Ex Post

Test Your Knowledge of Jury History & Procedures

Morris B. Hoffman

The following questions were part of this year's final exam in a class on jury selection and history that Judge Hoffman teaches at the University of Denver School of Law. Match wits with the second- and third-year law students who scored an average of 80% on these questions. Answers appear on the *Green Bag*'s web site, www.greenbag.org.

- The Editors

Tabulate your score to place yourself into one of the following categories:

Number of correct answers	Category
15-17	*Felix Frankfurter Society*
12-14	*Law School Dean Candidate*[1]
9-11	*Fired Law School Dean*[1]
5-8	*Trial Judge*
0-4	*Appellate Judge*

Instructions

Place an "X" next to the best response to the following questions.

Note: You will not be penalized for guessing, so make sure you answer every question. However, do not mark more than one answer to any question; multiple answers will automatically be marked as incorrect, unless your test is being hand-counted by a Florida election official, in which case the official will attempt to read your mind.

District Judge, Second Judicial District (Denver), State of Colorado.

1 Of course, these two categories are the same.

1. *Swain v. Alabama* was the first Supreme Court Case:

___ a. With Alabama as a party.
___ b. To hold that peremptory challenges were not entirely peremptory.
___ c. To hold that Alabama systematically excluded blacks from grand juries.
___ d. b. and c. above.
___ e. None of the above.

2. Coke categorized post-sixteenth century English challenges for cause into four categories:

___ a. Propter respectum, propter defectum, propter affectum and propter delictum.
___ b. Diet, caffeine-free, regular and original.
___ c. Principle challenges, challenges to the favour, challenges familium and challenges ad valorum.
___ d. Occupation, relatedness to the defendant, material wealth and age.
___ e. a. and d. above.

3. Henry II was responsible for:

___ a. The Fourth Laternan Council, which abolished trial by ordeal.
___ b. The Edsel
___ c. The Assize of Clarendon.
___ d. The Stamp Act.
___ e. The abolition of trial by jury.

4. The Seventh Amendment to the U.S. Constitution:

___ a. Is applicable to the states through the Fourteenth Amendment.
___ b. Guarantees the right to a jury trial in capital and non-capital federal criminal cases.
___ c. Guarantees the right to a civil jury trial in all cases.
___ d. a. and c. above.
___ e. None of the above.

5. Sir Thomas More said about the sanctity of the oath that:

___ a. It is like holding the petals of a flower in your hand.
___ b. It depends on what the meaning of "is" is.
___ c. It is like holding your heart in your throat.
___ d. It is like holding your soul in your hand.
___ e. It is like putting your boss on hold.

6. The idea of the jury was:

___ a. Unknown to most ancient civilizations, except in the Tigress-Euphrates river valley.
___ b. Unknown in classical Greece and Rome.
___ c. Common to many ancient civilizations.
___ d. Invented during the Renaissance.
___ e. None of the above.

7. Peremptory challenges:

___ a. May have begun as informal and unarticulated challenges for cause.
___ b. Were abolished by the Assize of Clarendon.
___ c. Were held in Shackleford not to be required by the Constitution.
___ d. Were held in Stilson not to be part of the federal common law.
___ e. All of the above.

8. Which of the following were recognized forms of the ordeal in England in 1100:

___ a. Cold iron, cold air, hot water.
___ b. Hot water, hot iron, cold iron.
___ c. Hot iron, hot air, and hot water.
___ d. Hot oil, cool music, cold shower.
___ e. Hot water, cold water, hot iron.

9. The Vikings' contributions to the development of the trial included:

___ a. Trial by battle.
___ b. Fran Tarkenton.
___ c. Peremptory challenges, called "Umats" in several Norse legal histories, and "Bjornats" in others.
___ d. A system of challenges for cause, which they passed indirectly to the English via the Druids.
___ e. The elevated judge's bench, which some historians believe may have origins in the wooden thrones of Norse kings.

10. Which statement is not true about trial by battle in England in 1100:

___ a. Ties went to the defendant, which principle found its way into the rules of American baseball.
___ b. Because defendants were presumed guilty, they got only one champion and theprosecution got two.
___ c. It was banned as a trial method for most felonies by the Ordinance for Inquests.
___ d. The loser did not have to pay for the other side's champion.
___ e. All of the above.

11. "Voir Dire" rhymes with:

___ a. Warehouse fire.
___ b. Richard Gere.
___ c. Tampa Bay Devil Ray.
___ d. Monica Lewsinsky.
___ e. Fahrvergnügen.

12. The Magna Carta says nothing about:

___ a. Campaign finance reform.
___ b. The right of old people to free prescription drugs.
___ c. The right to a jury trial.
___ d. All of the above.
___ e. a and b above.

13. Prior to 1400, English jurors were not like modern jurors, because:

___ a. They smelled better.
___ b. They had the power to impose punishment.
___ c. They had to be priests.
___ d. They did not need to be impartial.
___ e. All of the above.

14. The Federal Jury Selection Act of 1968 outlawed:

___ a. Perjury.
___ b. Hate crimes in connection with jury qualifications.
___ c. Standing aside.
___ d. The key man method of jury summoning.
___ e. The wearing of poplin suits in federal courts after Labor Day.

15. In a federal court civil case, using the sequential method and three alternates:

___ a. 15 jurors are called to the box, because you need nine, and each side gets three peremptories (one plus two for the alternates).
___ b. 17 jurors are called to the box, because you need nine, and each side gets four peremptories (three plus one for the alternates).
___ c. 19 jurors are called to the box, because you need nine, and each side gets five peremptories (three plus two for the alternates).
___ d. 9 are called to the box, because in the sequential method the peremptory challenges are done juror-by-juror as they are passed for cause.
___ e. 12 are called to the box, because in federal courts civil juries are limited to 9 members.

16. The jury system is sometimes called the "palladium" of our liberties because:

___ a. Mark Twain coined the term to describe sarcastically the general public's ability to understand legal principles.
___ b. London's first large jury panels were convened in the Palladium.
___ c. A palladium was a small statue that protected Troy.
___ d. The element Palladium (Pd) was discovered during the Battle of Britain.
___ e. A palladium was a special Greek stadium used to convene the large (150-1,500) Greek dykasteria.

17. Although the Supreme Court has not addressed the issue directly, most lower federal courts have held that *Batson* error to the detriment of the defendant (where the trial court erroneously denies a defendant's *Batson* challenge):

___ a. Is structural error, but not plain error.
___ b. Is plain error, but not structural error.
___ c. Is not plain error, but can be harmless error.
___ d. Is not plain error, and is harmless as a matter of law.
___ e. Is neither structural error, plain error, nor invited error.