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



Campaign philosophy supported by academics, doctors, attorneys & judges (U.S. & U.K.).
(Standard English Spelling)

THE DEMOCRACY DEFINED CAMPAIGN PHILOSOPHY ESSAY EIS#21.

THE VALUE OR OTHERWISE OF LAW DICTIONARIES.

The Bouvier quotation (to which we have been referred) does not clear anything up — except to demonstrate the inadequacy of law dictionaries. As we shall see in the following, ‘*law dictionaries*’ are not reliable as a source of semantical information for obtaining the correct meanings of words. Law dictionaries are intended for *a different purpose*. They can change radically overnight and do not respect the obligatory considerations of the Sciences of Etymology and Semantics. Linguistically, they give *incorrect* definitions, and, to obscure the relevant facts which expose their incorrectitudes, they are deceptively innaccurate in their ‘history’.

Remember that law books are mere current transitory reflections of the caprice of *politicians’ legislative changes*. They show the ‘interpretive’ rulings of judges who, at the behest of their political masters in power at the time, pervert the meanings of words according to the current whim of their ever-changing ‘law’ for the purpose of its immediate application (enforcement) by the courts.

A flagrant example of this abuse of language for base purposes is seen where the supreme laws (that is, Constitutions) prescribe Trial by Jury as the sole justice system for “all crimes” (non-impeachable), including even for the most trivial of offences; yet, numerous activities are suddenly ‘*redefined*’ as a “misdemeanor”, not a “crime” ! by a politically-appointed person working in a court (the ‘judge’).

This conspiratorial untruthful semantics is simply for the disgraceful anti-constitutional *political aim of denying the accused’s right to a Trial by Jury* because politicians correctly fear that there is a ‘risk’ that juries of ordinary citizens would refuse to enforce their venal, inequitable laws; whereas their paid, career servitors, the judges, *reliably* see to the enforcement of laws without regard to their invalidity or infliction of injustice.

There is nothing new in this lawless type of political activity. To obtain unfair advantage, money and hegemony, corrupt politicians, absolute monarchs and dictators have utilised such ploys throughout history. The motive behind, and explanation for, judges' boundless treachery are the same today as they have always been, and they confirm that the indispensability of Trial by Jury is eternal: the judiciary is responsible, not to the People, but to the government; judges are dependent for careers, salaries and by impeachment, on the legislature: *to become and remain judges, they must knowingly and reliably enforce unjust (i.e. illegal) legislation.*

Judges regard themselves as, and are, *bound* to enforce the laws, even when doing so is an act of extreme injustice. Once a law has been passed and interpreted for enforcement by the courts, then, *unlike jurors*, in the routine of court cases judges are not permitted to dispute or judge the justice of law and its enforcement. However, since the introduction and widespread use of lexicons, a word's meaning is steadfastly witnessed: it has a set intellectual application which overrides and outlasts the schemes of transient politicians and their servants, the judges.

Subreption and Mendacity by the Compilers of Law Dictionaries.

Definition. Subreption, perjurious concealment of evidence and/ or testimony to procure advantage.

Here are examples of apocryphal passages from Bouvier:

“JURY. A body of men selected according to law, for the purpose of deciding some controversy.”

“This mode of trial by jury was adopted soon after the conquest of England, by William, and was fully established for the trial of civil suits in the reign of Henry II.”

“A petit jury consists of twelve citizens duly qualified to serve on juries, impaneled (sic; cf. empanelled) and sworn to try one or more issues of facts submitted to them, and to give a judgment respecting the same, which is called a verdict.”

“It is scarcely practicable to give the rules established in the different states to secure impartial juries; it may, however, be stated that in all, the selection of persons who are to serve on the jury is made by disinterested officers, and that out of the lists thus made out, the jurors are selected by lot.”

Let us look at the background to the subjects raised by the quotation from the ‘law dictionary’, in order to observe the disinformation and political malindoctrination Bouvier purveys.

Bouvier: “This *mode* [*] of trial by jury was adopted soon after the conquest of England, by William...”

(1) In the essentials of law and history, this Bouvier entry is completely misleading. Trial by Jury had already by the time of William been extant throughout all the Gothic tribes and nations of Europe from pre-historical antiquity. The Normans practised Trial by Jury before the conquest. Unless we had learned these important facts to the contrary elsewhere, the wording in Bouvier would have us believe that the adoption of Trial by Jury began with William.

Far more relevant in the dictionary entry would have been the information that the form of the **petit jury** was adopted earlier, and was extant throughout Europe. William, the tyrannical conqueror, 1066-1087 A.D., had merely re-implemented the traditional justice system of Trial by Jury to placate an obstinate armed population. See Kelham, as follows:

“Thus stood the laws of England [specifically the pan-European Gothic common law, of which the central tenet was *the judgement of pares** also known as the Trial by Jury,] at the entry of William I, and it seems plain that the laws, commonly called the laws of Edward the Confessor [an Anglo-Saxon monarch successor to Alfred], were at that time the standing laws of the kingdom, and considered the great rule of their rights and liberties; and that the English were so zealous for them, ‘that they were never satisfied till the said laws were reinforced, and mingled, for the most part with the coronation oath.’ ”

* *Definition.* pares or peers; Latin-derived term for social-equals.

“Accordingly, we find that this great conqueror, at his coronation on Christmas day succeeding his victory, took an oath at the altar of Saint Peter, Westminster, in sense and substance the very same with that which the Saxon kings used to take at their coronations. And at Barkhamstead, in the fourth year of his reign, in the presence of Lanfranc, Archbishop of Canterbury, for the quieting of the people, he swore that he would inviolably observe the good and approved ancient laws [common law of the land] which had been made by the devout and pious kings of England, his ancestors, and chiefly by King Edward; and we are told that the people then departed in good humour.”

See Kelham’s Preliminary Discourse to the Laws of William the Conqueror.
Ref. also, Vol. 1, Hale’s History of the Common Law, 186.

(2) ALFRED THE GREAT AND TRIAL BY JURY: Jurors; Unanimity; Chosen by Lot; Annulment.

A universal and eternal criterion of Justice is that the validity and justice of laws and their enforcement require to be judged not by those who make and enforce the laws, but by those who voluntarily agree to abide by the laws.

In order that Trial by Jury could take place everywhere throughout extensive territories and large countries, the ordinary people’s common law of the land (not government statutes) had been refined throughout Europe from the earlier Hellenic Athenian (ancient Greek) mass juries to **petit juries**, generally of twelve or fifteen, indiscriminately chosen by lot (in order to reflect all views in society and protect minorities), and requiring unanimity to pronounce guilt.

The Athenian Hellenic Constitution was that of government by Trial by Jury. This gave the people sovereign authority to annul the laws passed in the assembly. If jurors deemed a law unjust, or simply not in the interests of the common people, they nullified its enforcement by pronouncing the verdict of Not Guilty.

To preclude arbitrary (i.e. tyrannical; illegal) government and establish liberty and equal justice for all, the Athenian Hellenic Greeks created the constitution of government by Trial by Jury as the means of making, judging, and enforcing the laws.

The word the Hellenes gave to describe this state of society in which the citizens have control *through the Trial by Jury* to judge the laws and overrule the government and the wealthy and powerful, the aristocrats, oligarchs and all the people who sought to rule them, was ‘*democratia*’, which translates into English as Democracy.

Etymology (linguistic derivation): *demos*, the people (“We the People...”); *kratos*, sovereignty*, power; *kratein*, to rule.

*Perseus Digital Library, Tufts University. See Democracy Defined Essay EIS#10, “We the People and the Matter of Words,” downloadable for free from the Democracy Defined Campaign Material webpage.

Chambers Dictionary, etymology, *demos*, the people; *kratein*, to rule;
MSN Encarta. Democracy, *demos*, the people; *kratein*, to rule;
etc.

Derived from its etymology and history, the singular definition and signification (meaning) of the word is as follows:

Democracy, the form of government in which the Sovereign Supreme Power is vested in the Common People; the emancipation and ethos of society produced by the power of Juries of ordinary citizens in Trial by Jury, to vet, make, decide and enforce the law; the people rule.

In Constitutional Common Law Trial by Jury, the verdict of a jury can only be a **unanimous** verdict. A ‘majority’ of the jurors is not ‘a jury’. This is why guilt can only be pronounced by a jury unanimous in its verdict. In this way, sovereignty is divided and shared equally amongst the entire individual adult population who according to common law, all (apart from the aged, sick, insane and convicts), qualify to be selected to serve as jurors. The Principle of Unanimity was understood and definitively established by King Alfred the Great, 871-899 A.D., 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.

In addition to the absolute requirement of unanimity, from these examples we also see that jurors require always to be chosen randomly by lot (or chance) from the whole body of adult citizens; and that the selection shall be made in some mode that excludes the possibility of choice on the part of the prosecution and government.

To protect all the People against any government bent on injustice, it is the vital principle of Trial by Jury that government legislation shall be subjected to the judgement of tribunals taken from the whole people indiscriminately, without any choice by the government, and over which choice the government exercises no control. If government can select jurors, it will select those favourable to its prosecutions and enactments, excluding from juries those whom the law treats unjustly. *Exclusion of any men and women from eligibility is an illegal selection of those not excluded.*

Juries must be randomly chosen in order that they represent diversity of views amongst the people of the country, thereby protecting minorities. The Principle of Unanimity combines with the principle that forbids the selection of jurors being influenced or made by any officer of the government. Together, these principles protect minorities and groups from the partisans of a potentially oppressive government which seeks to impose unfair laws.

If the elected body enacts a law 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 who may be part of a minority race or group unfairly discriminated against by that law). This demonstrates how Trial by Jury is the active principle definitive of democracy, sine qua non; and the indispensable basis of all just, legitimate government.

The Common Law Trial by Jury guarantees the universal right of individuals to judge the justice of any law that is to be enforced on the people and their pares (or peers), so that arbitrary government and bad law are rejected and innocent liberties are preserved. If the Trial is to be fair, it is essential that it be by a jury of peers, a citizen's social equals. Hence, common law excludes from juries those who would prejudice proceedings, including: A.) those who make statutes and regulations; B.) those who could gain or benefit from the law or its enforcement; and C.) those who are connected in some way with plaintiff or defendant, their objectivity possibly being compromised.

The common law governing jury selection further ensures fairness: The jurors are not known to the contesting parties until after they have been randomly selected and have entered the jury-box. The decision as to exclusion of a person from a jury is made by discussions and discreet votes of 'the triers' themselves (the fellow jurors); never by prosecutors or convenors, i.e. judges. The plaintiff, defendant and their counsel may make representations to the jurors against the inclusion of a particular citizen on the panel of jurors, on the above grounds, A, B and C.

(For further information, see Page Three of the Democracy Defined Campaign Philosophy.)

Now, another look at Bouvier...

Bouvier: “JURY. A body of men *selected according to law*, for the purpose of deciding some controversy.”

“according to law” ? Whose law ? What law ? This is too vague a description and could mean that jury selection is subject to some arbitrary government *statute* law which *contravenes* the Constitution and common law governing Trial by Jury (as indeed, jury selection does today). Shown by the following, the modern process of jury “selection” described by Bouvier is *not* impartial and it breaches Constitutional Common Law Trial by Jury.

Bouvier: “...the *selection* of persons who are to serve on the jury *is made by disinterested officers*, and that out of the lists thus made out, the jurors are selected by lot.”

According to Constitutional Common Law Trial by Jury (excepting, as noted, the sick, the aged, insane and convicts), *all* adult members of society qualify for jury service, *without disqualification* of those who are who are not property holders. For the Trial to be by all “the country” and its people, all sections of society must be represented and are thus eligible to be selected and serve.

However, in the Bouvier dictionary ‘definition’, the writer makes an effort to portray that jury selection is randomly fair (selection by chance or lot), while at the same time demonstrating the ludicrousness of his proposition: he claims that jurors are selected by lot, *after the jurors have already been pre-selected according to government-imposed “qualifications”**.

(3) Bouvier: “A petit jury consists of twelve citizens *duly qualified...*” *

With a mass of unjust and anti-constitutional statute legislation extant nowadays, in those rare instances where a Trial by Jury *appears* to take place (because a ‘jury’ is present in the courtroom), in order to select those jurors in particular who will produce the verdicts desired by government, by means of questionnaires and *voir dire* interviews, judges and prosecutors reject innumerable citizens from serving on juries if the individual shows the slightest inclination to judge on the justice of the law (which is, of course, one of the Juror’s duties definitive of Trial by Jury); and this is after pre-selection exclusions.

Moreover, judges overawe and misinstruct jurors, and interfere to deny them all the duties by which Trial *by Jury* is defined. Trial today is the one-sided trial-by-judge — not at all the Constitutional Common Law Trial by Jury. The legitimate interests and rights of the people are routinely obliterated by government interventions in the illegal charade which denies Trial by Jury.

Government is comprised of the executive, legislature and the judiciary.

(4) Bouvier: "...sworn to try one or more *issues of facts* submitted to them."

Here Bouvier is conspicuously wrong and *premeditatedly concealing* the correct information regarding Trial by Jury. Definitively, common law requires an act to have been committed with *malice aforethought* for a person to be found guilty.

An act cannot be made into one of 'guilt' or 'criminal intent' merely *by legislation*. According to common law, guilt is a personal attribute or quality of the actor. It might not be involved in the act itself but guilt depends upon *the intent or motive* with which the act was committed. In order for a juror to find a person guilty, the accused must have acted from a premeditated malicious motive; *mens rea*. This is the issue the jury try: "guilt," or "not guilty".

There is no moral justice nor political necessity, i.e. deterrent value, for punishing where there was no malice aforethought, *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 Democracy Defined Essay EIS#8, "GUILTY?" OR "NOT GUILTY?" WRONGFUL PROSECUTION; AMNESTY & RESTITUTION.

The Juror's Duties in Trial by Jury.

Before trial, the jury must be apprised of their duties, which are straightforward. In Trial *by Jury*, the jurors do not only try "issues of facts" — far from it. 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** that, after swearing 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 right and wrong);

in addition to the facts, and

on the admissibility of evidence (the evidence not being pre-selected 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 to find guilt (as noted, 'guilt' 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).

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' — but this travesty cannot be defined as Trial **BY JURY**. See the following case ruling, which explains.

“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.

In Constitutional Common Law Trial by Jury:

~the jury has the power to call witnesses, advisers and appoint amicus curiæ;
~the correct common law rôle of convenors of courts (‘judges’) is as a convenor and for arranging security; advisory, inasmuch as this may be requested by the jury, of which advice jurors may take only what is by them adjudged appropriate; and for the arranging of re-trials and appeals if necessitated by circumstances; (see Gilbert’s *History of the Common Pleas*, pp. 57 & 70; and Vol. 1 of Palgrave’s *Rise and Progress of the English Commonwealth*, p. 277; etc.);

~the ‘judge’ has **no** *judicial* rôle or authority: this precludes the possibility of judges interfering and inflicting injustices as is so often the case today;

~contempt charges laid on persons by juries or judges have to be tried as for any crime, that is, by jury;

~all evidence can be presented, and requires to be considered for its admissibility by the jurors — especially if it reveals partiality, injustice, an unfounded nature, or venality in the law.

EVIDENCE.

To ascertain the truth, the jurors must see all the evidence and decide which 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 that 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 called Trial BY JURY; and it is a mistrial.

Where before jurors swore simply and justly “to convict the guilty and acquit the innocent,” government has inserted the words, “according to the evidence,” into jurors’ oaths. This violates Common Law Trial by Jury, the U.S. and U.K. Constitutions (the latter being 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, not by a jury. This sums up the corrupt process which takes place today. It is a shameful calumnious criminal subterfuge.

The Illegality of the Status Quo.

Anyone acquainted with the process of law in the United States, Britain, Australia, Canada and elsewhere today, will see how far removed the practices of courts are from the ideals and legally binding stipulations of those nations' common law and 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 the 'judges'.

In summation, the jurors must try *everything* which is relevant to the case in order to find a verdict and (where guilt is found), to know what comprises the appropriate sentence. There is no other "*mode*" of Trial by Jury. The Trial and every aspect of it is *by Jury*, or the process is not Trial by Jury.

So, when Bouvier says above [*] "*This* mode of trial by jury..." the language misleads and implies that there are various modes of "trial by jury" of which William adopted 'one'. This is to befuddle the inquirer into accepting Bouvier's disinformation which does not remotely represent the authentic Trial by Jury. What Bouvier describes is the tyrant's system for the enforcement of injustice which contravenes every law and standard of honesty, truth, fairness and justice. Bouvier's fictions are intended to obscure the fact that the corrupt process which now takes place is actually trial-*by-judge*: de jure, a *mistrial*.

Trial-by-judge is the system which denies the common law Trial by Jury. Trial-by-judge is the National Socialist (NAZI), Stalinist, Soviet, fascist and communist system of judicial oppression, by which primitive tyranny thrives; massive injustices are routinely enforced on innocent people; and citizens are intentionally put into permanent fear and servitude.

(5) Bouvier: "a *judgment* respecting the same, which is called a *verdict*." Bouvier is **wrong**.

The jury's decision, the word verdict, means, and is correctly translated from the Latin veredictum as, "a thing truly said." (The words "true verdict" in the modernised jurors' oaths comprise a tautology; an inaccurate expression.)

A jury's judgement ('judgment') is *more* than simply a "verdict": in the case of a guilty verdict, a judgement is synonymous with the word **sentence**. The inscription and definition of common law Trial by Jury in the U.K. Great Charter Constitution, subsequently installed into the U.S. and other Constitutions, use the words judgement and sentence synonymously. Likewise, judgement and sentence are synonymous in law books to this day.

Where a verdict of 'guilty' is found, "*per judicium parium suorum*" translates as "according to *the sentence* of his peers."

Article 39, prescribing the judgement of peers that is the Trial by Jury, along with proofs in other Articles, dictates that *the jury set the sentence*. Jurors are **the judges** of all issues relating to the trial of the accused, including the sentence. This is the Trial *by Jury*. The process would otherwise be trial-by-judge.

Article 39 is paraphrased as ‘A free man or person may not be punished unless according to the sentence or judgement of his peers.’ See Essay EIS#11, “Specific Aspects of Magna Carta: The Constitution,” freely downloadable with colour cover from the Democracy Defined Campaign Material webpage.

Dupliciously, Bouvier does not want to draw attention to the true pan-European and pan-Occidental Constitution, the constitutionally-correct common law Trial by Jury in which *not* the judge but the peers (the jurors) set the sentence.

See Democracy Defined Campaign Philosophy Essay EIS#11 for information also on the common law rôle and duties of the convenors of trials (i.e. ‘judges’).

Constitutional common law Trial by Jury 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 government to execute the sentence; but it forbids government from going beyond the sentence. Government might lessen the sentence or acquit on grounds of law, or even pardon. Appeals and re-Trial by Jury may take place. However, government cannot legally punish beyond the extent of the jurors’ sentence. Constitutional Trial by Jury forbids government from punishing, except according to the judgement of peers.

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 at the behest of juries, and strictly only according to their sentences (or a lesser, moderated one; or to pardon). Hence, Thomas Jefferson’s “anchor”:

“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.”

U.S. President Thomas Jefferson; Author of the Declaration of Independence; co-Founder (with principal author of the Constitution, James Madison) of the Democratic Party.

By ascribing judgement to the jurors in Trial by Jury, The Constitution allows 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 and regulations prescribing particular punishments for particular ‘offences’, or giving the government’s judges any authority to set punishments, were, and are, void. Sentences pertaining thereto are Miscarriages of Justice. All persons suffering persecution thereby are due a proper Trial by Jury (re-trial); and if found to have acted innocently, i.e. behaved without malice aforethought, are due (overdue) Amnesty and Restitution.

So, by Way of Conclusions to the Aforegoing:

The law ‘dictionaries’ are not to be trusted as sources of knowledge or truth. They must be scrutinised at all times with suspicion and described with derision. They are nothing more than the vile tracts of liars and villains.

All those who employ or are employed in the writing, editing, publishing, sale and providing of such ‘law’ dictionaries and books, collude in the infraction of the universal law which good men and women call Truth; they actively collaborate in the perversion and obstruction of the course of justice. They breach the Constitution, the common law, and abet destruction of mankind’s model justice system: the Trial by Jury. These men and women are criminally involved, culpable traitors to the people, as are the judges and practising lawyers, the paid servitors of politicians and their behind-the-scenes paymasters. They are all judicable participants, direct or indirect, in the perjurious criminal charade which today usurps Justice’s inimitable Constitutional Common Law Trial by Jury.



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Kenn d’Oudney is the author of the following books and essays:

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