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DEMOCRACY DEFINED CAMPAIGN PHILOSOPHY ESSAY EIS#22.

## ON REFERENDA, PLEBISCITE, MAJORITY RULE AND “DIRECT DEMOCRACY”

**I.** This text has some initial deliberation, specifically a Preamble, on the 2016 U.K. referendum. This is followed by an examination of the more general meanings, history and socio-political implications of referenda, majority rule, and “direct democracy” today, in relation to our world-respected Constitution and Rule of Law.

That is to say, the text explores not only the positive implications of referenda, but also exposes those intensely negative aspects which accompany referenda when the People’s protective Supreme Courts of the Constitutional Common Law Trial by Jury Justice System are perfidiously supplanted by Administrations’ and parliaments’ repugnant political Acts, such as with the imposed ‘*trial-by-government-judge*’, and sundry other activities of High Treason to our Constitution.

**II.** A plebiscite and a referendum both provide a vote to all the members of an electorate on a public question but, whereas a plebiscite’s results may persuade administrations (‘government’) of the advisability or popularity of a particular policy issue, by contrast, referenda generally bind the Administration to implement its outcome within statute law.

See next page.

**I. AN INITIAL WORD ON THE BRITISH REFERENDUM IN 2016  
ON WHETHER TO LEAVE MEMBERSHIP OF THE EUROPEAN UNION.**

British folk who know their Constitution\* have always maintained that the United Kingdom's 'membership' of the European Union was entirely unfounded. They describe 'membership' as an illegal, de facto insurgent, act, repugnant to our Constitution and in contravention of our exemplary heritage of Equal Justice and the rule of law. Moreover, they show that 'membership' was demonstrably contrary to the genuine interests of the People at large. It was intended to fulfil a behind-the-scenes 'globalist' agenda *not publicly discussed* by individuals (both pro and anti-EU), who have 'interests' in the financier-corporate City 'establishment'; nor by politicians in Parties which draw their monetary support from it.

Regardless of whatever the result of the 2016 referendum was or might have been, the issues most affecting it and its very *legality*, are Constitutional. Consider that the U.K's Constitution bestows onto the Jurors in Trial by Jury Sovereignty over the law (parliamentary statutes) and all acts of law enforcement. At Constitution and Common Law, any actual or intended statist or judicial *attenuation* of the aforesaid Jurors' Sovereignty over the law, or denial of the Trial by Jury itself for citizens' private cost-free prosecutions<sup>1</sup> or defence, are manifestations of the Crime of Treason at Common Law. Today, with authentic Trial by Jury denied by illegal political Acts and the felonious *modus operandi* of the Courts (judges, justices) such interventions embody **the Illegality of the Status Quo**.

**1 Magna Carta Common Law Articles Thirty-Six, Forty and Sixty-One.**

**See Definitions Unalterable at Common Law; Crimes, (X) Treason, Chapter Three, DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1902848280**

Under the Great Charter Constitution, British parliamentary legislation which seeks to ratify treaties with *extra-national* entities such as the European Union, may be *challenged* by private citizen-plaintiffs cost-free, and the justice and legality of such law may be *judged on* by randomly chosen citizens in Trials by Jury; viz. Articles of Common Law 24, 36, 38, 39, 40 & 61. However, British parliamentarians and judiciary have adopted an illegal *modus operandi*, denying the Powers, Procedures, Rights and Duty of the Jurors in authentic Constitutional Common Law Trial by Jury, thereby overthrowing the People's democratic rule of law.

**A priori and as a consequence, no treaty, or parliamentary legislation purporting to ratify a treaty with the European Union is, was or ever has been legal. That is to say, such legislation is repugnant to the Constitution and We the People: it s void, and in flagrant breach of the English and British rule of law. Parliament has made outlaws of its Members.**

Many well informed people have spent years explaining the innumerable fallacies with which those benefiting from overt and covert behind-the-scenes financier-corporate sponsorship have beguiled and misled the masses. Disinformation and lies were and are constantly dispersed through the owned and controlled mainstream media and state miseducation. Some of the politicians who promote the EU do so in expectation of rewards and sinecures on their retirement. Others are still deeply ignorant of the international corporate bank-owners' *ulterior motive* and sinister manoeuvring which is at the base of all the pro-EU propaganda.

**\*For information on specifics of our Constitution and its Rule of Law, see Campaign Philosophy set out in DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1902848280; reviews at the end of this text.**

## II. ON REFERENDA, PLEBISCITE, MAJORITY RULE AND “DIRECT DEMOCRACY”

We would like to address the following remarks to Officials and Members of the  
**Five Star Direct Democracy Party.**

There is much to consider apropos of the meaning and workings of Democracy, but one of the first points to note about definitive Democracy is that it consists of two constituent parts. These are the Referendum and the Constitutional Common Law Trial by Jury Justice System.

As a safeguard from the infliction of injustices against the legitimate interests of individuals or minorities by majority factions in parliament or the population, Trial by Jury confers Sovereignty onto the adult populace to judge on the justice and legitimacy of statutes passed by the legislature. The justice or otherwise of the laws can be publicly scrutinised in all their aspects prior to their being enforced or annulled.

In the lead-up to a referendum, and indeed within the assembly (congress or parliament), people can be charmed, cajoled, or terrified into voting a given measure into statute law. Trial by Jury **ensures** that *legislation derived from extremist inclinations will not be enforced*.

Following (I) Preamble apropos of the 2016 U.K. referendum, although one would like to proceed from the assumption that everyone knows the etymology, history and signification (meaning) of the word Democracy, it would be as well to put this information first. Then, the main thrust of this text can be appreciated. So, first of all, here follows the definition...

### ON THE MEANING OF THE WORD DEMOCRACY

**Is Your Country a Democracy or  
Is Your Government a Despotism?**

**G**ENUINE LEXICOGRAPHY is dictated by the Sciences of Etymology, Semantics, Semasiology, and Philology. These determine whether a country is a definitive democracy or one's government is a despotism.

Following the invention of printing, the meanings of words started to become more stable but publications were pricey and rare, and literacy was the acquired esoteric advantage of the privileged few. Consequently, the spoken word vocabulary remained subject to uncertainty and flux.

It was in the modern historical era, since the development of these sciences and the spread of literacy, that the signification of words became generally set. Above all, we have the incomparable Eighteenth Century work of Doctor Samuel Johnson to thank for that. As a result, the great historical, legal and philosophical opuses of the likes of Gibbon, Palgrave, Millar, Gilbert, Hale, Crabb, Hallam, Spooner, Blackstone, Mackintosh, Hume, Jefferson and Macaulay remain as immediately comprehensible as the writings of our contemporaries. That is to say, modern writers' efforts are intelligible only if the contemporary scribe first learns and then respects the etymology of vocabulary.

### LEXICOGRAPHICAL OBSERVATIONS:

Let us begin by clarifying what democracy is not! For example, Suffrage does not define nor does it produce democracy, for electoral voting takes place in totalitarian, fascist, communist, and National Socialist (Nazi), i.e., anti-democratic, states. Having been elected, there is nothing to stop government from imposing control of an upper house, renegeing on pledges, nor from adopting any *tyrannical* measures it chooses.

### THE WORD.

To preclude arbitrary (i.e. tyrannical; illegal) government and establish liberty and equal justice for all, the Hellenes created the society in which the common people have the power in Trial by Jury to judge the laws and overrule the laws and measures enacted by the national assembly. **The word** the Hellenes gave to describe this state of society in which the citizens have control *through the Trial by Jury* to judge, make and enforce the laws and overrule the government, the wealthy and powerful, the aristocrats and all the people who sought to rule them, was ‘*demokratia*’, which translates into English as ‘Democracy’.

Derived from the Hellenic Athenian Constitution of government by Trial by Jury, Democracy is founded on the Trial by Jury. Constitutional Democracy is based on the sovereignty of the individual citizen-juror in Common Law Trial by Jury as the final arbiter of law and protection of the people from tyranny.

### ETYMOLOGY (Linguistic Derivation).

Hellenic Greek, *Demokratia*, Democracy. *demos*, the people; *kratos*, sovereignty\*, power; *kratein*, to rule. \*Perseus Digital Library, Tufts University.

Chambers Dictionary, etymology, *demos*, the people; *kratein*, to rule;

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

### From the Etymology Comes the Definition:

**Definition.** 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 through Trial by Jury (proper noun; capitalised).

In order to understand the meaning of the word, it is essential to know *first*, that democracy embodies the people’s control over government and law through the Trial by Jury. The people responsibly control the government, not the other way around. The people rule. This is democracy.

*Secondly*, Democracy is only extant where the Common Law Trial by Jury Justice System is implemented for all causes (lawsuits) civil, criminal and fiscal, to the exclusion of all other systems of justice, law enforcement and arbitration. *Thirdly*, Trial by Jury comprises a complete constitution of itself, providing responsible legal control by the people of the modus operandi of government. It is *the implementation* of the common law Trial by Jury through which “the people rule.” Trial by Jury forms and defines democracy, *sine qua non*. Within the society which is *democratic*, the assembly (congress, senate, parliament, etc.) remains of inferior authority to the decisions of randomly selected citizens on Juries in Trial by Jury.

### TRIAL BY JURY WAS CONSTITUTIONALLY EMPLACED FOR THE PURPOSES OF:

**A.)** *not only* ascertaining guilt or innocence of the accused and where necessary for apportioning retribution, *but also*

**B.)** of transcendent importance, as **a barrier** to protect the vast mass of innocent citizenry from the crimes of arbitrary government, i.e., unjust laws, and from the corruption, prejudices and incompetence of fallible justices (judges). Trial by Jury enables the people to judge authoritatively what their liberties and laws are (explained below), so that the people retain all the liberties which they wish to enjoy.

## ON REFERENDA, PLEBISCITE AND MAJORITY RULE

### 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.**

#### **Viz. The word 'democracy' is widely abused and 'defined' incorrectly:**

Democracy is a state of society realised *neither* by referenda (mass voting for new laws), *nor* by suffrage (electoral voting for representatives), *nor* by the representatives' majorities' legislative voting. Electoral voting, majority rule and '*consensus politics*' neither create nor define democracy.

### MEASURING THE LEGITIMACY OF GOVERNMENTS.

Legem terræ Common Law is the timeless supreme universal legal and natural moral code which ‘exists’ independently, in judgement *over* transient political Administrations’ (‘government’) statute law. Common law is indispensable to the maintenance of civil peace, the well-being of all the population, and to the inalienable right of humans to unmolested tranquillity of existence, privacy, and the pursuit of happiness. Hence, it is of supreme importance that, for their own benefit, every teen and adult comes to understand the common law and its Trial by Jury Justice System, and, without compromise, now supports and henceforth ceaselessly campaigns for the restoration of its dominion.

Constitutions and governments which may be defined as *legal* (and as democratic), institute the true Trial by Jury which emplaces and exacts ordinary citizens’ Sovereign Duty as Jurors to acquit as Not Guilty according to the Juror’s conscience, all people tried under law which the Juror judges to be oppressive or unfair.

#### THE JUROR’S DUTY.

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.)

In every republic, state or monarchy, it is constitutional adoption and practical implementation of the Citizen-Juror’s powers and duties in common law Trial by Jury to judge the justice of law and every part of the acts of law enforcement, which define and comprise the basis of legitimate government and **democracy**, *sine qua non*. *Whether governments acknowledge, submit to and uphold legem terræ common law are the criteria for measuring their legitimacy.*

#### FACTS ABOUT DEMOCRACY.

Through Trial by Jury, Democracy actuates equal constitutional protection of all people’s lives, rights, liberty and property. The facts about Democracy in Athenian Hellenic Greece—and everywhere else—are that it is the uniquely just virile system devotedly supported by the mass of civilised, peace and freedom-loving people. The Athenian Democratic State based on the Constitution of government by the Trial by Jury survived two attempts to overthrow it by wealthy aristocrats and oligarchs with their mercenaries and slaves. The wealthiest sought total power. (How tragically history is allowed to repeat itself!) These bloody coups were efforts at imposing an authoritarian state. They immediately targeted *exousia* (i.e, citizens’ rights and duties in Trial by Jury) for suppression, as this had been the method by which the ‘ordinary’ folk had been able to judge and annul any unjust laws, and reject enforcement of injustices.

## ON REFERENDA, PLEBISCITE AND MAJORITY RULE

Notably, one of these ultimately failing coups which nevertheless resulted in much bloodshed and loss of innocent life was inspired by the maleficent anti-democrat, élitist Socrates. He and his student Plato fit nowhere into any civilised political ideology; we confess to a profound revulsion for their ideas. For information about Socrates' inhuman, self-interested ambitions and his student Plato's text eulogising Socrates' ideal prototypical 'fascist' state, *The Republic*, which was the adopted doctrine of Adolf Hitler's National Socialist (Nazi) Party. See 'Socrates and Plato, The Original Traitors to Democracy,' in Chapter Six, *DEMOCRACY DEFINED: The Manifesto* ISBN 978-1902848280

### **WORDS.** (*Further Semantic Understandings.*)

Words (must) have distinct significations and we have no choice but to respect the etymology if we intend to communicate meaningfully with each other. When the word democracy with its connotation of Constitutional Trial by Jury is known and understood, the contradiction-in-terms (the meaningless distortion of language) becomes self-evident when adjectives such as "*direct*" or "*representative*" precede the word. These latter misconstrued notions confound and undermine the real meaning of democracy because, again, they incorrectly allude to *statute law* derived from government-by-legislatorial-majorities, including referenda and voting in assemblies.

These attempts at inventing 'terminology' are vacuous for, from malice or ignorance, they obscure the vital semantical point: Democracy is founded on the Trial by Jury; the justice system in which the citizen-juror is Sovereign, has all judicial authority; and jurors have the duty to annul enforcement of bad laws, eliminate oppression and punish Acts of malice and injustice, legislative and physical (definitive crimes at Common Law).

What goes on in referenda and the national assemblies has nothing whatsoever to do with Trial by Jury! This latter is the basis and meaning of democracy through which *the people do rule*. Common Law Trial by Jury is the means by which people hold in their own keeping all the rights and liberties which they wish to enjoy. Indeed, through its Trial by Jury, democracy is the very system which precludes ochlocracy (pronounced *ock-lock-rah-see*) the word derived from the Hellenic for *direct rule by mobs*, whether of self-interested minorities or majorities. *Democracy protects minorities from wilful majorities prevailing over them*. Likewise, democracy does not allow the idea that "rule" by a *minority* can ever be 'legitimate'.

Let us consider what currently confronts the rule of law: plutocratic dictatorship through bank-manipulated Economics and Wars of Aggression; collusion by corrupted politicians who accept gainful patronage; criminal intervention in the Constitution's prescribed Trial by Jury Justice System; premeditated statist and courtroom injustice of an increasingly repugnant misgovernance: de facto treasonous *abolition* of constitutional democracy and the rule of law. *That is the anti-democratic reality which besets the people of the world today, and this is the very situation which democracy, that is, the Constitution of government by Trial by Jury, was brought into being to preclude.*

Without a fair system of restraint on the enforcement of unjust laws, the laws themselves become illegal instruments which never fail to have a damaging result to social justice, adversely affecting people's lives. In both cases, majority or minority rule, regardless of the

actual percentages, what is described is one segment of the population, an élite, “ruling” over the rest, a ruled, suppressed underclass.

Those scenarios both describe an oligarchical or élitist Platonic (mis)governance. Such, by its nature, must trend society away from *the compassionate egalitarian democratic ethos which is generated whenever the citizenry has removed control over the power to punish from the government*. Liberty, equality of justice, independence, enterprise, commerce, education, healthcare, opportunity, productivity, prosperity widespread, and fraternity thrive within the healthy society of government by Trial by Jury. *Without* Trial by Jury, the class-divided, stressful élitist society is gestated and impelled towards injustice in all its measures until the very concept of the ‘ordinary’ individual man and woman having enforceably protected ‘rights’ is entirely submerged.

Today, the financier behind the scenes manipulates his political pawns to stifle civilised man’s peaceful democratic aspirations. Instead, he directs the abrasive acts of governments which ruin the social ambience and undermine the people’s well-being. Harshness becomes engrained upon the way of life, and the manner in which people treat each other is degraded. Masses of disillusioned, unthinking men and women live day to day with a scarcely concealed slavish fatalistic *submission*, finding empty solace by believing a media-generated distorted image of events. Yet, humans have at rare moments and in some few times and places in the past glimpsed the future to receive that inspired creative sagacity which envisions **democracy: the future’s free, ideally-structured** human community; the confraternity created by the people for themselves; the ultimate Constitution and only acceptable society—one governed through Trial by Jury.

**DEMOCRACY IS INDEPENDENT OF POPULAR,  
ELECTORAL AND LEGISLATORIAL VOTING.**

Democracy is extant only in societies where the Justice System of Constitutional Common Law Trial by Jury holds total, supreme sway. In other words, Democracy, that is, “the people rule through Trial by Jury,” is independent of and ultimately *governs* all the activities of popular, electoral and legislative voting. The plebiscite or *non-binding* referendum can take place in a democracy but, of course, it cannot create democracy. *Democracy is only brought into being by Trial by Jury.*

**Majority rule** through binding referenda is misconstrued as ‘direct democracy’, “one person—one vote!” Yet, when the words, ‘referendum’ and ‘democracy’ are examined more closely than at a superficial first glance, the separate, distinct semasiological attributes which establish the meaning of these words render them mutually opposed; reciprocally incompatible. It is semantically and linguistically maladroit to juxtapose the words ‘direct’ and ‘democracy’, one next to the other, in the glib hope that somehow this nonsensical epithet could describe a ‘democracy’ which would be achieved ‘directly’ by referenda!

In the context of *majority rule* by voting in binding referenda, the word ‘direct’ destroys the entire meaning of the word democracy. It is a linguistic malapropism because, far from ‘majority rule’, it is Trial by Jury which alone defines and creates democracy. Indeed, this Common Law Justice System uniquely gives equal protection to all, *especially including individuals and minorities, from the extreme and even lethal injustices which arise from rule by self-interested majorities or minorities.*

## ON REFERENDA, PLEBISCITE AND MAJORITY RULE

### SOME ANTIDEMOCRATIC PITFALLS OF VOTING:

#### Referendum and Congress.

The Athenians knew all about the virtues of people's voluntary involvement, *en masse*. Such activity is conducive to harmony and unity, but, realistically speaking, it is only healthy within that society where the common people have the power through Trial by Jury to comprise the supreme legislature and judicature, and annul injustices which might otherwise be imposed. That is to say, it is definitive of democracy, be it Hellenic or otherwise, that the constitutional basis of sovereign authority over the law is invested in the juror in Trial by Jury.

*If a measure be unjust to some individual or persons within the community, then its criminality is never alleviated simply because many people, a majority, support it.*

Democracy does not operate on 'popularity', or majorities in referenda, parliament or congress. Quite the opposite! Democracy prevails on behalf of minorities and of innocent but even possibly 'obnoxious' but non-criminal individuals. It establishes Equal Justice for All the people, demos, the people; not for only "some." Neither in Hellenic Greece nor in any other *democracy* is majority suffrage, the referendum or the assembly, the 'judge', enforcer and final arbiter of law: ***that is the exclusive domain of the Jury.***

Certainly, assemblies and government do address administrative tasks and utilise legislation to facilitate this. Yet, juries and only juries have the last word in judgement over the justice and application of law. This is appropriate, given their advantageous perspective over all the facts and circumstances presented in a Trial by Jury. The Jurors have to decide on the justice and hence the legitimacy of the law at every incidence (case) of its application.

Latterday technology can bring the referendum technique to virtually all the population. However, this is *not* the activity by which *demokratia*, democracy, is achieved, secured and defined in Athens or anywhere else! Explained by its etymology and history, democracy can be paraphrased as, "rule by the people through the Trial by Jury Justice System."

In a contrast which breaches and denies democracy, when the referendum is binding on any society *which is deprived of Trial by Jury*, then the referendum does indeed "rule" because the majority's results become statute law; and people who resist or fall foul of the measure are scourged under the full force of the criminal justice system. Those who do understand the meaning of the word democracy see how, in every case, these dismal facts apply. The *binding* referendum not only contradicts the criteria by which democracy is defined, but it also inflicts a crude *suppression* of democracy itself by denying the Juror's Sovereignty to judge and decide the law in democracy's sole legitimate Justice System: namely, the Constitution's Trial by Jury.

*Without Constitutional Trial by Jury* as literally the Supreme Court by which to judge and rule *over* the statute laws of aberrant politicians, the prejudiced decisions and *ex parte* (one-sided) interpretations of judges, **and over referenda**, then government-by-referendum is a brutal affront to Equal Justice. ***Without Trial by Jury***, it cannot be Democracy by "direct" or any other means!

#### FURTHER ANTITHESES: MEANING AND FUNCTION.

Having seen how a 'referendum' is not and cannot claim to be a system for establishing *justice*, by contrast, democracy through Trial by Jury is the very embodiment of a government *of* the people, *by* the people and *for* the people, fully preoccupied with ensuring

liberty and equal justice for all. Beware! The results of government-by-referendum within a state bereft of Trial by Jury can yield up the worst imaginable injustices of which our species is capable. For example, the extreme ballot-box popularity of the National Socialist (Nazi) Workers Party through the Nineteen-Thirties had the effect of ‘referenda’ or plebiscite, from which the Party claimed a ‘mandate’ for their barbaric acts and Nurnberg Race Laws. **Referenda or assembly majorities can overwhelmingly endorse a party’s program, albeit one of lethal race laws; or be complicit in promoting an agenda biased in favour of particular elements of society against the legitimate interests of others; or permit the imposition of grotesque rule by the fanatics of a particular religion (to exemplify but three of the countless illegitimate anti-democratic ‘laws’ under which humanity constantly suffers).**

**Democracy bestows equal justice on behalf of all the people; it empowers ordinary people peacefully and discreetly to maintain their rights and liberties for themselves; and removes from majorities, minorities, judges and politicians any power to forestall the democratic society, whether in a republic or a constitutional monarchy.**

Today, Constitutional Democracy is the model society which installs *legem terræ*, the common law of the land of which the central tenet and sole justice system is the Trial by Jury prescribed and defined by Magna Carta, “*judicium parium suorum.*” The judgement of social-equals is explicitly emplaced as the mechanism for protecting the population from maladministration and all tyrannical inclinations of government and majority rule.

In real Trial by Jury, the validity, worth, justice and legality of a statute may be challenged by private plaintiffs cost-free. A law’s effects, dangers, possible venality, and even the potential *mens rea* behind the referendum or the assemblies’ lawmakers themselves, may be exposed. When such circumstances are pertinent to the defence of those who break, resist or refuse to submit to the law, then the defendant and his counsel can, *firstly*, alert jurors to their duty to annul enforcement of bad laws and unjust prosecutions, and, *secondly*, can induce the jury to dispassionate deliberations on the evidence, facts, moral intentions, the legality, purpose and fairness of the law.

Further protection is afforded by the secular Common Law Trial by Jury against extremist and religious factions, and from the tyrant and demagogue, through its definitive common law processes, such as the care with which all views amongst the population are reflected within juries by *random selection* of jurors (a vital Common Law function long since abandoned by trustless government and interfered with by their beholden judges (ref. “Illegal Selection of the Juror,” Chapter One, Democracy Defined: *The Manifesto*).

The *referendum* on the other hand, when installed as the means of *rule, of governing*, in which majorities have power to please themselves at the expense of minorities, is a horror which strikes fear and fury within the breast of every sensible adult and true democrat [not party-political]. **Swiss take note!** Government-by-referendum is as atrocious as government-by-majorities in the legislature, whenever these functions are unrestrained because of an absence of the protective Constitutional Trial by Jury Justice System. Without Trial by Jury’s protections being available, the binding referendum is the shortest route to bloody tyranny by majorities.

## ON REFERENDA, PLEBISCITE AND MAJORITY RULE

### FOR EXAMPLE!

For example, the Spaniards have lost all memory of democracy and their Gothic heritage of Common Law Trial by Jury. They were deceived by their unscrupulous politicians who praised the numerous social ‘benefits’ listed in the so-called ‘European Constitution’—without sufficiently alerting them to the fact that all the terms of the ‘constitution’ are *neither* permanent *nor* guaranteed; for they do not control and bind the governing bodies in the slightest. On the contrary, the terms are *changeable* at any time, at the whim of the unelected commissioners (commissars) of the European Union Supreme Soviet (council) System. ***Some ‘constitution’ !***

Furthermore, citizens are utterly at the mercy of the EU’s inquisitorial methods of *corpus juris trial-by-government-judge*—which *denies* freedom from arbitrary arrest (without probable cause); *denies* habeas corpus (freedom from arbitrary detention); and which *denies* the traditional pan-European Common Law Trial by Jury.

Ipsa facto, the ‘European Treaty-Constitution’ is NOT a constitution; for, being bereft of the protections of Common Law Trial by Jury, it is literally a charter of mass enslavement of the people to the power of, or behind, the state.

The Spanish government decision on the referendum count overruled a significant proportion of the population who voted *against* the ‘treaty’, which, *when added to the large number who did not vote (to adopt it), was the real majority*. Thus, the execrable result of ‘government-by-referendum’ and de facto ‘rule-by-factions’ disguised as popular ‘majority’ rule was witnessed.

As the accursed EU ‘treaty-constitution’ with its ‘corpus juris’ *denies* freedom from arbitrary arrest, Habeas Corpus and Trial by Jury, aware Europeans now face the indispensable but toilsome duty of educating the European population as to the need for *restoring and implementing* the universal common law code and legitimate governance of Constitutional Democracy throughout the Continent once more. In the meantime, innumerable painful, inconsolable examples of injustices resulting from EU instatement of Constitutional Despotism by the trial-by-judge proliferate.

The campaign for justice is unending if people are to re-create and then maintain a civilised benign society for themselves. The emphatic, punitive rejection of treasonous *statism* (ref. common law definition of *treason*; Chapter Three) and the continent-wide implementation of Trial by Jury are definitive prerequisites of liberty and justice.

*Definition.* *statism*, the doctrine of absolute control by government officials over every aspect of people’s lives, social, economic and other; as opposed to democracy wherein the democrat [not party-political] believes in control of government by the People. To achieve this latter end and protect the innocent from arbitrary government, the democratic person upholds the dispensation of justice in all causes exclusively as the duty of ordinary citizens as the judges in Trial by Jury. Government and convenors of trials (nowadays misnamed ‘judges’) have *no judicial role* and may not prescribe or set sentences. The government ‘judges’ have no such role under the Constitution because *the judiciary is responsible, not to the People, but to the government: government judges are dependent for careers, salaries and by impeachment, on the legislature: to remain judges, they must reliably enforce unjust legislation.* (See DD, Chapter Two.)

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May people now see through both the dissembling and the unthinking advocates of “direct democracy” and binding referenda! May the good Swiss now adopt the Principles of Equal Justice by installing Trial by Jury by which the People regulate society (ref. Madison; Chapter Two, The Publius Fallacy of Number Ten).

***“Look at the orators in our republic’s assembly! As long as they are poor, both the state and the people can only praise their uprightness; but once they become fattened on the public funds, they conceive a hatred for justice, plan intrigues against the people and attack the democracy.”***

See *Plutus (Wealth)* by Aristophanes.

### MISNOMER.

Democracy, the constitution of government by Trial by Jury, was itself the Athenians’ constitutional means of superseding and curtailing a state of government-by-referendum from the voting in the assembly in which all could take part. Hence, again, it is seen that applying to democracy the adjective ‘direct’ in the context of referenda, is a linguistic mutilation. The attachment results, not in a meaningful nomenclature, but in a hideous self-contradictory *misnomer*. Instead of a useful term being coined, it represents *reductio ad absurdum*.

The ulterior schemes of man are legion. By the juxtapositioning of words, fallacious ‘terminology’ is fabricated which destroys the meaning and marvel that is democracy.

All these ‘terms’ listed below, miss (or deliberately obscure) the vital semantical point: democracy is defined by and founded on the Trial by Jury, the justice system in which the citizen-juror is sovereign, has all judicial authority, and jurors have the responsible power and duty to annul the enforcement of bad laws and acts of injustice. The list does not presume to be comprehensive.

Beware erroneous expressions adopted by unscrupulous politicians seeking to acquire kudos from their exploitation of the word democracy long held in the highest esteem. These words paired with ‘democracy’ make empty idioms and contradictions-in-terms: e.g., ‘anticipatory’; ‘Christian’; ‘consensus’; ‘deliberative’; ‘direct’; ‘grassroots’; ‘illiberal’; ‘Islamic’; ‘liberal’; ‘Messianic’; ‘non-partisan’; ‘participatory’; ‘religious’; ‘representative’; ‘republican’; ‘social’; ‘Soviet’; *and the ultimate in ludicrousness*: ‘totalitarian’ democracy!

The daft idea of ‘adding an adjective’ forms an expression of linguistic confusion which has been ‘cooked-up’ by a person or persons wholly unaware of (or intentionally to conceal) the definitive aspect of **Trial by Jury** as the *creator* of democracy.

Although some of the above contortions pay ‘lip service’ to the fact that democracy means rule-by-the-people, *none* of them acknowledge, still less do they proclaim as they should, that the essential constitutional and practical foundation of democracy rests *uniquely* upon the Justice System of Common Law Trial by Jury by which the people actually do rule. In any case, on analysing what people really intend but do not reveal when they utilise these crass terms listed above, far from democracy, they mean *majority rule*, or, ‘*rule by people who have the same interests as we.*’ This is precisely the formula for creating unjust laws! In other words, they do not mean rule by the people at all, but actually, ‘*rule by me and those who think like me,*’ and ‘*the rest of you can go to blazes!*’

## ON REFERENDA, PLEBISCITE AND MAJORITY RULE

### *Sir William Blackstone's Assessment:*

#### **TRIAL BY JURY IS THE GLORY OF THE ENGLISH LAW.**

A principle of *legem terræ*, the universal common law inscribed into Magna Carta, is that NO judgement (*cf.* sentence) can be valid against a party's money, goods or person, including a judgement for contempt or costs, *unless* it be a judgement rendered by a unanimous jury following the common law Trial by Jury (*viz.* Common Law Article 39).

With that in mind, let us ponder the counsel of the renowned sage, jurist, author and judge, His Honour Sir William Blackstone, KC, SL, and remind ourselves of what democracy truly is:

***“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.

#### **THE PALLADIUM OF THE PEOPLE'S LIBERTIES.**

Trial by Jury is the vital part of The Constitution which places the liberties (rights) of the people *within their own keeping*. Of this Blackstone says:

**“The Trial by Jury is that trial by the peers [i.e., social-equals] of every Englishman which, as the grand bulwark of his liberties, is secured to him by the Great Charter—*“nullus liber homo capiatur, vel imprisonetur, aut disseisetur, 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.”*\* — The liberties of England cannot but subsist so long as this palladium\* remains sacred and inviolate, not only from all open attacks, which none will be so hardy as to make, but also from all secret machinations which may sap and undermine it.”**

4 Blackstone, pp. 349-50.

\*TRANSLATION, Article Thirty-Nine, Magna Carta 1215:

No freeman or free person shall be arrested or imprisoned or deprived 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 (*i.e.*, sentence) of his peers, and the Common Law of the Land (of England, as it was at the time of Magna Carta in 1215).

See the translation of Article Thirty-Nine confirmed in section, “There Is No ‘get-out clause’ in Magna Carta;” in Chapter Five.

See TRIAL BY JURY ISBN 9781902848723, by d'Oudney & Spooner, for further quotations and bibliographical sources.

\**Definition.* Palladium, any safeguard; a symbol, metaphorical or statuary, which represents the protection of the liberties and rights of man. Derived from Pallas Athene, Hellenic Greek goddess of wisdom and war.

For centuries, the British and people everywhere have revered Trial by Jury and called it “*the Palladium\* of the People’s liberties.*” Let us denounce and expose the statist’s machinations which abound today, by which Trial by Jury is suppressed.

Today, the world’s most famous Palladia are the Trial by Jury itself; the Magna Carta Memorial Rotunda at Runnymede by the River Thames upstream from London; the Magna Carta Memorial Rotunda near to parliament in Canberra, Australia; and the Statue of Liberty in New York harbour.

Founded on the traditional Common Law Trial by Jury *re-installed* by Magna Carta in 1215 in England, this quintessential procedure in fulfilment of common law earned respect worldwide as the finest justice system ever devised, coveted by and the aspiration of suppressed populations elsewhere.

The citizen-juror’s duty to judge the justice of every act of law enforcement in the Trial by Jury is the foundation of the people’s sincere belief that Britons never would be slaves; and likewise, that England, Scotland, Wales, Ireland, Australia, the United States, Canada, New Zealand and the numerous post-colonial nations which constitutionally adopted the Common Law Trial by Jury Justice System, are *democracies*.

### **SOME ANTIDEMOCRATIC PITFALLS OF VOTING:**

#### **Referendum, Plebiscite, Parliament and Congress.**

Let us examine some of the ways by which referenda can produce effects which work to the acute disadvantage of the general populace.

What is to be done when the frailties and vices which beset human beings, especially those men and women who seek, or find themselves in, positions of power, come into play? If parts or all of government, that is, the executive, legislature and judiciary, succumb to the temptations of venality, carnality, authoritarianism or incompetence, injustice and tyranny become the lot of the population unless there is the proven effective barrier of Trial by Jury interposed: for constitutional Trial by Jury is the only proven (*peaceful*) mechanism known to humankind by which the population can protect themselves from tyrannical rule by a self-interested majority.

While technological advances such as computers make it feasible for remote millions to vote to accept or reject some proposal of legislation, the *disadvantages* of making the results of *routine* referenda *legally binding* on society far outweigh any benefits.

Come the age of the computerised voting machine, never has there been a greater need for the citizen-juror’s duties in Trial by Jury to vet every law, and control each act of enforcement. Consideration must be given to the fact that with electronic voting, it becomes ever easier to falsify the result... and this applies with elections to parliament, congress and senate and wherever computers replace traditional methods. To date, there is nothing yet devised more efficient and fair than the publicly scrutinised polling station with individual personal identification, the private booth, and paper ballots available for verification and re-counts.

There can be no more simple, agreeable system and one so cheap to the taxpayer, than the electronically arranged plebiscite or *non-binding* referendum; a poll on the large-scale for the purpose of ascertaining public opinion in regard to new laws. Most people agree that

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plebiscites are useful instruments for such purposes. However, over the course of time, if such referenda were frequent, many people could lose interest and avoid bothering to involve themselves deeply, or at all, in the process. *Eventually, the binding referendum could come to be rule by a self-interested, motivated minority forming an apparent but false 'majority'.*

Most laws contain qualifications and clauses, all of which require to be considered and a separate vote needed for each one. This tedious activity is what most people prefer to leave to bureaucrats and politicians. Issues have to be divided into numerous points, all requiring consideration before voting on multiple-choice questions and answers. So, people prefer to pass the job of deciding laws to representatives.

### **DEMOCRACY IS INDEPENDENT OF ALL POPULAR, ELECTORAL OR LEGISLATORIAL VOTING ACTIVITIES.**

Perhaps the best application of referenda is in the arena of local politics, when the location of a school, hospital or the route of a new road is to be decided. Open discussion with the public in attendance followed by a vote of all involved is frequently undertaken. This is the most useful application of the referendum, which follows along the lines of the Athenian City State wherein every citizen had the right to join and speak in the debate, and then vote on laws and measures in the nation's assembly.

Certainly, latterday technology can bring the referendum technique to virtually all the population. However, this was NOT the activity by which *democratia*, democracy, was achieved, secured and defined in Athens or anywhere else. Far from it. The Athenians knew all about the virtues of people's voluntary involvement, en masse. Such activity is conducive to harmony and unity, but realistically-speaking, *it is only healthy within that society wherein the common people have the power in Trial by Jury to comprise the Supreme Legislature and annul potential injustices.* That is to say, it is only in Trial by Jury that the constitutional basis of authority resides in a democracy, be it Hellenic and anywhere else in place and time.

Democracy does not operate on 'popularity' or the power of the majority by referenda or in congress. Quite the opposite: democracy prevails on behalf of minorities and even of individuals in establishing equal justice for ALL the people, demos, the people; not for only some. Only in societies where the Trial by Jury holds sway are democracy and equal justice extant.

*As opposed to* majority factions of representatives voting in the assembly, democracy, representing ultimate supreme rule by the people through Trial by Jury, was adopted by Jefferson and Madison, the Founders of the Democratic Party. Let us consider the sagacity expressed on these matters by the Founders and their adoption of Trial by Jury for all causes, civil, criminal and fiscal.

Whereas Jefferson said about *voting in Congress*, "The voice of the majority decides. For the *lex majoris partis* is the law of all councils, elections, where not otherwise expressly provided," [Jefferson; Parliamentary Manual, 1800] *in a profound recognition of the democratic right of the People to prevail through their juries over the government's laws, Jefferson stated:*

***"The majority, oppressing an individual, is guilty of a crime, abuses its strength, and, by acting on the law of the strongest, breaks up the foundations of society. Freedom of religion; freedom of the press, and freedom of person under the protection of habeas corpus, and trial***

*by juries impartially selected. These principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment.”*

Whereas parliament may be bound to enact a given measure by the will of the majority expressed in a referendum, in a democracy *not parliament, congress or judges* but the People as Jurors are sovereign in Trial by Jury to decide how or whether a law may be enforced. *Thus, the People are permanently protected against acts of personal injustice.* So, in the British referendum which found a majority for leaving the European Union, the parliament is naturally bound by the result.

However, the irony is cruel in that the ‘Remainers’ would have inflicted despotism on the rest by their choosing to remain subject to foreign rule from Brussels which meant adopting the *corpus juris* trial-by-the-government-judge Continental system, arbitrary arrest (without having to show probable cause), the indefinite period of imprisonment while trying to prove innocence (losing Habeas Corpus, the presumption of innocence with the burden of proof on the prosecution), and the permanent abolition of Trial by Jury.

**N.B. 1.) Following the referendum:**

The intervention of the courts and the infliction of a vote by Members of Parliament on whether to endorse the majority vote to leave the EU were flagrant judicable acts of High Treason: see the downloadable text “*What Is Treason According to the Constitution and Common Law?*”

**N.B. 2.) The Common Law Proscription of Mendacity, Lying, False Witness:**

Equal Justice is secular, pure and uncompromising. A natural common law first-corollary to the stricture ordaining honesty and truthfulness is that anyone adopting a thesis which advocates or prescribes mendacity (lying or perjury) as a means of advancing one’s interests is *self-disqualified* from jury-service and remains subject to the full rigours of the secular Supreme Constitutional Legem Terræ: the Law of the Land.

*Definition.* To ordain in this context means to *order* something officially; decree or enact; for example, “We the people...do *ordain* and establish this Constitution...;” Preamble, USC.

According to Madison, society should be formed in such a way as imparts equal protection to all citizens, even the apparently ‘obnoxious’ ones, *by the Trial by Jury*. This is true demokratia: democracy. Madison desired the circumstances be created which enable the people to judge, rule and if deemed necessary, overrule government-made law. To this end, Article Three, Section Two of the Constitution had installed Trial by Jury by which the government is (supposed to be) held by the citizens to the decisions of Juries.

Yet, so intense was Madison’s commitment to the democratic Trial by Jury Justice System that he sought further unequivocal support for the constitutional arrangement of societies in such a way that juries in Trial by Jury hold sway over government. **This is definitive democracy of the Hellenic model: the Constitution of government by Trial by Jury.** He wrote:

*“No state shall violate the equal right of conscience, freedom of the press, or trial by jury in criminal cases; because it is proper that every government should be disarmed of powers which trench upon those particular rights.”*

See Madison’s Proposed Amendments to the Constitution, June the 8th, 1789.

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Where government is “disarmed of power to trench upon the authority of juries,” and the accused has indisputable right to such a trial, *Trial by Jury holds sway over law and its enforcement*. According to conscience, citizens vet, judge, decide, make and enforce the natural common law to protect themselves, their rights and liberties; they overrule and annul arbitrary decisions of courts, unjust dictates and corrupt laws: the people rule and democracy is extant.

More than this, however, it is a well-known virtue of Trial by Jury that *only one person* on common law juries (which are indiscriminately chosen by lot or chance to reflect all views in the country at large), is sufficient (Unanimity required) to prevent injustice being inflicted by the acquisitive legislation of factions.

Witnessed routinely, whether elected or representing themselves, people gathering in a legislative *assembly* routinely diverge from logic, reason and the pursuit of justice, to be charmed, cajoled or frightened by capricious rhetoric into adopting legislation which represents the self-interests of majority or minority factions. Hence, Madison sought *amendment* to the Constitution specifically to gain further insurance for the right to receive a Trial by Jury without trenching intervention from government, its judiciary or other agents. This amendment would re-affirm **the authority of the Juror as Judge**, and publicise the absolute, supreme sovereign nature of the citizen-jury in Trial by Jury. Knowing the character of man and governments, Madison saw the exigency for this stipulation. Such an **amendment**\* to law—and government behaviour—is now universally needed, for, witness the ruin of Trial by Jury today by traitorous politicians and judges.

\*Viz. THE RESTORATION AMENDMENT set forth in DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1902848280.

According to Madison, *without* Trial by Jury operating freely from interference by the government (the judiciary is an arm of government), there is, in his words, no “proper,” that is, no civilised, state of society. Trial by Jury is his determining factor, his ‘sine qua non’ defining the civilised, the proper society. He vehemently states that no government violate Trial by Jury. By this, he adopts democracy: the philosophical pinnacle in the ascent of man.

*Madison advocated that the people “regulate” society by expressing ultimate authority through their common law juries, as follows:*

**“Trial by jury cannot be considered as a natural right, but a right resulting from the social compact which regulates the action of the community, but is as essential to secure the liberty of the people as any one of the pre-existent rights of nature.”**

**Madison’s Proposed Amendments to the Constitution, 1789.**

Explained by its etymology, history and signification, democracy can be paraphrased as “*rule by the people through the Trial by Jury Justice System.*” Yet, by contrast, when the referendum is *binding* on the society and there is no authentic Constitutional Common Law Trial by Jury instituted and operating, then it is the referendum which ‘rules’: the results become statute law and those who resist or fall foul of the measure are scourged under the full force of the criminal ‘justice’ system. People who understand the meaning of

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the word democracy, see how in every case these dismal facts apply. The *binding* referendum not only breaches the terms by which democracy is defined, it is in dire CONFLICT with all the adherents of the democratic system. Hence, government-by-referendum cannot be ‘democracy’ by direct means.

Democracy, that is, “*the people rule through Trial by Jury*,” is a state of society created *neither* by the referendum for new laws, *nor* by voting for representatives, *nor* by the legislative votes of the representatives. Electoral voting, majority rule and ‘*consensus politics*’ neither create nor define democracy. The referendum can take place in a democracy, but, of course, it cannot *create* democracy. Democracy is only brought into being by Trial by Jury.

When these words are examined more closely than at the superficial first glance, the distinct semasiological attributes which establish the signification of the words ‘referendum’ and ‘democracy’, render them mutually opposed; reciprocally incompatible. It is semantically maladroit to adjoin one to the other in the glib hope that somehow this epithet could express a ‘democracy’ which would be achieved ‘directly’ by referenda. In the context of voting by *binding* referenda within the society bereft of Common Law Trial by Jury, such as Switzerland, the word ‘direct’ destroys the entire meaning of the word democracy.

### FURTHER ANTITHESES: MEANING AND FUNCTION.

A ‘referendum’ is not a system for establishing **justice**; whereas democracy is the very embodiment of a system of the people’s, for the people, which is fully preoccupied with ensuring liberty and equal justice for all.

The results of government-by-referendum within a state bereft of Trial by Jury can yield up the worst imaginable injustices of which our species is capable. For example, the extreme ballot-box popularity of the National Socialist (NAZI) Party through the ’Thirties had the effect of ‘referenda’ or plebiscite, from which the Party claimed a ‘mandate’ for their barbaric acts of tyranny.

In the lead-up to a referendum, and indeed within the assembly, people can be charmed, cajoled, or terrified into voting for a given measure. Majorities can overwhelmingly endorse a party’s program, albeit one of lethal race laws, or the imposition of grotesque rule by the fanatics of a particular religion (to exemplify but a couple of the countless illegitimate antidemocratic laws under which humanity constantly suffers).

Today, constitutional democracy is mankind’s model society which installs **legem terræ**. This is the common law of the land prescribed and defined by Magna Carta, of which the central tenet is the Trial by Jury Justice System, which is emplaced as the barrier or mechanism for protecting the population from all tyrannical inclinations of government maladministration.

Through the (authentic) Trial by Jury, democracy bestows justice equally on all the people; empowers ordinary people peacefully to choose and maintain their rights and liberties for themselves; and removes from majorities, judges and politicians any power to forestall the democratic society, whether in a republic or a constitutional monarchy.

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In Trial by Jury, the validity, worth, justice and legality of a statute (a government-made law) may be challenged. A law's effects, dangers, a possible venal character, and even the potential *mens rea* (malicious motives) behind the referendum or the assemblies' lawmakers themselves, may be exposed.

When such circumstances are pertinent to defence, then, alerting jurors to their duty to annul bad laws and unjust prosecutions, counsel and defendant induce the jury to dispassionate deliberations on the evidence, facts, moral intentions, the purpose and fairness of the law and of its enforcement.

Further protection is afforded by Trial by Jury against *factions*, potential tyrants and demagogues by common law processes, such as the care with which all views amongst the population are reflected within juries (by random selection of jurors from amongst the entire adult population (save the sick, aged, convicts and the insane). It is a crime under common law for government and courts to impose property or other 'qualifications' for jury service. See **DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1902848280, On the Legally Correct Random Selection of Jurors.**

The referendum on the other hand, when installed as the means of *rule*, of *governing*, in which majorities have power to please themselves at the expense of minorities, is a horror which strikes fear and fury within the breast of every sane adult and true democrat. Government-by-referendum is as atrocious as government-by-majorities in the legislature or parliament, whenever these functions are unrestrained because of an absence of Constitutional Trial by Jury.

### FOR EXAMPLE !

For example, the Spaniards have lost all memory of democracy and their former Gothic heritage of Common Law Trial by Jury. They were deceived by their wily politicians who praised the numerous social benefits listed in the so-called 'European Constitution', without alerting them to the fact that all the terms of the 'constitution' are not guaranteed: they do not control and bind the governing bodies in the slightest. ***Some constitution!***

On the contrary, the terms are actually changeable at the whim of the *unelected* commissioners (commissars) of the Supreme Soviet (council) System. Moreover, all citizens are at the mercy of the inquisitorial methods of *trial-by-judge*, which in practice denies Habeas Corpus (freedom from arbitrary detention); freedom from arbitrary arrest (without probable cause); and the Trial by Jury. The 'European Treaty-Constitution' \* is **NOT** a constitution: it is literally a charter of mass enslavement to the power of, *or behind*, the state. **\*Definition-in-brief: a constitution is a code of laws and customs which guide and control government.**

The Spanish decision overruled a significant proportion of the population, which, when added to the large number who did not vote, was the real majority. Thus was the execrable result of government-by-referendum. But for the wonderful British referendum, we would still be under the jackboot of the New World Order's leading plutocrat families, with all the implications which that entails for our rights to liberty, property, lives and the pursuit of happiness. Still, the show's not over yet...

**MISNOMER.**

Democracy was itself brought into being by the Athenians as the constitutional means of superseding and curtailing a state of government-by-referendum, from the voting in the assembly in which all could take part. Hence, again, it is seen that applying to democracy the adjective ‘*direct*’ in the context of referenda, is a linguistic mutilation. The attachment results, not in a meaningful nomenclature, but in a hideous self-contradictory misnomer. Instead of a useful term being coined, it represents *reductio ad absurdum*.

This ‘direct’ idea is an expression of linguistic confusion which has been cooked-up by a person or persons wholly unaware of (or intentionally to conceal) the definitive aspect of Trial by Jury as forming the foundation of *democratia*, democracy. Let us consider further how the referendum technique does not create ‘democracy’ of any type:

**FEROCIOUS ANTIPATHY TO DEMOS “WE THE PEOPLE.”**

Citizen-Juries educated and instructed to judge on the justice of law and its enforcement, can be relied upon to protect people from the state (i.e. the government), when the state breaches correct behaviour in attempting to enforce injustices. It is for this reason that those who stand to gain money and/or power from tyranny by the imposition of unjust ‘laws’, regard the genuine Trial by Jury as an obstacle to be undermined and destroyed. Untrustworthy at best, of outright criminal intent at worst, are those who, instead of restoring Common Law Trial by Jury to its true form, would discard it altogether.

As always, there are today those of the power-hungry oligarchical inclination who are ferociously antithetical to democracy: they wish to deny the people their inherent, inalienable right to the just power achieved by the peaceful mechanism of Trial by Jury, to decide and protect their liberties for themselves. To destroy democracy is the intention of the plutocrat. This he does through his minions in government, the judiciary, the legal profession, and his servitors and employees in publishing and media.

*Demos-kratein*, *democratia*, *democracy*, the word, with its unique historic derivation, has the strict parameters of meaning: “government by the People with ultimate sovereign authority invested in the citizen-juror in common law Trial by Jury.” Despite this unequivocal definition of democracy, and relying on the general insouciance of the people, not to say, widespread ignorance, the enemies of democracy attempt to miseducate the people en masse by introducing self-contradictory, extraneous and stridently incorrect uses of the word; viz. Wikipedia’s and the latest dictionaries’ contributors’ gibberish.

In this way, they hope to increase their dominion over the mentality of the population, and destroy all concept and memory of mankind’s model justice system; the only one which bestows equal justice and liberty upon all. It remains the ongoing principal secular adult duty of men and women everywhere, who love liberty and justice, to promulgate the definitive facts on democracy to this generation, literally to save civilisation and emancipate all.

When one sees the word democracy being misused, it is of interest to ascertain whether this abuse is from plain ignorance, or from deliberate mind-manipulation (‘brain-washing’). Politicians themselves can be brainwashed, duped and misled. However,

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politicians and others ruthlessly set out to blind people as to what *genuine* democracy can and should be allowed to achieve towards the people's happiness, well-being, prosperity and emancipation.

When the word democracy is properly understood, the *contradictions-in-terms* (meaningless distortions of language) become self-evident if adjectives such as 'direct' or 'representative' precede the word. These latter combinations confound, undermine and pervert the meaning of democracy, because they incorrectly allude to *government-by-majorities* by public referenda and voting in assemblies. These terms deliberately obscure the vital semantical point: democracy is founded on the Common Law Trial by Jury, the justice system in which the citizen-juror is sovereign, has all judicial authority, and jurors have the duty to annul bad laws, tyranny and acts of injustice.

What goes on in referenda and the national assemblies has nothing whatsoever to do with Trial by Jury, and this latter is the basis of democracy through which "the people rule" (*demos*; *kratein*) and by which the people hold in their own keeping all the rights and liberties which they wish to enjoy.

Indeed, through the Trial by Jury, democracy is the very system which precludes ochlocracy, i.e. direct rule by mobs, whether of brutish minorities or majorities expressing their self-interest in referenda or assemblies.

Government-by-referendum is just that and no more than that. Government by referenda majorities and congressional/ parliamentary majorities are not 'democracy', because such voting activity can and does occur within societies which outlaw the people's protective barrier of Trial by Jury, and which therefore are NOT democracies.

### **Note To Whom It Relates:**

Thucydides \* observed truly that most people will uncritically believe the first account they hear about something without taking the trouble to find out whether it is true.

\* See *History of the Peloponnesian War*, by Thucydides.

Reading some people's apocryphal accounts of the history of Hellenic Athenian Democracy explains, in some cases, the misappropriation by these people of THE WORD, which they then abuse by misapplying it to activities of government-by-referenda (mass voting) or government-by-representatives (i.e. voting in the assembly). From negligence or by malintention, they only acknowledge the *inferior* functions of voting and assembly; and omit the paramount definitive factor of democracy: Constitutional Trial by Jury.

### **EXOUSIA.**

It is far from correct to conceive of 'democracy' as *only* a society of a small number of citizens who assemble and administer the government in person, for neither in Hellenic Greece nor in any other democracy is *the assembly* the supreme judge and final arbiter of law: *that* is the exclusive domain of the Jury.

In democratic Athens, all citizens including the poorest, the *thetes*, were equals before the law with *exousia*, which included the right to a Trial by Jury; right to participate in deliberations and vote in the assembly; *and...*

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***...right of JUDICIAL OFFICE by which as jurors they decided causes and could annul the enforcement of disagreeable laws and measures simply by finding the accused Not Guilty. The Hellenes created Democracy peacefully to preclude the progress of wealthy would-be despots and majority factions voting in the legislature, by means of the Trial by Jury.***

Any society which spurns despotism, oligarchy, tyranny, ochlocracy-through-referenda (mob rule), and all such lawless, uncivilised forms of government, may select, by sortition or election, representatives to take care of the uncontroversial ‘nuts and bolts’ of tedious daily administration of the country, because most people prefer to occupy themselves with other matters.

In democratic parliamentary processes everywhere, *assemblage* embodies the initial, preliminary procedure of government, wherein proposal, debate and voting, frame measures and enact laws. Trial by Jury is the decisive, superior stage: citizen-jurors are sovereign to judge the laws and causes in all their aspects, to decide whether, and if so, how, to give effect to their execution.

Some people choose ambiguous quotations from Plato’s Socratic dialogues and confuse themselves and others about Socrates. (Remember, Socrates himself wrote down nothing. What we know about him comes from writings of his contemporaries, principally his devotee and student Plato.) It is factually incorrect to say that Socrates “supported” democracy. *Socrates was the implacable foe of democracy*: he inspired a coup d’état (seizure of power) against the democratic state by those who came to be known as the Thirty Tyrants; wealthy oligarchs and aristocrats with their mercenaries and slaves.

The Tyrants removed *exousia* and the right to a Trial by Jury from all but five hundred. Only a carefully selected three thousand were permitted to bear arms, to support the Tyrants and enforce the Illegality of the Status Quo. Hundreds of the proponents of the democratic state were forced to drink the lethal cup of hemlock and thousands were exiled.

Democracy was however restored after a year, and amnesty was given to all parties by the compassionate democratic state. Socrates nevertheless callously despised the people. He was a worthless criminal traitor to demos, “we the people,” and continued thereafter for four years to be the murderous opponent of democracy, fomenting further revolution amongst his aristocratic followers and students. Hence, when he eventually came to be tried (on charges of corrupting youth, etc.), his sentence of capital punishment was deserved and inevitable.



EIS#22. ON REFERENDA AND MAJORITY RULE.

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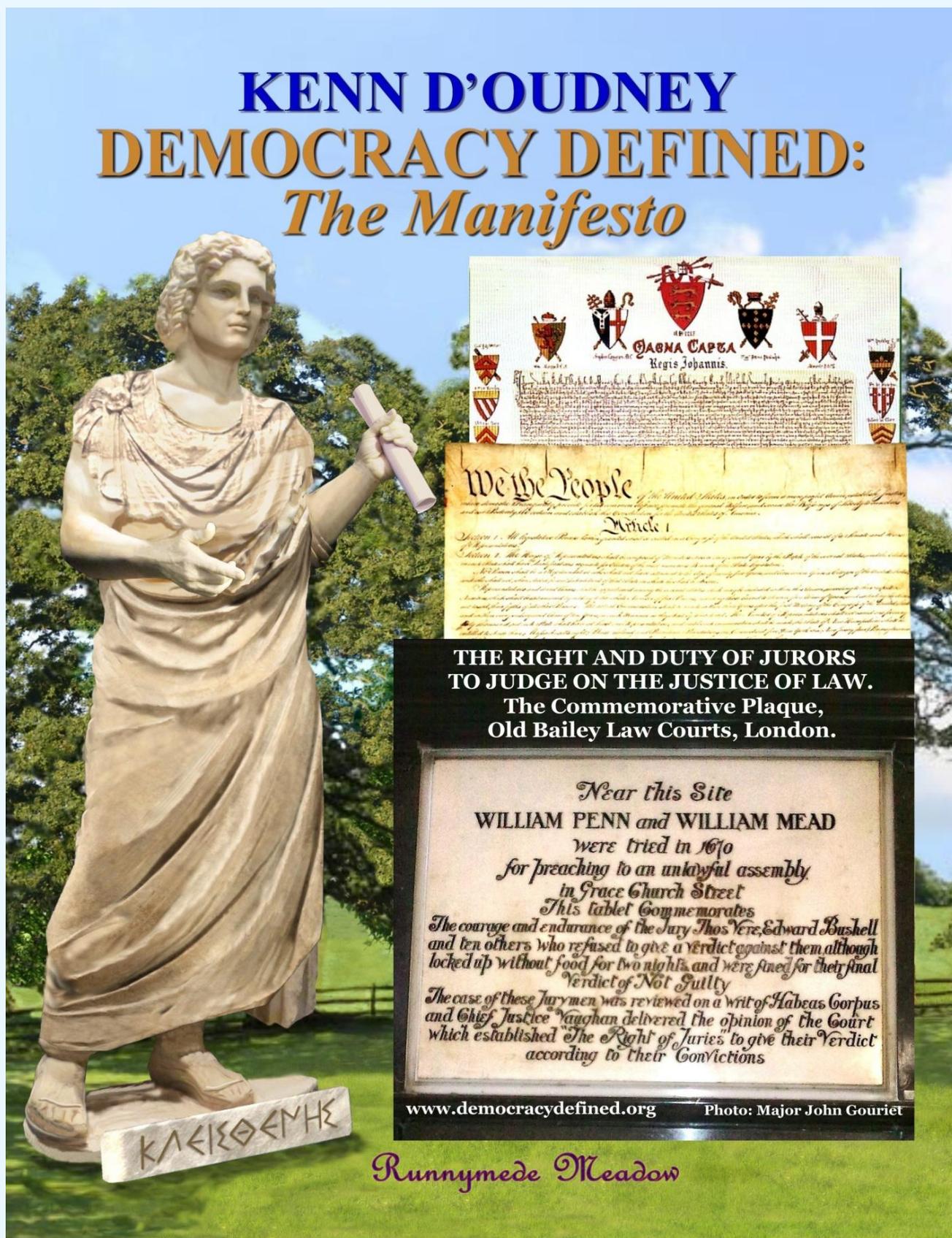
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For info about Plato’s book on the prototypical fascist state, *The Republic*, adopted as the doctrine of Adolf Hitler’s National Socialist (NAZI) Party, and on ‘Traitor to Democracy’ Socrates, see *Democracy Defined: The Manifesto* ISBN 978-1902848280. Viz. below.

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See further reviews inside.



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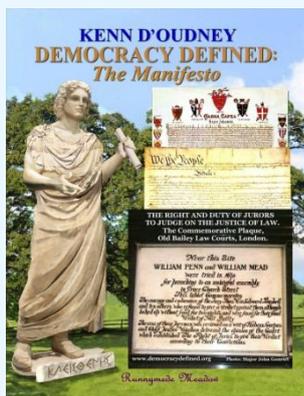


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Kenn d'Oudney is the author of books and essays including the following:

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