
The Voluntaryist

Whole Number 38

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

June 1989

Not A Noise, But A Racket!

By Carl Watner

Racketeering is a term loosely applied to a variety of criminal schemes. Although the word came into common usage during the early 1920s, its origin is obscure. The word 'racket' has long been used to describe a loud noise or a good time. One theory holds that, in the 1890s, New York social clubs, under the auspices of political leaders, gave affairs called rackets. Members of neighborhood gangs patronized such gatherings and soon began coercing local tradesmen to buy tickets to the rackets. Hence the term racketeering. Another theory, more to my liking, involves the organization of New York teamsters by two Chicagoans about 1885. An official investigating their illegal activities is supposed to have said, "This is not a noise, but a racket."

It makes little difference where or how the term originated, for the fact of the matter is that the practice of extortion, blackmail, and theft to which racketeering now refers, by both public officials and private citizens, has been recorded in most civilizations. Racketeering generally refers to the activity-for-profit of an organized group of people which depends on physical violence or its threat to accomplish its end. Racketeering enterprises include the operation of illegal businesses (as defined by statist legislation, such as bootlegging during Prohibition, or drug distribution today), as well as the illegal operation of legal businesses (as when the Mafia uses the proceeds of their criminal enterprises to buy legal businesses).

The connection between American politicians and the mob of organized crime (a group of racketeers is called a mob) is old. In New York state the use of gangs for election frauds and intimidations goes back to at least 1840. Racketeering in legitimate businesses, such as the trucking and clothing industries in Chicago, and in the foodstuffs, building, and clothing industries in New York dates to the early 1900s. It was not, however, until after the adoption of the Prohibition amendment in December, 1917, that racketeering became publicized and widespread.

Organized crime and organized politics find their origins in man's ancient history of violence towards one another. Both groups use superior force to collect tribute and maintain power. The pirate or brigand begins with two or three ships or conveyances and a handful of men. Gradually, his use of force is accepted as legitimate (or necessary for "keeping the peace"), and the more violent aspects of his calling disappear. Over time, he evolves from a predatory bandit to a tax collector in the area over which he exerts control. Peering behind this facade of respectability, Thomas Paine explained in his COMMON SENSE of 1776:

[C]ould we take off the dark covering of antiquity and trace them [the present race of kings and governors] to their first rise, we should find the first of them nothing better than the principal ruffian of some restless gang, whose savage manners or preeminence in subtlety obtained him the title of chief among plunderers; and who by increasing in power, and extending his depredations, overawed the quiet and defenseless to purchase their safety by frequent contributions. (Part II—"Of Monarchy and Hereditary Succession")

Or as Albert Jay Nock put it, "Taking the State wherever found, striking into its history at any point, one sees no way to differentiate the activities of its founders, administrators, and beneficiaries from those of a professional criminal class." Other students of the history of the State have observed that it

originated in violence. For example, the German sociologist Franz Oppenheimer defined the State, with respect to its origin, as an institution "forced on a defeated group by a conquering group, with a view only to systematizing the domination of the conquered by the conquerors, and safeguarding itself against insurrection from within and attack from without. This domination had no other final purpose than the economic exploitation of the conquered group by the victorious group."

Both in origin and function, there is little difference between the State and organized crime except the claims of the former to be "legal." When Congress threatens to pass a law that will harm a certain industry, what is it doing but engaging in political extortion when its members accept campaign contributions or in-kind benefits **not** to pass the law? Or when Congress repealed the 1982 law requiring financial institutions to begin reporting and withholding taxes from depositors' interest and dividends, how was it responding to the banking lobby's efforts? Both the politicians and the mob seek to expand their power, domain, and respectability at the expense of the rest of society. However, despite their common roots, there remains a deep-seated antagonism between them, because each tries to limit the advances of the other. Interestingly enough, though, both depend on each other. The State uses the existence of the mob as an excuse to collect money to protect "its" citizens from criminals. The mob depends on Congress to pass laws that create blackmarkets, where it can operate profitably.

Really the only distinction between the edicts of the State and the commands of a bandit gang is that the State "organizes" its parasitism upon society and is able to legitimize its thievery. From the taxpayer's point of view, the mob and the State both have the same end in view. Rather than work for an honest living, members of the two groups attempt to live by political, coercive means. Although the State claims to forbid thievery and murder, it exercises both on a vast scale. The one it calls taxation, and the other, war. Though both "organizations" are to be decried, the mob is probably less dangerous than the State, because there will always be some brave people to resist the former, whereas it requires a more subtle and intellectual opposition to decry the State.

One of the ways the State has tried to curtail the activities of the mob has been the use of the income tax laws to prosecute mobsters. Al Capone was jailed for income tax evasion (a crime against the State, not against an actual individual), not for masterminding an organized crime syndicate or committing murder. The Internal Revenue Service has numerous other ways of fighting the underworld. It may legally pay informants to supply information about a suspect's tax liability. The informant's identity is kept secret and he or she can receive up to 10% of the amount of taxes, penalties, fines, and forfeitures collected. The IRS has unusual powers of seizure. It may levy and garnishee part of your income or salary, file a general lien against you which automatically ties up property that is in your name, seal your safe deposit box and seize the contents to liquidate your taxes, enter your place of business and seize the cash and accounts receivable on hand, and inspect records of financial transactions of anyone with whom you are dealing (including stock brokers and banks). The IRS may also conduct standard of living analyses, by which it attempts to determine how a taxpayer can maintain a relatively high standard of living and yet consistently pay a small income tax.

The most powerful and useful combination of tools against organized crime is the power to issue a jeopardy assessment, and the seizure law. The IRS Commissioner may at any time (and

Continued page 7

The Voluntaryist

Editor: Carl Watner

Subscription Information

Published bi-monthly by **The Voluntaryists**, P.O. Box 1275, Gramling, SC 29348. Yearly subscriptions (six issues) are \$15 or .04 ounce or 1.244 grams of fine gold or 4 Gold Standard units. For overseas postage, please add \$5 or 1/3 of the regular subscription price. Please check the number on your mailing label to see when you should renew. *No reminders will be sent!* Single back issues are \$3 each or 1/3 of the regular subscription price.

Hard Money, Soft Money, and Government Money!

By Carl Watner

[Editor's Note: In Issue 36 I began quoting subscription rates in terms of gold, as well as Federal Reserve units. One of the purposes of this article is to explain my predilection for hard monies.]

Mankind has learned to treasure the precious metals, gold and silver, for good reason. Bitter experience has shown that in the face of war, invasion, political revolution, business panic, inflation, currency upheavals, or other man-made economic disasters, as well as natural disasters, paper money has not held its purchasing power. Gold and silver coins have survived as the symbols of security, independence, and honesty. They have often purchased safety for refugees or food for the near-starving. The chief benefit of the possession of metal coins or bullion is in the provision of a means by which the individual can store wealth that is independent of the vicissitudes of most circumstances.

By hard money I mean a medium of exchange which consists of real, metallic commodities, rather than paper currency or bank credits; by soft money I am referring to the various forms of claims to hard money. The former does not require the certification or guarantee of any political entity for its worth because it has intrinsic value. The use of metal coinage as a store of wealth—what Western governments have labelled hoarding, and often outlawed—assures its possessor economic independence. It is something that can be hidden from criminal predators, and can also serve as an old-age cache when its possessor can no longer work. It will not rot or wear out and can always be used as a form of adornment or jewelry.

Gold and silver have two interesting properties. They have always been cherished by most of mankind, and are virtually indestructible. In addition, both metals exhibit the text-book characteristics of all monies: they are easily portable, easily divisible, and are homogeneous substances. Gold, which has been mankind's choice as the supreme coinage, was chosen for that role because its rarity made it precious, because its color is unique, and because its lustre will last forever. Gold coins which have been buried for hundreds, or even thousands, of years when finally discovered are in the same brilliant and untarnished condition as when they were first hidden.

In the Western world, hard money was the chief medium of exchange until medieval times. In China, the art of paper making was known as early as the 6th Century, A.D., and paper money was probably used there as early as the 9th Century. The Mongol conquerors found paper money a great convenience in their statecraft. They greatly expanded their use of paper money, and carried it with them in their invasions of the Middle East, from whence it passed into Europe, where paper money came into use after the 12th Century.

Ever since then, the Western world has been beset with the problems that accompany the use of soft (paper) money. The basic fact about money (of whatever kind) is that money is worth only what it can be exchanged for, and if it will not buy anything, it is not worth anything. Neither individuals nor governments have use for money as such; they have use only for the goods

and services that money can buy. Another basic economic fact that the use of paper money has obscured is that commodities—the goods and services demanded by individuals and governments—are not ultimately paid for with paper money. Paper money does not pay for anything. It is an economic axiom that goods, services, and commodities can be paid for only with other goods, services, and commodities. This misunderstanding has fostered the myth that "money is wealth." Paper money and bank credits are not wealth; they are simply claims or promises.

This points toward the basic economic difference between soft money and hard money. Hard money is the result of economic production: of the extraction of ore out of the ground, of its refinement, assay, and coinage. The result of this "hard" work (hard money) is then exchanged for the goods, services, and commodities produced by others. Gold and silver miners must invest human energy, natural resources, and tools, to produce new money. The production of soft money, especially by governments, takes place outside the normal cycle of production. The cost of producing a \$1000 currency note is no more than the cost of producing a single one dollar bill. The natural tendency of the State is to inflate (increase the supply of paper money and bank credits) since it is relatively costless and gives the painless appearance of prosperity without increasing taxes. This appearance of State-produced money creates the illusion that the State has money of its own. But it does not. Whatever money the State has, it has either fabricated out of the thin air or first taken from someone else.

Though we are accustomed to paying our taxes in money, the cost of taxes is not money. Long ago, the tax collector drove his cart around and gathered up the produce and commandeered the services required by government. People, under such circumstances, could measure the cost of their taxes by the things they were forced to give up. But ever since the State started collecting taxes in the form of money, the true nature of taxes has been obscured. The confusion can be cleared up if we realize that the original process has not changed. Governments must still take from the people things that it needs to feed, clothe, and shelter its workers, and to provide the tools used in its work. The only difference is that governments—instead of taking the goods and services directly from the taxpayer—now take part of the people's money, and by spending it, get the goods and services they need. Nothing has changed. The taxpayers can still measure the burden of taxation by looking at the goods and services they are unable to acquire, after their money has been taken from them.

Just as the cost of taxes is not money, so the cost of warfare is not money, either. The true cost of war is measured in the lives taken and the goods and services that are used up. But since governments are able to increase the supply of soft money in existence, at will, they are able to conceal the true cost of their activities. They are able to finance their activities through the creation of new bank credits or paper money. As a result of the increase in the amount of soft money, there is more money, over all, chasing the same amounts of goods and services. Consequently, the purchasing power of each unit of money becomes diminished. This increase in the quantity of soft money, which takes place outside the normal cycle of production, impedes the accuracy of economic calculation and pricing, which normally guide businessmen and consumers (thus causing the beginning of the "boom-bust" business cycle). If the process of soft money expansion continues to its ultimate end, government money becomes worthless and no longer exchangeable for anything of value, as in Germany after World War I, or as after the War for American Independence during which the expression "not worth a Continental" was "coined."

Conrad Braun of Gold Standard Corporation, whose activities were discussed in the article on "Private Money Firsts" in Issue 36 of THE VOLUNTARYIST, has pointed out the often asked question, "How high can the price of gold go?" is phrased backwards. The real question is "How low can the price of the dollar go?" The obvious answer is zero. In his 1988 year-end report to investors, Braun stresses that his underlying premise is that gold ownership (i.e., hard money) functions as a store of value. It is not a path to riches. The purpose of owning hard money is that

it provides a means to keep what one has earned. Gold and silver bullion or coins have never defaulted. Such holdings have never become unmarketable because financial markets were closed, or because their issuers went bankrupt. They have never become worthless in exchange for other things, and of all the various types of money, gold has best maintained its purchasing power over the long run.

Gold and silver have witnessed the failure of literally thousands of national currencies. The precious metals are not political instruments. They are possessions having intrinsic value, not simply promises of some government or banker to pay. Which leads us to ask, "Is 'private' paper money any better than government paper money or government credit?" Just as there are no sure things in this world, one can get ripped off by a private counterfeiter passing a fraudulent gold or silver coin, just as easily as one can suffer at the hands of a government mint that debases its coin, or a government printing office which spews out reams and reams of virtually worthless paper money. But the likelihood of this happening is reduced by the working of the free market. First, the general rule of the market place is "caveat emptor." People will be wary of accepting money (in any form, hard or soft) from issuers of unknown integrity. Secondly, the more efficient money will always drive from circulation the less efficient, if the individuals who handle money are left free to act in their own interest. It is only when bad money is endowed by the State with the property of legal tender and coercive powers, that it can drive good money from circulation.

Is there any place for "soft" money in the free market? If we had no State-provided money, we might still find both hard and soft monies competing against each other in the market. There also would probably be hybrid monies. Negotiable warehouse receipts would be a form of "hard" soft money, because such receipts cannot be issued in excess of the gold or silver on hand, unless through distinct fraud. The owners or possessors of such warehouse receipts would more than likely have to pay storage fees since their claims are to specific coins or bullion held in safe-keeping to meet redemption. Other people might prefer the convenience of "soft" soft money whose storage would be "cost-free" because less than 100 percent of the reserves were kept on hand. Such "soft" money might be issued as "demand" notes (that is the issuer promises to pay coin or bullion upon demand even though he lacks 100 percent reserves) or as "option" notes (where the issuer, if he cannot pay on demand, has the option to postpone redemption for a fixed time, paying interest in the interval). Since a demand note, per se, makes no statement about the status of the gold coin or bullion reserves behind it, such a note would not be fraudulent. The failure of the issuer to pay on demand would, however, constitute a default.

George Bernard Shaw once wrote that the monetary choice confronting society is to choose between trusting the natural stability of gold, and the honesty and/or intelligence of politicians and legislators. But in a free market situation, the choice shifts toward freedom. Free market money resembles sound science and sound technology because they all must be based upon a process of discovery and free choice, not upon coercion. So the choice that George Bernard Shaw wrote about then becomes trusting hard money—the stability of the precious metals, as opposed to trusting the men, in general, who are responsible for the issuance of "soft" free market monies. But then the choice becomes a free one: "hard" money or "soft" money; not "government" coerced money.

"It is rumored that Greece has a project which may be emulated in all countries receiving U.S. aid. A monument will be erected to the Unknown American Taxpayer."

—THE FREEMAN, April 1955

A Way Out— Victory Without Violence

By Carl Watner

Marshall Fritz of the Advocates for Self-Government recently loaned me a copy of John Yoder's book, titled WHAT WOULD YOU DO (If a Violent Person Threatened to Harm a Loved One)? (Scottsdale, Pa. Herald Press, 1983.) At dinner one evening, we were discussing the question of what I would do if an armed maniac came barging in and threatened to kill my son or wife. How consistently would I practice my philosophy of nonviolence? Would I view it as a departure from my principles to use violence in self-defense?

To answer the latter question first: Yes, I do believe violent self-defense is a departure from the principle of nonviolence, but I also view self-defense as a natural right. While I view self-protection as being within the moral jurisdiction of each and every person, I believe we would have a less violent and more peaceful, harmonious, and abundant world if people refrained from using violence, or its threat regardless of the situation. I would not criticize others who use violence, in self-defense, but I would not choose this method to defend my loved ones. The inter-connection of means and ends makes me desirous of avoiding violence in either a personal confrontation, or in supporting it in the broader social context of the State.

Now to answer the first question. My choice is not simply between acting cowardly or acting violently. I would make every attempt to react nonviolently to an attack against a loved one. Whether I could maintain the strength of will and presence of mind to do this will only be determined in an actual situation, but I would strive to achieve this. The type of nonviolence I am talking about is the nonviolence of the brave. It requires consistency and adherence in the most dangerous situations. It requires resourcefulness, the use of intellect, and creativity. This type of nonviolence comes from strength not weakness, and depends on the inner spirit and will. As Gandhi put it, nonviolence does not mean meek submission to the will or intention of the evildoer.

Just because I say, beforehand, that I would not use violence to defend my family from an attacker does not mean or imply that I would not actively and nonviolently protect them. As the LeFevre adage puts it, an ounce of protection is worth a pound of defense in an actual encounter. If my protection (security alarms, adequate lighting, dead bolts and secure doors) fails, the very last thing I would do is offer myself as a shield between the invader and the invaded. Under no circumstances could I envisage myself calling the police.

One of the main themes of the Yoder book is that there are numerous nonviolent ways of disarming the assailant: seeming to go berserk (as LeFevre once did), trying to distract the attacker with talk, offering the attacker money or sanctuary, making the attacker feel at home, disarming the attacker emotionally, etc. The violent person expects to be violently resisted, and is usually scared himself. When he does not encounter this reaction in his victims, or their defenders, his equilibrium is thrown off balance, and the initiative is placed in the hands of the nonviolent person. WHAT WOULD I DO? includes several true-to-life stories of missionaries and pacifists, who behaved nonviolently and successfully warded off personal danger, when faced with violent situations.

However, even if my nonviolent resistance to violence failed, it would not be a defeat for nonviolence. For there is no guarantee that violence would be successful in preserving the lives of my family. A person of integrity is more concerned with the means than the ends. Such a person would rather give up his own life, than take the life of another. As the ancient Stoics put it, we must all die some time. It is more important how we live and deport ourselves, than whether we preserve our existence temporarily. The Biblical commandment did not say, "Thou shall not kill, except in self-defense of the family or for the common good." A person simply has to have faith that "if one takes care of the means, the end will take care of itself," and then let the chips fall where they may.

Voluntary Musings A Column of Iconoclasms

By Charles Curley

*"Nothing can defeat an idea
--except a better one."
--Eric Frank Russell*

How Times Have Changed: "[Octavius Caesar] had made himself thoroughly unpopular on account of the taxes he had imposed. Full citizens were obliged to pay over one quarter of their income and freedmen one eighth of their property, with the result that there was a violent outcry from both classes against Octavius and disturbances broke out all over Italy."

Plutarch
LIVES, *Octavius Caesar*, ch. 58

Bumper Sticker(?):

Register Voters, Not Guns.
They're more dangerous!

Already?: The period between November Fools' Day and the opening of Congress in January is traditionally the time when Congresscritters travel forth to spend their expense accounts and find new ways to bribe us with our own tax money to vote for them. However, Congresscritter elect (and former libertarian) Dana Rohrabacher (R, CA), took the junketing spirit to new lows. After sneaking across the border between Thailand and Burma, Mr. Rohrabacher visited 'pro-democracy students' hiding out in the hills of Burma. It's all very free marketeering to ignore silly border controls, but, in the spirit of the office which he was later to take, Mr. Rohrabacher promised the rebels that he would help them get American foreign aid, and (in a later press conference) would not rule out military aid.

H.L. Mencken once defined an election as an advance auction of stolen goods, and we all know that the next election campaign begins as soon as the last is over. Still, someone please point out to Mr. Rohrabacher that Burma is not in the California 42nd Congressional District.

Perhaps Mr. Rohrabacher should take a leaf from former Col. Oliver North, who campaigned for Mr. Rohrabacher (in California), and arrange some private funding for the rebels. If he feels that strongly that their cause is just, he should put his money where his mouth is, not mine.

Ahem: Speaking of former Col. North:

"For he was completely ignorant of much that was done in his name, not merely because he was of an easygoing disposition, but because he was simple enough to trust his subordinates."

Epitaph for the Reagan administration? Close: Marc Antony, as described by Plutarch (LIVES, *Marc Antony*, ch. 24).

The March of Folly is the title of a book by Barbara Tuchman (Ballantine, New York, 1984). Ms. Tuchman is no voluntaryist, but she is a historian. More to the point, she is an excellent writer on history. The work at hand is a set of four case studies in governmental folly. The term is carefully defined by Tuchman. To her, a governmental folly is where a government pursues a policy against its own interests, and in the face of alternatives made plain at the time.

Her first case study is of the Trojan decision to bring the Trojan horse into their city walls. After ten years of war between the Trojans and the Greeks, with the fickle gods changing sides, and death and destruction all about them, and wanting to see home once more, the Greek forces fall in with Odysseus' stratagem: they build a giant horse, and label it as an offering to Athena. They then withdraw from the plains around Troy, going home in defeat to all appearances.

The Trojans, understandably, are elated. They come upon the horse, and immediately begin a debate over what to do with it. Some, taking the inscription at face value, advocate taking it into the city walls. Others, knowing that Athena has too long favored the Greeks, advocate destroying it, or at least opening it up to determine what lay in its belly. Laocoon, a priest of Apollo, reminds them of Odysseus' reputation for treachery. It is this

debate which is the origin of the warning to beware of Greeks bearing gifts. Cassandra, given the gift of prophecy but cursed that she would not be believed, opposes bringing the horse within the walls.

We, of course, know the outcome: Odysseus' men climb down from the horse at night, while the Trojans are drunkenly celebrating their victory, and let the Greek army into the city. Troy's fate is sealed.

The Trojan horse is a prime example of folly. There was an alternative course: to open up the horse and examine the 'gift' of the Greeks. It was clearly stated, by Laocoon, Cassandra, and others. Yet those in charge, deluded by their 'victory', pursued a course that not only ran against their own interests, but led to the destruction of their city. These, then, are the core elements of folly: an alternative course, clearly stated at the time; and a delusion on the part of the rulers which leads them to ignore this sage advice; all to vast destruction and ruin.

This is followed with the incredible ability of the Renaissance Popes to destroy the Papacy and the Papal States in the name of preserving them. The wars of Italy in that period were fought as proxy wars, usually between France and Spain. The Popes were able to play balance-of-power politics by switching sides as needed, but this course ultimately failed them. Worse, the costs of the wars, and the massive patronizing of the arts by the Popes, led to the financial bankruptcy of Rome. This led to the corrupt practices, such as the outright sale of indulgences, that in turn led to the Protestant Revolution. Thus, the results of those Papal follies still echo in the wars of Northern Ireland.

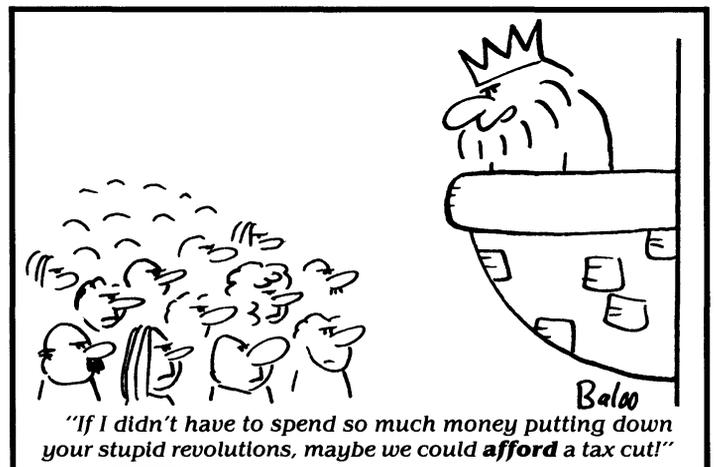
Yet the alternatives had been called for for over a century, by Council after Council: reform the Church, from the top down. Throw the money changers out of the temple, the reformers cried. Their cries fell on deaf ears.

The next case study Tuchman gives us is the British policy which led them to war with their American colonies in 1775. The clearly stated alternative was reconciliation. The major issue, according to Tuchman, was the question of taxation without representation. No one in North America questioned the necessity of defense against the Indians or the French, but the colonists objected to being told to pay by Parliament. Very well, why didn't the British let the colonies seat their own Members in Parliament? Alternatively, as was also proposed at the time, Parliament could have asked the colonial legislatures for appropriate sums, and the colonies could have 'taxed themselves'.

But, no! Parliament, aided and abetted by King George, had to insist on their right to be sovereign in all things whatsoever over the colonies. That this 'right' was total fantasy and that the attempt to exercise it would destroy the Empire never entered the heads of the King or his ministers.

The fourth and final folly in this march is that of the United States in Vietnam, and that folly I shall leave to the reader to learn about for himself.

This book is well worth reading, for several reasons. It is well written, which puts it ahead of many history tomes. It has a theme, albeit the negative one of folly. Most importantly, it is a book by someone who is not (as far as I can discern from the



book) a voluntaryist, but whose thesis goes far to support the voluntaryist position.

One of the things common to all four follies is the unwillingness of the rulers to listen to the advice that was available at the time. These are also prime examples of the SNAFU principle, identified by Wilson and Shea in their ILLUMINATUS. The principle says that, in a hierarchical organization, the people lower down will tend to tell their superiors what they think the superiors want to hear. This principle would tend to argue against hierarchical institutions, such as governments.

For those who think that there is a route to a voluntaryist society by achieving some sort of power, the lessons of the Renaissance Popes apply as well. Tuchman tells us "that the process of gaining power employs means that degrade or brutalize the seeker, who wakes to find that power has been possessed at the price of virtue — or moral purpose — lost."

Attention Congress: "You may exert power over, but you can never govern an unwilling people."

Governor Thomas Pownall, 1769

Amen: "The best punishment for these people (KhAD, the Afghan secret police) is that they would develop a conscience, realize what they have done, and have to live with that."

Fahima Nasery
KhAD torture victim

So Nu?: "The Roman people are like sheep: you cannot budge one of them on its own, but when they are in a flock, they all follow their leaders as a single body. In the same way, when you come together in the assembly, you allow yourselves to be led by men whose advice you would never think of following in your private affairs."

Cato the Elder

Creature of the State?

By Carl Watner

In his 1979 book, *IN DEFENSE OF THE CORPORATION*, Robert Hessen addresses the issue of whether or not corporations are creatures of the State. His conclusion is that corporations are not State-created institutions, even though they are obliged to record their articles of incorporation with the secretary of state or department of corporations.

The state does not give life or birth to a corporation. Just as a registrar of deeds records every sale of land, and a county clerk records the birth of every baby, a commissioner of corporations records the formation of every corporation—**nothing more**. The function of a state—to record the creation of a corporation—is not essential to its existence, any more than a registrar of births is essential to the conception or birth of a child. (p. 26)

In tracing the history of early corporations, Hessen readily admits that early corporations obtained monopolistic grants of power from the State. They were accorded certain exclusive privileges, such as exemption from taxation, release of employees from militia and jury duty, and the power to exercise eminent domain, in order to encourage the use of private capital for the provision of public goods. However, as commercial organizations evolved, businessmen discovered that corporate features could be acquired without incorporation. Unincorporated associations, such as the business trust and joint stock company, existed without the sanction of the State, and some of them exhibited the main characteristics of the corporation: the ability to garner large amounts of capital, perpetual existence, limited liability, free transferability of shares, and the ability to sue in the name of the business entity. They had all the benefits of the corporation, without meeting the procedural requirement that they register with the State.

In the early 1800's, the state legislature of Massachusetts was hostile to the formation of new corporations. To circumvent their refusal to grant corporate charters, innovative businessmen resorted to the contractual company, which is commonly known as the Massachusetts trust (the Massachusetts or business trust is distinct from the family trust used in estate planning). Hessen maintains that under the general incorporation laws that were

passed beginning in 1837, corporations were no longer awarded special privileges or legally enforced monopolies. Hence, they ceased to be creatures of the State. According to Professor Adolf A. Berle, whom Hessen quotes, the new incorporation laws "merely granted permission to a group of people to make an **agreement between themselves**." (p.31)

From whence comes the State's right to "grant permission" to a group of people who wish to contractually engage with one another in a particular way? This is the crucial question which Hessen does not answer. Hessen never tells us what happens to a corporation which does not register with the State. Is such an organization no longer a corporation, and if so, why? (Is the infant who has not had his or her birth recorded by the registrar of births a non-entity? Is the couple who has not had their marriage licensed by the State not married?) Hessen does, however, attempt to answer the question, "Why must the articles of incorporation be filed with a state agency?"

A firm can acquire corporate features without becoming a corporation legally. However, the procedure for filing corporate articles with a state agency is a safe and simple substitute for explicit contracts and direct notification to outsiders. The purpose and benefit of this method of constructive notification is to reduce the need for individual notices and written contracts. In the lexicon of economics, it is an example of economizing on transaction costs, but it is not a justification for calling corporations creatures of the state. (p. 40)

The purpose of such notification, Hessen tells us, is to put creditors on notice that they are dealing with a corporation, and that the shareholders do not accept unlimited personal liability for the firm's debts. One of the ways the corporation puts creditors on notice is by using the symbols, Inc. or Corp., after its name. The other way of giving constructive notice is by filing the articles of incorporation with the State.

Is the State needed in either instance? Certainly no State is needed to "permit" corporations to use symbols in their names to designate their limited liability feature. Nor is the State needed to "reduce the need for individual notices and written contracts." If individuals wish to associate in the corporate form, then they should bear all the expenses and pass none of the expenses on to unwilling taxpayers.

As Anthony Hargis observes in the article on "Private Money Firsts" appearing in the February 1989 issue of *THE VOLUNTARYIST*, the corporation is a creature of the State because it contractually obligates such a business organization to obey all past, present, and future statist legislation. The laws of the state, both constitutional and statutory, automatically become part of its articles of incorporation. The corporation agrees in advance to "render unto Caesar" what it demands from the start, whereas other business entities are not so obligated.

The contractual company, which Hargis favors, is based on the common law rights of the individuals establishing it. In other words, individuals require permission from no one to act. This explains why the business trust or contractual company requires no permission from the State. It also explains why the corporate form of organization could exist independently of the State. Since the organizers of the contractual company can put anything into their contract that wins the consent of all the contracting parties, there is no reason why they may not contract to form a business organization with the features of a traditional business trust, or a traditional corporation (without being licensed by the State), or some hybrid mixture of the two. Both the traditional business trust and corporation share the features of perpetual existence, the ability to sue and be sued in its own name, limited liability, and transferability of shares. The main differences between a traditional business trust and a corporation (as viewed from the statist point of view) is that those who purchase certificates or shares in a business trust exercise no control or management rights, and obtain no voting rights. A business trust is normally operated by non-shareholding trustees for the benefit of the shareholders, whereas shareholders in a corporation elect directors, who in turn appoint managers to operate the business.

Hargis claims that corporate shareholders enjoy limited liability by statute, whereas business trust shareholders have

limited liability according to the principle that one who has no control over property or persons, cannot be held responsible for their actions. However, Hessen argues that this principle should apply to corporate shareholders as well. Unlimited liability should only apply to those managers or shareholders who take an active part in supervising and managing the concern. As Hessen puts it, "the proper legal principle of liability should be that whoever controls a business, regardless of its legal form, should be personally responsible for the torts of agents and employees." (p. 20) This applies as much to the corporation, where some shareholders may take an active part in management, as to the business trust, where no shareholders may control any of the trust property. But the principle is the same in any case.

Thus it is quite conceivable that in a State-less society we would find both the corporate and non-corporate forms of business organization. Just as today, there is no need for the contract forming the underlying basis of a business trust to be registered with the State, there would be no need for any sort of registration of the articles of incorporation of a corporation. The contractual company's form of organization would be indicated in its title, just as Inc. or Corp. would appear in the name of a corporation. In such a situation, the corporation would not be a creature of the State. Nothing would be a creature of the State because the State would not exist. Yet in today's world, the corporation is a creature of the State because the State will not let it exist without State sanction. But that is the fault of the State, not the corporation.



Potpourri from the Editor's Desk

1. "Cash Talks"

"Without gold and without cash, a citizen is **powerless**. Normal business is restricted. The power of buying a car, a house, boat, whatever, with **cash** as opposed to a check or credit card (which chops the recipient's profit) or time payments, is immense: **Cash talks**. Trouble is: what it says is: **individual liberty**. Governments don't like that kind of talk." Taken from THE INTERNATIONAL HARRY SCHULTZ LETTER.

2. "On Means and Ends"

Some readers may enjoy the recent book by Kenneth Blanchard and Norman Vincent Peale on THE POWER OF ETHICAL MANAGEMENT (New York: William Morrow and Company, 1988). In it they make such enlightening statements as:

(1) There is no right way to do a wrong thing. (2) Managing **only** for profit is like playing tennis with your eye on the scoreboard and not on the ball. In other words, if you don't keep your eye on the ball, you may not get much on the scoreboard. (3) If we take care in the beginning, the end will take care of itself.

3. More on "Means and Ends"

David Hendersen of Columbia Food Machinery, Salem, Oregon—a long time subscriber—writes:

I am fortunate to be involved in a business that is characterized by unlimited entry and little special regulation. Ours is still a small business, but we now have six employees and are well recognized by vegetable and potato processors in the Pacific Northwest. (We began with one employee in 1980.) Your byline on THE VOLUNTARYIST, "If one takes care of the means, the end will take care of itself," applies to our business.

I am constantly reminded, that if we take care of details, the big picture (profitability, growth) takes care of itself. We have tried to set our prices high enough to make a profit, but our overriding concern is that the capital equipment we sell performs as we said it would. We have concentrated on service, not profitability. From initial line design, to obtaining an order, through equipment installation and start-up, we assist the customer, spending many days at the plant site. After the machine is running, regular plant visits are required to ensure that production and maintenance personnel are satisfied. Our outside sales people always have tools and coveralls in their cars and often put them to use before leaving the plant. Our inside people give knowledgeable phone support and have a sense of urgency about customers' problems.

We are constantly seeking improvement in our line designs, in application of the equipment, and in the equipment itself. I hope we are always a little smarter tomorrow than we are today. Our business has grown steadily for eight years, and I am excited about our future prospects. We intend to continue to concentrate on the means.

4. "Loss of Freedom"

"History indicates that freedom cannot be imposed on a nation—or an individual for that matter—from the outside. Freedom must be generated internally. It must spring from within. For this to happen there must be the concept of freedom. It is human nature to accept what is, because that is easiest. Even imagining change for the better takes effort. And how much more effort when there is no model, no example of what **could be!**... We are failing to meet that urgent obligation (of serving as the citadel of human freedom). We are losing not merely our freedom, but our very concept of freedom. It is being brainwashed out in our schools and by our media. And we have no contemporary model to reinforce that concept." Peggy Poor in THE UPRIGHT OSTRICH, Box 11691, Milwaukee, Wisc. 53211, August 1988, p. 10.

5. Lionel Robbins on Hayek: He seems quite indifferent whether you find the truth, or whether he finds it, provided it is found.

"But his work was not only important, it was also very stimulating: whether you agree with him or not, you could not talk to Hayek without being induced to think for yourself. Contrary to popular belief, as a teacher Hayek was no proselytizer. He had strong convictions himself. But in discussion his focus was always directed not to persuade but to pursue implications. What Maria Edgeworth said of Ricardo could be equally well applied to him: 'I never argued or discussed a question with a person who argues more fairly, or less for victory and more for truth. He gives full weight to every argument brought against him, and seems not to be on any side of the question for one instant longer than the conviction of his mind on that side. It seems quite indifferent to him whether you find the truth, or whether he finds it, provided it be found.' It is in terms of such an attitude that must be explained the influence which he exerted on so many generations of students, whatever their ultimate political or economic convictions." Lord Robbins, AUTOBIOGRAPHY OF AN ECONOMIST, London: Macmillan, 1971, p. 128.

6. Compliance with the Immigration Laws in El Paso, Texas

"We've learned this much about Washington's mandates," says Ellwyn Stoddard, a sociologist at the University of Texas at El Paso. "First we reject the stupid laws. Then we circumvent them. Finally, if we're forced to comply, we end up lying and laughing behind their backs." From THE WALL STREET JOURNAL, May 4, 1988, p. 15.

7. Some New Southern Slang and a New Saying

How do the Southerners say "There ain't no such thing as a free lunch?"—"Every time you eat a biscuit, someone worked for it even if you didn't." And another new Southern expression referring to calamitous situations: "All sickness ain't death."

"If you find a path with no obstacles on it, the chances are it doesn't lead anywhere." From COUNTRYSIDE AND SMALL STOCK JOURNAL, W8333 Doepke Road, Waterloo, Wisconsin 53594.

8. Baloo on Busybodies

Rex May, better known as Baloo, our cartoonist, deserves many thanks for brightening and livening up our pages. He also edits THE TROUT IN THE MILK (Box 3108, West Lafayette, Indiana 47906), from which the following excerpt is taken (April 1988, p.3):

I could talk for hours on the difference between all those (political) tags, and so could most of us. The distinction between fascism and naziism alone is a very profound thing that is invisible to most observers. But in one way it **is** as simple as that. Some people want to run your life and other people don't. It matters little what distinctions are made between the various breeds of busybodies, they remain busybodies. I'm sure there are thousands of breeds of snakes, and the distinctions must fascinate herpetologists, but to most of us there's only two basic categories of snakes—poisonous and non-poisonous.

9. A Good Question About Free Market Automobile Insurance

"Why don't the automakers come out with their own insurance policies? They already offer warranties. A few even include emergency roadside expenses under their warranty. The answer is that insurance companies are regulated by state governments. Not only would automakers need to comply with the various state regulations, but they must be chartered by the state. Influence from the insurance industry would keep this from happening." From an unpublished article by Joe Naiman, "Deregulation Is Cure for Insurance Crisis."

10. On State Religion

"The public school is our actual U.S. state religion. (Public) libraries are the religion's auxiliary." J.C. Davis in a recent issue of THE PRAGAMIST, Box 392, Forest Grove, Pa. 18922.

11. Politicians

"Politicians are the same all over. They promise to build a bridge even when there is no river."

—Nikita Krushchev

Not A Noise, But A Racket!

Continued from page 1

without having a tax examiner audit any returns) file an assessment lien against a suspect's property. This assessment may be made even if there is no proof that additional taxes are owed, and may be made when the government only **thinks** it might get cheated. Furthermore, if the IRS thinks it may deliberately be cheated, it can prosecute criminally. The seizure law, which dates from the early 1920s, allows the IRS to decide whether a person may try to duck his taxes and, if so, gives them the authority to seize all known assets. Although originally applicable to aliens who might leave the country, the IRS has used these powers against drug runners, drug smugglers, white collar criminals, and even politicians-on-the-take.

Since the government seemed to be losing the war against crime in 1970, Congress again extended its fight against racketeering enterprises. It passed the RICO (Racketeer Influenced and Corrupt Organizations) law, which was conceived as a weapon against mobsters and drug runners. Under RICO it is a federal crime to conduct the affairs of an enterprise through a pattern of racketeering. The definition of an enterprise is a vague one. It can be a legal entity such as a company or union, or it can be an informal group of individuals who band together for the purpose of committing a pattern of crimes. The law defines such a pattern as the commission of two or more of at

least 25 felonies—robbery, murder, extortion, bribery, obstruction of justice, securities fraud, mail fraud, wire fraud, use of the telephone to commit fraud (the latter fraud statutes being among the most elastic crimes in the federal code), etc.—over a ten year period. If the government alleges that the business or its individual members committed at least two crimes that are related to one criminal purpose within a ten year period, it can prosecute under the RICO statute. The most recent of the crimes must have been committed within the last five years.

The RICO law is very effective because it allows the prosecutor to pull together lesser criminal acts (such as tax evasion or insider trading) and allege a pattern of racketeering punishable by as much as 20 years in prison for each act, as well as stiff fines of \$25,000 per violation. The law also requires defendants, upon conviction, to forfeit their profits from the alleged wrongdoing, plus interest, as well as their salaries or incomes during the period of wrongdoing, and all property used to facilitate the alleged racketeering activities. The law also gives the government the right to freeze assets it claims it will be entitled to in the event of conviction. A 1984 amendment to the RICO law allowed prosecutors to freeze suspected enterprise assets on court order at the time of indictment in order to preserve them from dissipation while the case is pending. The government has also attempted to expand the forfeiture provisions of the law to include the seizure of money paid as attorney's fees, if it can prove the racketeering origins of such money. All monies and properties seized by the government are turned over to the U.S. Treasury under the National Asset Seizure and Forfeiture Program.

The RICO law has been used in innovative ways. It was used to prosecute and convict many mobsters during the 1970s and 80s, and resulted in the conviction of drug kingpin Carlos Enrique Lehder in 1988. It has been used to indict Ferdinand Marcos and his wife Imelda, as well as to wring plea bargains from securities firms such as Princeton/Newport and Drexel Burnham Lambert. The 1970 RICO law also allowed for private parties claiming injury from racketeering activities to file civil suits. Private plaintiffs are entitled to generous remedies of three times the amount of their actual loss, and the law allows them to get an injunction barring the defendant from further activity. The triple damage provision has sparked numerous private suits under the RICO act, since plaintiffs in other types of civil suits are not entitled to such remedies. Even abortion clinics have resorted to the RICO law in suits against pro-life protesters, whom they allege have conducted obstructive sit-ins, which could be considered acts of extortion.

Despite all the recent media hype about RICO prosecutions and settlements, "the more things change, the more they remain the same." Congress, all levels of government, and especially the Internal Revenue Service are engaged in an unending battle to preserve their power and turf. RICO is nothing new, simply an extension of the forfeiture and seizure powers first legislated in the 1920s. By then the precedent had been well-established that all levels of government might directly tax the income of citizens and residents. Once that principle was accepted, the means of spoilation could not be questioned. If "voluntary" compliance (under threat of jail) with the tax laws was insufficient, then outright confiscation of taxpayer property could be used. The fact that there is no difference between taxation and robbery is purposefully overlooked, and sanctified by the law and the Constitution.

What Congress and other officials forget (or never realize) is that there really is no double standard in judging human conduct. If extortion and robbery are wrong; they are wrong no matter who commits them. The acts of a government are acts of individuals—of individual people whose accountability is in no respect changed by their official character. The wrongdoer cannot escape the effects of his own conduct. The day on which people realize that the State itself is a racketeering enterprise, will be the day on which its principal participants (legislators, office-holders, and enforcers) will be hoisted on their own petards. And the deafening sounds on that day won't be a noise, but a racket!

Freedom Works Both Ways

By Dean Russell

Everybody says he's in favor of freedom. Even the Soviet leaders claim to be fighting for freedom. So did Hitler. Our own leaders are also for freedom. So was my slave-owning grandfather.

But my grandfather failed to understand the fact that freedom is a *mutual* relationship; that it works both ways. He thought that he himself remained completely free even though he restricted the freedom of others. He never grasped the obvious fact that his participation in slavery controlled him and his actions just as it controlled his slaves and their actions. Both my grandfather and his slaves would have been richer—materially as well as spiritually—if he had freed his slaves, offered them the competitive market wage for their services, and left them totally responsible for their own actions and welfare. But like most of us today, he continues to believe that some persons—without injury to themselves—can legally force other persons to conform to their wishes and plans. He learned the hard way.

Hitler and Stalin were also victims of the systems they created and enforced. Their "food tasters," bullet-proof cars, personal bodyguards and constant fears of assassination were the visible evidence of a part of the freedom they lost when they decided to force *peaceful* persons to conform to their wills and viewpoints. Knowingly or unknowingly, they lost a great deal of their own freedom when they deprived others of their freedom. That's the way it always works.

Apparently, our own political leaders, regardless of party are also unaware that freedom is a mutual relationship among persons; that it works both ways. Like my grandfather, they are under the delusion that freedom is something which one person can take from another with no effect on the freedom of the person doing the taking—especially if it's legal. If they thought otherwise, they would stop most of the things they are now doing. In the good name of freedom, our leaders now force others to conform to their viewpoints and prejudices on housing, savings and retirement, military service, electricity production, hours of work, wages, education and a host of other items which form the major part of every person's daily life. All of these are restrictions against freedom because they are enforced against *peaceful* persons who would not participate voluntarily. The freedom of the American people—like the freedom of legal

slaves—is lost to whatever extent they are forced to conform to the ideas, whims and viewpoints of others. That is all that slavery is. And the fact that the current restrictions and compulsions are legal doesn't deny that they are acts against freedom; the slavery of 1860 was also legal!

As long as our officials continue to deprive peaceful persons of their right to use their time and earnings as they please, the officials will continue to lose a part of their own freedom along with the rest of us. As long as they continue to believe that freedom permits or obligates them to force their ideas upon peaceful persons who do not wish to participate, the system they have created enslaves them also. They obviously don't understand it, but they are somewhat like the man sitting on the chest of a person he has pinioned to the ground; as long as he sits there, he restricts his own freedom about as much as he restricts the freedom of his victim.

The officials who endorse and defend this system of legalized compulsions and prohibitions against peaceful persons are compelled to spend most of their time discussing ways and means—such as propaganda, secrecy, guile, deceit, laws, policemen, courts, jails, fines and so on—to force the rest of us to conform to their ideas and plans which we would reject if we were permitted a real choice in the matter. As long as they continue to enforce this mutually degrading process, they restrict and destroy the potentialities they have within themselves for advancement toward human understanding and some worthwhile ideal or goal. Sooner or later, the restrictions and compulsions they enforce against others will culminate in some type of an upheaval by an aroused and angry society which the officials can no longer control. Acts against human freedom—legal or illegal—have *always* worked that way. The fact that the intentions of most of our officials are so good only makes it sadder.

Some day we may realize that freedom is a relationship of *mutual* nonmolestation among persons wherein no person uses violence or the threat of violence to impose his will or viewpoint upon any other person. When enough of us understand this idea, we will begin to enjoy as much peace and prosperity as it is possible for us to have on earth.

[This article first appeared as an editorial in THE FREEMAN February 1955, pp. 291–292. It is reprinted here with some modification to its last paragraph.]

The Voluntaryist

P.O. Box 1275 • Gramling, South Carolina 29348



FIRST CLASS-TIME VALUE

Please renew your subscription if the number on your address label is within one digit of this issue's number