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## The Siren Song of the State

By Robert Higgs

The state is the most destructive institution human beings have ever devised—a fire that, at best, can be controlled for only a short time before it o’erleaps its improvised confinements and spreads its flames far and wide.

Whatever promotes the growth of the state also weakens the capacity of individuals in civil society to fend off the state’s depredations and therefore augments the public’s multifaceted victimization at the hands of state functionaries. Nothing promotes the growth of the state as much as national emergency—war and other crises comparable to war in the seriousness of the threats they pose.

States, by their very nature, are perpetually at war—not always against foreign foes, of course, but always against their own subjects. The state’s most fundamental purpose, the activity without which it cannot even exist, is robbery. The state gains its very sustenance from robbery, which it pretties up ideologically by giving it a different name (taxation) and by striving to sanctify its intrinsic crime as permissible and socially necessary. State propaganda, statist ideologies, and long-established routine combine to convince many people that they have a legitimate obligation, even a moral duty to pay taxes to the state that rules their society.

They fall into such erroneous moral reasoning because they are told incessantly that the tribute they fork over is actually a kind of price paid for essential

services received, and that in the case of certain services, such as protection from foreign and domestic aggressors against their rights to life, liberty, and property, only the government can provide the service effectively. They are not permitted to test this claim by resorting to competing suppliers of law, order, and security, however, because the government enforces a monopoly over the production and distribution of its alleged “services” and brings violence to bear against would-be competitors. In so doing, it reveals the fraud at the heart of its impudent claims and gives sufficient proof that it is not a genuine protector, but a mere protection racket.

[Excerpts from the author’s Schlarbaum Award Acceptance Speech delivered on October 12, 2007 at the Mises Institute’s 25th Anniversary Celebration. For full text see [www.mises.org/story/2749](http://www.mises.org/story/2749). Used by email permission of Lew Rockwell, Dec. 11, 2007.] ▽

“Persons and groups reaching for illicit power customarily assume attitudes of great moral rectitude to divert attention from the abandonment of their own moral standards of behavior. Deception of the multitude becomes necessary to sustain power, and deception of others rapidly progresses to deception of self. All conquest aristocracies have followed such paths. It would be incredible if ours [in the United States] had not.”

—Francis Jennings, *THE INVASION OF AMERICA* (1976), p. vii.

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## The Voluntaryist

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# The Voluntaryist

Whole Number 142

*“If one takes care of the means, the end will take care of itself.”*

3rd Quarter 2009

## An Open Letter: On Extraordinary Evil and the State

December 21, 2007

Dr. Fred Emil Katz  
2105 Avenue Road  
Toronto, Ontario M5M Canada.  
Dear Dr. Katz:

A number of years ago (in 1998), SUNY Press gave me permission to reprint pages 40-43 of your book, *ORDINARY PEOPLE, EXTRAORDINARY EVIL* (1993) in my newsletter, *THE VOLUNTARYIST*. (See [www.voluntaryist.com](http://www.voluntaryist.com).) This was your section dealing with the cunning of governments.

I just recently re-read your book and briefly wanted to comment on the connection between the modern-nation state and the extraordinary evil of genocide and world war. You define evil at page 5 of your text by writing: evil means “deliberately depriv[ing] innocent people of their humanity, from small scale assaults on a person’s dignity to outright murder.” At page 10 you write that extraordinary evil “is defined as this kind of behavior on a huge scale, ...”

Every law of every government is backed by its ability to command the use of physical force and violence. If you do not obey a judge’s order (to send your children to a government school, for example), a court marshal will come to seize you or your children, or if you choose to resist turning them over to him, he will arrest you for resisting an officer of the court; and if you resist at this point, he will try to subdue you in order to carry you off to jail. If you continue to resist forcefully (in order to defend yourself from the violence of the marshal), the marshal will escalate his use of force until such point that he must kill you or you kill him (if you choose to resist violently to the point of death). The moral of my example is that the state and agents of the state must use violence to enforce their edicts if the peaceful citizen chooses not to obey. [Query: Has the parent initiated violence against anyone by not sending his child to school?]

In a similar manner, I have often tried to explain that taxation is theft because taxes are not paid voluntarily. They are paid under threat of confiscation of your property and/or imprisonment of your person if you choose to resist. It is only because most people believe in the necessity of the state and because most people have been taught to accept the teachings of the

state (that taxes are a necessary component of social living, etc.) that more outright violence is not required on the part of the state to collect its revenues. This is part of the cunning of government, of which you wrote. Government cunning is focused on legitimizing and sanctifying its own existence and activities, so as to blind its citizens to its inherently violent nature and turn them into obedient subjects (upon which it is not necessary to inflict overt violence). It largely accomplishes this by relying on generic religious beliefs which justify its existence, and by requiring compulsory schooling of all subjects, and then using the public schools as a means of inculcating beliefs in the necessity of the state.

The point is, as a friend has pointed out to me, that “technology (advances in chemistry and physics, computers, cars, guns) makes extraordinary evil possible, but it doesn’t follow that technology [itself] is inherently evil.” Rather, government is evil because it inflicts violence upon innocent, peaceful people. It matters not whether one citizen is murdered or has his property confiscated, or whether millions are murdered: both actions are evil actions of the state and its agents. The major difference is in the scale of the attack on the innocents.

At page 119 of your book, you wrote “The lesson ... is that extricating oneself from participating in evil actions is most feasible if one acts right away upon recognizing the situation. After that, ..., it become increasingly difficult to do so.”

My position (which I believe you, and most other people, share) is that evil actions are wrong and that I (and others who share my belief) should not participate in evil actions. In my view, governments are evil because their authority rests on violence and/or the threat of violence to impose their laws over peaceful people who have caused no one any harm. Hence, to be an agent of government and receive a salary from the government (for example, an office holder at any level, a bureaucrat, a policeman, a judge, a government health worker, etc.) is inherently an evil act. As soon as one realizes the evil of such employment, one should resign (or as you describe it, extricate oneself from participating in evil actions).

It is my conclusion that the participation of ordinary people in an evil institution (the modern nation state) is what makes extraordinary evil possible. If people resisted at the beginning (the demands of the government for their money and the minds of their children), governments could not command the tremendous resources or territory over which they

*continued on page 4*

# The Voluntaryist

Editor: Carl Watner

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## Potpourri from the Editor's Desk

### No. 1 "True 'Community Service'"

Merchants of all types give to their community every day. Indeed, in the market economy the only way to make a profit is to give of yourself entirely to the needs of others.

Entrepreneurs spend their lives discerning the needs of others and seeking to meet them in economically viable ways. Their profits provide riches, but only when what they are doing serves others in an efficient manner. Profits are a confirmation that the entrepreneur is doing what is economically right. No one in a market economy can be forced to buy anything. You have to provide a product or service that they [the buying public] prefer more than any other alternative use of their money.

This is true service to the community.

—Rev. Robert A. Sirico, paraphrased from ACTON NOTES (October 2007), p. 2.

### No. 2 Books Received

Edward P. Stringham, ANARCHY AND THE LAW (New Brunswick: Transaction Publishers, 2007)

This massive anthology (nearly 700 pages) contains many important and seminal essays in the field of individualist-anarchism. It is divided into four major sections: "Theory of Private Property-Anarchism;" "Debate;" "History of Anarchist Thought;" and "Historical Case Studies of Non-Government Law Enforcement." It is peppered with names of authors familiar (or that ought to be familiar) to readers of THE VOLUNTARYIST: Murray Rothbard, Roy A. Childs, Jr., Gustave de Molinari, Lysander Spooner, Benjamin Tucker, and Bruce Benson, to name just a few. If a person was limited to selecting one volume of individualist-anarchist thought, one would be hard pressed to choose between ANARCHY AND THE LAW and I MUST SPEAK OUT. Highly recommended. Available from The Independent Institute, [www.independent.org](http://www.independent.org).

Paul Rosenberg, A LODGING OF WAYFARING

MEN (Chicago: Vera Verba, Inc., 2007)

This is "the [fictional] story of freedom-seekers who create an alternate society on the Internet - a virtual society with no possibility of [government] oversight or control." The title, from Jeremiah 9, epitomizes the author's concern for a safe haven for all the producers and achievers in society. There are a number of voluntaryist statements scattered throughout the book, ranging from "Very few people have ever questioned the nation-state myth at all" (p. 153) to exploding the idea that if government doesn't provide older people with Social Security benefits they will be bereft of care: "You imply that it is either government or nothing. That is a false assumption. ... Everything that ... governments do can be done by other means, and done more efficiently." (p. 347)

Available through Vera Verba, Box 81058, Chicago, IL 60681 or [www.veraverba.com](http://www.veraverba.com). ISBN 978-0-0706011-0-1.

Brian Doherty, RADICALS FOR CAPITALISM (New York: Public Affairs, 2007)

This volume of over 700 pages is "a freewheeling history of the modern American libertarian movement." It has it all, except for the voluntaryists. The closest it comes is a reference to George Smith, as "an old-fashioned 'voting is a crime' libertarian." (p. 398) Another highly recommended reference. Available from the publisher at 250 West 57th Street # 1321, New York, NY 10107; 1-800-343-4499.

Jim Davies, A VISION OF LIBERTY: AMERICA IN 2030 (Newbury, NH: Boetie Publications, 2008)

Written by the author of "Changing Minds" (THE VOLUNTARYIST, Whole No. 135), the purpose of this slim book (103 pages) is to describe how society will thrive and survive after all coercive government is abandoned in the year 2027. "The most important of the book's assumptions is that everyone completes" and understands "The On Line Freedom Academy" ([www.tolfa.us](http://www.tolfa.us)). A well done job. Available for \$10.95 through [bopub.bravehost.com](http://bopub.bravehost.com). ISBN 978-1-60585-820-3.

### No. 3 "Our Property Right in Drugs"

Drugs are a species of property, and hence the right to drugs is a form of property right. Accordingly, I maintain that we have a right to grow, buy, and ingest drugs much as we have a right to grow, buy, and ingest food; and that drug prohibitions, epitomized by our prescription laws, constitute deprivations of our fundamental right to own and use property.

—Dr. Thomas Szasz, OUR RIGHT TO DRUGS (1992).

### No. 4 "Authority vs. Autonomy"

There is only one political sin: independence; and only one political virtue: obedience. To put it differently, there is only one offense against authority:

## An Open Letter

Rev. Robert A. Sirico, President  
Acton Institute  
161 Ottawa Avenue NW, # 301  
Grand Rapids, MI 49503

I recently read your "President's Message" in the *Acton Notes* of January 2008, and would like to share my comments and observations with you and your staff.

While much of our prescriptive strategies for working toward a free society overlap, I believe our basic assumptions differ. I have concluded that the State is an inherently invasive and criminal institution, while you consider it a necessary component of a free and healthy society. (Would you please correct me if I am wrong.) You imply that the State can help provide a moral foundation for a free society, but I see that as impossible since the State itself is thievery writ large. Consequently, I see it as highly contradictory to support a limited government, on the one hand, and on the other to seek to "shore up the cultural and moral foundations that establish and preserve the market economy" without pointing out that the State is, indeed, the primary enemy of civil society. I wish you would clarify the Acton Institute's position vis a vis the State.

I am sure that we could argue all day long about why people believe that taxation is not stealing: it is the required dues for living in a civilized society; it is payment for the services government renders; citizens have consented to it by residing here; our enemies would invade us if we didn't have armed services to protect us; and on, and on. But they all sidestep the main issue: that coercion must be applied against peaceful people in the collection process. If these alleged services are useful, let them be paid for like all other valuable services in society - voluntarily. If some people choose not to pay (all or part of) their taxes don't throw them in jail or auction off their property. Treat them in a Christian manner: try to reason with them and persuade them to assume their social obligations. Would the Christian throw in jail those who refused to support the Church or a favorite charity? The fact that government is a "good cause" is no justification for stealing from or jailing those who refuse to support it.

In your "President's Message" you wrote that "There are societies that devolve into mass criminality and immorality. ... [I]t is most common in societies and social sectors in which socialism is practiced." What, if not socialism, is our public education system; our police and judicial departments; our monetary system; our postal service; our roadway systems; and, last but not least, our armed forces? [Parenthetically, another problem, I note, is that the extensive presence of government-run schools in our society legitimizes the very existence of government itself. Who could imagine

any government employee (such as a public school teacher, policemen, or soldier) questioning whether his salary came from stolen funds?]

Frank Chodorov once wrote a book titled, THE INCOME TAX: ROOT OF ALL EVIL. If I were to write such a book it would be titled TAXATION: ONE OF THE MAJOR ROOTS OF EVIL. Evil may reside in the heart of every person, but why give the government an opportunity to institutionalize and legitimize the crime of stealing by calling it taxation? When people and citizens are ready to apply the general social prohibition against stealing to the government itself, then we will have moved toward the "free and virtuous society" that the Acton Institute promotes.

I look forward to reading your column every month, and hope that you will at least accept my message as 'food for thought.'

Sincerely,

Carl Watner ☐

## My Taxes

On April 15 [1969], I sent the following letter, accompanying my filled-out 1040 Form to the Tax Collector:

The Declaration of Independence of the United States of America establishes a bill of particulars in regard to intolerable infringements, abuses, and denials of political power which belongs to the people.

The Federal government of the United States of America today is guilty of exactly every sort of infringement, abuse, and denial stated as intolerable by the Declaration of Independence.

I cannot, in conscience, sanction that government by the payment of taxes.

Further, the Federal government of the United States of America has established as a principle, and ruthlessly by the power of its officials enforces as a practice, that it can demand the primary loyalty of the people, that it can exercise all political power on their behalf, that it can wage war without their approval, and that it can and should establish the standards of their behavior and the goals of their lives.

I could not in conscience sanction such a government by the payment of taxes.

Finally, the Declaration of Independence, in the clearest possible language, tells Americans that when a government becomes destructive of the ends of life, liberty, and the pursuit of happiness that it is the right and duty of the people to abolish such government, to "throw off such government."

It is in the spirit of that Declaration, and in comradeship with men everywhere who seek freedom and to throw off such government, that I now refuse to pay the taxes demanded by the government in the attached form.

[This letter, written by Karl Hess, originally appeared in THE LIBERTARIAN, May 1, 1969, p. 3.] ☐

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session. The ultimate control over the property is vested in one or more governmental authorities. Furthermore, disputes over possession (or the use) of property are adjudicated by a process that doesn't challenge the government's status allowing it to directly take control of the property, to force a change of "ownership," to mandate conditions of its use, or to impose and collect a tax.

A few examples illustrate this. If property taxes aren't paid, at some point the local taxing authority can initiate proceedings to foreclose and formally take possession of the property. A governmental authority can also typically initiate condemnation proceedings if something about a property's upkeep is deemed to constitute a public health or safety hazard. Additionally, various local, state, and federal agencies can have requirements that must be satisfied before property can be developed, or even structurally remodeled. Furthermore, the "owner" of a rental property may be fined, sued, or even jailed, if laws restricting discrimination, limiting occupancy, or mandating maintenance are not complied with.

Consequently, in the U.S. a title to property or other forms denoting "ownership" effectively constitutes a transferable long-term lease with the federal and/or state government conferring certain limited privileges of its use and tenancy. Since any property "owner" who does not comply with taxing and use requirements is subject to serious sanctions that can include the loss of their tenancy rights, there is no property in the U.S. over which a non-governmental entity exercises exclusive domain. So contrary to the commonly held belief, there is no private property in the U.S.

Understanding that there is no private property in the United States also exposes the lie behind another myth: That the federal constitution and state constitutions protect private property interests. Those documents actually protect the claim to all property by the governments created by those same constitutions. That claim is fashioned by those constitution's displacement of the position of authority and control over the property from the titleholder who is commonly referred to as the "owner" - to the government. Insofar as those constitutions are concerned, the primary significance of the title "property owner" is it designates who is responsible for paying the taxes levied on that property, and thus who will be held responsible if they aren't paid. So the federal and state constitutions function as instruments facilitating the systematic confiscation of private property - not their protection.

Consequently, the federal and state constitutions operate - under the radar screen of general awareness - as diabolical tools of wealth expropriation. That surreptitious function is reminiscent of an episode of the *Twilight Zone* television series. In the episode titled *To Serve Man*, an alien race comes to Earth proclaiming peaceful intentions and encourages large

numbers of Earthlings to travel to their planet. In their interactions with humans, the aliens rely on a book written in their language that defies translation into English. As a newspaper reporter is boarding a spacecraft headed for the aliens' planet, a co-worker runs to the boarding ramp yelling for him to stop. With the aliens hustling him toward the spacecraft's door, the woman hollers that the book had been translated. It is a cookbook for humans! Under the guise of friendliness, the aliens were stealthily tricking humans into volunteering as a food source.

So it is that people in the United States are seduced by a combination of the myth of private property and their blind faith in the "goodness" of the federal and state constitutions, to relinquish control of their property to government entities under the guise that doing so contributes to their "life, liberty and pursuit of happiness." Nothing could be further from the spirit of those words in the Declaration of Independence. [V]

### Potpourri from the Editor's Desk

*continued from page 3*

This industrialization of warfare has meant, of course, an ever-increasing scope and scale of violence, at least in international conflicts. ...

The escalation of international warfare leads us to the second major feature of modern states as mass murderers, namely a shift from external to internal violence. Outright predation against foreign states has become too risky a game ... .

Small, primitive states typically start out as war machines that prey on their neighbors and have little or no machinery for internal repression or expropriation. As states develop, expand, and industrialize, however, they turn increasingly from external predation to internal parasitism. One of the main consequences of modern technology has been to accentuate the disparity of power between the state and its citizenry. The superiority of the state is due not only to its immeasurably greater access to more expensive and complex weapon systems, which in turn require a system of logistics and maintenance totally beyond the reach of private individuals. The modern state also controls the means of transportation, communication, information storage and retrieval, and most basic utilities, notably water, food, and energy in urban areas. Successful revolution is all but impossible in modern states unless the state itself and its repressive machinery collapse from within. ...

We come now to the third novel trait of states as mass killers. The modern state kills mostly in the name of nationalism. We now take the statist ideology of nationalism so much for granted that the above statement seems a truism. [4]

- Pierre L. van den Berghe (ed.), "Introduction" to *STATE VIOLENCE AND ETHNICITY* (Niwot: University Press of Colorado, 1990), pp. 1-4. [V]

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self-control; and only one obeisance to it: submission to control by authority.

Why is self-control, autonomy, such a threat to authority? Because the person who controls himself, who is his own master, has no need for an authority to be his master. This, then, renders authority unemployed. What is he to do if he cannot control others? To be sure, he could mind his own business. But this is a fatuous answer, for those who are satisfied to mind their own business do not aspire to become authorities. In short, authority needs subjects, persons not in command of themselves - just as parents need children and physicians need patients.

—Dr. Thoms Szasz, from Chapter 12 of *CEREMONIAL CHEMISTRY* (1989).

### No. 5 "The Market Economy Was Not Designed By a Master Mind"

There is really nothing mysterious about the market. Every single transaction benefits both parties. The spontaneous actions of individuals aim at nothing other than the improvement of their own state of satisfaction. Thus, it is not surprising that the market economy results in prosperity.

—Paraphrased from Brian Doherty, *RADICALS FOR CAPITALISM* (2007). pp. 638 and 659.

### No. 6 "Two Tiny Changes in the Way the World Works to Achieve Market Anarchism"

(1) You can't make your customers pay for your services by force; and

(2) You can't drive your competitors out of business by force.

—Randy Barnett in Brian Doherty, *RADICALS FOR CAPITALISM* (2007), pp. 496-497.

### No. 7 "What Do You Consider Legitimate Government Functions?"

Well, that's easy for me, because I don't believe there are any legitimate government functions. I just am opposed to government as we know it, which is the government of a coerced submission. I consider that criminal and wicked, and everything that flows from it is wrong.

That doesn't mean that every action the government takes is a wrong action. Government does all sorts of things that in themselves are fine. They're great. They're wonderful. But it does this with money it gets from people by threatening to kill them, although they're innocent of any wrongdoing. That's wrong. And so this kind of government is wrong. It's just wrong. I don't believe in it any longer.

It took me almost a lifetime to reach this position. If things are worth doing, people will find voluntary ways to do them. I honestly believe that. And I believe the ways they find will work better than having these mendacious, incompetent buffoons with guns try to be the problem-solvers for society. We can all see the product of that. This is not a good way to run things.

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It perpetuates problems rather than really solving them.

So my answer is just ... build a society on the basis of free and voluntary individual cooperation.

—Robert Higgs, "Why Are Politicians Always Trying To Scare Us?," December 6, 2007. Transcript from the Independent Institute. See concluding question at <http://independent.org/events/transcript.asp?eventID=130>.

### No.8 "Killing Machines"

Since its inception some 7,000 years ago, the state (by which I mean those individuals who, singly or collectively, manipulate to whatever ends the coercive apparatus for which they claim legitimacy) has been the prime killer in human history. Killing is, in fact, in the very nature of the state. States are killing machines controlled by the few to steal from the many. Even if one does not accept the above statement as a definition of the state, even the most sanguine must admit that it constitutes an accurate description of what many states do much of the time. ... Most states ... use violence ... internally against their own citizens or externally against other states ... [and] have done so with abandon and have in the process out-killed bandits, dissidents, wife-murderers, sex maniacs, and other assorted murderers by a wide margin.

Indeed, states claim a monopoly of the "legitimate" use of violence - legitimacy defined, of course, by the state killers.

Agents of state power, therefore, seldom admit that they murder, but they cannot deny that they kill. Not uncommonly, they proudly advertise their lethal capacity. Indeed, the kill ratio of [1] state murders to all other murders is a good measure of the efficacy of the state in monopolizing violence. If that ratio falls much below, say, ten to one, there is reason to believe that the state has dangerous competitors ... .

As mass murderers, modern states exhibit three relatively novel features. ... First, the state machinery of mass killing became industrialized. .. It became a complex, intricately planned enterprise involving the most advanced technology and science and thus virtually every sector of society: research institutes, universities, the transportation system, and, of course, the entire "military-industrial complex."

Modern state killing is no longer simply a casual, sporadic, spontaneous activity of the police and army ... . It is now an essential and permanent ingredient of state planning and policy involving the continuous integration and involvement of the system of production with the system of destruction. Production and destruction have become the two faces of the same coin of modern statecraft. Indeed, much of the need for state control of the system of transportation and production, even in "capitalist" countries is dictated by the need to control the system of destruction. ... [2]

*continued on page 6*

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## On Extraordinary Evil

*continued from page 1*

dominate. National leaders, who then take control of their respective countries, would then not be able to direct the resources or people which they require to engage in war against ethnic groups within their own countries or against leaders of other similar nations. Without participants to enforce its will (and conversely without citizens who choose to obey), the state is nothing: it is powerless.

You may think this analysis is both simplistic and anarchistic; both of which may be true. However, neither of these designations necessarily invalidates the logic on which the analysis rests.

I hope this letter finds you well and still interested in the theme of extraordinary evil, and that you may choose to comment on my ideas. I have great difficulty in convincing people of my argument (that the state is an evil institution) and would like to find out if you agree or disagree with me that the state is **the** major component of social life which makes possible the existence of extraordinary evil. Evil may reside in the heart of every person, as Solzhenitsyn points out in your front piece. However, it is my belief and argument that whatever evil may reside in each of us cannot turn into extraordinary evil, without the existence of the state.

Sincerely,

Carl Watner ☒

## Last Statement Before the Court

By Kurt Huber

[“Kurt Huber, born October 24, 1893, in Chur, Switzerland, had been a professor at the University of Munich from 1926 on. It was impossible for this inspired and fascinating teacher to hide his deep antipathy to National Socialism. He became the central figure and counsellor of the [White Rose] student group that agitated for resistance by means of pamphleteering. After the incident of February 18, 1943, when Hans and Sophie Scholl dropped pamphlets into the main lobby of the university, the Gestapo stepped in. Huber was condemned to death on April 20. Meditation and prayer filled his time as he waited for the execution of the sentence, which followed on July 13.”]

As a German citizen, as a German university professor, and as a political being, I consider it not only my right, but my moral duty to collaborate in the shaping of German history, to uncover evident abuses, and to combat these. ... My purpose has been to rouse student circles - not through an organization, but by means of simple words - not to any act of violence but to a moral discernment of existing grave evils in political life. A return to clear moral principles, to a constitutional state, to mutual trust among men - this is not an illegal aim; on the contrary, it means a restoration of legality.

I have asked myself, taking the point of view of

Kant’s categorical imperative, what would happen if this personal principle motivating my actions were to become a universal law. To this there is only one possible answer: it would mean a return of order, security, and trust into our political life. All morally responsible people would raise their voices in unison with us against the threatening domination of might over right, of purely arbitrary will over the will of morality. The tenet that upholds the right of even the smallest ethnic group to self-determination has been forcibly suppressed throughout Europe, and no less so the tenet looking to the preservation of racial and cultural individuality. The tenets fundamental to genuine national solidarity have been annihilated by the systematic destruction of the trust between one man and another. There is no more terrible judgment on a national community than the admission, which all of us must make, that no man can feel safe in the presence of his neighbor, that a father can no longer feel safe in the presence of his son.

That was what I wanted, that was what compelled me.

There is an ultimate boundary beyond which all external legality becomes false and immoral - namely, when it becomes the cloak of cowardice, of a lack of courage to take action against notorious breaches of justice. A state that strangles all free expression of opinion and that brands any morally justified criticism, any suggestion for betterment, as a “preliminary to high treason,” subject to the severest penalties, breaks an unwritten law that has always been alive in “sound and popular understanding” and must remain alive.

I have attained this one goal: I am presenting this warning and admonition not to a small private discussion group but before the most responsible, the highest judiciary seat. Upon this admonition, this solemn plea for a return, I am staking my life. I demand that freedom be given back to our German nation. We do not want to eke out our brief existence in the chains of slavery, even though they might be the golden chains of a material abundance.

You have taken from me the status and the rights of a professor, as well as my doctorate attained *summa cum laude*, and placed me on a footing with the lowest criminal. No trial for high treason can rob me of the dignity of a university professor, of a man who openly and courageously avows his view of the world and the state. The inexorable course of history will vindicate my actions and my purposes; on this I rely with adamant faith. I hope in God’s name that the spiritual forces that will vindicate them may be born in good time from my own nation. I have acted as I had to act in response to an inward voice. I accept the consequences in the spirit of the words of Johann Gottlieb Fichte:

And you must act as though

On you and on your deeds alone

The fate of German history hung,

And the responsibility - your own.

[From Helmut Gollwitzer, Kathe Kuhn, Reinhold Schneider (eds.), *DYING WE LIVE: The Final Messages and Records of the Resistance*, New York: Pantheon Books, 1956, Third Printing April 1961, pp. 159-161.] ☒

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## There is No Private Property in the United States

By Hans Sherrer

*MythBusters* is a cable television program devoted to debunking commonly accepted myths. A prime subject for *MythBusters* to tackle is the belief that there is private property in the United States. Why? Because contrary to that belief, there is no private property in the U.S.

That statement may only seem novel because the absence of private property is obscured by confusion of the difference between control of property and its “ownership.” As *Black’s Law Dictionary* (8th Ed.) puts it, ‘ownership’ is “The bundle of rights allowing one to use, manage, and enjoy property, including the right to convey it to others. Ownership implies the right to possess a thing.” (1138) ‘Possess’ is defined as, “... to have possession of.” (1201) While ‘possession’ is defined as, “The fact of having or holding property in one’s power.” (1201)

Although there are many nuances, the foregoing definitions clarify that in general terms the essence of “ownership” is a legal claim to exercise a degree of discretion related to the use, possession, and conveyance of property. However, that discretion is not absolute. It is subordinate to the interests of governmental organizations considered to have some or complete domain and control over the property. In the U.S. there is private “ownership” of property, but its control is by the government.

A significant way the government’s domain over property is evident is in the imposition and collection of taxes. The U.S. has an elaborate, and in some cases interrelated, system of municipal, county, regional, state, and federal taxes. All of these “taxes” are predicated on the idea that the government entity levying the tax has the lawful authority to do so. The basis of the taxing authority is that all property owned by a U.S. citizen or business that is either within or without the country is subject to a proprietary claim by the federal government, although a state government and its subdivisions can also have a claim on particular property. The property referred to is not just land, but all money and items of value in a business or person’s possession - up to and including what is in a person’s pocket or purse.

The government’s presumptive taxing authority takes many forms. Just a few of examples are: tax levies on physical land and structures (real property taxes); taxes on the sale of goods or services (sales and business and occupation taxes); taxes on pay-

ments made to an individual or business (“income” taxes); taxes on property development (building and community development taxes, often called “fees”); and taxation on non-permanent items of value in the possession of individuals (personal property taxes) and businesses (business property taxes).

The non-payment of these taxes can have varying degrees of consequences. Those can include fines, imprisonment, liens, forfeiture of property, and even loss of professional accreditation by a state agency.

The key point is that those consequences are all a response to the non-payment of a tax levied in one form or another on real or personal property (including property in the form of money received) in the possession of an individual or business. That means the possessor of the property may have a claim to the property, but it is trumped by the claim of one or more governmental entities that have the authority to levy a tax. This relationship between a property “owner” and the government is somewhat analogous to that between a renter/lessee and their landlord. The landlord’s claim to the property supercedes that of the renter. Only so long as certain conditions are met does the renter/lessee have a limited legal “right” to possess and use the property. However, at some point - after a required payment or fulfillment of some other condition of tenancy is not met - the landlord can exercise his superior legal claim and take possession of the property.

Eminent domain is another way an ‘owner’s’ control of property is subordinate to that of a government entity. The federal government’s power of eminent domain is codified in the Fifth Amendment to the Constitution of the United States, which states no “private property [shall] be taken for public use, without just compensation.” The Fifth Amendment’s caveat that eminent domain is restricted to a “public use” was brought into sharp focus by the U.S. Supreme Court’s 2005 decision in *Kelo v. City of New London*, 545 U.S. 469 (6/23/2005). The Court determined that eminent domain was applicable to any property that could be expected to benefit the public by generating more tax revenue from a better economic use of the property. Consequently, the federal constitution’s eminent domain provision can be used to legally compel the transfer of a property’s title to an “owner” whose use of it is anticipated to generate greater tax revenue - which can include property, income, and sales taxes. A government agency determines both the property that is seized, and the compensation paid to its ‘owner.’ Payment of what is deemed “just compensation” for the property may not, however, assuage the negative consequences experienced by the displaced “owner.”

As the foregoing illustrates, there is no direct relationship between the possession of property and the ultimate control over its use. Thus the title to “ownership” of property is a limited grant by the government that only confers privileges of its pos-