

PRAISE FOR *LATTER-DAY LIBERTY*

Connor Boyack has written a fascinating book that applies Mormon theology to the central question of statism vs. liberty that dominates our age. *Latter-day Liberty* provides an insightful analysis of both historical and modern political issues, and challenges the reader to reconcile religious beliefs with state actions. Not surprisingly, he finds that our federal government routinely violates the religious principles that many Mormons hold dear.

Those who advocate limited government necessarily must advocate strong religious, civic, and social institutions. These institutions, rather than the state, should act as the central organizing mechanisms in American society. For this reason *Latter-day Liberty* can appeal to readers who are not Mormon, but simply recognize that their relationship with God compels them to question their relationship with the state.

—Representative Ron Paul (R-TX), author, *Liberty Defined*

In *Latter-day Liberty*, Connor Boyack has done a great service by researching and compiling teachings on the principles of liberty from the Founding Fathers and the leaders of the Church of Jesus Christ of Latter-day Saints in a concise, well-written, and informative way. His application of these teachings to current political issues is both thought-provoking and enlightening – even for those who may disagree with his applications. Those who value agency and love liberty will find *Latter-day Liberty* a book well worth reading.

—Jonathan E. Johnson III, President, Overstock.com

Only someone knowledgeable in theology, U.S. history, constitutional law, and political philosophy could have taken on a task like *Latter-day Liberty*. Connor Boyack has proven that he more than fits that bill. The sheer weight of his evidence and the unfailing rigor of his arguments—even when dealing with the hard cases, which Boyack courageously and persuasively confronts—practically compel the reader to embrace liberty (the real thing, not the watered-down version peddled by most politicians) as the highest political good. A stellar achievement.

—Thomas E. Woods Jr., Ph.D., author, *Nullification: How to Resist Federal Tyranny in the 21st Century*

I will never view political issues the same after reading this book. *Latter-day Liberty* makes a convincing argument for applying gospel principles to politics. If it is read with an open mind, anybody will be well educated!

—Greg Wright, author, *Satan's War on Free Agency*

Latter-day Liberty couldn't be more timely. This poignant book serves as a wake-up call for Latter-day Saints, with Boyack and leaders of the LDS Church eloquently making the case for individual liberty.

—Doug French, President, Ludwig von Mises Institute

In *Latter-day Liberty*, Connor Boyack has presented a most articulate and historically accurate presentation of the foundational views of Joseph Smith, other leaders of the LDS Church, and our Founding Fathers. Boyack's timing is perfect. In a world of politically charged confusion, Latter-day Saints would do well to read and understand the roots of agency, government responsibility, and individual liberty that Boyack so clearly outlines.

—Jack Monnett, Ph.D., author, *Awakening to Our Awful Situation*

This book provides a thorough and compelling analysis of liberty, which is a subject too often ignored in government today. Well sourced and engaging, *Latter-day Liberty* is a must-read for every Latter-day Saint.

—Sheriff Richard Mack, author, *The Proper Role of Law Enforcement*

Liberty, history, Mormonism, Thomas Jefferson, Lord Acton, natural law, positive law . . . all in one book? *Latter-day Liberty* provides an excellent opportunity to understand natural rights, the proper role of government, and the duty to resist legalized aggression. Boyack's great depth and philosophical underpinning lay a foundation for a convincing application of the ideas he presents to some of today's most divisive issues.

This book is a tool not only to gain valuable insight into important political issues, but also to provide new ideas for how to educate those around you. With discussion on notable Supreme Court rulings, the war on drugs, immigration, a monumental flip-flop, and more, you will find this book to be an indispensable part of your personal library for liberty. Read this book!

—Michael Boldin, Executive Director, Tenth Amendment Center

LATTER-DAY *Liberty*

CONNOR BOYACK
FOREWORD BY MARK SKOUSEN

SOCIAL **HARMONY**

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ISBN 13: 978-1-59955-934-6

Published by Social Harmony, Lehi UT 84043.

Boyack, Connor, author.

Latter-day liberty : a gospel approach to government and politics / Connor Boyack.

pages cm

Includes bibliographical references.

ISBN 978-1-59955-934-6

1. Mormon Church--Political aspects--United States. 2. United States--Politics and government. 3. Christianity and politics--United States. I. Title.

BX8643.P6B69 2011

261.7--dc23

Printed in the United States of America

To Keaton and Linnea
May the future of your liberty
Be as a rising sun

FOREWORD

In the first week of January 1993, I received an unusual letter from President Gordon B. Hinckley, who at the time was First Counselor in the First Presidency of the LDS Church. The letter was dated December 28, 1992. I had sent him a copy of my pamphlet, “Persuasion vs. Force” (reproduced in the appendix of this book), and he had apparently read it during the Christmas holidays. He wrote:

Dear Brother Skousen,

I have read with appreciation your pamphlet, “Persuasion vs. Force.” Would that the world and its leaders might follow the philosophies set forth therein. As I read it I thought of the 121 Section of the Doctrine and Covenants verses 39–44. Keep speaking along these lines. It is a message that needs constant repetition.

Sincerely,

Gordon B. Hinckley

Needless to say, his letter made my day, and I have it on display in my home. Alongside the letter, I highlighted the theme from the pamphlet that I think President Hinckley may have liked: “Let me suggest a new political creed: The triumph of persuasion over force is the sign of a civilized society.” Since receiving his letter, I have taken his counsel to heart and have treated his mandate as a call to spread the gospel of “persuasion” and liberty far and wide.

His letter encouraged me to serve as president from 2001–02 of the Foundation for Economic Education (FEE), the oldest free-market think tank in our country. The foundation has special meaning for Latter-day Saints, as both Presidents Ezra Taft Benson and J. Reuben Clark were at one time board members and visited the FEE headquarters in Irvington-on-Hudson, New York. (Ernest L. Wilkinson, president of Brigham Young University in the 1950s and 1960s, was also a board member.)

I thought of President Hinckley’s letter when I started FreedomFest, “the world’s largest gathering of free minds,” a three-day conference held every July in Las Vegas. My big idea was to bring together everyone from the freedom movement, broadly defined, where once a year we could gather to learn, network, socialize, celebrate liberty, and discuss ways to recover our lost liberties. I envisioned an international convention—a “trade show for liberty”—where you could walk into the exhibit hall and see all the free-market think tanks like Cato, Ludwig von Mises, Reason, Heritage, Goldwater, FEE, Fraser, Sutherland (from Utah) all in one place, and find out what everyone was doing to restore our freedoms. I’m happy to report that we are growing rapidly and gaining support from all the freedom organizations and think tanks from around the world. We hold FreedomFest in July for a reason. I don’t think it is a coincidence that, in Utah, July celebrates both Independence Day (July 4) and Pioneer Day (July 24). July is freedom month. We also hold FreedomFest in America. In the Book of Mormon, God proclaims America to be a “promised land,” free from captivity.

In the Doctrine and Covenants, God declares that the United States Constitution is an inspired document, established by “the hands of wise men whom [he] raised up unto this very purpose” to free us from “bondage” (D&C 101:79–80). The Constitution was designed to be the golden mean between the two extremes of anarchy and tyranny. For “whatsoever is more or less than this [the Constitution], cometh of evil” (D&C 98:7).

As Connor Boyack demonstrates in this excellent book, our country’s founding documents were painstakingly crafted to limit the government to its legitimate functions and preserve individual liberty. Founders like Franklin, Jefferson, and Madison knew their Cicero, Locke, and Montesquieu. They understood the English tradition of common law and God-given rights, and enshrined in the Constitution

the proper role of limited but effective government. At the same time, they limited the size and power of government through checks and balances, federalism, and a written affirmation of the inalienable rights of all mankind. This Constitution is considered so successful that it has been imitated in other countries' constitutions around the world and has served our nation (under great duress, of course) for over two hundred years.

Interestingly, the French Revolution that followed was a counter-revolution and led that country in a direction opposite of liberty. Like the American Revolution, it began as a revolt against a monarch and aristocracy, but instead of limiting the power of the state, attempts were made to give the government unlimited power and tools to establish the "common will" and social justice. According to the French radicals, the control of government by the people meant that it would have to serve the people's needs and provide for their desired ends. Unlike the Americans, the French revolutionaries did not fear the brave new world of the authoritarian government in their hands. To pursue social justice, they believed that the government should centralize, regulate, and control. No substantive checks, balances, or restraints were thought beneficial to the new system.

While the American revolutionaries and their Constitution survived, prospered, and forged a new beacon of freedom around the world, the French Revolution ended in a bloodbath and created within the government more power than the previous monarchs had enjoyed—a despotism that ended with Napoleon but lived on in the revolutions of Europe in the mid-nineteenth century and the birth of Communism in the early twentieth century. And despite the collapse of the Berlin Wall in 1989 and Soviet central planning in 1991, the battle between the forces of freedom and tyranny, between capitalism and socialism, and between limited government and unlimited government, continues to this day.

Jorge Quiroga, former president of Bolivia, said it best when he said that in today's world of big government, "More and more, everything is either prohibited or mandatory." Unfortunately, the United States is not immune to this statist fever, and recent events from the 9/11 terrorist attacks to the financial crisis of 2008 have only increased the power and scope of the government. Is there no end to what the government can or should regulate? Is liberty more than a buzzword used during election

campaigns? Who is going to defend limited government and the Constitution? These are important questions to consider. The nascent Tea Party movement along with a general awakening to the principles of liberty is a testament that liberty-loving Americans aren't giving up. There is yet time to save the American Republic.

It is very comforting to witness the resuscitation of my uncle's books on the Constitution, *The 5,000 Year Leap* and *The Making of America*. I knew my uncle intimately before he passed away in 2006, and he often wondered if his extraordinary efforts to run thousands of seminars on the Constitution would pay off, or whether it was a quixotic adventure. Uncle Cleon frequently recounted how President David O. McKay in the early 1960s privately encouraged him to prepare the Saints to protect the Constitution. He must be beaming down from the heavens to see hundreds of thousands of his books being reprinted and read by concerned citizens. The *New York Times Magazine* called him "constitutional guru of the Tea Party movement."

Whether they align with the Tea Party movement or not, more and more Latter-day Saints are becoming actively involved in the fight for liberty. We have a special charge to do so, with scriptures affirming divine support for the inspired documents upon which America was founded. I remain hopeful that more members of the Church will become involved. I salute Connor Boyack and other constitutionalists and liberty-loving members of our Church leading the way.

With the publication of *Latter-day Liberty*, Connor has performed a great service to Latter-day Saints who are concerned about the direction of this great country, and who want a summary of the philosophy of liberty contained in LDS scripture and the words of modern-day prophets. It is sure to become an important guidebook to those seeking to better understand just how to "abide . . . in the liberty wherewith [we] are made free" (D&C 88:86).

As Connor carefully explains, liberty is a grand principle that has been advocated since the premortal existence. We fought a war over the right to exercise our agency. That battle continues on Earth, where liberty and tyranny have long been in competition. Our course is clear, as President McKay once stated: "A man may act as his conscience dictates so long as he does not infringe upon the rights of others." Thomas Jefferson couldn't have said it better. Similarly, President Spencer W. Kimball stated that "there is no force in the gospel." That's why the

gospel of Jesus Christ is so liberating, bringing to the world “love, joy, peace” (Galatians 5:22).

Persuasion—not force—should be our ideal. Government should be no exception to this standard. We should not unjustly use coercion as a method of seeking change. Among citizens who live together in a society, the Prophet Joseph Smith declared that when taught correct principles, the people will “govern themselves.” Self-government is the goal.

But what are those “correct principles,” and under what circumstances are they properly applied? For the answer to that question, I encourage the reader to continue on through *Latter-day Liberty* for an insightful discussion of how eternal principles apply to government and politics.

Yours for peace, prosperity, and liberty,

Mark Skousen

New York, May 2, 2011

Mark Skousen is a financial economist, university professor, and author of over twenty-five books. He is the producer of FreedomFest. He and his wife, Jo Ann, have five children and are lifelong members of the LDS faith. Visit his website at www.mskousen.com.

PREFACE

*F*or the past several years I have studied both scriptural and secular sources to help make sense of the world and shape my understanding of “things as they really are” (Jacob 4:13). In so doing I have observed a theme I believe to be both extremely important and largely overlooked by Latter-day Saints. While buzzwords such as “freedom,” “liberty,” and “independence” are generously used in political campaigns and conversations, I cannot help but feel that a comparative few have the philosophical and scriptural foundation necessary to understand what these terms really mean, and more important, how they apply to our government and its laws.

I believe that a fundamental aspect of the good news of the gospel is the message of agency and liberty. Men of God, both ancient and modern, have spoken on this issue repeatedly. Unfortunately, their collective counsel has gone mostly unheeded. My purpose in writing this book is to provide an analysis of what liberty is and how it applies to government and politics using logic, reason, and secular sources of information in addition to the abundant scriptures and statements from prophets and apostles that relate to these issues. Part One of this book is an examination of liberty using the sources mentioned to demonstrate support for the principles being discussed. Part Two is an analysis of several important political issues, applying the principles discussed in Part One.

It should be noted that the principles, laws, and ideas discussed in

this book are in relation to secular government. While we must “be subject to the powers that be, until he reigns whose right it is to reign” (D&C 58:22), it follows that we should understand what powers those are and under what conditions they are authoritative and acceptable. The establishment of the kingdom of God will bring with it God’s divine rule over mankind. As our lawgiver, he is of course free to create and enforce what laws he will, and for whatever reason (see Isaiah 55:8–9). Until that time, and while we must govern ourselves, it is imperative that we apply eternal principles to our relations with our fellow men so as not to threaten the agency and individual liberty of others without just cause.

I do not seek to “steady the ark” by suggesting that this content should be presented over the pulpit by today’s prophets and apostles, nor do I claim that my interpretation of these scriptures and statements is the only or absolutely correct one. Rather, this book is a compilation of arguments and observations made by one Latter-day Saint for the intended benefit and potential edification of his peers, and offered in good faith. Where any mistakes or misinterpretations exist, I, of course, assume full responsibility.

The English historian Lord Acton once said, “Liberty is not a means to a higher political end. It is itself the highest political end.”¹ It is with this view in mind that I encourage the reader to consider the material presented in this book.

1. Lord Acton, *The History of Freedom and Other Essays* (London: Macmillan and Co., 1907), 22.

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INTRODUCTION

*The Kingdom of God is a Kingdom of freedom;
the gospel of the Son of God is the gospel of liberty.*

—President Joseph F. Smith¹

*A*t a national convention in Philadelphia in June 1856, six hundred delegates in the newly formed Republican Party adopted a party platform whose key plank stated that it was the duty of Congress to prohibit “those twin relics of barbarism, polygamy and slavery.”² The former reference was aimed directly at the Mormon territory in Utah. Naturally, the Latter-day Saints practicing polygamy at the time were not excited about this opposition, and thus developed a tendency to vote for candidates in the Democratic Party.

In November of that same year, presidential candidate James Buchanan defeated the first Republican Party nominee, John C. Fremont, whose campaign focused on these “twin relics.” Fremont’s failure—and the implied referendum that failure provided regarding these issues—was welcomed by the Saints in Utah. “We learn that Buchanan is elected as President of the United States,” wrote Elder Wilford Woodruff, “which we would far prefer that he be our President than Fremont.”³

However, Democrats lost the next several presidential elections, each of which were nail-biting endeavors for Saints in the West, who longed for a President who would befriend and protect them. In 1879,

when Democrat Samuel Tilden, governor of New York, won the popular vote in the presidential election, Brigham Young sent Apostle George Q. Cannon to meet with the President-elect. Church leaders were pleased with the thought of Democrats regaining control of the federal government and were excited at the prospect of improved relations with Washington—both to better secure the Saints’ liberty and to expedite Utah’s request for statehood.

Fraudulent ballots spoiled the good news, however, and Cannon headed to Washington, DC, to witness the proceedings of the commission that would determine the fate of the election. In the end, Rutherford B. Hayes was declared to have won by a margin of a single electoral vote. Hayes, a Republican, soon showed himself to be one of the most anti-Mormon of Presidents, earning him on one occasion the label of “the greatest ignoramus of all times”⁷⁴ by President John Taylor.

It would be decades before things would substantially change. Church leaders in the early 1890s strove to moderate the partisan allegiances of members in order to secure more support in Washington for Utah’s desired statehood, especially after political consultants from both national parties suggested that statehood would not be granted unless and until the large voting bloc of Mormons was broken up. Leaders of the local Mormon People’s Party dissolved their organization in June of 1891, telling Church leaders that “the time had come for a division on national party lines.”⁷⁵ Church leadership, having already discussed this issue with People’s Party leadership, agreed.

Fearing that the Democratic Party would far surpass the Republican Party in new members, Church leaders went to great lengths to see that members signed up for the Republican Party.⁷⁶ Many prominent Republican General Authorities affirmed that, contrary to popular belief, one could be both a Republican and a Latter-day Saint in good standing.⁷⁷ President Woodruff himself considered it “of the highest importance” that members be represented in both national political parties.⁷⁸

Throughout the early twentieth century, the balance of political power in Utah shifted back and forth between the two major parties as federal and state offices changed hands in a fairly competitive playing field.⁷⁹ The Democratic Party’s embrace of socially permissive policies gradually and ultimately persuaded most Mormons to affiliate with the more conservative Republican Party, a trend that continues to this day.

A century after Church members split along national party lines, history repeated itself in the reverse. Whereas before Latter-day Saints were being told that one could be a Republican and still be a faithful member of the Church, now many are not sure about the faithfulness of Mormon Democrats due primarily to their positions on social issues. In April 1998, Church leaders assigned Elder Marlin K. Jensen, a member of the First Quorum of the Seventy and lifelong Democrat, to be interviewed by the *Salt Lake Tribune* on the issue of two-party political balance (or the lack thereof) in Utah. Elder Jensen sought to dispel the notion that “you can’t be a good Mormon and a good Democrat at the same time,” saying that such an idea should be “obliterated.”¹⁰ Despite the continued attempts to moderate Church members’ propensity to lean toward one political party, the majority of American Mormons today vote Republican. A recent survey found that 65 percent of American Mormons identified with or leaned toward the Republican Party—30 percentage points higher than the general population.¹¹ Another survey unsurprisingly revealed that Utah is one of the most Republican states in the Union, second only by one percentage point to Wyoming.¹²

This isn’t the case universally, of course. For example, Senator Harry Reid (D-NV) told BYU students at a university forum in 2007 that “My faith and political beliefs are deeply intertwined. I am a Democrat because I am a Mormon, not in spite of it.”¹³ President James E. Faust, also a Democrat, remarked, “Both locally and nationally, the interest of the Church and its members are served when we have two good men or women running on each ticket, and then no matter who is elected, we win.”¹⁴ Elder Jensen agreed: “There is a feeling that even nationally as a church, it’s not in our best interest to be known as a one-party church,” he said in his 1998 interview. “The national fortunes of the parties ebb and flow. Whereas the Republicans may clearly have the upper hand today, in another 10 years they may not.” Demonstrating his wisdom, and driving home a key point worth pondering, Elder Jensen remarked: “If you’re a pure ideologue, eventually you’re going to have trouble in either party.”¹⁵

To be sure, uniting with a group of other free-thinking individuals does not mean that a homogeneous result will be produced. Unanimity is not created through a majority vote. In any political party, where the platform and nominees are voted upon by its members, there will be those few independently minded individuals who unite for pragmatic

or other reasons, yet squirm uncomfortably at certain policies or people they are encouraged or required, through their party affiliation, to support. This is, perhaps, the “trouble” to which Elder Jensen referred.

Ignoring or unaware of the warning signs of such trouble, the masses have seemingly accepted the precedent that divisive partisan politics is the way progress is achieved. We ignore at our own potential peril, however, the wise words of the father of our nation, George Washington, who offered a stern warning about partisan politics in his farewell address. A portion of that counsel reads as follows:

Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but, in those of the popular form, it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of public liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight), the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.¹⁶

In the book of Ephesians, the apostle Paul stresses the need for unity in faith and knowledge, that thereby the Saints might not be “tossed to and fro, and carried about with every wind of doctrine, by the sleight of men, and cunning craftiness, whereby they lie in wait to deceive” (Ephesians 4:14). Applied to the political realm, the Saints have mired themselves into a system where being carried about by every wind of (political) doctrine is simply part of the process—a “necessary evil,” some might say. A political mind-set that accepts or embraces

parties and platforms makes an individual susceptible to political influences that may not be in harmony with eternal principles. As Washington astutely observed, a party-based system is fraught with “continual mischiefs.” Noah Webster defined “mischief” in his landmark 1828 dictionary as “Harm; hurt; injury; damage; evil, whether intended or not.”¹⁷ It’s no wonder principled people (commonly and sometimes pejoratively referred to as “ideologues”) find “trouble” in such a scheme.

Should Latter-day Saints, like citizens generally, be content with this system and conform their principles to the platforms of the party to which they most closely align at any given moment in time? Must those who cling to an ideology tame their passionate political stances in order to avoid “trouble”? Will principles always, in the real world, be sacrificed in the name of practicality and compromise? More important, are the policies and nominees that come out of this Republican/Democrat system praiseworthy and in any way reconcilable with foundational principles? President Gordon B. Hinckley seemed to call for more ideological purity when he once wrote that “we desperately need moral men and women *who stand on principle*, to be involved in the political process.”¹⁸ The superficial battles between the two major political parties on any given issue rarely provide an opportunity to debate and analyze the principles at hand. Often, merely asking questions that would draw out which principle is being supported or violated brands the questioner as unreasonable, nitpicking, not living in the real world, or an ideologue.

Latter-day Saints have been instructed by numerous Church leaders to promote wise laws and sound policies. Doing so requires discarding the false left/right political paradigm and approaching public policy from a principled perspective on every issue. If Thomas Jefferson’s Declaration of Independence has any meaning to us, and if we agree that God has endowed us with unalienable¹⁹ rights such as life, liberty, and the pursuit of happiness, then we must hold these to be core pillars of pure principle upon which any policy, program, or platform must first be founded. They are the foundational principles we should always initially consider when supporting or opposing any law. They are the lens through which we will be scrutinizing various political issues as this book progresses.

This is not merely some insignificant mental exercise, nor should this inquiry into political theory be treated lightly. We will be discussing

not the superficial merits of various popular issues, but the principles upon which they are founded. Individual rights and fundamental principles are crucial to the protection of our liberty, and the preservation of our society; they are not simple curiosities to be regarded only with passive interest. Elder D. Todd Christofferson observed the importance of related scriptural principles: “In scripture, we find vivid portrayals of the blessings that come from honoring *true principles*, as well as the tragedies that befall when individuals and civilizations discard them. Where scriptural truths are ignored or abandoned, the essential moral core of society disintegrates and decay is close behind. In time, nothing is left to sustain the institutions that sustain society.”²⁰

The creation and preservation of what Elder Christofferson referred to in his discourse as “civil society” depends upon our adherence to true principles, in whatever political party or piece of legislation they may be found. American Latter-day Saints once were mostly Democrats, and now they’ve tied themselves by and large to the mast of the Republican Party. This book will discuss why Latter-day Saints might instead consider associating themselves with a political philosophy that is both grounded in the gospel and tied to true principles. That political philosophy is popularly identified by a single word: *liberty*.

1. Joseph F. Smith, *Deseret News: Semi-Weekly*, March 2, 1867, 3.
2. Dorus Morton Fox, *History of Political Parties, National Reminiscences, and the Tippecanoe Movement* (Des Moines: Iowa Printing Co., 1895), 194.
3. Scott G. Kenney, ed., *Wilford Woodruff’s Journal, 1833–1898*, 5:5.
4. Wayne Stout, *The Mighty John Taylor* (Salt Lake City: Stout, 1977), 117.
5. “An Important Interview,” *The Deseret Weekly*, July 4, 1891.
6. See Thomas G. Alexander, *Things in Heaven and Earth: The Life and Times of Wilford Woodruff, a Mormon Prophet* (Salt Lake City: Signature Books, 1993), 274–282.
7. Ibid.
8. Ibid., 277.
9. Allan Kent Powell, ed., *Utah History Encyclopedia* (Salt Lake City: University of Utah Press, 1994), 461–2.
10. “GOP Dominance Troubles Church,” *Salt Lake Tribune*, May 3, 1998.
11. “A Portrait of Mormons in the U.S.,” Pew Forum, accessed May 2, 2011, <http://pewforum.org/Christian/Mormon/A-Portrait-of-Mormons-in-the-US—Social-and-Political-Views.aspx>.
12. “Party ID: Despite GOP Gains, Most States Remain Blue,” Gallup,

- accessed May 2, 2011, <http://www.gallup.com/poll/125450/party-affiliation-despite-gop-gains-states-remain-blue.aspx>.
13. "Sen. Harry Reid speaks of faith, family and public service," Brigham Young University News Release, accessed May 2, 2011, <http://news.byu.edu/archive07-Oct-reidspeech.aspx>.
14. Quoted in James E. Bell, *In the Strength of the Lord: The Life and Teachings of James E. Faust* (Salt Lake: Deseret Book, 1999), 86.
15. "GOP Dominance Troubles Church," *Salt Lake Tribune*, May 3, 1998.
16. Washington Irving, *The Life and Times of Washington* (New York: G. P. Putnam's Sons, 1876), 779–80.
17. "Mischief," *1828 Webster's Dictionary*, accessed May 2, 2011, <http://1828-dictionary.com/d/search/word,mischief>.
18. Gordon B. Hinckley, *Stand a Little Taller* (Salt Lake City: Eagle Gate Publishers, 2001), 15; emphasis added.
19. While "unalienable" and "inalienable" are often used interchangeably, they have distinct definitions. *Black's Law Dictionary, Second Edition* (St. Paul: West Publishing Co., 1910) defines "inalienable" as *not subject* to alienation, while defining "unalienable" as *incapable* of alienation. A person cannot alienate (give up) his unalienable rights, while he can alienate his inalienable rights. Inalienable rights cannot legitimately be alienated (taken, transferred) by others, but through contract or consent an individual can give up his own inalienable rights. In referencing the individual rights given to us by God, I will refer to them as "unalienable"; quotes used throughout the book will often refer to them generally (likely not recognizing this distinction) as "inalienable."
20. D. Todd Christofferson, "The Blessing of Scripture," *Ensign*, May 2010, 32–35.


PART 1

Liberty DEFINED

RECLAIMING A MISUNDERSTOOD WORD

*In memory of our God, our religion, and freedom, and our peace,
our wives, and our children.*

—Captain Moroni’s Title of Liberty

 While those on all sides of a political issue would likely argue that they support liberty (at least to some degree), there is only one prevailing political philosophy that sees it as “the highest political end,” as Lord Acton said. This loosely-organized group of individuals has been identified with different names throughout history, and its members have, despite disagreement on how liberty applies to certain issues, championed the application of fundamental principles to public policy. Today, they are known as libertarians. If Mormons are to be supporters of the cause of liberty, the argument then follows that they should be libertarian.

Considering the marriage of these two labels can be disconcerting to some who read “libertarian” and think “atheist, immoral, and selfish.” In truth, Mormons have a lot in common with libertarians; the history of the Latter-day Saints is replete with examples of very libertarian

social norms, political actions, and general mind-sets. This book will explore some of these similarities in order to better understand how a philosophy of liberty can and should be embraced by Latter-day Saints.

It is an inescapable fact that people have preconceived notions about what a libertarian is, and what policies he or she might support. The word itself, and the core philosophy it represents, should not be altogether discarded because of widespread ignorance or misunderstanding regarding its correct definition. In truth, the word “libertarian” needs to be reclaimed and contextualized. Perhaps the reigning definition of Mormon libertarian thought was expressed by the prophet Joseph Smith, who said: “I teach them correct principles and they govern themselves.”¹ As used in this book, “libertarian” refers not to a member of the Libertarian Party, nor to the stereotypically brash and selfish individual seeking the government’s dissolution, but rather to a proponent of the *philosophy of liberty*.

What is liberty? It is a word frequently cited, but far too infrequently defined; as Abraham Lincoln once stated, “The world has never had a good definition of the word liberty.”² Ask the average person on the street what it means and you’re sure to stump not a few people who feel they understand the concept, but cannot quite articulate what it is. Frédéric Bastiat, the renowned nineteenth-century French political economist and champion of liberty, described it as follows:

Actually, what is the political struggle that we witness? It is the instinctive struggle of all people toward liberty. And what is this liberty, whose very name makes the heart beat faster and shakes the world? Is it not the union of all liberties—liberty of conscience, of education, of association, of the press, of travel, of labor, of trade? In short, is not liberty the freedom of every person to make full use of his faculties, so long as he does not harm other persons while doing so? Is not liberty the destruction of all despotism—including, of course, legal despotism? Finally, is not liberty the restricting of the law only to its rational sphere of organizing the right of the individual to lawful self-defense; of punishing injustice?³

Thomas Jefferson similarly wrote: “Of liberty I would say that, in the whole plenitude of its extent, it is unobstructed action according to our will. But rightful liberty is unobstructed action according to our will within limits drawn around us by the equal rights of others. I do not add ‘within the limits of the law,’ because law is often but the

tyrant's will, and always so when it violates the right of an individual."⁴

Elder Bruce R. McConkie agreed when he wrote that liberty is "the privilege to be free and to be unrestrained in all activity except that which interferes with the equally sacred rights of others."⁵ President David O. McKay similarly stated: "A man may act as his conscience dictates so long as he does not infringe upon the rights of others. That is the spirit of true democracy, and all government by the Priesthood should be actuated by that same high motive."⁶ These statements demonstrate a deep regard for the peaceful actions of every individual; liberty is, quite simply, the right to be left alone. It is the sacrosanct possession of individual rights that cannot legitimately be subjected to (nor suppressed by) public opinion or majoritarian dictates. An anonymous quote often misattributed to Benjamin Franklin provides an instructive example: "Democracy is two wolves and a lamb voting on what to have for lunch. Liberty is a well-armed lamb contesting the vote!" Defining liberty more succinctly, President Marion G. Romney once stated:

The sweets of liberty about which we usually speak may be classified as (1) political independence, (2) economic freedom, and (3) free agency.

I would have us strive for that liberty which comprehends all three of these freedoms, and more. I would have us strive for a freedom of the soul to which they all contribute. I would have us attain that blessed state foreshadowed by the Prophet Joseph Smith when he said, "Let virtue garnish thy thoughts unceasingly; then shall thy confidence wax strong in the presence of God" (D&C 121:45). One who enjoys such liberty is, in the words of Jesus, "free indeed" (John 8:36). He is possessed of perfect liberty.⁷

Placed in this proper context, a libertarian should be viewed as somebody who defends individual rights, upholds free agency, and fights for freedom. Consider the following quote, wherein President Ezra Taft Benson explains his use of the label: "I am a libertarian. I want to be known as a libertarian and as a constitutionalist in the tradition of the early James Madison—father of the Constitution. Labels change and perhaps in the old tradition I would be considered one of the original whigs. The new title I would wear today is that of conservative, though in its original British connotation the term liberal fits me better than the original meaning of the word conservative."⁸

As President Benson noted, labels shift and take on new meaning

in a continuous and perhaps deviously intentional etymological evolution. During the era of the Founding Fathers, a liberal (now referred to as “classical liberal”) was what today might be labeled by some as a conservative or libertarian. As President Ronald Reagan noted, the latter two terms are sometimes synonymous:

If you analyze it, I believe the very heart and soul of conservatism is libertarianism. I think conservatism is really a misnomer just as liberalism is a misnomer for the liberals—if we were back in the days of the Revolution, so-called conservatives today would be the Liberals and the liberals would be the Tories. The basis of conservatism is a desire for less government interference or less centralized authority or more individual freedom and this is a pretty general description also of what libertarianism is.⁹

The philosophy of liberty needs no partisan label nor conventionally narrow definition to be understood and applied. It often resists such constrictive and easily dismissed epithets, worried that when reduced to a simple slogan or sound byte, its philosophical potency becomes diluted. Rather, liberty is a mind-set and comprehensive way of living wherein sovereign and self-reliant individuals affirm their ability to determine their own destiny, free from control by their peers.

God has instructed us that we should not be commanded in all things (D&C 58:26), so it then follows that if even God won’t regulate, license, and micromanage every human action, then neither should government. Instead, legitimate government should leave peaceful people alone, only intervening to punish acts of aggression and ensure justice. This, in a nutshell, is the philosophy of liberty, or “libertarianism” as it will be referred to throughout this book. It is a moral political framework wherein individuals are free to govern themselves and coercion is only used to legitimately prevent or punish an infringement of another’s rights.

A political framework founded on liberty contemplates a society that functions through persuasion rather than force. This is a key concept in the gospel of Jesus Christ, as we learn in the Doctrine and Covenants: “No power or influence can or ought to be maintained by virtue of the priesthood, only by persuasion, by long-suffering, by gentleness and meekness, and by love unfeigned; By kindness, and pure knowledge, which shall greatly enlarge the soul without hypocrisy, and without guile” (D&C 121:41–42).

This discussion is not a semantical game whereby the reader will be gradually duped, finding themselves, for example, reading a manifesto for the Libertarian Party. To the contrary, the analysis contained herein focuses on fundamental principles and the core foundation of libertarianism, which is the defense of individual liberty—something most Mormons, recalling Captain Moroni’s “title of liberty” (Alma 46:12–13), would readily embrace as their own political creed. As Elder Charles Didier once said, “Our most important need as defenders of liberty is to know what true liberty is, to teach it, to profess it, and to testify of it.”¹⁰ In other words, Mormons should be proponents of the philosophy of liberty, or libertarians.

1. Quoted by John Taylor, *Millennial Star*, November 15, 1851, 339.
2. Address, 18 Apr. 1864; quoted in John Bartlett, *Familiar Quotations*, 15th ed., (Boston: Little, Brown and Co., 1980), 523.
3. Frédéric Bastiat, *The Law* (New York: Cosimo, 2006), 41.
4. Joyce Appleby and Terence Ball, ed., *Jefferson: Political Writings* (New York: Cambridge University Press, 1999), 224.
5. Bruce R. McConkie, “Know Your Constitution,” *Deseret News*, March 26, 1945, <http://news.google.com/newspapers?id=xdgzAAAIBAJ&pg=2821%2C2717064>
6. David O. McKay, in Conference Report, October 1938, <http://www.latterdayconservative.com/articles/david-o-mckay/peace-the-message-of-the-church>
7. Marion G. Romney, “The Perfect Law of Liberty,” *Ensign*, Nov. 1981, 43.
8. Ezra Taft Benson, *The Red Carpet* (Salt Lake City: Bookcraft, 1962), 206.
9. “Inside Ronald Reagan,” *Reason Magazine*, accessed May 2, 2011, <http://reason.com/archives/1975/07/01/inside-ronald-reagan>
10. Charles Didier, “Where the Spirit of the Lord Is, There Is Liberty,” BYU Devotional, 12 June 1984, <http://speeches.byu.edu/reader/reader.php?id=6898>

THE WAR IN HEAVEN

Wherefore, because that Satan rebelled against me, and sought to destroy the agency of man, which I, the Lord God, had given him, and also, that I should give unto him mine own power; by the power of mine Only Begotten, I caused that he should be cast down.

—Moses 4:3

The agency of man would not be worth the name if it did not grant liberty to the wicked to fill the cup of their iniquity, as well as liberty to the virtuous to round out the measure of their righteousness.

—Elder B. H. Roberts¹

We read of the contention that existed in heaven before this world was organized, and in that great conflict, we are told that one-third of the hosts of heaven were overpowered and thrown out. But the spirit of that contention did not cease to exist. It has existed and has come down to us through the ages; one side contending for individual liberty and the rights of man, and the other side contending for rule by force and by compulsion. That was essentially the issue in that great conflict before the world was. Christ stood

for government by persuasion, by long suffering, by kindness and gentleness and love unfeigned. The other power was for government and salvation for all, to be secured by the spirit of force and compulsion, wherein all would be saved without agency, or what we call common consent."

—President Charles W. Nibley²

Before proceeding with an inquiry into liberty and a review of its application to a few popular political issues, it's important to first understand the wedded nature of liberty and agency. Latter-day Saints are blessed with an increased understanding of who we are, why we're here on earth, and what consequences our mortal actions have. This knowledge can and should inform the laws and policies we support in earthly government. A gospel-based understanding of liberty is unique in many ways from the world's definition of the term, primarily due to the revelations we have been given regarding God's plan of salvation and the War in Heaven.

From the "foundations of the world" (Alma 12:25, 30), God prepared the Atonement of Jesus Christ as the plan of redemption for his children. Knowing that they would sin as a part of their mortal experience, and thus be unworthy of returning to his presence, he provided a plan whereby they might be made clean and afforded the opportunity to rejoin him after their earthly probation. This is the core of God's plan—providing a testing ground for his children to develop faith and prove their obedience and worthiness, and if successful, allowing them to return to live with him throughout the eternities.

Heavenly Father's plan was challenged by one of his most prominent sons, Lucifer, whose very name means "light bearer" or "morning star." Despite being "in authority in the presence of God" and "in the bosom of the Father" he was "thrust down from the presence of God" (D&C 76:25). Why did one so high in power and authority fall so low? How could a being whose very name describes the light he once enjoyed, and which he might have had an eternal capacity for, reject God's plan in open protest? Why would Lucifer slide into darkness after having so long basked in the light of God's presence?

Lucifer's heart betrayed him, describing the very seeds of rebellion that blossomed into a full-blown assault against God's plan. "I will ascend into heaven," he said. "I will exalt my throne above the stars

of God . . . I will be like the most High” (Isaiah 14:13–14). That plan, a substitute proposition that he wished to foist onto his spirit siblings as part of his power play, was publicly presented when in the heavenly councils Lucifer stepped forward and told God “Behold, here am I, send me, I will be thy son, and I will redeem all mankind, that one soul shall not be lost, and surely I will do it; wherefore give me thine honor” (Moses 4:1). God’s honor which Lucifer sought after was explained by God to be his power (D&C 29:36), and thus the diabolical forgery offered by the spirit soon to be known as Perdition was little more than a deceitful attempt to increase his own power and prestige.

Interestingly, Lucifer’s own name was seemingly a forgery, for the true “bright, morning star” is Jesus Christ, God’s “Beloved and Chosen from the beginning” (Moses 4:2), who affirms that title in the Book of Revelation (Revelation 22:16). More important than Lucifer’s name, however, was the plan itself, which he introduced as an alternative option for God’s children to consider—a plan that was itself a counterfeit from the original—using emotionally deceptive advertising and hollow promises. Both plans claimed to be able to save mankind from the fallen state they would enter, but only God’s truly could. As Joseph Smith stated, “Jesus said there would be certain souls that would not be saved; and the devil said he could save them all, and laid his plans before the grand council, who gave their vote in favor of Jesus Christ.”³

Satan’s proposal to allegedly ensure the salvation of every single one of God’s children was a non-starter from the beginning—a plan that was never anything more than a fictional and cunning attempt to usurp God’s power. It was an illegitimate attempt to distort God’s plan, and one which would have destroyed man’s agency. Despite the unworkable conditions proposed by Lucifer, he successfully gained a significant following by luring away many of his fellow spirit siblings with promises of guaranteed salvation regardless of what they would choose to do on earth. (Ironically, those who joined forces with Satan to destroy agency exercised their own agency in doing so.) Not one soul would be lost, the devil claimed, thus implying that he would nullify God’s commandments and remove any need for obedience to divine authority. In effect, he was proposing that everybody would be able to “eat, drink and be merry” (2 Nephi 28:7–8), then at the judgment bar receive an unconditional stamp of approval.

Enticing though this diabolical plot may have been, it was ultimately

rejected by a majority of God's children and, of course, by God himself. Explaining the consequences for Lucifer's actions, the Lord gives us three reasons why Satan was cast down as Perdition and denied his mortal estate: 1) Satan rebelled against God; 2) he sought to destroy the agency of man; and 3) he sought after God's own power (see Moses 4:3). The first and third options were personal to Lucifer. The second option was significantly more public, since Satan's proposed plan, as well as his related campaign to build a following and overthrow God would (if successful) have destroyed the agency of every son and daughter of God. As intelligences, then spirits, and now with our organized bodies, we have been given our agency by God, empowering us to decide and act as we think best and desire most. If Satan wanted then—and wants now—to destroy that divinely granted agency, it is imperative that we understand just what “agency” really is.

THE AGENCY OF MAN

If the focus and end result of Lucifer's efforts to obtain God's power was to deprive every individual of his or her agency, then it is essential that we understand what agency is, why it's important, what happens without it, and how we can preserve it. Consider the implications of not having a perfect understanding of this vital and often misunderstood doctrine. If in the premortal existence we participated in a war of words—a struggle to oppose an attempted usurpation of power—and our enemy's strategy then is the same one he still uses now, to what extent is our chance of success in this current battlefield diminished if we are now ignorant of the main reason for which the War in Heaven was first fought? If one of the primary reasons God expelled one of his sons (along with his followers) was because he sought to deprive others of their agency, then we must ensure we know exactly what agency is, and all that it implies. We would not want to be found trying to deprive others of their agency, as Satan once attempted. A contextually accurate definition of liberty requires this understanding of agency, especially with the proper perspective offered by the gospel of Jesus Christ.

As with any attempt to understand what a word means, it's best to first define it. Webster's 1828 dictionary is a great place to start for words found in scripture, as the definitions offer the closest insight into what was meant by any given word used in translating or documenting

scripture during that same period of time. Webster defined the word *agency* as “The quality of moving or of exerting power; the state of being in action; action; operation; instrumentality; as, the agency of providence in the natural world.”⁴ A correlation exists between this definition and Father Lehi’s teachings regarding what Christ’s redemption made possible: “And because that [the children of men] are redeemed from the fall they have become *free forever*, knowing good from evil; to *act for themselves* and not to be acted upon, save it be by the punishment of the law at the great and last day, according to the commandments which God hath given” (2 Nephi 2:26; emphasis added).

Webster’s narrow definition of agency describes one’s ability to act, to do, to operate, to execute. Conversely, the antithesis of agency would create a condition that Lehi called being “acted upon,” which is a consequence for sin or lawbreaking, or bondage—whether forcefully imposed by another, or self-imposed as a consequence of our own actions. This idea is further supported when considering a related word, *agent*, which Webster defined as “one that exerts power, or has the power to act” and “one entrusted with the business of another.”⁵ Just as an agent is authorized and empowered by the person whom he represents, we are given our agency—our power to act—as a gift from God. As the Lord said to Enoch: “In the Garden of Eden, gave I unto man his agency” (Moses 7:32).

Agency is a multi-faceted doctrine, each of its components being necessary in order for it to be efficacious. Elder Bruce R. McConkie explained its various parts:

Four great principles must be in force if there is to be agency: 1. Laws must exist, laws ordained by an Omnipotent power, laws which can be obeyed or disobeyed; 2. Opposites must exist—good and evil, virtue and vice, right and wrong—that is, there must be an opposition, one force pulling . . . the other. 3. A knowledge of good and evil must be had by those who are to enjoy the agency, that is, they must know the difference between the opposites; and 4. An unfettered power of choice must prevail.⁶

First, laws must exist. Lehi, teaching about agency, plainly stated this prerequisite, noting that “the law is given unto men” (2 Nephi 2:5). The Lord himself said that the law makes us free (D&C 98:8), implying its relationship to agency. After being introduced into the Garden of Eden, Adam was taught the laws governing what he should and

should not do, yet the Lord noted that “thou mayest choose for thyself” (Moses 3:17). Laws are given as a moral standard by which our actions and decisions may be judged; without laws, there could be no punishment—essentially creating a morally relativistic environment in which any action, no matter how grotesque or aggressive, could be accepted as right. Laws are meant, as James Madison once wrote, to be a rule of action⁷—a set of instructions given to all of God’s creations (D&C 88:42) by which their choices may be guided, and resulting actions justified. Agency requires established law, for if no set of rules existed, one could not decide whether to follow those laws. Having no opportunity to voluntarily comply with God’s laws, our mortal testing grounds would be rendered null and void, and agency would be destroyed. Thus, the abolition of divine law was an objective in Lucifer’s proposed plan to destroy man’s agency.

Second, opposition must exist. Lehi also explained this concept, teaching his sons that “man could not act for himself save it should be that he was enticed by the one or the other” (2 Nephi 2:16). Once Adam was given laws in the Garden of Eden and instructed as to which fruit he should and should not eat, his agency would never have been necessary had he had no desire or reason whatsoever to do anything but what he was told. Without things competing for our attention and interest—if we lived in a world where no opposition existed to complying with God’s commandments—we would not have to exercise our agency in order to obey the law. The Lord stated that “it must needs be that the devil should tempt the children of men, or they could not be agents unto themselves; for if they never should have bitter they could not know the sweet” (D&C 29:39). Lucifer’s plan, evil though it was, allowed God’s children an opportunity to exercise their agency in the premortal realm by providing an opposing plan for consideration. Thus, though Lucifer sought to destroy the agency of man (not knowing the mind of God [see Moses 4:6]), in a way he was enabling that very agency he so despised.

Third, agency requires a knowledge of good and evil—an understanding of the law we have received. Lehi noted that part of God’s plan was that “men are instructed sufficiently that they know good from evil” (2 Nephi 2:5), indicating that this knowledge comes through sources outside oneself, whether it be parents, leaders, angels, or God himself. The prophet Mormon taught his people that “the Spirit of Christ is

given to every man, that he may know good from evil” (Moroni 7:16). Alma also taught that “he that knoweth not good from evil is blameless,” providing exemption for little children and the mentally handicapped. “But he that knoweth good and evil,” Alma said, “to him it is given according to his desires . . .” (Alma 29:5). A corollary to this knowledge of good and evil is the corresponding accountability we have for our decisions. If we know what we are doing, and why we are doing it, then we are responsible for that action according to the amount of knowledge we had regarding the decision. “It is requisite with the justice of God that men should be judged according to their works,” Alma taught (Alma 41:3). Recall that an agent, acting and making decisions on behalf of his superior, must later give an account of (be held accountable for) his actions. In the following verses from the Doctrine and Covenants, the Lord describes the relationship between accountability and stewardship. (Note that since “steward” and “agent” are synonymous, so too are “stewardship” and “agency.”)

It is wisdom in me; therefore, a commandment I give unto you, that ye shall organize yourselves and appoint every man his stewardship;

That every man may *give an account unto me* of the stewardship which is appointed unto him.

For it is expedient that I, the Lord, should *make every man accountable*, as a *steward* over earthly blessings, which I have made and prepared for my creatures (D&C 104:11–13; emphasis added).

Agency cannot exist without the knowledge required to make an informed decision. Further, agency implies accountability as an agent, or steward, of the blessings, knowledge, or possessions we have been given. Lucifer’s attempt to destroy our agency relates to this in two ways:

- 1) He would have denied us the opportunity to learn between good and evil, as the Lord noted: “Satan seeketh to turn [our] hearts away from the truth, that [we] become blinded and understand not the things which are prepared for [us]” (D&C 78:10).
- 2) He would have eliminated our stewardship and need for accountability, for as President David O. McKay taught: “If [Lucifer’s] plan had been accepted, human beings would have become mere puppets in the hands of a dictator.”⁸

Finally, agency requires the freedom to choose. Laws, opposition, and knowledge profit us little if we are not given an opportunity to make our own decisions after weighing the various options presented to or discovered by us. While choice is a vital component of agency, it is only fully relevant when combined with the knowledge mentioned in the previous requirement. Little children and the mentally handicapped also make choices, but they are not accountable since they lack the needed understanding of their decisions. The Lord said: “Behold, here is the agency of man, and here is the condemnation of man; because that which was from the beginning is plainly manifest unto them, and they receive not the light” (D&C 93:31). We are accountable for our choices, and those choices are part of our agency, when things are “plainly manifest” unto us—only then can we receive condemnation for wrong choices.

While we are free to choose, we are not free from the consequences of those choices. As Elder Marvin J. Ashton once taught: “Our freedom to choose our course of conduct does not provide personal freedom from the consequences of our performances. God’s love for us is constant and will not diminish, but he cannot rescue us from the painful results that are caused by wrong choices.”⁹ The eternal law of the harvest—“whatsoever ye sow, that shall ye also reap” (D&C 6:33)—remains in effect, and reminds us that our choices will be followed by their corresponding consequences. “And [men] are free to choose liberty and eternal life, through the great Mediator of all men,” taught Lehi, “or to choose captivity and death, according to the captivity and power of the devil” (2 Nephi 2:27).

Lehi’s example is very instructive, not only for the sound doctrine taught to his sons—and through scriptural preservation, all of us—but also for his application of the very principles he taught. After instructing his children, explaining this information to them, and reminding them that they had the power to choose, he said:

And now, my sons, I would that ye should look to the great Mediator, and hearken unto his great commandments; and be faithful unto his words, and choose eternal life, according to the will of his Holy Spirit;

And not choose eternal death, according to the will of the flesh and the evil which is therein, which giveth the spirit of the devil power to captivate, to bring you down to hell, that he may reign over you in his own kingdom. (2 Nephi 2:28–29)

It would indeed have been hypocritical for Lehi to teach his children the doctrine of agency, only to then force them to make the decisions Lehi knew were best. Instead he relied on persuasion, allowing them to exercise their own agency, learn from their own mistakes, and realize for themselves that “wickedness never was happiness” (Alma 41:10). President Howard W. Hunter explained the importance of using persuasion to preserve agency:

To fully understand this gift of agency and its inestimable worth, it is imperative that we understand that God’s chief way of acting is by persuasion and patience and long-suffering, not by coercion and stark confrontation. . . . He always acts with unfailing respect for the freedom and independence that we possess. He wants to help us and pleads for the chance to assist us, but he will not do so in violation of our agency. He loves us too much to do that, and doing so would run counter to his divine character.¹⁰

Thomas Jefferson, in the same vein, once wrote, “Laws provide against injury from others; but not from ourselves. God himself will not save men against their wills.”¹¹ The prominent journalist H. L. Mencken similarly stated: “So far as I can make out, I believe in only one thing: liberty. But I do not believe in even liberty enough to want to force it upon anyone.”¹² In our congregations we sometimes sing a hymn that couches this idea in doctrinal and poetic prose:

Know this, that ev’ry soul is free
To choose his life and what he’ll be;
For this eternal truth is giv’n:
That God will force no man to heav’n.

He’ll call, persuade, direct aright,
And bless with wisdom, love, and light,
In nameless ways be good and kind,
But never force the human mind.

Freedom and reason make us men;
Take these away, what are we then?
Mere animals, and just as well
The beasts may think of heav’n or hell.¹³

So sacrosanct is this doctrine of agency—God himself ensuring that all prerequisites remain intact for its use—that to unjustly oppose it in any way places one in the camp of the enemy. “To deprive men of

their agency,” wrote Elder George Q. Cannon, “is contrary to the purposes of our God.”¹⁴ Half a century later, President David O. McKay echoed this statement: “To deprive an intelligent human being of his free agency is to commit the crime of the ages.”¹⁵ Clearly this refers to Lucifer’s ulterior motives and alternate plan. It was the endeavor of Lucifer and his premortal minions to destroy our agency and thwart God’s plan *prior* to our coming to earth, and he is still trying to destroy our agency today using the same techniques of deception and lies.

THE WAR IN HEAVEN CONTINUES ON EARTH

Having passed through a veil of forgetfulness upon coming to earth, we are placed in a state of innocence and ignorance. We forget who our allies and enemies once were, and only through correct instruction from trusted messengers are we able to catch a glimpse into the ancient struggle in which we yet find ourselves. Satan and his cohorts have no such handicaps and are keenly aware of the “big picture” we often forget. Our enemy continues a sustained and precisely targeted volley of attacks while we meander in confusion as to what strategy he may or may not be employing.

Having chosen to side with God, as evidenced by our having physical bodies here on earth, we can gain confidence in aligning our current decisions with the decision we once made to sustain and accept his plan. If God punished Satan for trying to destroy our agency, and since that remains Satan’s *modus operandi* today, we would do well to ensure that we continue to support the defense of each individual’s agency. A few quotes may enlighten us as to the gravity of this issue. President Marion G. Romney once said:

You see, at the time [Lucifer] was cast out of heaven, his objective was (*and still is*) “to deceive and to blind men, and to lead them captive at his will.” This he effectively does to as many as will not hearken unto the voice of God. *His main attack is still on free agency.* When he can get men to yield their agency, he has them well on the way to captivity.

We who hold the Priesthood must beware concerning ourselves, that we do not fall into the traps he lays to rob us of our freedom. *We must be careful that we are not led to accept or support in any way any organization, cause, or measure which, in its remotest effect, would*

*jeopardize free agency, whether it be in politics, government, religion, employment, education, or any other field. It is not enough for us to be sincere in what we support. We must be right!*¹⁶

Similarly, President Ezra Taft Benson wrote: “Because Satan and those who stood with him would not accept the vote of the council, but rose up in rebellion, they were cast down to the earth, where they have continued to foster the same plan. The war that began in heaven is not yet over. The conflict continues on the battlefield of mortality.”¹⁷

This life, as unfortunate as it may sound, is essentially the continuation of a protracted war. We cannot long remain neutral, for indifference or ignorance only increase the enemy’s chances of success. Our participation is not optional, as noted by President J. Reuben Clark: “This gigantic world-wide struggle, more and more takes on the form of a war to the death. . . . Indeed, we are all taking part in that struggle, whether we will or not. Upon its final issue, liberty lives or dies.”¹⁸ Imagine yourself thrust onto the front lines of a terrible war with no weapons, armor, or knowledge of your enemy. How long might you last? It is obviously imperative that we understand who our enemy is, how he operates, how best we might defend ourselves, and what weapons we should wield to gain important tactical advantages.

This enemy, though, does not easily divulge anything about himself, going to great lengths to conceal his very identity by denying his own existence (see 2 Nephi 28:22). In 1942, the First Presidency wrote that Satan “is working under such perfect disguise that many do not recognize either him or his methods.” Further, “he comes as a thief in the night; he is a wolf in sheep’s clothing. Without their knowing it, the people are being urged down paths that lead only to destruction.”¹⁹ Likewise, the Lord warned the early Saints that “Satan hath sought to deceive you, that he might overthrow you” (D&C 50:3). As President Romney indicated, to the extent that we do not understand our enemy and recognize his tactics and influence, we may be found supporting organizations, causes, or measures that jeopardize agency and further Satan’s objectives.

Continuing the quote above, President Benson goes on to say that “one of Lucifer’s primary strategies has been to restrict our agency through the power of earthly governments. Proof of this is found in the long history of humanity.”²⁰ President Hinckley once referenced a quote by President Wilford Woodruff to explain this very thing, and described

how “the government of the nation [America] had come against our people, determined to destroy them.”²¹ Wrote President Woodruff:

There are two powers on the earth and in the midst of the inhabitants of the earth—the power of God and the power of the devil. In our history we have had some very peculiar experiences. When God has had a people on the earth, it matters not in what age, Lucifer, the son of the morning, and the millions of fallen spirits that were cast out of heaven, have warred against God, against Christ, against the work of God, and against the people of God. And they are not backward in doing it in our day and generation. Whenever the Lord set His hand to perform any work, those powers labored to overthrow it.²²

The satanic struggle to restrict man’s agency and make war against the work of God manifests itself in multiple ways. It achieves great success by working through government, since government is simply the organization and exertion of power over other individuals through forceful means. Clearly, other spheres of influence are permeated with satanic evil to achieve the same goals—the entertainment industry, education, business, and societal attitudes regarding marriage and the family, among others—but the tyrants Satan helps to empower are hard to come by without looking primarily to government. In all cases, the end result is the restriction of one’s agency through bondage by eliminating any one of the four requirements necessary for agency to exist. Thus, whether we’re talking about the drug peddler, the pornographer, the debauched celebrity, or the “ambitious and scheming leaders who [oppress] with burdensome taxes, who [lull] with hollow promises, [and] who [countenance] and even [encourage] loose and lascivious living,”²³ as President Hinckley said, we must be aware of and reject all who in any way wish to subvert man’s agency.

A scriptural case study may be helpful to better understand this topic, and the Book of Mormon provides a clear-cut example of this very thing occurring. In the first book of Helaman, the narrator describes one of many power plays documented in the scriptures. Just four decades after the Nephites had organized a new form of government, under the rule of judges, Pahoran, the third chief judge, passed away. Three of Pahoran’s sons desired election to that position, but the majority of the people voted in favor of the son with the same name as his father. One of the other sons, Paanchi, was “exceedingly wroth” (Helaman 1:7) and embarked on a campaign to use flattery and deceit

to entice his supporters to rebel against the majority's vote and overtake the government by conquest. (If the story sounds oddly familiar, it should—there are several clear parallels between Paanchi and Lucifer.) The budding rebellion, however, was quickly smothered through decisive action on the part of the established government; Paanchi was sentenced to death for seeking to “destroy the liberty of the people” (Helaman 1:8).

What followed was a secret and conspiratorial campaign to overtake the government within and overthrow from without. A man named Kishkumen murdered the duly elected chief judge Pahoran, after which he and his followers dispersed into the population and disguised themselves to prevent detection. A Nephite dissenter named Coriantumr soon led a Lamanite army to attack his own people, killing the newly elected chief judge, Pahoran's brother Pacumeni, in the process. The following successor to the position of chief judge, Helaman, was also targeted for assassination by Kishkumen but was saved at the last minute by one of his servants. While direct assaults on the government were being coordinated by this satanic band of brothers—they also murdered another chief judge, Cezoram—the same group achieved their ultimate goals over the next two decades by working from within.

Desiring to share in their spoils and receive their protection, many Nephites united with the group known at that time as Gadian-ton's Robbers, a group who thwarted agency by eliminating accountability for its members, so that “they should not suffer for their murders, and their plunderings, and their stealings” (Helaman 6:21). This group did not recognize any existing laws, operating only under “the laws of their wickedness”—a set of rules “which had been given by Gadian-ton and Kishkumen” (Helaman 6:24). So successful were Gadian-ton and his band of followers, that by encouraging wickedness and offering others the opportunity to avoid any consequences and ignore all laws regarding their evil actions, they were able to achieve “peacefully” what they could not achieve by simply murdering the leaders of the government previous to that time. After having “seduced the more part of the righteous until they had come down to believe in their works and partake of their spoils, and to join with them in their secret murders and combinations,” we learn that this group of satanic, agency-restricting rebels “did obtain the sole management of

the government” (Helaman 6:39). In other words, the Nephites welcomed with open arms, and elected to various offices of power, those individuals who enabled them in their wickedness and protected them in their evil desires.

In the end, the people had become so corrupt that they willingly bartered their liberty away. Once the tyrannical dictatorship had achieved through assimilation what it could not through aggression, “they did trample under their feet and smite and rend and turn their backs upon the poor and the meek, and the humble followers of God” (Helaman 6:39). The War in Heaven, fought over agency and Satan’s desire to impose a dictatorship and subject us to his will, has been played out time and time again here on Earth. Whether war is waged offensively in an attempt to place us in bondage, or, more effectively, we simply grow wicked and willingly embrace those “organizations, causes, or measures” which would jeopardize our agency, it is evident that the War in Heaven rages on today. Said President Gordon B. Hinckley:

That war, so bitter, so intense, has gone on, and it has never ceased. It is the war between truth and error, between agency and compulsion, between the followers of Christ and those who have denied him. His enemies have used every stratagem in that conflict. They’ve indulged in lying and deceit. They’ve employed money and wealth. They’ve tricked the minds of men. They’ve murdered and destroyed and engaged in every other unholy and impure practice to thwart the work of Christ.²⁴

Despite being subjected to a near-continuous volley of assaults from every angle, and despite repeated calls for principled political participation from leaders of the Church so as to counteract the corruption from within our own government,²⁵ some Latter-day Saints seem to feel that simply living a good life or trying to obey the commandments is sufficient to win the war in which we are engaged. This erroneous idea suggests that a war can be won when we make no effort to win the many battles that are part of it. Sure, it is perhaps uncomfortable to vocally oppose a political initiative that is popular yet destructive, to correct a professor teaching something harmful, or to start a movement to promote the morality and virtue so easily denigrated in the public square. The preservation of our agency, though, as well as that of every other individual within our sphere of influence, requires we be engaged in the fight. As President Brigham Young said, “The men and women,

who desire to obtain seats in the celestial kingdom, will find that they must battle every day.”²⁶ Consider also the following comments from President Ezra Taft Benson:

Of course, the war in heaven over free agency is now being waged here on earth, and there are those today who are saying “Look, don’t get involved in the fight for freedom. Just live the gospel.” That counsel is dangerous, self-contradictory, unsound . . . Now, part of the reason we may not have sufficient priesthood bearers to save the Constitution let alone to shake the powers of hell, is because unlike Moroni, I fear, our souls do not joy in keeping our country free, and we are not firm in the faith of Christ nor have we sworn with an oath to defend our rights and the liberty of our country. Moroni raised a title of liberty and wrote upon it these words: “In memory of our God, our religion, and freedom, and our peace, our wives, and our children.” Why didn’t he write upon it: “Just live your religion; there’s no need to concern yourselves about your freedom, your peace, your wives, or your children”? The reason he didn’t do this was because all these things were a part of his religion, as they are of our religion today. Should we counsel people, “Just live your religion. There’s no need to get involved in the fight for freedom”? No, we should not, because our stand for freedom is a most basic part of our religion; this stand helped get us to this earth, and our reaction to freedom in this life will have eternal consequences. Man has many duties, but he has no excuse that can compensate for his loss of liberty.²⁷

This core teaching has been conveyed since the beginning of the Restoration. It is, perhaps, why early Church leaders were so heavily involved in government and politics. Some might scoff at the idea of political involvement being elevated to a similar level of importance as church-oriented tasks, such as missionary work. What’s wrong with simply attending church, seeking the Holy Ghost’s companionship, and being an example to others, for example? While these are, of course, excellent and praiseworthy goals, they are not enough. “Besides the preaching of the Gospel,” taught President John Taylor, “we have another mission, namely, the perpetuation of the free agency of man and the maintenance of liberty, freedom, and the rights of man.”²⁸ President David O. McKay agreed when he said:

Next to the bestowal of life itself, the right to direct that life is God’s greatest gift to man. *One of the most urgent needs today is*

the preservation of individual liberty. Freedom of choice is more to be treasured than any possession earth can give. It is inherent in the spirit of man. It is a divine gift to every normal being. Whether born in abject poverty or shackles at birth by inherited riches, everyone has this most precious of all life's endowments—the gift of free agency—man's inherited and inalienable right.²⁹

In the War in Heaven, we were ultimately required to choose sides. Our mortal existence here on Earth is confirmation of which way we chose. The stakes remain equally high; today, just as before, we must sustain God's plan and defend each others' agency from those who seek to destroy it. The Book of Mormon offers a sober warning for its modern-day readers regarding this ongoing war, noting that Gadianton and his followers, through their various tactics of both aggression and assimilation, “did prove the overthrow, yea, almost the entire destruction of the people of Nephi” (Helaman 2:13). Why would we be under any less of a threat today?

ENDOWED BY OUR CREATOR

While in some ways they may be considered synonyms, the words *liberty* and *agency* denote essentially codependent states of being. Recall that President Marion G. Romney described liberty as political independence, economic freedom, and free agency—placing agency as a subset of liberty. Conversely, if liberty is understood to be the power to choose and act free of restraint, then it may be considered a subset of agency, along with agency's other components of laws, opposition, knowledge, and consequences. Lucifer sought to destroy our agency, while Paanchi, echoing many of Lucifer's own actions, similarly sought to destroy his people's liberty. Liberty and agency, then, may be considered part of a symbiotic relationship. Reducing one necessarily reduces the other; any suppression of liberty or agency diminishes our ability to act, to freely worship God, to pursue our own desires, and to prosper.

We have reviewed one of countless examples both in scripture and the historical record of government being used as a tool of tyranny to restrict agency. Unfortunately, this scenario has manifested itself repeatedly and still does today. The Founders of this nation were likewise familiar with this destructive trend, having both studied the various

models of government throughout history and having lived as subjects under an empire in their own day. Also well versed on the topic was the Prophet Joseph Smith, who said:

Monarchial, aristocratical, and republican governments of their various kinds and grades, have, in their turn, been raised to dignity, and prostrated in the dust. The plans of the greatest politicians, the wisest senators, and most profound statesmen have been exploded; and the proceedings of the greatest chieftains, the bravest generals, and the wisest kings have fallen to the ground. Nation has succeeded nation, and we have inherited nothing but their folly. History records their puerile plans, their short-lived glory, their feeble intellect and their ignoble deeds.³⁰

The genius of the American experiment was the elevation of the individual as the sovereign—affirming that each person has unalienable rights—and the creation of government that operated only by individual assent, insofar as each person’s liberty was protected. Almost all other governments operated under an assumption that “rights” were granted by those in power, and subjects were to live and act under whatever constraints deemed appropriate by the ruler. However, the Founders, incorporating multiple sources of liberty-minded philosophy, including the Bible, John Locke, Sir William Blackstone, and others, first recognized and later protected the unalienable rights of mankind. The Declaration of Independence—a bold document announcing the secession of the thirteen colonies from the British Crown—recognizes self-evident truths, including that men are “endowed by their Creator with certain unalienable rights.” Thomas Jefferson, the Declaration’s primary author, once stated: “And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God? That they are not to be violated but with his wrath?”³¹

Whereas in other governments, the rulers were treated with a deified status of nobility and power, the Founders of this nation recognized the supremacy and guidance of their Creator, Heavenly Father, who is the source of our rights. “The propitious smiles of Heaven,” said President George Washington in his first inaugural address, “can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained.”³²

Only after this correct relationship is established between God,

man, and his neighbor, do governments become important or necessary at all. The Declaration of Independence states that governments exist to “secure [our] rights,” and the Doctrine and Covenants explains that good governments “secure to each individual the free exercise of conscience, the right and control of property, and the protection of life” (D&C 134:2). As with many things, government can be used both for good and for evil. Yet, our Founders’ recognition of our divine nature and inherent liberty established a foundation to which we may appeal when arguing against a policy or issue that undermines our liberty. Rather than petitioning an omnipotent government for mercy and privileges, we can point to the Declaration of Independence and the “right of the people to alter or to abolish” bad government. Under a framework of unalienable rights and liberty, government turns from master to servant. In short, rather than asking for permission, we may assert our sovereignty and claim our liberty.

While the United States government has often failed to live up to the principles upon which it was founded, the proper structure—weak though it may be—remains in place. The Declaration of Independence still testifies of a reality that should guide our actions and political support: unalienable rights, given by God, which include life, liberty, and the pursuit of happiness. These are crucial to our understanding of good government; when we contemplate the eternal context and nature of agency, and why its close cousin liberty should be our guiding goal in influencing earthly government, we are better able to understand and then support good government. Doing so enables us to better determine which policies and ideas we should advocate, and which are in harmony with protecting each person’s agency and liberty.

1. *A New Witness for God*, 47–58
2. Charles W. Nibley, in Conference Report, April 1917, 143.
3. Joseph Fielding Smith, ed., *Teachings of the Prophet Joseph Smith* (Salt Lake City: Deseret Book, 1976), 357.
4. “Agency,” 1828 Webster’s Dictionary, accessed May 2, 2011, <http://1828-dictionary.com/d/search/word,agency>
5. “Agent,” 1828 Webster’s Dictionary, accessed May 2, 2011, <http://1828-dictionary.com/d/search/word,agent>
6. Bruce R. McConkie, *Mormon Doctrine* (Salt Lake City: Deseret Book, 1979), 26.

7. Alexander Hamilton, James Madison, John Jay, *The Federalist: A Commentary on the Constitution of the United States* (New York: G. P. Putnam's Sons, 1888), 390.
8. In Conference Report, April 1950, 34–35.
9. Marvin J. Ashton, “A Pattern in All Things,” *Ensign*, Nov. 1990, 20.
10. Howard W. Hunter, “The Golden Thread of Choice,” *Ensign*, Nov. 1989, 18.
11. Paul Leicester Ford, ed., *The Writings of Thomas Jefferson*, vol. 2 (New York: G.P. Putnam's Sons, 1904), 263.
12. Guy J. Forgue, ed., *Letters of H. L. Mencken* (New York: Knopf. 1961), 281.
13. “Know This, That Every Soul is Free,” *Hymns*, no. 240.
14. In Conference Report, Oct. 1897, 52.
15. In Conference Report, Apr. 1942, 72–73.
16. Marion G. Romney, in Conference Report, October 1960, 73–75; emphasis added.
17. Ezra Taft Benson, *The Constitution: A Heavenly Banner* (Salt Lake City: Deseret Book, 1986), 2–3.
18. J. Reuben Clark, quoted in Jerreld L. Newquist, ed., *Prophets, Principles, and National Survival* (Salt Lake City: Publishers Press, 1964), 318.
19. In Conference Report, October 1942, 13.
20. Benson, *The Constitution*, 2–3.
21. Gordon B. Hinckley, “The War We Are Winning,” *Ensign*, Nov. 1986, 42.
22. *Deseret Evening News*, October 17, 1896, 9.
23. Gordon B. Hinckley, “A Testimony Vibrant and True,” *Ensign*, August 2005, 2–6.
24. Gordon B. Hinckley, “The War We Are Winning,” *Ensign*, Nov. 1986, 42.
25. The First Presidency has issued numerous letters in recent years prior to an election, urging the Saints “to register to vote, to study the issues and candidates carefully and prayerfully, and then to vote for and actively support those [we] believe will most nearly carry out [our] ideas of good government.” (see “First Presidency Issues Letter on Political Participation,” *LDS Newsroom*, September 22, 2008, accessed May 2, 2011, <http://newsroom.lds.org/article/first-presidency-issues-letter-on-political-participation>).
26. Brigham Young, *Journal of Discourses*, vol. 11 (London, 1867), 14.
27. In Conference Report, October 1966, 122.
28. John Taylor, *Journal of Discourses*, vol. 23 (London, 1883), 63.
29. David O. McKay, *Gospel Ideals* (Salt Lake City: Deseret Book, 1993), 299; emphasis added.
30. Smith, *Teachings*, 249.

31. Thomas Jefferson, *Notes on the State of Virginia* (London, 1787), 272.
32. George Washington, "Inaugural Address," *American Eloquence: A Collection of Speeches and Addresses*, vol. 1 (New York: D. Appleton and Company, 1857), 253.


NATURAL LAW

The state of nature has a law of nature to govern it, which obliges every one, and reason, which is that law, teaches all mankind who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty or possessions The natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but to have only the law of nature for his rule.

—John Locke¹

The law of nature, which, being coeval with mankind, and dictated by God himself, is, of course superior in obligation to any other. It is binding over all the globe, in all countries at all times. No human laws are of any validity, if contrary to this; and such of them as are valid, derive all their authority, mediately or immediately, from this original.

—William Blackstone²

he war that started in heaven continues to rage today. As we work through our various governments to secure individual liberty, we must do so by employing persuasive arguments that do not rely exclusively on religious context. Unless that government is theocratic in nature and led by a duly appointed servant of God, it is necessary to use logic and reason to observe conditions and propose solutions.

In other words, if we're to join hands in a common cause with people of other religions (or no religion), we need a common denominator upon which we can all agree and which can be universally understood. We won't do well to go around saying that "God would want us to implement this law," citing a divine mandate for the policies we support. In a secular government—even one forged upon the "principles of Christianity,"³ and founded by men whom God "raised up unto [that] very purpose" (D&C 101:80)—the laws will be debated and voted on by a diverse group of individuals, many of whom will likely not share any common faith or understanding of the divine principles of agency and liberty. To work effectively with such individuals, it's important to communicate using a political vocabulary that is more widely understood.

To that end, many liberty-minded individuals appeal to "natural law"—a theory of law positing that there exist certain laws based on universal morality and that these laws are evident in nature. This theory is simply a recognition of the rights enjoyed by man in his natural state (whether referred to as a gift from God or simply the inherent and rational nature of man), prior to and free from any government. It is an observation of the agency God has given each of us, and states that man is able to freely act to the extent that he does not infringe on the natural rights of any other person. A key element in the theology of Latter-day Saints revolves around law and order, and so the use of and reference to natural law is, in effect, an acknowledgment of divinely ordained laws, which are observable and which should be heeded both by individuals and governments.

For example, latter-day scripture stating that "God would cease to be God" (Alma 42:13) if he were to allow mercy to overpower justice, or justice to overpower mercy, appears to suggest that God himself is governed by existing law. Further, the Lord himself notes that when we obey him, he is bound to do what he has said he would (D&C 82:10). God is righteous not through any coercion or externally imposed law requiring his compliance, but by his very nature of being God—an individual who lives in harmony with natural, eternal law. He, too, exercises agency to obey eternal laws. "[God] himself governs and is governed by law," taught Elder Bruce R. McConkie.⁴ Similarly, President Joseph Fielding Smith once wrote that "The Lord works in accordance with natural law."⁵ President Brigham Young said that God "lives by science or strict law, that by this he is, and by law he was made what

he is; and will remain to all eternity because of His faithful adherence to law.”⁶ Agreeing with these statements, Elder James E. Talmage has written:

Miracles are commonly regarded as occurrences in opposition to the laws of nature. Such a conception is plainly erroneous, for the laws of nature are inviolable. However, as human understanding of these laws is at best but imperfect, events strictly in accordance with natural law may appear contrary thereto. The entire constitution of nature is founded on system and order; the laws of nature, however, are graded as are the laws of man. The operation of a higher law in any particular case does not destroy the actuality of an inferior one. . . . All miracles are accomplished through the operation of the laws of nature.⁷

The Prophet Joseph Smith revealed, “Intelligence, or the light of truth, was not created or made, neither indeed can be. All truth is independent in that sphere in which God has placed it, to act for itself, as all intelligence also; otherwise there is no existence” (D&C 93:29–30). In the King Follett discourse, Joseph described the organization of existing elements to create the earth, noting that “The pure principles of element . . . had no beginning, and can have no end. . . . The mind or the intelligence which man possesses is coeternal with God himself.”⁸ If truth and intelligence coexisted with God, one can then assume that they operated not under God’s own law, but already existing and thus eternal law. Joseph on another occasion referred to “laws of eternal and self-existent principles,”⁹ perhaps further emphasizing the reality of eternal laws to which God himself adheres.

These ideas once permeated the political understanding of many American citizens. Anti-Federalist Thomas B. Wait once wrote, “No people under Heaven are so well acquainted with the natural rights of mankind, with the rights that ever ought to be reserved in all civil compacts, as are the people of America.”¹⁰ Sadly, today, any number of examples could be produced to demonstrate how far we have strayed from this general knowledge; the average American citizen knows far more about a movie star’s romantic involvements than anything remotely close to natural rights. In our defense of agency and liberty, we first must educate others on (and review for ourselves) the core ideas that form the foundation of liberty.

NATURAL LAW THEORY

Remarking on the formative years of America's secession from England and the creation of its new government, John Quincy Adams noted that the colonists "renounc[ed] . . . all claims to chartered rights as Englishmen. Thenceforth their charter was the Declaration of Independence. Their rights, the natural rights of mankind."¹¹ Adams correctly observes a difference between the "rights" of Englishmen enjoyed through the good graces of Parliament and the Crown, and the natural rights of *all* mankind, observed by and protected for American citizens first through the Declaration of Independence, and later through the Constitution. The natural rights referred to were not a result of legislation or political favor of any kind, nor cultural tradition. Rather, they were discovered and observed in nature, viewed as being an inherent part of life.

Thomas Jefferson's inclusion of "self-evident truths" in the Declaration of Independence stands as an important example of an appeal to natural rights. Prior to its use in America's founding, natural law theory was primarily relegated to discussion amongst philosophers and abstract academia. Its use as a core concept in the separation from Great Britain and the formation of a new government—a radical departure from the model and authority of other governments—cannot, however, be attributed to Jefferson alone. He himself said, nearly fifty years after the Declaration of Independence was written, that it was merely "intended to be an expression of the American mind"¹² at the time it was written. Indeed, several other declarations from state legislatures made prior to 1776 carried similar language, demonstrating that the idea was far more mainstream than one might imagine. As just one example, consider the "Resolutions of the House of Representatives of Massachusetts," written on October 29, 1765, in response to the Stamp Act Crisis. Notice the references to natural rights contained in just the first two of fourteen total resolutions:

1. Resolved, That there are certain *essential Rights* of the British Constitution of government which are *founded in the Law of God and Nature*, and are *common Rights* of Mankind—Therefore
2. Resolved, That the inhabitants of this Province are *unalienably entitled to those essential rights in common with all men*: and that *no law of society can, consistent with the law of God and nature, divest them of those rights*.¹³

Many of Jefferson's contemporaries were likewise incorporating a recognition of natural law into their resolutions, declarations, and legislation. Those advancing such arguments were greatly influenced by John Locke, a man whom Jefferson regarded as one of "the three greatest men the world had ever produced."¹⁴ A century previous, Locke had expounded on natural law theory in his 1680 book *Second Treatise on Government*, offering the following as an explanation of natural law theory:

To properly understand political power and trace its origins, we must consider the state that all people are in naturally. That is a state of perfect freedom of acting and disposing of their own possessions and persons as they think fit within the bounds of the law of nature. People in this state do not have to ask permission to act or depend on the will of others to arrange matters on their behalf. The natural state is also one of equality in which all power and jurisdiction is reciprocal and no one has more than another. It is evident that all human beings—as creatures belonging to the same species and rank and born indiscriminately with all the same natural advantages and faculties—are equal amongst themselves. They have no relationship of subordination or subjection unless God (the lord and master of them all) had clearly set one person above another and conferred on him an undoubted right to dominion and sovereignty.¹⁵

Though influential, especially in the philosophical influence of America's Founders, Locke was not the pioneer of natural law theory. For centuries, various philosophers, including Hugo Grotius of Holland, Thomas Hobbes of England, Francisco Suárez of Spain, and especially Thomas Aquinas of Italy, and even as far back as Cicero and Aristotle, all explored and refined the integral concepts now collectively referred to as natural law. Generally, these individuals concurred that there exist certain universal, moral laws observable in nature. Hobbes described natural law as "a precept, or general rule, found out by reason."¹⁶ Grotius wrote that it "proceeds from the essential traits implanted in man."¹⁷ A century before Christ's birth, Cicero was also expounding on the reality of inherent, natural laws. Referring to them as "true law," he wrote:

True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions. . . .

It is a sin to try to alter this law, nor is it allowable to repeal any part of it, and it is impossible to abolish entirely. We cannot be freed from its obligations by senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and all times, and there will be one master and ruler, that is God, over us all, for he is the author of this law, its promulgator, and its enforcing judge.¹⁸

The implication of natural law, as elucidated by Cicero two millennia ago, is that our laws do not exist in a vacuum, free of any boundaries or consequences. Natural law theory holds that there already exists a set of laws which we should both understand and obey, and which should serve as the basis for civil government. Just as the U.S. Constitution contains a supremacy clause to override any subordinate and contradictory law (such as North Dakota's passing a law to impose tariffs on imports from other states, which is forbidden by the document), so too do natural laws have an inherent supremacy clause to morally invalidate and delegitimize any conflicting man-made law.

To illustrate this idea, suppose that the federal government were to pass a law dictating that regardless of the situation, it is unlawful for an individual to discharge a gun with the intent to harm or kill another person. Then imagine a scenario where an aggressive perpetrator forcibly enters your home with the intent to steal your belongings and kill anybody who tries to intervene. If you rely only on this government-sanctioned law to regulate your actions, and if you're a model, law-abiding citizen, you would find yourself at a significant disadvantage, having to fend off an armed attacker with a less effective weapon, such as a knife or baseball bat. However, if you recognized this law as being unjust and contrary to natural law, and if you had the courage to defy the law and suffer the potential consequences, you would use a gun to match the assailant's use of force and be more likely to successfully defend your family and property.

In this example, the government passed a law that violated natural law—the inherent and fundamental right to defend one's life and property, as well as the lives of those under one's stewardship. An oppressive government would no doubt reject any appeals to natural law, citing its own authority as superior and binding, and thus haul you off to

jail for defending yourself by shooting at the intruder. Nevertheless, your adherence to natural law, even and especially when defying man-made laws that run afoul of that law, would be justified. Critics might argue that if the government is going to punish you anyway, regardless of appeals to natural law, then the defiance is fruitless and unworthy of support. Despite such off-base opposition, each individual must, like the signers to the Declaration of Independence did, “appeal to the Supreme Judge of the world for the rectitude of our intentions.”¹⁹ In other words, we must reconcile for ourselves (with God’s help) which laws conflict with natural law, and if any are found, whether we will obey them. Conversely, if the determination of which laws do or do not contradict natural law is exclusively left up to those within the government who are possibly violating it, then there exists a clear conflict of interest which makes it unlikely that that government will reverse course and agree that its actions are illegitimate.

This civil disobedience is not actual disobedience, but rather obedience to a higher, moral law. In law, this maxim is called *lex injusta non est lex* (an unjust law is not a law) and has a long history of support and scrutiny under the original Greek philosophers starting with Socrates and ranging up through the Great Enlightenment thinkers already mentioned. To better understand this principle, consider a situation in which the government were dissolved, leaving in its wake a disorganized body of sovereign individuals. What legal framework and moral code would exist in this scenario? Would you still be penalized for not submitting forms to a non-existent IRS? Would you be imprisoned for growing marijuana? Would you be justified in forcing your neighbor at gunpoint to pay for your mother’s medicine and your children’s education? These and many other laws have no foundation in natural law, and thus their fate would be the same as the government under whose authority they were enacted and enforced. As President Ezra Taft Benson wrote, “the proper function of government is limited only to those spheres of activity within which the individual citizen has the right to act.”²⁰ The examples above are obviously answered in the negative, since independent individuals would have no valid reason, let alone moral justification, to impose such mandates on their neighbors. Natural law exists regardless of governments; any laws created and enforced by man-made governments are only of moral force if and when they are based on an inherent right each individual within that government naturally possesses.

Nevertheless, upstanding citizens often encourage compliance to a politician's decree by flatly arguing that "It's the law." Do you want to run a business out of your home, an action prohibited by your city's zoning laws? Too bad: "It's the law." Do you want to sell food products to pedestrians near a busy intersection, without stepping through the regulatory hoops to procure a license? Too bad: "It's the law." Do you want to employ an individual who is capable and willing, yet who does not have the government's permission to reside and work within the country's borders? Too bad: "It's the law." These and thousands of other regulatory restrictions are only lawful, in the true sense, if they operate in compliance with and in furtherance of natural law. Otherwise, argued American political philosopher Lysander Spooner, they are not actual laws:

Lawmakers, as they call themselves, can add nothing to [the supreme law], nor take anything from it. Therefore all their laws, as they call them,—that is, all the laws of their own making,—have no color of authority or obligation. It is a falsehood to call them laws; for there is nothing in them that either creates men's duties or rights, or enlightens them as to their duties or rights. There is consequently nothing binding or obligatory about them. And nobody is bound to take the least notice of them, unless it be to trample them under foot, as usurpations.²¹

Naturally, this "radical" political theory is opposed by central planners whose ability to shape the world relies upon the ultimate consent of those subjected to their decrees, backed by the use of force. After all, no power-seeking authoritarian who still relies on the consent of the governed likes being told that his attempts to control those under his jurisdiction are "usurpations." As natural law relies upon the use of reason to observe the laws governing mankind both in the absence of organized government, and even when subjected to such government, the various fiat dictates so often made in violation of natural law, in addition to being usurpations, are *unreasonable*.

POSITIVE LAW THEORY

Fiat dictates, existing outside of natural, observable law, are what is known as "positive laws." This collection of laws has no inherent defense

and justification for their existence. They are enforced not because of a mutually understood obligation to immutable law and order, but because the government—backed by men with guns—says they must be obeyed, and those who fail to comply will be punished. It matters not whether that government is a king imposing his mandates upon his subjects, or a democracy imposing its decisions upon the minority. Instead of laws that exist in relation to our very nature, and to which we must all give heed regardless of whether government exists, positive laws are man-made and may or may not be supported by a corresponding natural law.

Positive in this context does not refer to something that is necessarily good or praiseworthy; many positive laws are quite reprehensible. The term is derived from the Latin *positus*, or its English descendent “to posit,” meaning to assume something as fact. One of the several definitions offered by Noah Webster in his 1828 dictionary is “Settled by arbitrary appointment; opposed to natural,”²² further denoting that positive laws are often the playground of authoritarian central planners. If positive laws are, as Webster notes, generally “opposed to natural” laws, it is plainly evident what regard they should be given by those who wish to defend individual liberty.

While positive laws are generally opposed to natural laws, it is important to note that not all positive laws violate natural laws. Indeed, positive laws can and often are founded upon some natural law for their support. If under the natural law I have a right to privacy (no other person has the right, without cause, to monitor my actions within my home), then a law passed by Congress imposing strict penalties for the violation of this privacy, or providing for limited cases where that privacy can be violated (such as under the reasonable suspicion of a committed crime) would be justified and not opposed to the corresponding natural law. If, on the other hand, the government colluded with cell phone manufacturers to monitor an individual’s location and conversations, then that law (or unlawful executive action) would be opposed to the natural law.

The philosophical development of positive law theory was initially advanced by John Austin, a British jurist whose writings had a significant influence on English jurisprudence in the nineteenth century. Living in a time when his country’s legal system relied heavily upon common law (a system of laws developed through custom and precedent), Austin

viewed laws not as governing principles relating to natural rights, but “imperium oriented” dictates from authorized sources. Setting aside any question of whether any given law has moral or natural justification, Austin argued that laws themselves are self-authorizing: “The existence of law is one thing; its merit or demerit is another. Whether it be or be not is one enquiry; whether it be or be not conformable to an assumed standard, is a different enquiry. A law, which actually exists, is a law, though we happen to dislike it, or though it vary from the text, by which we regulate our approbation and disapprobation.”²³

A positive law is nothing more than the expressed will of a commanding authority. It allows for no questioning of that authority, nor any legitimate appeal to a so-called higher authority; positive law is generally opposed to natural law, for an appeal to the latter would require either a recognition of and deference to God (if arguing natural law from a religious perspective) or a recognition of the individual as sovereign and naturally possessing certain rights (if arguing natural law from a secular perspective). Either way, a positive law’s only claim to justice is the ability to arbitrarily impose that “justice” by force. Positive laws, while often cloaked in emotionally compelling words to make them more acceptable to the citizenry, do not generally exist to realize some greater societal good or moral goal. They are, as Austin argued, the “command[s] of the sovereign”—in other words, the fiat dictates of a group of people who feel authorized to create such laws by virtue of the fact that they historically have been obeyed.

Whereas an advocate of natural law points either upward to God or inward to his own humanity for moral authority, an opposing advocate of positive law points to his weapon. Since positive laws are not generally and independently observable, they require both a means of communication to the individuals subjected to their dictates, as well as a means for enforcing the law and punishing those who are either unable or unwilling to comply. Where natural laws, being generally agreed upon and understood, would require (at a maximum) only a very limited government, the artificial dictates of a positive legal system require an extremely large apparatus not only to cobble together all the minutiae of what the laws themselves will be, but also to enforce them. A full protection of individual liberty stands little chance of success in a system that takes no thought of whether a given law should or should not be passed for moral reasons. A government relying upon positive

laws and thus pointing to its own authority as the sovereign is, as the author Ayn Rand once said, “a mob held together by institutionalized gang-rule.”²⁴

An important exclusion should be carved out of the general definition for God, since he, too, uses positive law. Whereas he himself obeys eternal, fixed laws, he (as our true sovereign) issues certain “commands” which we, his subjects, are expected to obey. These divinely positive laws are prescriptive, and often revolve around rules of behavior and action we should follow to achieve greater social harmony and salvation. In *Leviathan*, Thomas Hobbes explored the division between human and “divine” positive laws:

Divine positive laws (for natural laws, being eternal and universal, are all divine) are those which, being the commandments of God, not from all eternity, nor universally addressed to all men, but only to a certain people or to certain persons, are declared for such by those whom God hath authorized to declare them. But this authority of man to declare what be these positive of God, how can it be known? God may command a man, by a supernatural way, to deliver laws to other men. But because it is of the essence of law that he who is to be obliged be assured of the authority of him that declareth it, which we cannot naturally take notice to be from God, how can a man without supernatural revelations be assured of the revelation received by the declarer?²⁵

Like man-made positive laws, some of God’s commandments are founded on natural, eternal law. Others, such as commandments requiring a payment of tithes and offerings, an abstention from consuming alcohol, and attendance at church meetings, are laws not necessarily founded on any natural law. As such, they are not observable and are therefore revealed and interpreted through God’s prophet on the earth. These laws, being positive and thus requiring that individuals learn of them before being held accountable for them, are meant for all of God’s children, but implemented through appointed and authorized servants who speak for God. Unlike natural laws, which exist independent of changing circumstances, these laws may vary from one dispensation of the gospel to the next.

Man-made positive laws, however, recognize as sovereign only the secular government from which the edicts are being issued. “The sovereign is free from the fetters of positive law; he has no legal obligations,

for they would imply a superior,”²⁶ wrote the Roman jurist Gaius in the second century AD. This recognition of the established government as the sovereign led Gaius to conclude that it was exempt from the law, a concept Austin also agreed with. “And every political society must have a sovereign freedom from legal restraints,” he wrote.²⁷ Speaking in terms of representative government founded and operating upon the consent of the governed, the creature in this case exceeds the authority of the creator.

Positive laws are not inherently illegitimate, but unless directly given by the Lord, must be constrained to the bounds set by natural law. To exceed this limit is to excuse individuals in assuming authority they cannot morally exercise. The creation of law out of thin air, based on political circumstances and influences, and instituted through majoritarian control, is a process that has no principled limits. Liberty cannot be adequately secured in such a system, for it is continuously threatened by whatever political forces happen to be in control of the legislature.

MALUM PROHIBITUM, MALUM IN SE

There are two important legal concepts that are closely related to natural and positive law. *Malum prohibitum* and *malum in se* are Latin legal terms that refer to “wrong” acts, each denoting a different reason why that act is wrong. *Malum prohibitum* means “wrong because prohibited”—in other words, an action which is deemed wrong and therefore forbidden because the people in charge say so. *Malum in se*, on the other hand, means “wrong in itself” and refers to actions that are often criminal in nature.

When Adam and Eve chose to partake of the fruit of the tree of knowledge of good and evil, they disobeyed a divine positive law God had previously given them, forbidding them to eat from that tree. This action is referred to as a transgression instead of a sin, since the violation of the law was *malum prohibitum* and in this case, its violation served a higher purpose. Elder Dallin H. Oaks commented on this topic:

This suggested contrast between a *sin* and a *transgression* reminds us of the careful wording in the second article of faith: “We believe that men will be punished for their own *sins*, and not for Adam’s *transgression*” (italics added). It also echoes a familiar distinction in

the law. Some acts, like murder, are crimes because they are inherently wrong. Other acts, like operating without a license, are crimes only because they are legally prohibited. Under these distinctions, the act that produced the Fall was not a sin—inherently wrong—but a transgression—wrong because it was formally prohibited. These words are not always used to denote something different, but this distinction seems meaningful in the circumstances of the Fall.²⁸

Elder Oaks, while not using the terminology here presented, nevertheless succinctly explains the related concepts. In general, breaking a positive law is considered wrong by the imposing authority who has forbidden the action, and thus is classified as *malum prohibitum*. Put more plainly, these offenses are comparable to disobeying your mother when her reason for requiring you do something is “because I said so.” Examples of this might include operating a vehicle without a license, walking across the street outside of the crosswalk lines, tax evasion, or collecting rain water on your property (in states where, amazingly enough, it is illegal to do so). If the Food and Drug Administration were dismantled tomorrow, Americans once again buying pseudoephedrine (Sudafed) over the counter, and in any quantity desired, would not be viewed by their peers as lawless, evil criminals. These actions, once having been prohibited by government, are not generally recognized as wrongful when those laws are repealed. Indeed, any action which is not wrongful prior to and independent of government can generally be categorized as *malum prohibitum*, for only when organized government proscribes certain actions through positive law do these actions then become subject to punishment.

Conversely, violations of natural law are generally classified as *malum in se*. These obvious violations of another person’s rights serve as the basis for criminal law, which legitimately exists to prohibit and punish conduct recognized by society as being inherently wrongful, as Elder Oaks explained. Examples such as murder, rape, robbery, and vandalism of private property clearly are evil actions where a coercive response is justified either in an attempt at defense to ward off the aggressive action, or if deemed necessary and proper, to punish and seek restitution for the action once it has already occurred. If a state were to repeal its statutory prohibition on murder, taking another person’s life within the jurisdictional boundaries of that state *would still be wrong*. Natural law violations are not permissible and tolerable in the absence

of positive law prohibitions; *malum in se* actions are wrong, regardless of whether a government dictate declares them as such.

As the majority of laws enacted by government today are positive, the actions (or inaction) that they seek to regulate are largely *malum prohibitum*. Criminal law has therefore expanded significantly, no longer content to merely satisfy the demands of justice for legitimate acts of aggression against another person. In some instances, the law now criminalizes those who fail to act in conformity with a legislative mandate. These mandates often are regulated and enforced through licenses and permits—government-issued permission slips. The following examples illustrate this point.

In 2005, Michael Fisher from New Hampshire decided to protest the state's licensing laws. Advertising his idea and staging the protest on the lawn just outside the state's Board of Barbering, Cosmetology and Esthetics office—the bureaucracy that regulates nail salons, among other things—Fisher used a nail file to give a (surely substandard) manicure to his first and last client. "The reason I'm doing this is because it's one of the harmless things I can do to prove that the law is unjust," Fisher said. "Without the government's permission, you can't do nails, hair, lot [*sic*] of other things." Fisher's alleged criminal activity was merely the administering of beautician-related services without securing a license. Board inspectors appeared at the protest, followed by police who planned to issue a summons and require that Fisher appear in court. Refusing to stop buffing his client's nails, the police intervened further. "He indicated he wouldn't stop, so at that point, it was a full custody arrest," said the police sergeant.²⁹ New Hampshire's licensing laws for barbering, cosmetology, and esthetics, which are patterned after those found in many other states, make it a class-A misdemeanor to "engage in any practice regulated by this chapter without the appropriate license."³⁰ The long list of actions in that chapter of state code, which one individual is prohibited from performing for another "without the appropriate license" include, but are not limited to: "shaving or trimming the beard or cutting the hair"; "arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, or similarly treating the hair of any person"; and "massaging, cleansing, or stimulating the face, neck, arms, and shoulders, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams."

On Labor Day 2002, sixty-five-year-old retired steel worker Bill Neel was present when President George W. Bush arrived in the Pittsburgh area. Like those around him, Neel was greeting Bush with a sign and loud cheers, but Neel's sign read "The Bush family must surely love the poor, they made so many of us," and his cheers were not in support of Bush. Prior to the President's arrival, the Secret Service ordered the local police to establish a designated "free speech zone" where protestors would be allowed to exercise their right to protest—out of sight, out of mind. This area was a third of a mile away from where Bush and his entourage were located, and was surrounded by a chain-link fence. Though the Secret Service did not show any concern for the others holding signs and shouting, they demanded that Neel leave and go protest in the fence-enclosed area which they had so graciously prepared for that purpose. Neel refused, was subsequently arrested for "disorderly conduct," and had his sign confiscated. Indirectly citing his natural right to peaceably assemble and speak (or protest), Neel later commented: "As far as I'm concerned, the whole country is a free speech zone." At his trial, Pennsylvania district judge Shirley Rowe Trkula agreed with him. She threw out the disorderly conduct charge and stated: "I believe this is America. Whatever happened to 'I don't agree with you, but I'll defend to the death your right to say it?'"³¹ Many cities require permits to control, minimize, and even silence dissent. In Pittsburgh's case, this is evident when looking at a case four years later in 2009, where groups seeking to protest a G-20 meeting (a gathering of the finance leaders from twenty of the world's leading nations) were denied the required permits.³² Pittsburgh's positive law mandating permits be secured is used generally for all "Special Events" and makes it illegal for "Any person, group, organization or entity to sponsor or conduct a special event, as defined herein, unless such special event permit as may be required under this chapter has been issued for the special event"—punishable by up to a \$1,000 fine and six months in jail.³³

A third example deals with the most important of rights: the right to life. A 2004 report by *The Washington Times* found that the average response time for police officers to respond to a high-priority 911 emergency call was over eight minutes in several major cities around the country.³⁴ Detroit's average is twenty-four minutes,³⁵ Atlanta's is eleven minutes,³⁶ and Oakland's is fifteen minutes³⁷—in the case of an assault, ten or more minutes is an eternity. A corresponding right to

one's own life is the right to defend that life against an aggressor. Doing so when that person is armed with a loaded gun requires a comparable response. Pulling out a baseball bat or trying to talk the criminal down may work occasionally, but certainly is not an effective response to deter the threat. Thus, the best way to prepare for and resist such attacks is to carry the necessary tools—in other words, to conceal a weapon under your clothing, in your backpack or purse, or in your vehicle. Most states allow individuals to do this after having obtained a permit; certain states either prohibit concealed carry altogether, or have a “may issue” policy that allows authorities to screen applicants and arbitrarily determine if they will be given a permit to legally exercise their right to adequately defend their life. In states such as Illinois, residents are not allowed to conceal a gun at all. While this is a particularly unfortunate restriction on the right to defend one's life, the regulation of that right in most other states which require a permit is still, in essence, the mandate to secure a permission slip from the government before legally exercising that right.

Another demonstration of *malum prohibitum* laws occurred in the life of a young man named Romaine Quinn. As a senior in high school in 2009, Quinn was elected to the city council in Rice Lake, Wisconsin (population roughly 8,400). A year later, as a freshman at a nearby university, he was elected the city's mayor—the youngest in its history. Just months into Quinn's term of office, the county district attorney brought a case against him in regards to a \$1,609 campaign contribution made in March 2010 during his mayoral campaign—a contribution fully disclosed in his finance report. This donation was not from a developer creating a conflict of interest, or a constituent attempting to bribe or buy a vote. No, Quinn's source of funds was his own mother. Neither of them, it seems, was aware of Wisconsin statute that limits all sorts of political contributions. For local races, the law places the following limit on contributions from an individual: “The greater of \$250 or \$0.01 times the number of inhabitants of the county, town, city, village or district according to the latest federal census, but not more than \$3,000.” This supposed crime carries a maximum penalty of a \$500 fine.³⁸

These are not isolated examples—a 2008 study showed that 23 percent of American workers were required to obtain licenses to operate a business, up from 5 percent in 1950.³⁹ Observing these and other

countless examples of laws which have little (if anything) to do with the protection of individual rights, it's impossible not to draw comparisons to other less palatable political philosophies that share common elements. For example, Vladimir Lenin once wrote that communism is "power based upon force and limited to nothing, by no kind of law and by absolutely no set rule."⁴⁰ That lack of any limit on the law, or any effective restraint on its application, epitomizes the positive law paradigm and the resulting proliferation of *malum prohibitum* laws that necessarily follow. Conversely, Frédéric Bastiat wrote: "Is not liberty the restricting of the law only to its rational sphere of organizing the right of the individual to lawful self-defense; of punishing injustice?"⁴¹

Joseph Smith understood this point. He argued for the abolition of licensing, or rather advocated that the government not regulate and punish economic behavior it thought wrong or substandard. "I also spoke at length for the repeal of the ordinance of the city licensing merchants, hawkers, taverns, and ordinaries," he said, "desiring that this might be a free people, and enjoy equal rights and privileges, and the ordinances were repealed."⁴² Elder H. Verlan Andersen commented as follows:

D&C 134:4 tells us very plainly that, *the civil magistrate should restrain crime, but never suppress the freedom of the soul*. It is a direct violation of this scripture for us to direct our agents in government to punish our fellow men for engaging in perfectly legitimate business or professional activities. We do not *restrain crime* or *punish guilt* when we do this, but we do *suppress the freedom of the soul*.

When we use the police power to prevent our fellow men from buying goods and services from whomsoever they desire we are treating them as children or mental incompetents who are unable to make their own decisions. We are either prohibiting them from purchasing a desired commodity or service or compelling them to trade with someone they would not have patronized had we allowed them their freedom in the matter.⁴³

Only under a political framework founded upon—and confined to—natural law can individual liberty be legitimately secured. Any deviation from that core purpose of government leads to a change in perception as to where the government derives its power. In a natural law system, any exercised power is that which is legitimately delegated by individuals who themselves morally and authoritatively have

that power. (For example, the individual right to self-defense can be collectively delegated to a hired security guard, police officer, and so forth.) In a positive law system, however, government sees its power as coming not from the delegated authority of the people themselves, but from its ability to demand compliance through the threat of force. In the latter system, government often feels empowered to prohibit whatever it dislikes, and for whatever reason; certain actions are forbidden not because they infringe upon another person's rights, but because a politician casts a vote in support of coercively punishing those who commit that act.

THE DECLARATION OF INDEPENDENCE

Along with countless other governments throughout history, King George's reign in Great Britain was one in which numerous *malum prohibitum* laws were created and enforced. Thomas Jefferson included in the Declaration of Independence a long list of grievances—"injuries and usurpations," in his own words—among which are included many examples of laws imposed and actions taken by the Crown to punish behavior it did not like.

As was noted earlier, the Declaration was not a radical change in the philosophical sentiment of the time amongst the American colonists. It was "not to find out new principles, or new arguments, never before thought of, not merely to say things which had never been said before; but to place before mankind the common sense of the subject, in terms so plain and firm as to command their assent," wrote Jefferson.⁴⁴ Indeed, as was also previously mentioned, several other resolutions and political documents in the preceding years had employed similar language. The Rights of the Colonists, adopted by the town of Boston and written in 1772, stated that all men had natural rights and "Among the Natural Rights of the Colonists are these: First a Right to Life; Secondly to Liberty; Thirdly to Property; together with the Right to support and defend them in the best manner they can."⁴⁵ The Virginia Declaration of Rights, written in 1776, affirmed that "all men . . . have certain inherent rights . . . namely the enjoyment of life and liberty, with the means of acquiring and possessing property."⁴⁶

One of the many bold declarations in this culminating proclamation of American independence was that the people of the several

states were entitled to a relationship of equality with others around the world, as opposed to being in a position of subservience to a king. This entitlement, wrote Jefferson, was derived from the “Laws of Nature and of Nature’s God”—an explicit reference to natural law, which was seen by the colonists as non-controversial; far more controversial was the document’s severance of political ties with the king. James Wilson, signer to the Declaration, declared, “The law of nature is immutable, not by the effect of an arbitrary disposition, but because it has its foundation in the nature, constitution, and mutual relations of men and things.”⁴⁷

Jefferson, writing ten days before his death, hoped that the Declaration would “be to the world, what I believe it will be (to some parts sooner, to others later, but finally to all), the signal of arousing men to burst the chains under which monkish ignorance and superstition had persuaded them to bind themselves, and to assume the blessings and security of self-government. . . . All eyes are opened, or opening, to the rights of man.”⁴⁸ The goal to “declare the causes which impel[led] them to the separation,” while stating the moral grounds upon which the succeeding revolutionary war was to be waged, resulted in a simple, bold document with a direct appeal to the law of nature and the accompanying equality all men of right may enjoy.

This document was not intended, however, to merely be a political declaration applicable only to the set of circumstances in which the colonists then found themselves. Rather, it was a declaration of the independence of each person’s individual humanity—an affirmation of “self-evident truths” applicable to “all men,” each with a divine endowment of rights from his Creator. It was, of course, very pertinent to the political climate of the time. Even so, the document did not expire upon first use; its contents remain in force and are equally applicable to circumstances in our own day.

The Declaration’s foundation in natural law marked the beginning of a unique and monumental career of natural law in America’s constitutional development. Throughout the following century, the doctrine of natural law weaved its way into the jurisprudence of each of the several states, as well as the federal government. Its decline in the nineteenth century and since can largely be attributed to the progressive social reform movements which promoted “social justice” with little concern for natural, individual rights.

Despite its relative demise in recent history, the reliance upon natural law played a key role in the formation of the U.S. Constitution, a document which has its philosophical roots planted in the fertile soil of the Declaration of Independence. This Declaration declares several foundational principles, for which the Constitution became important (some might say necessary) to protect. As Jefferson and his coauthors wrote, “Governments are instituted among Men” to “secure [our] rights.” After all, what is the purpose of affirming one’s rights without taking appropriate steps to secure and protect them?

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