkers don't count,' it shows how, in the hands of imaginative scholars and skillful writers, figures can enrich old insights and afford new ones. There is only one more thing for me to say about this book—read it."

**Challenges No Sacred Cows**

**ABRAHAM S. GOLDSTEIN**  
Professor of Law, Yale University  
Commentary, April, 1967

"Within its terms, as an exploration of the intricacies and hazards of research into a complex legal institution, this is a graceful and sophisticated book. And as a first entry into serious empirical research on the jury, it is a work of unquestioned importance. Nevertheless, a great deal more remains to be done if the authors are to achieve their objective, which was 'to find out as carefully as we could how the jury actually performs.' For example, this volume leaves out entirely any consideration of the jury's internal decision-making processes or the relation between background characteristics of individual judges and jurors and the decisions they reach. But other volumes are scheduled to follow; and this one has succeeded in pointing the way toward the sort of ongoing research enterprise which should, in time, unlock the mysteries of jury behavior.

It is regrettable, however, that the authors' purpose, was not to evaluate. The result is a book which presents no major thesis, which challenges no sacred cows, and which presses on to few generalizations. 'It will be time enough,' they tell us, after the report on the civil jury is done, 'if then, to confront the larger significances of our lengthy inquiry into the jury.' . . . The tracing of connections between this study of jury behavior and various theories of judicial behavior will have to await another day.' Yet without such confrontation and tracing, this book is merely a building block, albeit a significant one, in the larger structure dreamed of by the legal realists."

**New Clothes for the Emperor**

**DELMAR KARLEN**  
Professor of Law, New York University  
35 Fordham Law Review 769 (1967)

"The title of this book, The American Jury, is misleading... A better title would be: Statistical and Sociological Methodology as Applied to a Study of the American Jury in Criminal Cases.

The trials which were studied took place mainly in 1954-55 and 1958, thus indicating that the book was in gestation for a dozen years or more. It is only the second book to come out of the much publicized and lavishly financed (by the Ford Foundation) University of Chicago Jury Project... .

The book may be of value to statisticians and sociologists, but I doubt that it will be of much use or interest to lawyers or law students. It tells them only what they know already, or can easily find out by visiting a courthouse or talking to an experienced trial lawyer or reading a few good courtroom novels—namely, that in most cases, judges and juries react alike; that in a minority of cases, they react differently, with juries tending toward leniency more often than judges; and that the reactions of both judges and juries vary with the type of case and the nature of the defendant involved. Why this should take so much time and money to find out or why it should take so many pages to say is beyond my comprehension. Also
"AMERICAN JURY"

mystifying is why the book should have elicited several ecstatic reviews. I suppose it is another case of new clothes for the Emperor."

Solid, Informative and Brilliant

Martin Mayer

Book Week, September 18, 1966

"The quality of a work of social science can be judged by four criteria: the importance of the subject, the quality of the information offered, the degree to which that information is new, and the penetration of the insights the information serves. Most of the classics of the field have won their status in just one of these four playing fields. The American Jury, product of more than a decade's work by two professors at the University of Chicago Law School, is a dazzling accomplishment in all four: it is significant, solid, informative, and brilliant. Moreover, it is literate: in this book the reader makes unobstructed contact with a first-rate mind which is at play while it is at work.

Or, rather, two first-rate minds: Harry Kalven jr., law professor, specialty in torts (personal injury; in the modern world, automobile accidents), and Hans Zeisel, statistician and sociologist, author of Say It With Figures, which is to the presentation of scientific information as Fowler is to English prose. Both are quick, learned, aggressive, thoughtful, much given to ridicule as a device in argument, but never overcommitted to what they said yesterday (you can't get away with that in a good law school)."

Efforts Such as This Give Courage and Hope

James A. Robinson

Mershon Professor of Political Science
Ohio State University
21 Rutgers University Law Review 596 (1967)

"This review of The American Jury's many findings hardly does justice either to its scope or its details. Kalven and Zeisel certainly address themselves to the conventional and familiar concerns with the jury trial as a social and decision process. They do more, however. They confront the obvious with unexpected and ingenious formulations, as their results are much more than a mere catalog of empirical affirmations or rebuttals of legal lore. What emerges from this research report (in a sense it is not a book) is a modified impression of the jury trial in criminal cases. The reader's old images are clarified and refined; the student also acquires new images. On the basis of this research book, we should look forward to the companion volume on the jury in civil cases.

I think it not too much to say that efforts such as this, especially as they increase in number, scope, and application, give courage and hope to those who believe that societies and social institutions may appraise themselves, to the end that they may be modified or adapted, revised or reinforced, and thus realize the highest human aspirations, including justice, fairness, and respect."

Style and Organization is Superb

Dickson Phillips

Dean, School of Law
University of North Carolina
52 Cornell L. Q. 1037 (1967)

"The style and organization of the book is superb. The authors themselves, in developing their 'new scholarship and literature' for the lawyer and the social scientist, recognize the problem of style. They attempt to blend legal writing with a statistical-scientific style, and succeed, as well as possible, in avoiding the danger of mutual obtusation. The result is good, lucid, expository writing. The well-conceived and carefully used footnote materials provide rudimentary aids to cross-understanding of technical concepts without interrupting the flow of the text.

The authors have similarly done an unusually fine job of fitting their essential statistical tables into the flow of text. The text provides effective support for the tables, explaining and clarifying those that are not immediately understandable. This is extremely valuable in a book of only 559 pages which contains a total of 155 tables, many of them playing a critical role in the expository scheme.

In sum, the authors have managed to steer a consistent mid-course between over-sophistication and annoying condescension. They have confided in their readers, revealing the doubts, frustrations, surprises, and feelings of accomplishment that they have experienced. Yet, the intimacy thus generated is not cloying. The authors maintain a level of scholarly sophistication, with the result that the book is both readable and informative."

This Book Will Become a Familiar Tool

Harry P. Stumpff

University of New Mexico
20 Western Political Quarterly 994 (1967)

"Neither a long list of laudatory adjectives nor a review twice this length would adequately convey the methodological and substantive value of this study. In method, the presentation is assiduous, perhaps elementary, each step from sampling to questionnaire construction to data analysis being discussed thoroughly and critically, usually within the context of the relevant methodological literature. This feature of The American Jury not only enhances the credibility of the findings themselves, but also..."
"THE AMERICAN JURY" IN REVIEW

renders the study pedagogically useful for undergraduate and graduate courses in social science research method—one might also hope in courses in legal research.

In all, 227 specific variables were identified and discussed! Many of these were heretofore but hunches in the mind of the practicing lawyer, but are now systematically catalogued; others are isolated and studied herein for the first time.

If this reviewer rightly interprets the current mood and habits of his social science colleagues, this book will become a familiar tool in the hands of the many political scientists, sociologists, and social psychologists interested in the law. As for the lawyer and legal scholar, it remains to be seen whether even this monumental study, representing the best in socio-legal research and writing, can succeed in penetrating the curtain of Austinian jurisprudence which has for so long isolated most of legal education and research from the methods and findings of modern social science."

Who Would Have Thought Statistical Prose Could Be So Interesting

Patrick D. McNamara, S.J.
Professor of Law, St. Louis University
11 St. Louis University Law Journal 282 (1967)

"There are earlier studies which have gone the route of legal sociology. These have made their mark and provided a bridge from which to work. But the present book has several things in its favor to make it the pioneering effort in this direction. First is the massive research efforts which only the beneficence of Ford Foundation could underwrite. Second is the area studied—the jury system. This is a vital sector of public life lying between the technical legal world and society at large. Third, the authors are highly qualified and very meticulous in spelling out the worksteps that took them to their conclusions. Yet the book will not win total acceptance from all lawyers. Indeed, its very quality may make debate more acrid over fundamental issues of values. For there are many who feel that law and social science do not make comfortable bed partners.

Social scientists and lawyers have shown little affinity for cooperative research. The American Jury is a giant step toward reconciliation, wherever one places the blame for its late arrival.

The crisp style that fills the gaps between tables makes the book a delight to read. Who would have thought statistical prose could be so interesting!"

A Standard That Other Inquiries Will Be Proud to Emulate

Edward Grew
Senior Lecturer in Law at Leicester University
From Criminal Law Review 555, October, 1967

"The jury system is a topic on which many able and experienced observers have over a long period voiced strong opinions. What has been lacking has been an adequate empirical basis for argument.

The daunting task has been performed with immense skill for the American jury in criminal trials. The resulting book is the central product of the University of Chicago Law School Jury Project, which has laboured heroically for more than a decade with the assistance of a magnificent grant from the Ford Foundation. The authors are professors of law (Kalven) and of law and sociology (Zeisel). Both the research, in which they took leading roles, and the book represent as happy a marriage of disciplines as it is possible to conceive.

It will be worth while saying a few words about the book as a work of literature and of exposition. In both respects it is a tout de force. I am prepared to confess that I have never before read a substantial work involving the presentation and analysis of figures without dependency and boredom. That will give point to my saying that I read this book through with enthusiasm and constant pleasure. The pattern of the argument is gently and lucidly unfolded before one’s eyes. The figures are clearly presented, simply but uncondescendingly explained. The mathematics, such as they are, are made mathematics for the million. In this forest of evidence and argument it is well-nigh impossible either to lose one’s way or to hit one’s head against a tree. What is more, the sights by the way are a positive pleasure. For this there are three reasons. First, the research method, as we shall see, involved taking the evidence of judges about the cases studied; and the judicial descriptions and comments—brief, varied, colourful and human—constitute much of the evidence presented. Secondly, the book is written in a style that puts most American, and many other, academic authors to shame. It is limpid, muscular, rich in metaphor, free of unsuitable sentences and outrageous words. It is rare to find a book of this sort in which the authors have seemed to resolve that they would be above all else comprehensible; rarer to find a resulting work of art. Thirdly, the book is beautifully produced. The publishers, conspiring with the authors in their aim of clarity, have been generous with print and space. It is nice to be able both to gobble the pages and to enjoy the taste as one does so.

The skill demonstrated throughout the research and analysis are such as to leave a mere lawyer limp with admiration. The Chicago Jury Project has set a standard that other inquiries into legal institutions will be proud to emulate. The appearance of the principal fruit of the Project, so long awaited, is a special event, the importance of which it has been sought to mark in however inadequate a way by the publication of an extended review in these pages on the other side of the Atlantic."