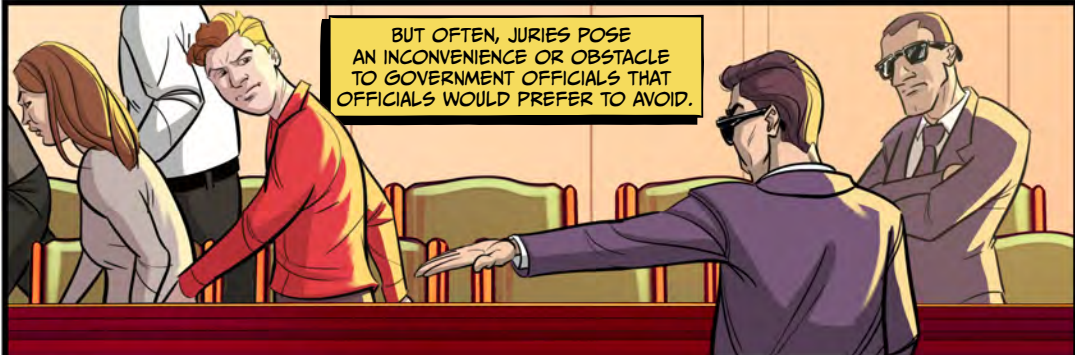




JURY TRIALS ARE A MAINSTAY IN AMERICAN NEWS, TV SHOWS, AND MOVIES ABOUT LAW AND JUSTICE.

JURIES, COMPOSED OF COMMON PEOPLE, ARE AN IMPORTANT AMERICAN TRADITION AND A CHECK ON GOVERNMENT POWER.




BUT OFTEN, JURIES POSE AN INCONVENIENCE OR OBSTACLE TO GOVERNMENT OFFICIALS THAT OFFICIALS WOULD PREFER TO AVOID.



THE FRAMERS OF THE U.S. AND STATE CONSTITUTIONS BELIEVED JURY TRIALS WERE IMPORTANT TO PROTECTING LIBERTY.

THE BILL OF RIGHTS INCLUDED TWO AMENDMENTS OUT OF TEN THAT GUARANTEED JURY TRIALS.



Bill of Rights
Congress of the United States.
Seventh Amendment
In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.

WHILE PERHAPS NOT AS FAMOUS AS THE SIXTH AMENDMENT GUARANTEE OF JURY TRIALS IN CRIMINAL CASES, THE SEVENTH AMENDMENT PROTECTS THE RIGHT OF TRIAL BY JURY IN NONCRIMINAL CASES, SPECIFICALLY "SUITS AT COMMON LAW."

BUT INCREASINGLY, AMERICANS ARE TRIED AND PUNISHED WITH FINES AND LOSS OF LIVELIHOOD BY GOVERNMENT BUREAUCRATS SITTING AS AGENCY "JUDGES" TO ADJUDICATE ALLEGED REGULATORY VIOLATIONS.



NO JURIES NEEDED?!
CAN THIS BE CONSTITUTIONAL?

ONE FEDERAL AGENCY WHERE JURYLESS HEARINGS OCCUR IS THE SECURITIES AND EXCHANGE COMMISSION (SEC) IN WASHINGTON, DC. SEC REGULATORS ENFORCE THE NATION'S STOCK-TRADING AND FINANCIAL LAWS.

IN 2010, THE SEC GOT NEW AUTHORITY FROM CONGRESS.

NEW LAW



SEC OFFICIALS NOW COULD DECIDE—



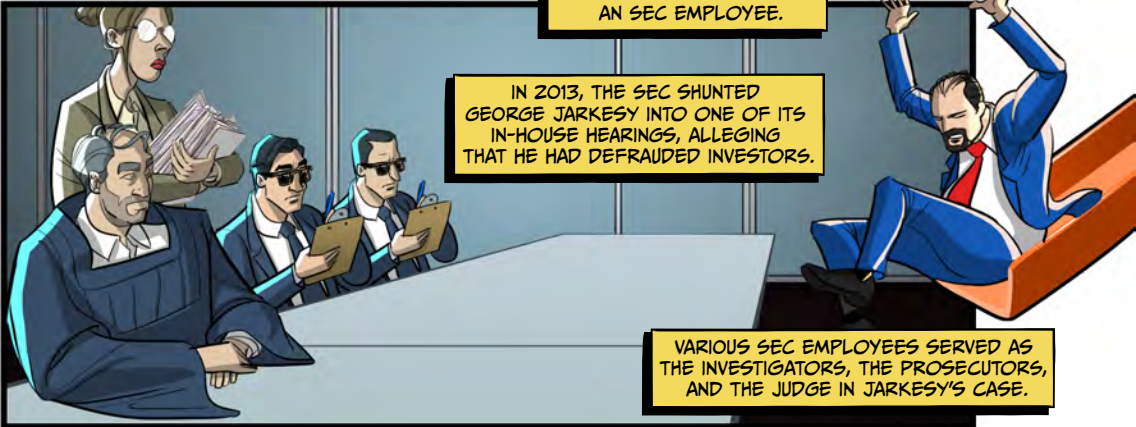
—TO TRY PEOPLE AS BEFORE, IN A FEDERAL COURT, BEFORE A CITIZEN JURY AND A SENATE-CONFIRMED JUDGE—

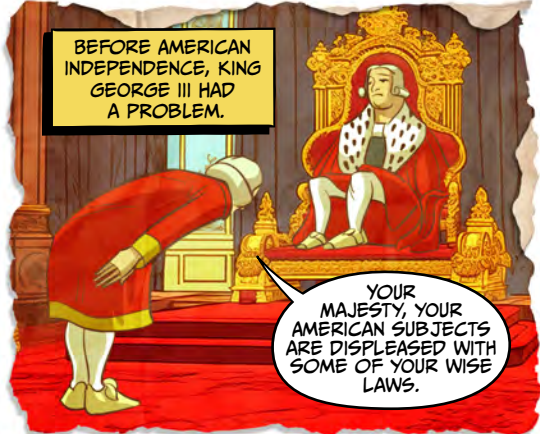
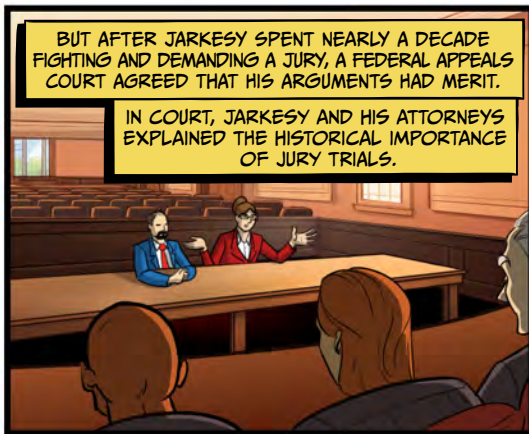
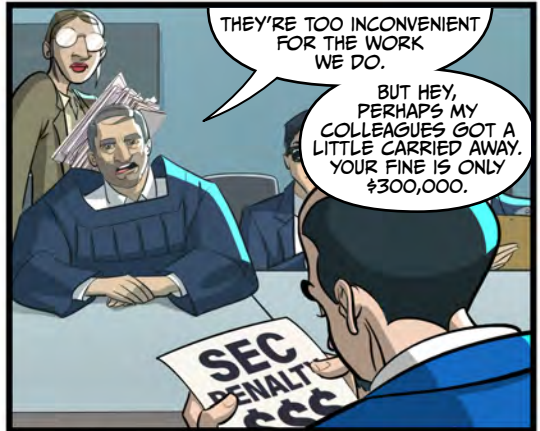
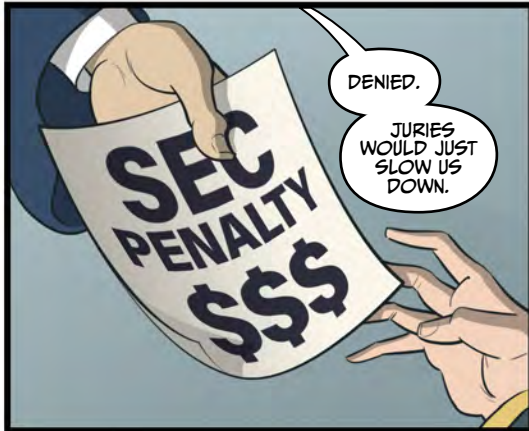
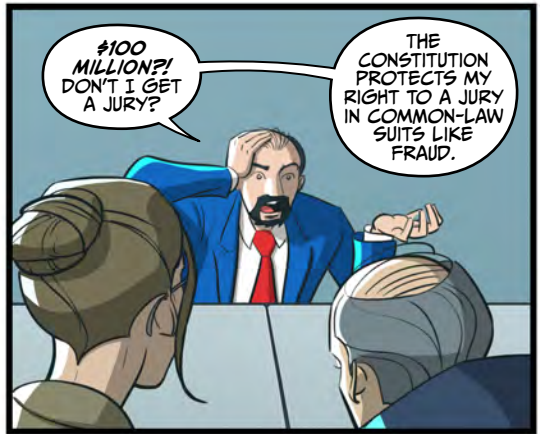
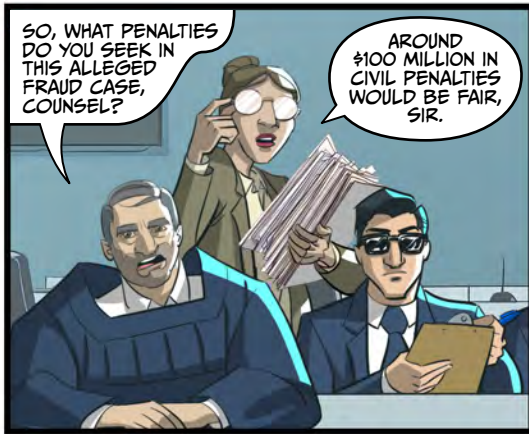


—OR TO TRY PEOPLE IN AN IN-HOUSE HEARING BEFORE AN SEC EMPLOYEE.

IN 2013, THE SEC SHUNTED GEORGE JARKESY INTO ONE OF ITS IN-HOUSE HEARINGS, ALLEGING THAT HE HAD FRAUDULENTLY INVESTED.

VARIOUS SEC EMPLOYEES SERVED AS THE INVESTIGATORS, THE PROSECUTORS, AND THE JUDGE IN JARKESY'S CASE.





IN RESPONSE, THE BRITISH BEGAN DENYING JURY TRIALS TO AMERICAN COLONISTS.



THE INFAMOUS SUGAR ACT AND STAMP ACT MOVED AMERICAN SUBJECTS OUT OF COMMON-LAW COURTS WITH JURIES—

—TO ADMIRALTY COURTS, BEFORE A SOLE BRITISH JUDGE.

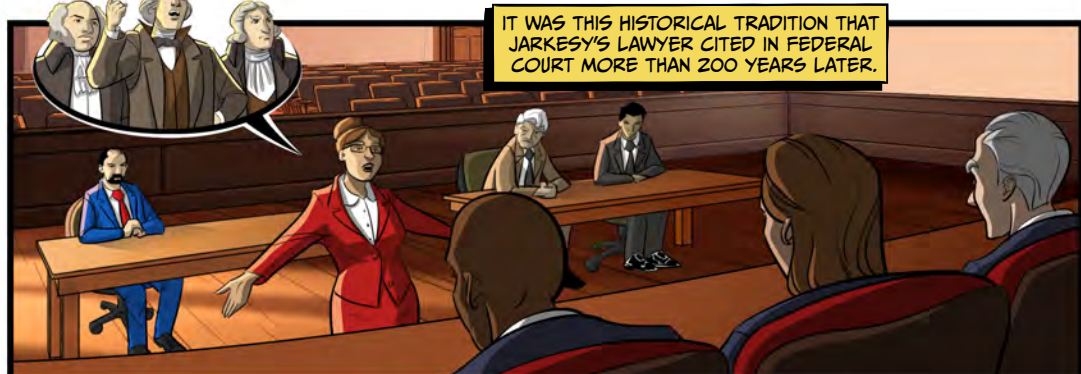
AMERICANS OF ALL STRIPES RESENTED THIS CLUMSY EFFORT TO UNDERMINE THEIR LIBERTY.

Crown
Penalty
\$\$\$

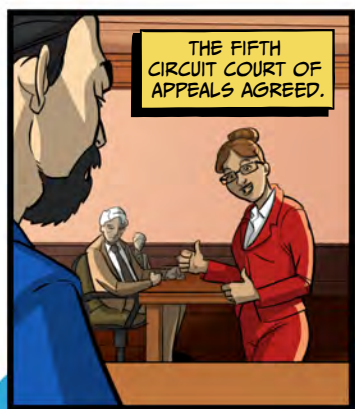
WHEN THE SIGNERS OF THE DECLARATION OF INDEPENDENCE RECOUNTED THE KING'S MOST OBJECTIONABLE POLICIES, THEY INCLUDED LAWS "DEPRIVING US IN MANY CASES, OF THE BENEFITS OF TRIAL BY JURY."

JOHN ADAMS, THOMAS JEFFERSON, AND ALEXANDER HAMILTON EACH EMPHASIZED THE NECESSITY OF JURY TRIALS.

I CONSIDER TRIAL BY JURY AS THE ONLY ANCHOR EVER YET IMAGINED BY MAN, BY WHICH A GOVERNMENT CAN BE HELD TO THE PRINCIPLES OF ITS CONSTITUTION.



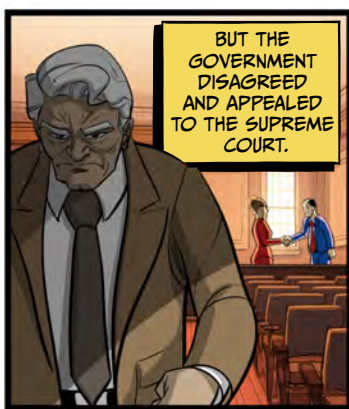
IT WAS THIS HISTORICAL TRADITION THAT JARKEYS'S LAWYER CITED IN FEDERAL COURT MORE THAN 200 YEARS LATER.



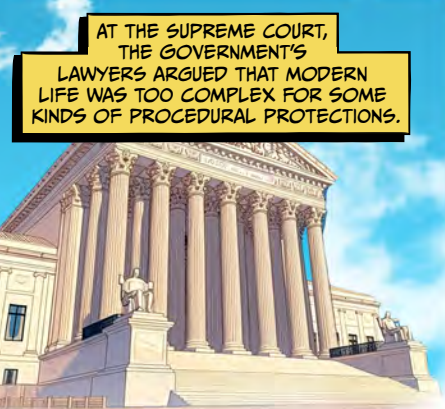
THE FIFTH CIRCUIT COURT OF APPEALS AGREED.



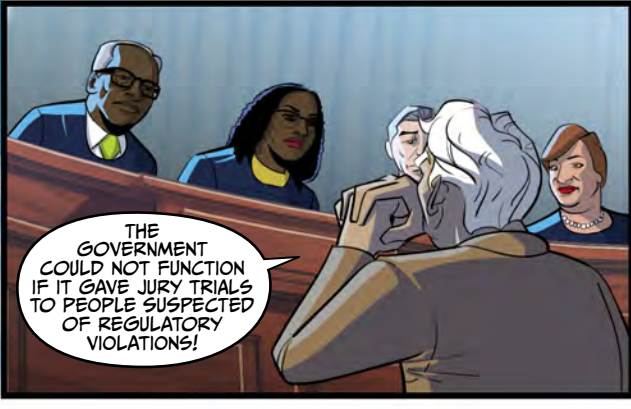
MR. GEORGE JARKEYS IS ENTITLED TO A JURY TRIAL IN CIVIL FRAUD CASES BROUGHT BY THE SEC.



BUT THE GOVERNMENT DISAGREED AND APPEALED TO THE SUPREME COURT.



AT THE SUPREME COURT, THE GOVERNMENT'S LAWYERS ARGUED THAT MODERN LIFE WAS TOO COMPLEX FOR SOME KINDS OF PROCEDURAL PROTECTIONS.



THE GOVERNMENT COULD NOT FUNCTION IF IT GAVE JURY TRIALS TO PEOPLE SUSPECTED OF REGULATORY VIOLATIONS!

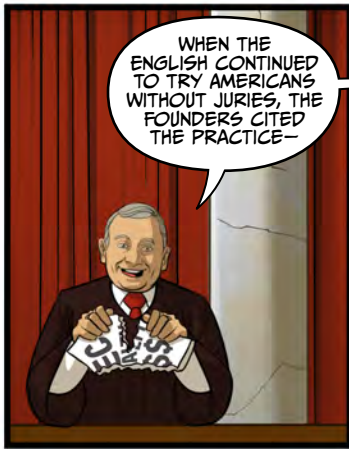


THE SEC'S MODERN CONCEPTION OF "FRAUD" LOOKS NOTHING LIKE COMMON-LAW FRAUD, AND THEREFORE THE SEVENTH AMENDMENT IS INAPPLICABLE!



THE SUPREME COURT WAS UNPERSUADED.

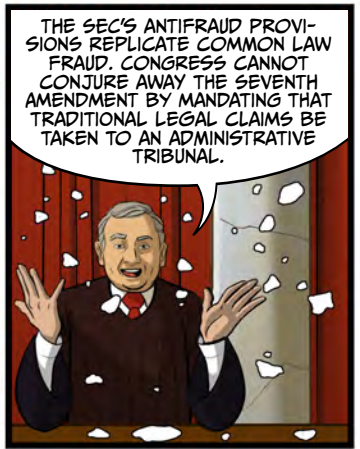
IN A 6-3 DECISION WRITTEN BY CHIEF JUSTICE JOHN ROBERTS, THE SUPREME COURT AFFIRMED THE APPEALS COURT.



WHEN THE ENGLISH CONTINUED TO TRY AMERICANS WITHOUT JURIES, THE FOUNDERS CITED THE PRACTICE—



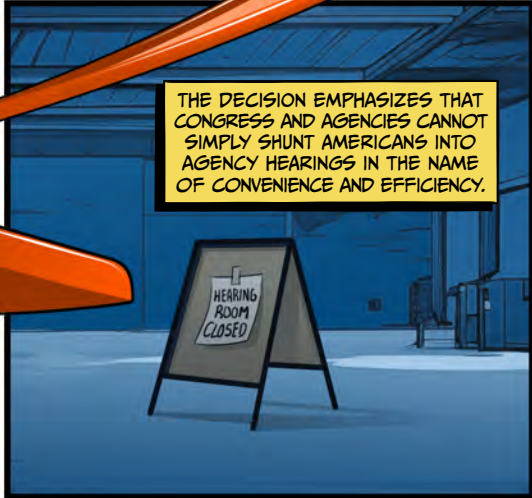
—AS A JUSTIFICATION FOR SEVERING OUR TIES TO ENGLAND.



THE SEC'S ANTIFRAUD PROVISIONS REPLICATE COMMON LAW FRAUD. CONGRESS CANNOT CONJURE AWAY THE SEVENTH AMENDMENT BY MANDATING THAT TRADITIONAL LEGAL CLAIMS BE TAKEN TO AN ADMINISTRATIVE TRIBUNAL.



A DEFENDANT FACING A FRAUD SUIT HAS THE RIGHT TO BE TRIED BY A JURY OF HIS PEERS BEFORE A NEUTRAL ADJUDICATOR.



THE DECISION EMPHASIZES THAT CONGRESS AND AGENCIES CANNOT SIMPLY SHUNT AMERICANS INTO AGENCY HEARINGS IN THE NAME OF CONVENIENCE AND EFFICIENCY.



TRIAL BY JURY BEFORE A NEUTRAL TRIBUNAL REMAINS AN INDISPENSABLE CHECK ON GOVERNMENT POWER.

