

# The Common Law Courts

## A Community Training Manual

### BSIC November 12015

#### Freeing Ourselves by Remembering the True Law

*"Man is born free, yet everywhere he is in chains".*

That fact has altered little over the centuries. But the chains of oppression over much of our species have been forged through the weapons of violence and ignorance, and they can be undone.

Long before any rulers held sway over humanity, men and women established customs and laws among themselves to ensure their peace and liberties as free, self-governing people. They did so from an inherent recognition of a Natural Law of Equality or Divine Law whereby no one has any right to dominate or rule over others, to seize more of creation than another, or to own any part of a world given equally to all people.

It is the Divine Principle of Creation that every child born is endowed with unalienable rights and Freedoms that no authority, law, government or religion can diminish or abolish. Any power that attempts to do so is tyrannical and illegitimate, even if it is protected by its own laws - for such tyranny is a denial of God and an attack upon divinity and humanity.

Two great principles summarize this Natural Law:

1. **All things exist and are held in common.** By the state of nature, no one has any more of a claim to the earth than another, as noted by a founder of modern law, Thomas Hobbes:

I demonstrate in the first place, that in the natural state of men (which state we may properly call the state of nature) all men have equal right unto all things. (*Leviathan*, 1651)

2. **The Law does harm to no-one**, or in Latin, *Actus Regis Nemini Facit Injuriam*.

Arising from the Ten Commandments and God's law to do no harm to one's neighbour, this principle forms the basis of modern law.

John Stuart Mill articulated this principle in *On Liberty* where he argued that, The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. (1869)

An equivalent was earlier stated in *France's Declaration of the Rights of Man and of the Citizen* of 1789 as,

Liberty consists in the freedom to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights. These limits can only be determined by law.

This Natural Law exists to maintain the natural peace and equity between people and is their shield and protector against unjust rule. It arises from within the people themselves rather than being a force over them. In the ancient traditions of tribal communities, especially in the Anglo-Saxon world, this Law evolved into what became known as the Customary or Common Law, or the Law of the Land. It has strong echoes in the customs of indigenous nations all over the world, such as the Great Law of Peace of the Six Nations Confederacy.

Here is a basic summary of the nature of True or Common Law versus arbitrary law.

## **Natural Liberty and the Basis of Common Law Courts: First Principles**

1. Every man, woman and child is born and is by nature free, equal and sovereign, and possesses an inherent knowledge of what is true and right. Accordingly, no-one can be subordinated to another or to any external authority, since every person's inherent wisdom and liberty makes them complete and sufficient creations in themselves, within a wider community of equals.
2. This personal sovereignty is a reflection of the wider Natural Law, whereby all life by nature is indivisible and placed in common for the survival and happiness of all. In any just society, this commonality endows all people with the unalienable right to establish among themselves their own governance, and defend themselves against any tyranny or violence, including that inflicted by external authorities. Any authority that rules unjustly and arbitrarily, without the free and un-coerced consent of the people, has lost its right to rule and can be lawfully overthrown. *"Unjust government is not government but tyranny" - Plato*
3. This Natural Law gives rise to customary Common Law whose purpose is to protect the inherent liberties and sovereignty of men and women in a community by maintaining equity and peace among them. The Common Law derives its authority from the people themselves, and from the capacity of the people to know what is just and to judge right and wrong for themselves. This capacity is expressed in a jury system of nine freely chosen people who are the ultimate judge and authority

under Common Law and its courts.

4. Historically, Common Law arose in Europe and especially in England after the Norman Conquest as a bulwark against the arbitrary rule of elites over the people, especially monarchs and popes. The authority of these elites was derived unnaturally, from warfare, violent conquest and the theft of the earth, rather than from the divine law of peace and equality. This elite rule arose most strongly in the Roman Empire and its descendent, the Church of Rome, under whose beliefs even "god" is a dominator and conqueror ("domine").

5. Such a conquest-based rule of papal and kingly elites gave rise to a legal system known as Civil or Roman Law and the belief that men and women are *not* endowed with the capacity for self-rule and wisdom. All law and authority is therefore derived externally, from statutes devised and imposed by a ruler, whether a pope, a monarch or a government. This system developed from Aristotelian philosophy and Roman property law in which creation is divided and human beings are treated as chattels and the possessions of others, and thereby devoid of inherent liberties. The people are thus in every sense enslaved, cut off from the world given freely and in common to all. This slave system ranks and categories all people, and grants restricted "freedoms" (*freithoms*, or slave privileges) that are defined and limited through statutes issued by rulers.

6. At this very moment of corporate conquest and its subjugation of humanity, a counter-movement is arising to reassert the divine purpose and its operation through the Common Law, and to restore the earth and humanity to their natural being as a common body. This movement is foretold Biblically and in prophecy as the time when all people are returned to their natural equality, devoid of all divisions, privileges and oppression, in order live in harmony with creation and one another.

7. This restoration of humanity is a divine purpose, and begins by actively dis-establishing all existing authority and institutions derived from Roman civil law, and replacing them with a new governance under Common Law jurisdiction. The creation of that new Natural Law authority among a liberated humanity is the fundamental purpose of the Common Law Courts.

## The Facts

Common Law is the beginning of all Law and in its perfection is the absence of all Law and in today's society it is known as PUBLIC POLICY Common Law summed up in simple terms is the will of the people and will manifest itself in separate cases as people so rule with their conscience and a sense of fair play.

Common Law is a Law that is Common to all People. Common Law is Common Sense and is the Law of the Creator God of this Universe-Do unto others as you would have them do unto you.

Common Law supersedes all Law and is Superior in all Cases to Statutory Law, Codified Law, and Rules and Regulations.

Common Law establishes Constitutions as all Power is inherent in the People.

Common Law establishes through the Constitution all restrictions on the

government. Constitutions never give the government power for legislating People. Government only has the power to legislate the workings of the different functions of the various departments to allow the people Life, Freedom, and the pursuit of happiness.

Constitutions can never establish Common Law for then all Power would not be in the People, but would be in the Constitution and it is only a piece of paper, and the People's right to address grievances or to amend, change, or address any problem could not be. The Creator God created man, man (with help) created government, government started CORPORATIONS. The Creator rules over man; man rules over government; and government rules over CORPORATIONS. Governments are mere pieces of paper to be altered and changed to the whim of the living souls.

CORPORATIONS are mere pieces of paper that government can change and alter at their whim. The Creator is Superior over Man, government, and CORPORATIONS. Man is superior to government and CORPORATIONS. If man says they do not exist-they do not exist. Simply said: Common Law - PUBLIC POLICY - the Will of the People, a Law Common to all People.

## How Do We Use the Common Law?

The truth is that people, everywhere, throughout everyday life, use and rely on Common Law to live and work together. It is simply the inherent way that un-coerced and free people conduct their affairs together, since like water seeking the common level, our instinct propels all human relations toward what is just and beneficial for all. This inherent law of the common good has been likened to the roots that bind together human communities by unconditionally upholding the life, dignity and wellbeing of every man, woman and child. These roots are not only foundational to any just society, but become especially vital and necessary in the face of tyrannical governments that seek to subvert such natural freedom.

The Common Law's firm horizontal guarantees of mutual respect and protection are a permanent threat to the efforts by arbitrary rulers to harness men and women into the unnatural and vertical coercion known as the State. That is why every government and religion seeks to annul the Common Law with their own authority and statutes, in order to reduce free peoples everywhere to the status of regimented, obedient tax paying wage slaves who serve a ruling clique.

To extend our everyday reign of Common Law into all areas of life means to challenge the arbitrary rule of those cliques, and of all State level regimes. But the very fact that it is the Law of we, the vast majority of humanity, means that it only needs to be practiced by enough of us for all arbitrary authority and dangers to crumble.

We use the Common Law by simply employing and relying on it, in all spheres of life. And that means, first, by establishing functioning Common Law Courts with absolute and ultimate jurisdiction over every aspect of our lives and communities.

## Matters before a Common Law Court

Law within the European tradition falls into two general categories: civil and criminal law. The former deals with disputes between individuals, often called "tort" cases, and issues of negligence that cause harm. Criminal law deals with acts of intentional harm to individuals but which, in a larger sense, are offences against all people because they somehow threaten the community.

Arising as a defense against absolutism and state or church tyranny, the Common Law traditionally has dealt with Criminal Law matters that "crown" or "canon law" courts refuse to address, including murder, rape, warfare and other crimes against the community. But civil matters of personal disputes may also be brought into a Common Law Court, which after all claims universal jurisdiction over all legal matters within a community.

Indeed, because Common Law is rooted in the jury system, what better forum can there be for the settling of civil matters between individuals than a trial before one's own neighbours?

For our purposes, however, the major focus of litigation before our Common Law Courts will be on Criminal Law and matters involving serious threats or crimes made against people and communities.

As in any lawful system, the burden of proof in any such litigation brought before the Common Law Court will be on the plaintiffs: those bringing the lawsuit. Normal Rules of Evidence will apply. For example, allegations against a party cannot be made in court without there being a basis for them in provable facts, such as eyewitnesses to the alleged crime, or primary documentation that is certified by an independent party. Another crucial Rule of Evidence is the inadmissibility of hearsay evidence, as in "No, I wasn't there, but I *heard* about what happened". This is an especially relevant rule when it comes to the commission of serious crimes, such as murder or rape: offenses which must be attested by firsthand witnesses.

In short, any allegation must be backed up with provable facts, and must be made by one who was a direct participant in or an eyewitness to the event.

For our purposes, it must be noted that in the case of especially monstrous, corporate crimes committed by governments or other powers in a time of war, such as genocide or human trafficking, normal rules of evidence are less stringently applied. This is because of a realistic understanding that crimes committed by entire societies or regimes are of a different nature than crimes by individuals. A different set of norms regarding intent and provable evidence applies.

In the words of the chief American prosecutor at the Nuremberg Trials in 1946, Robert Jackson,

"No regime that seeks the extermination of entire groups of people generally retains hard proof of this crime, but rather seeks to fog and dissimulate the evidence ... The proof of crimes against humanity ultimately lies not in documents but in the witness of survivors, in mass graves, *and in the implied proof of the intent to commit these crimes contained in the institutionalized attitudes, laws and daily norms of the murderous regime.*" (our emphasis)

*Implied intent* is a legal concept unique to litigation involving genocidal regimes, including governments and churches whose world view and laws consider other groups to be unworthy of life or equal rights which impose a different set of laws on a racially targeted group such as the Catholic "canon law" called *Crimen Sollicitationis*. Ascertaining the truth is always laborious, but ultimately the process is best guaranteed by a body of jurors rather than single adjudicators. Common law juries, and not individual judges, are invariably a far better guarantee against the abuse of Rules of Evidence and just procedure in a courtroom.

Self-governing judges are notoriously prone to corruption and political manipulation, and when appointed by the very governments accused of criminal acts, are obviously unsuited to the task of rendering a fair judgment. Judges routinely waive just procedure and rules of evidence, and are authorized to do so. In South Africa, BAR appointed judges even have the power to alter or destroy court records, silence one party in a dispute, and ignore due process altogether!

The whole point of establishing a jury-run Common Law Court is to prevent such a manipulation of the law and justice by unaccountable parties or vested interests. It is not accidental that a Founding Father of the American Republic, John Hancock, declared in 1777,

If we have not Courts that are established and maintained by the People, rather than by bribable Judges, then we will have no Republic ... Our Constitution and our Nation will rise or fall according to the independence of our Courts.

## **Establishing and Maintaining Common Law Courts**

The Common Law's First Principles establish its general legitimacy and lawfulness. This validity gives rise to Courts with the power to protect the people as a whole by prosecuting and indicting any people, acting as persons and institutions that threaten the community, including the people acting as government itself.

The mandate to establish such Courts is derived from the sovereignty of the people as a whole, and not from any particular political system or government. Common Law Courts are therefore universal, not constricted by customary borders or laws, and are jurisdictionally competent to adjudicate any issue or grievance. Common Law Courts are not subject to and do not recognize any other legal or moral authority, immunity or privilege, like those claimed by heads of churches and states.

Enjoying universal jurisdiction because of its rootedness in the Natural Law, Common Law Courts can be established in any country or community, and not only within nations with a specifically common law legal tradition, such as England, Canada, America and South Africa.

Common Law Courts are established when any number of men and women come together to judge a matter of concern to them and to their community. Thus, such Courts are invariably and naturally linked to political movements, "town hall gatherings" and Tribunals of Conscience that unite citizens and give direct voice to their concerns and demands. The Court is thereby the expression of that voice. Comment: Politics is a legal entity fiction, it should be community forums or similar. We cannot use the word 'citizen' (created by the corporation trust company in delaware 1913). It creates jurisdictional issues during this transition. I suggest it be amended to the following:

Thus, such Courts are invariably and naturally linked to community forums, "town hall gatherings" and Tribunals of Conscience that unite citizens and give direct voice to their concerns and demands. The Court is thereby the expression of that voice.

The Court itself is established by the direct will and vote of the people as a whole, who elect a Sovereign Jury of at least nine people, a Sovereign Prosecutor to assist the plaintiffs with their the case, a presiding Adjudicator whose job is strictly advisory, and a Sheriff and group of Peace Officers to enforce the summonses, warrants and verdicts of the Court.

All of the participants in a Common Law Court must present their own case in all of the Court proceedings, since to allow another to "re-present" them would constitute a surrender of their natural rights and sovereignty. This applies both to the plaintiffs and the defendants involved in any matter before the Court.

There are, accordingly, no professional lawyers or permanent presiding judges in a Common Law Court system.

There is no restriction on the power of Common Law Courts to summon or access any man or woman acting as or on behalf of a person, place or thing, nor any limitation on the duration or rights of the Court. Through the man or woman acting as or on behalf of a person of the Citizen Prosecutor, the Court can issue Public Summonses that are binding on any man or woman acting as or on behalf of a person or institution, and enforceable by the Court Sheriff, who has an unrestricted right to detain any man or woman acting as or on behalf of a person named in the Summons and bring them into Court.

The final verdict of the Common Law Court Jury is final and not subject to appeal. This is because a reasonable and un-coerced group of people can come to the truth of any matter on the basis of the evidence alone, possessed as they are of an inherent knowledge of right and wrong. The truth is not mutable. A defendant is

either innocent or guilty; the truth is not subject to revision or reconsideration, since then it is not true.

The sentence of the Court is also final, and is enforced not only by the Court Sheriff but by any man or woman acting as or on behalf of people. For the Common Law arises from and is the direct responsibility of all people, as are all of its procedures. The verdict really is a declaration of the people that they will govern themselves according to their own will, democratic laws and decisions.

There is no restriction on the power of a Sovereign Jury to impose a sentence on any people representing a group or institution. The Court Adjudicator has no power to alter, influence or direct the verdict or sentence of the Jury - simply to advise the Jury on legal procedure and points of law.

Finally, upon issuing its final verdict and sentence, the Common Law Court jury is automatically concluded and its members are released from their duty. No Court is maintained without the conscious consent and participation of the people themselves. Again, there is no professional, permanent caste of either lawyers or judges in a Common Law Court system, but rather elected and temporary Court officers.

## Lawful Procedure and Court Protocol

Common Law, being derived from Natural Justice, bases its legal procedures on the centrality of *Due Process*: the three-fold right of anyone to be notified of the charges being brought against him, to see the evidence in such a suit, and to be tried and judged before his own peers.

No legitimate trial can proceed nor can a conviction be rendered if the accused has not been given these rights, and afforded the chance to freely defend himself in a court of law.

Such rights are based on these fundamental doctrines of the Common Law:

1. It is presumed that the accused is innocent, not guilty;
2. The burden of proof of the accused's guilt rests not upon the defendant but the plaintiff, who must convince a jury of the guilt of the accused beyond any reasonable doubt, and
3. The accused cannot be detained without due process but must appear promptly before a Court, according to the principle of *Habeas Corpus* (Latin for "produce the body")

Both sides in a dispute are given equal time to file their statements and evidence, make motions to the Court, and respond to arguments. But to avoid "vexatious litigation" designed to simply harass or disrupt an adversary - which can drag out and impede justice and due process itself - the Court normally sets a strict time limit on



pre-trial proceedings, after which the trial must commence.

The pre-trial period is designed to allow both sides the opportunity to present their evidence and arguments to one another in order to seek a settlement prior to a Court appearance. This presentation is usually referred to as Examination for Discovery or Voir Dire (French for "to see and say"), where either party can demand any relevant evidence or document from one another.

If Examination does not produce a settlement of differences, then the Court is convened and a trial begins.

The general procedures and protocols of Common Law Courts are summarized in the following outline, which must be followed by anyone seeking to accuse and try other parties.

### **Step One - Compiling the Case**

A Statement of Claim must be produced by those bringing a case, known as the Plaintiffs. Their Statement sets out in point form the basic facts of the dispute, the wrong being alleged, and the relief or remedy being sought.

Next, the Plaintiff's Statement of Claim must be accompanied by supporting evidence: documents and testimonies proving their case beyond any reasonable doubt. This evidence must be notarized and duly sworn by those not party to the dispute, and must consist of the original documents themselves and not copies.

As well, anyone whose testimony is used in this body of evidence must be willing to come into Court to testify and affirm their own statement.

### **Step Two - Seeking the Remedy of a Common Law Court: Filing a Notice of Claim of Right**

After gathering his case, a Plaintiff must then seek the aid of a Common Law Court and its officers. Such a Court can be brought into being by publishing a Notice of Claim of Right (*see Appendix B, "Court Documents"*), which is a public declaration calling for the assistance of the community in the asserting of the Plaintiff's right under Natural Justice to have his case heard through the Common Law, by way of a jury of his neighbours and peers.

Such a Notice can be published in local newspapers or simply notarized and posted in a prominent public location, like a town hall or library.

### **Step Three - Forming a Common Law Court**

Within 24 hours of the issuing of such a Notice of Claim of Right, any nine people of a community can constitute themselves as a Common Law Court and its jury, and must then appoint the following Court Officers from their ranks:

- a *Court Adjudicator*, to advise and oversee the Court
  - a *Public or Citizen Prosecutor* to conduct the case; this person is normally the Plaintiff himself or someone he authorizes to advise but not represent him
  - a *Defense Counsel* to advise but not represent the accused
  - a *Court Sheriff*, either elected from the community or delegated from among existing peace officers
  - *Bailiffs, a Court Registrar and a Court Reporter*
- It is assumed that people with knowledge of the Common Law and common sense/legal procedure will act in these capacities.

#### **Step Four - Swearing in and Convening the Jury and Court Officers: Oaths of Office**

Upon the appointment of these Court Officers, the Adjudicator will formally convene the Court by taking and administering the following Oath of Common Law Court Office: *I (name) will faithfully perform my duties as an officer of this Common Law Court according to the principles of Natural Justice and Due Process, acting at all times with integrity, honesty and lawfulness. I recognize that if I fail to consistently abide by this Oath I can and will be removed from my Office. I make this public Oath freely, without coercion or ulterior motive, and without any mental reservation.*

The Jury, Court Counselors, Sheriffs and Reporter will then convene and receive instructions from the Adjudicator concerning the case. The Adjudicator is not a presiding Judge or Magistrate but an advisor to the Court, and has no power to influence, direct or halt the actions or the decisions of the Jury or other Court officers. Thus, the Court is self-regulating and dependent on the mutual respect and governance of all the Court officers and the Jury.

#### **Step Five - Pre-Trial Conference**

The Adjudicator brings together both parties in a pre-trial conference in an attempt to settle the case prior to a trial. If a settlement is not achieved, both parties must then engage in a mandatory Examination of Discovery, in which the evidence and counter-evidence and statements of both sides will be presented. After a period of not more than one week, this pre-trial conference will conclude and the trial will commence.

#### **Step Six - Issuing of Public Summonses**

Due to the times of war and stolen means, any agency may be lawfully summoned into a Common Law Court without first receiving a complete set of charges being brought against them and a formal

Notice to Appear, or Writ of Public Summons. Such a Summons outlines the exact time, date and address when and where the trial will commence, and states the issue to be tried.

The Public Summons is applied for by the Plaintiff through the Court Registrar. The Summons will be issued under the signature of the Court Adjudicator and delivered to the Defendant by the Court Sheriff within 24 hours of its filing in the Court Registry by the Plaintiff. The Sheriff must personally serve the Defendant, or post the Summons in a public place and record the posting if the Defendant avoids service.

The Defendant has seven days to appear in Court from the date of service.

### **Step Seven - The Trial Commences: Opening Arguments**

After an introduction by the Adjudicator, the trial commences with opening arguments by first the Plaintiff or Prosecutor, and then the Defendant. The Adjudicator and both Counselors, if advised, will then have the chance to question either party for clarification, and to make motions to the Court if it is apparent that the proceedings can be expedited.

**Note:** Step Seven can still occur even if one side, usually the Defendant, is not present in Court and refuses to participate. Such a trial, being conducted "in absentia", remains a legitimate legal procedure once the Defendant is given every opportunity to appear and respond to the charges and evidence against him. An *In absentia* trial will commence with the Plaintiff presenting his opening argument followed by his central case. The Court-appointed Defense Counsel will then be given the chance to argue on behalf of the absent Defendant, if that is the wish of the latter.

It is often the case that a non-response or non-appearance by the Defendant can result in the Adjudicator advising the Jury to declare a verdict in favour of the Plaintiff, on the grounds that the Defendant has tacitly agreed with the case against himself by not disputing the evidence or charges, and by making no attempt to defend his own good name in public.

### **Step Eight - The Main Proceedings**

Assuming the proceedings are not being conducted in absentia and the Defendant is present, the main proceedings of the trial then commence with the Plaintiff's presentation of the details of his evidence and argument against the Defendant, who can then respond. The Plaintiff may be assisted by the Citizen Prosecutor.

After his presentation, the Plaintiff is then cross-examined by the Defendant or his advising Counsel.

Following cross-examination, the Defendant presents his case, with or without his advising counselor, and in turn is cross-examined by the Plaintiff or the Citizen

Prosecutor.

### **Step Nine - Closing Summaries and Arguments to the Jury and final advice by the Adjudicator**

After the main proceedings, the Adjudicator has the chance to further question both parties in order to give final advice to the Jury. The Plaintiff and then the Defendant then have the right to give their closing summary and argument to the Court. The Adjudicator closes with any final comments to the Jury.

### **Step Ten - The Jury retires to deliberate**

The Court is held in recess while the nine citizen jury members retire to come to a verdict and a sentence, based on their appraisal of all the evidence. There is no time restriction on their deliberations, and during that time, they are not allowed contact with anyone save the Court Bailiff, who is their guard and escort. The Jury's verdict and sentence must be consensual, un-coerced, and unanimous.

### **Step Eleven - The Jury issues its unanimous verdict and sentence**

The Court is reconvened after the Jury has come to a unanimous verdict. If the jurors are not in complete unanimity concerning the verdict, the defendant is automatically declared to be innocent. The Jury spokesman, chosen from among them by a vote, announces the verdict to the Court, and based on that verdict, the final sentence is also declared by the Jury.

### **Step Twelve - The Court adjourns and the Sentence is Enforced**

Following the announcement of the Verdict and Sentence, the Adjudicator either frees the Defendant or affirms the decision of the Jury, and instructs the Sheriff to enforce that sentence. The Adjudicator then dismisses the Jury and formally concludes the trial proceedings, and the Court is concluded. The entire record of the Court proceedings is a public document, accessible to anyone, and can in no way be withheld, altered or compromised by the Adjudicator or any other party.

**A Note on Common Law Enforcement:** It is understood that every able bodied citizen is obligated and empowered by Natural Law to assist the Court Sheriff and his Deputies in enforcing the sentence of the Court. They will do so by ensuring the imprisonment of the guilty, monitoring his associates and aiding in the public seize of the assets and property of the guilty and his agents, if such is the sentence of the Court. This collective law enforcement is required in the interests of public safety, especially when the guilty party is an entire institution or the head officers of that body.

**A Note on Appealing Common Law Court Decisions:** Under the doctrine of Natural Law, in which every man and woman is born with an inherent grasp of right and wrong and of justice, it is understood that a jury of nine citizens, when given

the complete evidence and facts of a case, will arrive at a just and proper verdict. The truth of that verdict must stand and is not subject to re-evaluation or dispute, except in the case of a proven gross dereliction of duty or a non-consideration of certain key evidence. Therefore, the verdicts of Common Law Court juries are not subject to appeal or revision, since the truth is not mutable or reform-able.

This solidity of a verdict is also required by the Common Law doctrine and custom of *Stare Decisis*, meaning "the decision stands", whereby the precedent decisions of previous Court verdicts have binding authority. Without *Stare Decisis*, the law is subject to the whims and political interference of rulers and despots.

In the words of Black's Law Dictionary,

The doctrine of *stare decisis* states that legal decisions are binding and shall not be reversed. "The decision stands." That is, once a court has entered its judgment upon an issue, it shall not reverse itself. This is in fact the foundation of legality in the common law system, and is one of the principal differences between common and civil law.

### **Verdicts, Enforcement, and Convicting Rulers and Institutions**

Every legal system operates according to its own worldview and essential purpose. In the case of Civil or statute law, the contending interests of individuals waging war with one another in a courtroom define the process and aims of the Court. This system serves whoever has the money or influence to present the most convincing case, usually before a single magistrate who is part of a self-governing and unaccountable judicial clique.

The law, under this elite-derived system, is a private weapon to wield against another person or group over commercial interests, not an avenue of justice for all or of the common good.

In the Common Law, contrarily, the Court is defined not by contending individual interests, but by the needs of the community as a whole, and by justice as defined by those who have suffered from the lack of it. A bedrock of collective morality shapes how the Common Law operates, according to a simple issue: *Will this legal decision and precedent best serve the community as a whole, and those within it who are the most vulnerable or who have suffered or been victimized, or who may be?*

Men and women have a natural tendency to resolve their differences and mediate disputes among themselves, when un-coerced and left to themselves to apply their own natural sense of right and wrong. Despite this, the State has under threat of force violently conditioned people to automatically deny their own judgment and defer to external authorities whenever they are in dispute or they seek justice. And so a long "relearning of freedom" is needed for Common Law to become a functional part of human life once again.

Fortunately, we have found that the very act of publicly declaring and establishing

the supremacy of the People and their Common Law has sparked that process of relearning freedom in the hearts and minds of growing numbers of people. Sparked, but not secured. For the greatest impediment to the efficacy of Common Law courts lies in the fears and doubts that seize citizens when they are presented with the power to be the law, and not have the law done to them.

"Taking the law into your own hands", we have been taught, is a cardinal sin, when in reality, for citizens to judge legal matters for themselves is the highest civic virtue and the cornerstone of true democracy, according to the Athenian law maker Solon.

At the heart of that responsibility for the law is the capacity of citizens to judge a law suit for themselves as sworn jurors, and impose a verdict and sentence in such a suit. The jury system has always been the purest expression of the Common Law and its capacity to empower the people themselves to defend traditional liberties and ascertain the truth of a matter.

To render a fair and reasonable verdict, anyone simply needs to know all the facts and the evidence, and consider it all soberly, without threats, influence or coercion. The more people who gather to determine the truth of a matter, the more likely they will come to a just and truthful verdict. Individual bias or prejudice, which is always present and undeniable within a jury, becomes through the jury process counterbalanced and absorbed into a broader collective truth imposed by the natural reason and fairness among jury members.

In theory, then, the enforcement of Common Law Court verdicts by any citizen is not only perfectly legitimate and lawful, but is guaranteed even under the laws of countries dominated by Civil, statute law. But power, as we know, is not only about laws and theory, but ultimately involves naked force: the capacity of one group to impose its will upon another.

Hugh Grotius, a sixteenth century pioneer of international law, said that legal principles acquired power only when backed by cannon fire. So besides its legal and moral weight, what "cannons" will back up and enforce the verdicts of our Common Law courts? Especially when the fire power of those we are sentencing and arresting is apparently so much greater than ours?

Another great pioneer, the Chinese general Sun Tzu, wrote millennia ago that in any conflict, power is never what you have materially but rather psychologically; and the superior firepower of a much bigger enemy can always be negated with the right, unforeseen manoeuvres. (*We've reprinted forty of Sun Tzu's most relevant teachings in Appendix C*).

And so the short answer to the question, how do we enforce our verdicts in the face of the power of the enemy, is simply, we do as Sun Tzu teaches, and strike at the weakest, not the strongest, part of that enemy.

The point of any Common Law Court verdict, after all, is not to target or imprison

mere individuals, but to stop any threat to the helpless and to the community: to *arrest* such threats so they do not reoccur, primarily by ending the institutional source of those threats. And our chief means to do so is the moral weight of our evidence and verdicts combined with the capacity of many people to enforce those verdicts.



## Common Law Sheriffs and Peace Officers

That brings us to a key aspect of the Court: its police arm, without which it cannot function.

The tradition of Common Law sheriffs is an old one in the English speaking world: men or women appointed from the local community to detain those harming others, bring them into town or "shire" courts for judgement, and enforce that court's sentence. In the United States, that tradition is still alive and embodied in locally elected sheriffs who are granted considerable power within their communities.

The role of the Common Law Court Sheriff is fourfold: to provide security for the Court, to deliver Court Summonses and Orders to Appear, to detain and physically deliver to Court those summoned who evade a Court Order, and finally, to enforce the final sentence of the Court, including by jailing and monitoring the guilty.

The Sheriff does not perform these duties alone, but with deputies and other agents he appoints to assist him. Such a "posse" is another pejorative term that actually refers to an important traditional custom of mobilizing all the able bodied men in a community to stop anyone who has committed a crime. The word "posse" comes from a Latin term "*pro toto posse suo*" meaning "to do the utmost in one's power". According to one writer,

All persons who were the victims of a crime in Anglo-Saxon England were expected to raise their "hue and cry" and apprehend the criminal; and upon hearing their cry, every able-bodied man in the community was expected to do the "utmost in his power" (*pro toto posse suo*) to chase and apprehend the accused as a "posse". - 1215: The Year of Magna Carta by J. Danziger et al (2003)

The custom of electing community peace officers like sheriffs, in other words, arose from the belief that everyone in a community had the obligation to police and protect themselves and their children. The Court Sheriff is thereby the servant of the people, taken from among them, answerable to and recallable by them, and not an external force over them.

Part of the power of such a Sheriff is that he can deputize anyone to assist him, *including other police officers and agents of the very institutions being named and tried in Common Law courts.* **This is an especially important action and tactic during this, the early stages of the development of our local Common Law courts, since it uses the very strength of the system we are opposing against itself.**

To give an example, if a Common Law Court Summons or Arrest Warrant is to be delivered against a church or government official, the Court Sheriff will first deliver a copy of it to the local, existing police agency along with a Deputizing Notice placing those police under the jurisdiction of the Common Law. (See *Court Documents, Appendix B*). As such, the police are then obligated to assist the Sheriff and must take the same Oath of Common Law Office as the Sheriff.

If those issued such a Notice deny or dispute it or refuse to take the Oath, they are then ordered to stand down from their position and to not interfere with the Sheriff in his duties. If they agree with the Notice, either directly or through their silence or non-interference, such police agencies are tacitly abiding by the Common Law action, and the normal protection around criminals in high office is suddenly nullified.

Such an encounter is in effect an enormous tug of war between two contending legal systems: a battle of wills, played out in full public view as an enormous "teaching moment".

This is the bigger and crucial point of that particular confrontation between Court Sheriffs and Civil law policemen, which must always be visible and televised to the world as it occurs: that it is a chance for the people to learn directly that those policemen and soldiers who provide the muscle for the system are not exempt from the authority of Common Law, and must ultimately make a choice concerning who and what they serve. The moral and propaganda value of publicly posing such a question is inestimable.

Again, quoting Sun Tzu, to defeat an enemy one must know them; and such knowledge can only be gained through constant contact. *"Provoke them to learn their responses. Prick them to test their strength and weakness. Do not outfight them but outthink them."*

Common Law peace officers return power to the people by making them their own police authorities. In so doing, they challenge the very basis of the status quo and its elite-based rule, by undermining those unaccountable "armed bodies of men" who constitute the final and ultimate power of the State.

The Common Law, in short, is a seed of fundamental social and political transformation, not simply a weapon for the oppressed.

## **On Citizens' Arrests**

The right and necessity of citizens to detain suspected or actual criminals has long been recognized under both civil and common law.

Under the same common law custom of *pro toto posse suo* (see above) that empowers any group of adults to unite and stop those causing harm, the right of Citizens' Arrest is not restricted or negated by a higher authority because of the recognition that any man or woman has the competence and obligation to see and

directly halt wrongdoing in their community.

The procedure for performing a Citizens' Arrest is as follows:

1. One must first either witness a crime, or recognize a suspected criminal or known offender, or even have a reasonable suspicion that such persons pose a danger to others. Such a suspicion must be based on probable cause and not simply a "feeling" or prejudice about someone.
2. One must then inform the suspect or offender that he or she is being placed under Citizens' Arrest under the right of Necessity to Defend, which obligates the arrester to detain the suspect or offender. The arrester must state who they are and why they are exercising the power of arrest by stating the cause of action.
3. The offender or suspect must then be detained and held for trial in a common law court, if they turn out to have committed a crime or pose a danger to others. The amount of force used in the arrest must be a reasonable response to the suspect's behaviour.

Citizens can normally hand over those they have detained to an authorized Common Law peace officer or a Sheriff of the court. The arresters must be willing to appear in court and give sworn testimony concerning their actions.

The crucial importance of the power of Citizens' Arrest is that it trains and empowers citizens to take responsibility for policing their communities and for the law itself. It moves democracy from theory to action.

***Important – any suspect that cooperates with Indigenous Decentralisation agencies is granted amnesty and citizen salary.***

### **Broader Consequences of the Common Law Court: A World made New**

**Our first real step towards independence from Rome and England was the establishment of our own Republican courts, right under the nose of the Brits. We set up a different legal system of our traditional Brehon laws, even while under military occupation. And we had to defend that system in arms. So you can say that once we started living under our own laws, everything else had to follow, right up to becoming a new nation.**

- Joe MacInnes, Republican veteran of the Irish Civil War (1974 interview)

*For what you call the Law is but a club of the rich over the lowest of men, sanctifying the conquest of the earth by a few and making their theft the way of things. But over and above these pitiful statutes of yours that enclose the common land and reduce us to poverty to make you fat stands the Law of Creation, which renders judgement on rich and poor alike, making them one. For freedom is the man who will thus turn the world upside down, therefore no wonder he has enemies - Gerrard Winstanley, The True Levellers' Standard, Surrey, England, 1649*

For the people themselves to sit in judgment of historically "untouchable" rulers like popes and heads of state, and to render an enforceable verdict on their crimes, is a revolutionary act. And such a revolution has begun, with the February 25, 2013

verdict of the International Common Law Court of Justice.

We cannot shrink from or deny the profound consequences of taking such a necessary historic step. Rather, we must recognize that the new judicial system in our hands is in fact a doorway to a transformed world, in which the land and its wealth and society as a whole is reclaimed by all people, and brought into harmony with Natural Justice through a great social levelling.

Many traditions and prophecies foresee such a time as now as a judgement upon the corruption and injustice of the past. Biblically, such a moment was known as the Jubilee, when all human laws and divisions are abolished, and society, like nature during a fallow year, is allowed to rest from warfare, corruption and injustice.

In truth, we recognize this historic moment not ultimately as a condemnation of what has been but a transformation into what is coming to be: a reinventing of humanity according to the simple principle that no law or authority shall ever again cause anyone to rule, harm or dominate others.

The aim of Common Law is to re-establish direct relations of mutual aid among people by placing justice and the law within their reach again. And that devolution of power will simultaneously disestablish all hierarchical institutions of state, business and church which control and mediate human life as a power over people.

A process so profound and revolutionary can only be enacted from the grassroots, by many people who have relearned freedom and use it to take action in their own communities to govern themselves as their own judge, jury and police. On the basis of this good renewed soil, a great harvest will one day arise in the form of new and local Republics of Equals, in harmony with itself and all creation. The Common Law is a catalyst and a means towards achieving this political and spiritual end.

For now, as we struggle to give birth to the Courts that are like a great plough breaking open the dead soil of the status quo, we must never forget that much of what we have been taught will betray us, for we have been raised as slaves to think and operate under laws that serve the few. Everything must be rethought and retried according to the two great Principles of Natural Law: *All things are placed in common for the good of all*; and therefore, *The law shall cause harm to no-one*.

Our principles are firm, but our methods and tactics are supple. We must audaciously try ever new ways to expose, indict and stop the criminal institutions and corporations that are killing our planet, our children and our sacred liberties. And together, we must learn from every mistake and defeat, and generalize the victories and wisdom we gain into clear precedent, throughout this long redemptive struggle that will span many lifetimes.

The conscience born into us is our lamp during this journey, as is our great heritage of Natural Law and Reason, passed down to us so that a free and independent humanity may never perish from the earth.

The Law is the public conscience. And the Common Law is but common reason. Sir Edward Coke, 1622

.....

## Appendix

### A. Sources and Resources

Bouvier's Law Dictionary, by John Bouvier, (1856) Legal Maxims, by Broom and Bouvier, (1856) A Dictionary of Law, by William C. Anderson, (1893) Black's Law Dictionary, by Henry Campell Black, (3rd, 4th, 5th, and 6th Editions, 1933-1990) Maxims of Law, by Charles A. Weisman, (1990)

See also O. W. Holmes, *The Common Law* (1881; new ed., ed. by M. DeWolfe Howe, 1963, repr. 1968); T. F. Plucknett, *Concise History of the Common Law* (5th ed. 1956); H. Potter, *Historical Introduction to English Law and Its Institutions* (4th ed. 1958); A. R. Hogue, *Origins of the Common Law* (1966); R. C. van Caenegem, *The Birth of the English Common Law* (1973); J. H. Baker, *The Legal Profession and the Common Law* (1986); R. L. Abel and P. S. C. Lewis, ed., *The Common Law World* (1988).

## B. Examples of Common Law Court Documents

1. **Notice of Claim of Right** - To be publicly issued in order to convene a local Common Law Court

### PUBLIC NOTICE OF CLAIM OF RIGHT

Issued by \_\_\_\_\_ on \_\_\_\_\_  
in the community of \_\_\_\_\_.

I, \_\_\_\_\_, give public notice of my personal claim of right and of lawful excuse to convene and establish a common law court under my liberty as a flesh and blood man or woman; and I do hereby call upon the support of all competent men and women to assist me in this lawful right.

I further give public notice of my personal claim of right and of lawful excuse to convene and establish as part of such a court a jury of my peers, consisting of nine men or women, to judge a matter affecting the wellbeing, rights and safety of myself and my community, that matter being the following:

*(Description of issue, statement of claim and parties named)*

I further give public notice that the said jury of my peers claims the jurisdictional competence to judge this matter and issue a sentence and verdict within the said common law court established to render such a judgement, based upon proven and irrefutable evidence presented within its court.

I hereby publicly call upon and request the support of my community to establish this common law court and its jury of nine men or women, to be sworn to act in such a capacity for the duration of the court proceedings, according to Natural Law and the rules of evidence and due process.

I make this public claim of right freely, without coercion or ulterior motive, in the interest of justice and the public welfare.

\_\_\_\_\_  
Claimant

\_\_\_\_\_  
(witness)

\_\_\_\_\_  
Date

**2. Deputizing Notice issued by Court Sheriffs to other peace officers**

**NOTICE AND WARRANT TO DEPUTIZE  
ISSUED UNDER THE AUTHORITY OF THE SHERIFF'S OFFICE OF THE COMMON  
LAW COURT OF JUSTICE  
AND THE JURISDICTION OF NATURAL LAW AND THE LAW OF NATIONS**

To all Peace Officers and Law or Statute Enforcement Officials:

This Public Notice is issued to you as a lawful warrant by the Common Law Court of Justice, placing you under the jurisdiction of the Court and Natural Justice, and deputizing you as its officers.

Upon your taking the appended Oath of Common Law Court Office (*below*), you are empowered to act as the lawful agents and protectors of the Court and its proceedings, and to serve and enforce its writs, warrants, summonses and court orders on any and all persons and corporations named by the Court.

If you choose not to take this Oath of Office, you are compelled and ordered by the Court and by Natural Law to refrain from interfering with the actions of other Officers so deputized and empowered to act for the Court.

If you resist, disrupt or impede the actions of the Court or its Officers you can and will be charged with criminal assault and obstruction of justice.

Issued on \_\_\_\_\_ in the Community of \_\_\_\_\_  
by the following Legal Agent or Sworn Peace Officer or Sheriff of the Common Law Court of Justice:

\_\_\_\_\_  
(autographed)

## Oath of Common Law Court Office

**To be issued to any sworn agent of the Court or to all persons or law enforcement officers deputized by the Court or its Sheriffs**

I, \_\_\_\_\_,

being of sound mind and clear conscience, do hereby swear that I will faithfully and justly execute the office of an agent of the Common Law Court of Justice according to the best of my abilities.

I understand that if I fail in my duties or betray the trust and responsibilities of my office I will forfeit my right to this position and can be dismissed.

I take this solemn oath freely, without coercion, reservation or ulterior motive, according to my conscience as a free man or woman, and as a citizen under the authority and jurisdiction of the Common Law.

\_\_\_\_\_  
Autographed

\_\_\_\_\_  
Date  
Brother Thomas

.....  
There is but one law for all, namely that law which governs all law, the Law of our Creator, the law of humanity, justice and equity. That is the law of Nature and of Nations. Edmund Burke, 1780

.....