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# The Voluntaryist

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

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## Property Rights and Free Trade in Ideas

by George H. Smith

### I. Introduction

It is well known that the early struggles for liberty occurred in the realms of religion, especially after the splintering of European Christendom caused by the Protestant Reformation. Historians tell us that the wars of religion in the sixteenth and early seventeenth centuries convinced many political theorists of the need for religious pluralism. The cost of imposed uniformity had become too great.

The theoretical justification for religious toleration is often attributed to the rise of religious rationalism and philosophic skepticism. The nineteenth-century historian W.E.H. Lecky gives a typical account of the relation between skepticism and toleration. If truth cannot be known with certitude, then persecution for religious error is futile. No one person or group can claim access to religious certainty, so no one person or group should force others into submission.

This account of religious toleration has serious flaws. First, it overlooks the firm commitment of many religious believers, including "fundamentalists," to religious toleration. These believers were convinced that they possessed religious certainty, so their defense of toleration was not based on philosophic or religious skepticism.

Second, if the defense of toleration is grounded in skepticism, then ominous implications follow if this skepticism is rejected by the powers that be. If an atheistic regime claims certainty on scientific or philosophic grounds, does it then have a right to impose this atheism through legal means? The skeptical argument for toleration suggests that liberty is justified only if skepticism is correct.

In this paper I shall examine two arguments for freedom of conscience and religious toleration. There is, first, the moral argument based on property rights, specifically, the argument that every individual has "property in his own conscience." There is, second, the social argument that diversity of religious belief is desirable, and that from the conflict and competition of religious ideologies, truth will spontaneously emerge.

The moral argument derives from the notion of self-proprietorship, or property in one's person, as John Locke put it. "Property," in this context, does not mean an item of property, or something owned. It means instead the moral right of jurisdiction, the right to use and disposal. It is typical of seventeenth and eighteenth century thought to see the phrase "property in one's person" or "self-proprietorship." An interesting example of the crucial role played by this concept is seen in James Madison's argument against sabbatarian laws. Laws restricting activity on Sunday, Madison argued, violate property in one's time.

If the moral argument has received a fair degree of attention from intellectual historians, the same cannot be said of the social argument. The argument that truth will somehow emerge from the free play of ideas is an extremely common one, but rarely is it seen in its broader context: as a variant of a spontaneous order model, where truth emerges from the voluntary interaction of individuals

without a central planner or established church overseeing the process. Truth, in this model, is an unintended consequence of a complex social process.

The spontaneous order argument for religious freedom is found as early as the seventeenth century, but it normally appears without an explicit statement of its theoretical foundation. After the late eighteenth-century, however (especially after the publication of *The Wealth of Nations*), the link is often drawn explicitly. As spontaneous order arguments became more sophisticated in the nineteenth century, the idea of "free trade in religion" became the battle cry for English dissenters fighting for the disestablishment of the Church of England. And the social consequences of free trade in religion were viewed in the same light as the social consequences of free trade in commerce. Unintended but socially beneficial results would flow from competition in both realms.

Among nineteenth-century Liberals, Herbert Spencer was the premier theorist of spontaneous order. Much of his later work on sociology is an elaborate defense of the spontaneous order model. But the emphasis on unplanned order is evident in his early work as well, including "The Proper Sphere of Government" (1842) — Spencer's first political article, which appeared in Edward Miall's journal, *The Nonconformist*. This article refers to unplanned order and unintended consequences at various points, and it is interesting to note that spontaneous order receives greatest stress in Spencer's defense of religious liberty.

"Instead of finding minds similar," Spencer notes, "we find no two alike — unlimited variety, instead of uniformity, [is] the existing order of things."

Varied mental constitution produces variety of opinion; different minds take different views of the same subject; hence, every question gets examined in all its bearings; and, out of the general mass of argument, urged forward by antagonistic parties, may sound principle be elicited. Truth has ever originated from the conflict of mind with mind; it is the bright spark that emanates from the collision of opposing ideas; like a spiritual Venus, the impersonation of moral beauty, it is born from the foam of the clashing waves of public opinion. Discussion and agitation are the necessary agent of its discover . . .

Later we shall see how the free trade analogy was used extensively by radical dissenters to defend freedom of conscience, and how truth was viewed as an unintended consequence of competition in ideas. But first some conceptual distinctions need to be drawn and a broader historical context provided.

(1) Thomas Paine, among others, distinguished "religious toleration" from "religious liberty." Toleration implies a favor bestowed by government, a permission granted to the individual. Religious liberty, on the other hand, entails a natural right to practice religion as one sees fit. Governments should protect this right, but the right is based on the nature of man; it is not bestowed by government.

This distinction is useful, but there is another crucial distinction that is found less frequently among defenders of religious liberty. This is the distinction between liberty of *conscience* and religious liberty. The former is far broader than the latter. Many radical dissenters began with liberty of conscience and then derived freedom of religion, as well as freedom in other spheres, from this underlying principle. Hence they opposed state charities, state schools, and so forth, on the same ground on which they opposed a state church: all coercive establishments which violate liberty of conscience should be opposed.

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(2) This essay confines itself primarily to English theorists. This is done for a specific purpose. Historians have called attention to the fact that radical movements in England, including libertarianism, exhibit a purity and consistency that are sometimes missing in their American counterparts. It is suggested that Americans were more pragmatic than Englishmen and therefore more willing to temper and compromise principles for practicality.

Whatever the merits of the explanation, the initial premise is generally true where discussions of religious liberty are involved. The moral and social implications of liberty of conscience and religion are covered more elaborately, and with more attention to fundamentals, in nineteenth-century England than in nineteenth-century America. The fact that English dissenters were struggling against an Established Church undoubtedly accounts for some of this.

But I suggest that another factor was operating, which makes England a more interesting field of study from a purely philosophic perspective. After ratification of the U.S. Constitution, church-state controversies in America typically revolved around Constitutional arguments, especially the Bill of Rights and its prohibition of a religious establishment. Consequently, arguments in nineteenth-century America are often legalistic and resort to legal precedent and the intentions of the founding fathers.

English dissenters faced a different situation entirely. England had no written Constitution; the so-called British Constitution referred either to the structure of the British government (its division of powers into Lords, Commons, and King) or — more relevant to our study — to various written and unwritten precedents (e.g., the *Magna Carta* and the Common Law).

English libertarians had no Constitutional amendment to which they could appeal. And, to the extent that appeal could be made to the British Constitution, it clearly favored an established Church. An established Church enjoyed legal precedent of long-standing in England.

This forced English dissenters to develop moral and social arguments in favor of liberty of conscience and religion. Elaborate theoretical systems were required to combat an established church grounded in legal tradition. Legalistic arguments gave way to moral, social, and political arguments. This, I believe, is why we find a greater stress in England on moral principles and spontaneous order, and on theoretical considerations generally. This is also why English thought is more interesting historically. If we wish to bypass constitutional interpretations peculiar to one country and focus instead on moral and social underpinnings, English thought provides an ideal case study.

(3) I previously distinguished between liberty of conscience and religious liberty. This is important to understand the rationale behind an Established Church and, more important, to understand why English dissenters felt betrayed by secular free-traders (Richard Cobden being the most famous case) who were allies in opposing religious and commercial restrictions, but who came out strongly in support of state schools in England.

Many Classical Liberals were rationalists who rejected the doctrines of Christianity. When a John Morley or J.S. Mill opposed the established church, they did so under the banner of freedom of religion. When dissenting (i.e., non-Anglican protestant)

Liberals opposed the established church, they usually did so under the banner of freedom of conscience. These principles coincided in many cases, which allowed the dissenters to ally with their secular colleagues when it came to battling the corn laws or the Church of England.

But the movement for state education in England found strong support among non-Christian Liberals, such as Morley, so long as that education remained secular in content. Secular state education, it was argued, avoids the inculcation of denominational values and thereby circumvents the problem of religious liberty.

But state schools were viewed in an entirely different light by radical dissenters (who, by this time, were defending what they called the "voluntary principle" and were labeling themselves "voluntaryists"). State schools violated liberty of conscience as surely as a state church. So-called religious neutrality in state schools was beside the point. To force a man to pay into a system of which he disapproves, when nonpayment does not involve a violation of rights, is to violate liberty of conscience.

That education should be open to competition for the same reasons as religion was forcefully expressed by Algernon Wells, a voluntaryist who was active in the Congregational Union. To the opponents of religious instruction undertaken by voluntary means, Wells replied:

There is no toleration for the men who would work denominationally in education, though voluntarily, and altogether with their own resources. Let those who would teach on their own peculiar views with money forced from opponents of these very views, by the power of the State, defend themselves as best they may, or can. Their defense is not undertaken here.

The advocates of religious and voluntary education have, then, a fair right to exhort their opponents to "go and do likewise." Form your associations, contribute your money, organize your schools, and show your more excellent way. You are the natural guardians of those who dislike the sects, and repudiate religious teaching. Some of you reject our religion altogether; all of you disapprove of our use of it in the schools we maintain. Be it so. The fair remedy is not to force us by law to support another form of education, which you approve, and we do not — but it is to work freely with your own money, as others do — neither forcing, nor forced. Your co-operation will be hailed. Your competition will be welcomed.

... Those who prefer the sects will resort to their schools. Those who dislike the sects will resort to yours. A fair field and no favor.

Historians of Classical Liberalism in England assign various reasons for its demise. One cause rarely mentioned is the splintering of organized liberalism after the repeal of the corn laws in 1846. The Anti-Corn Law League was an elaborate network with strong backing among radical dissenters. To what cause would this machinery be put after the corn-law fight ended successfully? Richard Cobden made the worst choice imaginable. He wished to put the organization behind the fight for state education. The voluntaryist dissenters felt betrayed by their hero, and a bitter debate ensued. Dissenting journals, such as the *Eclectic Review*, encouraged voluntaryists to break from their untrustworthy leader and form their own political organizations. Never again did Cobden enjoy clout as the leader of organized liberalism. Never again did liberalism enjoy the unity and strength exhibited during the 1840s.

With these preliminary observations, let us now turn to some historical detail. We shall begin with the opinions of Voltaire on the social underpinnings of religious toleration.

## II. Voltaire and Religious Toleration in England

In 1725 the young Voltaire, born to a middle-class family, was France's premier poet and wit, rubbing shoulders with nobility. But he could have harbored few illusions about the risks involved when one born of the middle class offended royalty or nobility. He had previously spent nearly a year in the Bastille for allegedly authoring a satire on the late Sun King, Louis XIV.

Now, at a party, he encountered one of the many noble non-entities who inhabited Paris in those days, the Chevalier de Rohan. Rohan insulted Voltaire, and Voltaire made the mistake of

responding with his savage wit. Rohan responded not with words but with blows. He lured Voltaire from a party in 1726 and watched while his lackeys administered a beating to Voltaire. Voltaire not only lacked any legal recourse against this nobleman, but he later found himself imprisoned once again the Bastille at the behest of Rohan. Some months later Voltaire convinced the French government to commute his sentence to exile, which permitted him to travel to England.

Voltaire's visit to England changed his life, and it was destined to change the face of Europe. The eighteenth-century has been called the century of Voltaire — if anyone may be called the father of the French enlightenment, it is Voltaire — and it was during his years in England that Voltaire imbibed many of the ideas that he was to take back to France, and which constituted the intellectual substance of the French Enlightenment.

Compared to France's repressive atmosphere, England was a breath of fresh air. Voltaire was enchanted with its philosophy, science, institutions — and, above all, with its sense of independence and liberty. Voltaire published openly in England what he could only publish clandestinely in France. (Most of Voltaire's works were published underground in France.)

Voltaire idolized the science of Newton and the philosophy of Locke, and was to play a major role in spreading their ideas in France. His reading of the English deists provided much of the ammunition he later employed against Christian orthodoxy. But, perhaps more than anything else, Voltaire is remembered as a tireless champion of religious freedom, and the remarkable degree of religious liberty he observed in England (not absolute by any means, but we are speaking in the context of the early eighteenth century) inspired him to analyze why England enjoyed liberties which France lacked. These speculations were published in his important work, *Philosophic Letters*.

Voltaire wished to penetrate beyond surface appearances. He knew that religious toleration was a product of complex forces. Ideas were important, as were the embodiment of ideas in law, but there was more. England lacked the rigid class structure of his native France. The English nobility was small compared to France, and it did not possess the same legal privileges. Upward mobility was common in England, and there was a strong and industrious middle class. Business and commerce, spurned by the French aristocracy, were greatly admired in England. If England was a nation of shopkeepers, this was for Voltaire no insult but the source of England's prosperity and liberty. "The English sell themselves," he wrote, "which is a proof that they are worth something; we French do not sell ourselves, probably because we are worth nothing."

Central to Voltaire's analysis was his belief that Britain's developing market economy was a key to its religious liberty. When individuals are engaged in trade for mutual benefit, their religion becomes irrelevant. The desire for profit is stronger than religious prejudice. Wrote Voltaire:

Where there is not liberty of conscience, there is seldom liberty of trade, the same tyranny encroaching upon commerce as upon Religion. In the Commonwealths and other free countrys one may see in a sea port, as many religions as ships. The same god is there differently worshipped by jews, mohametans, heathens, catholics, quakers, anabaptists, which write strenuously one against another, but deal together freely and with trust and peace: like good players who after having humoured their parts and fought one against another upon the stage, spend the rest of their time in drinking together.

"The commerce that has enriched the citizens of England," Voltaire argued, "has helped to make them free, and that freedom in turn has encouraged commerce: this has produced the greatness of the state." The *Philosophic Letters*, which Voltaire later characterized as "the first bomb thrown at the Old Regime" (predictably, it was banned in France) was a defense of open, middle-class England against a caste-ridden, aristocratic France. The French aristocrat sneered at the middle-class merchant. "Still," Voltaire wrote, "I do not know who is more useful to a state.

a well-powdered seigneur who knows precisely at what hour the king arises, at what hour he goes to bed and who gives himself airs of greatness in playing the role of slave in the antechamber of a minister, or a merchant who enriches his country, and gives from his office orders to Surat and Cairo, and contributes to the well-being of the world." In what is probably the most famous passage of the *Philosophic Letters*, Voltaire summarizes the crucial role of economic freedom in furthering religious harmony:

Enter the London stock exchange, that place more respectable than many a court. You will see the deputies of all nations gathered there for the service of mankind. There the Jew, the Mohammedan, and the Christian deal with each other as if they were of the same religion, and give the name of infidel only to those who go bankrupt; there, the Presbyterian trusts the Anabaptist, and the Anglican accepts the Quaker's promise. On leaving these peaceful and free assemblies, some go to the synagogue, others go to drink; this one goes to have himself baptized in the name of the Father, through the Son, to the Holy Ghost; that one has his son's foreskin cut off and Hebrew words mumbled over the child which he does not understand; others go to their church to await the inspiration of God, their hats on their heads, and all are content.

In the nineteenth century Karl Marx attacked the market economy for its supposedly impersonal nature; a market exchange, Marx contended, reduces human labor to commodities. Ironically, the impersonal nature of the market was for Voltaire — as well as for many others of his time — the source of its greatness. The ability to deal with others impersonally, to deal with them solely for mutual profit, means that personal characteristics, such as religious belief, become largely irrelevant. When Oliver Cromwell readmitted Jews to England in the 1650s for the first time since the middle ages, he did so as much because he valued their skill as merchants as from any deep love of toleration. Holland, England's chief commercial rival, did not indulge in such prejudice, and neither could England if it was to compete in world markets. When commerce was despised, when lending money at interest could be roundly condemned as usury, Jews could be persecuted. But as economic views changed, toleration came in its wake.

### III. Religious Toleration in the Seventeenth Century

England in the 1640s saw the culmination of decades of hostility between the Stuart Monarchy and its opponents, resulting in the English civil wars (sometimes called the Puritan revolution) and the beheading of Charles I in 1649. The term "Puritan" is misleading, suggesting a uniformity of opinion among the English revolutionaries that was by no means present. Opponents of the Stuart reign included Presbyterians — who during their control of Parliament proved as oppressive as the Anglican church had been — and Independents (later called Congregationalists), who were more sympathetic to toleration. Independents elected their own ministers and stressed the voluntary nature of church membership. (These facts alone made them radicals in the eyes of the Established Church of England.)

Then there were the "sectaries" — a bewildering variety of radical groups popular among the lower classes. These included Ranters, Seekers, Quakers, Muggletonians, Socinians, Anabaptists, Brownists — the list seems endless. Many of these sects were heavily mystical and anticipated the millenium, and their religious doctrines often veiled political views of surprising radicalness (for example, the Quaker disdain for political authority).

The 1640s saw the breakdown of government licensing and censorship, resulting in an enormous flood of radical literature. This period is surely one of the most fascinating in this history of printing. An amazing variety of views were presented, from religionism of the most irrational variety to overt religious skepticism and rationalism. As historians like Christopher Hill and Keith Thomas have demonstrated, however much the upper classes in English society had tried to instill piety and reverence in their supposed inferiors, unorthodoxy and unbelief were

widespread, and they bubbled to the surface in the 1640s.

Contemporary ministers who complained of the rampant "atheism" (a general term to describe any kind of religious unorthodoxy) in their parishes may not have been exaggerating. In 1616 a Worcestershire man said that the word of God was but man's invention. In 1633 Richard Sharp was accused of saying "there is no God and that he hath no soul to save." From Durham in 1635 came the case of Brian Walker who, when asked if he did not fear God, replied, "I do not believe there is either God or Devil; neither will I believe anything but what I see." The list of such statements from the lower classes is quite extensive, and it is impossible to say how many other people shared similar views but did not express them.

The reaction of the religious establishment, whether Anglican or Presbyterian, to such views was predictable. They should be stamped out, and the State should not permit the publication of books and pamphlets which peddle dangerous heresies. Of course, this was not just a religious matter; it was also, and perhaps primarily, a political one. The function of a State church was to maintain the political status quo; an established church taught the values and habits necessary for passive obedience of the lower ranks. "Religion is the only firm foundation of all power," Charles I had said. Bishop Goodman agreed: "The church and state do mutually support and give assistance to each other." Or, in the blunt words of another observer of the time, "The state pays the clergy, and thus they have dependence upon the state." To challenge the established church was to challenge the foundation of the social order.

Thus emerged the great debate on religious toleration and freedom of the press in England during the 1640s — the first time in Western civilization that such issues had been so thoroughly discussed. This period saw the publication of John Milton's passionate plea for liberty of the press, the *Areopagitica*. It also saw more radical calls for religious freedom, such as Henry Robinson's tract, *Liberty of Conscience* (1643).

The historian W.K. Jordan, in his monumental four-volume work, *The Development of Religious Toleration in England*, says of Robinson: "His devotion to religious liberty was complete and his perception of its full meaning almost unique in his century." He was probably the first Englishman to call, not only for religious toleration (which still grants to the State control over religion), but for full religious liberty (religion and the State totally separate). Unlike Milton, who did not extend toleration to Catholics and even unlike John Locke who, four decades later, still refused to extend his principles of toleration to Catholics and atheists, Robinson advocated unqualified religious liberty for everyone — Catholics, atheists, everyone.

Who was this little-known Henry Robinson? A noted philosopher or theologian perhaps, or a religious martyr? No, he was an English merchant, whose major interest lay in promoting English free trade. Like many of the opponents of the Stuart reign, he opposed many of the mercantilist regulations on commerce, regarding them as destructive to the prosperity of England. Protective regulating benefitted a few privileged merchants at the expense of the country, and Robinson wished these regulations to be lifted. He seemed little interested in religion itself, and even a bit skeptical. Religious controversies, he argued, distracted Englishmen from the crucial issue of prosperity; and the peace brought about by religious liberty would allow the country to get back to the business of business.

Not surprisingly, therefore, Robinson's argument for freedom of religion was essentially an argument for free trade in ideas — "free trading of truth" were his exact words. Liberty of conscience, for Robinson, was a right of property in one's own conscience. And just as the forced regulation of commerce results in disaster, so the forced regulation of ideas, including religious ideas, results in disaster. Ideas, like commerce, should not be forced.

What of the supposed need for religious uniformity, so vigorously defended by defenders of religious persecution?

Robinson was among the first to deny this premise. From the free competition of ideas, he argued, truth will emerge; suppress ideas, even wrong ideas, and truth will suffer. Competition, whether in commerce or ideas, produces vitality and life; imposed uniformity produces stagnation and death. Robinson opposed central planning and control of the economy (like many Stuart opponents); and his arguments in behalf of religious liberty represented an application of these views to the sphere of ideas.

Consider the argument that truth will emerge from the free competition of ideas. This argument was repeated by John Milton and by virtually every defender of free religion and a free press thereafter. But what does this argument really mean? How can we rely on the triumph of truth in a free market of ideas when there is no regulator, no expert or central planner, to see that things go as they should? A merchant and advocate of free trade like Henry Robinson was quite familiar with this kind of argument. It was the kind of argument popularized by Adam Smith 130 years later, when, in *The Wealth of Nations*, he spoke of the unintended consequences of everyone pursuing their own economic interests. Through an invisible hand process, as Smith called it, merchants and businessmen pursuing their own selfish interests unintentionally benefit society at large, although this was no part of their design. The truth emerging from the competition of ideas is likewise an unintended consequence. It emerges spontaneously, without the planning or regulation of any single mind.

This connection of free trade in ideas to free trade in commerce was obvious to the defenders of religious liberty during this period. This was especially true of Protestant defenders of a free press, who attributed the success of the Protestant Reformation largely to the existence of printing, and who recognized that their Catholic opponents were among the most ardent advocates of press regulations and licensing. John Milton also relied on the free trade analogy: he refers to "the incredible loss and detriment that this plot of licensing puts us to; more than if some enemy at sea should stop up all our haven and ports and creeks, it hinders and retards the importation of our richest merchandise, Truth."

The free trade argument was utilized in another way. Robinson, Milton, and others maintained that a State Church was nothing more than a monopoly enforced by law. And if anything would bring fire to the eyes of the radical anti-Stuarts, it was the word monopoly. The monopolies established by the English monarchy had been a major grievance of theirs for decades.

Monopolies were sold by the crown in industry and trade to Court favorites, who would then have the exclusive privilege of dealing in that trade, excluding competitors by the force of law. The sale of monopoly privileges brought a considerable income to the crown (in the late 1630s it was generating nearly £100,000 per annum); and of course it produced considerable fortunes for the monopolists, who could charge exorbitant prices without fear of competition. Monopolies permeated the entire economy; in 1621 there were 700 of them. In 1601, when a list of monopolies was read in Parliament, a member sarcastically asked, "Is not bread there?" Maybe bread wasn't, but virtually everything else was. A brief list would include: bricks, glass, coal, iron, tapestries, feathers, brushes and combs, soap, starch, lace, linen, leather, gold thread, beaver hats, belts, buttons, pins, dyes, butter, herrings, salmon, lobsters, salt, pepper, vinegar, wines and spirits, tin, hops, barrels, bottles, ale-houses, tobacco, pipes, dice cards, lute-strings, pens, paper, candles, books, rags, gunpowder, saltpetre, coaches, lighthouses and mousetraps.

An established church was seen as a smokescreen for monopoly, a means to prevent competition and thereby feather the nest of privileged churches who did not have to compete for customers.

The privileged clerics replied — as they were to reply for the next two hundred years — that their services were too important to be subjected to the uncertain whims of the marketplace and consumer sovereignty. They knew what was best for the rabble and were above the crass materialism of supply and demand.

Consider some additional argument by Milton. If censorship is justified as preventing vice, Milton argued, then where are we to draw the line? This principle leads ultimately to tyrannical control over the lives of individuals. "If we think to regulate printing, thereby to rectify manners, we must regulate all recreations and pastimes, all that is delightful to man. No music must be heard, no song be set or sung, but what is grave and Doric. There must be licensing dancers, that no gesture, motion, or deportment be taught our youth but what by their allowance shall be thought honest." *Etc.* Censorship and licensing, Milton argued, captivates "man under a perpetual childhood of prescription," whereas reason — God's gift to man — demands that man should "be his own chooser." Virtue cannot be brought about by enforced ignorance. Only through a knowledge of evil can a true knowledge of good — and true virtue — arise. "That which purifies us is trial, and trial is by what is contrary."

Milton, with his stress on man's autonomy and reason, insists on the right of free choice. He does not deny that a free market in literature will produce some evil and wicked books. But as one of the English radicals engaged in the struggle against Stuart absolutism, he was keenly aware of the need for severe restraints on the power of government. "Here the great art lies, to discern in what the law is to bid restraint and punishment, and in what things persuasion only is to work."

Here is the key to what was to become known as Classical Liberalism. Now frequently misunderstood and more frequently denigrated as a heartless and cruel laissez-faire individualism, this world-view had roots deep in the seventeenth century and its struggle for individual autonomy against governmental oppression, especially religious oppression. Freedom of religion was only one facet of a person's right to life, liberty, and property.

Consider the argument for religious freedom presented by the Levellers, the libertarian wing of the Puritan revolution. The Levellers were the first organized party calling for complete religious freedom. Here is how a leading Leveller, Richard Overton, based his argument for individual liberty (1646):

To every individual in nature is given an individual property by nature, not to be invaded or usurped by any; for every one as he is himself, so he hath a self-propriety . . . and on this no second may presume to deprive any of, without manifest violation and affront to the very principles of nature, and of the rules of equity and justice between man and man.

Property rights — rights of moral jurisdiction, or decision making — clearly delimited the power of government. It was a barrier beyond which government could not cross. This was not a constitutional argument, but an argument from natural rights. Unlike many American defenders of free speech and a free press, who appeal to the Bill of Rights, these early defenders built their case on moral, not legal, grounds. (What about other countries without a first amendment?) Their restriction of governmental interference in religion and the press was based on a general theory of the proper functions and limits of government.

Consider the arguments in John Locke's *A Letter Concerning Toleration*, an essay of immense influence. Locke bases his argument on the limited jurisdiction of government, which in turn is based on a theory of self-ownership. In the *Second Treatise of Government*, Locke wrote: "every man has a property in his own person. This nobody has any right to but himself." This leads to his argument for toleration: the only reason that the magistrate is empowered to use violence, argues Locke, is in order to punish "those that violate any other man's rights." He points out that one's religion does not violate another's rights, so it is beyond the scope of law, like other peaceful actions. "In private domestic affairs, in the management of estates, in the conservation of bodily health, every man may consider what suits his own convenience and follow what course he likes best."

Consider the argument that laws regulating religion are necessary to protect individuals from harming themselves (what we today call victimless crimes). Locke falls back on this basic

principle: "Laws provide, as much as is possible, that the goods and health of subjects be not injured by the fraud and violence of others; they do not guard them from the negligence or ill-husbandry of the possessors themselves." Repeatedly Locke says that the law should intervene only when the life or estate (*i.e.*, property) of an individual is threatened by another. If the law is permitted to cross this barrier, "there can be no bounds put to it: but it will in the same manner be lawful to alter everything according to that rule of truth which the magistrate has framed unto himself."

Locke defended religious toleration as one aspect of individual liberty. His defense was not special or peculiar to religion; it was simply an implication, a necessary consequence, of individual liberty based on natural rights. But doesn't this kind of extreme liberty mean that individuals will be free to engage in sin and wickedness? Note well Locke's response. Like Milton before him he does not deny the allegation; he simply considers it irrelevant. "[I]t does not follow that because it is a sin it ought therefore to be punished by the magistrate. For it does not belong unto the magistrate to make use of his sword in punishing everything . . . that he takes to be a sin against God."

Yes, freedom means the freedom to sin, but sin *per se* does not fall within the jurisdiction of law. A rights violation is the clear line of demarcation.

#### IV. Free Trade in Ideas

By the early nineteenth century, English Liberals explicitly defended freedom in religion as one aspect of free trade. We commonly find expressions like "free trade in religion" and "free trade in Christianity" among proponents of Church disestablishment.

One example of this should make the point. In the *Eclectic Review* for July–December, 1838, there appears a review of a book by Thomas Chalmers, *Lectures on the Establishment and Extension of National Churches*. Chalmers was Professor of Theology at the University of Edinburgh and a noted defender of an established church.

So popular — and threatening — had free-trade arguments in favor of Church disestablishment become in the 1830s, that Chalmers considered it necessary to launch an all-out attack on those who are "for the system of free trade in Christianity." (Among economists, Chalmers mentions Smith and Turgot.)

Chalmers does not believe Christianity should be dependent on the law of supply and demand. There is not a sufficient natural demand for religion; it must be supported by contributions — "bounties," in economic terms. Here, the demand does not create the supply; rather, through preaching and education, ministers of religion create a demand for religion what would otherwise be lacking. Hence free trade arguments do not apply.

The anonymous reviewer pinpoints the error in Chalmers' argument. Chalmers confuses voluntary "bounties" with state bounties. Nothing in the free trade principle forbids the former. "[N]othing more can be meant by the free-trade principle in religion, than that *Government* should not interfere to restrict the supply by a jealous monopoly."

Chalmers said, "we do not sell the gospel, but give it," and this is a kind of bounty — the very thing denounced by free trade economists. The dissenter replies:

It is no such thing; it is nothing like what is understood by a bounty, which is a premium paid by government to encourage mercantile enterprises for the ostensible benefit, not of the consumer, but of the producer; and, generally speaking, bounties have been granted to uphold monopolies, and to counteract the effects of beneficial competition. . . . What, in the name of common sense, does Dr. Chalmers understand by the principle of free trade? The epithet has no meaning, in this connexion, but as opposed to injurious monopolies and restrictions. [Free trade] only requires that the State should not embarrass by fiscal restrictions the operations of commerce. Its motto is Laissez-faire. Protect trade, but do not force it by injurious patronage. Let it find its own channels. Do not, by a system of bounties, make the many



pay for the benefit of the few.

Chalmers argues that the object of trade is profit, but profit should not be the object of religious instruction. The reviewer does not disagree with this, but asks: "What has this to do with the question, whether the supply should be *free* — whether, so far as the analogy holds good, the principle of free trade, rather than of monopoly, should be adhered to?"

The reviewer, defending the principle of free trade in religion, correctly notes that Chalmers completely misconstrues the voluntary principle. He gives it a definition "which identifies opposites, making the duty of a man's paying his own minister to clash with his attending to the claims of benevolence, and representing voluntary contributions for the support of religion to be the same thing as involuntary and compulsive payments exacted by the State."

## V. The Implications of Freedom of Conscience

Herbert Spencer's "The Proper Sphere of Government," appearing in *The Nonconformist* in 1842, marked something of a turning point in radical nonconformity. It did not pave new roads in libertarian theory *per se* — Thomas Hodgskin, for example, defended the same views as Spencer. But Spencer hailed from a nonconformist background, and his article is obviously addressed to English dissenters who based their case for disestablishment on freedom of conscience. The object of Spencer's article is to extend the implications of freedom of conscience beyond the sphere of religion. Spencer recognized that freedom of conscience is broader than freedom of religion; and if the proponents of church disestablishment were to be consistent, they should extend freedom of conscience to other social and political problems.

We shall consider two of Spencer's applications. The first is his case against state charity, as exemplified in the poor laws.

The chief arguments that are urged against an established religion, may be used with equal force against an established charity. The dissenter submits, that no party has a right to compel him to contribute to the support of doctrines, which do not meet his approbation. The rate-payer may as reasonably subscribe towards the maintenance of persons, whom he does not consider deserving of relief. The advocate of religious freedom, does not acknowledge the right of any council or bishop, to choose for him what he shall believe, or what he shall reject. So the opponent of a poor law, does not acknowledge the right of any government, or commissioner, to choose for him who are worthy of his charity, and who are not. . . . The dissenter from an established church, objects that no man has a right to step in between him and his religion. So the dissenter from established charity, objects that no man has a right to step in between him and the exercise of his religion.

The man who sees the inhabitants of a country deficient in spiritual instruction, and hence maintains the necessity of a national religion, is doing no more than the one who finds part of the population wanting in food and clothing, and thence infers the necessity of a national charity.

The second application concerns the issue of state education.

The advocates of national education, if they be men who uphold freedom of conscience — if they do not desire one man to pay towards the support of privileges enjoyed only by others — in a word, if they are friends to civil and religious liberty, must necessarily assume that all members of the community, whether churchmen or dissenters, catholics or jews, tories, whigs, radicals, or republicans, will agree, one and all, to support whatever system may be finally adopted. For, if their education is to be truly a national one, it must be managed by the government, and sustained by state funds; those funds must form part of the revenue; that revenue is raised by taxation; that taxation falls upon every individual — upon him that has no children as well as upon him that has; and the result must be, that all would pay towards the maintenance of such an institution, whether they had need of it or not — whether they approved of it or otherwise. Many would, on principle, dissent from a state education, as they would from a state church. Some men would disapprove of the species of instruction — others of the mode of teaching. This man would dislike the moral training — that the intellectual. Here they would

disagree upon details — and there protest against the entire system. Would it then be just, would it be reasonable, to let these men bear the burden of an institution from which they derived no benefit? Surely not. Every argument used by religious nonconformists to show the unfairness of calling upon them to uphold doctrines that they cannot countenance, or subscribe towards a ministration which they do not attend, is equally effective in proving the injustice of compelling men to assist in the maintenance of a plan of instruction inconsistent with their principles; and forcing them to pay for teaching, from which neither they nor their children derive any benefit. In the one case, the spread of religious knowledge is the object aimed at — in the other the spread of secular knowledge; and how this difference could affect the right of dissent it would be difficult to discover.

Spencer's point could scarcely be put with more clarity, and many fellow dissenters apparently found it convincing. It was in 1843, shortly after the publication of "The Proper Sphere of Government," that dissenters organized opposition to the movement for state schooling in England; and we see a clarity and consistency in dissenting arguments that they often lacked previously.

English dissent had always championed the right of conscience, and there was typically praise for social diversity (as we find in Joseph Priestley). But curious inconsistencies constantly plagued the dissenting movement, and with the rise of Herbert Spencer in the dissenting movement, we see many of these inconsistencies disappear, at least among the radical wing of dissenters. Herbert Spencer was not a father of English Libertarianism, but he was undoubtedly a father of dissenting voluntarism.

## VI. Secularism Meets Religion: Buckle and Miall

Although, as previously indicated, a tension would sometimes emerge between the secular and religious wings of English Liberalism, their similarity of argument, especially in the defense of freedom of conscience, is often quite striking. The terminology differs, of course, but it is interesting to observe how the same arguments were cast in different words, appealing to a different world view. Two examples are used here: Henry Thomas Buckle, author of *History of Civilization in England* (1857–61), ardent rationalist, and a hero to a generation of freethinkers (e.g., J.M. Robertson); and Edward Miall, a Congregationalist and editor of *The Nonconformist*, the leading dissenting periodical calling for Church disestablishment. Let us first consider Buckle.

Religious persecution, according to Buckle, is "a greater evil than any other," even war. With the advance of knowledge and science, however, Buckle foresaw progress on the horizon, provided that liberty — the indispensable condition of progress — was preserved.

Soon, he optimistically predicted, "men will cease to be terrified by phantoms which their own ignorance has reared." "The dominion of superstition, already decaying, shall break away, and crumble into dust."

But this requires the lessening of State power. "No great political improvement, no great reform, either legislative or executive, has ever been originated in any country by its rulers." "No government having recognized its proper limits, the result is that every government has inflicted on its subjects great injuries." Like Voltaire, Buckle asked why the English record of religious freedom was so much better than in France. He attributed it to the "protective spirit" in France, the prevalence of governmental interference in every aspect of life. "At the slightest difficulty, [the French] call on the government for support. What with us is competition, with them is monopoly. That which we effect by private companies they effect by public boards. They cannot cut a canal, or lay down a railroad, without appealing to the government for aid. With them, the people look to the rulers; with us the rulers look to the people."

The people of England, Buckle contends, were sharpened by the discipline of freedom, and were unwilling to relinquish it easily. This was the source of their liberty in general and their religious

liberty in particular. Liberty in all spheres promotes man's virtues, by giving them room in which to operate. The state is organized force, and force represses and distorts the best in man. Laissez-faire, for Buckle, is not just a principle of economic gain. It is a principle that ennobles the human spirit. Buckle praises Adam Smith as one of the greatest benefactors of mankind. He provided the textbook for liberty, by demonstrating that there exists a natural order apart from human design, which legislators typically damage rather than assist.

In 1845 Edward Miall published *Views of the Voluntary Principle*. Its language could scarcely differ more from the strident rationalism of Buckle. But there is a close resemblance between the two writers in fundamental principles. Religious liberty is defended as one aspect of a broader crusade for human liberty in all spheres. The genius of Christianity, Miall argues, is destroyed by coercion. Christianity will thrive in a natural, unplanned order — so government, insofar as it damages this order, harms the cause of Christianity.

Buckle and Miall agree in their defense of spontaneous order. They disagree as to the probable outcome when and if government gives liberty free reign. Complete liberty, Buckle argues, will promote the cause of rationalism and secularism. Complete liberty, Miall argues, will promote the cause of Christianity. Both writers were eager to test their theories on the free market. English liberalism was indeed a remarkable movement. Where religious differences had traditionally divided men and caused bitter conflict, owing to the desire of vying groups to obtain political power, the commitment of liberals to ideological competition defused this conflict. With the renouncing of coercion on all sides, liberalism permitted secularists and religionists to work in harmony for common goals. Only when one side perceived the other as seeking to betray the voluntary principle — as when some secularists defended state schooling — did the conflict re-emerge.

Miall's *Views of the Voluntary Principle* — a collection of articles culled from *The Nonconformist* — is a remarkable book in many ways. Its tone is religious throughout. The "voluntary principle" is upheld as promoting the "maintenance and extension of the church of Christ." Voluntarism is extolled not so much for its economic advantages, but for its spiritual benefits. Yet all the (by now) traditional elements of Liberalism are present — the defense of rights and the defense of a spontaneous order as essential components in the crusade for religious liberty.

To the extent that Christianity has failed, Miall argues, it is owing to its use of coercion:

Compulsory means resorted to for the support of the mechanism required for the diffusion of religion — and be it remembered all church establishments must ultimately rest upon compulsion — sufficiently account for the failure of the whole scheme.

Where harmony would otherwise prevail, coercion injects disharmony and division in human interaction:

National churches are necessarily jealous, selfish, and, as far as the spirit of the age will allow them, tyrannical. Interwoven with the interests of civil empire, they become to states additional sources of, and incitements to, hostile collision.

Miall's view of government is that of a radical Liberal, yet his mode of expression has a different flavor than we find in his more secular colleagues:

The bureaux of statesmen have, as indeed they should have, an odour all their own. There is, and ever has been, since state officials were men of human passions, an aroma about what they say and do which may be called emphatically sublunary and mundane. Their ideas are dusty. Their code of morals smacks of blue mould and incipient corruption. Their philosophy is for ever crawling about amid statutes and precedents. They can form no conception of any power but that of the sword and the halter. It is not wonderful, therefore, that they should have mistaken Christianity. Like the engineer, who imagined all rivers to have been created exclusively for the purpose of filling up canals, so civil rulers seem to suppose the ultimate object of revealed truth to

be, to facilitate the working of secular governments — to invest the magistrate with sanctions without which he would find it difficult to play his part — and to dispose subjects to unlimited submission which state functionaries take to be the highest style of national virtue.

As indicated by this passage, Miall considers the primary defense of voluntary interaction to be spiritual in nature. Liberty furthers spiritual values, whereas state interference — which always involves coercion — reduces everything to the mundane level of a struggle for earthly power. Religion "is a matter which should be left to something higher than law to regulate — should represent, not the efficiency of a command from without, but the power of a principle within — should grow up out of living motives, rather than stand as the lifeless result of legal authority . . ."

Under the chapter heading of "Invisible Agencies," Miall discusses the constancy of natural laws which operate as much in the human realm as in the rest of creation. This leads to a clear concept of spontaneous order:

The connection between demand and supply, although no less certain [than physical law], is far less confidently trusted; and multitudinous, indeed, have been the enactments whereby men have sought to remedy what they took to be a defect — enactments which have done little more than prove that great providential laws are best let alone — that they will admit of no amendment — that they are fully competent to their own work — that they are perfectly independent, for success, of the wisdom or foresight of mortals — and that, when least tampered with, they are most effective. In the social world, as well as in the physical, there are germs of vitality which may be safely left to clothe themselves with form, to push themselves into external manifestation, and to put on the body which best befit them, without our assistance — which our intermeddling can only injure — which live and flourish, whether we tend them or neglect them — which grow up out of the mind of God, and which were neither created nor can be fashioned by the hand of man.

In the spiritual world, also, there is a spontaneous order which should operate "without the intervention of legislative authority." All truth, including religious truth, emerges from this spontaneous world:

No sooner does truth come in contact with the mind of man, than instantly it diffuses itself so widely, works in individual cases in such a variety of ways, sets in motion so many wheels, that it ceases to be under the management of man. . . . No eye can follow its track — no intelligence can mark its course. . . . It depends upon the will of no mortal, or assemblage of mortals, whether it shall stay on earth, when once it has been introduced hither. It asks no man's leave to stay and live here. Stay and live it will, whoever may say nay.

The conclusion reached by Miall is quite radical: "Though all the machinery of government should be swept away to-morrow, nothing which exists of real Christianity would die."

Miall offers many other arguments and observations that are worth consideration, but we shall not consider them here. His work is important as an example of Liberal doctrine expressed in religious terms. All the philosophical components are present — indeed, in his discussion of limited knowledge and spontaneous order, Miall often sounds like an F.A. Hayek who converted to evangelical Christianity. No better example could be offered than Edward Miall of a true believer who — not despite, but because of the complexion of his religious belief — defends a spontaneous order and the spiritual vitality produced by competition in the realm of ideas.

The dissenting wing of Liberalism deserves closer study than it has hitherto received. With so much scholarly attention focused on economists and political theorists, Liberalism has acquired an undeserved reputation for spiritual poverty, for defending free markets on the sole ground of pecuniary gain. Yet, as Miall indicates (and he is just one among many), many Liberals not only saw "spiritual" benefits to free trade (including free trade in ideas), but based their defense of free trade primarily on that foundation.

Much of Liberal doctrine grew from the struggle for liberty of

conscience. Much of it was developed with an eye to man's inner self — his need for spiritual values and moral autonomy. Economic theory came to play a central role in Liberalism, but it should not be viewed as its sum and substance. The concern with man's inner self survived in the nineteenth-century Liberalism among the radical dissenters, and these dissenters comprised a sizeable portion of English Liberals. The pecuniary arguments for free trade, in the eyes of these Liberals, were secondary to the

arguments based on human autonomy and values.

When the history of Liberalism gets the fair-minded treatment it deserves, this "spiritual" aspect of free trade arguments should receive proper consideration. That free-trade arguments rested on heartless economic calculation, with little or no concern for the inner man, is an egregious historical myth crying out for correction.

by George H. Smith

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