

McMinn County Libertarian Party  
Position Paper  
**Seizure and Asset Forfeiture**

Summary: The McMinn County Libertarian Party is opposed to the confiscation of private property without due process..

Law enforcement has received permission to confiscate the property of individuals without those individuals receiving a trial.

In the failed war against drugs, any property which is involved in what is believed to be a crime is subject to confiscation.. The owner of that property must bring suit against the government to “reclaim” his property, even if charges are later dropped or he is found innocent.

In an effort to prevent repeated offenses of drunk driving, the Sheriffs Department may confiscate the automobile of persons charged with a second offense of driving under the influence if they have had a previous conviction. It is not necessary for the second offense to be brought to trial and a conviction to be obtained. While the McMinn County Libertarian Party wholeheartedly endorses stiff penalties for those who endanger the public safety by driving while intoxicated, it is opposed to taking any property until a defendant has had his day in court and is convicted. After persons are convicted, the stiffer the penalty the better, especially if multiple convictions are involved..

Now asset forfeiture has been expanded into other areas. Just a few examples demonstrate how the forfeiture laws can destroy innocent persons:<sup>1</sup>

- A \$50,000 tractor was seized because the owner accidentally ran over an endangered species of kangaroo rats.<sup>2</sup>
- In Washington, DC, police stop black men on the streets in poor areas of the city, and "routinely confiscate small amounts of cash and jewelry." Most confiscated property is not even recorded by police departments. "Resident Ben Davis calls it 'robbery with a badge.'" [USA Today]
- In Iowa, "a woman accused of shoplifting a \$25 sweater had her \$18,000 car -- specially equipped for her handicapped daughter -- seized as the 'getaway vehicle.'" [USA Today]
- Detroit drug police raided a grocery store, but failed to find any drugs. After drug dogs reacted to three \$1.00 bills in the cash register, the police seized \$4,384 from cash registers and the store safe. According to the Pittsburgh Press, over 92% of all cash in

circulation in the U.S. now shows some drug residue.

- In Monmouth, New Jersey, Dr. David Disbrow was accused of practicing psychiatry without a license. His crime was providing counseling services from a spare bedroom in his mother's house. Counseling does not require a license in New Jersey. That didn't stop police from seizing virtually everything of value from his mother's home, totaling over \$60,000. The forfeiture squad confiscated furniture, carpets, paintings, and even personal photographs.
- Kathy and Mark Schrama were arrested just before Christmas 1990 at their home in New Jersey. Kathy was charged with taking \$500 worth of UPS packages from neighbors' porches. Mark was charged with receiving stolen goods. If found guilty, they might have paid a small fine and received probation. The day after their arrest, their house, cars, and furniture were seized. Based upon mere accusation, \$150,000 in property was confiscated, without trial or indictment. Police even took their clothing, eyeglasses, and Christmas presents for their 10-year-old son.

The Fifth Amendment to the Federal Constitution reads "...nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." The Fourteenth Amendment states "nor shall any State deprive any person of life, liberty, or property, without due process of law." Clearly, asset forfeiture laws violate both the letter and the spirit of the Constitution.

When any government is allowed to take the property of individuals without due process, no matter how well meaning the causes, the potential for abuse far outweighs any potential benefits. Abuse has been so rampant that attempts were made in Congress to undue some of the damage with the Civil Asset Reform Act of 1997 and the Civil Asset Reform Act of 2000.

In summary, the McMinn County Libertarian Party opposes any and all efforts to deny a citizen his right to due process. A trial by a court of law is fundamental in the relationship between a citizen and his government, any effort to supercede this right can only lead to tyranny..

1. <http://www.lp.org/lpnews/0103/forfeiture.html>

2. U.S. v. One Ford Tractor