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WAITING FOR THE VERDICT ON SPAIN'S NEW JURY SYSTEM

Stephen C. Thaman

I. INTRODUCTION: "KILL THE KING AND COME TO MURCIA"

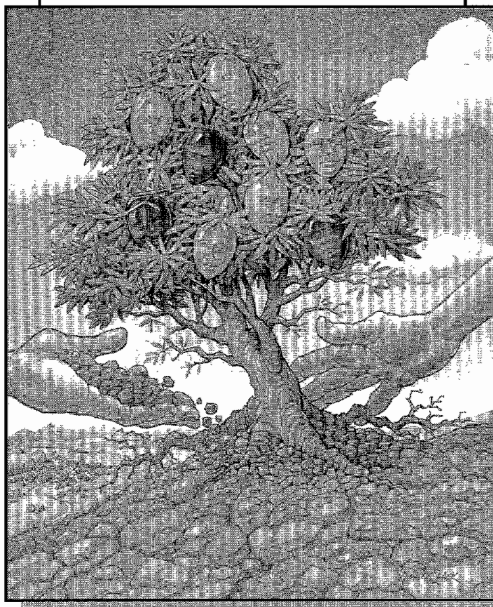
On May 22, 1995, the Spanish parliament passed legislation reintroducing trial by jury (*tribunal del jurado*) in criminal cases. On May 27, 1996, juries were sworn in Palma de Mallorca, Valencia and Palencia, inaugurating Spain's latest, and perhaps last, experiment with this most democratic and most controversial form of popular justice.

After France introduced trial by jury in the wake of the 1789 revolution, it became one of the rallying cries of the ascendant bourgeoisie in its struggle to overthrow or win power concessions from the absolute monarchs who held sway on the European Continent. This tradition was in the minds of authors of the current jury law when they proclaimed that trial by jury was

a constant in the history of Spanish constitutional law; every period of liberty has signified the consecration of trial by jury: in the Constitution of Cádiz of 1812, in those of 1837, 1869 and 1931; on the contrary, every epoch of regression in public liberties has seen the elimination or considerable limitation of this instrument of citizen's participation.

From 1820 to 1867 Spain engaged in sporadic experiments with trial by jury in cases involving press crimes, but the institution never sank deep roots. An 1872 law, introducing jury trial for normal criminal trials fell victim to monarchic restoration two years later. The most extensive experiment with trial by jury in criminal cases was between 1888 and 1923, when it was again suspended by royal decree. Even then jury trials were suspended for terrorist crimes in the

provinces of Catalonia and Gerona in 1907 and later for all crimes in Barcelona after the assassination of its ex-governor. Notorious acquittals in cases of political assassination gave rise to the popular slogan: "Kill the king and come to Murcia." Three days before being replaced by the Spanish Republic in 1931, the Spanish monarchy lifted its ban on trial by jury, but the Civil War brought its suppression in the regions controlled by Franco and final elimi-



nation with Franco's victory in 1939. Other European dictatorships of the first half of this century harbored a similar antipathy to trial by jury. It was eliminated by the Bolsheviks in Russia in 1917, the Fascists in Italy in 1931, and the Vichy regime in France in 1941. Only in Germany was the jury eliminated by a democratic government, that of Weimar, in 1924, albeit by decree at a time of severe economic crisis and political chaos.

Article 125 of the democratic post-Franco constitution of 1978 provided: "the citizens will be able to participate in the Administration of Justice through the institution of the

jury." Despite this constitutional mandate, the Spanish legislature dragged its feet for 18 years, haggling over the reasons for and against implementing the mandate of the 1978 Constitution.

The reason for this reluctance was that Continental European jurisprudence had never wholeheartedly accepted the classic jury system and felt that the so-called "mixed court," the form adopted by Germany, Russia, Italy, and France, in which lay persons and professional judges sit in a unified bench to decide all questions of law, fact, guilt and sentence, was more consistent with Civil Law traditions in criminal procedure—especially that of the inquisitorial search for truth, and the necessity to provide reasons for all criminal judgments. Though Spain had reverted to courts consisting exclusively of professional judges after 1939, many law professors and judges pushed for an interpretation of Article 125 that would allow the introduction of "mixed courts" in lieu of the classic jury as had existed in Spain off and on between 1872 and 1936. The controversy over whether to introduce "mixed courts," the classic jury, or just to ignore the Constitution (Argentina has successfully ignored the mandate for trial by jury in its Constitution since 1858!) lasted until the Socialist Government in its "swan song" pushed through the 1995 jury legislation before being run out of office amid accusations of corruption and the use of death squads to combat Basque terrorism.

Trials began haltingly in late May 1996, some six months after the law went into effect. After some preliminary fanfare surrounding the first trials, interest flagged in the national media until the acquittal of Mikel Otegi for the murder of two Basque policemen in San Sebastián on March 7, 1997. The new Spanish jury

trials were back on the front page of all of the national newspapers. Leading politicians of the ruling Popular Party called for radical changes in the law, if not its complete repeal. Basque politicians and former Socialist Minister of Justice Juan Alberto Belloch, who was responsible for pushing through the jury law in 1995, called initially for a suspension of the law in the Basque provinces, and then for provisions for change of venue to prevent such "scandalous acquittals." Professors again called for a transformation of the jury into a "mixed court."

After a summary of the facts of the Otegi Case, this article will discuss some key provisions of the new Spanish jury law with illustrations from the cases of Otegi and others. It will then venture a prediction, as to whether the classic jury will acquit itself as a catalyst for criminal justice reform in a Civil Law system such as that of Spain.

II. THE GAUPASA OF A YOUNG BASQUE NATIONALIST

Mikel Mirena Otegi Unanue was 23 years-old on December 9, 1995. He was a sympathizer of the "Jarrai," the juvenile wing of "Coordinadora Abertzale Socialista," a militant Basque nationalist organization sympathetic to the ETA terrorist organization and had taken part in street riots in protest of the arrest of Basque separatists in France. He lived on a farm in the mountains near Itsasondo in Guipúzcoa Province with his mother and some of his brothers. He had often been detained by the Basque police, the *ertzaintza*, and he once unsuccessfully brought charges against them for beating him up.

On that date he went out on the town with some friends after returning from Germany where he had been in his job as a truck driver. He played cards, drank "Cuba libres," and ended up going to a concert of Basque rock at the handball stadium in Itsasondo. He continued this *gaupasa*, or partying through the night, until the morning

of December 10. He then met his niece for some breakfast at a bar. Otegi recognized a policeman (*ertzaina*) in civilian clothes who came into the bar. He told the policeman: "Get drunk, and I will stop you for drunk driving." The proprietor of the bar told the policeman not to respond to Otegi and he left the bar. Otegi followed him, slugged him in the face, and kicked at the door of his car as he left.

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Otegi drove his niece home and, due to apparent erratic driving, was followed home to his mountain farmhouse by two *ertzainas*, Jesús Mendiluce Echeberría and José Luis González Villanueva. Otegi claimed he was roused from his sleep by the barking of his dog. He went to the door to find the two policeman who told him he was under arrest. He rushed back into the farmhouse, grabbed his shotgun, loaded it with three rounds, and returned to confront the policemen. He shot them both dead with two shotgun blasts and was alleged to have kicked at their bodies muttering: "Bi puta seme gutxiago" (Basque, for "two sons of bitches less"). He then called the police on the dead officers' radio, proclaiming: "Batasun, batasun. A farmer has killed two *cipayos* (a derogatory term for police) on account of their politics," and waited to be arrested.

III. SELECTING THE SPANISH JURY

Defendants have no right to trial by jury in Spanish law: it is the citizens who have a right to participate in the

administration of justice as jurors. For this reason a defendant may not waive the right to be tried by a jury. The jurisdiction of the new court is mandatory.

When a case has been set for jury trial in the Provincial Court, the highest court of original jurisdiction in each of Spain's 50 provinces, the presiding judge orders the secretary of the court to summon 36 prospective jurors, randomly selected by computer from lists of registered voters. Jurors must be 18 years-old and be able to read and write. These prospective jurors are assembled a few weeks before the trial date, may allege excuses or reasons for disqualification, not dissimilar to those available in some U.S. jurisdictions, and are in turn subject to challenges by the parties. Until the Otegi Case, only a small number of jurors sought to be excused and there was no difficulty in securing the minimum twenty jurors necessary to begin picking the jury on the trial date.

In the Otegi Case all but nine of the 36 jurors sought to be excused. Some claimed they knew the defendant or his family, others claimed family or economic hardship, but it was clear from the press reports that fear was the main motivating factor. A new wave of assassinations by Basque nationalists had recently begun and, though Otegi was being tried as a common criminal, and not a terrorist (which would have caused his case to be tried in the National Court without a jury), he was hailed as a hero by nationalist groups after gunning down the two *ertzainas*.

The judge eventually overruled most of the excuses and 25 jurors appeared for trial on February 24, 1997. Judges have conducted jury selection in closed session in all but the first Valencia case. Though not mandated by the jury law, judges felt that it would protect the privacy of the jurors. Prosecution and defense are allowed to directly voir dire the jurors as in many American jurisdictions and the questioning has been conducted in a sequestered manner, one juror at a time. Jury selection has lasted anywhere from 45 minutes in the first case in Palma de Mallorca to four hours in the Otegi Case and seven hours in the

first case tried in Bilbao (Alava Province). In the first Valencia case the prosecutor employed a psychologist who prepared a list of 20 insightful questions that were asked of the jury who had to decide whether the defendant trespassed in the dwelling of his ex-girlfriend.

Both prosecution and defense may exercise two peremptory challenges each and the jury consists of nine regular and two alternate jurors, a change from the jury of 12 which existed in the last Spanish jury law, enacted in 1888.

After being selected, the Otegi jury demanded that their names not be publicized, and all the parties acceded in letting them remain anonymous throughout the trial, much as is done in some terrorism or organized crime trials in the United States. No photographers were allowed in the courtroom and the jury was even allowed to have its acquittal verdict read in court in the absence of members of the victims' families and the Basque police and was then whisked from the courtroom before the verdict was publicly announced.

IV. GOOD COP— BAD COP: PLEADING THE CASE BEFORE THE SPANISH JURY

Trial by jury adheres in cases of homicide, and a select list of other crimes, such as bribery, trespassing in a dwelling, and death threats. In Spanish criminal cases the defendant is confronted by not only the public prosecutor, but also the private prosecutor, who is a barrister hired by the victim or the victim's family to pursue not only the criminal charges, but also civil restitution. When a crime is committed in Spain, indigent defendants and indigent victims have the right to court-appointed counsel to represent their interests and the victim, in the role of the private prosecutor, participates in the trial as a full party.

Unlike in the United States, where criminal investigations are secret and inquisitorial with limited or no participation of the defense or the vic-

tim, jury cases in Spain are adversarial from the time the investigative judge opens the official criminal investigation. Public and private prosecutors and the defense have a right to full discovery of all results of the investigation, may propose the investigation of new evidence and eventually formulate their pleadings in the case as the investigation proceeds.

“The reason for this unwillingness to try petty cases before a jury is that jury trials are expensive in Spain. Each juror is paid around \$81 a day in salary, and given an additional sum of money per diem for travel expenses. The juries are also sequestered in hotels once they begin deliberations and this is also costly.”

The pleadings of the public and private prosecutors are reviewed by the investigative judge for sufficiency in a preliminary hearing and, unlike in the United States, the defendant is also called upon to present his or her pleadings. The pleadings of all parties consist of a recitation of the facts of the case in the light most favorable to their positions, a statement of the legal qualification of the facts (i.e., murder, or manslaughter due to heat of passion, etc.), and finally a requested punishment in terms of years of imprisonment, amount of fine and amount of civil restitution.

If the defendant agrees with the pleadings of the public and private prosecutors, including the most severe sentence recommended (as long as it does not exceed six years imprisonment), he or she may avoid trial by expressing conformity (*conformidad*) with the pleadings, a kind of Spanish plea-bargaining. The institution of *conformidad* is quite popular in Spain and appears now to be used to avoid trial by jury in nearly all of the non-homicide cases otherwise subject to the new court's jurisdiction. Three of the first

four trials were such minor cases. In the first trial in Palma de Mallorca, a German businessman and his Spanish associate were charged with paying, in the words of the investigating judge, a “bribe as big as a cathedral” to the police to stop an investigation of a compact-disc business. Under Spanish law only a fine was possible and the defendants were acquitted. The first trials in Valencia and Barcelona involved charges against disgruntled boyfriends who trespassed in the homes of their ex-girlfriends. To the author's knowledge, there have been few if any further jury trials for anything other than homicide. Minor non-homicide cases have been resolved through *conformidad* or by prosecutorial manipulation of the charges.

The reason for this unwillingness to try petty cases before a jury is that jury trials are expensive in Spain. Each juror is paid around \$81 a day in salary, and given an additional sum of money per diem for travel expenses. The juries are also sequestered in hotels once they begin deliberations and this is also costly.

Finally, the empowerment of the victim through the institution of the private prosecutor has made it much more difficult for the defendant to arouse sympathy by portraying herself as a solitary citizen facing the all-powerful might of the state in the figure of the public prosecutor. Another citizen, the victim, almost always with a much better claim to the sympathy of the jury, also stands glaring at the defendant and defended by a barrister the equal of the defendant's.

And the private prosecutor always asks for a higher prison sentence than the public prosecutor (otherwise the victim's family will wonder why they are paying the fees!) and is often more intent on gaining a lucrative award in damages or restitution as part of the judgment. The private prosecutor's pursuit of a more severe sentence allows the public prosecutor to play the role of “good cop” and take a more sensible, just position “in search of the truth.”

The power of the private prosecutor was particularly evident in two cases. In the first Granada trial a clearly psychotic 72 year-old woman

butchered her 86 year-old neighbor and best friend to death because she thought there was a conspiracy of the neighbors against her, consisting in their talking about her and sneaking into her house and moving things so she could not find them. The public prosecutor originally requested a one-year sentence and restitution of \$8 million pesetas if it was determined that the defendant's mental capacities were only partially annulled by her illness and a verdict of not guilty by reason of insanity if she were completely insane. The private prosecutor asked for 14 years, eight months imprisonment and restitution of \$20 million pesetas. After all psychiatric experts testified unanimously that the defendant was completely insane, the public prosecutor and, of course, the defense, asked for the defendant's acquittal due to insanity. But the private prosecutor asked for a verdict of guilty, with the mitigating factor of partial diminished capacity, and imprisonment for four years. The jury rejected the pleadings of the public prosecutor and the opinion of the psychiatrists and found the old woman guilty.

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In the second Barcelona case, a young man was charged with murder of a taxi-driver following a traffic accident and ensuing argument. The victim's family hired a well-known former television personality, who had recently become a barrister, as private prosecutor. The TV star appeared to be playing the accepted role of demanding excessive punishment, and was continually admonished by the judge for theatrically calling the defendant “The Terminator” and the victim “The Incredible Hulk.” But as the evidence began looking more favorable to the defendant, the pri-

vate prosecutor changed his tactics and asked for an acquittal of the defendant based on lack of causation. He claimed that, while the defendant had inflicted a mortal stab wound which eventually caused the death of the taxi-driver, the death could have been avoided if the taxi company or the city ambulance service had not been tardy in sending an ambulance. The jury agreed to this theory, found the defendant guilty of a lesser offense of assault with a deadly weapon and set the stage for the victim to sue the taxi company and the city, both containing much deeper pockets than the defendant, for wrongful death.

But the power of the victims did not translate into like results in the Otegi Case. The families of the two young police officers who were killed were represented by a private prosecutor and attended the entire trial. When the autopsy slides were projected in court, members of the victims' families screamed “assassin” and “wild animal” at the defendant, who had apologized during his Basque language testimony and pledged revenge. After the acquittal, the family claimed that the jury had “murdered their sons a second time” and demonstrations were held in their support denouncing the verdict.

V. OLIVE BRANCHES AND FALSE ROMEO'S OR YOU ONLY HURT THE ONE YOU LOVE

According to one of its proponents, the new jury is not a remake of the Anglo-American or the French juries, but, “like Spanish olives,” a unique national institution. Whatever can be said of the new procedures, the first trials have certainly had a consistent flavor. If anything, they confirm that the Spanish citizen appears to run more risk of harm from family, friends or loved ones, than from ill-meaning strangers. Of 20 murder trials of which the author is aware, 11 have involved killings within families, five or six, killings among friends or acquaintances, and only three, the Otegi Case, the taxi-

driver killing in Barcelona, and a burglary-murder in Almería involved the killing of strangers.

“ In a recent Barcelona case, dubbed the “Case of the False Romeo” by the newspapers, a young man killed his girlfriend and attempted to make the scene look like a double suicide. His only error was that he, himself, called the police to report the incident. ”

Long-standing sibling rivalry led to fratricides in cases in Madrid, Palencia, and Murcia. While the jury convicted the mentally ill defendant in the first Palencia case, the brother in the second Madrid case was acquitted after mounting a plausible defense of accident reinforced by his obvious remorse and his screaming: “Don't die, don't die, I love you, I love you” over his mortally wounded brother. The mildly retarded and deaf brother in the Murcia case was found guilty of negligent murder, perhaps bolstered by his choice of a rather unusual weapon to express one's enmity: an olive branch! (Knives are otherwise the weapons of preference.)

Four of the cases involved wife-killings. The jury found that the defendant in the first Salamanca case negligently killed his wife when his shotgun discharged as he was running outside to confront a neighbor. The defendant in the first Madrid case was clearly psychotic when he stabbed his wife of 24 years to death, believing she had been captured by a “net of international prostitution.” A stipulation per *conformidad* to an acquittal by reason of insanity and a 15-year commitment in a mental hospital was reached after the evidence had been taken and the jury was thereafter discharged. Finally, the first cases in Valladolid and Las Palmas in the Canary Islands involved estranged husbands who killed their wives out of

jealousy, believing they were having affairs with others. The jury convicted the 82 year-old defendant in Las Palmas and the 45 year-old Valladolid defendant of homicide. The latter, who had allegedly sworn with his wife before the Virgin of Anguish in Granada, their hometown, that either of them could kill the other if they were ever unfaithful, had been legally separated from his wife and heard she was going out with another. In late November of 1995, shortly before the killing, he told his drinking buddies in a bar in the wine-growing town of Rueda that his wife "would not eat the nougat," meaning, she would not live until Christmas.

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Otherwise, an 18 year-old killed his alcoholic, abusive father in the first Córdoba case and was convicted as charged. A cousin was the victim in the second Castellón case and an uncle in the first Zaragoza trial. Finally, another example of the severity of the Andalusian juries already apparent in the first cases in Granada and Córdoba, a second Granada jury convicted a father and grandfather of homicide in the death of a four year-old girl who drowned in a swimming pool. The appellate court, the Superior Court of Justice of Andalucía, reversed this conviction and entered an acquittal due to insufficient evidence.

In a recent Barcelona case, dubbed the “Case of the False Romeo” by the newspapers, a young man killed his girlfriend and attempted to make the scene look like a double suicide. His only error was that he, himself, called the police to report

the incident. He was convicted of homicide on April 17, 1997.

Other than the sordid and senseless nature of the majority of the homicides that have been heard by Spanish juries, the trials have almost been universally characterized by the defendants’ inability to remember the precise moment in which they mutilated or blew away their victims. This can perhaps be traced to two idiosyncracies of Spanish criminal law, one procedural and the other substantive.

The procedural innovation in the Spanish jury law prevents the prosecutor from introducing the prior statements of defendants or other witnesses for the truth of the matter stated. The statement may be referred to only as impeachment when the defendant testifies in a contradictory fashion at the trial. In conformance with these procedural barriers to the introduction to prior statements, a large number of defendants, including Mikel Otegi, professed to not remembering “when the gun went off” or how the victim sustained their fatal stab wounds. Occasionally defendants will remember that they did not intend to kill the victims, thus giving rise to a scenario also common in American homicide cases involving knives, victims falling and impaling themselves on them, sometimes several times, to the baffled surprise of the defendant. This scenario found its way into the first cases in Córdoba and Castellón and the second Madrid case.

The defendants’ difficulty in recalling the murderous moment is most likely intimately related to Spain’s very liberal doctrine of temporary insanity and diminished capacity. A defendant can allege that voluntary intoxication through the ingestion of alcohol or drugs caused a situation of “temporary insanity” which completely annulled their cognitive and volitional capacities or “diminished capacity,” reducing their criminal responsibility. Such mental defenses have been pleaded in nearly all of the murder cases. While insanity or diminished capacity could be clearly related to mental illness in a number of the cases, often the defense pleadings had to be more inventive. In the first case in Las Palmas the defense alleged an annulment of criminal

responsibility, and, in the alternative, diminished capacity, due to the defendant’s “peculiar personality, his advanced age, his tendency to feel himself the object of scorn, and his deafness.” When the defendant in the first Murcia case “extended the olive branch” to his brother, effectively resulting in his strangulation, the defense claimed that he “suffered from severe deafness since infancy which gravely altered his conscience of reality, completely eliminating his cognitive and volitional capacity.” Defendants have also availed themselves of a defense tactic that would be unthinkable in American courts: alleging that their clients’ hopeless drug addiction led them to be temporarily insane during the commission of the homicide. This approach was used in the first Salamanca case, the first Guipúzcoa case and the second case in Palma de Mallorca. Drunkenness as a complete or partial excuse was alleged in the first cases in Valladolid, Las Palmas, Guipúzcoa and Zaragoza, the taxi-driver killing in Barcelona and finally, the Otegi Case.

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Only in the Otegi Case have these liberal defense possibilities resulted in an outright acquittal. In that case, the jury found that the defendant’s cognitive and volitional capacities were completely annulled by his drunkenness when he laid out the two *ertzainas*. It will be interesting to see whether Spain changes its substantive approach to mental defenses in the wake of the controversial Otegi verdict, as the legislatures in (cont’d on page 26)

(cont'd from page 7)

Washington and Sacramento did in the wake of the Hinckley and Dan White verdicts.

VI. VERY SPECIAL VERDICTS

Spanish juries do not return general verdicts of "guilty" or "not guilty" as do their English and American counterparts. They affirm or reject a list of propositions that coincide roughly with the pleadings of the public and private prosecutors and the defense. Propositions are designated as being either "unfavorable" or "favorable" to the defense. "Unfavorable" propositions may be deemed proved with a minimum of seven of the nine jurors' votes. "Favorable" propositions for the defense, however, may be deemed proved with only 5 of the 9 votes. The jurors are finally asked to decide whether the defendant is "guilty" or "not guilty" of having committed the charged offenses. A vote of guilt requires at least seven votes and one of "not guilty" at least five votes.

These verdict forms, called "question lists" under the Spanish law of 1888, begin with questions seeking to prove the *corpus delicti* of the crime and the defendant's identity as perpetrator; for instance, the first question in the Otegi Case: "UNFAVORABLE FACT: Don Mikel Mirena Otegi Unanue, on December 10, 1995, around 10:30 a.m. at the Oteizabal farmhouse, wilfully and with the intent to kill shot Don Ignacio Jesús Mendiluce Echeberría with a .12 caliber shotgun, striking him in the lower right clavicular region, causing his instantaneous death." Besides such basic facts, the propositions address various factual aspects of the prosecution and defense cases. In the Otegi Case, 95 questions were asked relating to the factual and guilt questions, by far the most so far in any trial. These questions related a variety of specific factual assertions of the parties which, while not always directly relating to the elements of the offense or affirmative defenses, tended to bolster or weaken the theories of the pleadings.

The judges in the Otegi Case and the first Valladolid case, in which 55 questions were asked, clearly felt that a fact had to be proved by the jury, for the judge to refer thereto in the judgment following the jury's verdict. Other judges only formulated propositions relating to the elements which the prosecution had to prove, resulting, for instance, in a mere six questions in the first Granada murder case and nine in the first Palencia murder case.

Revolutionary in the new Spanish law is the requirement that the jury give reasons for its verdict. The authors of the law included such a requirement to comport with Art. 120(3) of the Spanish Constitution which requires reasons be given in support of all criminal judgments. Clearly, the use of special verdicts which themselves serve to pin down the reasoning of the jury in accepting or rejecting the guilt of the defendant, and the requirement of accompanying reasons, go far to prevent Spanish juries from nullifying the law and returning "scandalous verdicts" unsupported by the facts. The complicated nature of the Spanish verdict form, however, did not prevent the jury in the Otegi Case from accepting the factual underpinnings for the "temporary insanity" defense and, in a five to four verdict, acquitting the young Basque of the murder of the two policemen.

VII. CONCLUSION: THE LAST "JURADO?"

Up until the Otegi Verdict Spanish juries often meted out a harsher justice than would have a normal court consisting of three professional judges. Some of this harshness can be attributed to the strong role of the victim in the form of the private prosecutor. Though the calls for abolition or reform of the jury law in the wake of the Otegi Case have somewhat subsided, the case has shaken the young institution and weakened its chance this time of sinking roots into the arid Spanish soil. The support for the jury comes more from the Socialist and United Left political parties, than from judges, lawyers or law professors, who seem to favor the "mixed court"

as an alternative to the jury.

But because the institution is anchored in the 1978 Constitution and is susceptible to reform, or manipulation, to keep controversial cases such as that of Otegi from being heard by juries (i.e., by labeling them as "terrorist" cases and subjecting them to the jurisdiction of the National Court or by allowing for changes of venue), the classic jury could survive and perhaps eventually, become part of the Spanish legal landscape. If Spanish juries can quietly deal with cases involving barroom brawls, false Romeos, and bad family blood, the Spanish legislature might respond to attempts to reform the jury law as it did for 17 years to attempts to introduce it: *Mañana*. 🐼

Steven C. Thaman is assistant professor at Saint Louis University. In May-July of 1996, he observed four of the first Spanish jury trials, and in relation to those and many other trials conducted interviews of the participating judges, prosecutors, and defense counsel and studied the pertinent court records. His in-depth study of Spain's experiment with jury trial will appear soon in *Hastings Journal of International Law*.

The Seventh Amendment is a most important and valuable amendment; and places upon the high ground of constitutional right the inestimable privilege of trial by jury in civil cases, a privilege which is essential to political and civil liberty.

-- U.S. Supreme Court Justice Joseph Story (1833)