

## THE CITIZEN'S RIGHT TO SUE COST-FREE.

Magna Carta 1215 (re-)installed **Judicium Parium** "for all time," the mechanism of Common Law by which **the Sovereignty of the People** is both theoretically and pragmatically established. That is, the famous *Articles of Common Law* in our secular Great Charter Constitution recognised the natural and legal Sovereignty of the People. This mechanism, **Judicium Parium** (pronounced *joo-diss-ee-oom*), which underpins and defines democracy *sine qua non*\*, is the Constitutional Common Law Trial by Jury Justice System.

\*Hellenic Greece of the Constitution of government by Trial by Jury received from the Athenians the defining epithet, Democracy, *demokratia*. Etymology, definition; Chapter One, DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1902848280.

The Trial by Jury Justice System, **Judicium Parium**, is revered at home and respected abroad as the finest and most democratic form of law enforcement ever devised. Constitutional Law Magna Carta, the 1215 Great Charter of English Liberties, defines and prescribes definitive Common Law Trial by Jury as the sole legitimate Justice System for all causes (lawsuits), civil, criminal and fiscal. Trial by Jury is the historically-proven-foremost egalitarian means by which the population is emancipated from all unjust laws and arbitrary governance (i.e., the Common Law Crime of Tyranny).

**ARTICLE SIXTY-ONE** of the permanent 1215 Great Charter British Constitution recognises and dictates that all citizens have the Just Duty of **policing** their society by enforcing their Constitution and the (common) Law of the Land, *Legem Terræ* (pronounced *terry*), to protect themselves from lawlessness and injustices inflicted by the Administration, the legislature or the judiciary (justices; judges); to wit, the 'government'. The Constitution thus subjects all who form or work for government, Head of State notwithstanding, to liability to prosecution at Common Law Trial by Jury for any Acts of Malice Aforethought, *mens rea*<sup>1</sup>. This restored and re-installed "in perpetuity" the then already longstanding entitlement (right) of any Citizen commoner to prosecute any other commoner cost-free at a Common Law Trial by Jury.

1. Any 'act' means not only legislation but also physical acts.

*Definition. Crime is defined as any act of injustice committed with malice aforethought; mens rea (pronounced ray-uh).*

According to common law Articles 36 and 40 in conjunction with Article 61 governing Constitutional Trial by Jury (now obstructed by politicians, judges, the legal profession and Law Society), *cost-free prosecutions of infractions of common law by persons in government (and others) can be brought directly by private citizens (individual or multiple plaintiffs) to a Trial by Jury.* Trial by Jury is not the 'preserve' of the government prosecution service (CPS; DAs) and legal profession. Reinforcing Article 40, Article 36 is quoted verbatim:

**ARTICLE THIRTY-SIX:** "In future nothing shall be paid or accepted for the issue of a Writ of Inquisition of life or limbs [criminal charge]. It shall be given gratis [i.e., for free], and not refused." (Emphasis added.)

A Writ of Inquisition is the Complaint (charge) and Summons issued for the purpose of having a person brought to a Trial by Jury. Its issuance and progress to trial cannot be denied or impeded. Article 36 *also* guarantees the plaintiff's right to take the case to trial *free of charge*.

The Constitution's foremost democratic empowerment of We the People over government is embodied in the authority of the ordinary commoner citizen to sue any other commoner, albeit one in government. This is *Legem Terræ*, the Supreme Law of the Land, the all-powerful means by which all just causes are won. Hence, the exigency for **RESTORATION** of Trial by Jury!

(At common law, vexatious or malicious private or state (government) prosecutions are seldom risked because such litigants can be fined and have their cases dismissed by the randomly chosen jury at a Trial by Jury. See Chapter Four, "Two Ways to Equal Justice," Democracy Defined: *The Manifesto* ISBN 978-1902848280.)

### **ANNULMENT BY JURY** ('nullification')

According to *Legem Terræ* Common Law, it is the jurors' duty in Trial by Jury *to judge the justice of the law and every act of enforcement and acquit any persons accused under an arbitrary, unjust or apocryphal statute, regulation or prosecution.* This procedure is known as **Annulment by Jury**\*

\*It is sometimes referred to in a linguistically incompetent self-contradiction in terms as 'jury nullification'.

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.) DEMOCRACY DEFINED: *The Manifesto*.

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

Restoration "for all time" (viz. Article Sixty-Three) of the citizen's powers and setting them out explicitly in writing was indispensable because tyrannical Norman monarchs' circuit judges had suppressed the Powers, Procedures, Rights and Duties of Jurors (which are set out below, from DD, Chapter One).

The constitutions of former and current British dependencies, Australia, Canada, New Zealand, etc., were instituted by the UK parliament and administration ('government') which, in turn, are subject specifically to those permanent Articles of Common Law which are timeless and govern the Trial by Jury Justice System inscribed into the world-respected English (cf. British) 1215 Great Charter

Constitution Magna Carta. All stipulations within those constitutions must conform to the stipulations of Magna Carta 1215, otherwise they are repugnant and void. The definitive Trial by Jury formed the pan-European Constitution, it having been adopted by all the Gothic nations of modern Europe.

Significantly, Conrad the Second, 1027-1039, Holy Roman Emperor, King of the Franks (i.e., French; also known as Gauls), King of Italy, King of Burgundy, Emperor of Germany (the extensive domains of *Magna Germania*), had installed Trial by Jury for his people nearly two centuries before the 1215 Great Charter<sup>1</sup>.

1 See the wording of Conrad's Law cited on page 150 of DEMOCRACY DEFINED: *The Manifesto*.

Trial by Jury is also enshrined within Article 3, Section 2 of the U.S. Constitution, reaffirmed by every president by oath at inauguration. Magna Carta 1215 is law throughout Britain, and applies in perpetuity.

#### **TRIAL BY JURY WAS CONSTITUTIONALLY EMBLACED 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.

#### **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.  
See Democracy Defined: *The Manifesto* ISBN 978-1902848280

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EIS#4. **Why Is Trial by Jury Important?**

# **Why Is Trial by Jury Important?**

**The Juror has the Right  
and Duty to find the  
Verdict according to his  
or her judgement on  
whether the law is just.**

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