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*VERITAS, COGNITIO, IUSTITIA, LIBERTAS.* (Can be read at 125%)

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## ENQUIRY RE: COMMON LAW AND THE BIBLE.

We were asked our views about someone's letter replying to a person who had asked, "Do you know anything in the Bible about Common Law?" Here are our comments.

We shall look at the relationship between Common Law and Christianity, but first of all, it is essential to take on board a principal, definitive aspect of Common Law which is that it does not have a religious connotation. It is not a 'religious' term. Common Law is **secular**. As such, Common Law relates to people of ALL religions and those who have none. That is, it relates to, judges and governs the behaviour of theists, agnostics and atheists alike.

Just to clarify issues, before we look at the subject of Common Law and the Bible, we should point out the following about Creationism: A seventeenth-century Anglican cleric bereft of even the most rudimentary scientific understandings, one Bishop James Ussher's explanation of the creation of the world was posited in a 1658 chronology titled "*The Annals of the World*," as occurring on October the 23rd, 4004 BCE.

Creationists believe the creation of the world and all its creatures as they are today, took place in six calendar days approximately six thousand years ago, denying the science facts of Plate Tectonics, the cosmological origins of our planet, solar system, the stars and galaxies, Physics, Evolution of Species, DNA, genetics, geology, palaeontology, the fossil record and carbon dating...

*Definition.* creationism, a literal belief in the fictitious account of 'Creation' as it appears in various books of old religious ideas.

For example, Evolution of Species is not simply a "theory": since it was first expounded, Evolution has become an empirically-proven fact beyond all reasonable doubt.

Let us also beware the cruel totalitarianism of that other regressive 'statist' form, that of the primitive theist superstition misnamed 'religion', turned into a torturous sebastomanic\* 'theocracy' as exemplified by the unholy 'Holy Inquisition' and other extreme theses.

\**Definition.* sebastomania, religious insanity.

Witness the countless innocents to this day slaughtered in the name of ‘religion’; a pestilential mental programming particularly infecting the unread and weakest of intellects. This Creationists’ form of absolutist injustice denies sciences’ empirical proofs and truths, and instead “believes” most earnestly, one might fairly say, *fanatically*, in fantasy hearsay of ‘miracles’ and ‘prescient revelations’...

The Jewish scribes of the late Seventh Century B.C., tasked by King Josiah to write and edit an historical account of the Jewish people and nation, had only rustic myths, legends and oral traditions on which to rely as their sources in producing the Torah (biblical Pentateuch; the ‘books’ of Moses; the law and Prophets). Remember, at that time there was no pre-existing “Old Testament” extant and available to them.

Everyone is at liberty to put their ‘faith’ and ‘belief’ in a transparent fallacy and whatever else they will, but the reality is that it is ultimately counterproductive and anti-social to try to convince others of creationism’s abject, and ultimately detrimental make-believe!

So much for Creationism. Now, let’s return to the original discussion, “*Do you know anything in the Bible about Common Law?*”

It is conspicuous that the enquiry uses the proper noun with capitalisation: Common Law is a proper noun with a specific signification (definition; meaning) and application in Constitution, history, and law. Words (must) have distinct significations and we have no choice *but to respect the etymology if we intend to communicate meaningfully with each other*. That is to say, to comment about Common Law first requires us to know and understand exactly what Common Law (with or without capitalisation) *is*, and what connection there is, if any, with “the Bible.” (I’m assuming that what is meant by the Bible contains Matthew, Mark, Luke and John’s New Testament Gospels, the Pentatech (being the Books of Moses, also known as The Torah or The Hebrew Bible) and the Books of the Old Testament Prophets.)

Common Law, *lex non scripta*, is an advanced human concept at the very basis of Western Civilisation which semantically differentiates Civilisation from barbarism. The Origins of Common Law *derive* from secular (and thus universally-applicable), *timeless Natural Law and Equity*: *naturally*, Common Law pre-dates the religions. Being secular, Common Law applies equally to everyone, regardless of belief.

*Definition.* The legal and societal term Natural Law is a sense of right and wrong, justice and equity which arises inevitably from the constitution of the mind of man.

This definition requires further explanation. Note that natural law does not refer to the laws of nature, the laws which Science aims to describe. Nor is it to be confused with the opposite phenomenon, “the law of the jungle,” which is the rule for surviving by the use of force to succeed in a hostile or competitive environment. This latter is quite the reverse of natural law and justice.

The people’s *legem terræ* common law of the land is derived from natural law and justice, and *Equity*, the natural sense of fairness and conscience by which disinterested, randomly-selected people in a jury situation *judge*. Natural law and justice are timeless, eternal, ubiquitous, secular and universal; not geographically or culturally constrained, nor limited to a set time.

Sane humans cannot avoid acquiring an understanding of fairness, equity and justice. From simple human interactions, children everywhere learn to sense *injustice* even before they learn the words by which to define or explain it. It is for *that reason*

that autocratic villains who wish to control populations into passively accepting intrinsically unjust laws and corrupt ways of living, utilise perverted miseducation to condition (or ‘brainwash’) the mentality of children from an early age.

### **THE SUPREME SECULAR MORALITY OF NATURAL LAW PRE-DATES ALL THE RELIGIONS.**

Natural Law is *timeless*, permanent and applicable to judicature in a universal context. It is antecedent to the invention of writing, the Epic of Gilgamesh; the hieroglyphic, hieratic and demotic scripts of Ancient Egypt; the Torah; The Pharmacopoeia of Emperor Shen Nung; The Bhagavad Gita; the Old and New Testaments; the Histories of Herodotus and Thucydides, and other texts.

It is *from* natural law and justice that all the universal, eternal *commandments* (i.e., rules of action) of **Common Law** derive, such as:

“**Thou shalt do no murder,**” and

“**Thou shalt not steal,**” and,

“**Thou shalt not bear false witness (lie—of which, more below\*\*),**”  
and...

### **THE ETHICAL FOUNDATION OF CRIMINAL LIABILITY AND THE UNIVERSAL SECULAR PARADIGM OF JUDICATURE:**

“**Do unto others as you would they do unto you.**”

*This secular commandment stands in perpetual judgement over all the acts and motives of humans as individuals and in groups or collectively. It is The Ethical Foundation of Criminal Liability, providing the Universal Juror at all times and in all places with the means for ascertaining whether the act of the accused was malicious, benign or neutral; whether it was definitively innocent, or criminal: an act of injustice committed with malice aforethought; i.e., guilty.*

The good news is that the controversies of theism, religions and spiritualism, which *do* divide humans, do not belong in the secular courtroom of equal justice; for they are of *no relevance whatsoever* in consideration of The Universal Secular Paradigm of Judicature, “Do unto others as you would they do unto you.”

This **secular** commandment is also stated in the **Teachings of Jesus of Nazareth**, who expressed this exact view which was couched in the ancient **Judaic law and teachings**:

Jesus: “**In everything, therefore, treat people the same way as you want them to treat you, for this is the Law and the Prophets.**”

**Jesus in Matthew, 7:12; New American Standard Bible.**

This is the secular commandment at the moral base of all legitimate laws. Laws must be fair and apply equally to all; **equitable**. **In his own words, Jesus was endorsing The Universal Secular Paradigm of Judicature.**

*Understanding Legem Terræ reveals how, through Trial by Jury, the people at large peacefully protect themselves from authoritarian government, villainy and potential holocaust. The natural or universal law and its constitutionally-emplaced common law derivative is Legem Terræ, the Law of the Land, of which Trial by Jury is the central tenet defined and prescribed as the sole legitimate Justice System for all causes (lawsuits) in the world-respected 1215 Great Charter Constitution Magna Carta.*

Common Law governs government; and inclusively and impartially judges all the acts and motives of men and women of every race, culture, religion and background

everywhere, including atheists, agnostics, theists, Jews, Christians, Buddhists, Hindus, Sikhs, Mormons, Quakers, Mohammadans, etc.

Legem Terræ need not and indeed may not be subjected to interventions, disagreements or debate on *metaphysics*, the philosophical study of reality concerned with questions such as the existence of God, the external world, the relationship between mind and matter, life after death, and questions unanswerable to scientific observation. Oft-trodden in the history of the ignorant human species, that is the descent which leads to the *replacing* of the reliable secular, eternal Principles of Natural Law, Equal Justice, Equity and the impartial Constitutional Common Law, by a *totalitarian*, unlawful society which claims to be of ‘religion’ and/or ‘law’ with concomitant rule by coercion, cruelty, fear, force, even torture; and barbaric, unnatural methods such as those of the Church’s former ‘Holy Inquisition’ and others; of superstition, unfounded opinion, purblind ‘belief’ and personal prejudice in place of detached rationality, sagacity, logic, compassion, understanding, and science’s evidence and empirical proof.

\*\**In re* above,

#### **The Common Law Prescription of Mendacity, Lying, False Witness:**

Equal Justice is 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 (perjury) as a means of advancing a ‘religion’ or protecting its adherents 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.

When individuals or groups preach sectarian and religious ‘beliefs’ at people and bring them into the courtroom, they divide and distract people from the universally-applicable secular nature of Common Law Trial by Jury. They do a criminal disservice to humanity’s Cause of Equal Justice. Such antagonists to equal justice play into the hands of, and bring delight to, the statist financiers, politicians and judges (with their collusive or unthinking media accessories-to-crime), who otherwise have NO excuse for *denying everyone* (whatever their personal beliefs and religions) of the just *secular* Trial by Jury process of equal justice by, and for, the people.

The worst malefactors are those who commit (or are accomplice to) the greatest crimes—and, let the appalling fact be faced, all the greatest crimes known to mankind have been and are being committed by, or in the name of, government—be it ‘religious’ or secular. So, let us keep in mind the very *purpose* of proper Constitutions and their Trial by Jury, which is to *regulate*<sup>1</sup> society, to guide and govern government, to eradicate totally and redress such arbitrary governance as may exist, and thereafter preclude its recurrence.

#### **1 Ref. U.S. Constitution’s co-author James Madison: The Publius Fallacy of Number Ten; Chapter Two.**

The enforcement of such laws as are *inequitable* (i.e., not uniformly fair, applicable or unanimously acceptable to citizen-jurors) is illegal and constitutes judicable crime *per se*. Today, government denial of Trial by Jury forms an illegal malignance fatal to the aspiration for the achievement of Equal Justice for All in

society. This is a malcondition of the body corporate which common law indicts as, **the Illegality of the Status Quo.**

Some individual men and women (mostly men) from the past and still today, claim to present their followers with a ‘religion’ or ‘spiritualism’ which is “a perfect interpretation” of “the divine will.” Others make that claim on behalf of their religious ‘leaders’, ‘prophets’ or inspirational mentors—but about such views it is certain *only* that there is *no* universal agreement as to which is “the perfect religion” or interpretation—or even indeed whether there is a God. Theists do like to call natural law “God’s Law,” for its inherent exalted, sublime—even ineffable—qualities of equity and justice, but from which nevertheless derives the *secular* constitutional common law of humankind.

While there is nothing preventing you, me or anyone else from private prayers for guidance, or a belief in what you will... the courtroom requires the *secular* natural and constitutional common law to be applied so that the innocent are protected regardless of their chosen belief. In this way, the citizens’ secular Trial by Jury prevails dispassionately over humans’ prejudices and fallibility, to interdict all acts of injustice, misgovernment and tyranny, secular... *and theocratic*.

### CONFUCIUS.

The Chinese philosopher Confucius, 551-479 BC, whose writings focused on Ethics, is credited with having been the first human to *inscribe* interpretation of the Universal Secular Paradigm of Judicature, the common law’s “golden rule” derived from *natural* law and justice. Confucius phrased this commandment in the emphatic prohibitive sense, possibly feeling this form to be more comprehensible and communicative of the legal priority and moral ascendance of...

### THE SUPREME PRINCIPLE OF THE LAW OF THE LAND:

**“Do not do unto others that which you do not want done unto you.”**

*This is the same secular commandment which stands in eternal criterial judgement over all the acts and motives of humans as individuals and collectively.* Everyone is accountable for their actions (provided a moral choice is open to them<sup>1</sup>). Common law is common in the sense that it is common to all mankind; people everywhere share it in common; it applies to and emancipates everyone equally without exception: all men and women are subject to it and it is the timeless duty of all people to recognise, constitutionally emplace and uphold the supremacy of common law.

<sup>1</sup> See section on Ratified Principles of International Law; Chapter Two.

Through Trial by Jury, the people re-establish the due primacy of the natural and common law over government statute and case law (‘precedent’, *stare decisis*); punish and deter crime; resume their rightful prescribed responsible constitutional role to police and regulate their society; nurture the values of equal justice and respect for the rights of others; fulfil the purpose of Trial by Jury to deter and eliminate crime; and they thus uphold the Constitution. The duplicitous legislation by which wealth and/or hegemony accrues to particular preferred people or segments of society, is rapidly and permanently extirpated. The abject ethos of today’s society, so thoroughly contaminated by politico-financial injustice and criminal misgovernance, is speedily transformed for the better.

*The consummation of the purpose of Trial by Jury (described in the preceding paragraph) constitutes the reason explaining why judges and politicians are active in denying and destroying Constitutional Trial by Jury: the criminally corrupt reveal themselves as such by their very antithesis to Trial by Jury.*

Whereas all injustices and wrongs from petty tyranny to genocidal holocaust may flow from the denial of authentic Trial by Jury, only from the Trial by Jury-based society can Equal Justice and definitive democracy reliably emerge. Hence, whenever Trial by Jury is denied, the resultant Illegality of the Status Quo of the society, state or government which denies it, embodies the commission of Crime against Humanity.

### CHURCHILL'S VIEW (1).

To those who would unwittingly turn against freedom and democracy, we say, heed the words of Winston Churchill; one who knows:

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

Sir Winston Churchill, 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.

There is much about Common Law found throughout the Democracy Defined Campaign Philosophy (book) *The Manifesto* ISBN 978-902848280, but for the purpose of reply to this enquiry, one cannot omit the definition and some of the Commentary from Chapter Three, "The Constituents of Democracy, *sine qua non*."

### 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)

#### (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 1215 Great Charter Constitution, Magna Carta (see refs., quotations and attribution to follow).

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

## 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*<sup>1</sup> which is "common law" *in name only*. Whereas statutes may contain common law, as the authorities quoted show, common law itself does not include any *statutes* made by government; nor '*precedents*' or decisions (*stare decisis*; 'case-law') made by *judges*.

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

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

Sir Matthew Hale, Lord Chief Justice of England: "*The common law is sometimes called, by way of eminence, lex terræ, as in the statute of Magna Carta, chap. 29, 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 Anglie, as in the statute of Merton, cap. 9, 'Nolumus leges Anglie 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."*"

<sup>1</sup> Hale's History of the Common Law, p. 128.

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

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

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

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

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

<sup>1</sup> 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 [jury] were the sole judges both of the law and the fact.”*

See 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 Kenn d’Oudney & lawyer Lysander Spooner, ISBN 9781902848723.

See the Bibliography for the constitutional, historical and law tomes of Blackstone, Crabb, Hale, Palgrave, Kelham, Mackintosh, Millar, Coke, Gilbert, Hume, Turner, Hallam, Stuart, 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; see etymology, etc.; Chapter One.

At no time then, previously or since has **Legem Terræ** itself included any laws enacted by a monarch or rulings of government’s judges. That is to say, common law contains no statutes or rulings of government, whereas, quite the other way around, *statutes* may observe and contain statements of, or derived from, common law. Indeed, that degree of fairness and justice demanded by common law must be plainly inherent in 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.’ Naturally, *rule* derives from *sovereignty*.

Also refer to The Juror’s Oath at Common Law.

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 King 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 of English Liberties was drawn up to remove from governments *for all time*, any and all power to tyrannise.

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

*Everyone*, bonded citizens included (i.e., labourers who were 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, prosecutions and 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<sup>1</sup>.

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

\*There were no slaves in the feudal system. Far from it. Contrary to the incorrectness sometimes seen (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 (the) 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 secular 1215 Great Charter, authored and collated by Archbishop of Canterbury Stephen Langton, that the entire mechanism of the Trial by Jury Justice System—which itself was both formed by, and 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 to the people as citizen-jurors at Common Law Trial by Jury.

The Great Charter was worded as a perpetual binding agreement between the people and whomsoever came to comprise their chosen administrative government. All persons within government must constrain their activities to remain within the Charter's stipulations, 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, *lex non scripta*. 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.

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. 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.

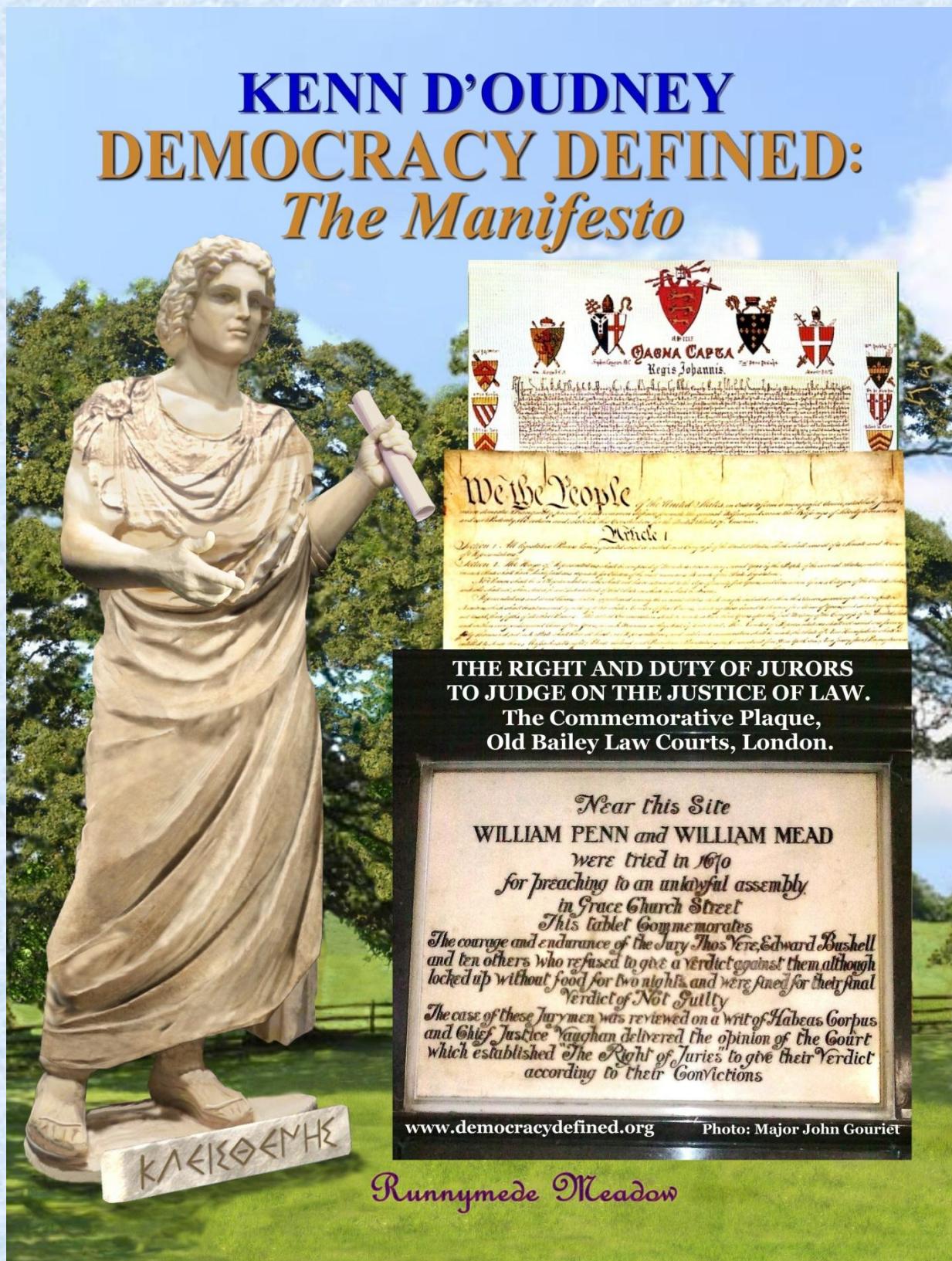
Legem terræ common law and its Trial by Jury are the embodiment of the Will of the People: The People’s Constitution. Through this inimitable and irreplaceable process, the Common Law Trial by Jury Justice System forms of itself the font and mechanism by which the common law is made or created, expressed, 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**, i.e., rule by, for, and of the people, is brought into being.

Kenn d’Oudney. [www.democracydefined.org](http://www.democracydefined.org)

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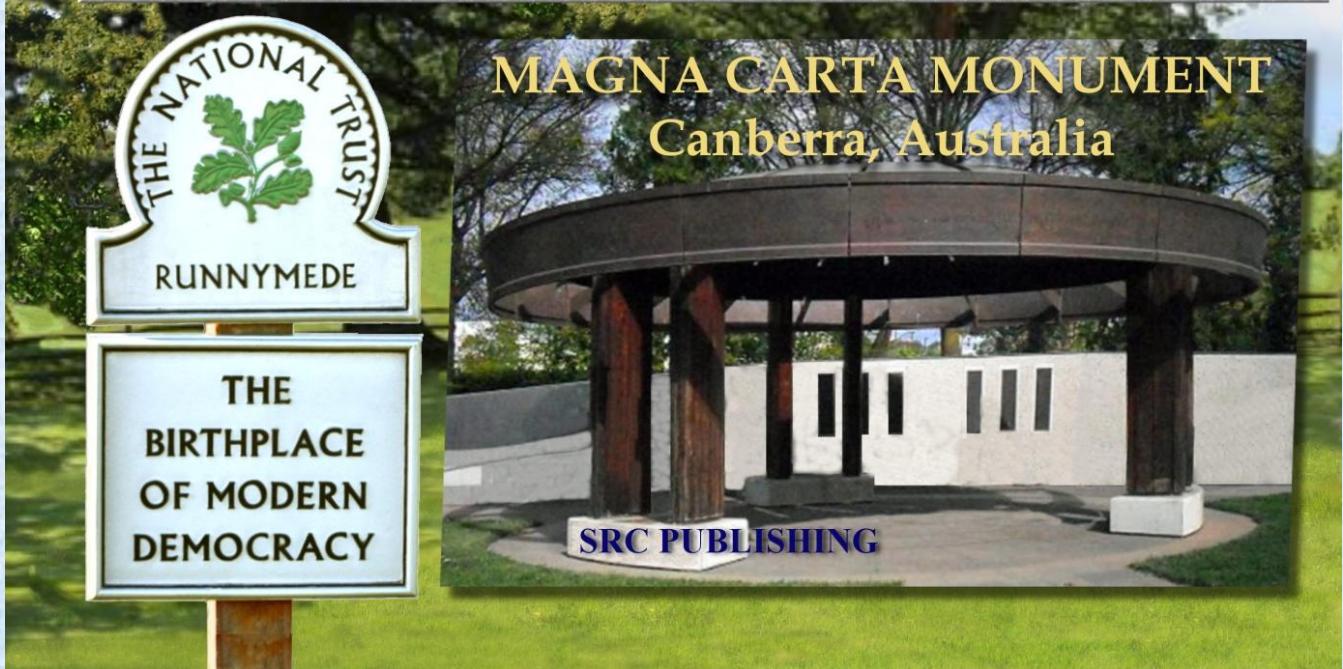
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See further reviews inside.

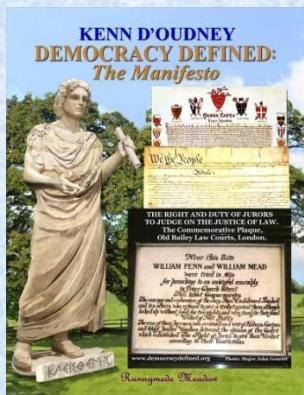


See SYNOPSIS and REVIEWS on next page.

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

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