

## Part Two of the British System

The first step in building any case which has a chance of winning is to analyze the problem. A common pattern for doing this is to recognize a problem that needs answering; analyze the problem by first stating it; reach a satisfactory judgment; and then defend our judgment. In preparing our case, our legal research will be determined entirely by the facts of the case for, without facts, the law is meaningless. In marshalling our facts we need to keep a few guiding principles in mind so we aren't led astray: we must discount preconceptions; postpone judgements; and we must observe for a purpose, know why we are observing and stick to relevant facts about the case. The answers must be based on evidence, premises and inferences.

### The Common Law

Let's explore the Common Law in depth; and, its embodiment in our Constitution. Probably one of the best ways of explaining what this Common Law is, is to explain what it is not -- to compare it to its antithesis. There are, fundamentally, two competing systems of man-made law in the world that are in constant ideological conflict against each other. One is the Common Law and the other is the Civil Law, or Roman Civil Law. For example, the Magna Carta (1215) used the antithesis method. Most articles are statements of normal practise in Roman law -- with a "thou shalt not" added.

A brief study of the philosophic background is presented in order to grasp the significance of the differences in the two systems. A tri-unity of God (or, Supreme Being) concepts, composed of:

1. God Is [the God out there],
2. God Within [God indwelling each individual], and,
3. Within God [the person being a part of God, a cell in the body of God, etc],

are the basic building blocks of religious understanding, the basic elements of man's religions and religious institutions. A balanced tri-unity, regardless of concept quality, would make for a harmonious religious and social structure. [Some of the North American Indian tribes achieved such a reasonably balanced plateau in their culture]. However, some socially dominating cultures, such as Judaism, are dominated by # 1, and a bit of # 3. Buddhism calls mostly on # 3 with some #2. Consider where one would place Communism, Oligarchic dominance, American republicanism, the Renaissance?

One can find these concepts ruling ancient civilizations, and extending into the very roots of our current concepts of statehood. The ancient Greek city states developed in two, and opposing directions because their philosophic thought gave some the "God is" concept in isolation to the other two concepts, while the other took the "God within" as their sole concept. One was Oligarchic, the other was Republican. Aristotle was a spokesman of the first, Plato, of the second. The first leads to the final conclusion that man is an evolved animal; and, as such, must be controlled by a (divinely?) appointed chosen few. This thread of belief structure comes down to our current era.

One of the strongest of such belief structures resides within the current humanist mind-set -- the Universe is [supposedly] deteriorating and returning to basic elements, -- so too would man revert to lower forms of animalism, if left on his own, without divinely appointed leaders, the oligarchs, the captain of the ship. The cult of Mother Earth [Environmentalism] falls into this school of thought.

The Republican "God within" society believes in the worth and responsible nature of the individual. In a true Republic, representatives are appointed and given responsibility for the public good as "servants". Democracy is an oligarchic mechanism to appease those people who by nature really are Republican. A Democracy allows the people to choose their "leaders", their slave-masters. The

Oligarchs manipulate the economic and social structures so as to create a turmoil to keep their subjects constantly striving for the basic human institutions: self-maintenance, self-perpetuation and self-gratification; and, never allow these to reach a point where Republican thought, creativity and altruism, may become established.

So, with this background, you might better understand the difference between the oligarchic Maritime Law and the Republican enhancing Saxon Common Law. The oligarchic entrepreneur's overthrow of ancient Israel's republican form of government is recorded in 1 Samuel, Chapter 8 [some worthwhile reading].

To consider the value of the "God within" concept to society, study the effect of the results of the Council of Florence [1439] called by the Pope of the Roman Church of that time, at which the Doctrine of "The Filioque" [Christ indwelling] was established (Actually, it was a revival of the teachings of St. Augustine and Philo of Alexandria).

The anti-Philo intrigues surrounding the Nicene Council and its resulting Nicene Creed is a study in itself regarding the imposition of oligarchy and its accompanying Roman dictators type of rule over the Church. Even though it was not accepted by the Eastern [Byzantine] Rite and the Jesuits, it resulted in the Renaissance, the Age of Reason, great artistic expression, and the republican movements in Europe and America.

#### **J. Reuben Clark, a former US Under-Secretary of State and Ambassador to Mexico,**

succinctly stated the principles and applications of these two systems of law when he wrote: "Briefly, and stated in general terms, the basic concept of these two systems was as opposite as the poles. In the Civil Law, the source of all law is the personal ruler, whether, king, or emperor; he is sovereign. In the Common Law, certainly as developed in America, the source of all law is the people. They, as a whole, are sovereign. During the centuries, these two systems have had an almost deadly rivalry for the control of society, the Civil Law and its fundamental concepts being the instrument through which ambitious men of genius and selfishness have set up and maintained despotisms: the Common Law, with its basic principles, being the instrument through which men of equal genius, but with love of mankind burning in their souls, have established and preserved liberty and free institutions. The Constitution of the United States embodies the loftiest concepts yet framed of this exalted concept."

"Thus, our heritage of freedom is a direct and proximate result of the Common Law, deriving its authority solely from usages and customs of immemorial antiquity. The Common Law is the legal embodiment of practical common sense, and, its guiding star has always been the rule of right and wrong -- the Golden Rule.

The Common Law, as embodied in the US Constitution, for the protection and security of persons and property, is Substantive Common Law -- [substantive right: a right {as of life, liberty, property, or reputation} held to exist for its own sake and to constitute part of the normal legal order of society] -- the intention of the Founding Fathers being the assurance of access to this law by the people.

Evidence will be further presented to show how other parts of the US Constitution dealing with the totally different jurisdictions of Admiralty and Maritime Law, have been used to subvert the people into, or under this jurisdiction, and bar access to the substantive Common Law.

The basic element of the substantive Common Law is you [the individual natural person]. In this jurisdiction, you are the sovereign and the captain of your own ship. The restoration of that exalted concept, and access to the law by which men have established liberty and free institutions -- is the object of this brief. cmlaw2.htm