

CHAPTER 1

The Concept of Individual Rights

There is a serious lack of concern for individual rights today. The concept of rights has been distorted to such a degree that the authors of the Constitution would not recognize what is today referred to as a "right." Demands for unearned wealth, based on needs and desires, are now casually accepted as rights. We see little value placed on the traditional concept of equal rights.

This change in the general attitude regarding rights is the most significant event of the twentieth century. It has literally torn us away from the constitutional guidelines given to us by the Founding Fathers two hundred years ago. The media, the Congress, the courts, and the President reflect the prevailing philosophy of our thought leaders -- especially those in our teaching institutions. Without an understanding of the nature of rights, a solution to today's political problems is impossible. The gimmicks won't work, only philosophy works.

People must once again believe that it is in their best interest to support individual rights, just as they now believe it's in their best interest to vote for those who provide food stamps for the poor, corporate bailouts for the rich, and bankers aid for the powerful.

The purpose of government is now dramatically different than that which the eighteenth century writers of the Constitution intended. Government is now broader in scope and bigger in size with a corresponding reduction in individual liberty. A precise definition of individual rights, strictly adhered to, is required to prevent the continued erosion and com-

plete destruction of our once-free society.

The twentieth century has been characterized by the diminishing importance of the individual and the rising importance of the collective.

Prosperity, a wonderful benefit of a free society that we continue to enjoy, has numbed our senses, hindering the motivation required to understand the relationship of individual rights to productive effort. Accumulation of wealth, and its forceful redistribution through government coercion, preoccupies the special interests that determine which politician will represent us in our legislative bodies. Political clout is now more important than economic freedom for achieving financial success.

Rights, as understood by the authors of the Constitution, are not an issue of current debate. Rights today are seen as collective and not something individual. Just as economic theory has become macro and not micro, groups are now thought to have rights, rather than individuals. The twentieth century has been characterized by the diminishing importance of the individual and the rising importance of the collective. This lack of definition and confusion regarding rights has caused a hodgepodge of court rulings, bizarre legislation, and needless guilt on the part of many.

Today's Confusion on the Concept of Rights

After two hundred years, the constitutional protection of the right of the individual to life, liberty, and the pursuit of happiness is virtually gone.

Today's current terminology describing rights reflects this sad change. It is commonplace for politicians and those desiring special privileges to refer to: black rights, Hispanic rights, handicap rights, employee rights, student rights, minority rights, women's rights, gay rights, children's rights, Asian-American rights, Jewish rights, AIDS victims' rights, poverty rights, homeless rights, etc.

Until all these terms are dropped and we recognize that only an *individual* has rights, the solution to the mess in which we find ourselves

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will not be found. The longer we lack a definition of rights, the worse economic and social problems will become.

Every year new groups organize to demand their "rights." White people who organize and expect the same attention as other groups are quickly and viciously condemned as dangerous bigots. Hispanic, black, and Jewish caucuses can exist in the U.S. Congress, but not a white caucus, demonstrating the absurdity of this approach for achieving rights for everyone.

The welfare ethic now universally accepted at all government levels determines the concept of rights. No longer are rights individual but they are based on demands, needs, and greed.

When Lee Iaccoca came before the House Banking Committee on which I sat, he made the "right" of Chrysler workers to keep their jobs the issue, not government largesse for a failing corporation. He explained in his autobiography that the issue had to be workers' needs or he could not obtain the bailout. Since the concept of rights is currently so inexact, he had no difficulty convincing the Congress. The rights of the small businessman who had his credit "stolen" and was forced into bankruptcy due to the Chrysler bailout was not easily identified and thus ignored.

The individual who dares to demand to be left alone and to assume responsibility for himself becomes a criminal.

Careless disregard for liberty allows politicians to promise anything in order to be reelected. Inevitably this leads to a steady increase in spending, forcing higher taxes, more borrowing, and inflation of the money supply.

Government by majority rule has replaced strict protection of the individual from government abuse. Right of property ownership has been replaced with the forced redistribution of wealth and property, without concern for the individual producing the wealth.

Once the dictatorial power of a majority is accepted as legitimate, the days for the Republic are numbered -- which is the case unless current trends are reversed. The individual, throughout this century, has suffered greatly from this dramatic change in attitude. The individual who dares to demand to be left alone and to assume responsibility for himself

becomes a criminal. Amish farmers have been arrested for not paying social security taxes, though they sought no aid from the government. Any independence from government welfare programs is deeply frowned upon. Those failing to keep financial records for the IRS are promptly imprisoned.

The good of "society" has replaced the notion that the individual has a sacred right to live unmolested by government interference.

Today it is usual to assume that the government owns all that we produce, and through government generosity we are permitted to retain a certain portion. We routinely hear that if a particular tax is reduced, it will be a "cost" to government. This concept must be changed if the idea of individual liberty is to survive. There is no such thing as cost to government. There is only cost to people. Government cannot grant to us our right to life and liberty, it would mean that government controls all that we produce. Sadly this is essentially the situation in which we find ourselves today.

Government's intrusive role has grown throughout the twentieth century, while individual responsibility has correspondingly diminished. The expansion of government control over our lives is both a result and cause of individuals' assuming less responsibility for themselves. Failure today is rarely blamed on the inadequacy of the individual; society and environment are blamed for all our problems. Criminal acts are frequently excused as being the result of "bad breaks." Justifying welfare on the needs of individuals has been upheld and expanded by the courts.

Careless disregard for individual rights, concern for group demands, and concern for the good of society have led to a steady erosion of privacy. Billions of dollars are spent yearly keeping records for the government.

The people, like lambs, are innocently driven to the slaughter as they conform to all the government regulations and record-keeping--records that frequently are used against them in a court of law.

We all naively and obediently become tax collectors for the government, turning over the loot that the politicians will waste as they further destroy our right to live as we choose.

We keep volumes of financial records solely for the government's benefit. We accept currency controls with barely a whimper. We allow the FBI and CIA to snoop on everything and everybody, and rarely is the snooping challenged on principle. The only challenge to the secrecy of government action is whether the activity is supported by the right or left.

The Computer Age is now upon us, and this technology could easily

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eliminate completely the privacy that should be cherished by all freedom-loving individuals. Like nuclear power, computer technology can enhance our standard of living or destroy our freedoms completely. It is just a matter of time until we have a mandatory national I.D. card.

Lie-detector tests and urine and blood tests are now common-place and have been strongly supported by the Reagan Administration -- an administration that championed limited government principles. Today the government sends out planes and helicopters to spy on farmlands and industrial plants, taking pictures while looking for information about drugs and violation of EPA regulations -- regulations which no one clearly understands.

It is inevitable that, once the concept of absolute individual rights is ignored, with each attempt to solve a problem, two new ones replace it. Malcolm Forbes was asked whether his listing in his magazine of the 400 wealthiest Americans would draw the attention of terrorists. His answer was affirmative: "I think the terror most people are concerned with is the IRS."

Today the lack of understanding and respect for voluntary contracts has totally confused the issue that in a free society an individual can own and control property and run his or her business as he or she chooses. The idea that the social do-gooder can legislate a system which forces industry to pay men and women by comparable worth standards boggles the mind and further destroys our competitiveness in a world economy.

Employee rights are said to be valid when employers pressure employees into sexual activity. Why don't they quit once the so-called harassment starts? Obviously the morals of the harasser cannot be defended, but how can the harassee escape some responsibility for the problem? Seeking protection under civil rights legislation is hardly acceptable. If force was clearly used, that is another story, but pressure and submission is hardly an example of a violation of one's employment rights.

The concept of equal pay for equal work is not only an impossible task, it can only be accomplished with the total rejection of the idea it's of the voluntary contract. By what right does the government assume low power to tell an airline it must hire unattractive women if it does not want to? The idea that a businessman must hire anyone and is prevented from firing anyone for any reason he chooses and in the name of rights is a clear indication that the basic concept of a free society has been lost.

In the name of equal rights, the State of Montana has forced insurance companies to charge women additional premiums to make the fees equal

to those charged men, regardless of the economic realities that allow for a lower premium.

Americans today have more people living on the street than ever before, in spite of the hundreds of billions of dollars spent to eradicate poverty. Of course, logic tells us that if you subsidize poverty, you'll get more of it.

New York City is plagued with thousands of street people. On cold nights this tragedy is more apparent. Mayor Koch's approach to protecting the "rights" of the street people is to sue hotels which refuse to house the homeless tramps. Another attempt to solve the problem has been to round up and force the vagrants into shelters -- to eliminate the embarrassment of people dying on Wall Street. The American Civil Liberties Union has come to the rescue, saying that "arresting" the homeless against their will violates their rights as citizens -- a reasonable assumption. But the ACLU provides another solution by claiming the poor have "a right to a decent home." The problem, they state, is the failure of government to provide (or steal) sufficient funds to build enough tenement housing. This confused notion of rights regarding the New York street people clearly demonstrates how poorly the concept of rights is understood America.

Much of the confusion over rights comes from the accepted idea that "compromise" is the most noble trait of today's politician -- hardly a characteristic of those who signed and defended our Declaration of Independence. It is hardly reassuring that giving in halfway is the most important political act of our twentieth-century politicians. Standing firm on principles is viewed as illogical rigidity and dangerous to America. This idea clearly ignores the fact that philosophy of compromise and acceptance of the philosophy of pragmatism is a rigid philosophy in itself as a compromise between socialism and individual rights. Although many justify interventionism as a compromise between socialism and laissez faire, interventionism is also a precise philosophy and not a compromise at all. It requires a sacrifice from those who give mere lip service to the Constitution and to the concept of individual rights.

Until it's respectable once again to champion individual rights and government, we cannot expect to reverse the trend in which we as Americans find ourselves. Tokenism won't work. Clearly defining the seriousness of the problem and stating what is required to change our direction is absolutely necessary for the survival of freedom in America.

In the infinite wisdom of our twentieth century, courts and legislative bodies have decided that there are two kinds of speech: commercial and

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Literary. Liberals who envy wealthy businessmen support free speech, but advocate strict control over commercial speech. Conservatives, who defend free commercial speech, carelessly support control over literary speech. Somewhere in the twentieth century, we lost our way with accepting this distinction.

The right of commercial speech and business activity are thought to be something quite different from the right to publish whatever one desires and live a lifestyle of one's choosing. The liberal has refused censorship of any journalistic production, yet has never applied the same principle to the entrepreneur who produces a commercial product rather than a book. It doesn't bother conservatives to write laws regulating printed matter of a sexual nature, which they see as offensive and harmful to society. Liberals are unconcerned about their attack on the businessman's freedom of speech by regulating ads for alcohol, cigarettes, and gambling, as well as controlling the manufacture of consumer products.

Rules of fraud and product liability could surely be applied to consumer goods, just as the rules of libel apply to the written or spoken product. This discrepancy in dealing with commercial and literary speech must someday be resolved if liberty is to be defended consistently.

When selected prosecution occurs, it is a clear signal that the concept of equal rights is no longer honored. Today it is commonplace to select special people and make them examples. It's the IRS's public policy to make certain key community citizens examples in order to terrorize the other segment of the population into submitting to the tax authorities.

In spite of the fact that even the IRS can't agree on the meaning of the massive tax code and the regulations which are frequently never written, the taxpayer is never excused for filing errors.

In a free society, governments are not permitted to break the law for any reason.

Constitutionalists who understand the corrupt nature of our monetary system are likely targets of an aggressive Justice Department, although the litigants are nonaggressive as they practice civil disobedience in seeking favorable court rulings.

Resisters to draft registration have been too numerous to prosecute.

The vocal opponents, those who publicly express their views that such registration is unconstitutional, have been singled out as particularly dangerous and prosecuted precisely because they spoke out.

In a free society, governments are not permitted to break the law for any reason. Yet it has become common for legal authorities to entice citizens, through entrapment, into breaking the law. Tempting individuals and officials with bribes or solicitation of prostitution or offering drugs is frequently done. FBI sting operations and Abscam-type operations are accepted procedures for the Justice Department, permitting officers of the law to break the law to get others to do the same.

When U.S. News reporter Daniloff received "secret" papers from Soviet KGB agents in Moscow he was arrested. U.S. officials were outraged at the nasty trick and called it a "set-up." Yet this is the identical procedure followed by our government against our own citizens.

The New York Times explains editorially the purpose of zoning (November 24, 1986): "Zoning has helped establish the principle that the interests of property owners must yield to those of the public." Zoning under current law, according to *The New York Times*, is inadequate, and the public demands that more controls are needed to assure a proper working and living environment. The only problem is, "who is the public" and why are ownership rights subservient to public interest? I'm sure *The New York Times* editors have a precise idea of who the public is and how its interest is best served, according to their definition, but clearly it clashes with the entire philosophic concept of private property ownership. If the concept of privately owned property's being used "for the public interest" is not challenged, the ideas of socialism will emerge victorious.

If welfare needs of any segment of society can be granted against the wishes of society's productive segment, private property ownership will disappear. If property can be confiscated by the arbitrary actions of the state, the individual will also be expected to serve the state on command.

The more authoritarian the government is over the economy, the more authoritarian it will be over the use of young people in forcing them to serve in the military or national youth service to achieve what those in power determine is in the "public good." In a free society, the individual cannot be forced into serving the state, and the property he owns cannot be confiscated for any reason, even that of a humanitarian nature. The needs of one person cannot be used to justify the victimization of another by robbing him of the fruits of his labor.

Traditionally the family has been the core unit in America, with parents

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in charge of their children until adulthood. This means they are responsible for their physical well-being, providing proper care and guidance. Permission until recently, to treat a child medically was always granted by the parent, and without proper consent, medical personnel were considered in violation of the parents' rights if treatment were rendered. Today permission (and frequently the financing) for this treatment is given by the state to the medical profession to treat adolescents. It has gotten to the point where the M.D. is absolutely protected and relieved of any responsibility to the parents. Twelve-year-old children deserve respect, love, and treatment in a nonviolent manner, but parents who raise and are responsible for their children deserve to know what others may be doing to them. Don't parents deserve at least the same respect regarding their children as others expect regarding their property?

When the state replaces the role of the parent in giving permission for medical treatment, a serious flaw is introduced which is likely to undermine our free society. Since a child is unable to assume responsibility for himself or herself, the only choices are the parents (or legal guardians) or the government. The government, through court rulings or legislation, should never be permitted to perform the role of the parent.

Assuming responsibility for one's own acts was further undermined by the Texas Supreme Court's 1986 ruling that a bartender was responsible for the accident which one of his customers caused after leaving the establishment. This is a perfect example of what happens when no one knows what individual rights are! Once this concept is lost, the idea of self-responsibility is lost as well.

Since the Great Depression of the 1930's, federal laws have curtailed individuals' rights to work in their own homes. The Founding Fathers, I'm sure, never dreamed this could happen in the United States of America. Union workers prompted this law to prohibit low-cost labor from doing jobs on a piecemeal basis. No wonder the U.S. industry lost out to the low-cost labor markets of Japan, Taiwan, and Korea!

Privacy is one of the most sacred elements of a free society

In 1986, after fifty years, a modification of the law was made. But there was a Computer Age IRS catch. People who wanted to work at home (which many continue to do anyway) could do so if they got a

certificate of permission from the Department of Labor. The United States is considered a free country, and yet a permit from the federal government is needed to sew clothes in our own homes. My guess is that this little change was more likely motivated by the desire of the IRS to find out where the activity was, than to take a bold step in the direction of freeing up the labor market.

In America we see excellent private homes for wayward children, more successful than any state-run institution, being closed down by the heavy hand of the government when owners refuse, for religious reasons, to buy state licenses. This is done in the name of protecting the children from harsh treatment. All evidence shows that the religious homes for children are far superior to anything the state has to offer, yet are closed for failure to register with the state. This is more evidence that the state now controls our children, not parents or (non-state-designated) guardians.

Articles appear in medical journals debating whether choosing a physician is a right or a luxury. (It's a shame that the correct answer is not automatically known by everyone!)

The confusion over rights has caused numerous debates, such as whether women have the right to join men's clubs. Women obviously have a right to apply for membership in any group they wish, and a club has a similar right to exclude anyone it wishes.

But the great debate goes on. A woman recently sued the Boy Scouts because she claimed she had a right to be scout master. Women may want to be scout masters, but where did they get this "right" to coerce a private organization to change its rules regarding members and leaders?

Privacy is one of the most sacred elements of a free society. It is now common to pass laws which routinely violate the Constitutional guarantee that our homes and persons are not to be invaded by government agents.

When the title of a law incorporates the word "privacy," in true 1984 "new-speak" fashion, you can be certain it means the opposite. Government secrets are more sacred in today's society than individual privacy. When government information leaks occur, the FBI is called in to "protect" government secrecy. The CIA, with its independent operations and funding, is a law unto itself, engaging in war activities, conspiracy, and assassination. Oliver North, with a straight face, on national television, magnificently defended the "right" of the government to lie about covert activities. The only resistance lying gets is when policy offends either the conservative or liberal wing of the interventionists.

Victims of the disease AIDS argue, with no qualms of inconsistency about rights, for crash research programs (to be paid for by people who

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don't have AIDS), demanding a cure. And it's done in the name of rights. Victims demand health care as well and scream "discrimination" if insurance companies claim they have a right to refuse to issue a policy to someone already infected with the AIDS virus. The rights of the insurance company owners are not considered, while legislation is passed forcing insurance companies to provide the insurance demanded by the victims. The individual suffering from AIDS certainly is a victim -- frequently a victim of his own lifestyle -- but this same individual victimizes innocent citizens by forcing them to pay for his care. Crash research programs are hardly something, I believe, the Founding Fathers intended when they talked about equal rights.

The Supreme Court, in 1987, ruled that persons with contagious diseases are "handicapped" and are entitled to protection under affirmative action rules. If a person is fired because he has AIDS, typhoid fever or hepatitis, he can now pursue his case in court.

Recently an alcoholic who developed cirrhosis of the liver demanded a liver transplant, in the name of "equal rights." The state welfare program assumed the obligation to provide care for the man, but insisted he quit his alcoholic ways. The man refused, and the state held up on his liver transplant. For this reason he sued the state, demanding his rights.

With confusion regarding rights, the end of constitutionally protected liberty cannot be far off.

Society is filled with competing interests demanding their "rights." Since no serious attempt has been made to define rights and limit government's power to masquerade as economic equality in equal rights, the confusion gets worse every year.

This is a serious flaw in today's political philosophy and, unless the nature of the problem is identified, freedom in America cannot survive. A lack of precise standards for describing individual rights will destroy the American way of life -- that gift from the Founding Fathers from which we have all benefited.

Trial by jury – The Ultimate Protection

According to Lysander Spooner, a mid-nineteenth-century writer, there are five separate tribunals protecting us from abusive government laws: The House of Representatives, the Senate, the Executive, the Courts, and the Common-Law Jury. He maintains that all are important but that the ultimate protection of our liberty must be placed in the hands

of our peers. His "Essay on the Trial by jury" (1852) deserves close study by all twentieth-century students concerned about the future of freedom in America.

The concept of protecting individual rights from the heavy hand of government through the common-law jury is as old as the Magna Carta (1215 A.D.). The Founding Fathers were keenly aware of this principle and incorporated it into our Constitution.

John Jay, the first Chief justice of the Supreme Court, agreed with this principle. In his first jury trial in 1794 (*Georgia vs. Brailsford*) he stated: "You had nevertheless a right to take upon yourselves to judge of both, and to determine the law as well as the fact controversy." Jefferson was in agreement as well: "To consider judges as the ultimate arbiters of all constitutional questions is a very dangerous doctrine indeed and one which would place us under the despotism of an oligarchy. "

The twentieth century, however, has witnessed a serious erosion of this principle. Since 1895 (*Sparf vs. United States*), the right of the jury to rule on the justice and constitutionality of the law, as well as the facts in the case, was seriously undermined. Also the lack of concern and understanding for individual rights has affected jurors, just as it has representatives, senators, judges, and presidents. Jurors in recent times have been just as guilty of ignoring the principle of equal rights as have our representatives in our legislatures, judiciary, and executive bodies of government. These two factors have greatly diminished the value of the jury in the twentieth century.

Those frustrated with changes in the Congress, the executive, and the judiciary -- and there is certainly good reason for frustration -- must consider educating potential jurors as to the importance of the common law jury and the principles of individual liberty.

An awakened citizenry, participating in juries around the country, could bring about a nonviolent revolution of magnificent proportions, reversing the sad trends of the twentieth century. The jury today is a weak institution, as are all the other institutions designed to guarantee individual liberty. The right effort could revitalize the jury and restore it to its rightful place in curtailing the endless growth of an all-powerful state.

Several legal events needed to occur in order for big government to thrive. The de-emphasis of the jury was crucial in the expansive powers of the omnipresent state. Judging the moral intent and the constitutionality of the law is no longer even a consideration of the jury. Today the judge

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instructs the jury to consider only the facts of the case, and then the becomes the soul arbiter of evidence admissible in court. The jury today has become progressively weak over the past ninety years.

In addition, judges write into their rulings grand designs for society. Judiciary bodies have become legislative bodies.

A major part of the judicial system has been removed from the people placing it in administrative branches of government. The agencies of government have usurped power unimagined by the authors of the Constitution. Administrative justice is a great bureaucracy, independent of the legal judiciary.

The right effort could revitalize the jury and restore it to its rightful place in curtailing the endless growth of an all-powerful state.

Regulations are written yearly by the thousands of pages, read by few, and understood by no one. This is done intentionally to keep the peasants humble and to harass the people. It is used as a political tool for selective prosecution. Regulations can favor certain industries while destroying others, providing great accumulation of wealth for the beneficiaries.

Exemption from prosecution of some while others are pursued has destroyed many good industries and companies. Prosecution in the administrative courts requires great sums of money for self-defense. Juries are not available, and one is considered guilty until proven otherwise. Tragically, economic conditions usually prompt the businessman to pay the fine, regardless of its unfairness, to save legal costs. Fighting the system through political reform is not even a serious consideration. Those who would consider such a struggle are ridiculed as idealistic and unrealistic. A powerful political action committee and a shrewd lobbyist are today considered the best investments. Since we have lived with massive bureaucracy for over fifty years, most citizens, uneducated in the ways of equal rights, justice, and freedom, are unaware of another system. By writing regulations with the force of law and administrative justice, interpretations, and enforcement of these laws, the judiciary "rulers" have made a mockery of Article 1, Section 1 of the Constitution.

Whether it's in the regular courts or the administrative courts, judges who grew up under the welfare ethic, rarely concern themselves with

the right to own and control the fruits of one's own labor. The "right of society," as they see it, precludes what they claim is a narrow self interest-the individual.

Spooner argues eloquently for the right of the jury to pass final judgment on all laws, the moral intent of the law, the constitutionality of the law, the facts of the case, and the moral intent of the accused. Spooner's argument for allowing such responsibility to rest with the accused peers is that delegating responsibility only to the representatives in Washington was fraught with danger. He was convinced that all that removal of our representatives in the next election was not sufficient to protect the people from unwise and meddling legislation.

If we had heeded the admonitions of Lysander Spooner, we would not be faced with this crisis. Spooner begins his essay on trial by jury by clearly stating the importance of the jury's responsibility to judge the law as well as the facts in the case before them:

For more than six-hundred years, that is, since the Magna Carta, in 1215, there has been no clearer principle of English or American constitutional law, than that, in criminal cases. It is not only the right and duty of juries to judge what are the facts, what is the law, and what was the moral intent of the accused; but it is also their right and their primary and paramount duty to judge the justice of the law and to hold all laws invalid, that are in their opinion, unjust or oppressive, and all persons guiltless in violating or resisting the execution of such laws.

Spooner was highly critical of the phrase "according to the evidence" in the oath of jurors, claiming it violated the classical common law. He states:

If the government can dictate the evidence, and require the jury to decide according to that evidence, it necessarily dictates the conclusion to which they must arrive. In that case the trial is really a trial by the government, not by the jury. The jury cannot try an issue unless they determine what evidence shall be admitted. The ancient oath, it will be observed, says nothing about 'according to the evidence.'

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If a law is assumed to be correct constitutionally and morally merely because it's a law written by our chosen representative, the government can give itself dictatorial powers. And that's exactly what has happened with the massive powers delegated to the President under the Emergency Powers Act-power sitting there to be grabbed and used at the hint of a crisis.

Spooner saw the jury as the last guard against such usurpation of the people's rights. Sadly, that protection is just about gone. It is up to us to restore the principle of trial by jury to its rightful place of importance.

Right to Own Guns and Gold

Spooner had an interesting explanation about why the Founding Fathers included the Second Amendment in the Constitution. He never once considered that the authors of the Constitution meant that only the militia were allowed to possess weapons, as today's liberals argue. He even considered it foolish to claim private gun ownership was for the purpose of defending one's life and property from robbers and murderers. "That" he states, "is so obvious one need not state it." According to Spooner, the real reason for individual gun ownership was for the purpose of protecting against the evil use of government power-as the revolutionaries experienced at the hands of King George III. In other words, when all else fails, the gun owned by the individual is to be used to protect against tyranny of the state-something obviously denied the citizens of an oppressive state such as Poland or the Soviet Union.

Even though political conditions have deteriorated throughout the twentieth century, American citizens still retain rights superior to most nations of the world. With concerted political action and an awakened citizenry we still have the vehicle to change conditions-something that may not be available to us for an indefinite period of time.

As long as the individual retains the right to own guns and gold, we should assume that working through the political process is worthwhile. The confiscation of gold and guns in the United States would ignite an explosion of physical resistance which would permanently change the character of the United States.

It will come to this if the majority of our leaders do not soon redefine individual rights, restore a free-market economy, and force our government to live within its means.

Without this new direction, the growing economic and political crisis will worsen and can only be temporarily held together by further expanding the role of government at the expense of liberty.

***If we do not have a consensus of what "rights" are,
there is little chance our free society will survive.***

Government snooping, blood testing, lie-detection tests, restraints on financial freedom, stronger IRS regulations, national I.D. cards, and restrictions on travel will all be used to prop up the tottering state if necessary.

A lot is at stake, and we cannot erroneously assume America will survive, regardless of what we as a people do. What we do will make a difference. And if we do not have a consensus of what "rights" are, there is little chance our free society will survive.

Legislating Morality or Moral Law

Man, throughout history, has been tempted with power. Someone is always ready and anxious to use force over others, both within and outside of government, for his own interest. Some who reject the use of physical power over others and reject the material benefits of illicit power will, nevertheless, use government force to impose their social standards on others. It's important to recognize that there is a difference between legislating morality and moral law.

The following is a *Freedom Report* essay written in 1982 addresses this subject:

Legislating Morality:

How many times have you heard it said: "Government should not legislate morality? "

When the liberals push laws mandating quota systems, integration of privately owned property, welfare aid, medical care for the poor, foreign aid to third-world nations or minimum wage laws, they do it in the name morality, claiming the nation as a whole has a moral obligation to fulfill the needs of others.

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The conservatives quickly retort: "Government shouldn't be legislating morality," claiming it's impossible to force people to be generous, fair, and tolerant. In attempting to "legislate morality," the economic and social conditions which were to be improved by the legislation usually get worse. For instance, integration by busing caused white flight and growth of private schools, creating more black ghettos today than existed prior to the mandate for the integration nearly thirty years ago.

The attempt, in the name of morality, to wipe out poverty destroys initiative and causes economic conditions to deteriorate. Minimum wage laws lead to unemployment and third-world subsidies turn out to be nothing more than bail-outs for New York banks and foreign dictators.

It's obvious: "legislating morality," as the conservatives claim, is a total failure and should be rejected. The liberal "do-gooders," although well-motivated, create more problems than they solve -- all in the name of a moral obligation to care for the less fortunate of society. They don't ask why some are less fortunate than others, and never question whether previous government interference may have been the cause and, therefore, cannot be the solution, no matter how well-motivated the intentions of the do-gooders.

For many decades, the political activism of liberal church groups has reflected this belief in legislating morality. They were, and still are to a large degree, "out-front" on many economic and social issues, requesting and lobbying for social legislation from Medicaid to busing, from foreign aid to food stamps. Promoting these programs in the name of the church and morality carries with it a tone of condescension and righteousness. It attacks the very roots of the conservative conviction that free enterprise and the profit motive are sacred institutions.

The conservatives, angry and frustrated since they lack a consistent defense, respond only with the cliché, "government shouldn't legislate morality." The conservative anger exists because the liberals attack the sacred notion of a competitive free market, and the frustration occurs because deep down inside they know that there indeed is a relationship between, morality and the law. It is understanding this relationship which has been elusive, causing consternation in many sincere liberals and conservatives.

Liberals, just as often as conservatives, throw up their hands and condemn positions taken by conservatives by repeating the old cliché themselves: "You have no right to legislate morality." Conservatives in general have advocated laws prohibiting gambling, pornography, drinking, and certain sexual activities such as homosexuality and prostitution.

The desire – and one not to be criticized – is, of course, to improve individual morality. They rarely question how, if we can't legislate morality and improve society by forcing integration, we can make an individual a better person by making him an outlaw if he desires to gamble or drink. The conclusion is that if legislation attempts to improve personal conduct it's okay, but if the aim is to improve economic and social relationships, then it is not.

The failure of those efforts is obvious: prohibition in the 1920's did little to curtail drinking, but did wonders for the growth of the underworld. It also made "criminals" of many of the American people.

The comparison to the problem we face today with marijuana is not without merit. Personal morality does not seem to improve with interventionist legislation. Laws prohibiting gambling don't reduce gambling; they just move it to the hands of the underworld figures, limiting it to the bold who break laws and denying it from the law abiders who use it as a form of entertainment.

The strongest criticism directed toward the Moral Majority comes from the pious liberals who condemn it and the like-minded church groups for getting involved in politics and "for legislating morality" on issues involving printed matter, sex habits, and drugs. And yet that's exactly what they have been doing themselves for decades. When the shoe is on the other foot, they resort to the same cliché. Certainly both liberals and conservative religious groups have a right to be involved in politics. How can it be argued otherwise? It seems that as soon as someone promotes a viewpoint contrary to another's beliefs, it's condemned as "legislating morality." Every piece of legislation promoted in Washington is done with a moral overtone and done in the name of "moral obligation" to either help certain groups socially and economically or to make others better persons.

***Personal morality does not seem to improve
with interventionist legislation.***

If it is true that all good law is based on moral principles, how can this impasse occur? Shall we arbitrarily choose when to use "morality" in legislation, based on our own subjective feelings and personal biases?

I believe that's exactly what we've been doing for fifty-to-sixty years,

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and it has led us to the predicament we face today with most constitutional restraints on government power being removed. It is indeed critical to have a proper understanding of the relationship of morality and the law. Liberals and conservatives can't both be right, and it could hardly be argued that morality is unrelated to the legislative process. Could it be that they are both wrong and both right?

The case is easily made that good law is law based on morality. Is it not obviously immoral to kill, to steal, to assault another, or to defraud? Is it not clearly a moral right to speak one's thoughts, to write, and to practice one's religion, while recognizing slander, libel, breaking of contracts, inciting to riot, and using force to compel one to follow a certain religious belief to be immoral and thus within the scope of the law?

If this is the case – that all worthwhile law is clearly based on a moral code – how can it be correct that liberals should not "legislate morality," use government to feed the poor, and compel intolerant people to reject prejudice and bigotry, as sincere conservatives claim? Likewise, how can the liberals be correct when they chastise the conservative moralists for legislating morality or personal conduct such as gambling, drinking, pornography, and sexual behavior?

Indeed all law, if decent and just, is moral. Morality must guide legislation or it has no meaning whatsoever. Immoral law is law written by dictators, detractors of freedom, and disciples of ignorance. All good law is based on the moral principle of God-given rights – that our life and liberty are natural and endowed to us by our Creator. All law must be written to protect against any adversary of life and liberty and can never assume that life and liberty somehow have been granted out of graciousness from the state. If this rule were followed, all law would have a correct relationship to morality. This precludes the use of violence or force or the threat of such by individuals, groups, or governments to implement change or to correct less than perfect conditions as perceived subjectively by some. Moral law is law which protects freedom and the right to retain the fruits of one's labor and punishes those who commit violent acts against life or property.

Comments on Moral Law:

1) Moral law deals with interpersonal behavior, providing the prohibitions against acts of violence and the protection of one's life, liberty, and property. It never compels relationships, it only works to prevent

and punish those who abuse the absolute and natural rights of others. Laws against murder, theft, assault, and fraud are clear examples of these prohibitions and are obviously based on morality.

2) Moral law should not be used to legislate a moral code of personal behavior with the intent of making someone a "better" person. Legislation cannot alter habits and personal preferences if these preferences are not violating someone else's life, liberty, or property. Personal conduct should not be controlled by law if this conduct affects no one else. This is not to say that personal habits and conduct are not moral or immoral, just that moral law is neutral in regulating this activity, even if it is self-destructive; i.e., drinking, smoking, or eating oneself to death. Moral philosophers and theologians can preach, dictate, and discuss proper personal moral actions, but moral law cannot. If legislation does, it violates the fundamental principle of moral law – the absolute right of the individual to life, liberty, and property. Legislation should not be used to improve personal moral behavior, nor can it be used to improve social and economic conditions. Using force, no matter how well-intended, is never justified in a free society. Yes, this means an individual has the right to be selfish, the right to self-indulgence, and the right to freely choose all associations. Government, through legislation, cannot protect the person from himself or herself and should limit its activities to preventing injuries to others and punishing those who violate the rights of others.

3) Violence, or the threat of violence by compelling certain actions, cannot be used to improve interpersonal relationships or social conditions. The use of the political process to redistribute wealth or "improve" social conditions, as perceived by a government planner, must of necessity make use of government threats – taxation and imprisonment – and this cannot be done without violating the moral right of another to his life – the fundamental principle of moral law. All improvement and a higher standard of living must result from the incentive system and profit motive. The victims of tragedies beyond anyone's control must be cared for by voluntary means.

The important point to remember is that, in a free society, productivity is maximized, and the increased wealth available for voluntary distribution assures the least amount of suffering. Under an immoral legal system where force is used for redistribution, even if for well-intended goals, production drops and charity flounders. Clinging to a subsistence level of existence then occupies the time of the majority of people. Where the liberal uses government force in trying to improve social conditions,

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the conservative uses government force to improve personal conduct. Both are based on the same principle, but neither can be successful, because both sincerely motivated attempts backfire and produce opposite results -- leading to hunger and the other to censorship. Massive numbers of citizens eventually get involved in "criminal" activity by being forced into the underground economy and the secret practice of non-sanctioned activities, such as gambling and drug usage.

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is never justified in a free society.*

4) When personal habits – construed as immoral, but permitted under a legal moral system, such as drinking, gambling, and prostitution disturb the peace, they can, under these circumstances, be curtailed and should be curtailed by the law. Not because the law judges the personal actions as immoral in the religious sense or makes the acts themselves illegal, but the acts become immoral when they violate another's rights or another's privacy. Under these conditions drinking is legal, drunk driving is not; prostitution is legal, but disrupting a neighborhood is not; pornography in private is legal, but public display of the same is not.

5) Intimidating children and forcing adult decisions on them cannot be an accepted practice. Free choice can hardly be construed to permit an adult to subject a 12-year-old to a high-pressure sales pitch for alcohol, drugs, or cigarettes. It happens that this is more likely to occur with illegal items, such as drugs, than with legal ones. Pushers are more likely to push illegal marijuana than they are to push legal alcohol, due to the artificial profits which accompany dealing with illegal drugs. The use of children in pornography obviously violates the right of the innocent child, with his immaturity in making an adult choice, and deserves protection of the state by prohibiting such acts.

6) If poverty or social suffering come from fraud, coerced labor, or acts of force of any sort, the state's role is to punish and remove the obstacles to free associations. If poverty arises from laziness or tragedy, the state cannot "correct" the problem by becoming a problem, i.e., a participant in the use of force.

7) The government's role in general should be to restrain those committing violent acts and not to compel citizens to act in any prescribed way. Using government tax-collecting powers to "promote the

family," as some conservatives desire, makes no more sense than the redistributive process of the welfare system promoted by the liberals. The error in understanding moral law is the same; the results are different, only because the subjective personal preference of the groups are different. Both liberals and conservatives violate the strict definition of moral law when they attempt to "legislate morality" as they see it.

8) Frequently social problems are made worse than they need to be. Liberals who honestly want to help make the problems worse by using the law perversely; i.e., committing government to violent acts of compulsion and redistribution. Efforts should be made to repeal laws that force on us acts of bigotry. Free-market solutions, such as the voluntary boycott, deserve absolute protection of the law since this is a nonviolent, voluntary act available to effect constructive change. Usually the need for government intervention arises from the previous overuse or misuse of government power.

Prohibition of alcohol did little to improve individual character and reduce drinking, but did promote criminality by encouraging the growth of the mob that controlled the illegal alcoholic beverages.

9) "Legislating morality" in social, economic, and personal affairs is completely different from making law conform to moral principles. " Liberals and conservatives are both right when they say the other should not "legislate morality." Both are wrong when each ignores the fact that law should be based on an overriding moral principle.

Some who agree with this moral principle of law claim it's unimportant to be concerned about individual morality and social problems. This is not so. What is important is that the moral principle on which the law rests should not be violated in effecting change. If force is used in an attempt to make people in society moral, it destroys the law. Restraining those who initiate force makes the law moral. Making people moral or society better can only come about by persuasion, and not compulsion, and should be a concern of all decent people. Any attempt by liberals and conservatives to make people and society moral through coercion destroys moral law.

10) It might be asked why a limited use of government to improve the individual and society might not be acceptable; i.e., prohibit gambling and drinking and use government force to feed and care for only the truly needy? Many Americans assume that it is possible to regulate gambling and drinking but not eating habits, feed the poor, but not the lazy. In theory, if human nature is ignored, it could occur. When we allow the seeds of government intervention to be sown, they

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grow and spread as bad weeds do in an unattended garden, destroying the useful crop. Once this authority is granted, even if intended to be of limited scope, it eats away at the roots of natural rights and at the principle of sovereignty of the people. Even a small concession leads to in ultimate attack on all individual rights, for there is no logical or consistent argument to oppose the expansion of government power. The process may proceed slowly at first, but eventually the entire system will crumble due to the inevitable "root-rot" that will develop. That is what we are seeing today.

Moral Law or Legislated Morality

It is correct to say: "We cannot legislate morality." But it is also correct to say: "All good legislation is based on a strict moral principle". Laws can never make people better or compel people to be socially responsible. Good legislation, however, is consistent with the moral principle of the natural and God-given right to our lives, our liberty, and our property. Conservatives and liberals misuse the law when they attempt to use it to improve people or society at the expense of the moral commitment to individual God-given rights.

The Founding Fathers understood God-given rights and presented us with the most unique political document ever known in history – our Constitution. This set of laws demonstrated a moral commitment to liberty and was written principally to establish once and for all a new concept – that sovereignty shall be placed in the hands of the people, not in the power of the state. For this reason, the Constitution's entire theme is the limitation of government power – prohibiting the government and the law from being a social and economic planner or individual moralist.

The Founding Fathers did not advocate "legislating morality," but they did outline a legal framework based on a deep moral commitment to the principle that the life and liberty of everyone are gifts of the Creator and not a grant from the state. The purpose of the law to them was to protect life and liberty from the foreign invader, the gangster, the embezzler, the bureaucrat, and the politically ambitious. This concept of morality and law could serve us well, but the conflict between those "legislating morality" for various reasons – such as those who want to improve social and economic conditions and those who want to make people better -- will end in social upheaval and the total destruction of

the moral foundation on which a free society is built.

The two, "moral law" and "legislating morality," cannot exist together. One ultimately replaces the other. Today, we are in a transition, and the battle is becoming more vicious as social and economic conditions and personal morality worsen. Each side blames the other, but each compounds the error by responding with more bold and enthusiastic attempts at "moral legislation."

Although our experience with a Constitution which was committed to moral law was unique and successful, many leaders pursue and continue to drag us down the path toward a tyrannical state. The battle to determine the final outcome between these opposing forces is now in process. The odds of our losing the concept of moral law and of the "legislators of morality" winning are great. Throughout history, the tyrants – those who know what's best for everybody else, whether it's social or personal – have generally been in charge. I believe, though, with the correct efforts being made and with commitment to understanding our Constitution, our country can survive intact. The 1980's should tell us this.

Definition of Individual Rights

If a precise understanding of rights is not generally agreed upon, a political system designed to protect individual liberty cannot be achieved. The signers of the Declaration of Independence declared that rights are inalienable; i.e., incapable of being lost or surrendered. To avoid any misunderstanding, something this important must be clearly defined. Lincoln pointed out the danger of a vague definition when he said:

The world has never had a good definition of the word liberty, and the American people, just now, are much in want of one. We all declare for liberty, but in using the same word, we do not all mean the same thing. With some the word liberty means for each man to do as he pleases with himself and the product of his labor; while with others the same word may mean for some men to do as they please with other men, and the products of other men's labor. Here are two, not only different, but incompatible things called by the same name—liberty. It follows that each of the things is, by the

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perceptive parties, called by two different and incompatible names
– liberty and tyranny.

The world today, just as in Lincoln's time, is still in need of a good definition for the word liberty. But more than that, we need determined people who believe in and are willing to defend liberty.

Those who dare to use the word liberty when promoting violence and tyranny must be clearly exposed. The tyrants must be identified and never confused as friends of freedom. If a battle must occur -- which

*The world today, just as in Lincoln's time, is still
in need of a good definition for the word liberty.*

inevitably it must since liberty and tyranny cannot coexist – let it never be supposed that two factions advocating liberty are battling one another. The conflict must be clearly between liberty and tyranny.

In order to minimize the confusion, we must do our best to define rights. A right is a natural or God-given permit received at birth, to act in one's own self-interest with total control over one's own life and property as long as others are not injured nor their property taken or damaged. Liberty does not come as a grant from the state. The state can only expect those funds from the individual required to guarantee that the rights of all are equally protected. Ideally those funds would be collected through a voluntary agreement between the state and each citizen. The role of the government in a free society is limited to settling disputes when the voluntary courts fail. Minimal police activity is warranted when private security falters. The protection of our geographic borders providing adequate national security from outside threats is a proper function of a government dedicated to protecting individual freedom.

Individuals in a free society must have the right to keep the fruits of their labor if the concept of individual rights is to have any meaning.

There is no conflict between what is called "natural" rights and "God given" rights. The Founding Fathers said we were endowed by our "Creator" with our rights, but they also had no qualms with the term natural rights. It certainly seems reasonable that life and liberty come as a magnificent gift from the Creator. Obviously these cannot come from

a government official, an act of Congress, the Constitution, the Declaration of Independence, or the Magna Carta. Quite to the contrary, tragically governments over the centuries have done a lot more to destroy this natural gift than they have to secure it.

I see no conflict between the self "ownership" concept associated with natural rights and those who, for religious reasons, believe their life is "owned" by God. One is a political concept and the other a religious concept. Obviously no one can dictate another's religious belief. What one does with one's life and property is a personal decision and it may or may not include religious beliefs. In a free society a person can "turn his life over to God" or squander it as he chooses. The important thing is that the state not be permitted to assume any ownership role of the individual.

A society built on the principle of individual rights rejects the notion that the state should protect a citizen from himself. Government cannot and should not protect against one's own "unwise" decisions. Freedom is impossible once a government assumes a role in regulating the people's eating, sleeping, drinking, smoking, and exercise habits. Once government believes it has an obligation to improve or protect the people physically it will then claim it can protect them economically and intellectually. It leads to a regimented society, hostile to individuals who cling to the notion that their lives and liberty are their own. Conservatives certainly must be reminded that "civil" liberty is the same as economic liberty, and present-day liberals must be told that economic liberty deserves the same protection that the written and spoken word under the First Amendment. Preemptive regulations of either literary commercial activity, for any reason, are prohibited in a free society. Fraud and libel are crimes that, when proven in a court of law, must be punished.

The most important element of a free society, where individual rights held in the highest esteem, is the rejection of the initiation of violence. Initiation of force is a violation of someone else's rights, whether initiated by an individual or the state, for the benefit of an individual or group of individuals, even if it is supposed to be for the benefit of their individual or group of individuals. Legitimate use of violence can only be that which is required in self-defense.

This means that all associations are voluntary and by mutual consent of both parties. Contracts drawn up without force or fraud must be rigidly adhered to. This sounds reasonable, and most people would agree this outline of mutually agreed-to associations. But it also means

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that free people have the right to discriminate – in choosing a spouse, a friend a business partner, an employer, an employee, a customer, etc. Civil rights legislation of the past thirty years has totally ignored this principle. Many "do-gooders," of course, argue from the "moral high ground" for their version of equal rights, knowing that they can play the sympathies and the guilt of many Americans. Yet the real reason for some of these laws is less than noble. For instance, minimum wage laws are popular, but the proponents rarely admit that this protects higher paid union-jobs and it increases unemployment.

Total freedom of contract and association is what the "pursuit of happiness" is all about. Once this principle is violated, the gradual but steady erosion of our liberties can be expected unless the principle of individual rights is reestablished.

Free choice means that the incentive to produce is maximized, since it's assumed that we can keep the fruits of our labor. In a free society, an individual benefits from wise and frugal decisions and suffers the consequences of bad judgment and wasteful habits. The state should neither guarantee nor tax success, nor compensate those who fail. The individual must be responsible for all of his decisions. Because some suffer from acts outside of their control, we cannot justify the use of violence to take from someone else to "help out." People in need are not excused when they rob their neighbors, and government should not be excused when it does the robbing for them. Providing for the general welfare means that the general conditions of freedom must be maintained. It should never be used to justify specific welfare or any transfer of wealth from one person to another.

A free society permits narrow self-interest but allows for compassion and self-sacrifice. Greed, when associated with force or fraud, is not acceptable. A free society is more likely to survive if compassion is voluntarily shown for the unfortunate than if the poor are ignored. A healthy self-interest associated with a sense of responsibility for family and friends is far superior to a welfare state built on foolish self-sacrifice and violent redistribution of wealth.

A society that holds in high esteem the principle of individual rights is superior in all ways to a society that distorts the meaning of liberty and condones the use of government coercion.