THE DEMOCRACY DEFINED EDUCATIONAL CAMPAIGN *for* RESTORATION OF THE CONSTITUTIONAL RULE OF LAW.

Member's Card - *front*

The Democracy Defined Campaign Philosophy is endorsed by a Nobel laureate professor emeritus, academics, former government advisers (US & UK), attorneys, doctors (of jurisprudence, medicine, physiology, homeopathy, psychiatry, philosophy) and judges (U.S. & U.K.).

ACTIVIST MEMBERS *from all walks of life*.
THE CAMPAIGN PHILOSOPHY is spread by its Members.

CRITIQUE of:
"The Rule of Law" by Ilija Vickovich: An Apocryphal Text.

Vickovich, Ilija —"Lawyers and the Legal Order in Early Modern England: Social and Cultural Origins of the Rule of Law," University of Tasmania Law Review 96, 2013.

THE EDUCATIONAL CAMPAIGN

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

When one has a grasp of our history, law, and our impeccable, secular, world-respected, universally-applicable **Constitution**, it makes one's blood run cold to read and witness the bare-faced treason which masquerades as 'education', perniciously perpetrated by latter-day lecturers on 'Law'. This vicious activity produces generations of young men and women afflicted with tunnel vision incredibly focused on the statists' *anti*-constitutional authoritarian view, rather than that of our cherished Western Heritage of Liberty and Equal Justice for All.

Hence, whenever a lawyer, judge or public figure sets forth writings on matters of historical fact, such as the rule of law, the legal order in early modern England, and the origins of the *pan*-European Rule of Law (proper noun; capitalised), he or she must expect members of the reading public to 'critique', that is, to render their views on the contents. This is a response to having been circulated the above-named text by a recipient of it, *concerned*, and rightly so, at "*the official state of play in Australia*."

Readers see that this CRITIQUE's contents are enriched by the quoted wisdom and words of great minds which have shown us the way for many generations. A sublime universal message derives from the authorities, quotations and references provided therein. It is unequivocal, uncompromising. While it is their timeless 'manifesto', it is yours and mine too. I adopt it and pass it on because these lessons

apply perennially, for within this philosophy resides the sole *peaceful, proven resolution* to the unmitigable turpitude of modern governments.

Yes, it is the chivalrous English view, but it is also the American Founders' and pan-European Gothic *philosophy of honour and equal justice*; the unique modus vivendi of the immaculate pan-Occidental Code, Culture, Constitution and rule of law.

History and time measure the merit of this unquellable philosophy: it will outlive us all. On exposure, other cultures will embrace it. Distant descendants far in the future will turn time and again to consult and re-implement this, mankind's natural all-encompassing law. History also establishes that every society which ignores or is in ignorance of these facts suffers *inevitably* under the dolorous barbarity of despotic misgovernance.

In their haste to fulfil their financier-corporate masters' schemes, our political leaders display enmity towards the people, and disdain for traditional virtues and loyalties. Instead, they adopt an aggressive inhumanity manifested in social injustice, inauthentic 'political correctness' and global strife. This outcome has to have been premeditated and intentional because it is the logical and predicted *effect* of their *anti*-democratic way of operating, which is *cause* of the ills.

However, above all, it is the evidence of criminality amongst participants in the present-day **Justice System** which is exposed. All societies govern through their Justice System. If there be corruption therein, the entire body corporate of government and those who direct government, and all who enforce its illegitimate measures, become parties culpable (under binding domestic and international laws) in varying degrees for their engenderment of, or collaboration with, **the Illegality of the Status Quo.**

Alas, one regrets to have to say that the lawyer's apocryphal work in question is but an exemplar of crass miseducation being 'taught' (de facto, indoctrinated) to law students these days, replacing and evading the paramount binding Truths and Maxims which underpin our Western Democratic Civilisation. These unwitting 'brainwashed' unfortunates are *modelled* to fit into a dystopian *post*-democratic authoritarian state, the *statism* predicted and depicted by the Twentieth Century seer, George Orwell.

Lawyers of tomorrow are being prepared today to function as custodians of the dreadful Great Reset and tyrannical U.N. Agenda 2030. **"*You will*** [be permitted to] ***own nothing and you will be happy*.**"

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*."**

STONE, Harlan Fiske, U.S. Supreme Court Chief Justice, 1941-1946. '*The Common Law in the United States*,' On Annulment by Jury ('nullification') in the authentic Trial by Jury. Harvard Law Review 50. 1936. Emphases added.

CHURCHILL'S VIEW.

"*The power of the Executive to cast a man into prison without formulating any charge known to the law, and particularly <u>to deny him the judgement of his peers</u>, is in the highest degree odious and <u>is the foundation of all totalitarian government</u>, whether Nazi or Communist*." **(1)**

1 CHURCHILL, SIR WINSTON, Author, Chronicler, Historian, Philosopher, Nobel laureate for Literature; Prime Minister of the United Kingdom of Great Britain and Northern Ireland. Excerpt of telegram from Cairo to the U.K. Home Secretary on November the 21st, 1943. Judicium parium, the Judgement of Social-Equals (pares, peers) in the 1215 Great Charter Constitution is also known as the Constitutional Common Law Trial by Jury Justice System. See Second World War Volumes. Emphases added.

One might argue Vickovich is not from the English background of Magna Carta and Trial by Jury. Yes, indeed; but while that is so, both as a European and as an Australian, Vickovich is not excused for the ignorance (or evasion) he displays about the <u>*traditional pan-European*</u> Common Law Trial by Jury Criminal Justice System. The facts are that the Trial by Jury Justice System is not only the Justice System of England (*cf.* Britain) *and* that of all of Europe, *but* it is *also* that of Australia because Trial by Jury is actually emplaced by **Australia's Constitution*** (Act).

*Viz. The words in Section 80 unequivocally prescribe Trial by Jury for all causes. This binding provision is, of course, predictable, because it is so-prescribed also by the antecedent examples, the U.S. and U.K. Great Charter Constitutional precedents:

"*The trial on indictment of any offence against any law of the Commonwealth shall be by jury*."

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* to the Ural Mountains (i.e., today's **"Russia"**), had installed Trial by Jury for his people nearly two centuries before the 1215 Great Charter of English Liberties **(1)**.

1 See the wording of Conrad's Law cited on page 150 of DEMOCRACY DEFINED: *The Manifesto* ISBN 978-1902848280

In Vickovich's entire dissertation, there is but a single cursory mention of the word 'jury'. He spoils even his correct observation that "The law of **custom** was represented as providing for the constitutional rights of the common law itself, [which was] of ***<u>immemorial antiquity</u>*** and could not be abrogated by the Crown," by asserting wrongly that **ancient custom** *also* provided for the "constitutional" rights of *"parliament"*—***but there was no parliament extant before 1265***.

There is **NOT ONE WORD** about the proper functioning of the Constitutional Common Law Trial by Jury Justice System and the Juror's Powers, Procedures, Rights and Duty—and yet Trial by Jury remains the singular factor *defining** Democracy; and Trial by Jury is the only legitimate Justice System defined and prescribed for all causes (lawsuits), civil, criminal and fiscal, by our mutual (Australian and English / British) Constitution's binding **<u>rule of law</u>**.

***See 'Democracy' defined and etymology in Chapter One, Democracy Defined: *The Manifesto*.**

If Ilija Vickovich would not allow himself to be deluded and misled by *faux* texts, he would experience the real joy of discovering that the traditional European Constitution's emancipatory Trial by Jury rule of law was once known to, practised, and rigorously upheld as the sole legal justice system for all causes ***by Vickovich's very own European forebears,*** *common and ennobled*.

Purporting to be on "*the English Story*" but in reality missing (or evading) those well-established, crucial facts relating to our Constitution, history and law from which our Constitutional Common Law Trial by Jury Justice System *derives*, Vickovich's text is seen to be unfounded**:** his notions and fictions on "common law" and "the rule of law" are inauthentic throughout. Perhaps unwittingly, he gives expression to flagrantly treasonous* concepts.

*Ref. X; *Treason Defined at Common Law*; Chapter Three, Democracy Defined: *The Manifesto.*

It should be observed that the Australian Constitution (Act) was vetted and issued by the English (*cf*. British) executive and Westminster parliament which in turn are bound under the permanent strictures of the supreme Law of the Land, Legem Terræ, expressed as *the Articles of Common Law* inscribed into the People's 1215 Great Charter Constitution Magna Carta. This renders the Australian Constitution subject to, governed by, and requires to be '*read with*', the 1215 Great Charter of English Liberties.

N.B. This latter Great Charter is not to be confused with the later, monarch and elite's numerous counterfeit *statute* 'versions' of "*Magna Carta*," e.g. 1216, 1225, 1297, and many others. The *statutes* treasonously edited out crucial Articles—***including constitutionally fundamental*** **Articles Ten and Eleven which recognise the Illegality of Usury at Common Law*; i.e., money-lending-at-interest*.**

Let us be reminded that Usury is also recognised as Crime at Judaic Law and at Canon Law.

Rev. Dr. John Lingard: **"*The Charter was ratified four times by Henry the Third, twice by Edward the First, fifteen times by Edward the Third, seven times by Richard the Second, six times by Henry the Fourth, and once by Henry the Fifth*."**

Lingard observes these **"*thirty-five successive ratifications*"** of the Great Charter are, **"*a sufficient proof how much its provisions were abhorred by the sovereign [government] and how highly they were prized by the nation*."**

See vol. III, The History of England, p. 50, note; Rev. Dr. John Lingard, Philad. ed.

As it stands now, Ilija Vickovich's promulgation of "Social and Cultural Origins of the Rule of Law" could be thought of as ulterior statist propaganda. To establish the facts apropos of these issues, let us remind ourselves of some **Definitions Unalterable at Common Law** and judge for ourselves just how 'far from the mark' Vickovich's ideas are: how they conflict with, and are dismissed by, textbook authorities quoted below. See the following from DEMOCRACY DEFINED: *The Manifesto.*

THE 1215 GREAT CHARTER CONSTITUTION

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

LEGAL DEFINITIONS UNALTERABLE AT COMMON LAW.

(Definition and Related Commentary)

(I) *A constitution*

A constitution is a code of laws and customs (legem terræ; the Law of the Land; common law; the Trial by Jury Justice System) established by the people of a nation (as distinct from government and/or bureaucrats) for the guidance and the legal and lawful control of its government, by which to preclude tyranny and lawlessness; a constitution may be amended only at the behest and by the active participation of the great mass of the people (not by government); and,

(II) *government*

A government is comprised of the executive, the legislature and the judiciary. Being the legal means of controlling and limiting the power of government, a constitution is categorically not merely a document showing the hierarchical administration and departmental organisation of government, though it may also contain this.

(III) *statute law*

As distinct from supreme Constitutional customary Common Law, statute law is written law passed by the legislature (parliament / congress) and enacted into law on its passing by the Head of State. Whereas constitutions are permanently binding, statutes do not bind subsequent parliaments and cannot 'form' or be 'part' of a 'constitution'.

WHY THE 1215 GREAT CHARTER IS NOT A "STATUTE."

The Great Charter is first and foremost a Constitutional inscription of the English (and other) People's customs and common Law of the Land at 1215 C.E., which excludes all laws made by monarchs and government. It comprises the Supreme Law which governs government and is more properly called **The Constitution**.

The 1215 Great Charter is the People's perennial Compact with their chosen incumbent heads of state: it is NOT a *statute*. (There was no parliament in 1215.)

One must differentiate between the *Constitutional* Great Charter of 1215 and the increasingly abridged purported "editions" of "Magna Carta" subsequently introduced and ratified (passed) by governments and yet later on by parliaments, and signed into law by heads of state, which then are "*statutes!*"—and which are ***not*** legem terræ, the Law of the Land, the people's common law inscribed within the 1215 Great Charter Constitution.

Although the Great Charter Constitution is sometimes 'referred' to as a 'statute', this is either from ignorance, the casual misapplication of terms, or, in the case of government functionaries and lawyers, specious disinformation. To begin with, statutes are made by parliament; there was no parliament in 1215, and the earlier witans (unelected councils of dignitaries) had no legislative authority.

Statutes made by parliament or congress do not bind subsequent administrations, which may decide to amend, repeal or supersede any statute; but ***no parliament made Magna Carta***.

The Great Charter was made by the people directly with the head of state, *explicitly to preclude tyranny, injustice and misgovernance by binding all heads of state and the modus operandi of government "for all time" under Judicium Parium, the Trial by Jury justice system of Legem Terræ, the Law of the Land.*

The laws of parliament (statutes) cannot change any aspect of, or impinge in any way upon the Common Law at 1215; the perpetual binding dictates of the Great Charter. *The 1215 Great Charter Constitution governs government* through the Supreme Authority of the People's Trial by Jury Courts to which all men and women without exception are liable and subject.

Common Law is constitutional in the sense that it provides the peaceful legal means of the Trial by Jury for the People to decide their laws, liberties and causes for themselves (see section on Common Law to follow). Concerning specifically the Articles of Common Law in Magna Carta 1215, this timeless common law *per se* has *never* been a government "statute."

Whereas administrative government may enact, repeal or simply supersede *statutes*, it does not choose the People's Constitution. It cannot go back in time to change the

strictures of the 1215 Great Charter or the universally-applicable natural, timeless secular Common Law. *Statutory* parliamentary attempts to intervene in Magna Carta of 1215 are *ultra vires*; it is beyond the legal power or scope of parliament or congress to change the genuine Common Law.

That the judiciary, parliament or congress should ever even so much as contemplate suppressing any aspect of Constitutional Common Law Trial by Jury by which *it protects the population from crime by government* deserves to be treated as a judicable act of *mens rea*; malice aforethought and criminal intent. The upholding by citizens of the Constitutional Trial by Jury and its rule of law is a Common Law Duty ordained by Article Sixty-One of Magna Carta (see DD, Chapter Five).

With the familiar behaviour of many a tyranny, illegal governments repeatedly seek to obliterate the constraints of justice and constitutional common law upon them. These restrictions on government are brought into being by the People having access to justice through their cost-free courtroom *prosecutions* at Constitutional Trial by Jury.

The commission of High Crimes by government (namely, Breach of Constitutional limits to state power; and, Subversion of the indispensable Constitutional Trial by Jury Justice System) has sought to obscure itself under judicial pretensions of "*immunity from prosecution*," "*parliamentary privilege*," and criminal parliamentary statutory "*repeal*" of parts of Magna Carta, daring to abuse the People's 1215 Great Charter Constitution as if it had been a "*statute*" of government.

However, a reading of the stipulations and terms of the 1215 Great Charter demonstrates self-evidently its status of perpetual and permanent legal and moral supremacy. Any activity purporting to alter or interfere with the Constitutional Sovereignty of the Juror in the Common Law Trial by Jury is an act of malice aforethought, *mens rea*, which treasonously undermines the Justice System.

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

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

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

THE IMMACULATE UNTOUCHABLE CONSTITUTION.

Some of the statutes which were passed by parliaments to curtail the excesses of dictatorial monarchs have come to be incorrectly referred to as "constitutional" (such as the Petition of Right ratified by both houses in 1628, and the Bill of Rights, 1689). These despotic* laws were authored by élite personages and the oligarchical upper class

"Estates of England" consisting solely of (male) titled Bishops, Lords and members of a parliament chosen and "elected" by those with anti-constitutional wealth "qualifications" (long before the mass had universal adult suffrage in 1928). However, because these are *statutes* and can therefore be legitimately superseded by legislation by the legislature (parliament), they do not legally and correctly qualify as Constitutional.

*** See essay, '*The Tragedy and Treason of the 1689 Bill of Rights*' by Kenn d'Oudney and U.S. lawyer Lysander Spooner, ref. Addendum and Bibliography. Freely downloadable from ACTION & PAMPHLETS webpage. LINK: https://www.democracydefined.org/democracydefinedmaterial.htm**

The 1688 Declaration of Right does not qualify as 'constitutional'. The Declaration was not signed and sealed by the head of state. It does not constitute a compact (contract) with anyone. The subsequent 1689 Bill of Rights derived from the Declaration is a statute and, of course, not constitutional.

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

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

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

By their illegal interventions and usurpations of the proper Trial by Jury, successive governments have completely removed the people's constitutional legal empowerment to protect themselves peacefully from criminal misgovernance. In its single most important aspect affecting the entire populace, de facto, individual politicians and judges have abused their position and arbitrarily abolished the Constitution. Injustice flourishes today: the functionaries, personnel and departments are treasonous and culpable. Constitutionally, through Trial by Jury the People have sovereignty over the laws of the head of state and all the persons in and employed by government whomsoever they be (Article Sixty-One). Parliament and government are but the servants and employees of the People; the taxpayers.

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

(IV) *Tyranny*

Tyranny is defined as oppressive rule administered with injustice; the cruel and arbitrary use of authority; tyranny is a judicable crime at common law. *Cf.* Crime against Humanity; Ratified Principles of International Law 1946; Nuremberg Precedent; Kellogg-Briand Pact; viz. DD, Chapters Three and Six.

(V) *Sovereignty*

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

Distinction must be drawn between the two nouns, sovereign and sovereignty. A monarch may be denoted 'sovereign' but the constitutionally-bound (or symbolic) monarch explicitly cedes sovereignty, id est, the making and enforcing of the laws, to others, specifically through the Common Law Trial by Jury; viz. Articles 24, 36, 39, 40 and 61, etc.

N.B. The monarch is sovereign over parliament but has no sovereignty over the People. (The notion "*parliament* is sovereign" is a modern politicians' treasonous fiction.)

Firstly, the assent and (nominal) signature of the sovereign head of state is requisite before a parliamentary 'bill' may become (enacted into) statute law. The inaugurational Coronation Oath to uphold the laws and customs of the People **forbids** a monarch from enacting a statute into law if it breaches (is repugnant to) the 1215 Great Charter.

Secondly, the monarch may dissolve parliament. Thirdly, the head of state nominates the person to form an administration ('government'). By convention, the person chosen heads the party with the most seats in the House of Commons, but this convention is not binding on the head of state; the monarch.*

*See section *Anecdotes, Commentary and Notes* in the Bibliography on **REEVES, His Honour Chief Justice John, FRS.**

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

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

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

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

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

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

See exemplification of this given by the Old Bailey Commemorative Plaque re the Penn and Mead Trial by Jury and, in finding the Verdict, the Chief Justice's Ruling on the Jury's independent power over the law and the directions of the judge (Chapter Two).
Also see the statement of President John Adams, lawyer, in Chapter One.
Also see US v Moylan; and ref. the DC Court of Appeals Ruling.

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

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

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

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

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

(VI) *Common law*

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

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

THE GOVERNMENT'S COUNTERFEIT 'COMMON LAW'.

Confirmed by the authorities, genuine common law must be ***differentiated*** from that which modern government has **corrupted by legislation**; a **counterfeit** (1) which is "common law" ***in name only***. Whereas statutes may contain common law, as the authorities quoted show, common law itself does not include any statutes made by government; nor 'precedents' or decisions (*stare decisis*; 'case-law') made by judges.

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

AUTHORITIES AND REFERENCES CONFIRMING WHAT COMMON LAW IS.

Some references confirming the common law is legem terræ and vice versa.

Sir Matthew Hale, Lord Chief Justice of England: **"*The common law is sometimes called, by way of eminence, lex terræ, as in the statute of Magna Carta, chap. 29, where certainly the common law is principally intended by those words, aut per legem terræ; as appears by the exposition thereof in several subsequent statutes; and particularly in the statute of 28 Edward III, chap. 3, which is but an exposition and explanation of that statute. Sometimes it is called lex Angliæ, as in the statute of Merton, cap. 9, 'Nolumus leges Angliæ mutari,' etc. (We will that the laws of*

***England be not changed.) Sometimes it is called lex et consuetudo regni (the law and custom of the kingdom); as in all commissions of oyer and terminer; and in the statutes of 18 Edward I, and de quo warranto, and divers others. But most commonly it is called the Common Law, or the Common Law of England; as in the statute Articuli super Chartas, chap. 15, in the statute 25 Edward III, chap. 5 (4) and infinite more records and statutes.*"**

1 Hale's History of the Common Law, p. 128. Statutes may *contain* common law but common law *pre-dates* statutes and parliament itself, as explained above.

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

George Crabb, barrister, History of the English Law, p. 127.

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

His Hon. Justice Sir William Blackstone's Introduction to the (Great) Charters; Blackstone's Law Tracts, p. 289.

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

1 Coke's Institutes, p. 115.

*Re. 'statute', see, Common Law Is Never 'extinct' or 'lost'; Magna Carta.

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

Preface to 2 Coke's Institutes, p. 3.

REAL COMMON LAW POLICES SOCIETY.

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

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

See His Hon. Justice Sir Jeffrey Gilbert's History of the Common Pleas, note, p. 70; and…

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

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

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

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

THE COMMON LAW 'RULES': IT DEMANDS JUSTICE IN STATUTES.

The above authorities show that **legem terræ** (the common law of the land specified in Article 39 of Magna Carta), was the long-established **common**, fundamental, supreme law of the land by which the *monarchs and their governments were bound by their oaths at coronation and divers other occasions* (ref. Kelham, Hale, Hallam, Millar et al.; see Chapter Five on Magna Carta).

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

In the Fifth Century B.C.E., Hellenic Greece of the Constitution of government by Trial by Jury received from the Athenians *the defining epithet*, Democracy,* demokratia.

***See Etymology, history and definition; Chapter One, Democracy Defined: *The Manifesto*.**

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

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

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

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

THE CONSTITUTIONAL MANDATE:

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

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

A reading of the Articles themselves demonstrates that the document's authors were righteously preoccupied with installing the underpinning Principles of Equal Justice and Secular Morality to protect all folk equally from crime and injustice. Readers

unacquainted as yet with the contents and intent of the 1215 Great Charter's Articles of Constitution will, of course, conclude this for themselves anyway after having read the Constitution's Articles of Common Law; ref. Chapter Five on Magna Carta.

Everyone, bonded citizens included (i.e., labourers who were voluntarily 'contracted' employees with advantageous perquisites, tied cottages; allotments; privileges and provisions), such as churls, cottars, serfs* and villeins (villagers; men and women) including all the very humblest and poorest, **all** citizens were guaranteed the protections of Trial by Jury *cost-free* for private causes, i.e., for private prosecutions and for defence (ref. Articles 20, 36, 38 and 40). The people's courts designated as county, hundred, courts-baron and leet were extant, available and active countrywide **(1)**.

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

***There were no slaves in the feudal system. Far from it. Contrary to the incorrectness sometimes seen (e.g., Wikipedia), within feudal Britain serfs were not slaves: 'bondage', the contract of employment to obtain perquisites, allotments and work land should not be construed as 'slavery'. The status of bonded serfs is set out in Chapter Five on Magna Carta. They were the equivalent of today's 'wage-slaves'; that is, almost everyone who has to work for a living; more or less servile to their employer.**

THE JUSTICE MECHANISM CREATES COMMON LAW AND VICE VERSA.

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

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

Trial by Jury was prescribed as a constitution with the intention of transferring for all time the power and responsibility for the enforcement of the laws, including the Power to Punish, out of the hands of government judges into those of the people as citizen-jurors at Common Law Trial by Jury.

Government justices may moderate sentences but not increase them; see that function explained in Chapter Four of DEMOCRACY DEFINED: *The Manifesto*.

The Great Charter was worded as a perpetual binding agreement between the people and whomsoever came to comprise their chosen administrative government. All persons within government must constrain their activities to remain within the Charter's stipulations, subject to the Trial by Jury Justice System. So, since the Fifteenth Day of June in 1215, no head of state may realistically or rationally consider him or herself "not bound" by the Great Charter Common Law Constitution. Given a moment's reflection, **Americans, Australians, Canadians**

and many other folk will realise that this code naturally applies to their heads of state also, because these populations adopted the Common Law Trial by Jury as their Constitutional Justice System.

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

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

KING ALFRED'S COLLATION.

King Alfred collated the unwritten common laws of the Saxons and Angles, lex non scripta, who had brought this pan-European Gothic Code with them from continental Europe to England and the British Isles. Alfred writes,

"I, Alfred, collected the good laws of our forefathers into one code, and also I wrote them down." See Introduction to Gilbert's History of the Common Pleas, note p.2.

Kelham: **"Alfred, Edgar, and Edward the Confessor, were the great compilers and restorers of the English Laws."**

See p. 12 of Kelham's Preliminary Discourse on the Laws of William the Conqueror; Appendix to Kelham's Dictionary of the Norman Language.

**"*King Edward projected and began what his grandson, King Edward the Confessor, afterwards completed, viz., one uniform digest or body of laws to be observed throughout the whole kingdom, being probably no more than a revival of King Alfred's code, with some improvements suggested by necessity and experience, particularly the incorporating some of the British or rather, Mercian customs, and also such of the Danish (customs) as were reasonable and approved, into the West Saxon Lage, which was still the ground-work of the whole. And this appears to be the best supported and most plausible conjecture (for certainty is not to be expected) of the rise and original [origin] of that admirable system of maxims and unwritten customs which is now known by the name of the common law, as extending its authority universally over all the realm, and which is doubtless of Saxon parentage*."

See 4 Blackstone, 412. For all these codes, see Wilkins' Laws of the Anglo-Saxons.

**"*Being regulations adapted to existing institutions, the Anglo-Saxon statutes are concise and technical, alluding to the law which was then living and in vigour, rather than defining it. The same clauses and chapters are often repeated word for word, in the statutes of subsequent kings, showing that enactments which bear the appearance of novelty are merely declaratory. Consequently the appearance of a law, seemingly for the first time, is by no means to be considered as a proof that the matter which it contains is new; nor can we trace the progress of the Anglo-Saxon institutions with any degree of certainty by following the dates of the statutes in which we find them first noticed. All arguments founded on the apparent chronology of the subjects*

***included in the laws are liable to great fallacies. Furthermore, a considerable portion of the Anglo-Saxon law was never recorded in writing.*"**

See pp.58-9, Sir Francis Palgrave's Rise and Progress of the English Commonwealth.

Hallam: "***It was, however, to the county court that an English freeman chiefly looked for the maintenance of his civil rights.*" Vol. 2, Hallam's Middle Ages, p.392.**

Also, "***This (the county court) was the great constitutional judicature in all questions of civil right.*" Ibid. The Jury judged the law in all causes (lawsuits).**

Also, "***The liberties of these Anglo-Saxon thanes were chiefly secured, next to their swords and their free spirits, by the inestimable right of deciding civil and criminal suits in their own county courts.*"**

Ibid. p.399. Emphasis added. Also see sections on King Alfred.

THE FOUNDATIONAL PRINCIPLE OF LIBERTY BY WHICH LIBERTY ITSELF IS SECURED, AND THE INHERENT PURPOSE OF TRIAL BY JURY.

People who judge authoritatively what their liberties are, retain all the liberties they wish to enjoy. This is Liberty. Trial by Jury is a trial by the People of the country, distinguished from a trial by the government. The intention of this trial is to enable the People to determine their liberties; because, if the government determines the People's liberties, then government has absolute power over the People; and this is the definition of despotism.

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 (Judicium: verdict, and sentence if any) 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 WILL OF THE PEOPLE.

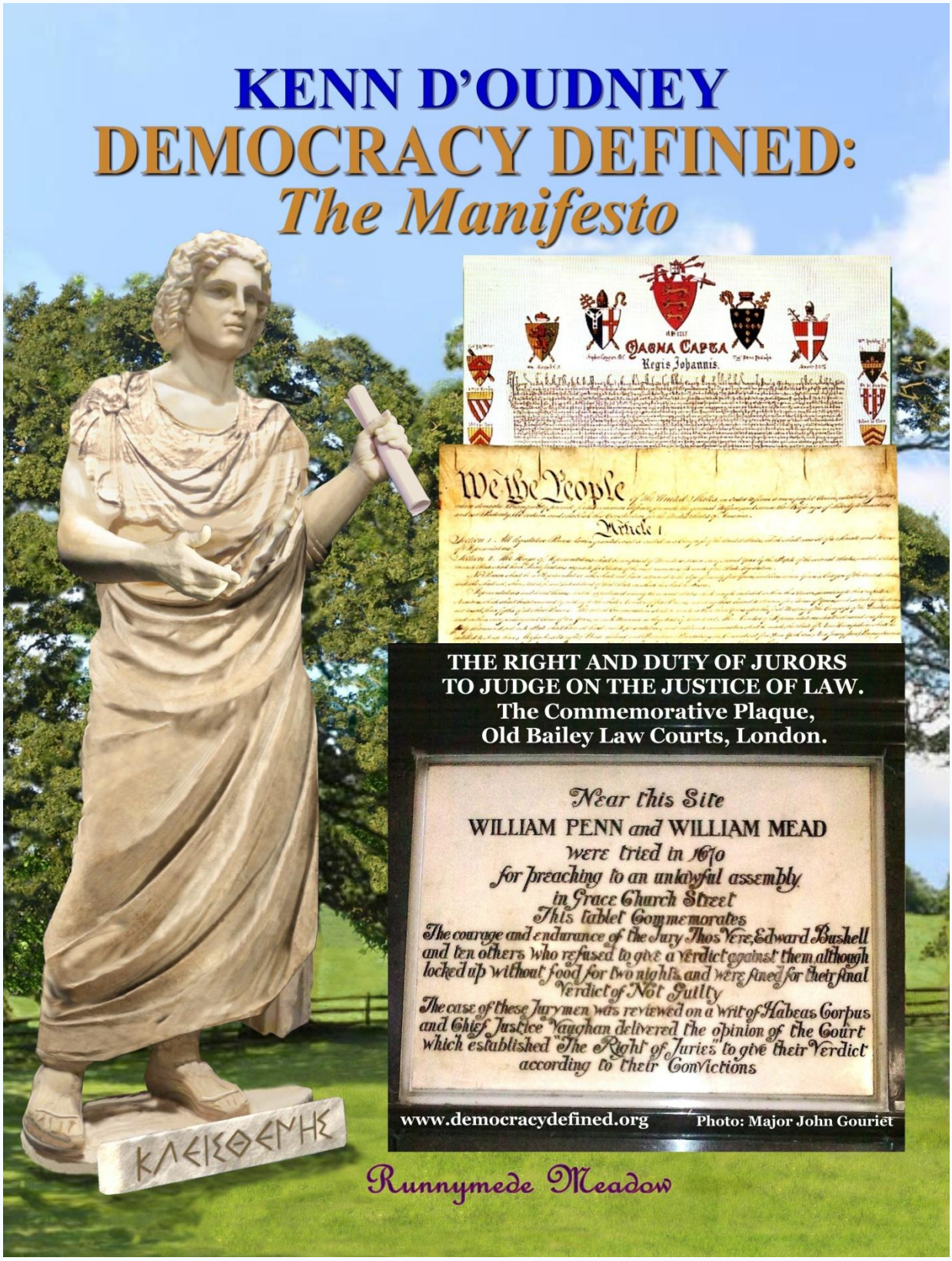
Legem terræ common law and its Trial by Jury are the embodiment of the Will of the People**:** The People's Constitution. Through this inimitable and irreplaceable process, the Common Law Trial by Jury Justice System forms of itself the font and mechanism by which the common law is made or created, expressed, and the enactments of civilisation, liberty and equal justice are achieved. In this way, and in this way alone, the legitimate rule of law is established and extant.

Any intervention by government or other persons in the common law jury's judicial process constitutes a treacherous crime against the people. Thus is explained how the Sovereign common law jury forms the supreme legislature and judicature; and thereby, a democracy, rule by, for, and of the people, is brought into being.

Kenn d'Oudney. www.democracydefined.org

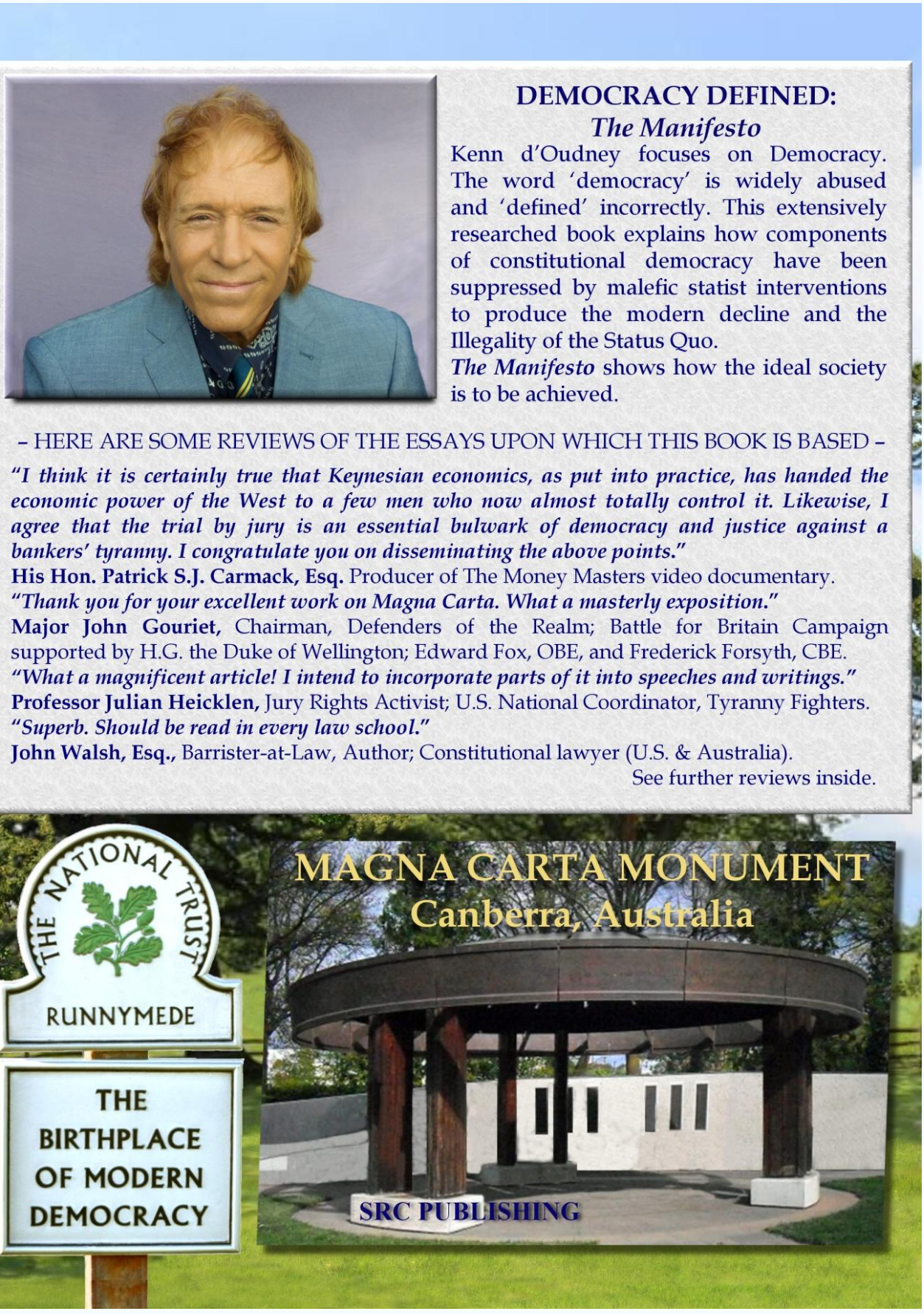
Purchasing Democracy Defined books supports the Campaign.

FRONT COVER



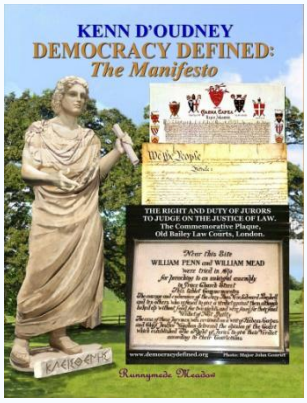
New Edition augmented with an Addendum. Contains extensive Bibliography of authoritative source books and documents on Constitution, law and history. With Index. ISBN 978-1902848280 Softback, 310 large-size (A4) pages

BACK COVER



See **SYNOPSIS** and **REVIEWS** on next page.

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



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

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

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

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

SRC Publishing Ltd., London, available from Amazon.co.uk Amazon.com.au & Amazon.com

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

"*Thank you for your excellent work on Magna Carta. What a masterly exposition.*"
MAJOR JOHN GOURIET, Chairman, Defenders of the Realm; Battle for Britain Campaign supported by H.G. the Duke of Wellington; Edward Fox, OBE, and Frederick Forsyth, CBE.

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

"*The d'Oudney analysis is as insightful as it is comprehensive. It will stand for years to come as the definitive critique of the European Constitution prepared by Giscard d'Estaing and others. I look forward to sharing the d'Oudney analysis with my colleagues.*"
HOWARD PHILLIPS, Founder, U.S. Constitution Party, three-time Presidential nominee; Chairman of the Conservative Caucus.

"*Superb. Should be read in every law school.*"
JOHN WALSH, Esq., Barrister-at-Law, Author; Constitutional lawyer (U.S. & Australia).

"*What a magnificent article! (Madison and Democracy) I intend to incorporate parts of it into my speeches and writings.*"
PROFESSOR JULIAN HEICKLEN, Jury Rights Activist, National Coordinator, Tyranny Fighters.

"*Kenn d'Oudney is a brilliant writer and researcher when it comes to Democracy and Trial by Jury. The best source of common law is Kenn d'Oudney.*"
DR. JOHN WILSON, Jury Rights Activist; Co-Founder & Chairman, Australian Common Law Party.

"*Thanks, Kenn. I've circulated this.*"
SIMON RICHARDS, Campaign Director; The Freedom Association; Founded by John Gouriet; the Viscount de L'Isle, VC, KG, PC; Ross McWhirter and Norris McWhirter, CBE.

- MORE REVIEWS -

"***Your book is an absolute triumph! I now understand why the term 'Lawful Rebellion' grates with you. I genuinely believe that your book should be compulsory reading for every one of our elected representatives... not to mention our own supporters! So well done! Excellent book and a great source of reference.***"
JUSTIN WALKER, Campaign Coordinator, British Constitution Group. Amazon reviewer.

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

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

"***The Handbook for every person on the planet explaining True Law and Democracy.***"
KENNETH JOHNS, Amazon reviewer.

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

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

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

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

Amazon.co.uk **Amazon.com.au** & **Amazon.com**

~~~~~~♦~~~~~~

Introduction to the Democracy Defined Campaign**:**

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

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

THE POLITICAL PROGRAM FOR PATRIOTS AND INDEPENDENT CANDIDATES.

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

http://www.democracydefined.org/ **Membership *gratis*** (free).
~~~~~~