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



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**THE RULE OF LAW AND  
THE ETERNAL CRITERION OF JUSTICE**

by Kenn d'Oudney, [www.democracydefined.org](http://www.democracydefined.org)

When the British Constitution Group invited us to provide a short piece on Magna Carta for the BCG Newsletter, I replied that I was happy to do so. Magna Carta is a huge subject which has so many interesting aspects, deciding just what readers would enjoy and be edified by in only half a dozen pages or so put me into something of a quandary.

However, one most significant and revealing attribute associated with the 1215 Great Charter Constitution Magna Carta ought to be acknowledged and amongst initial deliberations on the subject. *What is this attribute?* The answer is illuminating: the English Constitution's authors and our forefathers, common and ennobled, knew, understood, defined and prescribed within the document, *the sole peaceful means known to mankind* for annihilating tyranny and establishing equal justice for all.

## THE RULE OF LAW AND THE ETERNAL CRITERION OF JUSTICE

*Definition.* Tyranny is defined (generally and at Common Law) as oppressive rule administered with injustice; the cruel and arbitrary use of authority; cf. Crime against Humanity; the Nuremberg Precedent, etc.

Despite widespread illiteracy, no press (printing), let alone the Internet, *the folk all knew they had the greatest conceivable heritage of liberty and equal justice.* It was learned and passed from generation to generation throughout the land by word of mouth. The Gothic pan-European people understood and upheld the sole peaceful mechanism for creation of a uniquely egalitarian rule of law which is secular, universally applicable, and embodies the 'sine qua non', the defining factor, distinguishing genuine democratic<sup>1</sup> human Civilisation from the primitive barbarism of secular or theocratic despotism.

**1 Hellenic Greece of the Constitution of government by Trial by Jury received from the Athenians the defining epithet, demokratia; Democracy.**

Okay. Nice words. But how does our Constitution go about achieving this aspiration?

### THE RULE OF LAW.

To begin with, the Constitution creates an *equitable* rule of law with a level 'playing field' by making all men and women (including the head of state, government functionaries, judges, personnel and employees) *equal* and *subject* to the same rule of law as everyone else. No one is 'above' the rule of law. The Great Charter explicitly removes 'immunity from prosecution' from those who form or work for our administrative government, rendering them liable to be arraigned *cost-free* by single or multiple private plaintiffs at Trial by Jury, for Crime.

*Definition.* Crime is defined as *any act of injustice committed with malice aforethought; mens rea* (pronounced *ray-uh*). Any 'act' means not only legislation but also physical acts.

To *enforce* this ideal equal rule of law, the 1215 Great Charter defines and prescribes what we now call the Constitutional Common Law Trial by Jury Justice System; or for short, Trial by Jury (proper noun, capitalised), for all causes (lawsuits) civil, criminal and fiscal. Let us now consider why it does this...

### THE ETERNAL CRITERION OF JUSTICE

All societies govern by their Justice System, regardless of time or place, race, culture, religion, background or nationality. The power to punish carries with it ALL power. It remains a universal criterion of justice that *the validity and justice of laws and all acts of their enforcement require to be judged not by those who make and enforce the laws (government), but by those who voluntarily agree to abide by the laws (all adult citizens).*

All men and women who do not uphold this tenet are then promoting unlawful rule by a tyrannical élite. Unwittingly, or for self-advantage, they serve despots, abet tyranny, and are the criminal enemies of freedom and equal justice. For these reasons, the right to Trial by Jury is universal, inherent and inalienable. For these same reasons, the slightest attenuation of this right constitutes the crime of High Treason at Constitution and Common Law (see (X) *Treason*, in Legal Definitions Unalterable at Common Law, Constituents of Democracy; Chapter Three).

Because the fairness and justice of the laws and all acts of law enforcement require to be judged by those who agree to abide by the laws, according to natural law, common law, constitutional law, *and* the paramount requirement for equal justice, the Common Law Trial by Jury of 'ordinary', randomly-selected adult citizens *in which the jurors judge the justice of the law and each act of enforcement, is the only* justice system which is legal and just *everywhere*, for all process of law, civil, criminal and fiscal.

On the aforesaid grounds, there can be NO legal enforcement of *any* law but by the Trial by Jury, and that is why it is emplaced as the sole justice system for all causes (lawsuits) by all the *legitimate* Constitutions (viz. Magna Carta 1215, the U.S.,

Australian, etc.). It is uniquely in the nature of Trial by Jury that juries fulfil the purpose of law in a democratic society. This is to maintain Justice by protecting the citizen from injustice and crime of all kinds, whether perpetrated by the state or by other citizens; and to uphold the rights, freedom and legitimate interests of all.

It is not to be supposed that a populace would *voluntarily* agree to be ruled under unjust laws. Nor are those who are punitively held against their will to any law which they deem unjust, anything other than oppressed and, de jure, *enslaved* by the law. (This applies unless they have been through a Trial by Jury of their equals and found guilty of an act of injustice committed with malice aforethought in breach of a law *specifically adjudged* by the jury to be just, applicable, legal and fair for enforcement; see sections, Are You a Freeperson or Slave, and Churchill's View, in DD Chapter Four).

This defence from crime and injustice committed by government is a fundamental purpose of Trial by Jury. It is put into effect by the juror pronouncing the Not Guilty Verdict to acquit the accused, thus **to annul the prosecution of unjust laws**, bad governance, and the failings of judges. This protective technique is correctly known as **Annulment by Jury** (not the linguistic contradiction-in-terms, 'jury nullification').

**TRIAL BY JURY WAS CONSTITUTIONALLY EMPLACED FOR THE PURPOSES OF:**  
**A.)** *not only* ascertaining guilt or innocence of the accused and where necessary for apportioning retribution, *but also*  
**B.)** of transcendent importance, as **a barrier** to protect the vast mass of innocent citizenry from the crimes of arbitrary government, i.e., unjust laws, and from the corruption, prejudices and incompetence of fallible justices (judges). Trial by Jury enables the people to judge authoritatively what their liberties and laws are (explained below), so that the people retain all the liberties which they wish to enjoy.

**HOW EQUAL JUSTICE IS DONE:  
THE JUROR'S DUTIES IN TRIAL BY JURY.**

Wherever Trial by Jury takes place, be it in the U.S., the U.K., Australia, Canada, New Zealand, and numerous other countries, it is *definitive* of Trial by Jury that, after swearing to do justice, to convict the guilty and acquit the innocent, in finding their Verdict:

**The Jurors Judge:**

~on the justice of the law, and annul, by pronouncing the Not Guilty Verdict, any law or act of enforcement which is deemed unfair or unjust according to the juror's conscience (i.e., sense of fairness, right and wrong);

~in addition to the facts, and

~on the admissibility of evidence (evidence not being pre-selected or screened-out by government or judge and/or prosecutor).

**Jurors Must Judge:**

~that the accused acted with *malice aforethought*, i.e., *mens rea*, a premeditated malicious motive, if the jury is to find guilt ('guilt' is a characteristic inherent or absent in motives and actions: it cannot be ascribed *by legislation*\*);

~on the nature and gravity of the alleged offence; and, where guilt is unanimously found,

~on mitigating circumstances if any (provocation; temptation; incitation); and

~set the sentence (with regard to its being fit and just).

\*There is neither moral justice for punishing nor political necessity (i.e., deterrent value) where there was no *mens rea*. (In the case of one person injuring another innocently or accidentally, the civil law suit and the Trial by Jury award appropriate compensation for damages.)

For jurors not to do the above, or for someone other than the jurors to make any such decisions, is another process: call it "*trial-by-someone-else*" if you will, or "*trial-by-the-judge with a false 'jury' watching*"—but this travesty cannot be defined as a Trial BY JURY.

**THERE IS ONLY ONE TRIAL BY JURY.**

It is mere falsehood to call a procedure “trial by jury” if the accused and any of the matters related to the case under judgement are tried by someone other than the jury. There is no process and no meaning to the words Trial by Jury other than that which the words themselves prescribe.

**VIZ. U.S. PRESIDENT JOHN ADAMS, LAWYER, PRONOUNCED ABOUT THE JUROR:**  
*“It is not only his Right but his Duty to find the verdict according to his own best understanding, judgement and conscience, though in direct opposition to the direction of the court [i.e., the judge].”*

U.S. President John Adams, lawyer; Yale Law Journal, 1964; 173.

**THE UNIVERSAL COMMON LAW CRIME OF INJUSTICE, AND  
THE WORKINGS AND RESULTS OF THE TRIAL BY JURY SYSTEM.**

Many people do not know democracy’s emancipatory purpose and proven means of securing liberty and justice for all through the workings of the people’s common law of the land and its inimitable Trial by Jury justice system. However, there are also those who *are fully cognisant of democracy’s gift of liberty to the People*—but who do not wish others to know its key mechanism. Conditioned by a variety of influences themselves, “brainwashed,” they are perversely determined to inflict their abhorrent mental malconditioning on others. However, let us consider the facts and circumstances and judge for ourselves.

One of the beauties of authentic Common Law Trial by Jury is the predictability of its verdicts. Judgements to determine the verdict made by randomly chosen, disinterested citizens in the role of juror in Trial by Jury are virtually universally acclaimed to be uniform. How is this so?

To the ignominy of proponents of other ‘justice’ systems such as *trial-by-judge*, the virtue unique to Trial by Jury (which derives from its definitive procedures), is that it protects citizens for all time from the infliction of *injustices*, both petty and of enormity, by incompetent or prejudiced *judges themselves*, as well as from common crimes, unjust laws and arbitrary government. *These circumstances are explained as follows.*

Children learn to recognise injustice even before they learn the vocabulary by which to describe or define it. *Literate or not*, however complicated the facts of the case are (and it is always for the prosecution to present a clear case), it is axiomatic that all sane adult men and women can recognise *injustice* and *malice aforethought*. It takes no special learning for an adult to know when a law is unjust. The *natural laws* of equity and justice (fairness) are known to all rational adults and, *in the jury situation*, ordinary citizen-jurors uniformly adjudge what constitutes fairness in a law or in the act of its enforcement<sup>1</sup>.

**1 See Justice William Jones; Jones on Bailments; and see “DO-AS-YOU-WOULD-BE-DONE-BY”:  
THE UNIVERSAL SENSE OF FAIRNESS.**

Since pre-historical time immemorial, juries of people from all backgrounds, some literate, others not, have agreed on and enforced the common law against the crime of injustice; that is, *any act of intrinsically malicious motive, mens rea*, such as tyranny, murder, rape, bodily harm, mental cruelty, torture, robbery, theft, extortion, arbitrary dispossession, usury, fraud and so on. *Crime receives the universal condemnation of men and women in juries in all times and places.* This laudable outcome is produced for the following reasons.

*Outside* of the jury situation, adults behave according to what they consider to be in their interests (whether fairly to others or not). However, *within the jury*, when disinterested, randomly-selected citizens know the facts from which a verdict is to be inferred, *they arrive at the same verdict.* This they do unless there is reasonable doubt ceded by the

inconclusive nature of the evidence, or they perceive injustice in the law, or injustice in the act of its enforcement. This phenomenon results because common law juries know that they are there to protect *themselves* as well as their fellow citizens by enforcing those laws which are just with unanimity, whilst unjust or venal\* statutes and the enforcement of injustices by corrupt, incompetent or prejudiced judges are fittingly to be annulled by pronouncing the Not Guilty Verdict (i.e., Annulment-by-Jury). It serves the interest of the individual citizen and the People at large to do so. That is to say, naturally, common law juries continuously enforce the just laws with unanimity because it serves their interest to do so; and only laws which are just are those which should and must be enforced.

\**Definition*, venal: corruptly mercenary; (able to be) bought over; open to bribery.

What is more, even and especially the covert undiscovered felon (murderer, robber, fraudster, mobster, sex offender, etc.) called to serve on a jury, enforces the just laws with alacrity, for not to do so would reveal his insalubrious character to the other jurors, thereby bringing on himself numerous malconsequences.

However, if the justice of a law is not plainly evident, and the sentence of punishment (being part of the law) cannot be accepted as justifiable and fair by twelve indiscriminately chosen adult citizens, then that 'law' is no law at all: its prosecution requires Annulment-by-Jury and must not be enforced. When juries repeatedly reject (annul) prosecutions (as with those of the U.S. Prohibition of Alcohol), the statute in question requires legislative expunction.<sup>1</sup>

**1 Cost-free private prosecutions at Trial by Jury provide the responsible corollary Common Law Mechanism for Mandatory Expunction of Unwanted and Unjust Statutes; ref. Chapter Four.**

The Constitution thus prescribes the Justice System in which the Juror is Sovereign (Unanimity being requisite to condemn); and the Jury's decisions prevail over statutes and the interpretations and rulings ('precedent'; *stare decisis*) of judges. No written law or ruling of a court (judge) is binding on a jury. The jury alone decides the law. In this way it is explained how the jury's rôle is *judicial*; and the government's function is *executive*, merely to execute, to carry out, the decisions (judicium, the judgement: verdicts and sentences) of the jury.

### THE JUROR'S DUTY IS SIMPLE.

It should be remembered that the juror's duty is uncomplicated: 'guilt' of a crime can only be pronounced where the accused's act was a deliberate, premeditated one of *malice aforethought*. Such judgements are a daily fact of life in human interactions. We make such appraisals frequently... "Is this person behaving in a way that is dishonest or malign?" "Is that person telling the truth?" "Why are they doing that?" "Are these people genuine?" (Again, note that in the case of one person injuring another *innocently* or accidentally, the civil law suit and Trial by Jury award appropriate compensation for damages.)

Regardless of the intricacies of evidence and, as noted, it is for the plaintiff to present a clear case, *the contrast between genuine innocence and malicious motivation is easy for jurors to discern*. Only *ulterior* mens rea, i.e., criminal intent, lies behind politicians, judges and other individuals advocating denial of Trial by Jury and the handing over of cases to the authoritarians' method of injustice: the '*trial-by-government-judge*'.

The Lord Chief Justice Denman exemplified *former* high standards of integrity amongst the British judiciary in upholding the Trial by Jury Justice System. Denman demonstrated the paramount importance of **random selection** in forming a jury. Reviewing a sedition case on appeal in which sixty (60) Catholics had been fraudulently omitted from the jury pool list (viz. 'jury packing'), in a speech given to the parliamentary House of Lords on the Fourth of September, 1844, Denman explained why he had quashed conviction of a 'conspiratorial' Catholic agitator for Irish Independence, Daniel O'Connell, saying:

*“I am induced to begin with this subject, not only because it is preliminary in the course of the proceedings but because I think it is important to a degree which does not admit of exaggeration to the administration of justice throughout the United Kingdom, and that if it is possible that such a practice as that which has taken place in the present instance should be allowed to pass without remedy, and no other remedy has been suggested, Trial by Jury itself, instead of being a security to persons who are accused, will be a mockery, a delusion, and a snare.”*

His Hon. Justice Thomas Denman, lawyer, Lord Chief Justice from 1832 to 1850. Emphasis added. Ref. also pp.58-59.

### **LAWS REQUIRE TO BE JUST.**

Naturally, the inscribed governmental statute laws require to be just and straightforward, if not simple, if they are to be met with unanimous approbation from juries. Again, the burden rests on the plaintiff always to make his cause clear. If explanation of a law is ever necessary and disputation over its fairness and hence its very legality arises, then this explication requires to be performed equally by plaintiff and defendant and/or defence and prosecution counsel, not exclusively by the convenor (judge). Common Law juries can appoint amicus curiæ (impartial advisers not a party to the case) and jurors alone have the responsibility of trying and deciding on the justice, interpretation, legality, validity and applicability of laws in every act of enforcement.

Common law and Trial by Jury, being exclusively the product of the sense of fairness, natural law and justice of people, are known almost intuitively to people everywhere. With a modicum of thought, people realise that *justice* makes its case plain to adults at all times.

### **CRIME AND LITIGATION ARE SIGNIFICANTLY DIMINISHED.**

It is an unforgivable duplicitous fallacy often-repeated by politicians and the lawyers and judges who represent them that Trial by Jury “clogs up the courts and takes up too much time and expense.” Whereas, with the genuine Trial by Jury restored, crime—and litigation—are *significantly diminished in every society run by the ultimate rule of the people themselves deciding the law as Jurors*. The reality is that unjust statutes, ‘family courts’, judges’ precedent case rulings, tax laws and decisions, *crime-engendering* ‘prohibitions’ and *vexatious* national and local regulations are annulled and obliterated: life, liberty, property and rights are held in the hands of the people themselves and not subject to arbitrary government intervention.

The judiciary suppress the real Trial by Jury by all means possible because *it empowers citizens to annul unjust enforcement of government legislation at trial—something which not even judges can do*. The mass of malicious, partisan and criminogenic legislation (statutes and by-laws) extant today, is duly annulled, rendered unenforceable, and may be mandated for expunction by due process of Trial by Jury; see the mechanism explained in Chapter Four. *The truth is that the number of state prosecutions and court cases (and related expense to the taxpayer) is greatly reduced by Restoration*. Brutish intrusions by the state and its personnel into truly innocent citizens’ lives are liable to cost-free private prosecutions at Trial by Jury; compensatory redress rendered to victims; and just retribution meted out to perpetrators where such acts are adjudged by jury to be malicious.

### **COMMON LAW TRIALS BY JURY DO NOT DRAG ON.**

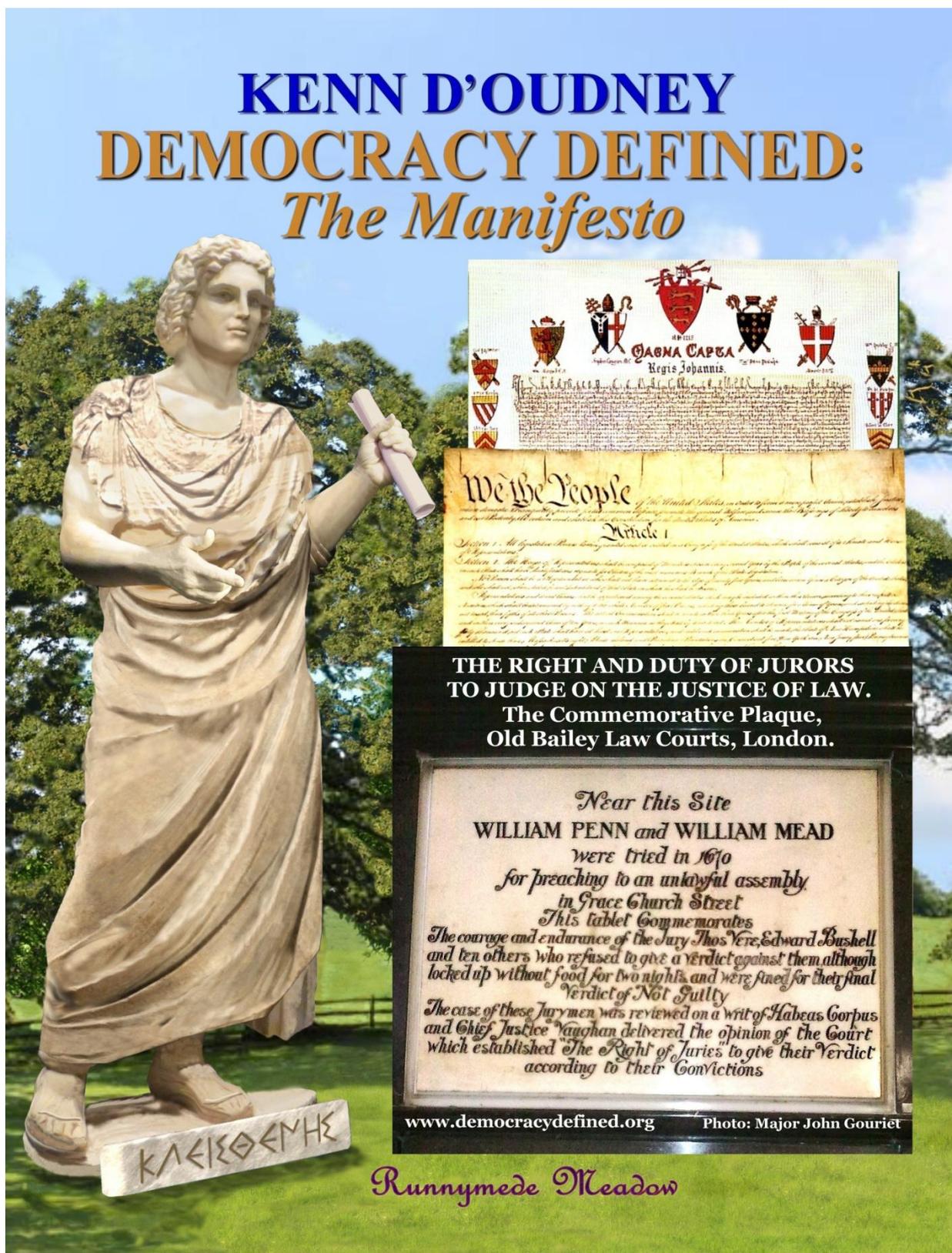
With the Jury deciding on the admissibility of the evidence and supervising the process, Trial by Jury brings justice which is fair, swift and sure. Prosecution counsel must marshal the evidence to present an undelayed, forthright, comprehensible case; not the protracted remunerative charade in which lawyers feign and wallow today.

Citizens involved in Jury Duty are properly respected and compensated, for *they* embody the Supreme Sovereign Authority of the country and all its people.

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See further reviews inside.



## MAGNA CARTA MONUMENT Canberra, Australia



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



- 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.”*

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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 (seven pages) of THE RESTORATION AMENDMENT (statute):

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