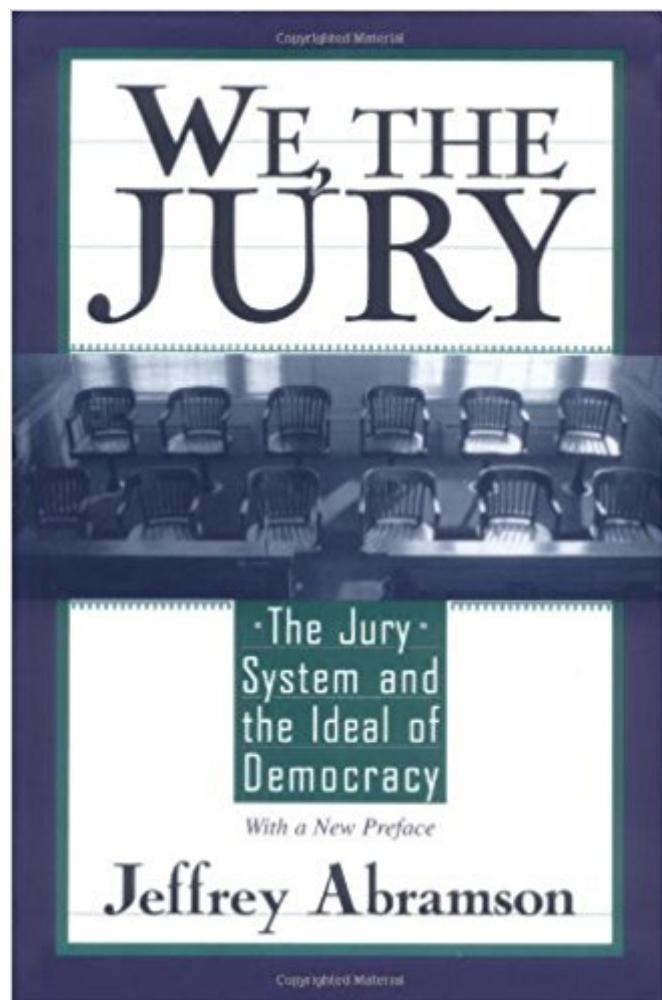


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# We, The Jury: The Jury System And The Ideal Of Democracy



## Synopsis

In a new preface to this foundational book on the American jury, Abramson responds to his critics, defends his views on the jury as an embodiment of deliberative democracy in action, and reflects on recent jury trials and reforms.

## Book Information

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## Customer Reviews

There is a canard that to not know history it to be doomed to repeat it. Usually I have found that most people who read history do so in a manner that distorts it to fit their own views on contemporary issues (Newt Gingrich is a good example of this). This is not necessarily a bad thing but the reader should be self-aware. There is some truth to the canard. It is impossible to read in early American history without realizing that many of the same issues that the founding generations dealt with are still being played out in the political arena. I came to this book because I was looking for detailed background on the historical evolution of the jury, especially in regards to jury nullification. Over and over again in the ratification debates, various founders discuss the need for the jury to be able to decide on the law itself not just the facts of the case. Abramson gives an excellent succinct discussion of the history, as well as the history of other aspects of the jury's role; e.g., the unanimous verdict, preemptory challenges and the application of the death penalty. What makes these discussions particularly incisive (ironic?) is that Abramson contrasts our historical realities with an ideal of jury deliberation. In his ideal type, the jury is a model of deliberative

democracy. People bring to their jury duty the sum total of their knowledge and experience and work together to fashion a unanimous verdict based on a worked out sense of community justice. Abramson, I believe, regards this model as the ideal that juries have striven for over the centuries. One aspect of this ideal that he emphasizes is that it is only on a jury that most of us get to actually participate in the act of governance. As a juror, I decide when and how to apply the law to my fellow citizens.

I found it to be such a relief to have my feelings and thoughts about what a jury should be so clearly and strongly argued and presented. Just wish his views were affecting policy and practice more in the courts and in the culture. Abramson with the support of statistics shows that prejudicial treatment is in the penalty phase: that is, granting mercy to significantly more whites than blacks, and the least mercy of all to blacks who kill whites. To me this was a weak point in Abramson's thought: It may not be fair to grant mercy unequally, but mercy is different from justice. Is it better to grant no mercy at all to anyone convicted of such heinous offensive crimes? Abramson would have the opposite: Mercy for all. He believes no one at all should face the death penalty but claims this is not the book to address that question. I think it would be more honest if he clearly presented his best reasoning on the death penalty because in his last major chapter, on race and the death penalty, his views distort the topic of the jury and democracy. The best example of that is when he describes the gruesome murder and trial of 16-year old Cheryl Ferguson in 1980. Three other janitors claimed they saw the girl head up a stairwell for a restroom and saw a black janitor Brandley follow her and heard screams. The state neglected to get blood samples or pubic hair from the other janitors to compare with what they found on the victim, and refused to follow up on statements that would have led them away from their chosen black to frame.

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