

hoping to cash in on a hefty reward. Presently, there is no incentive to deter a crime in progress. Considering the danger of injury and likelihood that the caught criminal might be set free on some courtroom technicality, there is no reason to prevent a crime in progress. But with cash rewards, crime could be reduced drastically.

To prevent abuse of the bounty/restitution policy, an added feature would probably be enclosed in such a policy. The abuse most associated with a bounty system is mob reprisal against an accused criminal. To prevent this abuse, a stipulation could be added to warn that any person or persons found to have harmed or killed an alleged criminal will automatically have a bounty placed on them. Such a stipulation would give bounty hunters a good reason to bring back an alleged criminal in good health; otherwise, the company giving the award could be sued for harming an innocent person if the alleged criminal is found not guilty.

#### CAPITAL PUNISHMENT

Libertarians vary on the capital punishment issue. However, a privatized justice system might allow capital punishment in extreme cases. Under a restitution system, it is unlikely, although possible, that victim(s), jury and judge would give a death penalty verdict. The reason is clear. A death verdict cannot bring back loved ones; but the murderer's labor for the rest of his/her life can give partial restitution to the victim's dependents. Executing a convicted murderer only gives satisfaction of revenge. Why should society bear the financial burden of orphans, widows and widowers? The criminal, no one else, should pay the cost of his crime.

#### CONCLUSION

Justice and the legal system should be treated like any other commodity or service. If justice is to work, it must be free of politics and red tape. The consumer should have greater control over justice and the legal system.

1. "Self-Sentencing Results Productive, Surprising," **Associated Press**, (Winona, Minnesota), December 16, 1976.
2. "Where Prisons Shops Run Like Business," **Business Week**, July 18, 1977., p. 56.
3. "A New Idea: Private Enterprise Prisons," by Richard L. Mitchell, **Los Angeles Times**, February 7, 1978.

## THE CLASH - STATE VS NON-STATE JUSTICE

One major problem with a non-government legal system is that government would most likely not allow it. Government gains great advantage when justice and the legal system are operated by the State. It is doubtful that any government would surrender that monopoly.

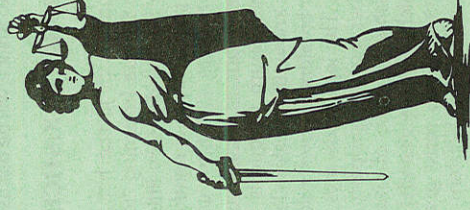
Some libertarians have suggested that the private justice system, under certain circumstances, could remedy this problem. It has been suggested that a privatized justice system could compete with the government's system. Since the government's system takes longer and costs more, more consumers would participate in the privatized system. However, citizens would unfortunately pay twice for justice since governmental services are paid from mandatory taxation.

Other libertarians suggest that to halt this double payment, a more direct course must be taken. Since taxation is immoral in the first place, they argue, it is moral to defend one's property from individual and governmental thieves. These libertarians suggest that a campaign to scare off tax collectors would be the best approach to make it difficult for the government to collect taxes or hire more tax collectors. Prior to the American Revolution, colonist would often run King George's tax collector out of town on a rail [often tarred and feathered too]. The practice was so wide-spread that the King could not hire enough tax collectors. Eventually, few colonists paid taxes because the government could not hire anyone to collect the money. It has been estimated that few colonist paid any taxes by 1776 and those who did paid no more than 1 per cent of their personal income; a far cry from the 40 to 45 per cent taken by the American government today.

Others have suggested tax-avoidance over tax-evasion; while others suggest forming a church and taking a "vow of poverty." Still others urge political legislation and initiatives to bring about a free system of justice and law.

Whatever the method, a day will come when politics and justice will be separated.

## JUSTICE: A LIBERTARIAN OUTLOOK



By Lawrence Samuels  
July/80

We, as libertarians, affirm that full individual liberty is impossible in any society other than a voluntary one that aggresses upon no one; that men and women require the full and independent use of their own judgement in order to survive at an optimum level, and therefore have a natural right to do their own thing, providing that they do not physically harm or coercively restrict another individual's life, liberty or property. That everyone is exclusively sovereign, and is a slave to no one; that the individual is free from imposed controls of others, acting alone or in concert (as a government); that all forms of coercion, aggression and fraud are always immoral; that the only system consistent with personal freedoms in the economic arena is one that does not interfere with free trade between consenting individuals. THEREFORE, we, as libertarians, resolve to oppose all forms of aggression by any State Government, self-appointed savior, individual, or association of individuals. We further resolve to oppose taxation, conscription, eminent domain, laws which create victimless "crimes", and all programs forced onto individuals without their consent. It is time that the chains of authoritarianism in economics and morality be broken. Individual rights and coercion cannot co-exist. Liberty cannot be compromised, and we will settle for no less than freedom in our time.

(adopted on May 5, 1973)

#### THE LIBERTAS STATEMENT

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...before laws were made, there were relations of possible justice. To say that there is nothing just or unjust but what is commanded or forbidden by positive laws, is the same as saying that before the describing of a circle all radii were not equal.

**Charles de Montesquieu**  
1689-1755  
**French Jurist**

The definition of justice and how to apply it is perhaps the most crucial and elusive question facing mankind. Libertarians and voluntarists vary on meanings, alternatives and applications to remedy injustice, compensate victim(s), judge criminals and punish the guilty. Only a few of many libertarian approaches to justice will be discussed here.

### WHAT IS JUSTICE?

The Western concept of justice has been based on the principles of *Sum Cuique* [meaning "to each his own"] for centuries. Western legal codes vary little on the concept of rendering to each person what is rightfully his/hers. It is the question of *what* belongs to *whom* which often must be decided through some form of arbitration.

To the libertarian, *Sum Cuique* is the basis of justice. However, as many know, the Western legal code has caused a great injustice by breaking its own rule when government becomes involved. The legal code says, in effect, that if someone steals another person's property, it shall be returned and the thief punished, unless, of course, the thief is the government; in which case, the victim(s) of the crime shall be fined and imprisoned if they resist government seizure of their rightful property. The Western legal code system creates a double standard for justice. Under the current system, theft is theft unless government commits the crime.

Although justice and law developed in the private sector in mercantile communities of Europe centuries ago, government has taken control of the definition and execution of justice. In other words, the legal code system is operated by government, to benefit and protect government. It is the State which has almost sole authority over definition, process and execution of justice. Is this just and equitable?

### AN APPROACH TO JUSTICE

Many libertarians argue that justice should be privatized, that is, treated like any other commodity or service in the marketplace. Individual consumers, juries and non-government-employed judges should determine with jurors what is just and unjust. No form of justice should ever be allowed to be operated and manipulated politically

clinics provided by charitable groups.

The point is, the poor get little protection from the government police. And when the police are present, they are busting pot smokers, jaywalkers, bookies, strippers, and ignoring prevention of violent crimes. And this is because the government pays the police directly from taxpayers' funds. Libertarians would like to see the police paid directly by consumers with the option to buy from many policing services or not to buy any protection at all.

### PACIFIST JUSTICE

Some libertarians such as Robert LeFevre endorse a pacifist approach to justice. First, LeFevreians argue that there is no such thing as justice, only honored contracts and broken contracts. Secondly, they argue that preventive measures to ensure protection of life and property are superior to vengeful search, arrest and prosecution of criminals.

A similar approach is employed by corporations in white collar crimes. A corporation usually does not attempt to capture and prosecute an embezzling employee, for instance. To attempt capture and arrest is considered wasting good money in an almost hopeless attempt to retrieve bad money (stolen money). This is not a moral judgement; it is only economically practical to forget past losses and concentrate on preventive measures.

A strong majority of libertarians, however, favor strong prosecution of criminals to deter future crimes. Most libertarians agree that justice can be achieved by capturing the criminal and making him/her compensate the victim(s) or relatives in a violent crime or fraud. In this approach, libertarians differ from traditional theories and practices dealing with criminals, prisons and compensation of the victim.

### RESTITUTION

Currently, Western legal codes have ignored the restitution side in criminal cases. During criminal procedures, the legal battle is between the State (People vs ...) and the criminal, not between the victim and accused criminal. The victim is ignored. If the victim wants to collect damages from the criminal, he/she must first wait for a guilty verdict and then (at the victim's own expense) file a civil suit to recover damages.

However, changes are in the wind. In Winona County, Minnesota, for instance, Judge Dennis Challen of the Winona County Court, has developed a "self-sentencing program emphasizing restitution. The record is remarkable. Since 1972 more than 3,000 misdemeanants have gone through Challen's restitution program. Burglars work for those they burglarized, auto thieves locate the owner of the auto they stole; and vandals repair the damage they caused. And the repeat rate is only two percent as compared with 50-70 nationally."<sup>1</sup>

Some studies on restitution have researched the idea of a

"time/work sentence." That is, when a criminal is convicted a monetary restitution sum could be set. When the sum is paid back to the victim, the criminal is released. The criminal has the option to work more hours (over-time) to pay restitution fees. This approach encourages the criminal to learn a skill and develop good working habits. It also helps to solve the over-crowding in jails.

### PRIVATIZED PRISONS

One approach that is being considered is the idea of contracting prison operations to private firms. In 1974 Minnesota's state laws were changed to permit private industry to operate prisons. The results were encouraging.

In Minnesota's privatized Lino Lakes Prison, prisoners are able to work for substantial wages. Prisoners like Sam Johnson work as apprentice upholsters, making \$2.50 per hour (1977) for Furniture Workshop, Inc. This may seem a small salary, but most government-operated prisons pay inmates under a dollar a day, while most inmates work an average of 3 1/2 hours a day. Furthermore, Sam Johnson pays \$120 a month to the state for his room and board. Lino Lakes Prison also provides jobs in the manufacturing of rope, farm equipment, snowmobiles and metal finishing.<sup>2</sup>

Even the former chief program administrator of the New York Department of Correctional Services, Richard L. Mitchell, has proposed a contractual private prison plan. "Prisons as now structured simply do not attract the kind of innovative professionals who can create new ways of doing things. For better or worse, talent gravitates in our society towards profit," Mitchell wrote.<sup>3</sup>

### TO INSURE JUSTICE

Preventive measures are always the best approach to any single problem. Libertarians have suggested that a possible way to insure justice is to purchase an insurance policy covering loss of life and property. Of course, such coverage is already available on the market in forms of life, auto and house insurance. But such insurance could be taken a step further. It has been suggested that a "bounty/restitution insurance policy" might assist in deterring crime and create a more just society.

The bounty/restitution policy could insure against injury to life and property, and then automatically set up a bounty of \$200,000 or so for the person who gives information which leads to the arrest and conviction of a thief or murderer. An insurance company could offer a million dollar bounty on all convicted murderers of a policyholder. And since insurance companies would rather not pay high claims, they could offer cash rewards of \$5,000 to \$50,000 to anyone who is responsible for preventing or halting violent crimes like muggings, rapes, thefts and assaults. If the bounty/restitution insurance became popular, the result would turn everyone into instant policemen. The shy passer-by would jump into action if he witnessed a crime in progress,