

"CORPUS JURIS"

AND THE THREAT TO BRITISH COMMON LAW RIGHTS

THE EU WILL NOW GET POWERS TO ARREST AND DETAIN BRITISH CITIZENS ON BRITISH SOIL, UNDER THEIR INQUISITORIAL SYSTEM OF LAWS

TAMPERE, FINLAND, 15-16th October 1999

Many people see Britain as being the home of FREEDOM as we created our unique system of parliamentary democracy backed by our COMMON LAW. The latter has been adopted, in various forms, by the other English speaking nations, notably the USA, Australia, New Zealand, Canada, Ireland and Malta. Our legal system is unique in that it embodies our concept of the individual's freedom (Power of the People as embodied in our Common Law) and makes our laws quite different to those of our friends in Continental Europe. These ancient rights are now under imminent threat from Brussels under a proposal known as 'Corpus Juris' ("CJ").

-

How our law differs from that of Continental Europe

1. Our Common Law, as far back as 1215 with Magna Carta, states that a citizen can only be judged by his peers (Section 39). These rights protect the individual against arbitrary conviction and imprisonment. Our Common Law recognises several vital rights to the citizen:
 - The right of *Habeas Corpus* (that the accused must be taken to a public court within a very short period of time, usually 24 hours, and the accusers must produce their evidence then and there)
 - The right to Trial by Jury at which jurors can in fact even disregard the law if they think it would give an unjust conviction. The jurors are thus 'sovereign'
 - If found innocent, the accused cannot be tried again on the same charge ('double jeopardy')
 - **In other words our process is 1) suspicion, 2) investigation, 3) arrest, 4) charge**
1. Under the Continental system, known as the Inquisitorial System (often loosely referred to as the Napoleonic system) things are quite different:
 - **In Europe the sequence of events is 1) suspicion, 2) arrest, 3) investigation and 4) charge.** In other words the citizen can be arrested and imprisoned without anyone having to produce any evidence against him. There is therefore:
 - No *Habeas Corpus* so one can be imprisoned for very long periods (weeks, months, occasionally years) without any evidence being produced against you
 - No right to Trial by Jury as their system involves judgements being made by a career judiciary who are the judges and prosecutors and who are, to all intents and purposes, 'colleagues' (a quite separate body of lawyers makes the defence and are often treated as inferiors)
 - In most instances the accused can be tried a second time for the same offence, since the prosecution has the right of appeal against acquittal.

-

What is Corpus Juris?

In April 1997 a seminar was held in San Sebastian, Spain, to discuss a proposal for the 'Criminal protection of the financial interests of the European Union' (CJ) under the auspices of the Directorate General XX of the European Commission. Subsequently there have been numerous attempts at denying that the European Commission has been involved in these proposals and that the meeting was just a non related discussion group. *"The objectives of the seminar were twofold: to seek to call the attention of jurists in general to the need for effective protection of the Community budget, particularly in connection with fraud against subsidies: and to make known the contents of the CJ for protection of these financial interests, **which has been conceived as the embryo of a future European Criminal Code**"*

The proposals aim to:

- Introduce a single legal area with the European union
- Introduce a **European Public Prosecutor** ("EPP") with national public prosecutors being "under a duty to assist" him or her (Article 18.5)
- There will be a "**Judge of Freedoms**" whose function is ostensibly to protect the citizen's rights, which however do not include the right to demand that evidence be produced. This means, of course, that an enforceable arrest warrants can be granted without there actually being any evidence at all, since there is no right to verify it at that stage.
- A **European Warrant** of arrest shall be issued by a national judge on "instructions" of the EPP, and any police force in any member State can be required to enforce it.
- A suspect can be imprisoned without charge for 6 months, renewable for a further 3 months without any limit to the number of renewals
- The 'trial' shall be heard by professional judges, specifically without "simple jurors" or "even lay magistrates" (a clear and specific reference to the British trial system where the crucial decisions are taken by ordinary people)
- An accused can be retried on the same charge if found innocent (i.e. the prosecution can appeal against an acquittal)

-

How can it be imposed on Britain?

- Speaking for the government in Parliament Kate Hoey stated that CJ proposals would infringe on civil liberties and could not be introduced into Britain as the government would veto any such move.
- The House of Lords is the only public body in Britain to have reviewed CJ in detail (HofL 9th and 19th Reports, 1998/99 session). Some of the findings were:
 1. They interviewed two EU representatives who stated that CJ could, and will, be introduced under Article 280 of the Amsterdam Treaty (pages 84 and 85, 9th Report). Article 280 provides for Qualified Majority Voting so Britain will have no veto.
 2. Advice from the Law Societies of both England and Scotland stated that CJ was unacceptable
 3. In the second HofL report on page 73 Jack Straw, Home Secretary, stated that he was unaware of any proposals for the introduction of Justice & Home Affairs measures by Qualified Majority Voting - presumably he never read the earlier report !!!

-

When may CJ be introduced?

- Basically at any time now that the new European Commission has been established.
- In March the European Parliament "welcomed CJ" in principle with support from all Britain's MEPs bar two Labour MEPs. Subsequently the Conservative MEPs claimed that they had voted the wrong way by mistake! Presumably the Labour and LibDem MEPs meant to support the CJ proposals, although Blair has not yet been asked why his MEPs all flouted his government's stated policy which is to reject

CJ. One of the motions approved stated that CJ could be applied to 'serious crimes', undefined of course, opening the door to CJ being applied to areas outside EU fraud.

- On 11th September the Wise Men, who had previously revealed fraud in the European Commission, recommended that CJ be introduced in a three step programme – clearly designed to sugar the pill so that the British will swallow it:
 1. Step 1: should just apply to the European Commission and its employees
 2. Step 2: establish a Prosecutor's office in each member state to work with the national police & courts
 3. Step 3: link the central and peripheral offices and establish a European Prosecutor's office after holding an Intergovernmental Conference which would clearly be to ratify the introduction of CJ
- The next European Council of Heads of State & Government takes place in Finland on 15/16 October 1999. On the agenda is the creation of a "single judicial space" – i.e. all of the above.

-

Can CJ be stopped?

On the face of it – probably not. CJ can be brought in regardless of whether we adopt the Euro or not

A compromise proposal appears to be on the table from Britain which would introduce the concept of 'mutual recognition' of every EU country's legal decisions by criminal courts. This proposal would remove our *Habeas Corpus* safeguards and we would accept that a judge in another EU country could order the arrest of a UK citizen on UK soil under their laws, without having to produce any evidence (in fact this situation already exists in the case of extradition within the EU) or any formality whatsoever (it is still possible to produce arguments to resist extradition requests. This last possibility will be eliminated)

CJ is coming whatever our government may say. It looks likely that it will be introduced in the time-honoured EU fashion - by stealth. Initially it may well look innocuous, indeed even desirable. After all, who is going to stand up and say that fraud with the European Commission itself should not be tackled? Once the principal has been accepted then it will be much easier for them to apply it as an overall EU Code of Criminal Law.

If CJ is imposed and Britain refuses to accept then the issue will go before the European Court of Justice which surely will uphold the majority decision to introduce it under Article 280 of the Amsterdam Treaty.

-

What can be done about this?

As with so many dictats from Brussels CJ is following a well worn path: a secretive start to the proposal, then disclosure by a whistle blower, then government and often EU denials ("it is only a discussion paper" – "nothing to worry about" – "we can stop it anyway"), followed by its introduction into legislation by stealth; and then, when the full horror is revealed, a shrug of the shoulders ("well, it is too late now to do anything")

So what can be done?

- Write to the press, nationally (especially the *Sun*) and local newspapers
- Complain to your MP and MEP, and demand that they state their position on CJ
- Speak to local lawyers
- Keep up-to-date by following CJ developments in the press (so far *Daily Telegraph* and *Private Eye*) and, if you have Internet access sites such as www.ukdemocracy.co.uk. Contact the Freedom Association (0171-928-9925) and your local Democracy Movement and UK Independence Party Branch, one of whom may know about CJ
- On the internet follow CJ developments on EuroFAQ (europaq@onelist.com)

- Write to friends and relatives in the USA and Commonwealth, tell them to alert their Congressmen etc