

A Passover and Easter Message for those who love the USA

Welcome to the Policy Think Site: <http://www.jaygaskill.com>

As Posted On

The Out-Lawyer's Blog: <http://www.jaygaskill.com/blog1>

The Human Conspiracy Blog: <http://www.jaygaskill.com/blog3>

All contents, unless otherwise indicated are --

Copyright © 2003, 2004, 2005, 2006, 2007, 2008, 2009 & 2010 by Jay B. Gaskill

Permission to publish, distribute or print all or part of this article - except for personal use - is needed.

Forwarded links are welcomed.

Contact Jay B. Gaskill, attorney at law, via e mail at law@jaygaskill.com

Indivisible, With Liberty and Justice for All

An Essay

By

Jay B Gaskill

Attorney at Law

**Why Liberty and Creative Freedom Are Indivisible;
Why Neither Is Secure Without a Moral Foundation,
And an Indivisible Republic -
With Liberty and Justice for All**



This is Why America is the Hope of the World

When we think about “mere” economic freedom carefully, the list of actions and transactions that may, in a given social order, be reciprocally protected is startlingly large. For example, the one specifically economic freedom explicitly included in the Constitution is the capacity to contract with another. Note the inherent reciprocity: Every contractual agreement involves at least two parties, each of whom agrees to be bound.

The freedom to freely sell, to buy, to save, to retain earnings, to make gifts, to trade and exchange goods and services grants by necessary implication the reciprocal freedom of the other parties to do the same. Of necessity, those freedoms include the right not to sell one’s goods or services, not to buy, not to retain, not to give away, not to trade or exchange and so on. And all this presupposes and clearly implies the right to own property. Recall that among the prerogatives of royalty against which the American Revolution was fought, was the power to take the property of commoners. No reasonable observer would suppose that the framers of the US Constitution would have blithely yielded up that power to any government.

Moreover, the existence of contracts and agreements requires a legal system for their interpretation and enforcement. Trade requires bargaining and bargaining necessarily requires the freedom to communicate.

At the core of these and other freedoms protected in a civil society is the respect and protection such civilizations provide for human dignity, defined as reciprocal respect for the volitional integrity of the free adult person. Force and fraud impair volition equally, so the protection of human dignity in the economic sphere requires a law and justice system capable of normalizing the interactions of free human agents, protecting them from robbery, theft, deceit and assault.

Economic activity directly or indirectly touches almost every human endeavor. It should be clear that the scope of freedom cannot be compartmentalized. The right to free speech is hollow if one is forbidden to work or not work, to buy or not buy and so on. A moment’s reflection reveals that human liberties and freedoms are indivisible, that the economic, political, artistic, creative and religious activities of freedom are all mutually interdependent.

All these considerations were obvious to the constitution’s framers and give us the full sense of context and meaning to individual provisions that address the “mere” economic freedoms.

Section 10 of Article One provides:

No State shall ... pass any Law impairing the Obligation of Contracts...

Article Six provides:

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States

Amendment Five provides:

No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment Fourteen, Section 1, provides:

No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law....

CREATIVITY IS INDIVISIBLE AND INDISPENSABLE

Whatever you think about those creative communities nearest you, human creative endeavors writ large, in all their manifold forms - artistic, commercial and technological - are absolutely essential for human survival and prosperity. The success of the human project depends not just on the mere continuity of civilization in any form; it critically depends on the emergence and triumph of life affirming creative civilizations.

Human creativity is indivisible because there is no sharp dividing line between innovations in the arts, the sciences, human exploration and technological advances, except as these activities and endeavors further or impede human life in all its fullness and glory.

An underlying moral ethos that supports creative life affirmation leads to supply side strategies for every resource, the resolute endorsement of abundance and the rejection of scarcity. Restraint is rooted in the wisdom of prudent conservation for the benefit of our children and grandchildren, not in the ideology or theology of self denial. This spirit is perhaps best captured by the salutation of the archetypal science officer Spock of the Star Trek myth, "Live long and prosper!" And it rejects the lame scolding of the left, "...but don't live too long or prosper too much...."

This requires a commitment to human creative endeavors and an understanding of the unique conditions of safety and freedom that they require.

As it happens, the United States of America - from its very founding documents and personalities* - was a historically unique convergence of political philosophy, moral underpinnings and practical wisdom.

* The seeds of a creative civilization were evident in the very beginning of the American founding. The early architects of the revolution were steeped in the Anglo-American branch of the Enlightenment, the one - unlike the ruthless French version - that rejected a government church, the 'established' religion, yet rooted human rights in a benign divine creator. The founders also inherited the gift of English jurisprudence, the Magna Carta, and the bottom-up wisdom of English common Law. The whole constitutional enterprise was informed by a prudent sense of human limitations. I find it very significant that many of the early founders were creatively gifted as individuals. Franklin, for example, was a polymath with wide scientific interests and Jefferson was an inventor.

The USA was the very crucible of a new, creative civilization. This is the real wellspring of American Exceptionalism, **and** the source of America, the Hope of the World.

It turns out that the conditions for flourishing liberty and thriving creativity are the same: constitutionally protected liberty, the unapologetic pursuit of human happiness, a creative ethos, all protected by a robust civil order of uniquely calibrated balances, restraint and a sense of limitless opportunities.

This is the uniquely American achievement and promise: We are the best hope of the post-Medieval, post-tribal world. Yet all this has been deeply threatened by the guilt-driven, collectivist, enforced-equality ethos of the Marxist-infected left, aided and abetted by the malignant elements that have captured the atavistic forms of Islam and is constantly hectored by all of the jealous and petty enemies of success and achievement everywhere.

This is why we need an American Renaissance, one led by an electoral and cultural resurgence rooted in the wisdom of the American founding and the creative human spirit in all its best manifestations.

As we contemplate an electoral push-back against a single party domination of the primary levers of power inside the Beltway, a good thing from my perspective, a moment of sober reflection is in order. What to do with victory?

JBG

Alameda, California

3-31-10

Link: America, the Brilliant Dream: <http://jaygaskill.com/BrilliantDream.pdf>

Link: Good and Evil: <http://jaygaskill.com/GoodAndEvil.pdf>

Link: Weaponized Doubt: <http://jaygaskill.com/WeaponizedDoubt.htm>

Read Jay B Gaskill's **Lost Souls Coffee Shop**, an allegory for the human condition.

More at <http://jaygaskill.com/blog2/> .

And read Jay Gaskill's new thriller, **The Stranded Ones**, an "alien immigration" parable.

More at <http://jaygaskill.com/NewThrillerByJayGaskillPDF.pdf> and

<http://jaygaskill.com/strandedlinks.htm> and

<http://www.jaygaskill.com/TourTheStrandedOnes.pdf> .
