Why Equity Law is Evil

By Anna Von Reitz

I have been asked, "Why do I attack British Equity Law so vehemently?"

Here's the short answer--- It's not British and it's not Equity and it's not Law.

In the 1750's a great hue and cry began in England because of the arbitrary and unjust effects of imposing outdated written "one-size fits all" laws without consideration of mitigating circumstances.

For example, the sentence for murder is death.

But what about unintentional, accidental murder? What we now call "manslaughter"? And what about murder committed by children by accident? Or by the mentally incompetent, who couldn't possibly know what they were doing? How about murder in self-defense? The young woman being choked by a would-be rapist and thief, who finds a loaded gun and fires? Or crimes of passion? The betrayed husband who finds his wife in the arms of another man and snaps?

There was a good deal of well-founded discontent with the hoary and Draconian Common Law of England, which had ceased to be determined on a case by case basis as intended, and devolved--- especially in large cities, to a reliance on sentences established by the "case law". This over-reliance on the pure written law of record in similar cases (and who is to say what is "similar"?) and the gradual replacement of true jury trial by one's peers to judgment by rule and by whatever jury was summoned (quite often not actual peers of the accused) led to massive controversy about the true nature of justice and the ability of the Common Law to provide it.

Not, I think, coincidental to the times, the BBC is advertising a series called, "Garrow's Law" which is supposedly based on actual cases tried by William Garrow, a young Barrister who stood on the forefront of this entire movement to bring a more considered and considerate justice into the courts, and the development of a system of law that could see beyond the black and white words on a page clearly stating things like, "the sentence for murder is death by hanging...." (no matter what).

Sounds wonderful, doesn't it? A better law.....a more just law....a more considerate law....a more fair law.....

But, unfortunately, just as the pendulum moved in the 1750's to create the shades of grey we all now know and agree to be just, such as the provisions for manslaughter and juvenile court, the same forward and redeeming motion carried too far in the other direction, muddying the virtuous and sure, if

sometimes dreadful and Puritanical English Common Law with international Admiralty Law, to create British Equity Law.

The primary proponent of this "mocking marriage" of English Common Law with Admiralty Law was Lord Mansfield, a former Scottish Admiralty Attorney who rose to favor and crafted the basis of British Equity Law in the years immediately before the American Revolution.

The problem with British Equity Law is that is allows the judge to sit in place of the King, which displaces the traditional place and power of the Jury of One's Peers.

Suddenly, a Barrister is King.... He can use "his discretion" to inflict the harshest sentence available under the written law, or he can soften the sentence as he sees fit, or dismiss the case entirely. Just like the King of England might.

Of course, this power is entirely seductive to the members of the Bar Association, and, as it turns out, seductive for the King as well: his minions can use their discretion to benefit him and his friends and the ruling class in general, and if by chance they go too far in their toady behavior, he, the King, can emerge as the savior from these abuses, his hands immaculately clean.

So the idealists who sought to create a more perfect justice than the English Common Law provided, wound up creating something that was more varied, more precise, more mutable---more "sophisticated" in the bad sense of that word, but also far more prone to manipulation, abuse, and the currying of favor.

Also, it must be said, that this new Equity Law totally violated another safeguard provided to individual people by the honestly executed Common Law--- judgment by one's own peers.

England then as now is a culture dominated by culture. A man does not have to speak to be known in England. Who and what he is, his education, his social station is worn like an armband or -- famously--- a "funny hat". So the tradition of trial by jury of one's peers is a literal reflection of the fact that different strata of society have different standards, different knowledge, and different values.

What is justice to a chimney sweep or a fisherman is not necessarily the same as the justice of a lord---- or, and this is my point entirely---- a barrister.

What one man regards are gross impropriety is commonplace to another. So those of the same social class and profession and nation are unavoidably the "peers" that can most rightly judge the actions of another of their brethren.

And, ultimately, this tradition of judgment by peers also yields the most accurate judges of the law itself, by testing a law against all social strata, all professions, all religions, all races---- to judge if it is truly fair and right in all their many eyes.

When a jury of one's true peers is replaced by a judge, the power and purpose of jury nullification is also lost. The Common Law of England and the Common Law of America both provide(d) for the additional safeguard of jury nullification. Quite aside from judging the particulars of an individual case, true common law juries can judge the law itself, and if they find it unfair, unreasonable, or unjust--- they can throw it out.

The legislature does not rule the people it serves, so long as the people have access to the power of jury nullification.

This safeguard of the Common Law prevents oppressive, insane, arbitrary, or unfair laws from standing on the books and plaguing entire generations of people.

So from the standpoint of preventing abuse of power by judges exercising their "personal discretion" for personal or social gain, and from the standpoint of ensuring that people are judged by their peers and not by someone alien to the realities of their lives, and from the standpoint of truly refining the law itself--- the Common Law stands superior in every respect, despite the occasions when Equity Law has provided true equity and justice via the good heart and wisdom of individual judges.

With a clear insight now into the ways and means used by the British Territorial United States of America subsidiary to gain secretive control of American land and labor assets, and to also insinuate British Equity Law on American soil, it is thunderously apparent how "Equity Law" has been used to oppress the people and gild the "kings"---- those in Westminster and in Congress.

If the object of law is justice and order, then Equity Law is the open door to feudalism, class strife, cronyism, and ultimately---though not in every case---- injustice, because by adopting British Equity Law, we adopt coercive power and place it in the hands of one man or woman, operating only according to his or her "discretion" --- which ultimately too often means "what I can get away with".

It also leads to a perverse rewards system, in which those judges who make the most money for the court get the richest pensions and favors, and who are preened and petted for the choicest professional favors. He who feeds the king---whoever and whatever the "king" may be--- gets fed in return, so in such a system, the natural affinities a man might have for justice too often get set aside in favor of his new vacation home, a college education for his grandson, or a new job promotion for his wife.

The justice provided by one man can be bought or sold; it is only a question of --- at what price? Therein lies another potent reason that British Equity Law fails the cause of justice--- it's relatively easy to buy, bully, or kill one man, but the bulwark of a thousand years of Common Law? That is not so easily swayed!

Also, finally, and this is most telling, too---- without Jury Nullification doing its after-the-fact pruning and proving of the Legislature's work, laws proliferate like dandelions in spring.

It seems to be a universal plague of nature that men who are elected to the legislature think that it is their business to pass laws for other men to live by, and if at least ten such mandates do not carry their names and approvals each session, they think they aren't doing their jobs.

I did a random study here in Alaska some years ago and found that the legislature was passing between two and three hundred new laws per year.....3000 new laws, give or take, per decade.

What, ho? Are we really creating so many brand new point sources of evil and mayhem that it takes 200-300 new laws every year to keep things in order? And who is going to learn all these new laws? And who is going to pay for their enforcement?

Without the operation of Jury Nullification operating in the background, these laws just burgeon and accumulate, like a cancer growing in the dark. This is why at last count, the federal government and its agencies were busy trying to enforce 80 million laws.

Think about it. Seriously. Eighty million laws.

This is yet another dangerous and undesirable result of adopting British Equity Law and allowing it to run rampant on our shores. It denies jury nullification and results in this unbridled growth and proliferation of laws that simply stay on the books and appear to breed ten new volumes every year.

Somebody has to pay for enforcing all those laws, and plainly, it has already reached the point where any attempt at fair, competent, and universal application of such laws is impossible. Nobody has the ability to know and obey 80 million laws, so they are (a) meaningless or (b) arbitrarily and sporadically enforced, which gives rise to more injustice and more police incompetence and other social evils and costs too numerous to contemplate.

I once estimated that if the current Alaska legislature did nothing but review and repeal laws already on the books, it would take them ten years to arrive at a reasonable number of laws that could be provided a reasonable amount of enforcement. Ten years of legislative sessions, just to clean up the mess that would have been taken care of by jury nullification otherwise?

Prone to corruption and difficult to correct is a recipe for failure no matter what idealistic goals might otherwise be espoused, and all that is quite aside from the fact that the American people are owed the American Common Law.

American Common Law, unlike its British Cousin, didn't suffer the disadvantages of the British Equity system. At worst, it was simply elbowed out of the way and left in relative disuse by the quiet, improper proliferation of British courts on our shores.

Wrapping up with my first comment-- it's not British, it's not Equity, and it's not Law---

British Equity Law isn't British in the same way that a mixed breed dog is neither this breed nor that; the English Common Law is what it is, but Admiralty Law comes from the far corners of the Earth, an ancient amalgam that belongs everywhere and nowhere, with roots in the trading practices of Sumeria, Babylon, Egypt, Mycenae, Crete, Africa, India, China.....

It isn't equitable, either. What is equitable about men submitting themselves "in trust" to another man who is not impartial, not likely to be their peer, and who has profit motive to sheer them both?

And as for being Law--- Law is based on timeless religious and ethical principles, not the opinions and individual pet peeves and petty concerns of men caught up in the exercise of their own spleens and the commerce of political power.

So, no, it's not British. It's not Equity. And it most certainly is not Law.
