

The Jury Is a Bulwark

By CHARLENE LAVOIR

In 1958, the American Bar Association proposed that May 1 be designated as Law Day as the peaceful answer to the traditional May Day military displays in Communist countries, particularly the former Soviet Union.

President Dwight Eisenhower agreed and thus, the Law Day tradition was born. In 1961, a Congressional resolution pronounced Law Day as a way for Americans to celebrate the ideals of equality of justice under law. Law Day is still celebrated and is seen as a way to demonstrate the difference between the rule of law versus the rule of force.

This year, Gov. M. Jodi Rell declared that Law Day be celebrated on May 2, 2005 and the theme was The American Jury.

Attacks on one of the most cherished and important institutions in America, the civil justice system, which includes the jury, are reaching a fevered pitch, and those on the attack increasingly rely on misleading anecdotes and inaccurate information while ignoring the results of objective empirical studies that contradict almost all of their claims.

The civil justice system is a pillar of our democracy. The founders considered trial by jury an indispensable right and said so by

including the right to jury trial in civil cases in the Seventh Amendment to the U.S. Constitution.

A chief function of the jury system is to provide a check on official or arbitrary power. Civil juries are charged with deciding cases involving official misconduct, standards of justice, or public health and safety. Chief Justice William Rehnquist wrote, "[T]hose who oppose the use of juries in civil trials seem to ignore [that] the founders of our Nation considered the right of trial by jury in civil cases an important bulwark against tyranny and corruption."

Why a jury? First, jurors have no interest in the outcome of a case except to see that justice is done, protecting us from the possibility of corruption, overzealousness, and an array of other risks. The temporariness of juries—selected for one case and then fading anonymously back into the community—helps make this possible.

Second, there is a significant body of evidence demonstrating that civil juries are competent, responsible, and rational, even in complex cases, and that their decisions are not arbitrary or emotional. Because the deliberative process allows jurors to pool their collective intellects, they are able to