

FREDERIC BASTIAT

THE LAW

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FOREWORD

Anyone building a personal library of liberty must include in it a copy of Frédéric Bastiat's classic essay, "The Law." First published in 1850 by the great French economist and journalist, it is as clear a statement as has ever been made of the original American ideal of government, as proclaimed in the Declaration of Independence, that the main purpose of any government is the protection of the lives, liberties, and property of its citizens.

Bastiat believed that all human beings possessed the God-given, natural rights of "individuality, liberty, property." "This is man," he wrote. These "three gifts from God precede all human legislation." But even in his time – writing in the late 1840s – Bastiat was alarmed over how the law had been "perverted" into an instrument of what he called legal plunder. Far from protecting individual rights, the law was increasingly used to deprive one group of citizens of those rights for the benefit of another group, and especially for the benefit of the state itself. He condemned the legal plunder of protectionist tariffs, government subsidies of all kinds, progressive taxation, public schools, government "jobs" programs, minimum wage laws, welfare, usury laws, and more.

Bastiat's warnings of the dire effects of legal plunder are as relevant today as they were the day he first issued them. The system of legal plunder (which many now celebrate as "democracy") will erase from everyone's conscience, he wrote, the distinction between justice and injustice. The plundered classes will eventually figure out how to enter the political game and plunder their fellow man. Legislation will never be guided by any principles of justice, but only by brute political force.

The great French champion of liberty also forecast the corruption of education by the state. Those who held "government-endowed teaching positions," he wrote, would rarely criticize legal plunder lest their government endowments be ended.

The system of legal plunder would also greatly exaggerate the importance of politics in society. That would be a most unhealthy development as it would encourage even more citizens to seek to improve their own well-being not by producing goods and services for the marketplace but by plundering their fellow citizens through politics.

Bastiat was also wise enough to anticipate what modern economists call "rent seeking" and "rent avoidance" behavior. These two clumsy phrases refer, respectively, to the phenomena of lobbying for political favors (legal plunder), and of engaging in political activity directed at protecting oneself from being the victim of plunder seekers. (For example, the steel manufacturing industry lobbies for high tariffs on steel, whereas steel-using industries, like the automobile industry, can be expected to lobby against high tariffs on steel).

The reason why modern economists are concerned about "rent seeking" is the opportunity cost involved: the more time, effort and money that is spent by businesses on conniving to manipulate politics – merely transferring wealth – the less time is spent on producing goods and services, which increases wealth. Thus, legal plunder impoverishes the entire society despite the fact that a small (but politically influential) part of the society benefits from it.

It is remarkable, in reading "The Law," how perfectly accurate Bastiat was in describing the statist of his day which, it turns out, were not much different from the statist of today or any other day. The French "socialists" of Bastiat's day espoused doctrines that perverted charity, education, and morals, for one thing. True charity does not begin with the robbery of taxation, he pointed out. Government schooling is inevitably an exercise in statist brainwashing, not genuine education; and it

is hardly "moral" for a large gang (government) to (legally) rob one segment of the population, keep most of the loot, and share a little of it with various "needy" individuals.

Socialists want "to play God," Bastiat observed, anticipating all the future tyrants and despots of the world who would try to remake the world in their image, whether that image would be communism, fascism, the "glorious union," or "global democracy." Bastiat also observed that socialists wanted forced conformity; rigid regimentation of the population through pervasive regulation; forced equality of wealth; and dictatorship. As such, they were the mortal enemies of liberty.

"Dictatorship" need not involve an actual dictator. All that was needed, said Bastiat, was "the laws," enacted by a Congress or a Parliament, that would achieve the same effect: forced conformity.

Bastiat was also wise to point out that the world has far too many "great men," "fathers of their countries," etc., who in reality are usually nothing but petty tyrants with a sick and compulsive desire to rule over others. The defenders of the free society should have a healthy disrespect for all such men.

Bastiat admired America and pointed to the America of 1850 as being as close as any society in the world to his ideal of a government that protected individual rights to life, liberty, and property. There were two major exceptions, however: the twin evils of slavery and protectionist tariffs.

Frédéric Bastiat died on Christmas Eve, 1850, and did not live to observe the convulsions that the America he admired so much would go through in the next fifteen years (and longer). It is unlikely that he would have considered the U.S. government's military invasion of the Southern states in 1861, the killing of some 300,000 citizens, and the bombing, burning, and plundering of the region's cities, towns, farms, and businesses as being consistent in any way with the protection of the lives, liberties and properties of those citizens as promised by the Declaration of Independence. Had he lived to see all of this, he most likely would have added "legal murder" to "legal plunder" as one of the two great sins of government. He would likely have viewed the post-war Republican Party, with its 50 percent average tariff rates, its massive corporate welfare schemes, and its 25-year campaign of genocide against the Plains Indians as first-rate plunderers and traitors to the American ideal.

In the latter pages of "The Law" Bastiat offers the sage advice that what was really needed was "a science of economics" that would explain the harmony (or lack thereof) of a free society (as opposed to socialism). He made a major contribution to this end himself with the publication of his book, *Economic Harmonies*, which can be construed as a precursor to the modern literature of the Austrian School of economics. There is no substitute for a solid understanding of the market order (and of the realities of politics) when it comes to combating the kinds of destructive socialistic schemes that plagued Bastiat's day as well as ours. Anyone who reads this great essay along with other free-market classics, such as Henry Hazlitt's *Economics in One Lesson* and Murray Rothbard's *Power and Market*, will possess enough intellectual ammunition to debunk the socialist fantasies of this or any other day.

Thomas J. DiLorenzo May 2007

Thomas DiLorenzo is professor of economics at Loyola College in Maryland and a member of the senior faculty of the Mises Institute.

THE LAW ¹

The law perverted! The law – and, in its wake, all the collective forces of the nation – the law, I say, not only diverted from its proper direction, but made to pursue one entirely contrary! The law become the tool of every kind of avarice, instead of being its check! The law guilty of that very iniquity which it was its mission to punish! Truly, this is a serious fact, if it exists, and one to which I feel bound to call the attention of my fellow citizens.

We hold from God the gift that, as far as we are concerned, contains all others, Life – physical, intellectual, and moral life.

But life cannot support itself. He who has bestowed it, has entrusted us with the care of supporting it, of developing it, and of perfecting it. To that end, He has provided us with a collection of wonderful faculties; He has plunged us into the midst of a variety of elements. It is by the application of our faculties to these elements that the phenomena of assimilation and of appropriation, by which life pursues the circle that has been assigned to it are realized.

Existence, faculties, assimilation – in other words, personality, liberty, property – this is man.

It is of these three things that it may be said, apart from all demagogic subtlety, that they are anterior and superior to all human legislation.

It is not because men have made laws, that personality, liberty, and property exist. On the contrary, it is because personality, liberty, and property exist beforehand, that men make laws. What, then, is law? As I have said elsewhere, it is the collective organization of the individual right to lawful defense.

Nature, or rather God, has bestowed upon every one of us the right to defend his person, his liberty, and his property, since these are the three constituent or preserving elements of life; elements, each of which is rendered complete by the others, and that cannot be understood without them. For what are our faculties, but the extension of our personality? and what is property, but an extension of our faculties?

If every man has the right of defending, even by force, his person, his liberty, and his property, a number of men have the right to combine together to extend, to organize a common force to provide regularly for this defense.

Collective right, then, has its principle, its reason for existing, its lawfulness, in individual right; and the common force cannot rationally have any other end, or any other mission, than that of the isolated forces for which it is substituted. Thus, as the force of an individual cannot lawfully touch the person, the liberty, or the property of another individual – for the same reason, the common force cannot lawfully be used to destroy the person, the liberty, or the property of individuals or of classes.

For this perversion of force would be, in one case as in the other, in contradiction to our premises. For who will dare to say that force has been given to us, not to defend our rights, but to annihilate the equal rights of our brethren? And if this be not true of every individual force, acting independently, how can it be true of the collective force, which is only the organized union of isolated forces?

Nothing, therefore, can be more evident than this: The law is the organization of the natural right of lawful defense; it is the substitution of collective for individual forces, for the purpose of acting in the sphere in which they have a right to act, of doing what they have a right to do, to secure persons, liberties, and properties, and to maintain each in its right, so as to cause justice to reign over all.

And if a people established upon this basis were to exist, it seems to me that order would prevail among them in their acts as well as in their ideas. It seems to me that such a people would have

¹ First published in 1850.

the most simple, the most economical, the least oppressive, the least to be felt, the most restrained, the most just, and, consequently, the most stable Government that could be imagined, whatever its political form might be.

For under such an administration, everyone would feel that he possessed all the fullness, as well as all the responsibility of his existence. So long as personal safety was ensured, so long as labor was free, and the fruits of labor secured against all unjust attacks, no one would have any difficulties to contend with in the State. When prosperous, we should not, it is true, have to thank the State for our success; but when unfortunate, we should no more think of taxing it with our disasters than our peasants think of attributing to it the arrival of hail or of frost. We should know it only by the inestimable blessing of Safety.

It may further be affirmed, that, thanks to the nonintervention of the State in private affairs, our wants and their satisfactions would develop themselves in their natural order. We should not see poor families seeking for literary instruction before they were supplied with bread. We should not see towns peopled at the expense of rural districts, nor rural districts at the expense of towns. We should not see those great displacements of capital, of labor, and of population, that legislative measures occasion; displacements that render so uncertain and precarious the very sources of existence, and thus enlarge to such an extent the responsibility of Governments.

Unhappily, law is by no means confined to its own sphere. Nor is it merely in some ambiguous and debatable views that it has left its proper sphere. It has done more than this. It has acted in direct opposition to its proper end; it has destroyed its own object; it has been employed in annihilating that justice which it ought to have established, in effacing amongst Rights, that limit which it was its true mission to respect; it has placed the collective force in the service of those who wish to traffic, without risk and without scruple, in the persons, the liberty, and the property of others; it has converted plunder into a right, that it may protect it, and lawful defense into a crime, that it may punish it.

How has this perversion of law been accomplished? And what has resulted from it?

The law has been perverted through the influence of two very different causes – naked greed and misconceived philanthropy.

Let us speak of the former. Self-preservation and development is the common aspiration of all men, in such a way that if every one enjoyed the free exercise of his faculties and the free disposition of their fruits, social progress would be incessant, uninterrupted, inevitable.

But there is also another disposition which is common to them. This is to live and to develop, when they can, at the expense of one another. This is no rash imputation, emanating from a gloomy, uncharitable spirit. History bears witness to the truth of it, by the incessant wars, the migrations of races, sectarian oppressions, the universality of slavery, the frauds in trade, and the monopolies with which its annals abound. This fatal disposition has its origin in the very constitution of man – in that primitive, and universal, and invincible sentiment that urges it towards its well-being, and makes it seek to escape pain.

Man can only derive life and enjoyment from a perpetual search and appropriation; that is, from a perpetual application of his faculties to objects, or from labor. This is the origin of property.

But also he may live and enjoy, by seizing and appropriating the productions of the faculties of his fellow men. This is the origin of plunder.

Now, labor being in itself a pain, and man being naturally inclined to avoid pain, it follows, and history proves it, that wherever plunder is less burdensome than labor, it prevails; and neither religion nor morality can, in this case, prevent it from prevailing.

When does plunder cease, then? When it becomes more burdensome and more dangerous than labor. It is very evident that the proper aim of law is to oppose the fatal tendency to plunder with the powerful obstacle of collective force; that all its measures should be in favor of property, and against plunder.

But the law is made, generally, by one man, or by one class of men. And as law cannot exist without the sanction and the support of a preponderant force, it must finally place this force in the hands of those who legislate.

This inevitable phenomenon, combined with the fatal tendency that, we have said, exists in the heart of man, explains the almost universal perversion of law. It is easy to conceive that, instead of being a check upon injustice, it becomes its most invincible instrument.

It is easy to conceive that, according to the power of the legislator, it destroys for its own profit, and in different degrees amongst the rest of the community, personal independence by slavery, liberty by oppression, and property by plunder.

It is in the nature of men to rise against the injustice of which they are the victims. When, therefore, plunder is organized by law, for the profit of those who perpetrate it, all the plundered classes tend, either by peaceful or revolutionary means, to enter in some way into the manufacturing of laws. These classes, according to the degree of enlightenment at which they have arrived, may propose to themselves two very different ends, when they thus attempt the attainment of their political rights; either they may wish to put an end to lawful plunder, or they may desire to take part in it.

Woe to the nation where this latter thought prevails amongst the masses, at the moment when they, in their turn, seize upon the legislative power!

Up to that time, lawful plunder has been exercised by the few upon the many, as is the case in countries where the right of legislating is confined to a few hands. But now it has become universal, and the equilibrium is sought in universal plunder. The injustice that society contains, instead of being rooted out of it, is generalized. As soon as the injured classes have recovered their political rights, their first thought is not to abolish plunder (this would suppose them to possess enlightenment, which they cannot have), but to organize against the other classes, and to their own detriment, a system of reprisals – as if it was necessary, before the reign of justice arrives, that all should undergo a cruel retribution – some for their iniquity and some for their ignorance.

It would be impossible, therefore, to introduce into society a greater change and a greater evil than this – the conversion of the law into an instrument of plunder.

What would be the consequences of such a perversion? It would require volumes to describe them all. We must content ourselves with pointing out the most striking.

In the first place, it would efface from everybody's conscience the distinction between justice and injustice. No society can exist unless the laws are respected to a certain degree, but the safest way to make them respected is to make them respectable. When law and morality are in contradiction to each other, the citizen finds himself in the cruel alternative of either losing his moral sense, or of losing his respect for the law – two evils of equal magnitude, between which it would be difficult to choose.

It is so much in the nature of law to support justice that in the minds of the masses they are one and the same. There is in all of us a strong disposition to regard what is lawful as legitimate, so much so that many falsely derive all justice from law. It is sufficient, then, for the law to order and sanction plunder, that it may appear to many consciences just and sacred. Slavery, protection, and monopoly find defenders, not only in those who profit by them, but in those who suffer by them. If you suggest a doubt as to the morality of these institutions, it is said directly – "You are a dangerous experimenter, a utopian, a theorist, a despiser of the laws; you would shake the basis upon which society rests."

If you lecture upon morality, or political economy, official bodies will be found to make this request to the Government:

That henceforth science be taught not only with sole reference to free exchange (to liberty, property, and justice), as has been the case up to the present time, but also, and especially, with reference to the facts and legislation (contrary to liberty, property, and justice) that regulate French industry.

That, in public lecterns salaried by the treasury, the professor abstain rigorously from endangering in the slightest degree the respect due to the laws now in force.²

So that if a law exists that sanctions slavery or monopoly, oppression or plunder, in any form whatever, it must not even be mentioned – for how can it be mentioned without damaging the respect that it inspires? Still further, morality and political economy must be taught in connection with this law – that is, under the supposition that it must be just, only because it is law.

Another effect of this deplorable perversion of the law is that it gives to human passions and to political struggles, and, in general, to politics, properly so called, an exaggerated importance.

I could prove this assertion in a thousand ways. But I shall confine myself, by way of an illustration, to bringing it to bear upon a subject which has of late occupied everybody's mind: universal suffrage.

Whatever may be thought of it by the adepts of the school of Rousseau, which professes to be very far advanced, but which I consider 20 centuries behind, universal suffrage (taking the word in its strictest sense) is not one of those sacred dogmas with respect to which examination and doubt are crimes.

Serious objections may be made to it.

In the first place, the word universal conceals a gross sophism. There are, in France, 36,000,000 inhabitants. To make the right of suffrage universal, 36,000,000 electors should be reckoned. The most extended system reckons only 9,000,000. Three persons out of four, then, are excluded; and more than this, they are excluded by the fourth. Upon what principle is this exclusion founded? Upon the principle of incapacity. Universal suffrage, then, means: universal suffrage of those who are capable. In point of fact, who are the capable? Are age, sex, and judicial condemnations the only conditions to which incapacity is to be attached?

On taking a nearer view of the subject, we may soon perceive the reason why the right of suffrage depends upon the presumption of incapacity; the most extended system differing from the most restricted in the conditions on which this incapacity depends, and which constitutes not a difference in principle, but in degree.

This motive is, that the elector does not stipulate for himself, but for everybody.

If, as the republicans of the Greek and Roman tone pretend, the right of suffrage had fallen to the lot of every one at his birth, it would be an injustice to adults to prevent women and children from voting. Why are they prevented? Because they are presumed to be incapable. And why is incapacity a reason for exclusion? Because the elector does not reap alone the responsibility of his vote; because every vote engages and affects the community at large; because the community has a right to demand some assurances, as regards the acts upon which its well-being and its existence depend.

I know what might be said in answer to this. I know what might be objected. But this is not the place to settle a controversy of this kind. What I wish to observe is this, that this same controversy (in common with the greater part of political questions) that agitates, excites, and unsettles the nations, would lose almost all its importance if the law had always been what it ought to be.

In fact, if law were confined to causing all persons, all liberties, and all properties to be respected – if it were merely the organization of individual right and individual defense – if it were the obstacle, the check, the chastisement opposed to all oppression, to all plunder – is it likely that we should dispute much, as citizens, on the subject of the greater or lesser universality of suffrage? Is it likely that it would compromise that greatest of advantages, the public peace? Is it likely that the excluded classes would not quietly wait for their turn? Is it likely that the enfranchised classes would be very jealous of their privilege? And is it not clear, that the interest of all being one and the same, some would act without much inconvenience to the others?

² General Council of Manufactures, Agriculture, and Commerce, 6th of May, 1850.

But if the fatal principle should come to be introduced, that, under pretense of organization, regulation, protection, or encouragement, the law may take from one party in order to give to another, help itself to the wealth acquired by all the classes that it may increase that of one class, whether that of the agriculturists, the manufacturers, the ship owners, or artists and comedians; then certainly, in this case, there is no class which may not try, and with reason, to place its hand upon the law, that would not demand with fury its right of election and eligibility, and that would overturn society rather than not obtain it. Even beggars and vagabonds will prove to you that they have an incontestable title to it. They will say:

We never buy wine, tobacco, or salt, without paying the tax, and a part of this tax is given by law in perquisites and gratuities to men who are richer than we are. Others make use of the law to create an artificial rise in the price of bread, meat, iron, or cloth.

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