**Speaking Notes for Rally in Defence of WikiLeaks held in King George Square at 5.30p on Wednesday, 9 February 2010**

I congratulate you on coming out, tonight. The WikiLeaks diplomatic cables furore has been an extraordinary event of our time. Once again, politicians, lawyers even, who we thought believed in openness and the principles of an open society, free speech and a free press, have disappointed us. At the same time, the information event against which the politicians railed has continued to provide valuable information by which the citizens of the world can, and in many cases, have been able to judge their politicians. I think the principles of free speech and a free press cannot be defended too much or too often.

However, I thought you might find it useful if, in the main, I talk about boring legal matters. It is a curious coincidence that, while senior US politicians call for Julian Assange to be “hunted down”, a strange sexual investigation has commenced in Sweden and resulted in an extradition hearing in a London Court. Even as the world should be discussing the propriety and the ramifications of the cables release, other matters demand our attention.

Therefore, I want to talk briefly about the proceedings being held at Belmarsh Magistrates Court in East London. It is important to understand that the hearing relates to a European Arrest Warrant (EAW). This form of process is a post 9/11 invention.

The extradition process that follows as a result of the request is carried out before members of the judiciary. However, in reality, it is intended that the judicial officer hearing the request has almost no discretion and that the order for the return of the subject of the warrant will proceed as a matter of course.

The EAW process has been a source of many well documented major injustices.

I will give you but one example. A young parent, Edmond Arapi was extradited from the UK to Italy where, without any notice, he had been sentenced to 16 years for murder. He spent weeks in custody, separated from his kids, before Italian authorities worked out that it was impossible for him to have committed the crime.

It is this much criticised process to which Julian Assange has been made subject and which is the subject of the hearing which has proceeded for two days and has been adjourned to Friday for final addresses.

Because of the lack of safeguards and lack of discretion to refuse the request, Julian Assange’s lawyers have sought to attack the validity of the warrant, itself. A number of different arguments have been raised.

It is argued that the chief prosecutor, Marianne Ny, who made the request, did not have authority under Swedish law to make the request. Relying on a 2005 UK case, it is argued that the Swedish National Police Board is the only entity authorised to make a request.

A second argument is that the warrant involves an abuse of process and is therefore not valid. The abuse of process is said to be that there is no firm intention to charge Mr. Assange. Rather, the warrant has been issued with the purpose of having him answer questions.

This argument is supported by certain actions of the prosecutor. If a decision is made to prosecute, Swedish procedure requires that the person be provided with all relevant documentation. Although Mr. Assange’s Swedish lawyer has been shown a large number of documents, he was precluded from copying or making notes of the documents. The documents withheld include the full details of the text messages sent by at least one of the complainants which seem to contradict the allegations made by her to Swedish police. The refusal to provide the procedural rights can only be defended on the basis that no decision to prosecute has been made.

The absence of the decision to prosecute is also strongly supported by documented statements by the prosecutor to Australian diplomatic staff providing consular assistance to Mr. Assange and media statements by the prosecutor.

Mr. Assange’s lawyers rely on a related argument that the statutory requirements for the warrant have not been satisfied. This argument is based on the terms of the request which, it is argued, fail to establish that Mr. Assange’s extradition is sought for the purpose of his being prosecuted.

Mr. Assange’s lawyers also argue that the offences said to be the subject of the accusations by the complainants either do not constitute offences against English law or do not fall within the European Framework offence of rape.

Lastly, it is argued that there is a real risk that Mr. Assange would be denied his right to a fair trial in Sweden, inter alia, because Swedish rape trials are often held in private and are judged by three laypersons in circumstances of massive media prejudice to which the prosecution have contributed by inappropriately releasing Mr. Assange’s name.

It is important to understand the sort of procedures to which Mr. Assange is being subject. Last year, Justice Moses said of his inability to refuse an EAW seeking the return of Gary Mann to serve a two year sentence in Portugal: “the court’s inability to rectify what appears to be a serious injustice to Mr. Mann is just an embarrassment to everybody and this case ought to disappear”.

Finally, I want to say a few things about the cables release now that we have had a couple of months to watch the process unfold.

First, the criticisms and hysteria launched at WikiLeaks release of US diplomatic cables look more insubstantial and unsupported with each passing day. The cables show that the world’s politicians are even more dishonest than even the most cynical among us might have expected. Today’s revelation about Mr. FitzGibbon, if it is true, will only add to our cynicism.

Second, the cables are showing throughout the Middle East that publishing the truth potentially has great political impact. The impact of publishing the details of government lying and corruption can be seen in the streets of many Middle Eastern countries right at this moment.

Third, the criticisms that WikiLeaks was endangering servicemen and informers around the world by the release does not seem to have been made out. The attacks on WikiLeaks increasingly look like “shoot the messenger” responses.

Fourth, the allegations that, by releasing the documents, WikiLeaks broke the law are increasingly looking like irresponsible statements by disgruntled and embarrassed politicians. Even in the United States, US prosecutors seem to be having increasing difficulty convincing a grand jury to find a prima facie case.

The Julian Assange and WikiLeaks story has a long way to go. Each chapter is important and it is important that we, as citizens, play a role at every stage. Human rights and democratic freedoms cannot be taken for granted. Much blood was shed in winning those freedoms. We should be prepared to come out on a balmy night, more than once, to make our voices heard in their support and defence.

**Stephen Keim**

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