

# Legally Speaking



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## ABSOLUTE

*"Liberty is not a means to a higher political end. It is itself the highest political end."*

*Lord John Acton*

Now that the Supreme Court has ruled that the right to keep arms is a fundamental liberty, people need to be more critical of those government officials who still try to subvert the right.

For years, Mayor Bloomberg of New York City has been on a crusade of harassing gun dealers and manufacturers nationwide. With the support of other anti-gun groups, it appears that the goal was to drive licensed gun dealers out of business. The thinking seems to be as follows:

1. Only law enforcement and the military should have guns.
2. If licensed gun dealers are put out of business, criminals will

not be able to get guns. That is because, they claim, most guns used by criminals were at one time legally owned. If legal ownership is restricted by making guns impossible to obtain legally, or making them so expensive or so onerous to own that honest people will not want to own them, then, eventually (in 50 or 60 years), criminals will have fewer guns.

Of course, all guns not illegally manufactured were at one time legally owned.

In furtherance of the apparent goal to drive licensed gun dealers out of business, Bloomberg supported a program of sending "undercover" anti-gunners into sporting goods stores. The idea was to trick dealers into selling guns to people who were not legally able to own them. If a "sting" were successful, it was used to support a call for stricter gun laws. In addition, the anti-gun lobby filed, or threatened to file lawsuits against dealers or manufacturers. The claim was that dealers knew that guns were dangerous and could hurt someone after the gun left the dealer's control. Because dealers were helping to distribute a dangerous product, the anti-gun lobby said the dealers should be held responsible.

This was not part of any law enforcement action nor was the goal to involve law enforcement. It was a strictly private action circumventing the criminal justice system with a view to hurting those the Mayor disapproved of.

There is a technical, legal term for people who take matters into

their own hands to achieve a result not obtainable through the established justice system. That term is "vigilante." Bloomberg was, in reality, an accessory to illegal trafficking in guns. He got away with his wrongful conduct because he is powerful and convinced people that he should be exempt from the laws that govern the rest of us. The harassment lawsuits against licensed gun dealers and manufacturers were eventually addressed by protective federal legislation passed over the protests of the anti-gun lobby.

In October of 2011, there were multiple arrests by federal authorities breaking up a major gun trafficking ring in New York. Those accused were all members of, or former members of, the same organization. It was said that they had attempted to drive a "caravan" of illegal guns into New York City.

Vigilante Bloomberg should have been overjoyed by the arrests. He was not. He did not call for laws making that organization illegal. He did not threaten to sue that organization. Bloomberg was strangely silent even though all those illegal guns could have found their way to the streets of New York. The silence can only be attributed to the fact that the organization of which the gunrunners were members was the New York City Police Department. Like the Mayor, the officers who were in the gunrunning business felt that they were above that law and saw nothing wrong with using their power to make a little extra money on the side.

When there is lots of money flowing from criminal activity and insufficient oversight of law enforcement, there is the potential for police corruption. Not since the end of prohibition of alcohol, has crime been so profitable.

In many communities, police oversight is minimal. Stories of drugs missing from the evidence lockers, of government employees removing property from damaged buildings, of falsification of reports, of money missing, of guns or other property taken from citizens and not returned stain the honor of thousands of hard working, honest police officers. Accounts, however, of police officers, even superior officers, abusing their authority are much too common to justify a blind faith that law enforcement can meet all our security needs.

We do not like to think that our law enforcement agencies might be corrupt. We do not like to think that some police officers might be involved in drug dealing. We do not like to think that illegal guns are getting into criminals hands directly or indirectly from law enforcement. Unfortunately, policemen on the street exercise a lot of raw power. Too often fellow officers close ranks and turn a blind eye to those who abuse their authority.

There is an arrogance that often comes with power. At first people with power think, "I know best. I will do what I think people need without regard for formalities." The next step is, "Because I know best, I will ignore the law. I will ignore the fact that some people might be hurt by what I do because I know what is best. In the long run what I do is best for

the community." That is followed by the thought, "I am better than the people I serve so I should be entitled to certain perks." Last comes the thought, "I am a very important person. I have the right to do this. I am above the law. No one can hold me accountable."

Over the last six months many Americans have followed with shock the story of gunrunning by the United States Justice Department. In a program called "Fast and Furious," the Justice Department ignored the law to allow thousands of guns to be obtained illegally through straw purchases. This was allowed even though those responsible for the program knew that the guns would be used by drug dealers in the United States and Mexico. Federal law enforcement agencies had the knowledge to prosecute those breaking the law. Licensed gun dealers reported suspicious transactions. However, a political decision was made not to use the laws currently on the books to interdict the illegal traffic in guns.

The government's complicity in these transactions was bad enough when the Justice Department had reason to believe that the guns were being used to kill innocent people in Mexico. It is chilling to think they would allow an influx of illegal guns to aid organized crime to destabilize the Mexican government. The Justice Department's complicity, however, reached an extraordinary depth of moral depravity when, to hide its own involvement, the Obama Justice Department suggested that the fault was with lawful American gunowners rather than the Justice Department's being an enabler of gunrunning.

The actions of the Obama

Justice Department beg some very disturbing questions. Has the Obama administration promoted crime in Mexico to achieve a political end in the United States? Has the current administration, in an arrogant abuse of power, allowed innocent people to be killed so as to justify the administration's desire to keep honest Americans from having guns? Are they that vile? Or that stupid? Or are they on the drug cartels' payrolls?

Lord Acton, who was quoted at the beginning of this article is also credited with saying, "Power tends to corrupt and absolute power corrupts absolutely."

"Fast and Furious" is not the first federal law enforcement program to go horribly wrong.

In the 1960s, the FBI in Massachusetts decided to destroy the local Mafia family by supporting a rival mob know as the Winter Hill Gang. Under the control of Whitey Bulger, the Winter Hill Gang terrorized New England. They seemed to be untouchable until Stephen (the Rifleman) Flemmi was indicted on murder charges. His defense was that he was working for the FBI. His threat was that if he were prosecuted, he would tell where all the bodies were and others would be implicated.

He did know where the bodies were buried and a senior member of the New England FBI office, a Lieutenant in the State Police, and a sergeant in the Boston Police were all implicated in a plan that involved murder, extortion, and corruption on a scale hard to imagine. With officers at every level of law enforcement on the mob's payroll, those who

were brave enough to stand up to the mob simply disappeared. Especially in Boston, where it was difficult to get a handgun permit, people had nowhere to turn.

The FBI's excuse for protecting Bulger was that they had to protect their informant even when their informant committed murder.

If a normal citizen engaged in unreasonably hazardous actions, and someone were to be killed, that citizen would be prosecuted for manslaughter. If a normal citizen aided a criminal enterprise that led to someone being killed, the person who aided in the enterprise could be prosecuted for murder. Elected and appointed government officials need to likewise be held accountable.

Some of the worst abuses in history have been committed by people who excused their bad behavior by claiming a greater good will be achieved. Good is never achieved by doing bad things.

Before the American Revolution, most countries were ruled by kings. The king's word was law and the king could do no wrong. The king held all the power. In 17th century, English political philosophers developed the concept of Natural Law, a set of rules that even governed kings. Natural Law fit well with the political landscape of the day. England was involved in a civil war between the supporters of Parliament and those who supported the King. The forces of Parliament won and the King, Charles the First, was executed for violating the law.

The concept that government is required to comply with the law is one of the cornerstones of

government in the United States. No one should be above the law. The false precept that those in government are exempt from the law sometimes creeps into minds of some of our appointed and elected officials. Our government, however, is the creature of, and the servant to, the people. There is no ruling class in the United States entitled to special treatment.

The thought that those in government have the right to ignore the law or harm someone else because it is for the greater good, is seductive. It seems to provide an easy answer to very complex social problems. This lie, however, has led to great injustices, the persecutions of innocent people and the downfall of Presidents.

The founders of our nation were aware of the corrupting influence of power. They sought to control it by preventing the power of government from being concentrated into the hands of a few people. Indeed, whenever one political party gains control of both houses of Congress and the Presidency, we get a series of bad decisions because one or two people are making policy without the deliberative function of Congress operating as it is supposed to. That Congress seems to be a roadblock to things the President wants to do is not a bad thing. It is how our government is supposed to function. That roadblock is intended to force compromise which requires a public consensus on an issue and, in the long run, better government. A major problem with Congress today is that its internal rules place too much power in the hands of political party leaders. Too many

Congressmen vote according to party lines or a slogan rather than according to the interests of their constituents.

Ultimately power should reside in the hands of the people. In the United States this power takes two forms. The first is by the right of the people to choose those who will run the government by popular election. The second is by the right of the people to have arms which allows them to resist corruption in government. In Mexico, people can vote, but, for the most part, only the police and military have guns. In Mexico there is no safety for those who would oppose corruption in government. Unfortunately for Mexico, government corruption is rampant.

As we enter a new election cycle, get involved. Look for legislators who support all of the protections of the Constitution. Turn away from those who suggest the government needs more power or that people have to give up some of their civil rights. Look for elected officials who will stand up for you even if it means standing against party leadership. Look at proposed programs with the thought of keeping government as small and local as possible while still being able to provide the important functions that are needed to maintain public order, public health, and to encourage commerce with the growth of private sector jobs.

Demand accountability from all elected and appointed officials. Demand transparency in their actions. Do not countenance their violating the laws that apply to the rest of us.