HAIL TO THE JURY — OUR DEFENSE - BOTH YOURS AND MINE

- AGAINST THE USURPATIONS OF AN OPPRESSIVE AND TYRANNICAL GOVERNMENT .

MAGNA CARTA, the great CHARTER of our liberties was wrung from a frightened would-be dictator-king at the point of a sword over 700 years ago, and is by far the most important legal document supporting our federal and state constitutions.

You, as a juror, armed merely with the knowledge of what a COMMON LAW JURY really is and what your common law rights, powers, and duties really are, can do more to reestablish "liberty and justice for all" in this State and ultimately throughout all of the United States than all our Senators and Representatives put together. Why? Because even without the concurrence of any of your fellow jurors in a criminal trial, you, with your single vote of NOT GUILTY can nullify or invalidate any man-made law involved in a case that, for one reason or another, ought not to be enforced.

If you feel the statute involved in any criminal case being tried by you is unfair, or that it infringes upon the defendant's natural God-given inalienable, or Constitutional rights, you must affirm that the offending statute is really no law at all and that the violation of it is no crime at all, for no man is bound to obey an unjust command. Which means, if the defendant has disobeyed some man-made criminal statute and the statute itself is unjust, that defendant has committed no crime. Jurors, having ruled then on the justice of the law involved and finding it opposed in whole, or in part, to their own natural concept of what is basically right, are bound to hold for the acquittal of said defendant.

Your vote of NOT GUILTY must be respected by all other members of the jury for you are not there as a fool merely to agree with the majority, but as an officer of the court and a qualified judge in your own right. Regardless of the pressures or abuse that may be heaped on you by any or all members of the jury with whom you may in good conscience disagree, you can await the reading of the verdict secure in the knowledge that you have voted your own conscience and convictions, and not those of someone else.

Therein lies the opportunity for the accomplishment of "liberty and justice for all." If you, and numerous other jurors throughout the state and nation begin, and continue, to bring in verdicts of NOT GUILTY in such cases where a *man-made* statute is defective or oppressive, these statutes will become as ineffective as if they had never been written. It only takes one juror to effect a verdict of NOT GUILTY in any criminal trial - a fact that could prove to be of more than passing interest to you should you yourself be the defendant and your accuser happen to be the government.

A Jury's Rights, Powers, and Duties

The Charge to the Jury in the First Jury Trial before the Supreme Court of the U. S. illustrates the TRUE POWER OF THE JURY. In the February term of 1794, the Supreme Court conducted a jury trial in the case of the *State of Georgia vs. Brailsford, et al,* 3 Dall. 1 " .. . it is presumed that juries are the best judges of facts; it is, on the other hand, presumed that the courts are the best judges of law. *But still both objects are within you power of decision.*" (Emphasis added.) " ... You have a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy."

As the United States Court of Appeals for the District of Columbia has clearly acknowledged, there can be no doubt that the jury has an "unreviewable and unreversible power . . . *to acquit in disregard of the instructions on the law given by the trial judge* . . ." *U.S. vs. Dougherty*, 473 F 2d 1113, 1139 (1972).

Or as the same truth was stated in an earlier decision by the United States Court of Appeals for the District of Maryland:

> "We recognize, as appellants urge, the undisputed power of the jury to acquit, even if its verdict is contrary to the law as given by the judge, and contrary to the evidence. This is a power that must exist as long as we adhere to the general verdict in criminal cases, for the courts cannot search the minds of the jurors to find the basis upon which they judge. If the jury feels that the law under which the defendant is accused is unjust, or that exigent circumstances justified the actions of the accused, or for any reason which appeals to their logic or passion, the Jury has the power to acquit, and the courts must abide by that decision." (U.S. vs. Moylan, 417 F 2d 1002, 1006 1969).

"Power and law are not synonymous. In truth they are frequently in opposition and irreconcilable. There is God's Law from which all equitable laws of man emerge and by which men must live if they are not to die in oppression, chaos and despair. Divorced from God's eternal and immutable Law, established before the founding of the suns, man's power is evil no matter the noble words with which it is employed or the motives urged when enforcing it.

Men of good will , mindful therefore of the Law laid down by God, will oppose governments whose rule is by men, and, if they wish to survive as a nation, they will destroy that government which attempts to adjudicate by the whim or power of venal judges." Cicero

The law as written and invoked by prosecutors, "demands conviction of persons whom local or even general opinion does not desire to punish." (See *Law in Books and Law in Action*, Dean Roscoe Pound, 44 American Law Review, 12, 18 (1910).) Hence, *jury disregard of the limited and generally conviction-oriented evidence presented for its consideration, and jury disregard for what the trial judge wants them to believe* is the controlling law in any particular case (sometimes facetiously referred to as "jury lawlessness") is not something to be scrupulously avoided, but rather encouraged; as witness the following quotation from the eminent legal authority abovementioned: "Jury lawlessness is the greatest corrective of law in its actual administration. The will of the state at large imposed on a reluctant community, the will of a majority imposed on a vigorous and determined minority, find the same obstacle in the local jury that formerly confronted kings and ministers." (Dougherty, cited above, note 32, at 1130).

"The pages of history shine on instances of the jury's exercise of its prerogative to disregard uncontradicted evidence and instructions to the judge. Most often commended are the 18th century acquittal of Peter Zenger of seditious libel, on the plea of Andrew Hamilton, and the 19th century acquittals in prosecutions under the fugitive slave law. The values involved drop a notch (but are worthy of note nonetheless) when the liberty vindicated by the verdict relates to the defendant's shooting of his wife's paramour, or purchase during Prohibition of alcoholic beverages." (Dougherty, cited above, at 1130.) Rather than referring to the above as instances of "jury lawlessness," we would say what appears to be far more likely that they are examples of courageous adherence, by one or more jurors in each case, to the natural law of justice tempered perhaps by the radiant glow of a little kindness, understanding, or mercy.

In addition, the trial judge is generally spoken of as "the judge" but this he logically cannot be in a trial by jury — for in every such trial, the judges, preferably twelve in number, are all seated in the jury box. THEY are there to try the case themselves, as *they see it,* and *not as somebody else sees it.* This means that the trial "judge" is neither the judge, nor even one of *thirteen* judges, nor even any kind of "judge" at all. He is a judge, or rather *the judge only* in a nonjury trial. In a trial by a jury of twelve juror-judges, he is merely the headmaster in charge of procedure.

The Right of the Jury to be Told of Its Power

Every jury in the country has the right to bring in a verdict based on, not whether the defendant's act or omission was merely contrary to a dictionary interpretation of the words or phrases used in some man-made statute recited to it by the trial "judge," but whether or not the defendant's act or omission was truly blameworthy according to the jury's and representatively, the community's natural sense of morality and justice. It is a well-established principle in criminal jurisprudence that an act or omission does not make a man guilty unless he be so by intention.

The right of the jury to disregard either the law (as laid down by the trial "judge") or the facts (as permitted by the same trial "judge" to be placed in evidence) is referred to in legal terminology as the jury's prerogative of nullification (jury lawlessness) which means in ordinary language that where the jurors cannot in conscience impose blame, they cannot in conscience allow punishment.

The prerogative of nullification (jury lawlessness) is not only legitimate, but a praiseworthy right of the jury as well. Prerogative nullification is a mechanism that permits the jury as spokesman for the community's conscience to disregard the strict requirements of man-made law, as well as the "judge's" instructions to the jury where it finds that those requirements cannot justly be applied in a particular case. The doctrine or prerogative of nullification "permits the jury to bring to bear on the criminal process a sense of fairness and particularized justice." (Dougherty, cited above, at 1142.) These obviously are worthy objectives. Today in the courts this unassailable doctrine is concealed

from the jury and is effectively condemned by the "judge" in the presence of the jury.

"The way the jury operates may be radically altered if there is alteration in the way it is told to operate." (Dougherty, cited above, at 1135.) The jury's options are by no means limited to the choices presented to it in the courtroom. The jury gets its understanding as to the arrangements in the legal system from more than one voice. There is the formal communication from the "judge". There is the informal communication from the total culture: literature, current comment, conversation, and, of course, history and tradition." (Dougherty, cited above, at 1135.) The totality of input from the above-mentioned informal sources should be such as to convey adequately to jurors the idea of the right of nullification and their freedom to decide the guilt or innocence of a defendant according to their own consciences — regardless of the "facts" permitted by the "judge" to be placed in evidence, and regardless of his "Charge to the jury." This final set of unasked for and generally *biased instructions* will contain among other things what he (the judge) considers to be the controlling law, or what the "judge" *wants the jurors to think* is the controlling law in the particular case being tried by them.

The jurors are not told either formally or informally that they have the *right to judge* for themselves what the controlling law is or ought to be in any particular case and that each individual juror has the *right to decide* for himself what things (even though not admitted into evidence by the judge) are to be accounted as fact and what things (even though accepted as fact by the judge) are not worthy to be so accounted.

Hence, it devolves upon the Posse Comitatus, sworn to uphold the natural, God-given rights of any person who has been or is about to be victimized by any branch of federal, state, or local government, to inform every juror in the country of the duty of a juror. That duty is to decide every legal and evidentiary aspect of the case according to his own conscience, regardless of any "juror's oath" binding said juror to decide the case being tried according to the "law" (as given to him by the trial "judge") and the facts (as permitted by said "judge" to be placed in evidence), and to accept no dictation whatsoever (either as to law or fact) from the trial judge, who, in a trial by jury, is merely the chief assistant of the juror-judges sworn to hear and try the case.

If there be anyone who might properly be referred to as the presiding officer in any such trial, it is the foreman of the jury, and not the trial "judge" who in every legal contest between a private party and the government, is the representative and advocate of the government, hence not even qualified to sit in judgment between the two parties; for no man ought to be a judge in his own case. If such a "judge" had high regard for elementary rules of justice, he would disqualify himself, and inform the twelve judges in the jury box that they are the only qualified and lawful judges that may be had in any legal dispute between a private citizen or a private corporation and any branch of federal, state, or local government.

Such a "judge" should admit further, as we allege, that any member of the above indicated jury of twelve bona fide judges has in a criminal trial not only the power but also the right to effect a verdict of NOT GUILTY if such be the verdict most agreeable to his conscience, whether affirmed by all or none of the other eleven jurors, whether in line with the program of an overzealous or vindictive prosecuting attorney or not, and whether or not in conformity with the final "charge to the jury" by the trial "judge".

From Past to Present

For more than 700 years now — that is since the 15th day of June in the year of 1215 when the embattled barons of England met King John on the meadow at Runnymede and there forced him to sign the Great Charter of our liberties — there has been no clearer principle of constitutional law than that it is not only the right and duty of jurors to judge what are the facts; what is the controlling law; and what was the moral intent of the accused; but that it is also their right, and their primary and paramount duty, to judge of the justice of the law; and to hold all laws invalid that are unjust or oppressive; and all persons guiltless in violating, or resisting the execution of such laws.

Unless such be the right and duty of jurors, it is plain that instead of juries being a "palladium of liberty" — a barrier against the tyranny and oppression of government — they are really mere tools in its hands, for carrying into execution any injustice and oppression that government may desire to have executed.

But for each juror's right to rule on the interpretation of the law and the justice of the law, juries would be no protection to an accused person, even as to matters of fact; for if the government can dictate to the jurors and law whatever, it can certainly dictate to them the laws of evidence. That is, government can decide all on its own what evidence is admissible or inadmissible, and also what importance, if any, is to be given to the evidence admitted. If the government can thus manipulate and control the evidence that the jurors are allowed to consider, and then require them to decide according to that evidence and none other, it can also manipulate and control their deliberations in the jury room. In which case the trial is, in reality, a trial by the government and not a trial by the jury at all.

Every jury in the land is tampered with and falsely instructed by the judge when it is told it must accept as the law that which is given to them by the court, and that the jury can only decide the facts of the case. This is to destroy the purpose of a common law jury, and to permit the imposition of tyranny upon a people, who otherwise would resist by their juries' refusal to uphold unconstitutional law.

Jurors — who are the only lawful judges in any case being tried by them — are under no obligation to accept or even to be guided by the law as given to them by the government through its agent the "judge"; and there is no rule of common justice or common right by which the twelve juror-judges can be held to consider only the evidence that has met with the government's approval, or by which they can be prevented from taking other facts or circumstances into consideration. They should do, or refuse to do, whatever in their opinion is the best, from the standpoint of preventing or averting injustice. The jurors representing the people are in a legal position to effectively shelter the people from official abuse.

That is why it is necessary that jurors throughout this State, and throughout the United States as well, disregard the law as laid down to them by the trial "judge", whenever the law is violative of any of the defendant's inalienable, God-given, common law or Constitutional rights.

For example, is it not true that whenever any rule or regulation is placed in the statute books, the "judge" imposes this newly adopted "law" upon the jury as being authoritative and binding (when, in fact, its binding force has never been ascertained, certainly not finally or conclusively); and the jurors, through fear of offending the "judge", bring in a verdict in accordance therewith? The authority and presumed binding force of the untested statute is thereby established (by case law or precedent — as the attorneys and the trial "judges" are quick to point out.) The whole people are thus brought under the yoke of the new "law", and having been upheld in one or more previous cases, it will be enforced against them in the future, should they refuse to comply with its unjust proscriptions or exactions.

You, as a juror, have it within your power as occupiers of the most important decision-making office in the land, to nullify every rule or "law" that is not in accordance with the principles of natural, God-given, common or Constitutional law. It is precisely this power of nullification that makes the *trial by jury* our most important right.

It should be abundantly clear from the foregoing that the best, most readily available and ultimately the only real legal protection against criminal activities of elected and/or appointed officials and against the ever-increasing usurpations of federal, state, and local government, lies in the *Common Law or Magna Carta Jury* as set forth in part herein.

The Constitution of the United States and the Bill of Rights is designed to hold the national government in check; to protect the individual citizen from an unchecked all-powerful government. However, those documents are not a safeguard to liberty should they stand in the way of a government that has either the cunning to evade their requirements, or the power of force to overcome those who would attempt to defend their Constitutional rights. Consequently, if there exists no tribunal apart from, uncontrolled by, and above the government with power to nullify government's unjust "laws" as fast as they can be written and entered in our statute books, we are no longer free.

Such a tribunal does exist; the 12-man, 12-judge, Common Law Jury which was first accurately described in Magna Carta in the year 1215, and which was put into effect with all its powers by the people of the United States on March 4, 1789.

The Honorable Theo. Parsons in the Massachusetts convention of 1788, answering the objection that the Constitution of the United States as submitted to the people for adoption, contained no Bill of Rights, said: "The People themselves have it in their power effectually to resist usurpation, without being driven to an appeal to arms. An act of usurpation is not obligatory; it is not law; and any man may be justified in his resistance. Let him be considered as a criminal by the general government, yet only his fellow citizens can convict him; they're his jury, and if they pronounce him innocent, not all the powers of Congress can hurt him; and innocent they certainly will pronounce him if the supposed law he resisted was an act of usurpation." (2 Elliot's Debates, 94, Bancroft, History of the Constitution, 267.)

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