

John Randolph Tucker, LL. D., a very prominent 19th Century Constitutional Scholar, confirms -

Man Has A Religious Duty To Defend Himself

The following is taken verbatim from the "INTRODUCTION", sections 32 & 33 of John Randolph Tucker's: THE CONSTITUTION OF THE UNITED STATES. A critical discussion of its genesis, development, and interpretation, Volume I, Chicago: CALLAGHAN & CO.1899.

.... "Having thus deduced the personal and property rights of man --- these jural rights --- from man's exclusive liberty of self-use to the fruits of self-use, it is necessary now to say that these jural rights are not always realized in the legal rights; that is, in the rights allowed to the man by the social polity under which he lives. But while this is so, we must not forget that the jural are none the less real because the social polity does not make them legal rights. The *jus* cannot be abrogated, but ought to find full expression by the *lex*.

These jural rights of man, constituting in their aggregate what we call his liberty, have, as we have seen, been given to him by his Creator to be used under responsibility to Him. Can he rightfully surrender them? Is he not religiously bound to defend them?

We have further seen that society is ordained by God to conserve the rights of man and not to injure them. These rights embrace life (limb, health and self-use as part of life) and property as the result of life work and enterprise. To conserve these society is ordained.

As man holds all these rights in trust from God, he breaks trust by their surrender, or by not defending them. Hence self-preservation, embracing self-defense and self-development to the highest degree possible, is a religious duty. Man not only may, but must, defend himself. Self-defense is not merely a right, it is a duty --- a religious duty. If he held his rights absolutely, he would have a mere right to defend them and might waive them; but as he holds them in trust for God, he is bound by religious obligation to defend them.

In self-defense, therefore, man defends not his own, but God's right in him. And thus it comes to pass, under every well-ordered human polity, that this self-defense has the best sanction, in that the man is to be regarded as the jural instrument for the *lex*, in what he does to the detriment of, and thus in defending, his rights.

As Society is ordained to conserve these rights, it follows that it cannot violate them. --- jural power cannot infringe jural rights."

About the author: John Randolph Tucker was born at Winchester, Virginia, on the 24th of December, 1823, and died at Lexington, Virginia, on the 18th of February 1897. He was the son of Henry St. George Tucker, President of the Court of Appeals of Virginia, and grandson of St. George Tucker, also a member of that court, and who was the author of "Tucker's Blackstone", the first commentary on the Constitution of the United States. During a long and active professional career, the author served for eight years as Attorney-General of Virginia and for twelve years as a Representative in Congress, during four years of which service he was Chairman of the Judiciary Committee of the House. From early life a close student of the Constitution and of the constitutional history of the United States, he had long cherished a purpose to write a commentary on the Constitution. His eminent public career brought him into living contact with many great questions on which he had read and thought deeply; and on his retirement from Congress in 1887 he hoped to take up his long-meditated work. The exaction of professional labors, to which were added from the year 1889 the re-assumed duties of the Chair of Constitutional and International Law, and Equity in Washington and Lee University, delayed the beginning of systematic work until the autumn of 1895". John Randolph Tucker died in February of 1897. His book, from which this article is taken verbatim, was edited by Henry St. George Tucker, II, John Randolph Tucker's son, and first published later in 1897.