

# The Voluntaryist

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"If one takes care of the means, the end will take care of itself."

April 1983

## INTERVIEW WITH PAUL JACOB

*Paul Jacob, a libertarian activist, was indicted by the Arkansas Grand Jury on September 23, 1982 for failure to register for the draft. Although he is the 11th person to be indicted for this offense, Jacob's case is unique in that he is the only one the F.B.I. cannot locate for prosecution, despite a nationwide search.*

Interview by Wendy McElroy

**V:** Has your opinion of the libertarian movement or the direction libertarianism needs to take changed during the period you have lived underground?

**PJ:** It has solidified. It has hardened. Before I joined the Libertarian Party (LP), I considered myself a libertarian and I was dedicated, at least to a major degree, to political activity such as draft resistance. I was talking to people and trying to educate people about freedom and individualism. Someone told me "Well, if this is so good, why don't you join the LP?" At that moment, I couldn't think what to say, so I said "I think I will." I was organizing before I joined the LP and my idea then was that the only way to stop the government was to resist the government. In fact, the main thing I tried to get across was that if we want to change something, we can't accept it. I have always been against people who say you can only change things through the system. I have always felt the exact opposite. Once you are part of the system there is nothing to change. You would have to change yourself.

**V:** You are the problem?

**PJ:** Yes. At points after becoming a libertarian, I was more in favor of political, electoral strategies, but as the draft issue developed I began to see there is really no chance for 18 to 23 year olds to vote out everyone over 23.

**V:** Are you saying the draft is an issue which cannot be effectively approached through the electoral process?

**PJ:** Effectively, no. It could be made an issue electorally, but you are not going to see major party politicians buck the voting strength of those over 23 to satisfy those 18 to 23. If we could somehow convince a majority of those over 23 that the draft was wrong, then there might be some hope in the electoral process to end it, but I think that is asking a little too much. Anyway, as Carter started registration, it was clear to me that I wasn't going to register and that the only way, the most effective way for those of us threatened with the draft to beat it was to resist. Since I have been underground and since I have travelled different places, I feel more and more sure that the way to stop government slavery in this and all other issues is to resist it physically, personally. It is not enough to try and convince people to think as you do. You must act on what you think. Convincing the masses is much easier if you have taken action yourself, if you can say "this is what I did" rather than "this is what I think."

**V:** I am surprised that you are not more of a cause celebre in libertarianism as our own "fugitive from the FBI"...

**PJ:** I am in isolated pockets.

**V:** Can you speculate as to why you have not received more support from libertarian organizations, particularly the LP?

**PJ:** Well, I would like to preface it by saying that quite a few individuals and some organizations have given me support. I think one reason is because there is a question as to whether the LP should support people who break the law—for the life of me I don't understand why. If we believe that taxation is theft, that the draft is slavery—and any libertarian I call a libertarian believes those things—then, why wouldn't we want to support someone who decided not to be robbed or enslaved? It seems like those are the very people we would want to support. But the only thing that I can figure is they want to look like a credible, all American party. When I think of myself as all American, I think of America as a land mass. I think they are confusing America with a national government. They want to emulate the other political parties who obviously don't support people who break the law, but the other political parties made those laws. So, the LP made a mistake. They were trying to follow a path that was made by statist rather than by libertarians.

**V:** One of the differences between socialism and libertarianism as movements seems to be that socialists give support to movement people who are victimized by the State. Is it simply that there is a stigma to breaking the law in libertarianism which does not exist in socialism, or is there a fuller answer?

**PJ:** For one thing, I think that libertarians as a group have been less victimized than socialists or communists. There was a time, and in many places in the United States it still is the case, that killing a communist was a good thing to do. Many policemen in places I have been would just as soon kill a communist as eat breakfast. They don't necessarily feel that way toward libertarians.

**V:** Are you saying that the movement has not had to evolve to deal with this problem?

**PJ:** What I am saying is that although our changes are much more radical than the changes socialists or communists would bring—what we have today is much closer to what they are talking about than to what we are talking about—as seen through the media and through the image we are projecting, we are more mainstream America. The socialists and communists know good and well they are not mainstream America and have no chance of portraying themselves that way. They want members and no one is going to join the Communist Party if, when the police start pounding down your door and you are sent to prison, you get no support. The fact they are such minor and victimized parties forces them to do that. If libertarians would speak the truth, speak what is really on their minds, they would find themselves becoming more and more the victims of State aggression. We would see more and more FBI activity in the Party and we might be the victims of a few wiretaps, illegal searches, etc. Basically, we have not attempted to portray ourselves as an opposition and we have not used resistance to the State. We really have not accepted that as a means to freedom.

**V:** The libertarian movement of the 19th Century used to accept that you opposed the State by openly refusing to obey... Thoreau's *On Civil Disobedience*, for example. Do you think the LP and the trend toward politics has made the movement

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more conservative?

**PJ:** Yes, I think that is it. In fact, at the Denver Convention, the only one I have been to, I was surprised at how conservative the movement was. Ed Clark ran for President on a platform of gaining credibility. Although we might be as radical as any other group or more radical in our thoughts, it is our actions which will be viewed by the media and other people and our actions are not radical, except for a few cases. In those cases, a lot of people seem to be afraid that we are going to look anti-American or communist. It is true that more ignorant people tend to associate any type of radicalism with communism, but on the whole I don't think this is a problem. Most people view us as a right wing group because we are not willing to take strong stands and use resistance in civil liberties areas.

**V:** How familiar are you with the tradition of non-violent resistance?

**PJ:** Not very. I have not read a whole lot about it. During high school, I read Thoreau. I read Emerson and Thoreau together and I tended to think Emerson was worthless and loved Thoreau. Today, I think the left tends to use Thoreau more than we do when, in reality, libertarian anarchists should have a special place in their hearts for Thoreau who used the motto: "That government which governs least governs best," and then turns around and takes it to its logical conclusion which is that it governs not at all.

**V:** What is the best way for the libertarian movement to help you?

**PJ:** There are numerous things. They should support every form of resistance to the State. Number one priority. In other words, they should support tax resisters, draft resisters, those who resist regulations, drug users, prostitutes, and so on. A lot of people in this country are victims of the law. Others are resisting and becoming victims and they should be our first priority. Our goal is not to take over the government but to stop the government from oppressing people, victimizing people, and we should never lose sight of that. It would be much better to never get anyone elected and yet to free one person from prison than to elect every official as a libertarian and leave that one person in prison.

Also, if you have the right attitude you tend to do the right things. Another attitude libertarians need to have is that they shouldn't worry about what the majority of Americans think of any particular policy. That is for the Democrats and Republicans to worry about because they are the ones who are in office. They are getting the majority of votes. What we have to do continually is to say what we have to say. Social Security is a great example. There is no way Ronald Reagan or any Republican can come out and say he is for making Social Security voluntary. The media would kill him and he would lose the election. He doesn't want to do that because he sees the possibility of winning. Now, in any race the chances of our getting 5% are not as good as the Republicans or Democrats winning, so we shouldn't worry

about infuriating 80% of the voters. We should be attracting the 2 or 3 or 10% of the people truly against State coercion, truly in favor of individual liberty. I think we need to keep in mind what we are doing is right and it doesn't matter how the majority views our actions, only that our actions are designed to bring freedom to people who otherwise would not have it.

**V:** If you could resist registration publicly right now, what would be your first priority? What is the most important thing for public people to do?

**PJ:** Go to the high schools. When registration affected me I was 20 years old which is only two years older than 18, but I had been to college for a year. I had lived on my own, supporting myself. You are a lot older, especially if you have supported yourself, at 20 than at 18. You have been out of the public education prison for two years and have a different outlook. I wonder what I would have done at 18. I'm sure I would not have registered. I don't know if I would have been public about it and I know I would have been much more frightened about it. So I think the main thing to do is to go to the high schools and the 18 year olds because they are the ones who are affected now. Get information to them. 18 year olds have been much better than my age group about the draft. I think it hurts to some degree that they are in public school because they are getting the party line, so to speak. But, at the same time, they can see the draft is slavery because many of them see public education as slavery; they are in it. So they definitely understand government control and they are very receptive. It also would be a tremendous recruiting thing to hit high school students with anti-draft literature and just let them find out on their own at the end of your pamphlet where it says Libertarian Party or Libertarian Draft Group, let them find out about libertarianism that way. I think they would be a lot more receptive to libertarianism if they were helped by libertarians and then found out about the ideas than if you tried to cram the whole libertarian philosophy down their throats. Another good thing about that age group is that, although high school teachers are statist, college professors are much more statist, much more willing to come out and admit it and better able to defend statism. And I think that if we wait until students are in college for a couple of years or out of college, they have not only been in public schools and gotten the government line, they have also had very intelligent people give them plausible excuses for believing it. I think there are a million and one good reasons to go to your high school. There is a possibility you will be thrown out. But you won't know until you try.

**V:** They can't throw you off the sidewalks outside.

**PJ:** Right. And call the newspapers and television and let them see that public education is not allowing diversity of opinion to be seen by the students.

**V:** Newspapers don't seem to be diverse in their opinions themselves. Have you approached newspapers and had them show disinterest or hostility?

**P.J.** From what I have been able to gather, if I called *The Arkansas Gazette* or the *Arkansas Democrat* for an interview, as soon as I was through with the interview, they called the FBI and told them I had called. If I happened to sneak into Arkansas and go to the *Gazette* office to do an interview, they called the FBI as soon as it was through or, perhaps, while it was in progress. So, they don't necessarily expand what little freedom of the press they have. There is not a great deal of diversity. And one of the things I noticed was that before I was indicted, they didn't seem to think it was tremendously newsworthy. Once I was indicted, once the government made

"Paul" continued from pg. 6

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# THE ETHICS OF VOTING

by George H. Smith

## PART THREE

### VII. Recapitulation

In Part Two of this article I sketched a theory of institutional analysis whereby individuals, filling institutional roles, contribute unintentionally to the goals of an association (i.e., a *designed* institution). Institutional analysis does not violate the principles of methodological individualism. On the contrary, anarchist theory relies on institutional analysis for its coherence. Anarchists who defend political office-holding and electoral voting cannot reasonably do so by opposing institutional analysis as such. Unless political libertarians are willing to purge their vocabulary of all institutional terms ("State," "society," the "market," etc.) and all institutional propositions (e.g., "the State is invasive per se"), then their objections to voluntarist arguments will reek of insincerity.

Of course, it is possible to accept institutional analysis and yet object to its particular application in the case against office-holding and voting. This is the only viable approach open to political anarchists. Unfortunately, we possess no body of libertarian theory which treats institutional analysis in detail, so a discussion of the institutional features of voting requires considerable preliminary groundwork. Having discussed some procedural issues in Part One and institutional analysis in Part Two, I shall now explore how institutional analysis applies specifically to the State and to offices in the State. Then I shall move from institutional analysis considered descriptively to the *normative* or moral implications of institutional analysis. To what extent are those individuals who work within an association morally and/or legally responsible for the institutional products of that association? This thorny area is undoubtedly the most complex and controversial aspect of institutional analysis, yet it must be addressed if the moral implications of electoral voting are to be flushed out. Anarchist theory will never advance beyond a rudimentary level so long as this issue remains unresolved.

Modern States, I have argued, are *designed institutions*. They did not emerge spontaneously from the unplanned coordination of individuals pursuing disparate goals (such as in social division of labor). The State resembles a business organization; it was designed and established to achieve specific goals, and it has developed a sophisticated division of labor which furthers these goals.

This does not mean that *all* features of the modern State are designed. Economists point out that even rigidly structured business organizations and political bureaucracies exhibit signs of spontaneous order, often caused by internal competition for positions of prestige and power. Nevertheless, there are crucial differences between undesigned and designed institutions. Associations (designed institutions) coordinate individual actions to further *homogeneous* and *predetermined* goals. An auto factory, for instance, does not assemble workers, allow them to do as they please, and then accept whatever results from their unplanned interaction. Associations impose a *structure of internal organization*, a division of labor, to achieve particular goals. Any spontaneous order within the association is subordinated to these goals.

Modern States, far from evolving spontaneously, arose from the desire of political rulers to establish territorial sovereignty. The State's spontaneous order occurs within these parameters. A State cannot allow developments that

weaken its territorial sovereignty; it reacts quickly and decisively against all threats. The spontaneous order in society generally, on the contrary, operates under no such constraints. Social institutions may change drastically or die altogether without the interposition of force to prevent these changes. A similar hands-off policy is unthinkable for States.

### VIII. "Invasive Per Se": The Minarchist-Anarchist Debate

The core of anarchism is the claim that the State is *necessarily invasive*, or *invasive per se*. This is also the point of contention between anarchism and minarchism. If the basic institutional purpose of the State is one which could be accomplished by voluntary means, then the State is not necessarily invasive. If one were to argue (however implausibly) that the institutional purpose of the State is to deliver mail, then the fact that existing States use invasive means (taxation and a coercive monopoly) to provide this service would have no direct bearing on the *theoretical* question of whether invasive means *must* be employed to accomplish this goal. A totally voluntary mail service could be established; and if mail delivery is the defining characteristic of the State, then we have the theoretical possibility of a "voluntary State." In this view, one could push for the elimination of the invasive aspects of the current government until it is pared down to its "proper" function of mail delivery. If we substitute "defense of individual rights" for "mail delivery" (one is as arbitrary as the other), we have the minarchist argument for the possibility of a noninvasive State.

The anarchist rejects the argument that the basic institutional purpose of the State is one which could theoretically be achieved by voluntary means. The anarchist considers the *fundamental* purpose of the State to be territorial sovereignty, and this is inherently invasive. Beginning with the libertarian prohibition of invasive acts, the anarchist adds the insight that the State is invasive per se — i.e., it *must* commit invasive acts to fulfill its basic purpose. When the nonaggression premise is applied to this view of the State, the consequence is a total rejection of the State on libertarian grounds. Thus, as I argued in Part One, anarchism is more than libertarianism. Anarchism is the nonaggression axiom combined with a particular view of the State — a view that relies on institutional analysis.

The minarchist-anarchist debate revolves around the *essential (or defining)* purpose of government. Minarchists assert that the "proper" function of government is defense of individual rights, broadly conceived (police, military, and judicial system). But it is unclear what "proper" means here. If it means "morally proper" — i.e., the State cannot legitimately exceed these boundaries — then no anarchist will disagree. No institution, by whatever name we call it, may properly violate rights. But why the State should be the focus of defense remains a puzzle. Minarchists must show that States were designed (in a substantial number of cases) with the defense of rights as a fundamental purpose. Unfortunately for them, history does not smile on this thesis. *Territorial sovereignty* was clearly the purpose leading to the organization and consolidation of modern States. This required a monopoly of legitimized coercion to eliminate potential competitors or those opposed to sovereignty altogether. The State's monopoly on the means of coercion left it little choice but to provide a semblance of defense for its subjects. The provision of these "services" plays an important role in legitimizing State rule (to preserve "law and order"), without which mass compliance would be difficult to achieve.

The anarchist thesis — that the State is invasive per se

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is an institutional judgment. It attributes an invasive purpose not to every person who joins the State but to the institution itself. Most of the State's members may not *personally* care about, or even know of, arcane subjects like territorial sovereignty. They may work for the State just to make a living. Others may find satisfaction in wielding power, and still others may have the sincere desire to accomplish something worthwhile. Political libertarians usually fall in the latter category. They see themselves as harbingers of freedom. When it is pointed out that their *personal intentions* — why they choose to join the State — are an issue distinct from their *objective role* within the State apparatus; and when it is argued that, insofar as they fulfill their roles as political office-holders, they thereby contribute to the institutional goals of the State, they protest that they do not *personally* aggress against anyone. Short of catching them with a smoking revolver, they claim exemption from the anarchist curse of the State and its agents. (Never mind that the smoking revolver test would exonerate the vast majority of State employees from personal liability; such inconvenient details are passed over by the political anarchist.)

The political anarchist professes to “hate the State” while avoiding a clear identification of who, or what, constitutes “the State.” Understandably, he does not wish to agonize over how to exempt *libertarian* members of the State from his supposed disdain. The political anarchist “hates” the State but seems to “love” the political offices that comprise the State. How the State is anything more than the *combination* of these offices acting in concert to attain institutional goals, is yet another mystery. If consistency is too much to expect of political anarchists, they might at least explain what they *mean* when they say that the State is invasive per se.

## IX. A MORAL PROBLEM

Political anarchists sometimes speculate on which governmental jobs they may consistently hold. They frequently distinguish between jobs which are necessarily invasive (tax collection, conscription) and jobs which, though financed coercively at present, would be permissible in a free society (mail delivery, school teaching). This dichotomy presumably answers the question of when libertarians may work for the State. A libertarian could work for the post office, for example, since mail delivery is not inherently invasive; but a libertarian could *not* work for the Internal Revenue Service. In deciding whether a libertarian could hold a political office, therefore, we should determine to which of these categories the office belongs.

I have heard this argument many times, though it has not received much attention in print. But the proposed criterion — distinguishing State offices which are invasive per se — creates serious difficulties for the political anarchist.

Consider the argument that anarchists should not work for the Internal Revenue Service because tax collection is invasive per se. Note how this assertion immerses us in institutional analysis. For what does it mean to say that the I.R.S. is “invasive per se”? It does not mean that theft is the personal goal of every I.R.S. employee. Nor does it mean that every I.R.S. employee personally aggresses. The secretary, the file clerk, the accountant, the computer programmer — these and similar I.R.S. jobs do not require aggression or threats of aggression.

Clearly, when the political anarchist says that the I.R.S. is invasive per se, he means that the *institutional purpose* of the I.R.S. — *the end to which lesser roles contribute* — is invasive per se. So if it is impermissible for anarchists to work

for the I.R.S., this is because institutional roles (jobs) in the I.R.S. contribute to its invasive purpose of theft — even though the roles themselves, considered in isolation, do not require personal aggression by all employees.

The same argument applies to employment with the Selective Service, drug enforcement agencies, and so forth. Only a minority of their employees personally aggress. Yet it is generally assumed by political anarchists that working for these invasive agencies violates libertarian principles.

This line of reasoning has devastating implications for political anarchism. An anarchist, it is said, cannot work for the I.R.S. or the Selective Service because these agencies are “invasive per se.” Yet we have seen that *the essence of anarchism lies in the claim that the State itself is invasive per se*. If the invasive nature of the I.R.S. precludes anarchists working for it, then why doesn't the invasive nature of the State preclude anarchists working for it as well? If anarchists may not hire themselves out to the I.R.S. even if they avoid personal acts of aggression, then neither may they hire themselves out to the State in general — which is also invasive per se — even if they likewise avoid personal acts of aggression.

The political anarchist cannot have it both ways. He cannot invoke the “invasive per se” test with tax collection, conscription, drug enforcement, etc., and yet disregard it for the State in general. The political anarchist has two options: (1) He may deny that the State is invasive per se, thus defining himself out of anarchism; or (2) he may concede that an anarchist may properly work for an agency that is invasive per se, so long as the anarchist does not personally aggress.

Neither of these options is very palatable. The first strips the political anarchist of his anarchist credentials, while the second opens a Pandora's Box of job opportunities for anarchists. If the political anarchist seriously wishes to defend the propriety of anarchists working for the I.R.S., Selective Service, drug enforcement, the C.I.A. — the list goes on and on — then let him make his case.

The political anarchist is thus caught on the horns of a dilemma. He cannot reject the “invasive per se” criterion for the State while using it for *particular* agencies in the State. He cannot deny institutional objections to political office-holding, invoking the smoking revolver test instead, while advancing institutional objections against particular State agencies, thereby discarding the smoking revolver test when it suits his fancy.

Thus, either the political anarchist must become a voluntarist, or he must introduce new (and hitherto undreamed of) employment opportunities for “anarchists.” Either he must abandon the case for political office-holding, or he must champion the legitimacy of anarchist employment in a wide variety of repulsive agencies. The latter is the only option short of capitulation.

## X. Office-Holding and State Membership

The State, like all associations, has an identifiable membership. The institutionalized power of the State is a scarce resource; not everyone can benefit from its use simultaneously. The fierce competition thus generated for the control of State power necessitates membership criteria to restrict entry.

Membership criteria vary according to the form of government. An accident of birth may qualify one for membership in hereditary monarchies and aristocracies. Some forms of aristocracy encouraged the sale of political offices (“venal offices”), which then could be transferred like private property.

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State membership in a democracy is theoretically bestowed by popular election, or by appointment authorized by a duly elected official.

Whatever the membership requirements, an office-holder acquires special privileges (legal rights) denied to the public at large. On the lower levels of State employment, this privilege may be nothing more than a claim on tax revenue in the form of a regular paycheck. As we ascend the hierarchy of power, however, the privileges become more extensive. Higher level office-holders enjoy considerable discretion in the exercise of power.

This power may be unlimited, as in despotism, or restricted in some fashion, as in a constitutional republic. But the privileges conferred by State offices always entail legal rights denied to nonmembers.

Political office bestows power on the occupant of that office. Bertrand de Jouvenal (*The Pure Theory of Politics*, Cambridge Univ. Press, 1963, p.118) makes this point in an interesting way:

In the museum at Corinth there are two statues, artistically worthless, which testify to the fashion under Roman rule of setting up in a place of vantage the standing figure of the governor. The sculptor has reproduced, with uninspired exactitude, every detail of the military costume borne upon occasions of state by the representative of the *civitas imperans*. Only the head is lacking, nor is it by accident: a hollow between the shoulders reveals grooves designed for the fitting of a removable head upon the massive body. Thus were the citizens spared the expense of putting up a new statue to honour a new governor: the old face was taken down and a new face was set in its stead. This can serve to symbolize established Authority. The statue has been set up at some previous time and lasts through many generations; but the face must be that of a living and active magistrate. The end of a life, or of a term, removes the transient head from the enduring shoulders. There is now a void to be filled, an opportunity for a new man to lift his head on to the shoulders of the statue . . . A complex political system comprises many statues, and the procedures for lifting heads on to them are diverse.

The legal rights of high political offices in the United States are determined primarily by the Constitution (including judicial interpretations of the Constitution). We needn't engage in a lengthy argument to show that political privileges thus acquired run contrary to the principle of nonaggression. A reading of the Constitution alone is sufficient. Art. 1, Sect. 10, for example, vests in Congress the power "To lay and collect taxes, duties, imposts, and excises . . . To regulate commerce with foreign nations . . . To coin money . . . To establish post offices and build roads . . . To declare war . . . To provide for calling forth the militia to execute the laws of the Union," and so forth. To say, as does Art. 1, Sect. 1, that these "powers" are "vested in" Congress, means that the physical might of the State will be used to back up Congressional decisions in these areas should any citizens disobey or resist. Some members of the State, in other words, will call on other members of the State (police, military, etc.) to enforce their will.

Members of Congress have immense power; their decisions are backed by the physical coercion of the State. If my neighbor decides to rob me, it is unlikely that he can enlist the power the State to assist him. But if a Senator decides to rob me (by voting for a tax bill), the full weight of the State will fall on me should I resist.

Members of the State are thus allied in a common cause; they share an enforcement mechanism whereby their deci-

sions will be enforced at the point of a gun. An office-holder has objective power commensurate with his legal rights. The more privileges he enjoys, the more power he wields. This power exists independently of what he decides to do with it. It exists *prior* to any action he may take in office, because it is inherent in the office. By the fact that an individual qualifies for an office, he acquires the legal rights of that office.

Legal rights — privileges enforced by the State — exist apart from their exercise, just as natural rights do. A man has a natural right, say, to purchase an aardvark, even though he may never actually purchase an aardvark in his life. The right exists whether he exercises it or not.

Similarly, the office-holder acquires special legal rights which exist independently of their exercise. The Senator, for example, has the legal right to pass tax laws — meaning that the State will back him up if he does so. A particular Senator (e.g., a libertarian) may never actually vote for a tax bill, but he has the legal right nonetheless. The privilege resides in the office.

A person elected to high political office allies himself with the power of leviathan. He voluntarily seeks and successfully achieves the privileges of political office which permit him to aggress against his neighbors — privileges enforced by the State.

Such a person is a dangerous threat to innocent persons everywhere. Not only has he captured a position of immense power, but he also swears an oath of allegiance to the Constitution and accepts payment (i.e., stolen money) for "services rendered." When a person voluntarily seeks and attains invasive power, swears to enforce the rules that maintain his power, and receives a handsome salary to boot, the conclusion is inescapable: this person has become a full-fledged member of the State. He accepts its privileges, pledges his loyalty, and reaps its rewards. The protest of the libertarian office-holder — that he intends to use his power for beneficent ends — is beside the point. His actions speak louder than words. He has joined the "ruling class."

## XI. The Ruling Class

In the tradition of Mosca and Pareto, libertarian anarchists embrace a theory of the ruling class based on political, rather than economic, criteria. Those who hold positions of significant political power, according to this view, are members of the "ruling class."

Political anarchists are hard-pressed to reconcile their ruling class theory with their advocacy of political action. Political criteria for the ruling class will include libertarian politicians in their purview. The specific behavior of politicians does not determine whether they are part of the ruling elite. (A congressman does not leave the ruling class when he votes correctly and re-enter when he votes incorrectly.) Rather, those who hold significant positions of power in the State belong to the ruling class, regardless of what they do with their power. This includes libertarian office-holders.

Ruling class theory is just one of many areas where the political anarchist dodges the implications of his *own* theories. Sooner or later these issues must be confronted. Is the libertarian congressman objectively a member of the ruling class? If not, why not? If so, then presumably a "ruling class" is not necessarily evil or undesirable by anarchist standards. This, too, requires some explaining.

## XII. The Paradox of Liability

In the earlier parts of this essay I touched on an important

subject without examining it in detail. Why is it, I asked, that "anarchists often impute greatest liability to the highest levels of political decision-making (presidents, legislators, etc.), even though these levels are far removed from physical enforcement"? I suggested that such judgments occur within an institutional framework, according to the role played by political offices in sustaining State power. We are now able to expand on this insight.

We are addressing what I call the "paradox of liability." As we ascend the hierarchy of political offices we become more distant from the enforcement arms of government. But we also come closer to those persons who are, in a sense, most responsible for the State's invasive activities. (As I pointed out in Part Two, "There were more condemnations of President Johnson during the Vietnam War than of individual bomber pilots.")

Perhaps ascribing liability to high political offices is a mistake. Perhaps anarchists should blame only those who literally use physical violence (which would exonerate Hitler, Stalin, and others of their ilk). This approach causes more problems than it solves, however, not the least of which is the gutting of anarchist theory. It is safe to assume that most anarchists subscribe to some version of the liability paradox.

But does this paradox make sense? Should not the person who actually *commits* a crime be more liable than the politician who authorizes or commands it? In a sense, yes. A soldier who kills innocent civilians is guilty of murder, pure and simple. He is fully liable for his action. But the invasion of the individual soldier is relatively limited in scope. He may murder, but he does not determine the *policy* that authorizes murder on a vast scale. This is a privilege reserved for high political office (in most cases).

In a war crimes trial, President Johnson would not be as liable for a particular murder as the person who physically committed the act. But Johnson shares *some* liability for a vast number of similar acts. His *degree* of liability for a particular murder may be less, but his *range* of liability is far greater.

Consider another example: the tax agent who physically expropriates the property of a tax resister or drags him off to jail. Would congressmen who support taxes be as culpable as the tax agent who actually commits the foul deed? Probably not. They would be accomplices rather than principals. But the congressmen are accomplices to *many* such invasive acts — far more than can be perpetrated by a single agent. Although the degree of liability may be less for the congressmen than for the perpetrator, the scope of liability is far greater.

This is only a suggestion. A libertarian theory of liability awaits more work before any solution to the liability paradox can hope to be securely grounded. But I think my suggestion is a plausible step in the right direction. Its two components may be summarized as follows:

First, high political offices possess greater power (more privileges and wider discretion to dispense power) than enforcement personnel. Fundamental decisions are made at this level; this is where invasive *policies* originate.

Second, because the decisions of political office-holders are more *fundamental*, they are also more *general* in scope than the decisions of enforcement personnel. Their applicability is broader, because political decisions reverberate throughout the State and throughout the territory over which it claims sovereignty. Thus, when we say that President Johnson was "more responsible" for murders than individual bomber pilots, we mean: (1) President Johnson, utilizing the power of his office, made *fundamental* decisions that set the

their move, then it became newsworthy and this is the way the press has been. The government makes its move, it is newsworthy; resistance continues, it is not newsworthy. The government makes another move, it is newsworthy. You know, maybe it is just the fact that they tend to wait for the government to hand them the story and then they print it. It varies. All newspapers are not this way, but most of the ones I have been in contact with are very much in tune with the government and not so much in tune with what the people believe is news.

V: You have said elsewhere that you didn't go to court because it would constitute sanctioning the system, acknowledging its authority.

PJ: Exactly.

V: Do you think Sasway and Wayte made a mistake in going to court or do you see value to what they did?

PJ: I think you could say fairly that Sasway made a mistake. I think they both made a mistake, not a moral mistake so much as a strategic one. Wayte's mistake was obviously lessened by the fact that the indictment was dismissed. But if registration can be beaten in court, it sends a message to 18 year olds, "Hey, you don't have to worry so much after all." It looks like they could lose easily on appeal but, at least for the publicity he got, it has been very helpful.

V: But for you, the decision to bypass the court system was a moral, not a strategic one?

PJ: Right. To go to court is to allow the men who have been appointed by politicians who started the program in the first place to decide whether you are innocent or guilty. Just because they put on black robes doesn't mean they have a right to decide our innocence or guilt. And what they are deciding on is a legal system for which, by our very act of not registering, we show no respect. We are concerned with justice. They are concerned with legality. There is a big difference between the two.

V: If you are apprehended, have you made any plans for dealing with the court?

PJ: Yes, I have made plans. I don't see anything wrong morally with raising pretrial arguments. In other words, if I was apprehended, I would argue or have a lawyer argue in a pretrial hearing that I was selectively prosecuted for being the head of a political party, that I didn't have a continuing duty to register, that the program was instituted 21 days after the regulations were printed in the Federal Register and federal regulations say it has to be printed 30 days after. I would use those pretrial arguments to say they have no right to take me to court. But, once I was in court, I don't even know if I would speak. I definitely would not have a lawyer and, if I were free, if I weren't chained, I would get up and walk out as often as I could. You know, there is no reason for me to be there. I am obviously guilty. As I said in my press statement, I am guilty of placing my individual freedom above the State power and I will do so every chance I get. Once I am taken to court and put before a judge to decide whether I am innocent or guilty, to me, it is a farce and I will not participate.

V: Is the FBI actively seeking you?

PJ: As far as I know, yes. There is no way to know how actively they are seeking me. Obviously, they have not gotten close enough to grab me. I don't want to wait around to find out how close they are. But I know from at least one experience that they are actively investigating. A contact had a car parked outside his house for a couple of weeks—a black sedan with a big antenna. When he asked the police to check

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"Paul" continued from page 6

it out, they said it was "legitimate". I think this means a policeman or a federal agent of some kind. There were other telltale signs that they are actively seeking my arrest.

**V:** How effective do you think the FBI is at tracking down non registrants?

**PJ:** If people don't register and don't make public statements about their refusal to register, I don't think there is anything to worry about. I don't think they will ever be harassed or prosecuted in any way. If they do make public statements, they stand a good chance of eventually being contacted and perhaps prosecuted. As for going underground and avoiding prosecution, I feel that any day I decide to cut all contact with the LP, the media and my family, they stand absolutely no chance of catching me. I could stay underground forever and a day as long as I didn't contact those three groups. But wanting to continue to speak out and add my weight to the resistance, I will try to continue contact with those three groups. If someone doesn't want to register and, once prosecution begins, decides they don't want to continue to be vocal, they stand almost a perfect chance of avoiding prosecution.

**V:** How long do you think you can live underground?

**PJ:** I think I will stay underground for as long as it is making a valid point, for as long as it is worthwhile. The point I have been trying to make is, for one, that the court system is not a place to find justice and, therefore, should be avoided by anyone who is truly seeking justice. Secondly, I want to make the point to 18 year olds that if you are not vocal and you are a nonregistrant you stand no chance of being prosecuted. But even if you are vocal, it is not a certainty that you are going to go to jail. You can avoid prosecution just as you avoided registration. Basically, as long as I think those two points are important to make and the first one will remain important—at no time will I march into court and say, "Let's decide this", so the first one is always important and the second one will continue to be important—as long as what I am doing is accomplishing something, I will stay underground. After that point, I will have to make a decision.

Various functions are required to maintain an association and promote its aims. These functions, when standardized, constitute statuses which are usually referred to as offices. An office consists of the delegated administrative, executive, supervisory, and ceremonial functions belonging to an association (whether public or private, official or voluntary). It comprises prescribed, institutionalized duties and comparable rights and privileges . . . The office is an expression of the special aim or aims of the association . . . In each type of association the authority of an office is derived from the aim to which the association is committed, the authority proceeding from the higher to the lower ranking positions . . . An office . . . is an established system of social relations which constitutes a part of the social organization. By entering [an office] the incumbent is required to play the specified part in maintaining the given social structure.

The highest legislative, executive, and judicial offices are the incarnation of sovereignty. This was obvious to the framers of the Constitution, even if it escapes many political libertarians. Assertions of sovereignty precede the enumeration of powers for each branch of government. To wit:

Art.I, Sect.1: "All legislative powers herein granted shall be vested in a Congress of the United States . . ."

Art.II, Sect.1: "The executive power shall be vested in a President of the United States of America."

Art.III, Sect.1: "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." Note well the wording. "All legislative powers," "The executive power," "The judicial power." An absolute monopoly of these functions is proclaimed at the outset — a monopoly enforced at the point of a gun. No competition can ever be permitted at this level. The State could abandon its monopoly on virtually every "public service" and yet remain a sovereign entity. But it cannot surrender its monopoly of political decision-making without surrendering its sovereign lifeblood.

Major political offices thus embody the basic claim of sovereignty: that members of the State have the sole legal right to rule a certain territory. If power reflects a spirit of arrogance — the impertinence that one person has the right to tell another person how to live — then political office is the body in which that spirit dwells.

Suppose a libertarian Senator votes against every piece of invasive legislation. Can he be held accountable for that legislation, if it passes despite his opposition? No. But that Senator is responsible for sustaining State power on a more fundamental, if less obvious, level. In filling his role as Senator — taking his oath of office, exercising his monopoly privilege to decide how we shall be ruled, etc. — he furthers the basic institutional goal of the State: territorial sovereignty. By accepting the framework in which the State operates, by capitulating to its conditions and demands, by voluntarily joining the "ruling class," thereby acquiring legal privileges backed by leviathan — in a myriad of ways does the libertarian politician do all that the State requires of him.

The libertarian politician, brimming with good intentions, believes that he will use the State to further his ends. The sad truth is that the State will use the libertarian politician to further its ends.

(To be continued)

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"Ethics" continued from page 6

State apparatus in motion. (2) President Johnson was responsible, to whatever degree, for a *broader* range of casualties (a greater number of murders) than any individual bomber pilot.

### **XIII. Political Offices as the Manifestation of Sovereignty**

The paradox of liability helps us to understand how political offices bolster State sovereignty. High offices are distinguished by their fundamentality and scope. Therefore, we may reasonably expect territorial sovereignty — the fundamental goal of the State — to be embodied in the most powerful offices. This is indeed what we find. The guardianship of State sovereignty is the most significant institutional role of high offices. They are designed to preserve and promote that sovereignty; and this purpose is served regardless of who occupies the office, so long as the occupant meets the demands of his job. (See the discussion of the auto worker in Part Two.)

E.T. Hiller, in *A Study in Principles of Sociology* (Harper and Row, 1947, pp.581-6), describes the relation between offices and the association they comprise:

## THE BULLETIN BOARD

*The Voluntarists* have been busy. The following is a report of both past and upcoming events.

### **FEB. 26: Symposium on "The Politics of Non-Violent Action"**

More than 50 libertarians met in New York to listen to Dr. Gene Sharp deliver two brilliant talks concerning nonviolence and the nature of political power. This was a one day conference sponsored by *The Voluntarists* and *The Center for Libertarian Studies*. Commentators included Carl Watner, Chuck Hamiton, Leroy Pelton, Richard Curry, Mark Brady and George Selgin. The conference was taped and copies are available.

### **MARCH 17: Orange County Supper Club (Los Angeles).**

George Smith delivered a talk entitled "Voluntaryist Strategy" before a group of about 40. This talk, which we hope to publish in a future issue of this newsletter, should be available on cassette tape. This is the first in a series of strategy presentations which *The Voluntarists* have in mind.

### **MAY 7: LP Politics vs Voluntaryist Strategy (Los Angeles).**

A one day conference is being sponsored by *The Voluntarists* and *Rampart Institute* to discuss the issues raised in George Smith's series, "The Ethics of Voting."

## ON-GOING STUDY GROUPS:

Carl Watner is conducting a "free university" class in "voluntaryism" at Johns Hopkins University in Baltimore, Maryland. Classes begin on March 16 and will run for 8 weeks.

Two groups, one in the planning stages and the other conducting on-going meetings, are dealing with the nonviolent strategies suggested by Gene Sharp. A Los Angeles area study group, organized by Wendy McElroy and George Smith, has been meeting since late January and have been using Sharp's *The Politics of Nonviolent Action* as their text. Dyanne Petersen and Chuck Hamilton in New York City are organizing a similar study group.

For further information regarding cassette tapes or study group information, please contact *The Voluntarists*.

Carl Watner

### Statement of Purpose

The Voluntarists are libertarians who have organized to promote non-political strategies to achieve a free society. We reject electoral politics, in theory and in practice, as incompatible with libertarian principles. Governments must cloak their actions in an aura of moral legitimacy in order to sustain their power, and political methods invariably strengthen that legitimacy. Voluntarists seek instead to delegitimize the State through education, and we advocate withdrawal of the co-operation and tacit consent on which State power ultimately depends.

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### **No. I — PARTY DIALOGUE**

by: George Smith

A Voluntarist critique of the LP and political action.

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### **No. II — VOLUNTARYISM IN THE LIBERTARIAN TRADITION**

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by Wendy McElroy

An explanation of the Voluntarist insight.

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