

The Sovereign Basis of Common Law Courts

The Commons of England assembled in Parliament declare that the People under God are the origin of all just power and have the supreme authority of the nation. Whatsoever is enacted and declared law by the Commons alone has the force of law, and all the people are included thereby, with or without the consent of the king. - An Act to Establish the High Court of Justice, House Of Commons, London, January 4th, 1649

Where does your authority come from? That challenge confronts anyone standing under the common law and its courts. But in truth, no such court can lawfully operate without a legitimating power behind it: namely, a constitutional Assembly of the people that authorises common law courts. Those assemblies may be local or national, but they must establish a sovereign jurisdiction within which the courts can operate.

Such an Assembly in England, known as the Commons or Parliament, created the High Court of Justice that lawfully deposed and executed King Charles I in 1649 as a tyrant and war criminal. For ultimately all legal power derives from a Constitution established by free women and men gathered as equal sovereigns under God and the natural law. If our courts do not have such a sanction they are merely a private weapon in the hands of a few, and thereby they mimic the autocracy of de-facto rulers.

That is, no common law court that we establish can operate without a sovereign Assembly and Constitution behind it. In Canada, England and other “crown lands” that new Constitutional Assembly has to be created; in republics like America they must be reclaimed and re-established. But in any event, the struggle to create common law courts cannot be separated from the wider political campaign to create such sovereign Republics, which alone can sanction and legitimate these courts.

The fact that our effort to create common law courts is beginning locally and among small groups of people is not impeded by this need for an overarching political authority behind the courts. For any number of citizens can and must first gather in local assemblies to covenant themselves into a new power that can establish common law courts. The will to convene together precedes the court and grants it a popular jurisdiction and authority that no power can undo.

In the words of John Cooke, the prosecutor of Charles Stuart in 1649, The people sit in judgement of all rulers, yea even kings, for only in the people has God granted the authority to make laws and enact them. From such a mandate do we sit today as a High Court and jury, as an expression of the free will of the Commons in Parliament.

Source: The Tyrannicide Brief by Geoffrey Robertson (2005) and The Basis for the Republic of Kanata and of England: The History and Lawfulness of the Abolition of the "Crown" - A Brief Survey of Constitutional and Legal Precedents (www.itccs.org , 2016)