

# PROPERTY & FREEDOM

2nd edition

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## Property Rights

Natural Law & Statute Law

The History of Property Rights

The History of Property Rights in Canada

The Boiling Frog

## The Power of Incentive

What Business Corporations and  
Mother Teresa Have in Common

## The Art of the Oxymoron

Why “Government Efficiency” Can’t Happen

**Property:**  
It’s Actually  
About You

*“Promoting the responsible and efficient use of tax dollars, while carrying out an educational role with respect to wealth creation and responsible public policy.”*



## Comments on our last publication *Are You Responsible for Climate Change?*

### At the Carbon Tax Rally

I heard about your publication at the "Stop the Carbon Tax" rally in Edmonton and would like very much to read it.

S.C., Edmonton

### Enlightening

I found your booklet, *Are You Responsible for Climate Change?*, interesting and enlightening. Could you please send me three more copies?

A.S., Clive

### Friends & Neighbours

I was given a copy of your publication. I would really like to give copies to relatives, friends, and neighbours. . . . Appreciate the work you do.

D. H., Sherwood Park

Many should be waving your book around at these anti-carbon rallies across Alberta. Why has not the media commented on it?

K. O., Lethbridge

I'm a high school teacher interested in using copies for my class for discussion/educational purposes. I could use 25 copies. Thanks.

V.B., Southern Alberta

I am interested in receiving three copies of your Grassroots Alberta booklets. What an excellent publication. I hope our Members of Parliament get a chance to read the information in this booklet. I want to pass a few copies out.

M.S., Medicine Hat

*Comments may have been edited for spelling and punctuation.*

If you missed our recent Climate Change publication, we have only a few copies left. See the inside back cover for information.

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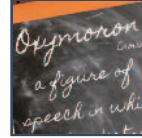
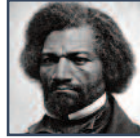
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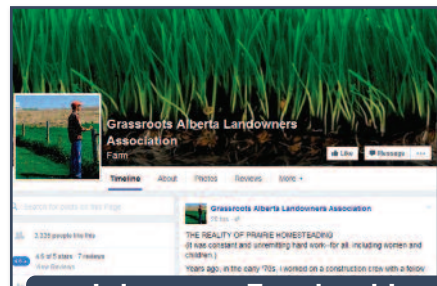


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This publication is a project of Grassroots Alberta Citizens Initiative.  
See the inside back cover for more information.



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## Property: It's Actually About You

Most people believe that any conversation about property rights is supposed to be a discussion about farmland or real estate. Actually, they're wrong. Very wrong.

**M**ost people believe that any conversation about property rights is supposed to be a discussion about farmland or real estate. Actually, they're wrong. Very wrong.

The starting point for any discussion about property rights is to acknowledge that every person owns his or her own life. It doesn't belong to the government or to the community. And because we really do own our own lives, we own the things we create and for which we work.

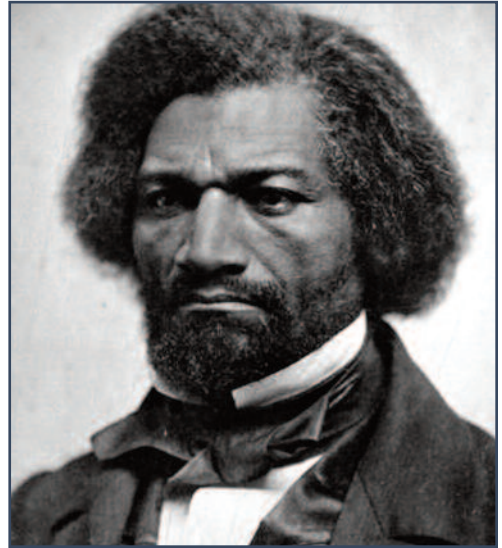
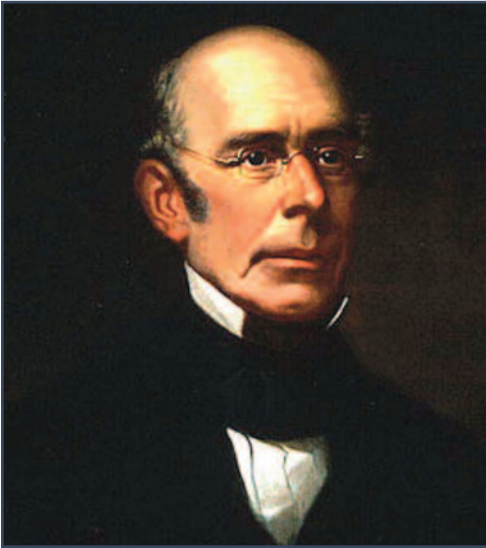
### Frederick Douglass

Frederick Douglass was born on a slaveholding plantation prior to the United States Civil War. He never knew his father. His mother died when he was a child. On two occasions, Douglass es-

caped, but was caught. On his third attempt, he got away.

Douglass made his way north to the free state of New York, and later to the free state of Massachusetts. In the years immediately following his escape, there were vibrant religious and grassroots political movements calling on the U.S. federal government to outlaw slavery. The movement was characterized by large rallies with swelling crowds, passionately worded pamphlets, and anti-slavery newspapers.

Douglass was not just an escaped slave. He was also an eloquent and gifted orator. After hearing him speak about slavery, newspaperman William Lloyd Garrison said that Douglass had a "voice like thunder."



**WILLIAM LLOYD GARRISON & FREDERICK DOUGLASS.** The starting point for any discussion about property rights is to acknowledge that every person owns his or her own life. It doesn't belong to the government or to the community. And because we really do own our own lives, we own the things we create and for which we work.

Garrison sponsored Douglass to speak at antislavery events and rallies. Douglass would begin his presentations by standing quietly before the crowd. Then he would say: "I appear [before you] this evening as a thief and a robber. I stole this head, these limbs, this body, from my master and ran off with them."

Douglass drew attention to the fact that the most basic thing any man or woman can own is his or her own life. The basis of human freedom is that we each have a property right in our own person—in who and what we are—and because we own our own lives, we also own our labour and the fruit of our labour.

As Douglass demonstrated, a person who doesn't own his or her own labour and the fruit of that labour is a slave.

### Labour Is Property

In the earliest days of human civilization, if a hunter fashioned a tree branch into a well-balanced and useful spear, everyone understood that it was his property. If the hunter used his spear to kill a bear, the meat and the hide would also become his property.

If the hunter approached a primitive farmer, seeking to trade a bear hide for wheat, both the hunter and the farmer would understand—without anyone explaining it—that the hide was the property of the hunter while the wheat was the property of the farmer.

### Labour Creates Property

Trading the hide for wheat, and the



**FREE TO MAKE OUR OWN CHOICES.** The idea of a free market doesn't mean individuals and businesses are free to abuse people or act without regard to standards and ethics. Instead, a free market means that individuals, families, and businesses are "free" to make their own choices.

wheat for the hide, would be a property transaction. The bear hide would represent the material value of the hunter's ingenuity, effort, and labour. The wheat would represent the saved-up value of the farmer's ingenuity, effort, and labour.

The fact that both of these men created, acquired, or developed something useful means that they added a measure of wealth and prosperity to the community and society in which they live. Property in all of its forms is the basis of wealth creation.

### Property Shapes Behaviour

The promise of property motivates people to engage in useful and creative activities. By creating, developing, or improving property, each person serves the needs of others. Economist Walter Williams explained it this way:

When I buy milk from my grocer, I am essentially telling him that I hold title to these three dollars and that I recognize he holds title to the milk at his store. My offer is for him to transfer his title to the milk to me, in exchange for my title to these three dollars. The transaction is a transfer of property rights, recognizing that he has a right to his milk and that I have a right to the three dollars I earned.

### The Free Market

The idea of a free market doesn't mean individuals and businesses are free to abuse people or act without regard to standards and ethics. Instead, a free market means that individuals, families, and businesses are "free" to make their own choices. The free market recognizes that every individual should have the right to own and control his or her own life,



**LABOUR IS PROPERTY.** The labour of a person's body and the work of their hands are also property.

labour, and property. It's a system of interaction amongst human beings that ensures ordinary people are free to create, develop, invent, and acquire property in all its forms, and then improve it, trade it, sell it, give it away, or use it in whatever manner seems best to them.

## Two Sides of a Coin

Property rights and freedom are two sides of the same coin, as connected as two things could possibly be.

Moral philosopher John Locke stated that every person has a property in his or her own person—a property right that no one can take away. The labour of a person's body and the work of their hands are also property. And anything nature provides that a person joins to his or her labour is that person's possession. It becomes property.

At a seminar sponsored by the Independence Institute, Paul Prentice pointed out that property is much more than physical things—land, buildings, cars, jewellery, bank accounts, stocks, bonds, etc. Property is also ourselves—our thoughts and ideas and hopes and dreams. It's our humanity. As human beings, Prentice says, we are property creators and producers, and the fruit of our labour is our property as well—both the income we earn and the things we purchase with it.

Property represents labour, which explains why crimes against property and crimes against people are in many ways the same thing. If you steal a car from someone, you may well be stealing not

**“What transformed the world of horse-drawn carriages, sailing ships, and windmills, step-by-step, into a world of airplanes and electronics, is the principle of private property and governments leaving people alone.”** [paraphrase]

**Ludwig von Mises (1881-1973)**

*Austrian-born economist and social philosopher*





**PROPERTY RIGHTS PRECEDE ALL OTHER RIGHTS.** Property is a right of mankind as surely as freedom. It precedes every other right. . . . Property must be secure or human freedom cannot exist.

just the vehicle itself, but half a year of that person's labour, because that's what it took to acquire it.

Property is a right of mankind as surely as freedom. It precedes every other right. For example, you cannot have the right to a free press if the government can come and take away your printing press. Property must be secure or human freedom cannot exist.

Lincoln, the American president who freed the slaves, once referred to a slave woman and said: "In her natural right to eat the bread she earns with her own hands, she is my equal and the equal of all others." He was talking about the right that everyone has to the fruit of their labour and effort.

In essence, slavery is a 100% taxation or confiscation of a person's property

right—the fruit of their labour. If a master owns a slave, then he owns 100% of that slave's labour.

So what is implied if a government sets a tax rate that confiscates 50% of the annual worth of a person's labour? (More than once, a Canadian province hasn't seen Tax Freedom Day until the month of July.)

### Creative Property

If you write a book, create a work of art, design a piece of software, or invent some newfangled gadget, it'll be property. For example, singer-songwriter Ian Tyson owns the songs he creates. They're his.

In the early 1960s, a man named Howard Kearns invented and patented the intermittent windshield wiper for ve-

## Frederick Douglass

Frederick Douglass made himself the most compelling witness to the evils of slavery and prejudice. He endured whippings and beatings. In the pre-civil war South, it was illegal to teach slaves how to read and write, but Douglass learned anyway, and secretly educated other slaves. After he escaped to freedom, he tirelessly addressed antislavery meetings throughout the North and the British Isles.

Douglass believed that private property, competitive enterprise, and self-help are essential for human progress. "Property," he wrote, "will produce for us the only condition upon which any people can rise to the dignity of genuine manhood. . . . Knowledge, wisdom, culture, refinement, manners, are all founded on work and the wealth which work brings. . . . Without money, there's no leisure, without leisure no thought, without thought no progress."



Frederick Douglass's desk.

(Source: [AtlasObscura.com/places/frederick-douglass-house-cedar-hill](https://atlasobscura.com/places/frederick-douglass-house-cedar-hill))

Critics considered Douglass stubborn, arrogant, and overly sensitive to slights, but he earned respect from friends of freedom. For years he appeared on lecture platforms with William Lloyd Garrison and Wendell Phillips, leading lights of the antislavery movement. *Uncle Tom's Cabin* author Harriet Beecher Stowe praised Douglass.

He impressed essayist Ralph Waldo Emerson, who declared: "Here is Man; and if you have man, black or white is an insignificance." Mark Twain was proud to count Douglass as a friend.

An American observer recalled Douglass's presence as a speaker: "He was more than six feet in height, and his majestic form, as he rose to

speak, straight as an arrow, muscular, yet lithe and graceful, his flashing eye, and more than all, his voice, that rivaled Webster's in its richness, and in the depth and sonorousness of its cadences, made up such an ideal of an orator as the listeners never forgot."

Source: *Foundation for Economic Education (fee.org)*

hicles. The invention was his property. Some years later, the big North American auto manufacturers copied his idea without consulting or compensating him, so Kearns took them to court.

The big automakers had to pay millions. Chrysler tried to get the U.S. Supreme Court to overturn an \$18.7-million award that a lower court had ordered it

to pay, but the high court rejected its bid. The courts acknowledged that Kearns held a property right related to his invention, and that the big three automakers had stolen it.

## The Economic Equality Bogeyman

Once we gain sight of the fact that property is not just land and real estate, but



**PRIVATE GARDENS IN SOVIET RUSSIA.** The reason 6% of the land could out-produce the massive collective state farms is that people working those small plots had property rights, while the people working the big state farms did not. The individuals and families with the private plots were always looking for ways to gain production and efficiency, because . . . there was a [direct] benefit.

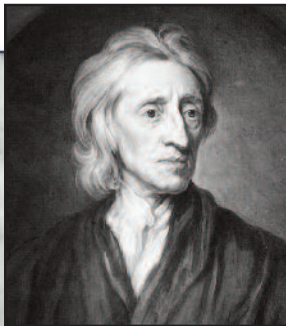
the outcome of a person's willingness to invest their ingenuity, creativity, good management, money, and labour, it becomes obvious that economic equality is a bogeyman. There can never be any such thing as economic equality. Here's why.

If, next Monday, we were able to equally redistribute all the wealth in our country amongst every person in

Canada, economic inequality would be back in less than half an hour.

Stewardship, good or bad management, and the attitude each person holds toward the use and accumulation of property would become evident.

This is why so many people who are flat broke when they win the lottery are broke again a short while later. They were broke before they won because they never invested themselves, their



**"The great and chief end . . . of men uniting into commonwealths, and putting themselves under government, is the preservation of their property."**

**John Locke (1632-1704)**

*English philosopher*

creativity, or their labour in a way that ensured they acquired and retained wealth and property. They were broke after they won the lottery for exactly the same reason.

Some people see money (economic property) as something to spend rather than something to employ or harness in a useful and productive fashion.

### Stewardship and Wealth Creation

The way property rights shape human behaviour and the creation of wealth can easily be seen in something that occurred in Russia. Near the end of the 1900s, private garden plots accounted for only 6% of Russian agricultural land. Yet the majority of the country's livestock, milk, vegetables, poultry, and potatoes were grown or raised on those small plots—as much as 65-90% of total national output.<sup>1</sup>

The reason 6% of the land could out-produce the massive collective state farms is that the people working those small plots had property rights, while the people working the big state farms did not. The individuals and families

with the private plots were always looking for ways to gain production and efficiency, because every time they increased yields, there was a personal benefit.

Meanwhile, the workers at the big government-run collective farms could never partake in that same incentive. They owned nothing, not even the outcome of their own labour. At no time did they possess a property right, nor did they work for a property owner who possessed a property right, and would therefore be personally affected by the outcome.

This lack of a property right incentive is the same reason no one ever washes a rental car. People who rent cars don't wash them prior to returning them, not because they're lazy or irresponsible, but because there is no incentive to do so.

The fact is that property rights shape human behaviour, and so too does the absence of property rights.

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Compiled by Grassroots Alberta

1. Food & Agriculture Policy in Russia, World Bank Paper #523.

**“Either you have a right to own property, or you are property.”**

**E. Wayne Hage (1936-2006)**

*Rancher who won a lawsuit against the U.S. government over its illegal denial of long-established grazing and property rights on his federal allotment (grazing lease)*





## The Power of Incentive

What business corporations and Mother Teresa have in common

Most people immediately think of money when they hear the word *economics*. But actually, economics is more about incentives and the way they shape human behaviour.

There was once an retired millionaire who became overwhelmed with the desire to have grandchildren. He wanted to enjoy their company before he died. The elderly fellow had two sons and two daughters, all married, but none had shown any interest in children.

One year, over the family Christmas dinner, he gently scolded them for not giving him grandchildren. Then he said: “Last week I went to my lawyer’s office and set up a \$100-million trust fund for the first pair of you to produce a grandchild. Now let’s give thanks for our meal.”

The man bowed his head in prayer, then looked up again to find that he and his wife were alone. His children and their spouses were off responding to the incentive he had set before them.

Most people immediately think of money when they hear the word *economics*. But actually, economics is more about incentives and the way they shape human behaviour than it is about money. Money simply follows the incentives.

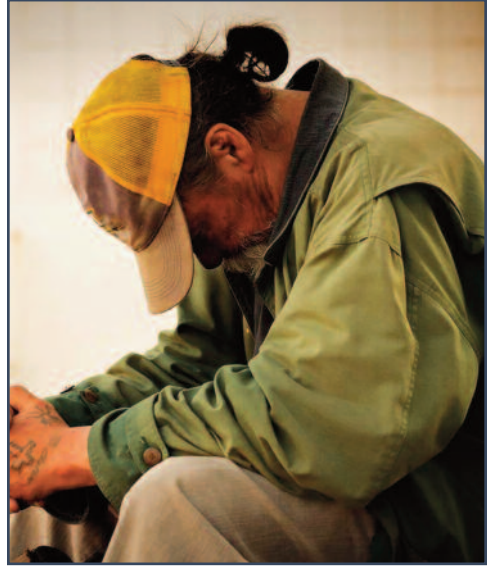
Many years ago, Mother Teresa and her Sisters of Charity wanted to open a homeless shelter in a North American community teeming with needy people. They found an excellent facility in a suitable location, only to be faced with government bureaucracy demanding very expensive and unnecessary alterations (including an elevator), before the building would be approved.

Mother Teresa backed out of the project. Her commitment to the poor hadn’t ended, nor was she being greedy or selfish. She simply recognized that her charity’s money would be better spent by

directly helping the poor people in another community than by satisfying the inordinate and excessive bureaucratic decrees of this one. Despite the community's overwhelming need, the government had given her a powerful incentive not to establish a homeless shelter there.

Unfortunately, when it responds positively to incentives and profit possibilities, the business community is often accused of greed. When it reacts negatively to government-imposed disincentives and roadblocks, it is accused of selfishness. Both are unfair.

The fact is that whether you are a for-profit business or Mother Teresa, changing your behaviour in response to incentives and disincentives is simply a reflection of common sense and good judgment.



#### FEED THE POOR, OR FEED THE BUREAUCRACY?

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“Private property gives each of us the assurance that others will employ themselves and their resources in ways that create prosperity for all. For evidence that private property, not democracy, is the key to prosperity and freedom, I point to India and Hong Kong. In India, the electoral franchise is wide, and elections have long been regular, but property rights are weak. For most of the post-World War II era, in contrast, Hong Kong had no democracy, but property rights were among the strongest in the world. People in India lived in poverty, shackled by a corrupt state; the people of Hong Kong grew increasingly wealthy. . . . Private property, not democracy, is the great guarantor of prosperity and liberty. And because it decentralizes power, it also safeguards people from political madmen with utopian ideas about what's good for us.” [paraphrase]

**Thomas Sowell, Ph.D.**

*Economist, social critic, author, and educator*





## Property Rights and Self-Defense

How are they connected?

*Recently, Kevin Avram, a director with Grassroots Alberta, was a guest on QR77 Talk Radio in Calgary with Danielle Smith. Smith, a former executive at the Property Rights Institute, quizzed Avram about rural crime, property rights, freedom, and what individuals should and should not be able to lawfully do to protect themselves and their property. The interview garnered considerable feedback. The transcript from that discussion, slightly edited for clarification, is below.*

**SMITH:** I've got Kevin Avram on the line and I want to talk with him [about rural crime, self-defense, and gun rights] because maybe it's a rural/urban divide. Maybe that's where it is where we've got a problem—although people in urban environments are also seeing an increase in property theft as well. Kevin Avram is with Grassroots Alberta Citizens Initiative and he joins us now. . . . Kevin, thanks so much for being with me.

**AVRAM:** You're more than welcome, Danielle.

**SMITH:** What is it about conservatives, and why is it that they support

gun rights? Why is it that this seems to follow along ideological lines?

**AVRAM:** Well, I am not sure it's a gun issue per se, I think the real issue—the real question ahead of that question—is to simply inquire as to: “What does it mean to live free? And what kind of freedoms do Canadians want to protect and aspire to?” So I am not so sure that the real debate is about guns, but instead, about what it means to be a free man or a free woman, and whether or not each individual should be entitled to protect him- or herself in a situation where an imminent threat is presented.

I got an email the other day from a couple way up north who live on a

farm. They told me that they had been farming for a long time, and that they were elderly now. The man indicated that they lived 40 minutes away from a local community or town. He said that he and his wife were very concerned about what they would be lawfully able to do if somebody encroached upon their property or even tried to get into their home.

**SMITH:** I think you have just pinpointed why it is that there is such a divide between urban and rural, because in an urban environment, I live three blocks away from the RCMP headquarters in a small town of 13,000 people. The further away you are, having the RCMP [quickly] take care of things rings a bit hollow. . . .

**AVRAM:** It rings hollow, but another concern is that—as I am sure most peo-

ple know—the RCMP has a fair amount of discretion as to whether or not they want to charge someone. . . . [Yet] if someone is encroaching upon someone else’s property or sneaking around their home, we really should have a legal system that immediately strikes fear into these criminals so that the minute that they unlawfully enter private property, they recognize that they’re engaging in something where the consequences could be severe.

There’s a legitimate place for fear in a free society, and there are things that people should be afraid of doing, knowing that there will be a consequence that is not going to be pleasant.

**SMITH:** Do you think that it is up to the RCMP to exercise that discretion when they confront a situation where a landowner has used a firearm to de-



**HOMESTEADERS LINE UP AT THE DOMINION LAND OFFICE AT GRANDE PRAIRIE.** The real issue . . . is to simply inquire as to: “What does it mean to live free? And what kind of freedoms do Canadians want to protect and aspire to?” . . . The real debate is [not] about guns, but instead, about what it means to be a free man or a free woman.

fend himself or his property, or do you think that there needs to be some legal changes?

**AVRAM:** I am quite sure that the answer is both those things.

I don't want to pretend that I am a lawyer, because I am not, but based on what I have been told by people who are legally learned [experienced lawyers], my understanding is that the RCMP has discretion regarding whether or not they will charge someone, based on what is reasonable. Yet the concept of what's reasonable is pretty nebulous, because what some people would see as reasonable, someone else may not.

There is an obvious need for legal reform that makes very clear for people, and not just rural people, but for everyone—urban people too—what the appropriate acts are for a person to engage in if he or she is being threatened. The idea that you can't protect yourself—that it is unlawful to protect yourself or your property—and that you should run away and hide, I am

not sure that approach is sustainable over the long term.

**SMITH:** I have many listeners, when they hear people make statements like you have, they will say, "But it's just property. Human life is more important," they say. "You can't use lethal force against somebody if they're just taking your stuff." Do you have a response to that?

**AVRAM:** Most people have not thought about what property is. The ultimate property that we each possess is not real estate or things that might be in our yard or in our home. Even our own lives are property. And either the law is going to protect property or it's not. And either people should be free to protect their property, or they're not.

The idea that we should send a loud message to criminals saying, "Come on to my place and take anything you want, and don't fear consequence," I'm not sure that's the signal you want to send to people who are willing to disregard morality and legality. You don't want to send that kind of a signal to criminals.



**"If we buy into the notion that somehow property rights are less important, or are in conflict with, human or civil rights, we create false distinctions . . . and play into the hands of those who seek to control our lives."  
[paraphrase]**

**Walter Williams, Ph.D.**

*American economist, author, and educator*



**A LEGITIMATE PLACE FOR FEAR IN A FREE SOCIETY.** If someone is encroaching upon someone else's property or sneaking around their home, we really should have a legal system that immediately strikes fear into these criminals so that the minute that they unlawfully enter private property, they recognize that they're engaging in something where the consequences could be severe.

Hence, as you inquired earlier, the need for legal reform that makes these kinds of circumstances quite clear in law.

**SMITH:** So, let me ask you a bit more about Grassroots Alberta Citizens Initiative.

For those of you who don't know, Kevin Avram has a long history in being behind very successful advocacy organizations, first with the Alberta Taxpayers and then with the Prairie Centre. And I think he has others that I don't know about. I just want to connect that for people so they know that you do have a track record of identifying issues that people care about, and being able to establish successful organizations around them. So what is it

you are doing with the Grassroots Alberta Citizens Initiative?

**AVRAM:** We actually launched nearly four years ago as the Grassroots Alberta Landowners Association, and out of that grew the Grassroots Alberta Citizens Initiative. Our purpose is to promote the responsible and efficient use of tax dollars and to carry out an educational role with respect to wealth creation and responsible public policy.

We've produced a number of publications about the other side of the story on key issues. The last publication we did is called *Property & Freedom*. It's about property rights, but in a different way. Most people, when they think of prop-

erty rights, they think of dirt. They think of real estate. When in fact property is much more than that. There are great writers, thinkers, and philosophers who have pointed out that property is the basis of moral independence and of moral considerations within a society. There is a moral element to property—an enabling and permitting of self-stewardship. As individual human beings, we are property creators. It’s what we do if we are going to be productive with our lives. The things that we develop and create become property.

We have also done a number of publications on the other side of the story on climate change. There is a whole side to climate change that the mainstream media has simply ignored or is not paying attention to. There are world-class scientists and climatologists who simply don’t accept the alarmist view touted by governments and political administrations around the

world. Some of the most brilliant men and women in academia are individuals who acknowledge that the climate is slowly changing, but the notion that the sole cause and responsibility for climate change is human beings, and that taxes are the thermostat to control the temperature of the planet, is a silly idea.

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*“Property is the basis of moral independence and of moral considerations within a society. There is a moral element to property—an enabling and permitting of self-stewardship.”*

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**SMITH:** Kevin, I’ll have to have you back to discuss that topic, and I am sure we could spend a whole half-hour on it. But on the first topic of property rights, as you know I have been fighting the battle for property rights for a long time...

**AVRAM:** Yes.

**SMITH:** But property rights are kind of at odds with the way our politicians and political leaders look at our rights. They specifically excluded property rights from the Charter, and when cases come forward like the grain growers wanting to be able to have the freedom to sell their own grain, the court said,



**“Upon the sacredness of property, civilization itself depends.”**

**Andrew Carnegie (1835-1919)**

*Scottish-American steel magnate and philanthropist*

## Justice Russell S. Brown on Property Rights and the Rule of Law

Russ Brown (*pictured right*) is a former Alberta law professor who was appointed Justice of the Supreme Court of Canada in 2015. Shortly before his appointment, Brown was a guest panelist on an Alberta radio talk show that addressed the issues of property rights and the rule of law.

The host of the program was Kevin Avram, who currently serves as a director and Project Coordinator with Grassroots Alberta. A second panelist was Keith Wilson, an Edmonton-area lawyer well known for his leadership in the area of property rights and defense of landowners.

Avram asked Justice Brown to define for the audience what is meant by the term “rule of law.” Brown’s response was precise and clear: “The rule of law, in its essence, means that we are governed by laws and not by people.”

Brown went on to say that the law protects not just the property a person holds in land



or investments, but the property we each hold in ourselves—in our own persons. Brown said: “Property is one of those things that the law has existed to protect from the get-go. The earliest common law legal notions were notions of property, and the state, in its original form, was established to protect those rights that we have. And not just in property, but also in ourselves—in our physical bodies.

“So we have, in essence, two fundamental rights. We have rights in ourselves. We have rights in our property. And where government interferes with those rights, it has to do so in a way that conforms to law. The rule of law is that governments must govern in accordance with the law, just as we live our lives in accordance with the law.”

“Well you know, economic rights are not protected by the constitution. . . . So, you know . . . too bad for you. . . .

**AVRAM:** Arguably, an economic right is a property right. Your reference there, Danielle, I am sure, is to the Canadian Wheat Board. We have a current federal cabinet minister now,

Ralph Goodale, who was in charge of that crown corporation at the time you are referencing, and Goodale was perfectly willing at that time to put farmers into prison in order to prohibit them from engaging in commercial activity with their own grain. . . . And the notion that an economic right is not a property right is a fantasy.



**WHAT IS PROPERTY?** There's a whole discussion that needs to take place around the idea of property, but not just real estate, farmland, condominiums, and houses, but other types of property too that most people look past and don't consider property in the same sense, when in fact it truthfully and really is.

**SMITH:** I agree, and it seems to me that this government is not willing to stand up for either of them. But that's where we are at, there is this "tiering" of rights, and the official view is that property is not as important a right as anything else. So the question is, how do you transform the thinking around that, and I am just wondering if rural people have fi-

nally had enough. And we're seeing that with this issue of "I want to be able to protect my own property."

**AVRAM:** I think part of the solution does have an urban component. If someone owns a condominium, it's property. If you go and engage in employment and you derive a paycheque, your pay-



"Private property creates for the individual a sphere in which he is free from the state. It sets limits to the operation of the authoritarian will [of government and politicians]. It allows other forces to arise side by side with and in opposition to political power."

**Ludwig von Mises (1881-1973)**

*Austrian-born economist and social philosopher*

cheque is property. And the idea that someone else has a right to your paycheque and not you, or even that someone else has a right to a portion of your paycheque, or that governments should be entitled to 50% of your paycheque through taxes—when’s the last time we’ve had a serious debate about that kind of property right?

It was the great emancipator Fredrick Douglass who said that unless you own your own labour and the fruit of your own labour, you’re not a free man or a free woman. So what does it mean if government makes a claim on half of the fruit of your labour? And then, in turn, takes your money and gives it to someone else? [With a Tax Freedom Day falling toward the end of June, governments consume nearly half of the average person’s income.]

There’s a whole discussion that needs to take place around the idea of property, but not just real estate, farmland, condominiums, and houses, but other types of property too that most people look past and don’t consider property in the same sense, when in fact it truthfully and really is.

## The Free Economy



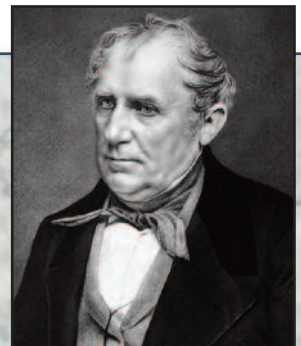
The virtue of an economically free society is that it is not politically controlled—it is run by the consumers. It is the multitude of people in the marketplace, buying this or not buying that, who provide entrepreneurs with the clues they need in deciding what to produce, in what sizes, colors, and so on. The free economy provides us with the things we want and need better than any other economic arrangement. But in an era where millions are riding the government gravy train, it is only natural that some businessmen, too, would seek to use the public power for private advantage; it is crucial to note that when a businessman accepts such government handouts, he moves outside the free economy and into the shady area of government bureaucracy.

*Edmund A. Opitz, Acton Institute (Acton.org)*

**“Property is an instrument of working most of the good that society enjoys. It elevates the national character . . . and it encourages and sustains laudable and useful efforts in individuals. . . . Property is desirable as the ground work of moral independence.”**

**James Fenimore Cooper (1789-1851)**

*Novelist and author of The Last of the Mohicans*



**SMITH:** Kevin, how can people follow the work that you're doing and the things you are writing? Do you have a Facebook page or website?

**AVRAM:** We do have a website, Danielle, but all the traffic these days is

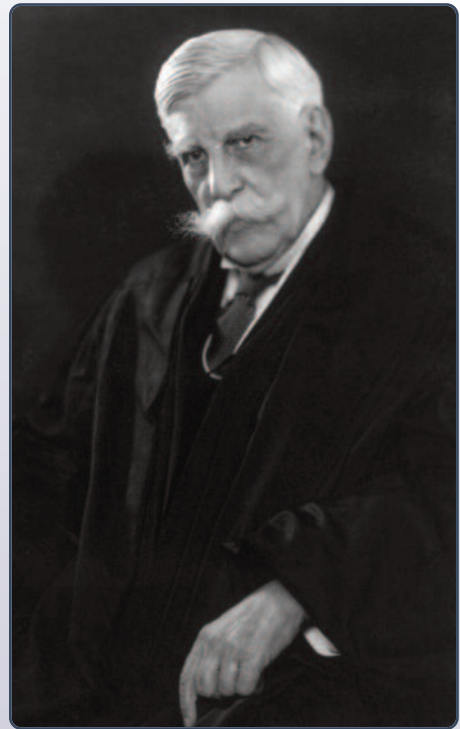
on Facebook. Our Facebook address is @GrassrootsCitizens. We update the page several times a day, and so we get a lot of traffic there. People can also easily find us simply by Googling Grassroots Alberta Initiative or Grassroots Alberta Landowners.

## The Measure of Your Freedom: How Much of Your Own Money Do You Keep?

Oliver Wendell Holmes Jr. (*pictured*) was a lawyer and U.S. Supreme Court judge who famously said that taxes are the price we pay to live in a civil society.

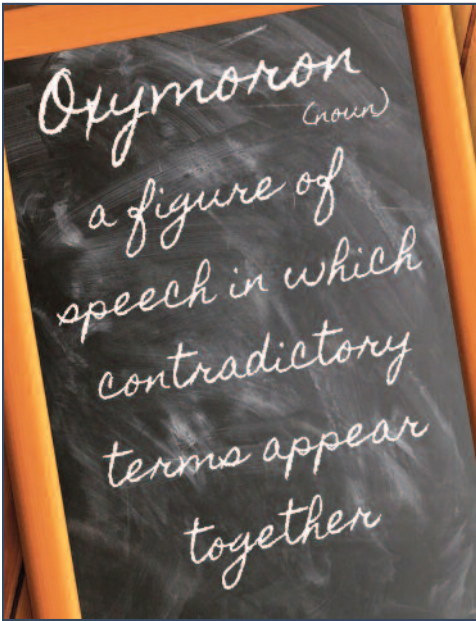
The year that Holmes was appointed to the Supreme Court (1902), total taxes paid to all levels of government added up to less than 6% of a person's total annual earnings. There was no income tax. There wouldn't be for many years. Tax Freedom Day—the day of the year when people start working for themselves (because the money they've so-far earned fully satisfies their tax obligations as a percentage of annual income)—arrived on January 21. Holmes and most other North Americans worked only three out of fifty-two weeks to pay the complete and total cost of government.

Canada's tax burden at that time was similarly low. Our federal income tax wasn't established until World War I, and it was supposed to have been tem-



porary. It was even called the "Temporary War Income Tax."

In Canada, Tax Freedom Day now arrives in June. Nevertheless, our country is brimming with politicians and bureaucrats at all levels of government who sincerely believe that to make society even more "civil," the politicians simply need to tax more and spend more.



KEVIN AVRAM

## The Art of the Oxymoron

“Government efficiency” is an oxymoron that sounds especially good on the lips of an aspiring politician, but as good as it sounds, government efficiency will never happen. It can’t happen. Here’s why.

Once heard someone say that they liked a particular journalist because he always wrote with an “unbiased opinion.” I laughed, because that’s an oxymoron.

An oxymoron is a statement about something or someone that combines opposite or contradictory terms. The word literally means “acutely silly” (*oxus*: “acute,” *moros*: “silly”).

Being “almost perfect,” “pretty ugly,” or going on a “working holiday” are oxymorons. “Found missing,” “acting naturally,” and having a “minor crisis” fit into the same basket. Their companions are “old news,” “plastic glasses,” and “thunderous silence.” None of these things can literally exist.

In the English language, there are dozens of these phrases describing non-

existent things. There may even be hundreds. But regardless of their number, the king of them has got to be “government efficiency.”

“Government efficiency” is an oxymoron that sounds especially good on the lips of an aspiring politician, but as good as it sounds, government efficiency will never happen. It can’t happen. Here’s why.

Governments are inefficient for the same reason that dogs bark. It’s part of their DNA. There’s no way to change it. The DNA of a dog is its biology. The DNA of a government and why it will always be inefficient is determined by the manner in which it spends.

### Four Ways to Spend Money

In all of life, there are just four ways to

spend money.

The first way to spend money occurs when people use their own money to buy something for themselves. When they do, they look for the best value at the best price. They hunt for bargains and greatly inconvenience themselves to find them. This is why ranchers and farmers haggle with equipment dealers, and why thousands of retail outlets put items on sale.

The second way to spend money happens when people use their own money to buy something for someone else. They still want a bargain, but they aren't as able to please the recipient as they would be if they were buying for themselves.

The third way to spend money is to use other people's money to buy something

for yourself. People in this position buy exactly what they want, but price no longer matters. If we could all buy cars under this type of arrangement, the world would be full of Porsches, BMWs, and high-end pickups.

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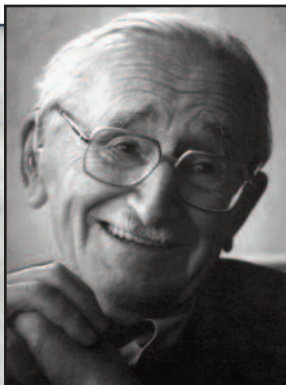
*“The truth is that government can't run like a business because businesses always spend their own money. Governments always spend yours.”*

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The fourth and final way to spend money is to use other people's money to buy something for someone else. As humorist P.J. O'Rourke says, if someone found himself able to spend millions of dollars in this kind of a situation, “who would give a %\$&# about efficiency?” This is the

world governments live in, and because they do, the idea that they can be made efficient is a fantasy.

Lots of people say that government should be run more like a business. The truth is that government can't run like a business because businesses always spend their own money. Governments



**“The power a multi-millionaire might have over me and over my property, whether he is my neighbour or my employer, is much less than what's held by the smallest government bureaucrat or agent, who wields the coercive power of the state, and on whose discretion it depends whether and how I am able to live, work, or make decisions.”**

[paraphrase]

**Friedrich August von Hayek (1899-1992)**

*Nobel Prize-winning economist and author of The Road to Serfdom*

# 4 ways we spend money

Spend  
your own  
money on  
yourself

Spend  
somebody else's  
money on  
yourself

Spend  
your own  
money on  
somebody else

Spend  
somebody else's  
money on  
somebody else

always spend yours. This is the reason why Justin Trudeau can give government grants to businesses in which he'd never buy shares, and pass fistfuls of cash to special interest groups or programs of a truly questionable nature. If politicians were spending their personal pension funds, things would be very different.

The simple fact is that government efficiency is a myth—as far from reality as

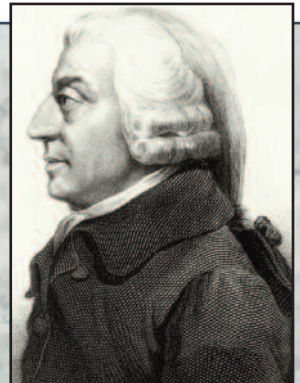
the doctrines of the Flat Earth Society.

There are two things that determine efficiency: whose money is being spent, and who's doing the spending. This explains why the best government is the government that does the least, and why the best politicians are those who work not to make government more efficient, but those who work to make government smaller.

**“It is the highest impertinence and presumption . . . in kings and ministers to pretend to watch over the economy of private people, and to restrain their expense. . . . They are themselves always, and without any exception, the greatest spendthrifts in the society. Let them look well after their own expense, and they may safely trust private people with theirs. If their own extravagance does not ruin the state, that of their subjects never will.”**

**Adam Smith (1723-1790)**

*Scottish moral philosopher and author of The Wealth of Nations*



MARSHALL COPITHORNE

# Property Rights

Part I

## Natural Law & Statute Law

Marshall Copithorne is a southern Alberta businessman and rancher. He is the third generation of his family to own and operate CL Ranches Ltd. in the foothills west of Calgary. Marshall delivered the following speech over twenty years ago at a conference of the Western Stock Growers Association. It is a concise and comprehensive presentation of the history and substance of private property rights. As such, Grassroots Alberta sought the permission of the Western Stock Growers Association (and Mr. Copithorne), to reprint this material. It appears here as a result of their gracious consent.





### STATUTE LAWS.

Statutory Laws are the written laws established by enactments expressing the will of the legislature. These laws are created by humans, for humans.



I'd like to start off by causing you to think about what they call the “boiling frog syndrome.” It’s a biological fact of life that if the water in a pond is gradually heated, a frog in that pond will never know it or react until it literally boils to death.

Our pond—our big frog pond here called Canada—has changed, constitutionally speaking, very gradually over a long period of time and not in any way giving assurance to Canadians of any true protection of their basic primary rights.

### Rights & Natural Laws

Rights, in their God-given sense, are really the rights to life, liberty, personal property, and the enjoyment of the same. These rights, in terms of the foundation of our western civilization, may well have begun with Moses and

### NATURAL LAWS.

Rights, in their God-given sense, are really the rights to life, liberty, personal property, and the enjoyment of the same. . . . Past civilizations rose and flourished with the recognition and political acceptance of these rights, which, by today’s description, are termed natural laws.

the tablets.

The interesting thing is that past civilizations rose and flourished with the recognition and political acceptance of these rights, which, by today’s description, are termed natural laws. I want you to remember **NATURAL LAWS**.

### Statute Laws

Accordingly, western civilizations weakened and decayed as the ruling elite, religious and/or political, replaced natural law with the politically expedient, smotheringly deceptive control over events by means of man-made statute laws. I also want you to remember **STATUTE LAWS**.

All through history there has been a small contingent of human beings, human frogs, who felt the water temper-



### NATURAL LAWS VS. STATUTE LAWS.

Natural laws, with their duties and obligations, will soon diminish and will be replaced by man's manipulative **STATUTE LAWS**. This is when nations crumble and decay.

### BENJAMIN FRANKLIN (1706-1790).

He said . . . that there are only two legitimate sources of the power to govern: **THE CREATOR** and **THE PEOPLE**.



ature rise. They are the valiant few who jumped out of the pond in the name of freedom and changed history forever—more—and allowed for the advancement of freedom to proceed based on two rights only: the right to life of an individual; and the right to property of an individual. Liberty is the result of these two rights!

## Democracy

Democracy is to protect these rights by the will of the majority. Democracy is to protect the rights of the individual. Minorities have no rights, only privileges granted by the majority. That's a fundamental fact of life, no matter what you hear.

All other rights referred to in man's futile effort to control the human spirit have through the ages been recognized as natural duties and obligations to your

country; privileges and concessions that you are prepared to make; privileges and concessions that you are prepared to receive—not rights.

## How Nations Decay

In a study of history one clearly finds out that natural laws, with their duties and obligations, will soon diminish and will be replaced by man's manipulative **STATUTE LAWS**. This is when nations crumble and decay.

The best examples in recent history are:

The United States where property rights have until recently been held sacred. There are a number of good frogs jumping out of the pond in the United States and I hope that it is just in time.

The other example is Russia, where the



### HENRY GRADY WEAVER.

Weaver states that we, as human society, have moved a long way from the Stone Age and today almost everyone depends for his welfare—for his very life—upon exchanges of ownership of property.

### THE TEN COMMANDMENTS.

Each . . . is addressed to the individual as a self-controlling person responsible for his own thoughts, words, and acts. And each of them recognizes liberty and freedom as inherent in the nature of man.



state owned and controlled all. It would seem that all the frogs in the Russian pond cooked and the ones that jumped out were shot because they had no human rights, they had no right to life. But just the same, there were a couple of fast-hopping frogs in Russia that may salvage the place. There is reason for hope.

### Power to Govern

Ben Franklin stated that the American Constitution was built on the painful recognition of the folly and mischievous nature of man; hence the checks and balances that we see in their Constitution.

He said that we recognized that there are only two legitimate sources of the power to govern: **THE CREATOR** and **THE PEOPLE**.

He went on to say that whenever men

have acknowledged any other power, they have submitted themselves to one form or another of tyranny. It is really quite that simple.

### The Ten Commandments

Henry Grady Weaver, in his famous book *The Mainspring of Human Progress*, refers to Moses and the Ten Commandments as the greatest document of individual freedom in the recorded history of man.

Each of the Ten Commandments is addressed to the individual as a self-controlling person responsible for his own thoughts, words, and acts. And each of them recognizes liberty and freedom as inherent in the nature of man. For example: The sixth stresses the sanctity of human life, the individual's right to life: a right that must not be violated by any



**PROPERTY RIGHTS ARE HUMAN RIGHTS.**

Private property rights are a fundamental and necessary condition if people are to be prosperous and free. . . . Without private ownership of property, individual freedom of choice can have no meaning—freedom becomes hollow and meaningless.

**THE CONSEQUENCE OF PROPERTY RIGHTS.**  
Private ownership induces an attitude of stewardship.



other person. The seventh establishes the principle of contract: how a contract must not be broken, whether written or spoken. The eighth recognizes the individual’s right to own property. The tenth commandment emphasizes again the right of ownership: not even in thought should a person violate the property rights of another.

Weaver goes on to say that these great statements of truth found difficult acceptance in the time of Moses, and really not much has changed to this day.

Weaver states that we, as human society, have moved a long way from the Stone Age, and today almost everyone

depends for his welfare—for his very life—upon exchanges of ownership of property.

In the last analysis, a thing is not property unless it is owned—and without ownership, there is little incentive to improve it.

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*“In the last analysis, a thing is not property unless it is owned—and without ownership, there is little incentive to improve it.”*

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**Property Rights: What Are They?**

Property rights are human rights. We hear a lot of talk about human rights. The

rights don’t belong to the property, they belong to the people who hold them with respect to the property. Private property rights are a fundamental and necessary condition if people are to be



### THE FOUNDATION OF NATURAL LAW.

Many economic/political philosophers based their thoughts on the essential nature of man being a creation of God. Natural Law was believed to be written by God alone.

### THE EROSION OF NATURAL LAWS ERODES SOCIETY.

As natural laws deteriorated within a society, so did the moral foundation, since both are intrinsically related.



prosperous and free. Private ownership induces an attitude of stewardship. Without private ownership of property, individual freedom of choice can have no meaning—freedom becomes hollow and meaningless.

### Back to Natural Law

Natural Laws are the unwritten, fundamental laws and principles set out to guide human existence. They are morally and culturally based. John Locke, an English philosopher, believed that the rules that government creates for civil society must correspond to the law of nature (which he also termed to be the will of God). Many economic/political philosophers based their thoughts on the essential nature of man being a creation of God. Natural Law was believed to be written by God alone. Today, perhaps, God is not widely enough recognized and, there-

fore, the foundation of Natural Law has diminished.

Natural Laws, again, are the unwritten laws. The other—Statutory Laws—are the written laws established by enactments expressing the will of the legislature. These laws are created by humans, for humans.

In today's society, and in most civilizations, a symbiotic relationship of those two concepts would develop. In most cases, a new nation seeking freedom for the individual and the will of the majority would establish rules of government based on natural law and, as time passed, they are usually enhanced (or replaced) by statutory laws.

As natural laws deteriorated within a society, so did the moral foundation, since both are intrinsically related.

MARSHALL COPITHORNE

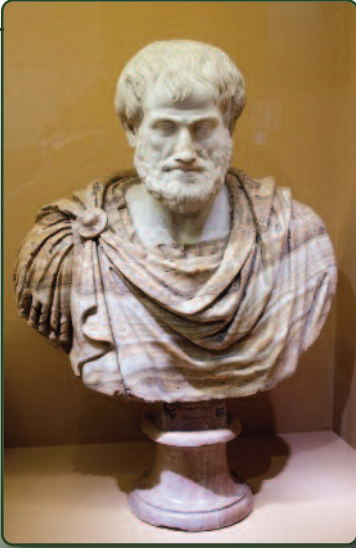
# Property Rights

Part II

## The History of Property Rights

Throughout the ancient and medieval eras of the Western tradition, the institution of private property was justified as a means to some ethical end.



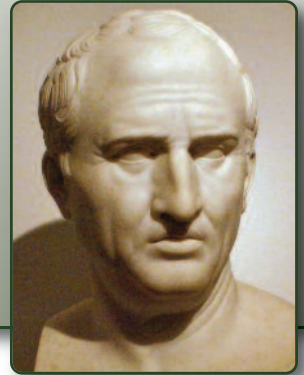


#### **ARISTOTLE (384-322 BCE).**

The citizens of the ancient world had duties and obligations, not rights and privileges. Aristotle is quoted as saying: “What is common to many is taken least care of, for all men have greater regard for what is their own than for what they possess in common with others.”

#### **CICERO (106-43 BCE).**

Cicero stated that the state ought not to interfere with private property because the state was founded principally for the purpose of protecting the property of the individual.



**W**e looked at private property rights, or property rights, on a philosophical basis.

### Going Back to Greek Philosophy

Ancient and medieval philosophers were primarily concerned with political freedom rather than economic freedom.

But to the Greeks, freedom described a fully independent *polis* that was not subject to the control of any outside power. The citizens of the ancient world had duties and obligations, not rights and privileges. Aristotle is quoted as saying:

What is common to many is taken least care of, for all men have greater regard for what is their own than for what they possess in common with others.

Aristotle also said: “With every man busy with his own, there will be in-

creased production all around.”

### Ancient Rome

Cicero stated that the state ought not to interfere with private property because the state was founded principally for the purpose of protecting the property of the individual. What a refreshing thought that is!

### The Magna Carta

In the course of human history, the idea that citizens have the unfettered right to express themselves is relatively new, owing its genesis to the Age of Enlightenment. Prior to that, it was generally assumed that either the state or the church had ultimate sovereignty over one’s life, liberty, and property, and that the individual had no prior claim over such rights. Thus, the great



### ST. AUGUSTINE (354-430).

In the prevalent concepts of property throughout the ancient and medieval eras of the Western tradition . . . the institution of private property was justified as a means to some ethical end.



struggles which bloodied the pages of history before the Age of Enlightenment were between the conflicting claims of church and state over the soul and property of man.

This conflict that developed between the state and the church manifested itself in the Magna Carta in 1215. And I think that every one of you has heard of that and remembers studying it in school. It really was the suppression of a revolution. The lower class in England and in Great Britain at that time were in such dire straits that they were prepared to die for what they knew not. And the Church of England recommended to the King that people be given certain rights to prevent the revolution.

So, the King conceded, and we had the proclamation of the Magna Carta in 1215. There are thousands of medieval charters in England and continental

### THE MAGNA CARTA (1215).

The Magna Carta really established English common law. English common law stated that every Englishman had an “absolute right of property, which consists in the free use, enjoyment, and disposal of all his acquisitions.”

Europe as a result of it. It is in statements and restatements on civil rights, and in the procedural safeguards of person and property, that developed what is known as the common law. We have heard of common law.

### Property Rights & Ethics

There is little to dispute that in the prevalent concepts of property throughout the ancient and medieval eras of the Western tradition, the institution of private property was justified as a means to some ethical end. Whether the institution was seen as natural, which Aristotle claimed, or God-given, which Augustine claimed, or both, it was justified as a necessary means to the good life of the citizen; or as necessary to counteract the avaricious nature of fallen man; or to provide for peaceable and orderly relations between individuals.



**JOHN LOCKE (1632-1704).**

Locke believed that the true role of civil government is the protection of private property under the rule of law. . . . He was the proponent of English law, which is the proponent of Canadian law.

**DAVID HUME (1711-1776).**

[He] insisted that the stability of possession of property was essential to the establishment of human society and that fixing and observing this rule fosters humanity, harmony, and accord.



Hegel, [a German] philosopher, stated, “In his property, a person exists for the first time as reason.”

John Locke again went on to be the first to say that life and property of man resided in each individual, not in the church or state. Thus, he maintained that private property rights are the cornerstone of all other rights.

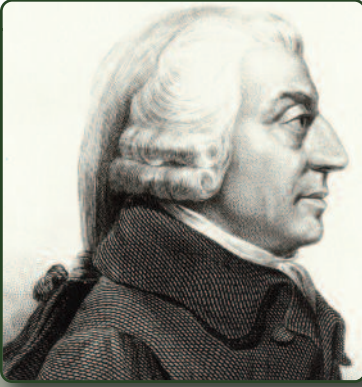
Locke believed that the true role of civil government is the protection of private property under the rule of law (we’ve all heard of the rule of law). He was the proponent of English law, which is the proponent of Canadian law.

David Hume, another philosopher, insisted that the stability of possession of property was essential to the establishment of human society, and that fixing and observing this rule fosters humanity, harmony, and accord.

## English Common Law

The Magna Carta really established English common law. Basically, that remains an unwritten law to this day. I don’t know how many folks know that. English common law is essentially unwritten and has functioned through the ages based on natural law that has been carried forward from generation to generation. English common law stated that every Englishman had an “absolute right of property, which consists in the free use, enjoyment, and disposal of all his acquisitions.” By the 14th and 15th centuries, we had the law of equity or “conscience.”

The source of common law is rather an interesting one. Listen to this: 16th century England was comprised of “commons,” or commonly held pastures for all of the villagers to graze their animals



### ADAM SMITH (1723-1790).

Nineteenth-century England was governed by the principles of Locke and Adam Smith: free trade, laissez-faire, low taxes, low state expenditures, and a minimally interventionist government.

### THE ENCLOSURE MOVEMENT.

The enclosure movement . . . established private ownership. Fences were built and overgrazing no longer occurred because each owner had a strong incentive to protect the land.



on. Obviously, grazing was of an individual benefit to each villager, but managing the grassland was external and corporate and thus overgrazing occurred frequently. Doesn't that sound like community pastures!

There was little incentive for the individual to conserve grass for future growth as they were only concerned with the here and now. Without private ownership, what was good for the individual was bad for the village as a whole. Thus came the enclosure movement, which established private ownership. Fences were built and overgrazing no longer occurred because each owner had a strong incentive to protect the land. This was the basis of British common law, the law we functioned with for seven hundred years.

In the great era of the British Empire, 19th-century England was governed by

the principles of Locke and Adam Smith: free trade, laissez-faire, low taxes, low state expenditures, and a minimally interventionist government. However, the English also noticed that, since the proclamation of the Magna Carta, statutory laws were being relied on more so, and thus, strict rules of proof began to cause hardship. The High Court of Chancery—usually the leading bishop or archbishop, which in other words is the church—was then established to administer equity. I expect that is why judges today wear clothes similar to the clergy. They were then the judge.

### The United States

Britain did well to govern herself, but with respect to her colonies, not as well. On a transference of things to the Americas, we have another interesting look at private property rights and incentives.



### PROPERTY AND SOCIAL STABILITY.

The assurance of secure property rights is what drove [people] to work, create, and invest. . . . Secure private property rights . . . [gives] greater social stability [to all].

We go back to the pilgrims who landed on Plymouth Rock in 1620 and established the first American colony under communist values (i.e. food and resources were shared commonly). The people began to starve and die, and during the third winter, Governor Bradford got together with the remaining members of the colony and said: “This coming spring we are going to try a new idea. We are going to drop the practice of ‘from each according to ability, to each according to need.’ We are going to try the idea of ‘to each according to merit.’” Upon saying this, he outlined, better than any economist could have, the private property principle of the individual enjoying the fruits of his own labour. Next spring came and not only the father was in the field working, but also the mother and children. Governor Bradford records, “Any generall wante or famine hath not been amongst them since to this day.”

### GOVERNOR BRADFORD.

[Bradford (*seated right*)] outlined, better than any economist could have, the private property principle of the individual enjoying the fruits of his own labour.



It was out of this philosophical heritage that America’s founders created a new nation, based on the principle that each individual is a sovereign within his own right—free to enjoy the blessings of liberty and free to realize his true potential without interference from the church or state. Property rights then became the acknowledged foundation upon which other constitutional freedoms rested.

The assurance of secure property rights is what drove Americans to work, create, and invest. People were willing to make extreme sacrifices to acquire property rights, to engage in undertakings with distant pay-offs—from clearing lands to building steel mills—in the hope of personal or family gain from property ownership. The American system of secure private property rights has given the U.S. greater social stability than that of most other countries.

MARSHALL COPITHORNE

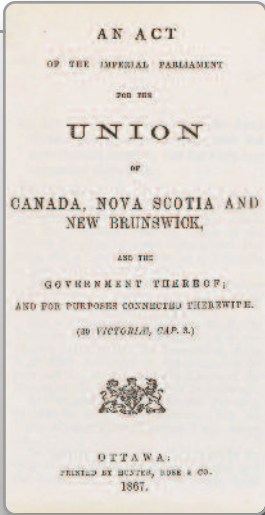
# Property Rights

Part III

## The History of Property Rights in Canada

Once again, statutory laws are steadily suppressing natural law.





### THE BRITISH NORTH AMERICA ACT (1867).

For nearly 115 years, the BNA Act alone was popularly referred to as “The Constitution.” . . . But [it says] not a doggone thing on property rights or private property.

### SIGNING THE STATUTE OF WESTMINSTER (1931).

The sorts of personal guarantees and protections that are so fundamental to the Constitution of the United States of America . . . were conspicuous in their absence.



**O**f all this constitutional writing, political and judicial, one British law, the British North America (BNA) Act of 1867, was indisputably the most important for Canada. So fundamental was it to the Canadian system of federalism that for nearly 115 years, the BNA Act alone was popularly referred to as “The Constitution.”

### The British North America Act

The BNA Act did four things: It created Canada as a separate and nearly sovereign nation with a Constitution similar in principle to that of Great Britain. It set out the type of government by which Canada would be ruled by establishing the House of Commons, the Senate, the provincial legislatures, and the offices of the Governor-General and the Lieutenant-Governors, as well as the basis of a judicial system and the general rules governing election or appointment

to those institutions. It divided lawmaking power in Canada between Ottawa and the provinces. It set out rules in a number of other areas: languages, education, ownership of natural resources, prisons, and new provinces and territories.

But not a doggone thing on property rights or private property.

### The Statute of Westminster

The Statute of Westminster, which was established in 1931, was intended to complete what the BNA Act began by bestowing on Canada final legislative independence. With one exception, it did so. Only the power to amend Canada’s Constitution remained in Britain after the passage of the Statute of Westminster. In fact, the power to amend the Canadian Constitution was a colonial link that Britain specifically



### JOHN DIEFENBAKER.

John Diefenbaker, in an effort to properly address the apparent deficiencies of the BNA Act, drafted and subsequently enacted the Canadian Bill of Rights of 1960. It is the only real written reference to any concept of property rights in Canadian history.

### BILL OF RIGHTS (1960).

The Bill of Rights provides some protection for property owners whose property is to be taken or otherwise injuriously affected under the authority of federal law, but there is little else.



asked Canada to sever. Westminster wanted to make Canada's independence complete. Canada never did sever that independence until 1982 because the provincial premiers were afraid of the powers of the Prime Minister, and they wanted to retain that hold of the British system.

## A Common Thread

One common thread ran through many parts of the old Constitution, the old BNA Act: Of all the hundreds of clauses of British and Canadian statutes and of all the hundreds of pages of judicial pronouncements, only a handful dealt directly with the people of Canada. The sorts of personal guarantees and protections that are so fundamental to the Constitution of the United States of America, for example, were conspicuous in their absence. No property rights or reference to the same are written

within Canada's old Constitution.

## The Bill of Rights

There was a champion that came along in the late 1950s. Prime Minister John Diefenbaker, in an effort to properly address the apparent deficiencies of the BNA Act, drafted and subsequently enacted the Canadian Bill of Rights of 1960. It is the only real written reference to any concept of property rights in Canadian history.

Section 1(a) goes on to state:

... the following human rights and fundamental freedoms, namely: the right of the individual to life, liberty, security of the person and enjoyment of property, and that right not to be deprived thereof except by due process of the law.



### PIERRE TRUDEAU.

The one thing that the Charter of Rights and Freedoms did, and it was unwittingly, was something that Trudeau was very much in disfavour of. It really balanced the power of the federal government in Ottawa against that of the provinces. (Photo: Rob Mieremet)

### CHARTER OF RIGHTS AND FREEDOMS (1982).

Not once does it make a direct reference to private property as being a fundamental freedom.



The "enjoyment of property" is a nebulous statement: it never did clearly state the ownership of property.

Thus the Bill of Rights provides some protection for property owners whose property is to be taken or otherwise injuriously affected under the authority of federal law, but there is little else. It is evident that Diefenbaker never gained the opportunity to fully complete his Bill of Rights.

### Charter of Rights and Freedoms

In 1982, Prime Minister Trudeau was successful in getting through the Charter of Rights and Freedoms in Canada. The Charter consists of thirty-four brand new constitutional provisions that, for the first time in Canadian history, placed in the written Constitution a list of fundamental rights and freedoms. The list contains a number of familiar human rights and

protections, such as the rights to life and liberty and the right to vote in elections, but it also goes beyond the familiar.

The Fundamental Freedoms are all ones that you have heard before, but there is no mention of property rights. Not once does it make a direct reference to private property as being a fundamental freedom. However, it does show the division of power between the provincial legislatures and the federal parliament.

Section (92) of the Charter states: "In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next herein-after enumerated, that is to say, (13) Property and Civil Rights in the Province." Thus the burden of acknowledging the rights of the property owner lies on the provincial level in Canada—I think that most of us knew that.



### ALBERTA BILL OF RIGHTS ACT (1980).

The Alberta Bill of Rights Act was introduced in 1980 and it essentially mirrors the Canadian Bill of Rights as drafted by the Diefenbaker government. It also includes the “enjoyment of property” clause, but how it regulates such “enjoyment of property” is to be questioned.

### RIGHT TO APPEAL?

The private owner of land has little if any rights to appeal provincial or federal decisions. . . . Our appeal can only be taken through a body that is an appointed board or through an elected council who may or may not (at their discretion) choose to pursue it for you.



The one thing that the Charter of Rights and Freedoms did, and it was unwittingly, was something that Trudeau was very much in disfavour of. It really balanced the power of the federal government in Ottawa against that of the provinces. Provinces in Canada don't seem to realize their power, other than Quebec. Quebec does realize their power! Alberta has the same power as Quebec does constitutionally. We have rights to change legislation and to change our Constitution almost at whim—rights that are entrenched within that Charter of Rights and Freedoms.

### The Alberta Bill of Rights Act

The Alberta Bill of Rights Act was introduced in 1980 and it essentially mirrors the Canadian Bill of Rights as drafted by the Diefenbaker government. It also includes the “enjoyment of property” clause, but how it regulates such “enjoy-

ment of property” is to be questioned.

### The Planning Act

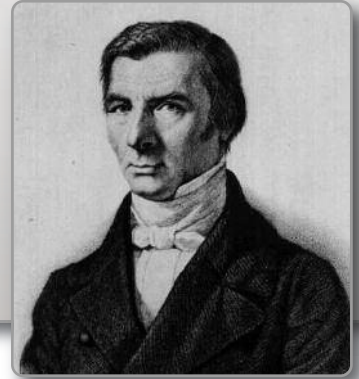
Land usage in the province of Alberta is supposedly governed by the Planning Act. “Instead, it serves to create a number of regulatory bodies and delegates to these bodies certain duties and powers that are designed to assure reasonably rational use and development of land in the Province” (Alberta Bar, IX-1). Nothing in this Act gives the person a right to compensation if private property is confiscated or altered for the public good.

Another point to note is that the private owner of land has little if any rights to appeal provincial or federal decisions. That came as a shock to me that as an owner of land, or as an owner of any property, we don't directly have any right of appeal in this province. Our ap-



### FREDERIC BASTIAT (1801-1850).

“Individuality, liberty, property. . . . In spite of the cunning of artful political leaders, these three gifts from God precede all human legislation and are superior to it.”



peal can only be taken through a body that is an appointed board or through an elected council who may or may not (at their discretion) choose to pursue it for you. Thus, a private owner of land has no status to apply for an amendment or a direct appeal.

### A Climate of Ambiguity

The ambiguous nature of each individual’s rights on their property raises many questions and concerns. How, then, are we supposed to understand the rights in controlling waterways, wildlife, leased public lands, natural resources, and property access? If we are not guaranteed to reap the benefits of the products of our labour, then why labour in the first place? Once again, statutory laws are steadily suppressing natural law.

Life, faculties, production—in other words, individuality, liberty, prop-

### A CLIMATE OF AMBIGUITY.

The ambiguous nature of each individual’s rights on their property raises many questions and concerns. . . . If we are not guaranteed to reap the benefits of the products of our labour, then why labour in the first place?

erty—this is man. [. . .] In spite of the cunning of artful political leaders, these three gifts from God precede all human legislation and are superior to it. Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.

That was a statement by Frederic Bastiat (1801-1850).

### Where We Are Today

I hope that I am not boring you to death with this little exercise in history but I just couldn’t come to grips with property rights until I had gone back into history and tried to boil all this froth forward to find out why we are at where we are today.

MARSHALL COPITHORNE

# Property Rights

Part IV

## The Boiling Frog

Alberta property owners are at the mercy of uncontrolled greed, jealousy, envy, injustice, moral decay, and big government want. Like frogs, we may be cooked and don't know it yet.





### THE ALBERTA LEGISLATURE'S FAILURE.

The failure of the Alberta Legislature to clearly constitutionally identify property rights as a historically proven and absolutely required premise of a viable, peaceful, long-lasting, and secure future is a huge tragedy.

### LIKE BOILING FROGS.

Canadians, in general—and Albertans, in particular—do not have any property rights that they can rely on in any ongoing sense. . . . Like frogs, we may be cooked and don't know it yet.



And now, back to the boiling frog. . . . The failure of the Alberta Legislature to clearly constitutionally identify property rights as a historically proven and absolutely required premise of a viable, peaceful, long-lasting, and secure future is a huge tragedy—one that we may never survive in our present form. Our courts fortunately still recognize natural law, the unwritten law that was established in Great Britain before the Constitution was patriated to Canada in 1982. They recognize it to a much higher degree than does the ruling legislature.

Canadians in general—and Albertans, in particular—do not have any property rights that they can rely on in any ongoing sense.

As much as in any country in the free world, Alberta property owners are at the mercy of uncontrolled greed, jeal-

ousy, envy, injustice, moral decay, and big government want.

Like frogs, we may be cooked and don't know it yet. I feel rather warm about it.

### Property and the Environment

With regards to property rights and the environment, let's think about our situation. If we believe . . . as landowners and as property owners, that private ownership, and not government regulation, best assures the maintenance of favourable environmental conditions; if we believe that from both an economic and an environmental standpoint, private ownership can produce incentives to preserve property for the long term, while government regulation can and has produced inefficiencies that are both frightening and real; if we believe that private ownership fosters efficient production; if



#### **PRIVATELY OWNED ANIMALS FLOURISH.**

Cattle on private ranches thrive, while the wolf nears extinction. No one owns wolves; people own cattle.



#### **PROPERTY RIGHTS AND THE ENVIRONMENT.**

What causes environmental destruction is the lack of private property rights: when resources are owned in common or by the government. . . . Strengthening private property rights will improve the chances for wildlife and forests and environment.

we believe that wildlife are destroyed because no one owns them; and if we believe that private property assures accountability; then we can correctly assume that what causes environmental destruction is the lack of private property rights: when resources are owned in common or by the government. And thus, strengthening private property rights will improve the chances for wildlife and forests and environment.

And therefore, private ownership is not irreconcilable with environmental objectives and is in fact harmonious with efficient, rational use of natural resources.

The most vocal environmentalists have merely assumed government to be the necessary custodian of the natural environment. Environmentalists need to understand that the decision makers must have a personal stake in the consequences of their decisions. Examples

are: Cattle on private ranches thrive, while the wolf nears extinction. No one owns wolves; people own cattle. Lion populations in private game reserves flourish, while their numbers are threatened in the wild. Hawk populations on public lands dwindle, but domestic birds on private land flourish.

#### **The Evidence of Africa**

The best example that you can give of private ownership of wildlife is what occurred in Africa with the wild elephants. How many have heard the elephant story in Africa? Elephants were becoming extinct in Africa. In 1989, the Convention on International Trade in Endangered Species (CITES) attempted to save Africa's elephants from extinction by voting to end the ivory trade. Those in favour of the ivory trade ban argued that it would eliminate the ivory



#### PROPERTY RIGHTS: GOOD FOR WILDLIFE.

Lion populations in private game reserves flourish, while their numbers are threatened in the wild.

#### VILLAGE-OWNED VS. GOVERNMENT-OWNED ELEPHANTS.

Ownership of the elephants [in several African countries] was transferred to the villagers, and ...the numbers of elephants in those countries have increased 40 per cent in the last decade.... The Kenyan government manages their elephants ...with armed guards, electric fences, and central planning. Kenya's elephant population has declined 75 per cent since 1981.



market, but others felt that banning ivory would simply create a black market for elephant products.

Leaders of Zimbabwe, Botswana, Zambia, Malawi, Namibia, and South Africa all felt that banning ivory would be the surest way to cause the elephant's extinction. Thus, these countries established an elephant management program, which has had a 10-year record of success in Zimbabwe. These leaders believed that the villagers could do more to protect the elephants and ensure the longevity of the species than costly centralized government programs could. Thus, ownership of the elephants was transferred to the villagers and since these programs have commenced, the numbers of elephants in those countries have increased 40 per cent in the last decade.

It is the opposite scenario in Kenya. The Kenyan government manages their ele-

phants the way the East Germans tried to manage their economy: with armed guards, electric fences, and central planning. Kenya's elephant population has declined 75 per cent since 1981, according to statistics published by the World Wildlife Fund. The Kenyan government considers the elephant to be "property of the people," but symbolic ownership is not the same as legal ownership.

Advocates of the ivory ban don't dispute the statistics indicating that countries supporting trade in ivory are also seeing a rise in their elephant populations. "We recognize that the status of the elephant is not the same everywhere in Africa," said Michael Sutton of the World Wildlife Fund in an interview.

#### What We're Up Against

Until such time as the judiciary, politi-



**THE BASIS OF WEALTH CREATION:  
PROPERTY VS. NATURAL RESOURCES.**

South America and Africa are the richest in natural resources in the world but also have the world's poorest people.

**THE BASIS OF  
WEALTH CREATION:  
PROPERTY VS.  
NATURAL RESOURCES.**

Japan, Hong Kong, and Singapore have absolutely no resources, but they own their property and they are the richest people in the world.



cians, and the public at large recognize that property rights include all things to do with their personal freedom—from their toothbrush, to their home, to their university degree, to the tools of their trade, and (in the case of agricultural people) to their land—no progress will be made and only confrontation and conflict will ensue.

In today's political climate, the issues before us . . . may never be resolved to anyone's satisfaction. We are faced with a number of issues that we can discuss and talk about and worry about, but in my opinion, we can do nothing about them until we resolve the major issue in this country and in this province as to the establishment and the entrenchment of the rights of property.

You're all sitting there wearing your blue jeans and your hat and shirt. We have a government that has the power to

take those from you right now. You don't own them, you just think you own them. We can talk about the Water Conservation and Management Act, we can talk about Endangered Species Conservation in Canada, we can talk about the Public Lands Act.

That was an interesting thing for me this morning . . . I was kind of going through this and looking at this Public Lands Act and my brother-in-law, who is a lawyer, came along. I was complaining to him about things in this Act and we were having a hot debate about the philosophy of it all, and he said, "That's a funny damn thing, you know. Twenty years ago, your Uncle Clarence came to me right out of the legislature when they were debating this Act in the Provincial Legislature and he was madder than hell about it. And here you are, madder than hell about it too."



### IT'S NOT THAT EASY.

The answers will not be found by electing the right MP or MLA. . . . It's a vicious, personal, and individual scrap that we have got to get involved in.

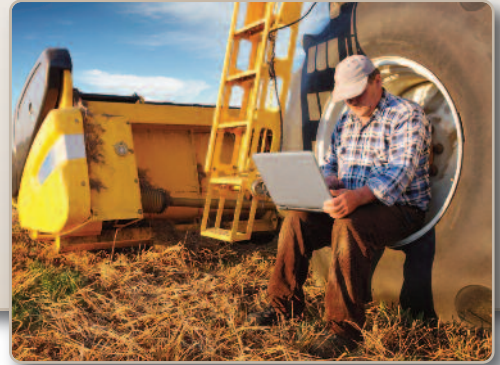
Another example is the Alberta Fish and Wildlife Act, the Petty Trespass Act, the Occupier's Liability Act—are any of you aware of that? It scares you to death. You are liable for everything that happens on property that isn't yours.

### The Eternal Struggle

To sort of wind this up, a Dallas lawyer, David Witts, wrote a publication in the *Western Stock Grower Magazine* here about in 1993, I believe. He pointed out that private property, not natural resources, is the basis to the creation of wealth. He gave the example that South America and Africa are the richest in natural resources in the world but also have the world's poorest people. He suggested that Japan, Hong Kong, and Singapore have absolutely no resources, but they own their property and they are the richest people in the world. Witts noted:

#### THE ETERNAL STRUGGLE.

"History is the struggle between those who create property rights and those who take them away. In history, private property is the exception, not the rule."  
[David Witts]



History is the struggle between those who create property rights and those who take them away. In history, private property is the exception, not the rule....

The solution is we must become activists in our own rights, defending our land and our livestock. We must become better informed and more vocal....

We have beat every threat of the past, but the present dangers don't come from some far off place. The dangers now are here, all around us, some noisy and visible, and some subtle and shadowy.

Like the Canadian Constitution, like the Alberta Constitution, like the Planning Act in Alberta, like your provincial by-laws.

The answers will not be found by electing the right MP or MLA. It's not that



### JOHN A. MACDONALD.

When they brought the BNA Act to Canada, why, why did Sir John A. Macdonald react quite the way he did? . . . Why didn't we adopt the same constitutional principles as they had in Great Britain, which they are functioning with today?

### TODAY'S POLITICAL CLIMATE.

We are faced with a number of issues that we can discuss and talk about and worry about, but . . . we can do nothing about them until we resolve the major issue in this country and in this province as to the establishment and the entrenchment of the rights of property.



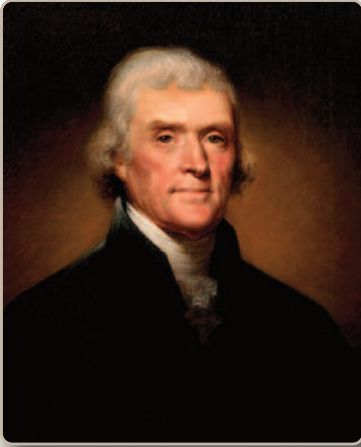
easy. It's a vicious, personal, and individual scrap that we have got to get involved in. The answer lies in each of us understanding what is happening, understanding what has happened to us, understanding why we got to this unfortunate position, and we must develop the personal dedication to do something about it.

### Where Do We Begin?

In Canada, we can look at our system of government. That's the best place to start looking. And say "Why? What happened?" When they brought the BNA Act to Canada, why, why did Sir John A. Macdonald react quite the way he did? Why? Why didn't we adopt the same constitutional principles as they had in Great Britain, which they are functioning with today? That is, an unwritten, but recognized, set of laws and standards that holds sacred, property rights.

Why can't we continue to openly use and recognize the common law system in our written laws in this country? And it is interesting to note that fact, if you talk to lawyers, judges, and politicians. It is interesting to hear their comments. These people don't always agree with us. These people don't want to change things that much.

What we are faced with is the great fear that Thomas Jefferson had over the American Constitution. Any of you who are familiar with the formation of the American Constitution know how the founding fathers got together and deliberated and deliberated and deliberated and did a masterful job of putting together probably the finest Constitution that the world will ever see. Things got hurried in the end, according to Thomas Jefferson, and they didn't establish the right powers to the judiciary, where the



### THOMAS JEFFERSON.

What we are faced with is the great fear that Thomas Jefferson had over the Constitution. . . . The ultimate judicial appointments to the higher courts . . . are political appointments.

### A CALL FOR ACCOUNTABILITY.

What's the use of sending a representative to Ottawa, if he has to vote the same way that the dictator—the Party—wants to vote?



ultimate judicial appointments to the higher courts in the United States are political appointments. That affects the way that the United States are governed and probably, and I hope that my American friends agree with what I am saying, probably have caused some of the problems that you are encountering today.

The Charter of Rights and Freedoms in Canada has done the very same thing to us, in that they have taken the power away from the hands of elected politicians and have put it into the hands of the judiciary to make final decisions, which are recommended back down. But remember, these are political appointments.

### A Call for Accountability

We have to think about how things happen in Canada; we need accountable politicians. Parliament has always seen

elected political parties saying, in effect, “You vote the way I vote, or I’m going to kick you out of the caucus.” If one of those people got kicked out of the caucus who was supposedly representing me, I’d be very disappointed. What’s the use of sending a representative to Ottawa, if he has to vote the same way that the dictator—the Party—wants to vote. Canada functions under the greatest dictatorship in the western world! . . .

My message is maybe not one that is very encouraging; it certainly wasn’t encouraging to me, and we’ve got a long way to go, but we’ve got to do it.

Thank you.

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*By Marshall Copithorne*

*A list of the works consulted by the author for this speech is available at our website:*

*GrassrootsAlberta.ca/Newsletter*



DAVID HENDERSON

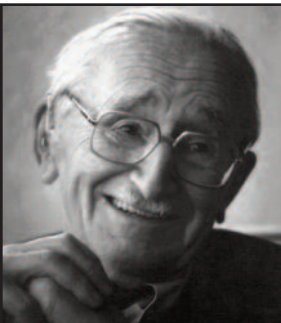
## Where Did All Those Potatoes Come From?

In the 107 years from 1890 to 1997, U.S. farmland acreage devoted to potatoes *decreased* by almost half. What happened to total production? It *increased* by four and a half times. Why?

*The following is from an article by David Henderson published by the Foundation for Economic Education in 2003. Henderson demonstrates how property rights motivate individuals to achieve things that could not occur apart from the incentives associated with private ownership. The full text is available at <https://fee.org/articles/where-did-all-those-potatoes-come-from/>*

**W**ill there be enough food to go around? You may want to relax, enjoy that second helping at the supper table, and let the marketplace do its thing. Why, you might ask, such a cavalier attitude toward this gravely serious subject? To answer that, let's look at one specific food source, the French fry.

U.S. production of frozen potato products such as French fries consumes a vast amount of potatoes each year, estimated at 18 billion pounds in 2000. A typical French-fry plant requires up to four million pounds of raw potatoes delivered to its door in good condition every day for 300 days each year. Imagine rounding up that many potatoes daily. . . .



**“The system of private property is the most important guaranty of freedom, not only for those who own property, but [even] for those who do not.”**

**Friedrich August von Hayek (1899-1992)**

*Nobel Prize-winning economist and author of The Road to Serfdom*

In the 107 years from 1890 to 1997, U.S. farmland acreage devoted to potatoes *decreased* by almost half. What happened to total production? It *increased* by four and a half times. Why? Because farmers continually improved the productive use of their land. The amount of harvested potatoes per acre increased from less than 4,000 pounds to nearly 34,000 pounds in that time. A steady increase in production per acre is evident throughout the span. Even if you picked other dates since 1890, the results would be similar.

Why does potato farmland today produce this abundance? There are too many reasons, both subtle and obvious, to list. Improved seed potatoes, better planting techniques, more consistent watering through irrigation, the use of fertilizers to replenish the soil, chemical treatments to stem losses from blight—these are a few of the easily recognizable reasons. Much progress results from the unique knowledge acquired by successful farmers as they search for even small improvements in yield. . . .

So at lunch today, while you are munching on your super-sized meal, imagine

### Did You Know?

According to the U.S. Department of Agriculture’s publication, *The Pride of Washington State*, the average potato acre in Washington state in 2011 grew 61,000 pounds.

Canadian potato production in 2016 is estimated at 11,779,264 pounds, with an average per-acre production of 34,400 pounds. Canadian per-acre yield is up more than 10% since 2012 and the number of seeded acres in that same period is down almost 10%.

one acre of potato farmland and picture the roughly 19,000 pounds of frozen French fries produced from this crop. How many pounds of French fries will be produced from a single acre ten, twenty, and fifty years from now? In a relatively free and competitive marketplace [supported by individual property rights], no one knows the answer, but it is a safe bet to say: more—probably many more.

**“No man’s life, liberty, or property are safe while the legislature is in session.”**

**Gideon J. Tucker (1826-1899)**

*Judge, lawyer, newspaper editor, and politician*





KEVIN AVRAM

## The Democratic Pizza

How Rod learned that freedom and democracy are different

Many people believe that freedom and democracy are the same thing. They're mistaken. Freedom always has to do with the ability an individual has to make choices, and then act upon those choices. Democracy always refers to a decision-making process involving three or more people, possibly even millions.

Several years ago, I got into a chat on the subject of individual freedom and majority rule with two coworkers named Rod and Craig. We were friends.

Rod held firmly to the idea that, in a democracy, anything the majority decides has to be right. Craig and I disagreed, saying that a person's individual freedom had to take priority over the wishes of the majority. We said that governments shouldn't tell people what to do beyond what's necessary to uphold the law and justice system (courts), and enforce the rules that protect public safety and the environment.

It quickly became apparent that our friendly argument was deadlocked. Rod

simply refused to accept the idea that there were times when a democratic majority should not be trusted.

We were working late that night, and we'd all missed supper. I decided to call for a pizza delivery. After hanging up the phone, I turned to Rod, and said, "You know, Rod, if you believe the majority should always rule, and that what the majority wants is always right, then let's practice what you preach. I move we vote on who pays for the pizza. I nominate you!"

Craig instantly picked up on what I was doing, and chimed in as well. "All in favour, raise your hand!"

Craig and I immediately raised our hands. Rod just sat there, clearly recognizing that Craig and I had just used a democratic majority to steal his freedom.

That night Rod picked up two things—a better understanding of the difference between freedom and democracy, and the bill for the pizza.



Stand up for responsible government!

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- \$ \_\_\_\_\_  Please send me \_\_\_\_\_ copies of the recent publication, **Are You Responsible for Climate Change?** (I enclose the suggested donation of \$10 per book or \$20 for 3 books.) [*Please note that only a limited number of copies are still available.*]
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The purpose of Grassroots Alberta Citizens Initiative is to promote the responsible and efficient use of tax dollars and to carry out an educational role with respect to wealth creation and responsible public policy. Grassroots Alberta Citizens Initiative is a project of the Grassroots Alberta Landowners Association.





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*Promoting the responsible and efficient use of tax dollars, while carrying out an educational role with respect to wealth creation and responsible public policy.*