

<http://www.democracydefined.org/>

The Home Page of the Democracy Defined Educational Campaign  
for RESTORATION and UNIVERSAL ADOPTION of  
CONSTITUTIONAL COMMON LAW TRIAL BY JURY.



Member's Card - front

Media and General Enquiries: [campaign@democracydefined.org](mailto:campaign@democracydefined.org)

(Standard English Spelling) May be read at 125%

**ACTIVIST MEMBERS** *from all walks of life.*

**THE CAMPAIGN PHILOSOPHY** is spread by its Members.

The Democracy Defined Campaign Philosophy is endorsed by academics, attorneys, doctors (of jurisprudence, medicine, psychiatry, homeopathy, philosophy) and judges (U.S. & U.K.).

**VERITAS, COGNITIO, IUSTITIA, LIBERTAS.**

**ACTIVIST MEMBERS** *from all walks of life in*

HOLLAND, FIJI, NEPAL, SRI LANKA, SCOTLAND, CANADA, EIRE,  
GERMANY, GUATEMALA, ULSTER, WALES, FRANCE, SOUTH AFRICA,  
AUSTRALIA, INDIA, PERU, THE UNITED STATES AND ENGLAND.

**OPEN LETTER** (May be read at 125%)

***"Traitors within the Gate,"*** REPLY TO CHARLES VICKERS,  
**PROPAGANDISED MISCONCEPTIONS ANNIHILATED.**

*Did you know **Article Thirty-Nine** of our world-respected permanent 1215 Great Charter Constitution Magna Carta transfers all power to punish out of the hands of government, the executive, the legislature and the judiciary? Yes; our protective Constitution **strips** the state, the government and judges of all power to set sentences and prescribe punishments. This is the single most significant protective aspect of **Trial by Jury** defined and prescribed by the virtually immutable 1215 Magna Carta Constitution and Common Law.*

**NOW, CONSIDER THIS:**

Inimical government and its highly-remunerated unconscionable *Quisling* collaborators **lie** to deny our exemplary 1215 Constitution and effectively enslave the English People. *Are you aware* of the treason embodied in the **trick of mistranslation** which mendacious statisticians utilise today to try to deny the applicability of Constitutional Common Law Article Thirty-Nine? See the following essay which exposes the treachery. Apparently, this deception has now been adopted by barrister Harry Potter in his book.

***JOIN THE CAMPAIGN TO RESTORE THE AUTHENTIC  
CONSTITUTIONAL COMMON LAW TRIAL BY JURY.***

***“Traitors within the Gate,”***

**OPEN LETTER OF REPLY TO CHARLES VICKERS:  
PROPAGANDISED MISCONCEPTIONS ANNIHILATED**

**CALDWELL’S “CICERO AND THE ENEMY WITHIN.”**

Novelist Taylor Caldwell’s intense characterisation of treason in her work, ‘A Pillar of Iron,’ illuminates our understanding of the offence. With the rhetoric creatively re-worked, it relates to Cicero’s Second Catiline Oration. Marcus Tullius Cicero, 106 – 43 BCE, was one of Rome’s greatest philosophers whose rediscovered works are attributed as having contributed significantly to, if not actually having initiated, the Fourteenth Century Renaissance and Eighteenth Century Enlightenment.

Caldwell: *“A nation can survive its fools, and even the ambitious, but it cannot survive treason from within. An enemy at the gates is less formidable, for he is known and carries his banner openly. But the traitor moves amongst those within the gate freely, his sly whispers rustling through all the alleys, and heard in the very halls of government itself—for the traitor appears not a traitor: He speaks in accents familiar to his victims, and puts on their face and arguments. He appeals to the baseness that lies deep in the hearts of all men. He rots the soul of a nation, working secretly and unknown in the night to undermine the pillars of the city. He infects the body politic until it can resist no longer. A murderer is less to fear.”*

**To whom and for which acts might the term treason now be applied?** Viewed and judged in the clarifying light of the unalterable strictures, criteria and standards of the Common Law and Constitution, those persons and their accomplices who are adjudged guilty of breaching the aforesaid supreme code with malice aforethought are political actors. *Evidently*, persons implicated in treason and breach of the Constitution are deserving of the Trial and Judgement of their Peers.

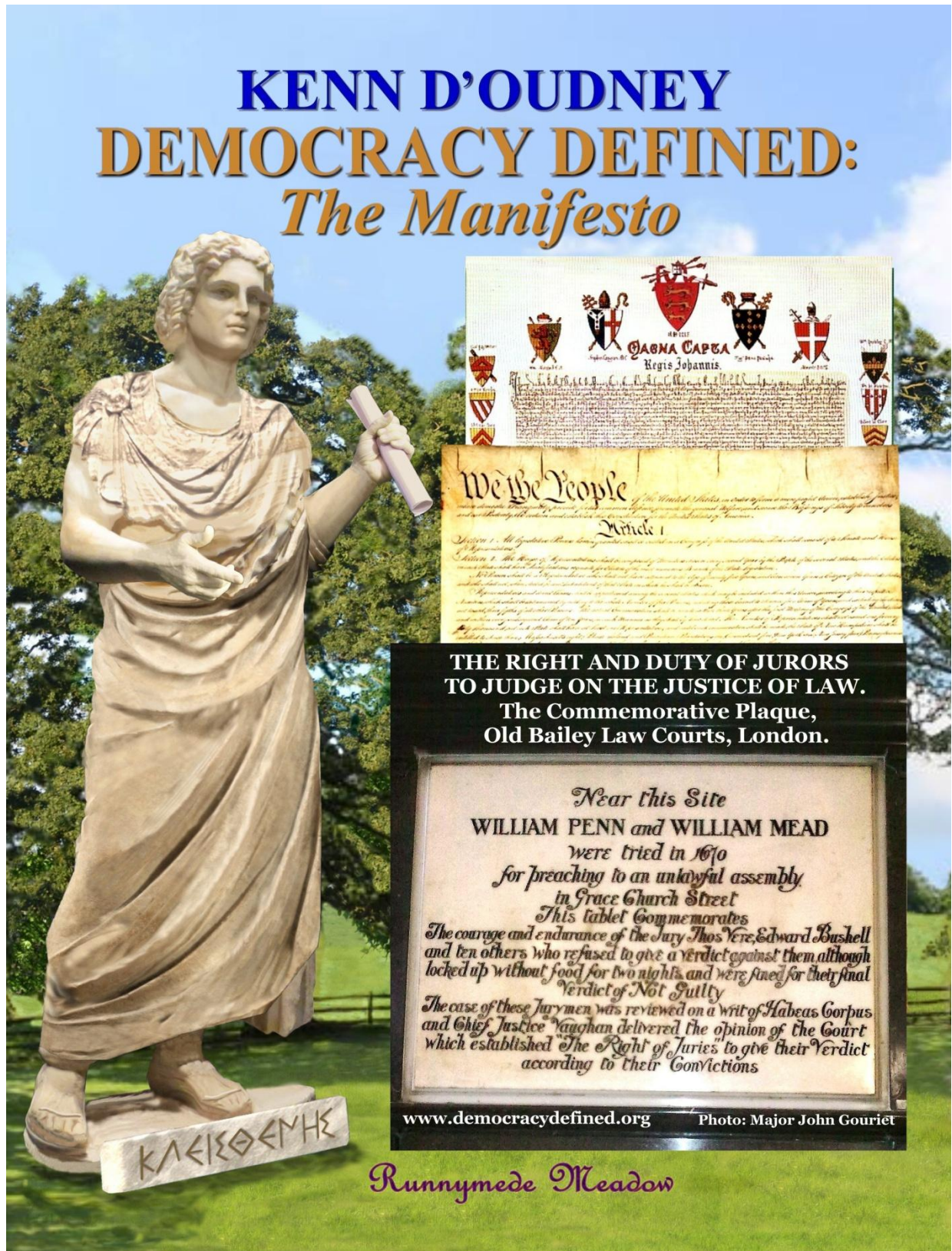
The traitor is dangerous but only for as long as his or her deeds are not *perceived* to be what they really are: a major crime against the common good. So, how does one distinguish treason and treachery from innocent but misguided intentions? The answer is that the Supreme Law as expressed by our Common Law Constitution provides us with the straightforward mechanisms of Trial by Jury judicature by which to accuse (indict), prosecute, measure, judge and punish any person’s *malicious* acts.

[The above extract is from page 109 in DEMOCRACY DEFINED: *The Manifesto*’s Chapter Three section on Treason.]

**Dear Charles,**

**We have provided some definitive information which demonstrates the synonymity of Common Law and *legem terræ* in Magna Carta, which in turn shows how extremely awry modern lawyers’ accounts on Article Thirty-Nine and these subjects are...**





New Edition augmented with an Addendum. Contains extensive Bibliography of authoritative source books and documents on Constitution, law and history.

With Index. ISBN 978-1902848280 Softback, 310 large-size (A4) pages



BACK COVER



**DEMOCRACY DEFINED:**

***The Manifesto***

Kenn d'Oudney focuses on Democracy. The word 'democracy' is widely abused and 'defined' incorrectly. This extensively researched book explains how components of constitutional democracy have been suppressed by malefic statist interventions to produce the modern decline and the Illegality of the Status Quo.

*The Manifesto* shows how the ideal society is to be achieved.

- HERE ARE SOME REVIEWS OF THE ESSAYS UPON WHICH THIS BOOK IS BASED -

*"I think it is certainly true that Keynesian economics, as put into practice, has handed the economic power of the West to a few men who now almost totally control it. Likewise, I agree that the trial by jury is an essential bulwark of democracy and justice against a bankers' tyranny. I congratulate you on disseminating the above points."*

His Hon. Patrick S.J. Carmack, Esq. Producer of The Money Masters video documentary.

*"Thank you for your excellent work on Magna Carta. What a masterly exposition."*

Major John Gouriet, Chairman, Defenders of the Realm; Battle for Britain Campaign supported by H.G. the Duke of Wellington; Edward Fox, OBE, and Frederick Forsyth, CBE.

*"What a magnificent article! I intend to incorporate parts of it into speeches and writings."*

Professor Julian Heicklen, Jury Rights Activist; U.S. National Coordinator, Tyranny Fighters.

*"Superb. Should be read in every law school."*

John Walsh, Esq., Barrister-at-Law, Author; Constitutional lawyer (U.S. & Australia).

See further reviews inside.



For **Synopsis** and **Reviews**, see end of this document.

Reply to Charles Vickers, EDP.

REPLY to e-mail from Charles Vickers follows.  
Charles Vickers was the 2010 English Democrats' Party  
parliamentary candidate for Stevenage.

----- Original Message -----

**From:** Mr Charles Vickers

**To:** [campaign@democracydefined.org](mailto:campaign@democracydefined.org)

**Subject:** Re: Winchester Declaration 19th November

I have received your email [[BCG Coordinator Justin Walker's e-mail actually](#)] on the topic. Unfortunately I am not able to attend but I wish your conference every success.

I am however concerned that your conference may be in danger of spreading incorrect beliefs which fail to acknowledge the 1400+ years of history of our laws and constitutional processes. I have given what I believe to be the facts below.

**SEE APOCRYPHAL ASSERTIONS BELOW (shown in red).**

I did notice what I consider could be two factual inaccuracies in your email. You stated "... which predates the first English parliament by 50 years" and "...as our ancient, enduring and proven Common Law Trial by Jury Constitution, as confirmed and protected by the 1215 Great Charter of English Liberties, Magna Carta"

1) If you read Maddicott's "[Origins of the English Parliament 924 to 1327](#)" you will see that the Norman English Councils (they were not then called Parliaments) took over from the Anglo-Saxon English Councils with very few changes. Perhaps the most intriguing of which is that whilst the Anglo-Saxon Councils did not require anyone summoned to attend, the Norman Kings made attendance obligatory!

As Maddicott points out the Councils of Anglo-Saxon England - Starting with [Athelstan, the first King of England](#) - were a straight forward copy of the Councils used for governance by the pre-927AD kingdoms in what, after that date, became the nation and realm of England.

These Councils (or Parliaments as we now call them) chose and [controlled the king](#). For example King Ethelbert of Kent in 602AD issued the first written law code in Old English "because his council allowed it". King Canute wrote to the Shire Courts after having been elected King, "All Nation will keep the laws of Edgar, because [All People](#) have sworn to it at Oxford" - or in modern terms "The People of England and its courts will keep the Laws of Edgar (a previous King) because your [Representatives](#) have sworn to it at the [Parliament](#) at Oxford".

[This was state of affairs at Article 61 in the Magna Carta in 1215 attempted to reinstate.](#) As is made clear by chroniclers at the time King Athelstan's [parliaments](#) included, the Shire Lords, Shire Bishops, King's Thanes (equivalent of the Barons), local Theigns (equivalent of knights) and the equivalent of burgesses. [His parliaments were therefore the first English parliaments, as defined on the Parliamentary web site,](#)

The parliaments (to give them their modern name) of Anglo-Saxon England started with what in modern parlance we would call an event to confirm the Mission of the Realm (usually religious in function); followed by a team building event (what we today would call a feast); then went on to the business of the Realm; followed by a consideration of the laws of the Realm; followed by a court to judge conflicts between the king and his nobles or between nobles ([the origin of 'Supreme' courts around the world](#)). **All, including the king, had to abide by the verdict of their peers. [N.B. This is the Common Law of the Land's sole legitimate Justice System ruling supreme: The Trial by Jury of *legem terræ*. KD.]** In addition all decisions were taken by consensus. Voting, which creates winners and losers (hardly appropriate in a team that had come together to represent the people) does not appear to have taken place.

[So the first English Parliament was not one of Simon de Montfort's.](#) Neither did de Montfort create elected knights. This was done for the first time in Henry III's 1254 parliament.

2. [DISINFORMATION.](#) As H Potter pointed out in "[Law, Liberty and The Constitution: A Brief History of the Common Law the whole of Europe, including England, used Trial by Ordeal in criminal cases until the Pope banned priests from officiating at these in 1215.](#) This act removed the legitimacy of Trial by Ordeal which had always claimed that it was an appeal to God to judge the suspect. Europe went down the route of the Inquisition with its emphasis on extreme torture to gain admissions of guilt. In England nothing was done until



after the defeat of King John after which time the justices were asked how they wanted to decide criminal cases. The courts had, for over 200 years, been using the Carolingian system of juries to decide some civil cases. For example juries were used by the Domesday Commissioners to give evidence on land ownership, rents and so on. In 1219 the justices, and presumably the shire courts chose to [sentence incomplete here]

Clause 39 says: "No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land,"

**APOCRYPHAL ASSERTION:** The key point here is that there are two ways of deciding a case; "by the lawful judgement of equals", or "by the law".

English Common Law Civil cases were decided in a number of ways; by the decision of any local present at the court; by the swearing of oaths, by a jury. Had the Magna Carta been standing for only jury trial in civil and criminal cases clause 39 would have said so. Had it been standing for jury trial only in civil cases it would have said so. **[APOCRYPHAL ASSERTION:] The fact is that it didn't because the question had not arisen when the Charter was put together.**

Regards

Charles Vickers

Dear Charles,

Thank you for your e-mail. Sorry you can't make the conference.

I note you say you believe you have quoted the facts but if you have represented the contents of those works accurately in your letter, then one would respond in this way: The information provided in this reply demonstrates the texts you quote (and the 'criticisms' you base on them), are erroneous; the views expressed are fallacious. Alas, you have unwittingly absorbed the flawed work (or the premeditated statist disinformation) of those authors. The following text explains the faux nature of their, and therefore your, assertions **shown above in red.**

The contents of DEMOCRACY DEFINED: *The Manifesto* are enriched by the quoted wisdom and words of great minds — Churchill, Gibbon, Hale, Hallam, Hume, Blackstone, Crabb, Millar, Mackintosh, Gilbert, Palgrave, Spooner, Coke et al., chief justices, judges, Benjamin Franklin, Presidents Kennedy, Roosevelt, Adams, Jefferson, Madison, Washington, Lincoln. As you will see hereinafter, I have previously encountered, and already dissected and dismissed the hopelessly misconstrued ideas adopted by Potter about Common Law Article Thirty-Nine. So, by way of a reply, I have only needed to copy in some textbook tracts which set out the indispensable fundamentals on Constitution and Common Law, and which invalidate Potter.

Straightforward, correct translation from Magna Carta cannot be denied: the synonymity of the terms *legem terræ*, the Law of the Land and common law at 1215 is undeniable. Yet, according to your letter, nine years later this extremely damaging 'get-out' disinformation has been adopted by barrister Harry Potter in his book. As Potter purports to be 'expert', one cannot exonerate him from duplicity. That is to say, if he truly knows his onions, his attempt to deny that Magna Carta stipulates unequivocally that no one may be punished, harmed or disadvantaged in any way but according to the *judicium* (judgement; verdict and sentence) of a Jury following the Common Law Trial by Jury, and instead claim that government may proceed according to whatever 'law' it chooses to pass, has to be a premeditated calumny.

For convenience and ease of reading, annotation and attribution are shown under the paragraph to which they relate (rather than at the end of the text).

Yours sincerely,

Kenn.

[www.democracydefined.org](http://www.democracydefined.org)

Charles,

I checked your CV and conclude the reading provided below will be assimilable by you. Here is some information apropos of the three main erroneous points in your e-mail.

### THE EDUCATIONAL CAMPAIGN

The members of the legal profession who are Members of the Democracy Defined Restoration Campaign have learnt from this educational campaign and point out that the universally applicable *legem terræ* common law and the history and proper workings of its Trial by Jury Justice System have not been taught—let alone, pressed home—at law schools for a generation or more. The situation in regard to justice has long been equally degenerate in France, Germany and Continental Europe (EU).

1. There is no disputing that de Montfort's Model Parliament of 1265, to which Justin Walker was referring, came fifty years after the 1215 Great Charter Constitution Magna Carta was enacted.

The word *parliament* derives from Norman French, *parler*, to speak, so it is not in accordance with correct historical analysis, indeed, it is an unhistorical clumsy anachronism of Maddicott's to claim the earlier Anglo-Saxon convocations were "parliaments."

The fact has long been established that the Anglo-Saxon witan and various councils convened *before* that date are incorrectly referred to as '*parliaments*'. They do not qualify for lexicographical terminological nomenclature as '*parliaments*' because the differences are glaring and fundamental.

To begin with, the witan was an unelected council comprised only of the privileged and powerful—as you yourself affirm: "[The Shire Lords, Shire Bishops, King's Thanes \(equivalent of the Barons\), local Theigns \(equivalent of knights\) and the equivalent of burgesses.](#)" Thus, it is far from forming a representative parliament.

Secondly, the king made the laws, not the witan. The casually-invited witans were asked to confirm laws *which were made by the king*. However, parliaments operate the other way around! That is to say, parliaments make laws which the head of state is then required to sign (enact) into law.

One should draw attention to the assertion (correct in this case) that, "[All, including the king, had to abide by the verdict of their peers.](#)" This is **legem terræ**, the Gothic pan-European People's Common Law of the Land which set the parameters by which all the men and women of the realm were liable and subject to the judgements (judicium; judgements, verdicts and sentences) of the Jurors (their social-equals, pares or peers) in the Trial by Jury Justice System, heads of state notwithstanding.

Thirdly, a further principal difference between witans and parliaments which cannot simply be overlooked by Maddicott, is that the witans (or witanegemots) *had no legislative authority whatsoever*, as is corroborated by the following:

*"From the fact that the new laws passed by the king and the Witan were laid before the shire-mote (county court), we should be almost justified in the inference that a **second** sanction was necessary **before they could have the effect of law** in that particular county."*<sup>1</sup> The "*second sanction*" required to give the legislation of the king and Witan the effect of law, **was the judgement on the justice and appropriateness of the law and sanction thereof by a Jury at Common Law Trial by Jury.**

1 See Dunham's Middle Ages, Sec. 2, B. 2, Ch. 1. 57, Lardner's Cab. Cyc., 53, in TRIAL BY JURY: Its History, True Purpose and Modern Relevance ISBN 9781902848723 by Kenn d'Oudney and U.S. lawyer Lysander Spooner. Emphases added.

See also from TRIAL BY JURY:

“It is ridiculous to suppose that the assent of such an assembly gave any *authority* to the laws of the king, or had any influence in securing obedience to them otherwise than by way of persuasion. If this body had had any real legislative authority, such as is accorded to legislative bodies of the present day, they would have made themselves at once the most conspicuous portion of the government and would have left behind them abundant evidence of their power, instead of the evidence simply of their assent to a few laws passed by the king.

More than this, if this body had had any real legislative authority they would have constituted an aristocracy, having, in conjunction with the king, absolute power over the people. Assembling voluntarily, merely on the invitation of the king; deputed by nobody but themselves; representing nobody but themselves; responsible to nobody but themselves; their legislative authority, if they had had any, would of necessity have made the government the government of an aristocracy merely, *and the people slaves, of course*. And this would necessarily have been the picture that history would have given us of the Anglo-Saxon government, *and of Anglo-Saxon liberty*.

The fact that the people had no representation in this assembly, and the further fact that through their juries alone, they nevertheless maintained that noble freedom, the very tradition of which (after the substance of the thing itself has ceased to exist) has constituted the greatest pride and **glory\*\*** of the nation to this day, *prove* that this assembly exercised no authority which juries of the people acknowledged except at their own discretion.”

*Ibidem*.

While pondering the counsel of the renowned sage, jurist, author and judge, His Honour Sir William Blackstone, KC, SL, quoted from page 23 of DEMOCRACY DEFINED: *The Manifesto*, note for yourself that Blackstone is unequivocal in saying that there are **NOT** as you say, “two ways” of trying a case; either “by the lawful judgement of equals or by the law.” No indeed! Blackstone affirms that a man may **NOT** be punished at all unless with the unanimous consent of his peers following his having received the Trial by Jury.

**\*\* “The trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law. It is the most transcendent privilege which any subject can enjoy or wish for, that he cannot be affected in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbours and equals.”**

**Book 3, Blackstone’s Analysis of the Laws of England, p. 379. Emphases added.**

Maddicott’s assertion that witans were ‘parliaments’ is unfounded and incorrect. At that time, there were no laws binding on the people but those of which the Jurors approved as just in each Trial by Jury in pure Courts of Conscience\*.

**\* See pp.203-205, The Trial by Jury Courts Prior and Subsequent to Magna Carta 1215, in DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1-902848-28-0 by Kenn d’Oudney.**

**2.** There is no disputing that by the end of Alfred’s reign, *there were none within England who stood against his rule*, including Northumbria. It is therefore controversial to say the least (Maddicott) that Athelstan was the “first” king of all England. Quibbling over the issue is unhelpful because it does not alter the aforestated fact.

Reply continues on next page.



### 3. COMMON LAW TRIAL BY JURY FOR ALL CAUSES, CIVIL, CRIMINAL AND FISCAL, PREDATES 1215 BY FAR.

Charles, Likewise, there is nothing to dispute within the other quotation you took from Justin Walker's text:

["An urgent coming together is now essential as our ancient, enduring and proven Common Law Trial by Jury Constitution, as confirmed and protected by the 1215 Great Charter of English Liberties, Magna Carta, is now under attack by criminals and traitors like never before."](#)

**Hellenic Greece of the Constitution of government by Trial by Jury received from the Athenians *the defining epithet, demokratia, Democracy*<sup>1</sup>.**

**1 See lexicographical, etymological, philological and historical details in Chapter One of the textbook; and the excerpts which follow from DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1-902848-28-0 by Kenn d'Oudney:**

Naturally, people have the moral responsibility, the right and the duty to resist and suppress injustice *wherever* it occurs, and by whomsoever it is perpetrated, governments notwithstanding. By definition and in practice, Democracy and Justice require that the People *at all times* retain the Supreme Power to annul injustices and the bad laws made by fallible politicians.

This Power backed by the full apparatus of police, prison service and Armed Services, is uniquely embodied in the Citizen-Juror's Duty in Trial by Jury: *to judge the justice of every act of law enforcement, and to render the Not Guilty Verdict whenever conviction or punishment of the accused would be unfair according to the juror's conscience.*

According to *legem terræ*\* common law, it is the jurors' duty in Trial by Jury *to judge the justice of the law* and *every* act of enforcement and acquit any persons accused under an arbitrary, unjust or apocryphal statute, regulation or prosecution.

\**terræ* is pronounced *terry*, the 'æ' as in *Cæsar*, seize.

Note. The word *terræ* is Latin for "*of the land*." *Legem* is the *accusative* Latin form; *lex terræ* is the synonymous *nominative* form. Note that *Legem Terræ*, the Law of the Land, categorically excludes all statutes, laws and regulations made by government, and judges' precedents (*stare decisis*).

See *Articles of Common Law* and the meaning of the terms Common Law and The Law of the Land in 'Legal Definitions Unalterable at Common Law,' in Chapter Three. (There is no relation to the much later invention of autocratic, militaristic 'maritime law' which is sometimes referred to as 'the law of the sea'.)

Also note: the nominative case in Latin contains the definite article "*the*," making it incorrect to precede the words *Magna Carta* with the English definite article: to say, "*the Magna Carta*" is incorrect.

Consider Harlan F. Stone, U.S. Chief Justice 1941-1946, on the Juror's Duty in the authentic Trial by Jury, as follows:

***"If a juror feels that the statute involved in any criminal offence is unfair, or that it infringes upon the defendant's natural God-given unalienable or Constitutional rights, then it is his duty to affirm that the offending statute is really no law at all and that the violation of it is no crime at all, for no one is bound to obey an unjust law."***

***"That juror must vote Not Guilty regardless of the pressures or abuses that may be heaped on him by any or all members of the jury with whom he may in good conscience disagree. He is voting on the justice of the law according to his own conscience and convictions and not someone else's. The law itself is on trial quite as much as the case which is to be decided."***

U.S. Chief Justice Harlan F. Stone; Harvard Law Review. (Emphases added.)

[... The above quotation from DEMOCRACY DEFINED: *The Manifesto* is abbreviated here, and continues thus...]

The power, right and duty of Jurors to decide the verdict according to their convictions and conscience have been established in Common Law since the pre-historical incipience of **judicium parium**, “the judgement of social-equals,” pares or peers, which is the Common Law Trial by Jury Justice System. This is because it is a definitive part of the Juror’s Duty to uphold justice by protecting the ordinary people, the meek and innocent, from the crimes of lawlessness and injustice being inflicted by those in positions of power.

***“It cannot be denied that the practice of submitting causes to the decision of twelve men was universal among all the northern tribes (of Europe) from the very remotest antiquity.”***

See p. 32 of Crabb’s History of the English Law.

The trial of an accused person by a jury of local equals (“**judicium parium**” in Magna Carta) pre-dates history. As noted by renowned legal authority Sir William Blackstone, the formal courts of the Common Law Trial by Jury were established and functioning from early times:

***“A hundred court is only a larger court-baron, being held for all the inhabitants of a particular hundred, instead of a manor. The free suitors (jurors) are here also the judges, and the steward the registrar, as in the case of a court-baron (a ‘baron’ merely being a freeholder of land; see Chapter Three). This is said by Sir Edward Coke (Chief Justice) to have been derived out of the county court (shire-mote) for the ease of the people, that they might have justice done to them at their own doors, without any charge or loss of time; but its institution was probably coeval\* with that of hundreds themselves, which were formerly observed to have been *introduced*, though not invented, by (King) Alfred, being derived from the polity of the ancient Germans. The *centeni*, we may remember were the principal inhabitants of a district composed of different villages, originally in number a *hundred*, but afterward only called by that name, and who probably gave the same denomination to the district out of which they were chosen.”***<sup>1</sup>

***“Cæsar speaks positively of the judicial power exercised in their hundred courts and courts-baron. ‘Principes regionum atque pagorum’ (which we may fairly construe as the lords of hundreds and manors) ‘inter suos jus dicunt, controversias que minuunt.’ (Translation: The chiefs of the country and the villages declare the law among them, and abate controversies.)”***<sup>2</sup>

“And Tacitus, who had examined their constitution still more attentively, informs us not only of the authority of the lords, **but that of the *centeni*, the hundreders, or jury, who were taken out of the common freeholders, and had themselves a share in the determination. ‘Eliguntur in conciliis et principes, qui jura per pagos vicoeque reddunt, centeni singulis, ex plebe comites concilium simul et auctoritas adsunt.’ (Translation: The princes are chosen (elected) in the assemblies, who administer the laws throughout the towns and villages, and with each one are associated an hundred companions, taken from the people, for purposes both of counsel and authority. This hundred court was denominated *hæreda* in the Gothic constitution.”**<sup>3</sup>

1, 2 & 3 See vol. 3, Blackstone’s Commentaries on the Laws of England, pp.34-5. Also see DEMOCRACY DEFINED: *The Manifesto* sections on King Alfred in Chapter Three; and, Trial by Jury Courts Prior and Subsequent to Magna Carta, Chapter Six.

Publius Cornelius Tacitus, 56 – 117 C.E., was a historian, philosopher, lawyer, senator and governor of Asia (Anatolia). He traversed much of the Roman Empire and recorded for posterity. He referred to Christ, his being brought before Pontius Pilate and execution, and early Christians in Rome. One of his perspicuous observations was, “*The more corrupt the state, the more numerous the laws.*” How true that remains!

\**Definition*, coeval, adjective, having the same age or date of origin; existing at the same time as another person or thing; contemporary.

coeval, noun, a person or thing of approximately the same age; a contemporary.

[Quote ends here and continues with sections from **LEGAL DEFINITIONS UNALTERABLE AT COMMON LAW.**]

#### (VI) *Common law*

Common Law is the term given to the code of laws and customs aforementioned in above Item (I), *legem terræ*; the Law of the Land; the Trial by Jury Justice System, inscribed as Articles of the 1215 Great Charter Constitution, Magna Carta (see refs., quotations and attribution to follow).

Common Law is made (decided) from **judicium** (the judgement; verdicts and sentences) of Jurors in **judicium parium**, the Trial by Jury, the Judgement of Pares (parium, social-equals or peers). Trial by Jury is the sole legal justice system for all causes (lawsuits) of *Legem Terræ*, the secular, pan-European and pan-Occidental, timeless, universally applicable Common Law, also known as, **the Law of the Land** (see VII; *The Law of the Land*).

**AUTHORITIES AND REFERENCES CONFIRMING WHAT COMMON LAW IS.**  
Here are some references confirming the common law is *legem terræ* and *vice versa*.

Sir Matthew Hale, Lord Chief Justice of England: “*The common law is sometimes called, by way of eminence, lex terræ, as in the statute\* of Magna Carta, chap. 29 [Article 39 in the 1215 original], where certainly the common law is principally intended by those words, aut per legem terræ; as appears by the exposition thereof in several subsequent statutes; and particularly in the statute of 28 Edward III, chap. 3, which is but an exposition and explanation of that statute. Sometimes it is called *lex Angliæ*, as in the statute of Merton, cap. 9, ‘*Nolumus leges Angliæ mutari*,’ etc. (We will that the laws of England be not changed.) Sometimes it is called *lex et consuetudo regni* (the law and custom of the kingdom) [or ‘realm’]; as in all commissions of oyer and terminer; and in the statutes of 18 Edward I, and *de quo warranto*, and divers others. But most commonly it is called the Common Law, or the Common Law of England; as in the statute Articuli super Chartas, chap. 15, in the statute 25 Edward III, chap. 5 (4) and infinite more records and statutes.”*

1 Hale’s History of the Common Law, p. 128.

\*Apropos of the use of the term ‘statute’ as distinct from ‘constitution’, see section, **WHY THE 1215 GREAT CHARTER IS NOT A “STATUTE.”**

Crabb: “*It is admitted, on all hands, that it (Magna Carta) contains nothing but what was confirmatory of the common law, and the ancient usages of the realm, and is, properly speaking, only an enlargement of the charter of Henry I, and his successors.*”

Crabb’s History of the English Law, p. 127.

Blackstone: “*It is agreed by all our historians that the Great Charter of King John was, for the most part, compiled from the ancient customs of the realm, or the laws of Edward the Confessor; by which they mean the old common law, which was established under our Saxon princes.*”

Blackstone’s Introduction to the (Great) Charters; Blackstone’s Law Tracts, p. 289.



Sir Edward Coke (Chief Justice): “The common law is the most general and ancient law of the realm. The common law appeareth in the statute\* of Magna Carta, and other ancient statutes (which for the most part are affirmations of the common law) in the original writs, in judicial records, and in our books of terms and years.”

1 Coke’s Institutes, p. 115.

Coke: “It (Magna Carta) was for the most part declaratory of the principal grounds of the fundamental laws of England. They (Magna Carta and Carta de Foresta) were, for the most part, but declarations of the ancient common laws of England, to the observation and keeping whereof the king (the government) was bound and sworn.”

Preface to 2 Coke’s Institutes, p. 3.

### THE GOVERNMENT’S COUNTERFEIT ‘COMMON LAW’.

Confirmed by the above authorities, genuine common law must be *differentiated* from that which modern government has corrupted *by legislation*; a *counterfeit*<sup>1</sup> which is “common law” *in name only*. Whereas statutes may contain common law, as the authorities quoted show, common law itself does not include any *statutes* made by government; nor ‘precedents’ or decisions (*stare decisis*) made by *judges*.

1 See Chapter Three section entitled, ‘The Malign Ruse,’ regarding government / legal profession tergiversation and disinformation about common law.

### REAL COMMON LAW POLICES SOCIETY.

Common law governs and “*polices*” all law, for, *to judge the law*, i.e., its legality, fairness, validity, applicability, and legal meaning (interpretation), **the jurors are the legal judges** prescribed by constitution and common law. For example, see the following:

“*This position*” (that the matter of law was decided by the justices [judges], but the matter of fact by the pares [peers, i.e., jurors]) “*is wholly incompatible with the common law, for the Jurata [jury] were the sole judges both of the law and the fact.*”

Sir Jeffrey Gilbert’s History of the Common Pleas, note, p. 70; and...

“The Annotist says, that this [i.e., whether jurors reflect upon the question of law] is indeed a maxim in the Civil-Law Jurisprudence, but it does not bind an English jury, for by the common law of the land the jury are judges as well as the matter of law, as of the fact, with this difference only, that the judge on the bench is to give them no assistance in determining the matter of fact, but if they have any doubt among themselves relating to matter of law, they may then request him to explain it to them, which when he hath done, and they are thus become well informed, they, and they only, become competent judges of the matter of law. And this is the province of the judge on the bench, namely, to show, or teach the law, but not to take upon him the trial of the delinquent, either in matter of fact or in matter of law.”

Gilbert’s History of the Common Pleas, p. 57.

See TRIAL BY JURY: Its History, True Purpose and Modern Relevance, by d’Oudney & Spooner, ISBN 9781902848723.

See the constitutional, historical and law tomes of Blackstone, Crabb, Palgrave, Kelham, Mackintosh, Millar, Coke, Gilbert, Hume, Turner, Hallam, Stewart, Hale, et al.

### THE COMMON LAW ‘RULES’:

#### IT DEMANDS JUSTICE IN STATUTES.

The above authorities show that *legem terræ*, the common law of the land specified in Article 39 of Magna Carta, was the long-established *common*,

fundamental, supreme law of the land *by which the monarchs and their governments were bound by their oaths* at coronation and divers other occasions (ref. Kelham, Hale, Hallam, Millar et al.; see the chapter on Magna Carta).

*Definition.* rule of law, the epithet, ‘rule of law’ refers to rule by means of the Trial by Jury; the form of government in which the sovereign supreme power is vested in the people to govern through Trial by Jury, to vet, judge, interpret, decide (make), and enforce the law; the people rule, cf. definitive democracy; see etymology, etc.; Chapter One.

At no time then, previously or since has *legem terræ* itself included any laws enacted by a monarch or rulings of government’s judges. That is to say, common law contains no statutes or rulings of government, whereas, quite the other way around, *statutes* may observe and contain statements of, or derived from, common law. Indeed, that degree of fairness and justice demanded by common law must be plainly inherent in a statute if it is to receive the unanimous approbation needed for its enforcement from a randomly selected jury of peers instructed and sworn “to do justice.”\*

\*See section in Chapter One on the Natural Origin of Common Law; its predating organised religions; and ‘The Following Five Facets of Constitutional Common Law Trial by Jury Bestow Sovereignty on the Citizens in the Jury,’ and ref. to the Juror’s Oath which follows. Naturally, *rule* derives from *sovereignty*.

One can safely observe, without meaningful contradiction, that few statutes made *today* would receive such wholehearted approval and unanimous support from the people (see ‘The Workings and Results of Trial by Jury’; Chapter One). Criminal misgovernance is the order of the day, as it was in John’s reign. Justice measures government and the latter is found wanting.

A priori, the ascertainment by Jury of a statute’s legitimacy *before* every act of its enforcement may be visited upon a citizen’s person, goods or property, is, and must always remain, the constitutional mandate...

### THE CONSTITUTIONAL MANDATE:

***All the acts and edicts of government and the behaviour of convenors (judges) must forever be subject to the circumspection, judgement and authority of the Sovereign Jurors in Common Law Trial by Jury.***

Magna Carta put the then already long-established tenets of common law into writing. It was a last peaceful response to the invasive Norman monarchs’ general usurpations which had led finally to John’s reign of terror. The 1215 Great Charter was drawn up to remove from governments, *for all time*, any and all power to tyrannise.

A reading of the Articles themselves demonstrates that the document’s authors were righteously preoccupied with installing the underpinning principles of equal justice and secular morality to protect *all folk equally* from crime and injustice. Readers unacquainted as yet with the contents and intent of the 1215 Great Charter’s Articles of Constitution will, of course, conclude this for themselves anyway after having read the Constitution’s *Articles of Common Law*; ref. Chapter on Magna Carta.

*Everyone*, bonded citizens included (i.e., labourers who were ‘contracted’ employees with advantageous perquisites, tied cottages; allotments; privileges and provisions), such as churls, cottars, serfs\* and villeins; villagers; men and women including all the very humblest and poorest), *all citizens* were guaranteed the protections of Trial by Jury cost-free for private causes, prosecutions and defence (ref. Articles 20 and 40). The people’s courts designated as county, hundred, courts-baron and leet were extant, available and active countrywide<sup>1</sup>.

1 See, ‘The Trial by Jury Courts Prior and Subsequent to Magna Carta,’ Chapter Six.

\*There were no slaves in the feudal system. Far from it. Contrary to the incorrectness sometimes seen, serfs were not slaves. The status of bonded serfs is set out in the Chapter on Magna Carta.

### **THE JUSTICE MECHANISM CREATES COMMON LAW AND VICE VERSA.**

It is important to apprehend that, although Common Law can be written *approximately*, it is not ‘a written law’. That law which is written down and enacted by parliaments and congresses becomes a *statute*: as such, it is not ‘common law’. Indeed, it is one of the Juror’s Duties definitive of Trial by Jury to judge the justice and legitimacy of those laws which governments write down and seek to enforce on people. Likewise, the *judiciary* is an arm of government. Whatever a judge ‘rules’, it is an act of and by *government*. It is not ‘common law’.

Common law is *lex non scripta*, or, the People’s permanent, unalterable supreme unwritten Law and Customs included in the early Coronation Oaths, eventually first codified (written down) by King Alfred (871-899). Subsequently, it appeared in the rare Charters. It was not until the 1215 Great Charter that the entire mechanism of the Trial by Jury Justice System—which itself was both formed by, and, as we shall see, the origin of, the common law—was set out in detail. With Trial by Jury as its focus, common law in Magna Carta forms what we today call a **Constitution** because (amongst many other reasons), the Great Charter was explicitly created to preclude repressive and arbitrary government from the realm *forever*.

Trial by Jury was prescribed as a constitution with the intention of *transferring for all time the power and responsibility for the enforcement of the laws to the people* as citizen-jurors at Common Law Trial by Jury.

The Great Charter was worded as a perpetual binding agreement between the people and whomsoever came to comprise their chosen administrative government. All persons within government must constrain their activities to remain within the Charter’s stipulations, and are subject to the Trial by Jury Justice System. Since the Fifteenth Day of June in 1215, *no head of state* may realistically or rationally consider him or herself “not bound” by the Great Charter Common Law Constitution. Given a moment’s reflection, Americans, Australians, Canadians and many other folk will realise that this code naturally applies to their heads of state also, *because these populations adopted the Common Law Trial by Jury as their Constitutional Justice System*.

It is an ironical providential curiosity that Trial by Jury is both the origin and yet itself the very creation of, the people’s inspired common law of the land, *legem terræ*. In greatest contrast with government-made statute law, common law is ordained by our Constitution to be created by the people through their decisions (*judicium*; the judgements, verdicts and sentences) *on all matters in dispute*, civil, criminal and fiscal. Common Law Trial by Jury is the hub from which all the outreaching spokes of juries’ decisions spread and protect democracy; government of, for and by the people.

Administrative government requires the overt public assent of the people as expressed by the verdict of the jury before a person is dispossessed or punished. Juries protect themselves and their fellow citizens from common criminals *and* prevent the crimes of arbitrary and corrupt government from occurring by making all persons equal before the law. This denies government the means of enforcing statutory injustices through *trial-by-judge*.

### **OBFUSCATION BY A MODERN FICTION.**

Common law is applicable at all times and in all places; it is not geographically constrained to a particular culture, religion or people, or limited to a set time or era.



As a Constitutional and legal term unalterable at the Common Law of the Land, **legem terræ** is the timeless, immutable supreme **common law and justice system** emplaced to judge over government statutes and courts, and government personnels' actions and motives. To the eternal chagrin of scheming ambitious politicians, the self-important judiciary, collusive bureaucrats and compromised lawyers, legem terræ is emplaced explicitly to eliminate arbitrary government.

It is another profoundly damaging modern fiction of premeditated obfuscation, public miseducation and propaganda *to invent* as a so-called dictionary 'meaning' for **legem terræ**, "all the laws in force within a country," or similar. This is blatant misguidance! As shown herein, it is most certainly not that! For, under today's statutory misgovernance *that* incorrect 'definition' refers to and incorporates *government statutes and judges' rulings!*—*precisely and categorically **not*** the Constitutional legem terræ at all!

Statutes and government judges' rulings are *the antithesis* of the folk's common law customs and code of equal-justice-for-all *through Trial by Jury*, which came to be codified in writing in the 1215 Great Charter of Liberties.

Remember! The head of state is constitutionally-bound; merely a *symbolic* 'sovereign', sworn and subject to We the People and the Common Law's strictures written into the Great Charter. The People's Constitution binds the head of state. As the authorities quoted above show, legem terræ, the law of the land, common law, is strictly limited in meaning. It only refers to the inscribed permanent Constitutional supreme law *Articles* of the 1215 Great Charter which apply to and bind all men and women equally, whether they are in or outside government.

**Also see TRIAL BY JURY by d'Oudney and Spooner, ISBN 9781902848723.**

The law of the land legem terræ common law concentrates all legitimate power into the People's democratic courts of the Constitutional Trial by Jury Justice System, backed by all the official apparatus of enforcement, civil police, prison service, and armed services. Thereby, it provides the procedures, means, common law criteria and the Trial by Jury mechanism for *judging* the justice and the legality of governments, laws (statutes), courts (convenors; judges), and the motives and actions of all people. It shares out, or devolves, this power equally amongst all the adult population to Jurors, to enable the abstract concept of the naturally just society to become, not merely feasible, but actual in pragmatic terms. Thus is Restoration accomplished.

[The textbook information on definitive Common Law is truncated here.]

### **(VII) *The Law of the Land.***

The term the Law of the Land relates to the traditional pan-European protection afforded to the whole population by itself, for the purpose of eliminating and deterring crimes in general, and crimes by government against (the) people in particular. The central doctrine and sole justice system of the Law of the Land is the Common Law Trial by Jury.\*

**\*See also Chapter Five for correct Latin translation of Articles of Common Law in Magna Carta.**

The U.S., Australian and other Constitutions follow the Common Law Trial by Jury Justice System rule of law set forth by Magna Carta 1215. Translated from Latin into English, Legem Terræ *means* the Law of the Land. The Law of the Land is comprised of the ***Articles of Common Law*** which the 1215 Great Charter Constitution contains. That is to say, the Law of the Land is a legal term ***synonymous*** with the expression, the People's Common Law of the Land, and is known more briefly as: the Common Law.\*

**\*See refs., quotations and attribution regarding definitive Common Law in Item VI above.**

*Politicians are frequently heard nowadays referring incorrectly to their political statutes as, “the law of the land” out of ignorance or, more likely, to obscure the real meaning and utmost significance of the term.* The historical, legal, Constitutional fact is that the term, **the Law of the Land**, *uniquely* relates to the Common Law which is inscribed as the Articles of the 1215 Great Charter Constitution, including and especially those which prescribe and define the Trial by Jury. It is through Juries’ decisions following the process of Trial by Jury that the people’s common law is continuously expressed. It is legitimately fulfilled by enforcement of **judicium**, juries’ judgement, verdicts and sentences.

The common people’s **protection** derives from the Trial by Jury by which the folk are responsibly empowered through the court justice system with ultimate control over wayward government. Articles Forty and Sixty-One guarantee the right to file Complaint and Prosecute cost-free at Trial by Jury. Article Sixty-One also renders all government persons liable to prosecution. The Constitution sets out the parameters of the only legitimate justice system, defining it by timeless principles, inscribing it as the Constitution’s Articles of Law and quashing any tyrannical tendencies in politicians, judges and government employees at all levels. That is to say, the Common Law of the Land Articles prescribed by the Constitution, responsibly empower the folk to police their society, regulate and govern government, and prevail over all statutes. Common Law criminalises government borrowing at interest and banks (or individuals) lending at interest. **Constitutional Restoration retroactively eliminates the ‘national debt’ at a stroke**; ref. Chapter Six.

The constitutional rule of law cannot *legitimately* be ignored, evaded, amended or superseded by government, politicians, parliament, congress or courts. Juries’ decisions at Trial by Jury are legal, binding and constitutional. They supersede, judge, interpret, administer and rule over all the measures of administrative governments, heads of state and all decisions of government-appointed judges (again, viz. Article 61—about which more later). Infractions of the 1215 Great Charter Constitution by government and/or government personnel and employees are specifically denoted *punishable* at the behest of the People through the Constitutional Trial by Jury (see Chapter Five allusions to common law and the 1215 Great Charter). Legem Terræ Trial by Jury provides the people with protection through the **jurors’ power to judge the justice of politicians’ and bureaucrats’ measures of finance and law**. The people judge the very legality of their government, when necessary overseeing and scrutinising the issuance of currency and credit; condemning Usury and Fractional Reserve Lending (fraud at common law).

The juror’s power is temporary and limited to the context of the current process for which the randomly selected citizen has been empanelled; but the jury has the power to protract proceedings, authorise investigations and amicus curiæ, issue subpoenas, remand to custody, and, if the jury deems it necessary, hold on for as long as it needs or takes. Remember, *demos-kratein, demokratia*, Democracy... **the people rule through Trial by Jury.**

Following **Restoration**, the people may also seek a return to other aspects of definitive democracy, such as the profoundly levelling, egalitarian sortition technique (random selection of persons to hold office in official positions for limited terms; usually no more than two years). Limited terms in office apply to all strata of employment within the state to prevent power concentrating in few hands or departments, and to preclude development of the *class* (so visible today) of complacent, long-term ‘career’ politicians, bureaucrats and judges who accumulate disproportionate influence in affairs.

Naturally, the people's common law of the land requires open government, and all that is implied by that statement. Funds taken from the people's economy which are to be spent by government may, on the order of juries, require to be frozen, audited and accounted for at any time. Taxpayers, citizen contributors to the cost of government, have absolute justification and power at any time to prosecute and have juries judge the motives and actions of those who wield power. Juries may investigate government personnel, taxation laws, trial courts (judges). As one would expect of a system designed to preclude misgovernance, the Law of the Land prescribes that particular justice system by which government prosecutions of arbitrary statutes can be *annulled* and/or *redressed*\* by the jury. Trial by Jury *also* provides the means for the *entire expunction* of unwanted statutes from the roll<sup>1</sup>.

**1 See explanation in the \*Counter Complaint and Two Ways to Equal Justice in Chapter Four.**

The (common) Law of the Land is the legal means by which the people are obliged to police their own society by administering and dispensing justice through Trial by Jury. (The incontestable ethical and experiential reasons at common law as to why judges and government may not set the sentence are explained in the Chapter on Magna Carta.)

[Quotation from *The Manifesto* is truncated here and continues with...]

#### **TRANSLATING AND UNDERSTANDING JUDICIUM PARIUM AND LEGEM TERRÆ IN MAGNA CARTA ARTICLE THIRTY-NINE.**

Charles,

Details follow about Article Thirty-Nine, Trial by Jury, Judicium Parium, Legem Terræ and the “**Robert Worcester fabrication;**” which, apparently, is now also adopted by **barrister Harry Potter**.

The following “**Twelve Points**” comprise part of our essay on Magna Carta in which, as I mentioned, I had previously dissected and dismissed hopelessly misconstrued ideas about Common Law Article Thirty-Nine. The essay evoked amongst others, the following responses:

#### **- REVIEWS AND ENDORSEMENTS -**

**“Kenn, Your rebuttal is masterly. Your essay is a very good read.”**

**ROBIN TILBROOK, Chairman & Party Leader; English Democrat Party.**

**“Thank you for your excellent work on Magna Carta. What a masterly exposition.”**

**JOHN GOURIET, Chairman, Defenders of the Realm; Battle for Britain Campaign supported by H.G. the Duke of Wellington; Edward Fox, OBE, and Frederick Forsyth, CBE.**

**“Thanks, Kenn. I’ve circulated this.”**

**SIMON RICHARDS, Campaign Director; Freedom Association; founded by John Gouriët; the Viscount de L’Isle, VC, KG, PC; Ross McWhirter and Norris McWhirter, CBE.**

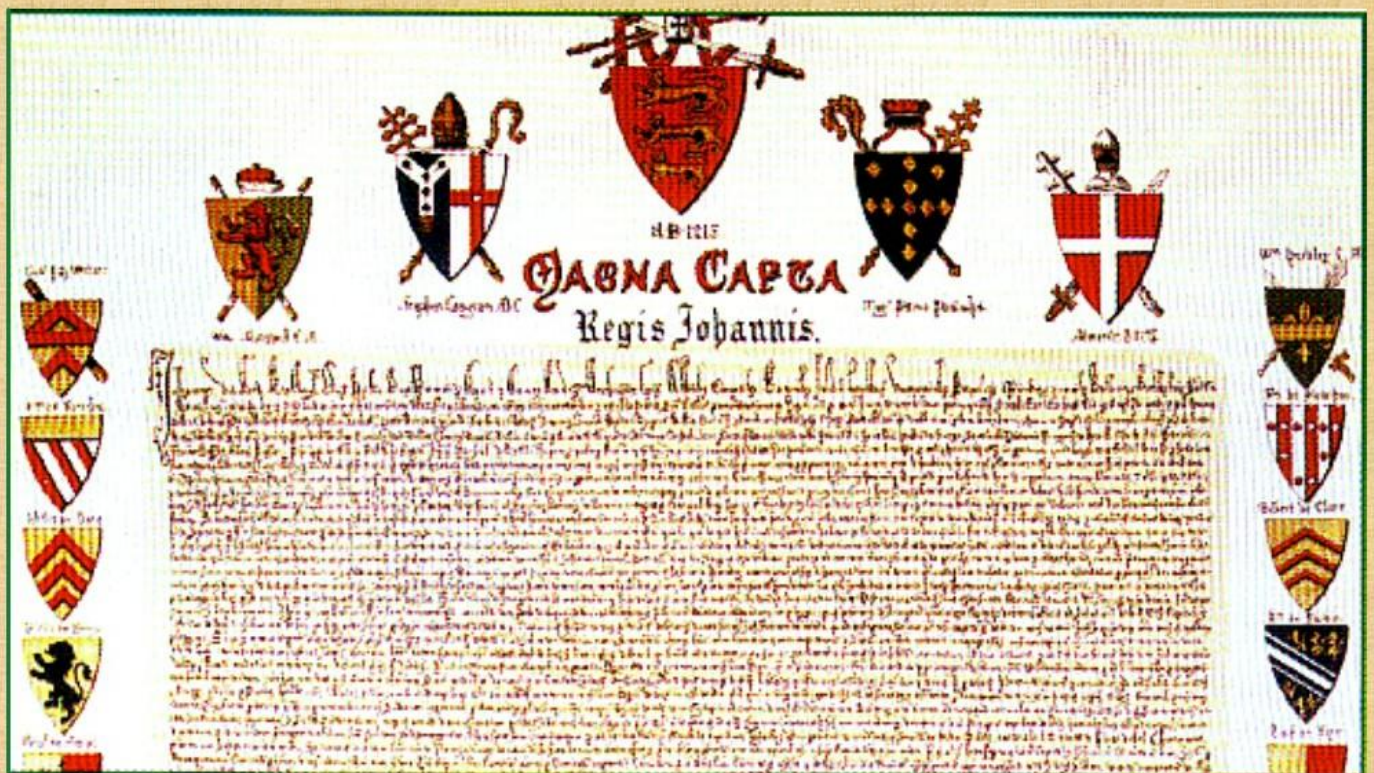


# KENN D'LOUDNEY

*An Essay on Specific Aspects of*

## MAGNA CARTA THE GREAT CHARTER: THE CONSTITUTION

Some Propagandised  
Misconceptions Annihilated.



[www.democracydefined.org](http://www.democracydefined.org)

© Astra d'Oudney  
ARTWORK



**THERE IS NO ‘get-out clause’ IN MAGNA CARTA; TWELVE POINTS.**

1. Today, people are generally ignorant about the intricacies of the History of Magna Carta and have a lack of knowledge about Trial by Jury being the principal precept and justice system **of the people’s Law of the Land, *legem terræ*. As a result, many a deception** has been easily foisted on a credulous population. To say there is a ‘get-out clause’ in Magna Carta is as incorrect and malign as the calumny that England or Britain has “no constitution!”

Shown in previous chapters, since time immemorial (long before Magna Carta), the Trial by Jury judgement by equals of equals was the people’s justice system. *Legem terræ* contains no statutes of government or monarch or rulings by justices (judges).

Despite grave aberrances, the European Gothic Peoples have a long democratic tradition. Antecedent Trial by Jury in which the juror has the power, the right and the duty to judge on the justice of law in finding the Verdict, was guaranteed by Emperor Conrad of Germany two centuries before Magna Carta.

See 3, Blackstone, p. 350.

To annul government enforcement of unjust laws, the Trial by Jury has been the main edifice of “the law of the land,” *legem terræ*, the common law; and Trial by Jury was the mode of trial adopted throughout all the nations of Europe. Noted earlier, the Anglo-Saxons and Normans were familiar with it before they settled in England. To preclude arbitrary government and injustice, *legem terræ* prescribes that *judgement* on the justice of the law and its enforcement was and remains the exclusive preserve of the ‘peers’, the equals of the accused. (The jury are the judges; see Chapter One.)

The law of the land’s judgement of peers (Trial by Jury) does not stop government from enacting legislation; but it *prohibits* government from *judging* in its own, or any, causes. *Legem terræ*, the law of the land, authorises that the accused may only be judged by his or her peers, i.e., randomly chosen social equals. *This* is the law of the land *legem terræ* and it is the crucial point of Magna Carta.

Contracts by promises and oaths have never been easy to prove, still less to enforce. A written undertaking however, takes on an altogether different complexion. This is what Magna Carta was about. The Norman kings behaved as conquerors are wont. They were disposed to harsh repression and, despite pledging oaths to be bound by the people’s common law of the land, they still behaved as if *their word* was ‘the law’. King John came to the throne in 1199. Following John’s many acts of barbaric injustice, the historic intention of the nobles, churchmen and freemen was to strip monarchs and government *for all time* of their power to oppress the population. If the unruly, savage king did not agree to these written terms, then civil war would ensue.

Article 39 is paraphrased as follows: “No one may be punished or disadvantaged in any way except (i) according to the judgement of his peers or (ii) according to *legem terræ* (the law of the land of which Trial by Jury is the single legal method of trial).”

*Not only does the Great Charter inscribe the common law of the land legem terræ—of which Trial by Jury is the only justice system—but it also specifies in particular, judicium parium, the judgement of peers; i.e., the Common Law Trial by Jury, as the means of settling causes.*

*In this one Article 39, Magna Carta effectively emplaces Trial by Jury twice, emphasising instalment of the people’s judgement of peers, the Common Law Trial by Jury, as the mode of trial: once naming “the judgement of the peers,”*

*judicium parium, the Trial by Jury itself (which was central to the traditions of legem terræ) and a second time as “the common law of the land legem terræ,” of which Trial by Jury is the only method of trial.*

**NOTA BENE:** The words, “...according to the judgement\* of his peers” **mean the jury sets the sentence.**

\*To this day, law books use the words judgement and sentence synonymously. See translation from Latin; also see Articles 20 & 21, page 153.

By specifying the people’s common law of the land legem terræ, the Great Charter *explicitly excludes government-made statutes*. Those who posit the falsehood of a “get-out clause” make the preposterous assertion which defies the History of Magna Carta and overturns logic. They claim that, although the barons and freemen were righteously infuriated to the point of civil war by the king’s incessant cruelties and massive injustices, having brought the king to their mercy, they then deliberately or inadvertently provided the king with a “get-out clause” by which he could continue to terrorise the people at his pleasure under any statute or edict of injustice he chose to pronounce. The authors of the Great Charter Constitution were not about any such nonsense as that. Individuals today who wish to remove the Constitution’s permanent legal restraints on government, misrepresent the meaning of legem terræ, claiming that “the common law of the land legem terræ” in Article 39 is “statute law”—which it is not. They supplant the real translation with the like of this mendacious monstrosity: ‘No man may be punished except according to the judgement of his peers or by the (king’s statute) law.’ This disingenuous idea would only be correct if the people’s legem terræ were government-made statute law. It is not. See the synonymity of ‘common law’ and ‘legem terræ’ defined by the authorities quoted above. **There is no “get-out clause” in Magna Carta; quod erat demonstrandum.** However, much further information follows in conclusive corroboration.

The Constitution comprises the Supreme Law; the People in juries comprise the Supreme Legislature. It is manifest ignorance—or duplicity—of Sir Robert Worcester (and others) to claim and propagandise this ‘get-out clause’ fiction; along with their ignoble malindoctrination of people with the ludicrous imposture that government-made statutes ‘override’ the People’s Constitution. This they never do legitimately—governments contravene the Constitution only by illegal force. They rely, as dictators always have, on the ignorance, servility and apathy of the general population—and the self-interested motives which result *in collusion* by unprincipled or unthinking villains who work for the illegal regime, supporting the Illegality of the Status Quo.

When the People choose to move, they will reinstate (the effectiveness of) the unsurpassed traditional European common law Trial by Jury-based Constitution.

**2.** Another affirmation of this point that the Great Charter allows no form of trial other than the judgement of peers and no law other than that willingly subscribed by the common people, comes from the History of Magna Carta. The principal premise of the Great Charter was that no man shall be punished at the government’s (king’s) command: only social equals of the accused may try the case and where appropriate, pronounce sentence. Only then may government act, and then only in accord with the judgement of the pares (peers).

The History of Magna Carta shows that, having given his seal to the Great Charter, King John recognised that his laws were to be “taken for naught” unless the jurors authorised enforcement. The legislative power had not been taken from him, but only the power to enforce his laws; unless juries should consent to enforcement. This gave the sovereign supreme authority to the people to judge all



legislation and annul prosecution of any regulation which did not meet with their approval. Neither John nor any of the government's personnel, but only the people as jurors had the power to decide whether a law was to be enforced, and if so, how.

Being the cruel despot that he was, John afterwards rued having given "for ever" (Article 63) all judicial power to the people. He (the government) retained only the duty of the executive function of carrying out the judgements (sentences) of juries. Government thus serves the People. English history books relating to Magna Carta unanimously affirm John was bound by Magna Carta *and knew himself to be so*. However, not only John but all subsequent monarchs and governments are bound under the Law of the Land customs expressed as Common Law and its Trial by jury (judicium parium; Article 39); the founding basis for legitimising statute laws as adjudged by jurors in Trial by Jury.

It is, of course, desperate farce to try to re-write history and say some form of "get-out clause" or legal loop-hole exists in Article 39, to claim government could in some way enforce *statutes* and by-pass the sovereignty of juries to judge the law. *If there had been a "get-out clause" John would not have written to the Pope as indeed he subsequently did to plead for a cassation of the Great Charter*. In fact, in this secular and feudal matter, the Pope had no authority to intervene (see Chapter Three).

The History of Magna Carta makes fascinating reading to all who seek to know about the Trial by Jury model justice system adopted by the U.S. and other Constitutions; and which underpins civilisation.

See Echard's, Hume's, and Crabb's Histories, et al.

3. The article [chapter or section] guaranteeing Trial by Jury is in these words:

"Nullus liber homo capiatur, vel imprisonetur, aut disseisetur, aut utlagetur, aut exuletur, aut aliquo modo destruat; nec super eum ibimus, nec super eum mitemus, nisi per legale judicium parium suorum, vel per legem terræ."

A. In Latin, VEL is translated as both 'and' or 'or'. It means 'or' as a simple conjunction (e.g., Article Twenty-Four); but means 'and' when VEL is repeated within the sentence as a coordinate conjunction relating to a previous clause, as in Article Thirty-Nine. However, in Magna Carta, *depending on the signification intended*, the word *vel* may be rendered both by *and*, and by *or*. This is explained as follows.

In cases of arrest and imprisonment for the purpose of bringing a man to trial, *vel* should be rendered by *or*, because there cannot yet have been any judgement, verdict or sentence of a jury. In this instance, "the common law of the land *legem terræ*" is the restraint upon the king. It governs and guides his actions.

**Common law recognises the Trial by Jury judgement of peers as the single legitimate form of trial; and the law of the land authorises no other form of trial. Of this we are certain. Trial by Battle and Trial by Ordeal had already become virtually defunct, and in any case were granted only as a last resort to a defendant already convicted by the judgement of peers (see Vol. 2, Hallam's *Middle Ages*; note, p. 446).** If there were *any* other form of trial provided for under the people's *legem terræ* at the time of Magna Carta, there would certainly be evidence of it: *nonesuch* exists.

Unless and until there has been a judgement of peers there is no Verdict. Common law had long forbidden kings (or their representatives) from taking executive action of any kind against a person's life, liberty or property without the prior consent of the peers. If this restraint were removed, the king (and his representatives) would have dangerous arbitrary power to make arrests at their pleasure, and confine people to prison indefinitely under the pretence of an

intention to bring to trial. Magna Carta was introduced to deny government permanently the power to abuse and do injustice to any citizen.

**B.** In cases where the peers have tried the case and passed a judgement (i.e., sentence), *vel* is repeated as a coordinate relating to a previous clause giving the meaning *and*, rendering concurrence of “the judgement of the peers and the law of the land,” authorising the government to execute the sentence on a party’s goods or person.

**C.** It is usual practice to construe with reference to each other, the meaning and intention of laws and charters on the same subject. Blackstone, speaking of the Trial by Jury as established by Magna Carta, corroborated that the word *vel* should be rendered by *and*. Blackstone says Emperor Conrad of Germany two hundred years before Magna Carta, “*couched in almost the same words*” as Magna Carta, the identical purpose when undertaking the installation of Common Law Trial by Jury for his people, confirming the meaning intended:

“Nemo beneficium suum perdat, nisi secundum consuetudinem antecessorum nostrorum, et iudicium parium suorum.”

“No one shall lose his estate unless according to the custom of our ancestors [i.e. the common law of the land], and [not ‘or’] the judgement of his peers.”

See 3, Blackstone, 350.

The fact that Emperor Conrad of Germany emplaced the judgement of peers further establishes the Trial by Jury mode of justice system as being that of the traditional and true European Constitution.

**4.** In Latin, the word ‘homo’ means ‘human being’ (of either sex), ‘person’ (of either sex), or ‘man’.

When the word ‘homo’ is utilised with the first two significations, i.e., ‘human being’ and ‘person’ which relate to both men and women, for convenience of inscription only the masculine gender is used to apply to both sexes. This is the same in French today, when Dear, ‘Chers’ (the masculine form) is used when writing to both a man and a woman. Otherwise one would have to write repeatedly ‘his *and her*’ and ‘male *and female persons*’ throughout the article.

Article 39 applies to “all free persons” as much as to all free “men” and there is nothing in the Latin which can be construed as excluding women. This is indeed re-affirmed by Article 40.

***Destruatur*** is one of those words translators call “false friends” because they look like English words but express a different concept or have a different meaning. In context, it is translated correctly as ‘harmed’ or ‘disadvantaged’.

#### **FURTHER OBSERVATIONS ON THE LATIN:**

**5.** A look at the Latin is interesting. It shows how false translations have from time to time been fabricated by despicable renegades in attempts to undermine the Great Charter’s primary intention which was, by installing the judgement of peers, to extirpate for all time all possibility for government to persecute “We the People.” Forming the permanent basis of the Constitution, the wording of Article 39, also seen in corresponding Articles in the Great Charters of 1225 and 1297, is as follows:

“Nullus liber homo capiatur, vel imprisonetur, aut disseisetur de libero tenemento, vel libertatibus, vel liberis consuetudinibus suis, aut utlagetur, aut exuletur, aut aliquo modo destruat, nec super eum ibimus, nec super eum mittemus, nisi per legale iudicium parium suorum, vel per legem terræ.”

In the entire Article, none of the words or wording suggest, provide for or authorise any *judicial* action by anybody other than the peers (the jury). Nothing in the Article anywhere describes the king or government as having any function

other than that of *action*, and that is specifically to execute the sentence of the jury. Let us dissect and look at the wording.

Nullus liber homo capiatur, vel imprisonetur, aut disseisetur de libero tenemento, vel libertatibus, vel liberis consuetudinibus suis, aut utlagetur, aut exuletur, aut aliquo modo destruat

**No freeman shall be arrested, or imprisoned, or dispossessed of his freehold, or his liberties, or free customs, or be outlawed, or exiled, or in any manner harmed**

nec super eum ibimus

These words describe a *physical* action: “**nor will we (the king or government) proceed against him**” in an executive role to execute a sentence.

nec super eum mittemus **nor send anyone against him,**

The words do not imply a judicial opinion or action. There is nothing in the Latin to allow translation of the words as ‘pass upon’ or ‘condemn’—‘nor will we pass upon him, nor condemn him’—is incorrect.

It is important to see the legal difference between the true and the false translations. The wrong translation attempts to give some ‘judicial’ function, choice or decision to the king, whilst the true translation dictates that the king only has an executive function to carry out the jury’s sentence.

The meaning and intention of the words, nec super eum ibimus, nec super eum mittemus, are confirmed by a charter granted previously by King John for the purpose of allowing the barons and freemen to frame the Great Charter itself. See as follows:

“Sciatis nos concessisse baronibus nostris qui contra nos sunt quod nec eos nec homines suos capiemus, nec disseisemus nec super eos per vim vel per arma ibimus...”

“Know that we have granted to our barons who are opposed to us, that we will neither arrest them nor their men, nor disseize them, *nor will we proceed against them by force or by arms...*”

**Blackstone’s Introduction to the (Great) Charters, Note; Law Tracts, p. 294. Oxford ed.**

**Definition. Disseize: to dispossess wrongfully. Disseizin: arbitrary wrongful dispossession.**

The full signification of *nec super eum ibimus, nec super eum mittemus*, is: **nor will we (the king or government) proceed against him, nor send (anyone) against him with force or arms...**

The translation of the previous words is supported and made plain by correct translation of the subsequent clauses. Together the whole makes perfect sense giving expression to the well-known longstanding European peoples’ democratic civilised tradition of precluding dictatorial government by the **annulment method** of Trial by Jury.

*nisi*, after a negative clause means **unless**

*nisi per legale iudicium parium suorum*. Let us look at these words separately in order that the meaning can make itself transparent.

Judicium is a **judgement**, which in the case of a guilty verdict is synonymous with the word ‘**sentence**’. Here, ‘judicium parium suorum’ means ‘the sentence of his peers’. **This means that the peers, the jurors, are to set the sentence.**

**As noted, to this day, law books use the words judgement and sentence synonymously.**

*per* should generally be translated as ‘**according to**’ [not as ‘*by*’].

There is sense in saying that the government might punish a man *according to* the sentence pronounced by his peers. This means that the government carries the sentence into execution. Whereas, the sense is not clear if one says that a monarch might punish a man *by* a judgement of his peers.

Likewise, in the subsequent phrase ‘per legem terræ’ *per* should be translated as ‘*according to*’ not as ‘*by*’. There is sense in saying that the monarch might proceed against a man (to effect his arrest) with force or arms, *according to* the law of the land; for this means that the king is acting as the executive officer and carrying the law into execution. Whereas, there is no clear meaning in saying that the king might proceed against a man with force or arms *by* the law of the land.

Something which is done *by* law or *according to* law is merely carrying the law into execution. If the word *by* is translated as having the intended meaning of ‘by authority of law’, then nothing can be done except what the law of the land authorises or is pronounced as the sentence of the peers. Again, the king or government is only authorised to carry into execution what the peers or the law of the land authorise. The correctness of the translation of *per* as *according to* is corroborated when considering the wording of Emperor Conrad of Germany’s antecedent installation of the Trial by Jury two hundred years earlier.

“*Nemo beneficium (possessions, land or property) suum perdat, nisi secundum consuetudinem ante cessorum nostrorum, et iudicium parium suorum.*”

Translation: “No one shall lose his possessions/property, unless *according to* (“*secundum*”) the custom (or common law) of our ancestors, and (according to) the sentence (or judgement) of his peers.”

nisi per iudicium parium suorum *means unless according to the judgement/sentence of his peers.*

6. In addition to Article 39 asserting that punishments are set by the jurors, i.e., “...*according to the judgement / sentence of his peers*,” further proof in **Articles Twenty and Twenty-One** of Magna Carta (below) makes it conclusive that juries, **not the government** (judge), set the sentence:

**Article Twenty:** “A freeman shall not be amerced (fined) for a small crime (delicto) but according to the degree of the crime; and for a great crime in proportion to the magnitude of it, but saving to him his contenment (the means of making a living); and after the same manner a merchant, saving to him his merchandise; and a villein shall be amerced after the same manner, saving to him his waynage (plough-tackle and cart), if he fall under our mercy; ***and none of the aforesaid amercements\* shall be imposed (ponatur) but according to the assessment of a jury of reputable\* men of the neighbourhood.***”

\*In the Great Charter, “amercement” is a fine; and “reputable” meant men who were not convicts, ill or lunatics. We know this from various sources of that era, including the following from the Mirror of Justices:

“Persons attainted of false judgements cannot be judges [note that the jurors were the judges of all aspects of the cause], nor infants, nor any under the age of twenty-one years, nor infected persons, nor idiots, nor madmen, nor deaf nor dumb, nor parties in the pleas, nor men excommunicated by the bishop, nor criminal persons.”

**Mirror of Justices, pp. 59-60.**

“Old men above three score and ten years, being continually sick, or being diseased at the time of the summons, or not dwelling in that country [locality], shall not be put in juries of petit assizes.”

**See Ruffhead’s Statutes, St. 13, Edward I, ch. 38, 1285.**

With the important characteristic inherent to profoundly cerebral constitutions, observe that Article Twenty of the Great Charter makes a point of stressing that punishments should be in proportion to the gravity of the crime.

**See DD Essay EIS#14: “The Crime-Generating (Inherently Illegal) and Other Degenerate Properties of Bad Laws and Disproportionate Punishments.”**



**Article Twenty-One:** “Earls and Barons shall not be amerced but by their peers (social-equals), and according to the degree of their crime.”

In setting the sentence and formulating just punishments, the jurors are advised in Article Twenty-One to bear in mind the degree of malice, and the gravity or effects of the crime, and any mitigating circumstances.

Fines were the most frequent punishments. Whereas fines under the common law observed by the Anglo-Saxon kings went to the victim or his or her surviving relatives, the government of Norman kings illegally seized upon fines as a source of income. If the amounts of fines had been left to be set by the king it would have represented an irresistible pecuniary temptation for him to impose oppressive amercements on people. Similarly, if the king or his servants the justices were allowed to set sentences other than fines, they could be seduced by corrupt motives into threatening or imposing harsh sentences to achieve criminal aims. In short, for the best of reasons, the Constitution **forbids** government functionaries from interfering in any aspect of **the judgement** of a citizen’s behaviour. Magna Carta inscribed that all aspects of the case were to be judged by the jurors. It was and remains the purpose of Trial by Jury to protect the people from all possible oppression by government. The jury and only the jury set the sentence.

The fact that the jury (not the government / judge) sets the sentence requires that *the jury always try every aspect of the case* (the law, admissibility of evidence, facts, the nature and gravity of the offence, motive, mitigating circumstances, etc.), in order that the jurors know whether a sentence of punishment is to be imposed, and if so, what the suitable sentence should be.

**ARTICLE THIRTY-NINE, FURTHER STIPULATIONS: CIVIL AND FISCAL CAUSES MUST ALSO BE TRIED BY JURY; ‘SUMMARY JUDGEMENTS’ AND ‘CONTEMPT’ PUNISHMENTS ARE PROHIBITED.**

Article Thirty-Nine dictates: No one may be fined, punished, or penalised but by the Verdict and Sentence of a jury following a Common Law Trial by Jury. All questions of liability, responsibility and damages must be and can only be decided by the Jurors. This explains why all civil and fiscal causes, as well as criminal cases, have to be tried by jury<sup>1</sup>. Issues may not be decided by means other than Trial by Jury; parties may not ‘waive’ their right to be tried by jury, the modern corrupt statutory and judicial ‘decisions’ to the contrary notwithstanding.

**1 Seventh Amendment to the U.S. Constitution:** “In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.”

Article 39 stipulates that summary judgements and punishments (as wielded today by government magistrates and judges); *and* judges’ punishments for ‘contempt of court’ are gross infractions of the letter and spirit of the Constitution and the rule of law. All right and power to try, judge and punish are unequivocally and uniquely invested in the jury. Judicial power is completely denied to government and judges (convenors) expressly to disarm government from arbitrary power over the populace. Moreover, regarding ‘contempt’: Common Law Article 39 stipulates that no one may be *punished* except according to the legal sentence (judicium; judgement) of the jurors. As a peace officer with responsibility for arranging security, the convenor (‘judge’) has power on behalf of the jury or him or herself, to order the arrest of an offender for a contempt (remove him from the court if necessary; and hold him to bail or imprisonment for default of bail)—but *no punishment may be inflicted against a person’s life, liberties (rights) or property unless and until the ‘offence’ has been tried*

*and decided upon as for any other offence: that is, at Trial by Jury. Then, the judgement (sentence), if any, must be the jury's, and not that of a judge.*

Today, in crude criminal breach of common law, magistrates and judges have again appropriated to themselves the completely illegitimate arbitrary power to sentence, fine, incarcerate and summarily punish, including for contempt of court. *If the judge has the power to punish for contempt*, and to determine what comprises a contempt, all the procedures, rights and duties of jurors, witnesses, counsel and parties are subject to the whim of a government judge. With such unjustifiable and illegal power, the entire administration of justice is seized into the judge's hands and the process is no longer a Trial by Jury. Everyone who presumes to offer anything contrary to the judge's caprice or corruption is at risk of incurring his displeasure. In this way, the outcome of every cause can be guided to the government's or the judge's favoured 'verdict' by the judge's intimidating, restraining and punishing anyone he or she pleases, whether it be the parties to the case, counsel, witnesses, or jurors / the jury. *Every process wherein the justice or judge has summary power to punish is a flagrantly felonious pretence of a trial or 'process': a mistrial.*

Spooner; a lawyer's observation:

***"This arbitrary power, which has been usurped and exercised by judges to punish for contempt, has undoubtedly much to do in subduing counsel [lawyers] into those servile, obsequious, and cowardly habits which so universally prevail among them, and which have not only cost so many clients their rights, but have also cost the people so many of their liberties."***

*Definition.* usurp, take a position of power or importance illegally, often by use or threat of force.

***For good reason, Common Law Article Thirty-Nine permanently strips all power to punish from judges and government.*** If the people wish to have their rights respected in courts of justice, it is manifestly of the utmost importance that they jealously guard the liberties and rights of plaintiffs, defendants, counsel, witnesses and jurors *against all arbitrary power on the part of the government or court.* Let us march forward to **Restoration!**

### **THE MEANING OF THE TERM "DUE PROCESS OF LAW."**

As there is but one legal means of trying causes, that is, the Trial by Jury, the expression "due process of law" means due process at *common law* Trial by Jury. It does not mean an arbitrary or summary or judges' "due process" of *statute* law. When it is misstated that due process of law indicates *statute* law, it is a deliberate evasion intended to conceal the jury's role in judging the justice of any statute law which the government wishes to impose. The Fifth Amendment to the Constitution of the United States was framed on the same principle. When it provides that, "no person shall be deprived of life, liberty, or property, *without due process of law,*" it means due process at *common law* Trial by Jury, the sole means for deciding crimes and causes.

**7.** Magna Carta does not prescribe that the government *must* punish according to the sentence of the peers: but that government shall not punish "*unless according to*" that sentence. It does not oblige the king to execute the sentence; *but it forbids him from going beyond the sentence.* Government might lessen the sentence or acquit on grounds of law, or even pardon. However, government cannot legally punish beyond the extent of the jurors' sentence. The Constitution forbids government from punishing, except according to the judgement of peers.

8. *legale* in the phrase ‘*nisi per legale iudicium parium suorum*,’ means: firstly, the sentence must be rendered in a legal way which accords with the common law trial, i.e., the judgement of the jury of indiscriminately chosen social-equals of the accused, the Trial by a Jury of peers: for example, in unanimity to pronounce guilt by the full complement of legally empanelled jurors sworn to try the cause; secondly, the judgement or sentence is rendered after a legal trial has taken place; thirdly, a sentence requires to be for a legal offence. That is, the defendant is adjudged to have performed a crime as defined by the common law: an act of injustice performed from a criminal intent with malice aforethought.\*

\*See **Crime, Legal Definitions, Chapter Three.**

If a jury were to convict and sentence a man without giving him a legal trial, or for an act which was not really and legally criminal (being without malice aforethought), then the sentence itself would not be legal. This clause forbids the government from carrying out such a sentence: the clause guarantees that government will execute no sentence or judgement unless it is *legale iudicium*, a legal sentence. If doubt exists whether a sentence be a legal one, it would require to be ascertained by a re-Trial by Jury.

(The word ‘*legale*’ did not mean that *iudicium parium suorum*, the judgement of his equals, should be a ‘pre-set sentence’ which any law of the king would require the peers to pronounce. For if so, the judgement would not be by the peers but would instead be a sentence by the king, which the jury would be mere mouthpieces in pronouncing—hardly an effective barrier against the tyrant oppressor.)

**‘Mandatory minimums’ are void, being repugnant to the Common Law and Constitution’s mandatory prerequisite appointing juries to set the sentence.**

9. **The Constitution** intentionally removes the power to set sentences from the government, and democratically devolves this duty to citizen-jurors so that *the government may punish only on juries’* authorisation, and strictly only according to the jury’s sentence (or a lesser, moderated one; or to pardon).

(Hence, Thomas Jefferson’s ‘anchor’ quoted in Chapter Four: “I consider Trial by Jury as the only anchor yet imagined by man, by which a government can be held to the principles of its constitution.”)

See **The Writings of Thomas Jefferson, ed. H.A. Washington, Lippincotts, Philadelphia.**

By ascribing judgement to the peers in Trial by Jury, The Constitution allowed punishments neither to be prescribed by statute, that is, by the legislative power, nor in any other manner by government or judges. Consequently, **all statutes or regulations prescribing particular punishments for particular ‘offences’, or giving the government’s judges any authority to set punishments, were, and are, void.** Such sentences pertaining thereto are Miscarriages of Justice. All people suffering such persecution are owed a real Trial by Jury (re-trial); and if found to have acted without malice aforethought, are due (overdue) **Amnesty and Restitution.**

10. *per legem terræ* means **according to the common law of the land.**

In the foregoing sections of this essay we have looked at the meaning of this phrase in some detail, which excludes all statutes or measures made by governments. There remain some observations which should be included.

The Great Charter Constitution affirmed that punishments were henceforth to be set by the jury, as they had always been according to the law of the land. This is, after all, a definitive attribute intrinsic to *the judgement* (or sentence) of the peers; that is, a **Trial** which is **by Jurors**. If someone other than the jury makes such decisions then the process cannot be defined as a Trial by Jury. If the law or

evidence or the sentence or anything at all could be *dictated* to the jury then the trial would not be *by jury*. It would be by someone other than the jury.

History shows that when a case leads to conviction, the defendant had and has the right of appeal to government against conviction or the sentence; and can demand a new trial or an acquittal if the trial were in some way flawed or against the law.

The fact that the jury sets the sentence shows that the jurors must judge of everything which relates to the cause at issue: the law itself; on the admissibility and weight of evidence and testimony; the motive and moral intent of the accused; and the nature of the offence or injustice committed. Then, the jury must consider whether factors mitigated the culpability of the deed. The jury must try every aspect of the case in order to know what comprises the appropriate sentence. As the judges, jurors have all authority; proceedings are under their jurisdiction.

To ascertain the truth, the jurors must see all the evidence and decide which evidence is relevant. Jurors cannot try an issue unless it is they who determine what evidence is admissible. It is a most grave crime (of subreption and/or perjury) to exclude or withhold evidence from jurors which they would consider *should* be admitted were they to see it. It is inherently immoral and a criminal act to make a juror pronounce a person 'guilty', or to declare that one person owed money to another, on such partial evidence. If decisions on the evidence are taken by someone other than the jury, then the process cannot be Trial BY JURY; and it is a mistrial.

**11.** Where before jurors swore simply and justly "to convict the guilty and acquit the innocent," modern government has malevolently inserted the words, "according to the evidence," into jurors' oaths. This violates Common Law, Magna Carta, and honesty, because this wording duplicitously means "only that evidence which the government [i.e., the judge] allows the jury to receive." If the government can dictate the evidence, and the jury is required to find the verdict according to that evidence, then government can dictate the verdict which the jury must reach. In that case, the trial is really a pretence, not a 'trial' at all. It is also a rigmarole of a pretended 'trial' by the government, the judge, and not by a jury. This sums up the corrupt process which takes place today. It is a shameful calumnious criminal subterfuge.

#### **COMMON LAW ARTICLE THIRTY-NINE.**

**12.** Common Law Article Thirty-nine of the permanent 1215 English (cf. British) Constitution dictates:

**No freeman or free person shall be arrested or imprisoned or dispossessed of his freehold or his liberties or free customs, or be outlawed or exiled, or in any manner harmed (or disadvantaged), nor will we (the king / the government) proceed against him nor send anyone against him (with force or arms), unless according to (that is, in execution of) the legal judgement of his peers, and (or *or*, as the case may require) the Common Law of the Land (of England, as it was at the time of Magna Carta in 1215).**

See Hallam's *Middle Ages*; Hume's *History of England*; and see the works of Sir Matthew Hale, Mackintosh, Gilbert, Stewart, Crabb, Hallam, Palgrave, Millar, Blackstone et al. See *Latin Dictionary, Examples, etc.*, Charlton T. Lewis, Oxford University Press.

The corresponding Article in Magna Carta of 1225 ratified by Henry the Third, and Edward the First in 1297, remains the wording of Magna Carta ratified by heads of state subsequently as one of "the *statutes* of government."

Magna Carta, Article 39, explicitly disallows government from denying *judicium parium* Trial by Jury and there is no 'get-out clause' from this stricture. We abstain from discourteous language in debating issues. However, it requires great restraint to avoid expressing many plain insults and profound contempt for people who take up this conspiratorial fabrication. Worcester gives dimwits a



catchy-sounding phrase, “get-out clause,” with which they then emulate the parrot by its predictable mindless repetition to elevate themselves from the insignificance of dunces to the feigned wisdom of the pontificating charlatan. When Robert Worcester [barrister Harry Potter] and others disseminate their putrescent deceit, they conspire against fellow humans and attack the very basis of democratic civilisation. They try their best but fail to undermine the moral and legal authority of the traditional European, U.S., Australian and U.K. Constitutions—Trial by Jury and the Universal Cause of Equal Justice.

### THE 1215 GREAT CHARTER CONSTITUTION

**A government, parliament/congress or legislature cannot, by legislative assertions, recite itself into constitutional power.** The following ten enumerated points at common law with accompanying texts explain how this is so.

[Extracts from]

### LEGAL DEFINITIONS UNALTERABLE AT COMMON LAW.

(Definition and Related Commentary)

#### (III) *statute law*

As distinct from supreme Constitutional customary Common Law, *statute law* is written law set down by a governing legislature.

#### WHY THE 1215 GREAT CHARTER IS NOT A “STATUTE.”

Although the Great Charter Constitution is sometimes ‘referred’ to as a ‘*statute*’, this is either from ignorance, the casual misapplication of terms, or, in the case of government functionaries and lawyers, specious disinformation.

The Great Charter is first and foremost a Constitutional inscription of the English (and other) People’s common law of the land at 1215 C.E., *which excludes all laws made by monarchs and government*. It comprises the Supreme Law which governs government and is more properly called **The Constitution. The 1215 Great Charter is the People’s perennial Compact with their chosen incumbent heads of state: it is NOT a statute.**

Statutes made by parliament or congress do not bind subsequent administrations, which may decide to amend or repeal a statute; but **no parliament made Magna Carta**. The Great Charter was made by the people directly with the head of state, explicitly to preclude tyranny, injustice and misgovernance by binding all heads of state and the modus operandi of government for all time under *judicium parium*, the Trial by Jury justice system of *legem terræ*, the Law of the Land. The laws of parliament cannot *change* any aspect of, or impinge in any way upon the Common Law at 1215; the perpetual binding dictates of the Great Charter. Through the supreme authority of the People’s Trial by Jury Courts, the 1215 Great Charter Constitution governs government.

Common Law is constitutional in the sense that it provides the peaceful legal means of the Trial by Jury for deciding all the People’s laws, liberties and causes (see section on Common Law to follow). Concerning specifically the Articles of Common Law in Magna Carta, this timeless common law *per se* has never been a government *statute*. Whereas government may enact and repeal *statutes*, it does not choose the People’s Constitution. It cannot go back in time to change the strictures of the 1215 Great Charter or the universally-applicable natural, timeless secular Common Law. *Statutory* parliamentary attempts to intervene in Magna Carta of 1215 are *ultra vires*; it is beyond the legal power or scope of parliament or congress to change the genuine Common Law. That the judiciary, parliament or congress should ever even so much as contemplate suppressing any aspect of Constitutional Common Law Trial by Jury by which it protects the population from crime by

government, deserves to be treated as a judicable act of *mens rea*; criminal intent. The upholding by the citizens of the Constitutional Trial by Jury and its rule of law is a Common Law Duty enplaced by Article 61 of Magna Carta (Chapter Five).

One must *differentiate* between the Constitutional Great Charter of 1215 and the increasingly abridged purported “*editions*” subsequently introduced and ratified (passed) by governments and parliaments, and signed into law by heads of state, which then are “*statutes!*”—and which are not *legem terræ*, the Law of the Land, the people’s common law: The 1215 Great Charter Constitution.

With the familiar behaviour of many a tyranny, illegal governments repeatedly seek to obliterate the constraints of justice and constitutional common law upon them. These restrictions on government are brought into being by the People having access to justice through their courtroom **prosecutions** at Constitutional Trial by Jury. The government crime of evading the binding constitutional limits to government power has sought to obscure itself under judicial pretensions of “immunity from prosecution” and *criminal parliamentary statutory* “repeal” of parts of Magna Carta of 1215, daring to treat the Charter as if it had been a “statute” of government. Yet, a reading of the stipulations and terms of the 1215 Great Charter demonstrates *self-evidently* its status of perpetual and permanent legal and moral supremacy. Any activity purporting to alter the Constitutional Sovereignty of the Juror in the Common Law Trial by Jury is an act of malice aforethought, *mens rea*, which treasonously undermines the Justice System.

The governments’ versions purporting to be “Magna Carta” have all been *mutilated* by *statutory* and thus *invalid* abridgement and interventions; viz. e.g., 1225, 1297, 1830 and so on to date. Our Constitution is further contravened by anti-Constitutional, illegitimate legislation: EU and UN treaties; the Uniform Commercial Code, etc. At common law, these are all treasonous political acts leading, as we shall see, to an inegalitarian social status quo, negation of the Trial by Jury and calamitous results to the vast majority of the population (Chapter Six).

Restoration, that is, the defining, prescribing and re-implementation of Common Law Trial by Jury as the sole legal Justice System for all cases, criminal, civil and fiscal, formed the core purpose and single most important aspect of Magna Carta, 1215.

Remembering that it is the People, as distinct from government, who choose their Constitution, it is easy to see why implementing the Common Law Trial by Jury Justice System too, is the main preoccupation and substance of all Western Constitutions; the U.S., the Australian, the Canadian, the New Zealand, and so on. **In the most profound sense, the West and all legitimate societies have but One Constitution: it is judicium parium, the Trial by Jury of Magna Carta, 1215.**

### THE IMMACULATE UNTOUCHABLE CONSTITUTION.

Some of the *statutes* which were passed by parliaments to curtail the excesses of dictatorial monarchs have come to be apocryphally referred to as “constitutional” (such as the Petition of Right ratified by both houses in 1628, the Bill of Rights, 1689). These despotic\* laws were authored by élite personages and the oligarchical upper class “Estates of England” consisting solely of titled Bishops, Lords and members of parliament chosen and “elected” by those with wealth “qualifications” (long *before* the mass had universal adult suffrage). However, as these are *statutes* and can be legitimately superseded by the legislature, they do not legally and correctly qualify as Constitutional.

\* See downloadable DD PDF Essay, *The Tragedy and Treason of the 1689 Bill of Rights*.

**The Declaration of Right does not qualify as Constitutional. Unlike the 1215 Great Charter, the Declaration was not signed and sealed by the head of state. It does not constitute a compact (contract) with anyone. The subsequent Bill of Rights derived from the Declaration is a *statute* and, of course, not Constitutional.**

By contrast with the untouchable 1215 Constitution, the laws and by-laws framed by the bureaucracy, passed by the parliament or legislature and enacted by the head of state, which are referred to as statutes, acts and regulations, *may* be amended by the legislature. Successive parliaments and congresses have the power to repeal or amend any *statute* they please—but nevertheless the head of state, all government personnel and statutes remain absolutely subject to the Common Law of the 1215 Great Charter Constitution and the due process of Common Law Trial by Jury.

Trial by Jury places the power to judge, annul or enforce the law with the Jurors, removing such power from government. However, government has the task and duty to pass just legislation in an equitable administration of the uncontroversial ‘nuts and bolts’ of day-to-day life. This is, of course, provided government operates legitimately; always within the legal and lawful parameters set by the Constitution in regard to the correct operation of the Constitutional Justice System, the Common Law Trial by Jury. In this latter regard, over recent generations, government has utterly obstructed the Grand Principle of Equal Justice embodied as the constitutional role of Trial by Jury *to regulate society*<sup>1</sup>.

**1 Co-author of the U.S. Constitution, ardent supporter of the Trial by Jury Justice System and Fourth President, lawyer James Madison exhorted the people to “regulate society” by expressing ultimate authority through their common law juries; see The Publius Fallacy of Number Ten, Chapter Two.**

By their illegal interventions and usurpations of the proper Trial by Jury, successive governments have completely removed the people’s constitutional legal empowerment to protect themselves peacefully from criminal misgovernance. In its single most important aspect affecting the entire populace, de facto, individual politicians and judges have abused their position and arbitrarily abolished the Constitution. Injustice flourishes today: the functionaries, personnel and departments are treasonous and culpable.

Constitutionally, through Trial by Jury the People have sovereignty over the head of state (Article 61) and all the persons in and employed by government whomsoever they be. Parliament and government are but the servants and employees of the People; the taxpayers.

**Government may confer power but the esteem of the people can alone bestow authority.**

[Quote truncated and continues with...]

#### **(V) Sovereignty**

Distinction must be drawn between the words *sovereign* and *sovereignty*. A monarch may be denoted ‘sovereign’ but the constitutionally-bound (or symbolic) monarch explicitly cedes sovereignty, id est, the making and enforcing of the laws, to others, specifically through the Common Law Trial by Jury; viz. Articles 24, 39, 40 and 61, etc.

*Definition.* Sovereignty, pre-eminence; the supreme and independent power expressed through the making and enforcing of the laws.

### **THE FOLLOWING FIVE FACETS OF CONSTITUTIONAL COMMON LAW TRIAL BY JURY BESTOW SOVEREIGNTY ON THE CITIZENS IN THE JURY.**

*Firstly*, the Common Law Trial by Jury is prescribed by the 1215 Great Charter Constitution as the one and only legitimate justice system for all causes.

**See translation and explanation of Article 39, etc., in There Is No ‘get-out clause’ in Magna Carta.**

*Secondly*, Unanimity is requisite to find a guilty verdict beyond a reasonable doubt to protect innocent individuals and minorities. (There is neither moral justice nor political necessity, i.e., deterrent value, for punishing where there was no malice aforethought, no *mens rea*. In the case of one person injuring another innocently or accidentally, the civil law suit and the Trial by Jury award appropriate compensation for damages.)

See sections on ‘Annulment by Jury,’ ‘Annulment by Jury as Crime Prevention,’ ‘The Illegal Majority ‘Verdict’ and ‘Hung Jury,’ ‘The Meaning behind the Dysphemism ‘Rogue Juror,’ and the following, ‘The Divisibility of Sovereignty.’ Also see section on King Alfred the Great regarding condemnation of judges who interfere, tamper, in the Trial by Jury.

*Thirdly*, each individual Juror has power to annul the prosecution by finding the accused Not Guilty without obligation to disclose any reason for doing so.

See exemplification of this given by the Old Bailey Commemorative Plaque re the Penn and Mead Trial by Jury and, in finding the Verdict, Chief Justice Vaughan’s Ruling on the Jury’s independent power over the law and the directions of the judge (see photo, etc., Chapter Two). Also see the statement of President John Adams, lawyer, in Chapter One.

Also see US v Moylan; and ref. the DC Court of Appeals Ruling.

*Fourthly*, having sworn to “do justice” (see Common Law Juror’s Oath; VIII; *The Justice System*), it is axiomatic\* that authoritative judgement on the justice and legitimacy of the law which is being processed for enforcement at Trial by Jury is a specific Constitutional Duty binding on the Jurors.

See following section on ‘The Justice System.’ The modern government-altered jurors’ ‘oaths’ are illegitimate on numerous grounds, and inequitably *ex parte* [one-sided, prejudiced; with a bias]. Also see section on Juror’s Duties re judging on the admissibility of evidence.

\**Definition.* axiomatic, adjective, self-evident; accepted fact (*law*); unquestionable.

*Fifthly*, whenever *the law itself is unjust* the act of its enforcement is crime per se. For a juror *not* to annul in those circumstances is the criminal act of abetment of the crime of Malicious Prosecution. Jurors absolutely ***must*** judge the law. It is the duty of the jurors to ensure that unjust ‘law’ is struck down and the accused tried thereunder is pronounced Not Guilty. ***This is the dutiful act of Annulment by Jury***; a principal duty of the jurors necessitated in the preclusion of the crime of tyranny. The annulment function is intrinsic to and definitive of Trial by Jury. Jurors are there to stop crime in all its manifestations.

This fifth point serves to explain firstly, why Common Law and Constitution assign the crime of High Treason to all acts which attenuate the sovereign authority of the juror; secondly, why King Alfred the Great hanged judges who interfered, tampered, in the due process of Common Law Trial by Jury (see as follows); and thirdly, why, for the slightest infringement of Magna Carta, the perpetual Sentence of Curse and Excommunication was prescribed by the lords spiritual, assisted by monarch and lords temporal<sup>1</sup>.

1 See Magna Carta, Chapter Five.

### REGARDING THE DIVISIBILITY OF SOVEREIGNTY:

If the elected body imposes any law or regulation which is inconsistent with the People’s sense of justice and fairness, it requires annulment by jurors in Trial by Jury, even by a *single* juror (unanimity required), who may be part of a minority race or group unfairly discriminated against by the law. In this manner, through the Trial by Jury, sovereignty not only resides with the people as a collective whole, but importantly, it is also embodied ‘divisibly’ with every adult citizen. Trial by Jury is thereby the active principle of democracy: the people rule.

Whether a society is a monarchy, a theocracy or a republic, what converts it from a despotism (a dictatorial, uncivilised state) to a democracy (the civilised state with Trial by Jury operating) is the instalment and implementation of the



Trial by Jury through which the people rule. (The word democracy does not replace the word republic. Of course, the republic remains a republic; but it is both *definitively and constitutionally* a *democratic* republic.)

Where the society implements Trial by Jury with all its common law stipulations and criteria which exact conformity to the principles of equal justice, then the society is a democracy. This is as opposed to a totalitarian monarchy, republic or theocracy wherein the dominant government personnel iniquitously suppress the people's right to the Legem Terræ Common Law Trial by Jury Justice System.

[Quotation truncated and continues thus.]

### **(X) *Treason***

Treason is any act adjudged to undermine or be in conflict with the People's Absolute Sovereignty ordained by the Constitution of the People. Sovereignty is specifically embodied in and exercised through implementation of the Trial by Jury in accord with the Constitutional Common Law of the Land; see Items (V) *Sovereignty*; (VI) *Common Law*.

Common Law and Constitution assign the Crime of High Treason to all acts which attenuate or attempt to attenuate the sovereign authority of the Juror. It is to commit high treason against the people to be implicated in any act which undermines the juror's sovereignty; or denies or attempts to deny (the right to) the Common Law Trial by Jury Justice System for any Plaintiff and private prosecution (of whomsoever) through a cost-free suit-at-law (Articles 39, 40, 61, etc.); *or*, for any citizen's defence.

### **WHY PRE-TRIAL EDUCATION AND INSTRUCTION OF JURORS ARE BINDING ON CONVENORS (JUDGES) AND THE LEGAL PROFESSION.**

#### ***The Juror's Duty Is to Pre-Empt Tyranny, Crime and Injustice.***

Whatever the judge's motives, *the judge is wrong* not to inform jurors of their Right and Duty to do justice: For example, in the State of Georgia v. Brailsford, a supreme court forfeiture trial, the facts having been ascertained, Chief Justice John Jay instructed jurors that it remained only for them to judge the law itself, saying:

***"The Jury has the right to judge both the law as well as the fact in controversy."***  
U.S. Chief Justice John Jay; Supreme Court; Georgia v. Brailsford.

Upon pain of punishment, it is incumbent upon convenors (judges) to apprise the jurors of their straightforward duties, including annulment, before trial. It is likewise incumbent on participating defence *and prosecuting counsel* to ensure that jurors have been thus educated on annulment. This is because, for these aforementioned judges and lawyers *not to do so* constitutes their premeditated participation in and promotion of a *pretence* instead of a real Trial by Jury (high treason); *and* is, for each such participating individual, the personal commission of a premeditated criminal act. This latter is the case because ***not to instruct jurors before the trial about the duty to annul has the potential to result in undue penalisation of an innocent person.***

Jurors cannot be expected to know that Trial by Jury definitively demands they exercise their duty of judging the law and accordingly annulling enforcement of unjust laws. This judgement of the juror's is an essential component of Common Law Trial by Jury and Democracy in order to protect innocent citizens from injustices at the hands of government judges and arbitrary legislation. Therefore, *unless jurors are briefed about it before trial, the act by officers of the court of denying jurors this knowledge is the treasonous act of subversion of the authentic Trial by Jury itself.*

For judges and lawyers to withhold or be party to the act of withholding the instruction of jurors to judge the law—along with their other duties—is knowingly

to participate in a subterfuge which replaces the genuine Trial by Jury. This is the commission of an act of injustice. For members of the legal profession *to receive remuneration* whilst committing the aforesaid acts gravely compounds their felony. Moreover, such remuneration posits an *incriminating venal motive* behind the legal profession's abandonment of honour and integrity whenever they participate in unconstitutional false 'trials by jury', 'processes'; and trial-by-judge. At this point, one should prompt readers to give *consideration* as to *what the lawyer's motivation must be as to why* he or she would commit, and be party to, such a cruel courtroom act perpetrated on trusting, innocent fellow citizens...?

**See The Juror's Duties; Chapter One.**

Whenever the defendant claims injustice in the law, it must be brought to the jury's attention; and the admissibility of the defence arguments and evidence is decided on by the jurors. One of the principal rules of natural justice expressed as the *Articles of Common Law* inscribed into Magna Carta, is that *the Jurors judge* on all aspects of the case over which they preside. For example, they and they alone decide on the admissibility of evidence (a vital function denied them today). Unless it is the jurors who judge on every aspect of evidence in each and every trial, they are not in a position to decide the verdict or the sentence; and the 'process' would not be a legal trial.

For the best of reasons, government and judiciary categorically cannot set sentences in any case, and merely have power to commute, i.e., lessen, not increase, sentences. (The reasons for this aspect of the common law are explained in the chapter on Magna Carta.)

**Yet today, as a juror, expect the judge to forbid you from judging on equity, fairness and justice.** Instead, judges instruct jurors to "uphold the law" regardless; and not to allow conscience, their opinion of the law, or a defendant's motives, to affect their decision. One can speculate *why* judges contravene the Constitution and civilised standards and do not inform jurors of their constitutional, legal and moral obligations: i.e., the Jurors' Right and Duty to judge the justice of law enforcement; *why* judges misinstruct jurors that they are 'not permitted' to judge the law; and *why* judges decide what evidence may be heard in court, *ruling out evidence which exonerates the accused if it 'disputes' the legality of the law*, and *preventing juries from reviewing all evidence and deciding on its admissibility...*<sup>1</sup>

— disrespect for citizens' ability to make fair judgements?

— the judge is the willing servant of antidemocratic oppressive government?

— unwillingness to part with his or her power to prejudice the verdict and produce the outcome desired by the judge himself or by his or her political masters?

***It is no coincidence that crime has increased in proportion to the degree that citizens' power as jurors to judge the law has been lost to 'judges'.***

Nowadays, but few of the masters of crime and hardened real criminals are publicly known; still less are they caught, tried and imprisoned. Paradoxically and in a grotesque irony, as a result of government judges' enforcing corrupt legislation (which honest jurors properly educated to their duties should and would annul), there is the highest per capita rate of incarceration of the population in the history of the U.S. and U.K. It causes prisons to be filled with harmless people completely innocent of any malice or 'crime'<sup>2</sup>.

**1 & 2 See THE REPORT by K. & J. d'Oudney, ISBN 978-1902848303**

The Great Charter prescribed Trial by Jury for all lawsuits. To infringe in the smallest way upon the provisions of Magna Carta was considered by the participating clergy to warrant extreme punishment, namely, Excommunication, internal exile; at that time a life-threatening condition. It would seem such Church powers are today

Reply to Charles Vickers, EDP.

defunct; nevertheless, the historic *permanent* Execration is a demonstration of the esteem inspired in people by this timeless Trial by Jury Constitution. Details follow.

First of all, see as follows, the response of King Alfred the Great (lawmaker) to judges' treason at common law by their illegitimate interventions in the *judicial* aspects of Trial by Jury (which are, naturally, solely the responsibility of the jurors). The jurors are the judges. The convenor, nowadays confusingly referred to as 'judge', has an administrative, not judicial, role (see the section entitled, An Irrevocable Principle Recognised by Common Law in Regard to Judges; Chapter One).

See next page.

## KING ALFRED THE GREAT



Alfred, 871 - 899; King of the Anglo-Saxons; England's greatest ruler—the only one to earn and deserve the epithet, The Great.

Military Strategist; Leader, with profound gallantry, personally and repeatedly engaged in the van of armed combat; Founder of the defensive shield, the Royal Navy; Conqueror of the Danish and Scandinavian Invasions; Peacemaker and Statesman; elected Monarch who united England, instituted the Witan (administrative council); reaffirmed the Sovereignty of the Juror in deciding the law (viz. Unanimity); id est, government of Constitutional Legem Terræ Common Law Trial by Jury (cf. *demos-kratein*; *demokratia*, the people rule through Trial by Jury; the Hellenic Athenian Constitution of government by Trial by Jury); reaffirmed the judicial role of the Jurors in Trial by Jury, with convenors (nowadays misnamed 'judges') returned to

their traditional correct functions, having no judicial role but merely court administration, security duties and subordinate to the principal official at Trial by Jury, i.e., the Jury's elected Foreman (or today, woman); the originator and instigator of the culture of universal literacy; personally translated several literary works from Latin, including Boethius' "The Consolation of Philosophy."

Statue of King Alfred at historic Capital of the Kingdom of Wessex, Winchester, in Hampshire, England.

### *Treason (cont.)*

#### THE PRINCIPLE OF UNANIMITY.

The Principle of Unanimity was understood, and definitively and constitutionally established by King Alfred the Great in the following way:

King Alfred had Justice (judge) Cadwine hanged because Cadwine had a man named Hackwy put to death by hanging, without the unanimity of the jury of twelve men. In this case, three jurors pronounced the Not Guilty verdict against nine. Cadwine removed the three and selected three others who would also pronounce 'guilt'.

Similarly, King Alfred had Justice Frebern hanged, because Frebern hanged a man called Harpin, when the jurors were still in doubt as to their verdict. Alfred established that when there is a doubt, it is in the interests of all people that justice should save rather than condemn.

See "The Mirror of Justices," compiled and published by Andrew Horne in Old French. The Mirror was written within a century after Magna Carta. It contains an account of Alfred's acts and judgements, thought to have been originally composed by him.

Also see Chapter Six, Vol. 2, 'Works,' by Justice James Wilson, co-author of the U.S. Constitution. *Treason (cont.)*: see sections re. the Church's Sentence of Curse and Excommunication, Cicero; and ref. Chapter Five on Magna Carta.

**Charles, to conclude, here is a section for your interest on the Constitutional Trial by Jury from DEMOCRACY DEFINED: *The Manifesto*.**

**HOW EQUAL JUSTICE IS DONE:  
THE JUROR'S DUTIES IN TRIAL BY JURY.**

Wherever Trial by Jury takes place, be it in the U.S., the U.K., Australia, Canada, New Zealand, and numerous other countries, it is *definitive* of Trial by Jury that, after swearing to do justice, to convict the guilty and acquit the innocent, in finding their Verdict:

**The Jurors Judge:**

~on the justice of the law, and annul, by pronouncing the Not Guilty Verdict, any law or act of enforcement which is deemed unfair or unjust according to the juror's conscience (i.e., sense of fairness, right and wrong);

~in addition to the facts, and

~on the admissibility of evidence (evidence not being pre-selected or screened-out by government or judge and/or prosecutor).

**Jurors Must Judge:**

~that the accused acted with *malice aforethought*, i.e., *mens rea*, a premeditated malicious motive, if the jury is to find guilt ('guilt' is a characteristic inherent or absent in motives and actions: it cannot be ascribed *by legislation*\*);

~on the nature and gravity of the alleged offence; and, where guilt is unanimously found,

~on mitigating circumstances if any (provocation; temptation; incitation); and

~set the sentence (with regard to its being fit and just).

\*There is neither moral justice for punishing nor political necessity (i.e., deterrent value) where there was no *mens rea*. (In the case of one person injuring another innocently or accidentally, the civil law suit and the Trial by Jury award appropriate compensation for damages.)

For jurors not to do the above, or for someone other than the jurors to make any such decisions, is another process: call it "*trial-by-someone-else*" if you will, or "*trial-by-the-judge with a false 'jury' watching*"—but this travesty cannot be defined as a Trial BY JURY.

**THERE IS ONLY ONE TRIAL BY JURY.**

It is mere falsehood to call a procedure "trial by jury" if the accused and any of the matters related to the case under judgement are tried by someone other than the jury. There is no process and no meaning to the words Trial by Jury other than that which the words themselves prescribe.

**VIZ U.S. PRESIDENT JOHN ADAMS, LAWYER, PRONOUNCED ABOUT THE JUROR:**  
***"It is not only his Right but his Duty to find the verdict according to his own best understanding, judgement and conscience, though in direct opposition to the direction of the court [i.e., the judge]."***

U.S. President John Adams, lawyer; Yale Law Journal, 1964; 173.

**THE ILLEGALITY OF THE STATUS QUO.**

Anyone acquainted with the process of law in the United States, Britain, Australia and elsewhere today, will see how far removed the practices of courts are from the ideals and legally binding stipulations of those nations' Constitutions. Today, *every single one* of the above requirements definitive of Trial by Jury (including judging on the facts of the case) is illegally forbidden, interfered with and/or obstructed by government 'judges'. Labyrinthine deceits of modern usurpation inhabit the politicians' statute book, which bears no resemblance and pays no respect to universal common laws of truth, justice, liberty, and equality before the law.



Common law is inserted into the Constitution to protect (the) people from government abuse of power. Common law legally binds the individual men and women in government thereby controlling the government's modus operandi. No one is 'above' legem terræ, the Law of the Land. There is no judicial or political 'immunity' for criminal infractions of common law; and likewise never for government denial of the genuine cost-free Trial by Jury Justice System to the private plaintiff or defendant.

*Within a democracy or legitimately constituted society...*

**The Jury Comprises the Supreme Legislature and Judicature.**

**THIS CASE RULING EXEMPLIFIES DEMOCRACY AT WORK:**

*"If the jury feels the law is unjust, we recognise the undisputed power of the jury to acquit even if its verdict is contrary to the law as given by the judge, and contrary to the evidence."*

*"If the jury feels that the law under which the defendant is accused is unjust, or that exigent circumstances justified the actions of the accused, or for any reason which appeals to their logic or passion, the jury has the power to acquit, and the courts must abide by that decision."*

United States v. Moylan; U.S. Fourth Circuit Court of Appeals, 1969, 417 F. 2d 1002.

*Neither in the United States, Britain, Eire, Australia, Canada, New Zealand, nor in all of Continental Europe and elsewhere, have legislatures ever been invested by the People with authority to impair the powers, to change the oaths, or abridge the jurisdiction of jurors to govern government; nor to remove the universal Right of the accused to the Trial by Jury of peers for any charge or offence whatever, however serious or trivial.*

Today, U.S. v Moylan is *not* exemplified by the modus operandi of courts. Democracy has been overturned by judicable\* miscreant politicians, bureaucrats, judiciary and the collusion of participating members of the legal profession. The genuine Trial by Jury process is no more; ref. above to read the illegally denied Juror's Duties which (along with various common law parameters governing Trial by Jury set forth in following Chapters), are definitive of Trial by Jury.

\**Definition.* judicable, that which may be tried by jury in a court of law.

As distinct from despotism and barbarism, secular common law Trial by Jury is the definitive basis of civilisation, democracy and legitimate government, sine qua non. Reinstating full legality to the status quo by Restoration of the supremacy of secular Constitutional Common Law Trial by Jury is the principal duty of all conscientious adults.

Charles,

**Perhaps you will be able to make the next conference? Do bring other English Democrats along too.**

**With best wishes,**

**Yours sincerely,**

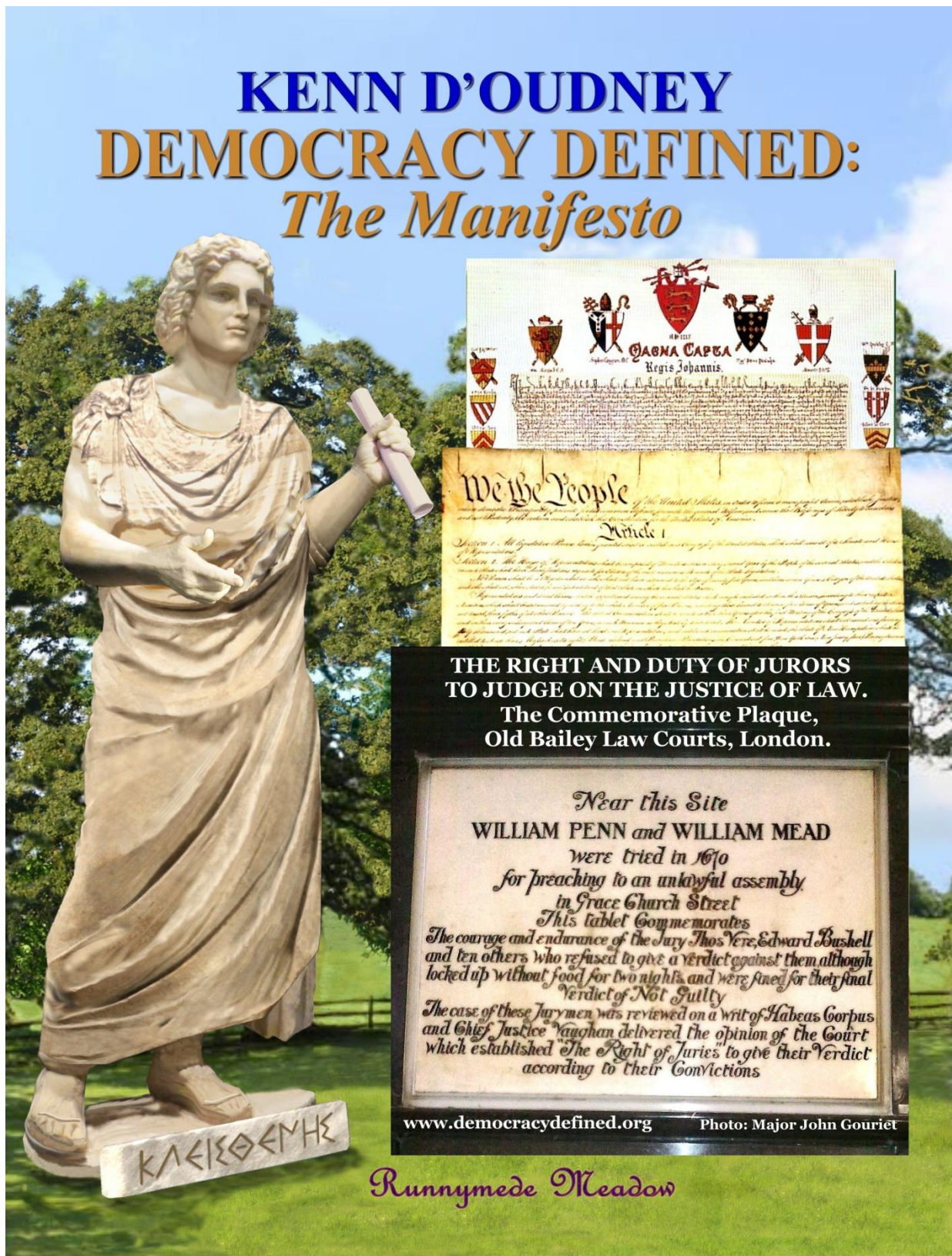
**Kenn.**

[www.democracydefined.org](http://www.democracydefined.org)

**See DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1902848280**

*Purchasing Democracy Defined books supports the Campaign.*

FRONT COVER



New Edition augmented with an Addendum. Contains extensive Bibliography of authoritative source books and documents on Constitution, law and history.

With Index. ISBN 978-1902848280 Softback, 310 large-size (A4) pages



## BACK COVER



### DEMOCRACY DEFINED:

#### *The Manifesto*

Kenn d'Oudney focuses on Democracy. The word 'democracy' is widely abused and 'defined' incorrectly. This extensively researched book explains how components of constitutional democracy have been suppressed by malefic statist interventions to produce the modern decline and the Illegality of the Status Quo.

*The Manifesto* shows how the ideal society is to be achieved.

- HERE ARE SOME REVIEWS OF THE ESSAYS UPON WHICH THIS BOOK IS BASED -

*"I think it is certainly true that Keynesian economics, as put into practice, has handed the economic power of the West to a few men who now almost totally control it. Likewise, I agree that the trial by jury is an essential bulwark of democracy and justice against a bankers' tyranny. I congratulate you on disseminating the above points."*

His Hon. Patrick S.J. Carmack, Esq. Producer of The Money Masters video documentary.

*"Thank you for your excellent work on Magna Carta. What a masterly exposition."*

Major John Gouriet, Chairman, Defenders of the Realm; Battle for Britain Campaign supported by H.G. the Duke of Wellington; Edward Fox, OBE, and Frederick Forsyth, CBE.

*"What a magnificent article! I intend to incorporate parts of it into speeches and writings."*

Professor Julian Heicklen, Jury Rights Activist; U.S. National Coordinator, Tyranny Fighters.

*"Superb. Should be read in every law school."*

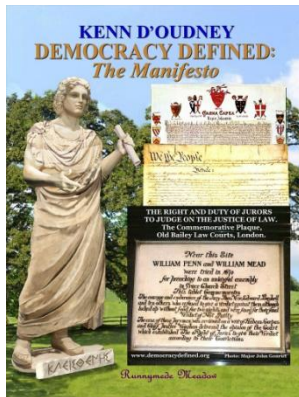
John Walsh, Esq., Barrister-at-Law, Author; Constitutional lawyer (U.S. & Australia).

See further reviews inside.



See **Synopsis** and **Reviews** on next page.

Kenn d'Oudney is the author of books and essays including the following:  
Kenn d'Oudney est auteur de livres et essais y compris les suivants:  
Kenn d'Oudney ist Autor von Büchern und Essays einschließlich der folgenden:



**DEMOCRACY DEFINED: The Manifesto** ISBN 978-1902848280  
A Treatise for the Democracy Defined Restoration Campaign by Kenn d'Oudney.  
Augmented third edition with Addendum, extensive Bibliography and Index.  
Softback, 310 large-size (A4) pages.

The word 'democracy' is widely abused and 'defined' incorrectly. This extensively researched book explains how components of Constitutional Democracy have been suppressed by malefic statist interventions to produce the modern decline and the Illegality of the Status Quo. It sheds light on how democracy involves a variety of far-reaching issues, including political assassinations; the Ætiology of Anti-Semitism; fraudulent fractional reserve lending banking practices; and the national issuance of interest-free currency and credit.

The historical, legal and constitutional facts and quotations in this book establish the perennially subject and liable status of executive, legislature and judiciary to universal, timeless secular moral and legal tenets of Equity, and to cost-free private prosecutions at Constitutional Common Law Trial by Jury (Article Sixty-One). Exposes the fallacies of "constitutional" statutes, groups and individuals. Indispensable reading for anyone who wishes to uphold the West's endangered, cherished heritage of Liberty and Equal Justice.

DEMOCRACY DEFINED: *The Manifesto* reveals the theoretical and practical framework upon which the ideal human society is to be achieved: the best of all possible worlds.

SRC Publishing Ltd., London, available from [Amazon.co.uk](http://Amazon.co.uk) & [Amazon.com](http://Amazon.com) & [Amazon.com.au](http://Amazon.com.au)

#### - REVIEWS OF THE ESSAYS UPON WHICH THIS BOOK IS BASED -

*"Thank you for your excellent work on Magna Carta. What a masterly exposition."*

MAJOR JOHN GOURIET, Chairman, Defenders of the Realm; Battle for Britain Campaign supported by H.G. the Duke of Wellington; Edward Fox, OBE, and Frederick Forsyth, CBE.

*"I think it is certainly true that Keynesian economics, as put into practice, has handed the economic power of the West to a few men who now almost totally control it. Likewise, I agree that the trial by jury is an essential bulwark of democracy and justice against a bankers' tyranny. I congratulate you on disseminating the above points."*

HIS HON. PATRICK S.J. CARMACK, Esq. Producer, The Money Masters video documentary.

*"The d'Oudney analysis is as insightful as it is comprehensive. It will stand for years to come as the definitive critique of the European Constitution prepared by Giscard d'Estaing and others. I look forward to sharing the d'Oudney analysis with my colleagues."*

HOWARD PHILLIPS, Founder, U.S. Constitution Party, three-time Presidential nominee; Chairman of the Conservative Caucus.

*"Superb. Should be read in every law school."*

JOHN WALSH, Esq., Barrister-at-Law, Author; Constitutional lawyer (U.S. & Australia).

*"What a magnificent article! (Madison and Democracy) I intend to incorporate parts of it into my speeches and writings."*

PROFESSOR JULIAN HEICKLEN, Jury Rights Activist, National Coordinator, Tyranny Fighters.

*"Kenn d'Oudney is a brilliant writer and researcher when it comes to Democracy and Trial by Jury. The best source of common law is Kenn d'Oudney."*

DR. JOHN WILSON, Jury Rights Activist; Co-Founder & Chairman, Australian Common Law Party.

*"Thanks, Kenn. I've circulated this."*

SIMON RICHARDS, Campaign Director; The Freedom Association; Founded by John Gouriët; the Viscount de L'Isle, VC, KG, PC; Ross McWhirter and Norris McWhirter, CBE.



- MORE REVIEWS -

*“Your book is an absolute triumph! I now understand why the term ‘Lawful Rebellion’ grates with you. I genuinely believe that your book should be compulsory reading for every one of our elected representatives... not to mention our own supporters! So well done! Excellent book and a great source of reference.”*

JUSTIN WALKER, Coordinator, British Constitution Group. Amazon reviewer.

*“I bought a copy of your excellent book from Amazon and I am impressed by both size and content. Frankly I haven't been able to put it down. Every home should have one and not just every law school but every secondary school should have one in its curriculum. I particularly enjoyed the 'Traitors to the People' chapter. The whole book is a fascinating read, well done.”*

JOHN S., Swindon. (E-mail to DD.)

*“I am SO pleased that I've read this compelling book and that I now understand the true meaning of “Democracy.” Although it's certainly not a novel, I found it as gripping as one. I had trouble putting it down. DEMOCRACY DEFINED: The Manifesto has opened my awareness dramatically.”*

CAL BUCK, West Bromwich, Amazon reviewer.

*“The Handbook for every person on the planet explaining True Law and Democracy.”*

KENNETH JOHNS, Amazon reviewer.

*“Excellent and well-written book on how the people in the so-called free world are not free. This is the missing education they should be teaching our children in school so they become enlightened on what's really going on in this world.”*

ROBERT JOHN MONTAGUE, Amazon reviewer.

*“This is a MUST READ (probably the ONLY read you'll need!) on democracy, Magna Carta, and Common Law. As I've made my way through it I discovered how much I didn't know — and that drove me on. It is thorough and deep, but worth reading all 300 large pages slowly, word by word. Just reading it is changing me — and giving me increased courage to speak out when necessary. One of the books I had no hesitation in giving a 5-star rating. It was worth every penny of the (gulp!) £18.00. Yep. Every penny.”*

ANDREW SERCOMBE, Amazon reviewer.

*“A MUST READ. Enough is enough of all this treasonous outlawry. I cannot express enough the importance of everyone reading this book, this is the 2nd copy I'm purchasing. Thank you Mr. d'Oudney for collating meticulously all these historical evidential facts in one book.”*

DANTES DINIZ, Amazon reviewer.

*By going to Amazon on the link and clicking on ‘Look Inside’, you can check out the four Synoptical Reference Pages of Contents to see subject matter; and get a glimpse of the text.*

SRC Publishing Ltd., London, available from

[Amazon.co.uk](http://Amazon.co.uk) [Amazon.com](http://Amazon.com) & [Amazon.com.au](http://Amazon.com.au)

Introduction to the Democracy Defined Campaign:

The book DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1902848280 sets out the Educational Campaign for Restoration of government by Trial by Jury; i.e., Restoration of the Constitutional rule of law, definitive of Democracy.

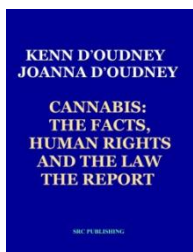
*The Manifesto* includes the wording (seven pages) of THE RESTORATION AMENDMENT (statute):

**THE** POLITICAL PROGRAM FOR PATRIOTS AND INDEPENDENT CANDIDATES.

Achieving parliamentary/congressional statutory installation of The Restoration Amendment is **the object** of the Democracy Defined Campaign.

[Membership gratis](#) (free).





**CANNABIS: THE FACTS, HUMAN RIGHTS AND THE LAW, THE REPORT ISBN 9781902848303**, by Kenn d'Oudney, co-authored by Joanna d'Oudney; Foreword by a Nobel laureate former Official Adviser to the U.S. government; endorsed by a Professor of Physiology Fellow of the Royal Society, academics, doctors (of a variety of disciplines) and judges (U.S. & U.K.); Softback, 262 large-size A4 pages. Bibliography and Index.

SRC Publishing Ltd., London, available from [Amazon.co.uk](https://www.amazon.co.uk) [Amazon.com.au](https://www.amazon.com.au) & [Amazon.com](https://www.amazon.com)

## IMPORTANT NOTICE

### RELEGALISATION, AMNESTY AND RESTITUTION.

In South Africa, leader of the Dagga Party Jeremy Acton's defence presentation of our legal-medical textbook Cannabis: The Facts, Human Rights and the Law, THE REPORT (current ISBN 978-1902848303) obtained referral to the Constitutional Court leading to that Court's legalisation of personal cultivation and possession of cannabis for private use. In the concurrent case of "*the dagga couple*," defendants Myrtle Clarke and Julian Stobbs presented THE REPORT stating that it forms the "*reasoning*" and "*basis for the legal challenge*" to prohibition legislation. Their charges were dropped at Magistrate's Court pending outcome of the constitutional challenge—subsequently successful.

Thus it is seen how, when presented by defendants, THE REPORT can achieve dropped charges and relegalisation.

THE REPORT collates and presents in a formal context, exonerative clinical documentary evidence of the expert official empirical (human use) studies conducted by world-respected research and academic institutions, exempting Cannabis Sativa from all criteria of legislative control ('prohibition').

Moreover, THE REPORT establishes that the apocryphal 'law' is perjurious, itself results from venal ulterior motive, and is gravely damaging to individual and society. (See Synopsis which follows.) This obliges administrations everywhere to pass a simple legislative Amendment returning cannabis to its legal status before the introduction of legislative controls.

– See **REVIEWS AND ENDORSEMENTS** on next page. –

## **- REVIEWS -**

*“You have done a splendid job of producing a comprehensive summary of the evidence documenting that the prohibition of the production, sale and use of cannabis is utterly unjustified and produces many harmful effects. Any impartial person reading your REPORT will almost certainly end up favouring the relegalisation of cannabis.”*

NOBEL LAUREATE PROFESSOR MILTON FRIEDMAN, Economics’ Adviser to U.S. government (Reagan Administration); Author, video and TV series writer and presenter; Senior Research Fellow, Hoover Institution on War, Revolution and Peace; Professor Emeritus, University of Chicago.

*“You represent a worthy part of the fight in many countries for the logical and beneficial use of cannabis. I thank you for that.”*

PROFESSOR PATRICK D. WALL, M.D., Author; Professor of Physiology, UMDS St. Thomas's (Teaching) Hospital, London; Fellow of the Royal Society; DM, FRCP.

*“You are to be congratulated on a work well done. Very readable. It is an important REPORT and I do hope it will be widely distributed and read.”*

PROFESSOR LESTER GRINSPOON, MD, Official Adviser on Drugs to U.S. government (Clinton Administration), Author, Professor of Psychiatry, Harvard University School of Medicine.

*“The sections dealing with the rights and responsibilities of the jury are eloquent in their defence of fundamental individual rights. The authors correctly perceive the bedrock importance of trial by jury, and the significance of the jury’s right to judge the law itself. I welcome the addition of this REPORT to the world’s store of important writings on the subject of human liberty.”*

DON DOIG, BSc., Author; U.S. National Coordinator, Co-founder, Fully Informed Jury Association (FIJA) / American Jury Institute.

*“I did enjoy reading it. THE REPORT should contribute much.”*

THE HON. JONATHON PORRITT, Bt., former Adviser to U.K. government on Environment; Author; Founder, Friends of the Earth; TV series writer and presenter.

*“I have just finished reading your and Joanna’s book on Cannabis. It is a masterpiece on both drug prohibition and jury rights. Thanks to both of you for writing it.”*

PROFESSOR JULIAN HEICKLEN, Jury Rights Activist; U.S. National Coordinator, Tyranny Fighters Campaign.

*“A fine document.”*

U.S. JUDGE’s letter to Authors.

*“THE REPORT’s thesis is sound.”*

U.K. Judge’s letter to Authors.

*“I am totally amazed at THE REPORT’s quality and overall goodness.”*

DR. ANNE BIEZANEK, Authoress; ChB, BSc, MB, MFHom.

## **A Book of THE RESTORATION QUADRILOGY.**

**SO YOU THINK CANNABIS PROHIBITION HAS NO EFFECT UPON YOU ?**

*See Synopsis on next page.*

## SO YOU THINK CANNABIS PROHIBITION HAS NO EFFECT UPON YOU ?

THE REPORT ISBN 9781902848303: Part (chapter) Two contains the unprecedented (new) Cannabis Biomass Energy Equation (CBEE; Modern Uses) which proves the clean-combusting production-cost-free, i.e., FREE, cannabis *by-product* pyrolytic CH<sub>3</sub>OH is the immediate non-polluting, renewable, total world replacement for fossils and uranium, whilst macro-cultivation simultaneously *significantly increases* world production of staple seed food (protein-rich; no relaxant in seed). The CBEE exposes the bankowner-corporate-government *monumental ulterior motive* behind fraudulent prohibition. 'Prohibition' is a venal, cartel-fabricated subterfuge; a false fuel-energy MONOPOLY.

The CBEE Formulation proffers CH<sub>3</sub>OH oil-gasoline-type fuel combustion for all power-station, industrial, land, sea and air transportation and domestic energy supply, with ZERO net atmospheric increase of CO<sub>2</sub>. Viz. the CBEE thereby simultaneously demonstrates governments' mendacity in their claims to wish to reduce carbon emissions, and proves the "eco" and "carbon taxes" to be fraudulent: a criminal government imposture completely without foundation. The *misuse* of exorbitant, world-economy-depressing fossils and uranium as '*fuel*' is potentially catastrophic, legally and economically unjustifiable, and requires to be prohibited forthwith. See pyrolysis diagrams, photo, equation, etc.

Part Six of THE REPORT, PROHIBITION: THE PROGENITOR OF CRIME.

*"To cause crime to occur is to be accountable for the crime, morally and legally. To consent to any measure is to share responsibility for its results."*

Legalised, cannabis grows anywhere: the benign herb's foliage and flowers come *free* or at an insignificant price, but yielding no revenues to government and no profits to corporations. However, prohibition *creates* the Black Market: the Economic Effects of Prohibition (scarcity + enforcement, etc.) augment "street" value by 3000% plus, making all Black Market associated crime inevitable. The political commodities' prohibition, the War on Drugs, rather that is to say, *the politicians who pass and the judiciaries who maintain the legislation engender (cause) and are culpable for a significant proportion of all crimes (official statistics) throughout the West.*

EXONERATIVE FINDINGS OF FACT: Official Empirical Research; THE REPORT collates the medico-scientific Findings of Fact and Conclusions of the government-funded clinical studies conducted by world-respected research and academic institutions into non-toxic, non-addictive natural herb cannabis (differentiated from pharmaceutical *laboratory* toxic product THC). The investigations' empirical evidence exonerates cannabis from all allegations of 'harm' and 'impairment' (including tests on simulated driving) *exempting cannabis from all legislative criteria of control ('prohibition')*. All citizens persecuted thereunder are due Amnesty and Restitution (as for other Wrongful Penalisation).

MEDICATION: *Efficacious in over 100 adverse medical conditions* (viz. Official Pharmacopoeias) including applications which are *life-saving, preserve eyesight, Curative and/or Preventive*, and with potential *cheaply to replace* numerous lines of lucrative but ineffective, debilitating, addictive, toxic pharmaceuticals, rendering massive financial government-corporate *ulterior revenue and profit motive (trillions)* behind apocryphal prohibition by perjurious derogation. + Medical Case Histories.

Six Parts (chapters) include expert documentary, legal, academic, scientific, technical, medical, economic, social, criminological, philosophical evidence, and that which is based on grounds of Equity, vindicating all private cultivation, trade, possession and use, and which further exposes perjury and venality behind prohibition 'legislation', *all acts of enforcement constituting crime per se*.

Part Seven, RESTORATION: JUSTICE AND THE CONSTITUTION, exposes corruption, ineptitude and injustice in the justice process; examines Law: natural law, supreme secular *legem terræ* Constitutional common law, treaties, statutes; quotes presidents, judges, lawyers and chief justices.

**THE REPORT** is regularly presented pre-trial by defendants to courts (judges) who routinely forbid all Findings of Fact, evidence and defences which “*dispute the legality of the law*” before the jury. The official expert evidence in **THE REPORT** establishes the apocryphal, illegal nature of the legislation. **THE REPORT** quotes legal grounds (national and international) which demonstrate numerous infractions of laws by the prohibition legislation, and which show all acts of its enforcement to be crime per se. All citizens persecuted thereunder are due Amnesty and Restitution (as for other Wrongful Penalisation). This textbook demonstrates in the law: injustice, inequity, invalidity, adverse effects, venal ulterior motive, perjury, fallacious derogation, and the *inherent* illegality of law which creates the Black Market and engenders all associated crime.

The outcomes of this procedure of presenting **THE REPORT** as documentary evidence to the judge have proved beneficial in the extreme for defendants. \*Courts require documentary evidence presented as the published textbook (not copies or e-book).

SRC Publishing Ltd., London, available from

[Amazon.co.uk](http://Amazon.co.uk) [Amazon.com.au](http://Amazon.com.au) & [Amazon.com](http://Amazon.com)

*By going to Amazon on either of the links above and clicking on ‘Look Inside’, you can check out the Contents pages to see subject matter; and get a glimpse of the text.*

~~~~~◆~~~~~

<http://www.democracydefined.org/>

The Home Page of the not-for-profit Educational Campaign for  
RESTORATION OF THE CONSTITUTIONAL RULE OF LAW.

Join the Campaign! Download and distribute  
the posters and educational pamphlets.

[Membership gratis.](#)