
The Voluntaryist

WHOLE #21

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

SEPTEMBER 1986

A Plague on Both Your Houses

By Carl Watner

Suppose you were an advocate of a consistent philosophy of freedom and self-government living in British North America in the early 1770's. What position would you have taken with regards to the on-going resistance to British rule and the establishment of new governments free from Parliamentary control? How would you have analyzed the rhetoric and the actions of the revolutionists? Would you have considered the Declaration of Independence a truly liberating document? Did it emanate from a governmental body that could rightfully be described as a State or was the Second Continental Congress a voluntary body of people that made no claims to national sovereignty? In short, as the revolution unfolded before your eyes, what did you learn about the nature of the State? Did the State ever die in North America or was the Constitution of 1789 merely a continuation of the activities of the pre-revolutionary era?

The classical definition of the State is that it is an institution which possesses one or both (and almost always both) of the following characteristics: (1) it acquires its income by physical coercion, known as taxation; and (2) it asserts and maintains a coerced monopoly of the provision of defense services (police, army and courts) over a given territorial area. As THE ENCYCLOPEDIA OF THE SOCIAL SCIENCES puts it, "The State is a community in which membership is not voluntary but imposed upon all individuals within a given territory." (Vol. 7, p. 9) Few would disagree that the State is a complex institution, but all States seem to share certain characteristics: the acquiescence of a majority which allows them to control sufficient physical force to tax, police and defend the population of a specified area; a legislature exists to pass laws to define crimes (against the State); it issues money and maintains a post office. Every State is of necessity a police State because its actions are invasive. By its very nature, the State must violate individual rights, but some States may be more totalitarian than others.

Did a State actually exist in North America during the early days of the revolution? If it did, then how totalitarian was it? Two ready measures of State oppression will be used to answer these questions. The oppressiveness of a State can be determined by (1) judging how much a criminal people become when they simply attend to their own business; and (2) to what extent do government employees confiscate property? If no one became a criminal for minding his own business and no property is "taxed" then it is reasonably safe to say that no State existed. Where do the revolutionary governments of 1776 stand in these respects? To what extent did the revolutionists actually oppose the State? Just because the Americans were opposed to the British State, is it safe to conclude that they were opposed to all States in general, and an indigenous State in particular? How "stateless" was the ideology of the American revolution? How libertarian was the revolution itself?

The Quakers are a particularly apt group of people to look at in times of revolutionary upheavals because their pronounced pacifism makes them an unlikely threat to either side of the conflict. Most members of the Society of Friends refused to support either the British or the Americans. Their goal was to maintain a passive neutrality, without actively aiding either side. For this they were condemned by both sides. The Quakers were one group of people that offered no threat to the American cause, yet the history of their treatment during the American revolution demonstrates how

coercive the American State had become, even before the issuance of the Declaration of Independence. As early as 1775, many Friends refused to sign the articles of Association, the American declaration of October 1774, to abide by the non-intercourse agreements against Britain. Neither the Americans nor the British seemed to understand that the Quaker policy embraced a traditional loyalty to the old order, as well as a passive, if unenthusiastic, obedience to the new. As we shall see, the Quaker attempt to mind their own business made each and every Quaker a criminal from the point of view of American law.

The Quakers were particularly hard hit by the laws compelling military service and the swearing of test oaths. Both sets of laws were passed by many state assemblies. In Massachusetts and Rhode Island, where heavy concentrations of Quakers lived, selective service laws were imposed shortly after the outbreak of the revolution. In Massachusetts, by a law of September 1776, persons refusing the draft or the hiring of a substitute were to be fined 10 English pounds or imprisoned up to two months. (Three young Quakers from Worcester were actually imprisoned soon after the passage of the laws.) In Rhode Island, at first, Quakers were subject merely to the requirement included in pre-war legislation of performing in an emergency certain auxiliary non-combatant but paramilitary duties, such as acting as scouts or messengers. Later in April 1777, the Rhode Island assembly imposed a draft upon all citizens, including Quakers. There was no exemption for conscientious objectors and those who would not find substitutes were to have a distress levied upon their property. (Brock, 200) When a British attack on Philadelphia was expected, the Continental authorities were desperate for men to stem the enemy advance. Two men from a Philadelphia meeting were jailed "for refusing to bear arms or work at the entrenchments near the city." They were released after Friends had intervened with General Israel Putnam.

Due to their rejection of bellicose means, Quakers often refused to handle the paper currency issued by the Second Continental Congress and state assemblies. In their eyes the usage of such money was not financially honest (they preferred using gold or silver coins), since transactions carried on with it, whether by the authorities or by private individuals, did not approximate the true values involved. Furthermore, continental paper money was considered to be a covert means of taxation to finance the prosecution of the war. "In February 1776, as a result of their outspoken stand against the money, the two Fisher brothers (Samuel Rowland Fisher and his brother of Philadelphia) were advertised as enemies of the American cause, and their stores were temporarily closed down by the authorities." (Brock, 208)

During the period of serious military crisis, when Philadelphia was threatened by British troops, 17 leading Philadelphia Quakers and three well-known Anglicans were accused of "treasonable relations with the enemy." Their arrests took place between Sept. 2nd and 5th, 1777 and on Sept. 9th the men were removed to Winchester, Virginia, for safekeeping. They were held in custody until April 1778. Two members of the group died during their detention. "The charge of Quaker complicity with the British was undoubtedly false; it was based in part on hearsay, in part on forged documents, and in part on the known neutralist and quasi-loyalist sentiments of these leading members of the Pennsylvania Society." The arrests were precipitated by a resolution of the Continental Congress, issued in late August 1777. The exiles were never tried and branded their imprisonment illegal and arbitrary. (Brock, 251-252, 258)

J. P. Brissot de Warville, who travelled widely throughout the United States, half a decade after the end of the American Revolution, had this to say about the Quakers and the war:

Continued page 5

The Voluntaryist

Subscription Information

Published bi-monthly by **The Voluntaryists**, P. O. Box 1275, Gramling, SC 29348. Subscriptions are \$15 per year. Overseas subscriptions, please add \$5 (per year) for extra postage. Please check the number on your mailing label to see when you should renew. *No reminders will be sent!* Back issues \$3 each.

Communications

Dear Carl,

Just a quick note first, to offer best wishes to you and your new bride, and second, to congratulate you on your fine piece about R. C. Hoiles in the latest edition of **The Voluntaryist**. The piece really hit home with me because I grew up in Santa Ana, California, and adapted, even at that early age, R. C. Hoiles as my unsung hero in developing my philosophy of life.

A group of us spread his political and economic line everywhere from school to Young Republican meetings, and we were understandably fairly unpopular with our teachers, who viewed us as some sort of political aberrations to be put down at every opportunity. But we had the whole-hearted support of R. C. himself, and every so often a few of us would finagle our way into his office and listen to the master himself pontificate on the great issues of the day.

I particularly remember a bond issue drive (bond issues in ultra-conservative Santa Ana, Orange County were regularly voted down) which the teachers thought they had a good chance at winning, as the sole high school was overflowing and the old gymnasium was crumbling with age. My political cohorts and I launched a letter writing campaign to **The Register**; we claimed huge classes didn't phase us and we offered to play basketball on the outdoor courts, if necessary, so that the poor taxpayers would not be saddled with higher taxes. As I recall, the bond issue lost by one vote. We celebrated with glee upon hearing about its defeat, and when I tried to explain my reasoning to one of the teachers, he threw a coke on me.

Along with Ayn Rand, R. C. Hoiles had the most profound influence on my political and economic thoughts, and for that I shall be forever grateful. God bless him.

Sincerely,

(s) David Pearse

Dear Carl,

Thank you for the review of my **Calculated Chaos** book. I appreciate the attention given to it. I did have a few comments to make on your review, however:

1. needless to say, I have no quarrel with the notion that "voluntary" social relationships are not to be opposed, nor "involuntary" ones to be sanctioned. I was, however, addressing issues that go beyond the voluntary/involuntary threshold. I have always been interested in getting at the underlying psychological foundations of freedom, and have come to the realization that **freedom** and **peace** are but two ways of talking about the same thing: that **conflict** — and the conditions that produce conflict — is at the base of the problem of liberty. Let me give you a hypothetical to explain what I am trying to say: I have no quarrel with the right of a young child to learn, through his highly religious parents, how to "voluntarily" beat himself bloody with a stick through self-flagellation. I do not, however, look upon the practice as being psychologically healthy nor, for that matter, consistent with the underlying conditions that are conducive to freedom. This is but an extension of the same

argument I have with many of my libertarian friends over the question of schooling: too many seem content with discussing only the question of how the schools are to be owned. If they are owned—and run and financed—privately, that seems to end the discussion. I am very interested in knowing what the teaching methods are, for a classroom that continues to offer the same teacher-centered classroom, with the teacher insisting upon obedience to her authority, will produce the kind of conflict within children that will, in the long run, produce the kind of adults who will happily follow **other** authorities in their lives. While I would do nothing to forcibly prevent anyone from running a teacher-centered school, I do feel quite free to comment upon what I consider the adverse consequences that can flow from even purely voluntary undertakings;

2. as to my very strong opposition to slavery, I do **not** oppose slavery on **moral** grounds per se. As you will recall from my chapters on religion and morality, I have quite strong opposition to any philosophy that is founded on "moral" premises, . . . the main reason being that moral arguments always presume **standards**—which are necessarily outside myself—by which I am to live my life, rather than living my life according to my conscious **awareness** and **understanding** of the nature and consequences of my behavior. This is **not** just a quarrel with the use of the word "morality," but goes to the very essence of what is implicit in that approach. It invariably ends up being used as a tool for attacking the psyches of those with whom we disagree; a device for trying to get others to control themselves as we might want them to act by threatening to attack their self-esteem. (I might point out that this was an ongoing difference of opinion Bob LeFevre and I always had, even when I was teaching at Rampart College in Colorado.);
3. finally, in your next to last paragraph, you comment upon my notion that **disorganization** may be our best system of defense. (By the way, I think the whole course of American history of economic regulation by the State confirms this: large business firms no longer able to dominate their markets had to turn to the State for antitrust laws and other regulatory legislation. I believe Mancur Olson's latest book picks up this same theme. The thesis also finds support in such documents as that we used to use at Rampart College: the AFL-CIO was trying to get California food growers to **organize** into trade associations in order to make it easier for the unions to go after the **growers**!) You seemed to equate my notion of "disorganization" with "nonviolent civil disobedience or civilian based defense." Again, while I would have no quarrel with the use of such tactics from the point of view of **voluntary** behavior, they do, all too often, generate **conflict** which, as I have suggested, is not only a problem in itself, but helps to erode freedom. Gandhi understood this point quite well in his concern that nonviolence might be used in a manipulative sense, and thus generate more conflict. The principal theme of my book is, as you pointed out, that violence and the loss of freedom are the products of how we—you and I—view ourselves and one another. If I want to do something to improve these conditions, I must work on what I have control over, namely, the content of my own consciousness. As long as I am engaging in trying to reform other people—or institutions—(whether through voting, or engaging in acts of civil disobedience that are designed to change the thinking of others) I am focusing my attentions in the wrong direction. If I presume that my own behavior and thinking is in such great shape that I can now undertake the task of changing others, I will produce the conflict that will, in the end, destroy liberty for us all.

These are just a few brief responses to what was, otherwise, a very good review. You were in good company, however: in every presentation I have made of my thinking to libertarian groups, these very objections (which you raised) have surfaced. I am, as you might guess, rather critical of most libertarian thinking, **not** so much because of where many of the more thoughtful libertarians would like to end up, but because of the failure to **extend** their thinking. There is so much more that can be said on behalf of freedom—and, I might add, to many tens of thousands of non-Libertarians who hunger for something substantial—than is to be found in trying to resurrect 18th century ideas! Good grief! Here we

are living in an age of expanded awareness of the workings of the human mind, as well as the physical sciences, and the best many libertarians can come up with is to trot out the ideas of men who had not even heard of relativity theory, quantum mechanics, the bicameral mind, universal consciousness, or other topics that hold so much potential for people interested in freedom. Most libertarians, I am sorry to say, come off sounding like defenders of the **ancien regime**, rather than explorers of the unknown who do not fear the directions that might be taken by free human spirits. We do **not** need to get everything **tied down**, but figure out ways of breaking the ties that **bind us** to the past.

Oh, well, I have given this same argument at a number of libertarian supper clubs and conferences, so I thought I might as well toss it out for your consideration. I am presently working on a new book—to be titled **The Spontaneous Community**—which will, I hope, elaborate upon some of these ideas. Believe me, there are a lot of thoughtful people in the community—many in the so-called “New Age” movement, or disillusioned “leftists” who have come to the realization that socialist tyranny is as bad as any other form, etc.—who are immediately attracted to what I regard as the underlying assumptions of a free society (“voluntaryism” being one) who have never even heard of Ayn Rand, Bob LeFevre, or Murray Rothbard, and who would have turned and walked away had I started talking about “natural rights” principles or the “moral imperative” of freedom.

Properly presented, many of these people will even understand the value of private property and free market exchanges. . . . but **not** when they are presented as though they were mail-outs from the Chamber of Commerce. I am not talking about the importance of “repackaging” old ideas to get to a new market of thinkers: that I regard as an intellectually dishonest undertaking designed only to manipulate others. I am, instead, stressing the importance of libertarians **moving on** to other considerations that are **compatible** with—nay, even **more conducive** to—human liberty but, at the same time, premised upon libertarians ceasing to defend the barricades of an ideology and starting to live as growing, changing men and women who have freed their **minds** from all conflict and restraint. As I have often said to others, I think libertarianism is a wonderful place to pass through: it’s a hell of a poor place to end up.

Again, my thanks for your review, and for putting up with my spontaneous babblings herein. I often get that way when I manage to sit myself behind a typewriter.

My best wishes,

(s) Butler Shaffer

Freedom School

FREEDOM SCHOOL is back! Bob LeFevre’s dynamic, 50-hour seminar—incorporated for 23 years within Milliken & Company’s well-known management training program—is available to the public . . . on an individual basis, complete with room and board!

Set in the foothills of the Blue Ridge Mountains, **FREEDOM SCHOOL** provides the curriculum, direction and guidance for an unforgettable intellectual expedition.

TUITION

Day Students	
(seminar & lunches only)	\$350.00
Seminar, room & board	
(5 days)	\$450.00
Additional Family members:	
Day Students	
(seminar & lunches only)	\$175.00
Seminar, room & board	
(5 days)	\$275.00

The summer and fall courses being offered are during the weeks of:

August 25 - 29
September 22 - 26
October 13 - 17
November 3 - 7
November 24 - 28

For more information,
 please write or call:
FREEDOM COUNTRY
 Campobello, South Carolina 29322
 (803) 472-4111

Government— The Bad News

By Clem Johnson

Once upon a time a hunter and his dog were lost in the deep forest. Out of food for three days, finally the starving hunter could stand it no longer, so at the campfire one evening, he whipped out his knife, cut off his dog’s tail, and put it in a pot on the fire to boil. When he had finished eating, only the clean bones remained, which he threw to the whimpering dog. The dog devoured the bones, and then licked his master’s hand in gratitude. This is the story of federal aid. The hunter is the government, the grateful dog is you. Dogs can live without tails, but the hunter is still famished. (I want to credit Tom Anderson, editor of **Straight Talk** for that splendid little parable.) Fellow Americans without tails, it’s high time we recognize government for the predator it is, so we will have no illusions in coping with it.

Why do I bother? Well it’s rather like the cartoon of the novice in Alaska on his first dog sled trek, whistling along over the ice, when he discovered he was heading straight for a sheer precipice. Struggling to remember his script, he shouted, “**Non-mush! Un-mush! De-mush!!**” I think decency demands a warning when one sees his fellow man in danger—and like it or not, my freedom **is interdependent** with your actions.

Today we are almost 200 years along as a nation. In terms of technology, there have been great advances, for man stands on the shoulders of his forefathers, but in terms of individual liberty, things have been doing downhill since this nation’s inception in 1789. In the high cost of government alone, we have only **two percent** of the freedom of our forefathers. How come? How did we as a people **ever regress** from a condition of zero taxation, zero conscription, zero regulation, zero monopoly, into a state of 50 percent taxation, resumed conscription, heavy regulation and a government as the biggest perpetrator of monopoly ever going? How come?

“There is no result in nature without a cause,” wrote Leonardo da Vinci. “Understand the cause, and you have no need of the experiment.” Emerson said it this way: “Shallow men believe in luck, believe in circumstances. Strong men believe in cause and effect.” Robert LeFevre states the case in similar manner: “Primitive man soon learned to tell the difference between a rosebush and a saber-toothed tiger—those that didn’t never had kids.” Each wise man was saying that as a function of **nature**, reality is linked by cause and effect. It is no accident then that **our** experiment with government has been **a failure like so many before it**; it is but another example of cause and effect: the **nature** of government is simply **not harmonious** with the **better being** of man.

Even the father of this nation saw the peril of what we have when he counseled: “Government is not reason; it is not eloquence; it is force! Like fire, it is a dangerous servant and a fearful master.” Now who among you, in his right mind, would wittingly hire a dangerous servant, likely to steal your valuables and set fire to your home, at **best**—or at **worst**, a fearful master that **would really do a number on you**?

Thomas Paine, in his brilliant work, *Common Sense*, made this statement: “A habit of not thinking a thing wrong, gives it a superficial appearance of being right . . . time makes more converts than reason.” It isn’t surprising many of us have false ideas about government. Most of us did time in government schools—we’re virtually entitled to our misconceptions. **Time** makes more **converts** than **reason**. I dare say in those schools you never recall a dialogue on the **raison d’etre** of government—never. It was always tacitly assumed that government had a right to be.

Tonight I challenge that assumption, without the consent of **each** individual affected by it. May I say I have no objection to government for any of you who unwittingly think you need it (and are willing to pay for it), as long as you don’t involve those of us who don’t need it, don’t want it, or benefit from it.

What is government? First let me tell you what it is not. It is not you. If you **think you are** the government, let us put it to the test, as Robert LeFevre would call: Call up **El Presidente**, and tell him you don’t wish to participate in, or benefit from, any government

Continued next page

Government, The Bad News (continued)

programs, and accordingly, you aren't going to pay any more taxes. (Then let us know where you are doing time, and we will visit you on Sundays.) So let us hear no more prattle about how **you** are the government—you are the **governed**. Now for what the government is: an unproductive group of people that writes rules for you to live by. That's it, and that's what you can live without.

I think it was Albert Nock who stated, "Legislation out of harmony with reality is vicious; that in harmony with reality is redundant (thereby costly). Hence there are two types of legislation: bad and **worse**." **You** decide what legislation you will obey, and more importantly, **why** you will obey it. Let no oven-door mentality rule your actions. Write your **own** code of ethics.

As a libertarian (little l—no big P, as in **Political Party, Part and Parcel of the Problem**), my opposition to government rests on three fronts. I want to address each of those reasons in turn: pragmatism, economics, morality.

In the early 1970s, NBC conducted a poll of how Americans viewed the **trustworthiness** of people in twenty professions and vocations (i.e., doctor, lawyer, Indian chief). The majority of those polled regarded integrity of the politician 19th, just above the used car salesman. A few years later the poll was repeated, and the politician had made it to the bottom, **underneath** the used car salesman. (And may I say, that's where he belongs—whatever the used car salesman could do to the politician in that compromising position is all right with me.) The paradox is this: If you would not engage the services of a stock broker you had not met, nor had recommended to you, why should you waste your time voting for a politician you neither know nor trust as well as a used car salesman? Pragmatic, that's not. Incidentally, one of the hopeful signs is that in the last general election, roughly **half** of eligible Americans didn't vote. Why? Too lazy? Didn't know the way to the polling place? No. **They** didn't think it made **any** difference. That's pragmatism. I like H. L. Mencken's definition of an election: "An advance auction of stolen goods." I think that's quite precise.

Milton Friedman states that no one spends the money earned by someone else as carefully as he does his own. I want to show you what happens when I extract my neighbor's money in order to "provide services" for him. His coat is baggy, his trousers uneven, his shoes too big, for obviously I didn't select the proper sizes. His hat is dirty for I neglected to have it cleaned. He needs a shave, but I forgot to buy razor blades. He needs a haircut as well, but after my lavish cut for doing business, there was no money left in the budget for that. In short, if it were illegal for me to do so, I could make my neighbor into **a dependent bum the same way government does**.

In the field of economics, I can think of no better indictment of government than Robert LeFevre's five laws, posted on the wall. There are many instances of each. I will exemplify just a few.

1. "He whom the government first 'helps' is first to feel the shaft! (The patent office, rent control, social security, the list is endless.)
2. Whenever the word 'fair' is coupled with the word 'government'—Duck! ("Fair" trade, "fair" housing, "fair" employment, **ad nauseam**.)
3. "When the government enters the economy for any reason, prices rise, or shortages increase, or both." (Remember the recent gasoline shortage, produced, directed, and brought to you by the infamous U. S. Department of Energy?)
4. "In a disagreement with the state, be prepared to **prove your innocence**, or be **prepared to pay**." (Ever have dealings with the Incredible Rip-off Syndicate or any government bureaucracy? As a business man can tell you OSHA is not a small town in Wisconsin.)
5. "In union there is weakness—in individuality there is strength." (If you want to **pay** for strikes, malicious damage and waste in consumer products, by all means have governmentally backed unions to drive up the cost. On individuality Ross Perot stated it well: "Eagles do not fly in pairs.")

To these laws I would add Clem Johnson's second law: "The consequences of any government agency is counter to its stated intent at inception." The skyrocketing expansion of H.E.W.—a FIFTY-fold cost increase in just 25 years to \$250 BILLION ANNUALLY(!)—is an adequate statement of the tragic nightmare. There are no

economic bargains in government when the **result** of an undertaking can't even be **predicted**, much less be influenced by your desires!

Now a word about morality: that code of behavior that argues **for** the existence of mankind, not against it. Several religions have among their tenets something tantamount to the Eighth Commandment of the Decalogue: "Thou shall not steal." (PERIOD!) Not individually, not collectively, not by might and not **by law! Taxation is theft, conducted by threat against seizure of person or property**, as in everyday bank robbery. Herein is the major brief by libertarians against government: It is **immoral**. Replete with force and violence **all** government is **constituted in grand theft**. Daniel Webster said it best: "The power to tax is the power to destroy." Government is in the business of destroying human resources.

Consider this confession from Calvin Coolidge: "Nothing is easier than spending 'government' money. It doesn't appear to belong to anybody, so the temptation is overwhelming to bestow it on someone."

As libertarians are opposed to theft, they are opposed to **fraud**, so they necessarily abhor **Socialist Insecurity**: a terrible negative-savings plan if there ever was one; a plan that jeopardizes generations to come; a plan that would get any **private** investment firm **locked up** for perpetuating.

Libertarians are opposed to **kidnapping**, therefore they decry **forced bussing** by some men of other men's children.

Libertarians are opposed to **slavery**, hence they denounce **conscription** as any other **involuntary servitude** of some men to other men.

Libertarians are opposed to **counterfeiting** and must condemn **inflation**, executed by men in government, running off bills in the Treasury basement at night. But don't **you** try it, Comrade; that is not permitted, Comrade; in crime, it is **illegal** to compete with government, Comrade.

There is an old English saying that typifies the government position when it comes to crime: "The law locks up both man and woman who steal the goose from the common, but lets the greater felon loose that steals the common from the goose."

I hope that tonight we can dispel some myths. Government does not build roads, provide schools, or land men on the moon. The reason, simply stated: Government is **not a source of goods**. Government "provides" roads, schools or anything else the same way a bank robber "supports the economy." He does, you know, **after** he has robbed the bank, but somehow we don't regard that a positive accomplishment—although we may admire him for having the courage to stand behind his **own** dirty work. But in government, the man who **assesses** taxes is not the man who **collects** them, is not the man who **adjudicates** the matter if you dispute it, is not the man who **seizes** assets or **interns** you. Your problem, Comrade, is always that of someone else: it's a **faceless racket** in which no one individual has the courage to stand behind the **whole rotten scheme!** You may admire the bank robber for at least that.

Am I saying there is no good in government! No, but I **am** saying there is no **net** good in government. How can there be, when its first act in any endeavor is **grand theft**? There is no merit in **any** provision that could **ever sanctify** the **initial act of theft**. In contrast, there is something **very moral** about Milliken, Du Pont, Alpha Beta and Short Stop: they don't **steal from you** to provide their products.

Now if you wonder what has made me such a case-hardened autarchist, it has had much to do with some of you at work over the years telling me how I just couldn't "hack it" without government. So, good friends, if you persist in the notion that you must have **some government** to rule you and me, in **face of fact** you cannot support it **pragmatically, economically, or morally**, then it is **your** philosophy, not mine, that is on **thin ice** in the **realm of reason!**

In conclusion, I want to borrow again from Robert LeFevre: "If men are good, you don't need government. If men are evil or ambivalent, you don't dare have government." (Presumably you wouldn't want to be ruled by evil men.) From Henry David Thoreau, extrapolating on Thomas Jefferson's observation: "If that government is best that governs least, then that government is best that governs not at all; and when men are prepared for it, that will be the kind of government which they will have." (ZERO!)

A Plague on Both Your Houses

Continued from front

I believe it was wrong to persecute them so ruthlessly for their pacifist neutrality. Had this been the first time they had refused to fight, had this refusal been dictated by devotion to the British cause, and had it been only cloak to cover their true feelings, then they would have certainly been guilty and the persecution would have been perhaps justified. But their neutrality was dictated by religious beliefs which they had always professed and have continuously practiced. Whatever prejudiced or misinformed writers may say, the truth . . . is that the majority of Quakers did not favor more one side than the other, and that they helped anyone who needed help, no matter who he was. If a few Quakers did serve in the English army, a few . . . also served in the American army, and the Society expelled indiscriminately all who bore arms. (Brock, 258)

The experience of the Quakers proves, despite their pacific nature, the belligerents did not leave them alone (the British, in some instances being no less coercive than the Americans). The fight for exclusive jurisdiction between the British and the new "United States" meant there was no place for neutrality. From the very beginning, one either supported the revolutionists or became subject to fines, penalties, imprisonment or distraint of property. The history of the Quakers also demonstrates that the American authorities were exacting taxes from the people under their control even during the first two years of the Second Continental Congress.

In his book, *THE FINANCIER AND THE FINANCES OF THE AMERICAN REVOLUTION*, William Graham Sumner points out that the newly independent colonies "were not able to go on without some taxes." (15) Taxes were not laid in Massachusetts until after the state government was organized in March 1775. In Rhode Island, where the government of the colony went over directly to the revolutionary forces, "taxation was carried on just as before." In Connecticut, "all male persons from sixteen to seventy, except those exempted by law, were liable to taxation." A sinking fund tax was imposed to redeem bills of credit issued by the state of Connecticut in April 1775.

Although taxation did exist on the state level, Sumner points out that it was not until after the Federal Constitution was adopted that the people of the United States paid a tax for federal purposes equal to the import duties which they had paid under British rule. Despite the fact that the revolutionaries would not pay taxes which were levied upon them by a Parliament in which they were not represented, it does not appear that the revolutionary ideology rejected taxation on principle or viewed "taxation as theft." In fact, one of the early rallying calls of the revolution, "no taxation without representation," is worded in such a manner as to imply that "taxation with representation" is perfectly legitimate and acceptable. "In England the only meaning attached to the phrase 'no taxation without representation' was that neither the King nor his Ministers could lay a tax without getting the consent of Parliament." The American theory was that none had the power to tax except an assembly containing representatives of those taxed, men who were actually elected by the persons who were to pay the tax. (Van Tyne, *CAUSES OF THE WAR OF INDEPENDENCE*, 217) (But even this theory leaves open the door to taxation without consent, for many people who paid taxes would not be "represented" in such an assembly; or would they willingly consent to the payment of the taxes which a majority of someone else's representatives approved? The whole attempt to connect 'taxation' and 'representation' falls flat because there is no rational way to determine how small or large an area the representatives are to be selected from.)

To get around the need to raise revenue through taxation, most of the state legislatures and the Second Continental Congress resorted to the expedient of issuing paper currency. "The plan of the continental paper was to put it in the power of the Continental Congress to make such expenditures as they saw fit for the common cause, without asking the previous consent of the States, and to bind the States to meet those expenditures by taxation, which would retire and destroy the notes." (Sumner, 41) These issues of paper currency were more in the nature of "anticipations"; they an-

ticipated taxes yet to be raised and were receivable for the payment of future taxes.

The first move towards the issuance of paper currency took place in Massachusetts on May 20, 1775. A month later, the bills were made legal tender and anyone not accepting them was declared an enemy of the country. Many of the other colonies followed suit. By July 1776, the Rhode Island assembly made its own paper notes, as well as the notes of the Continental Congress, legal tender. Anyone refusing to accept the paper notes as equivalent to real specie dollars was to be denounced as an enemy who "should be barred from all communications with good citizens." (Rothbard, IV-55)

The idea of issuing "continentals" was first presented to the Second Continental Congress on June 15, 1775, a month after it was convened. It proved an enticing way to finance the war without making the populace pay for it cash on the barrel head. A week later the Congress resolved: "that a sum not exceeding two million of the Spanish milled dollars be emitted by the Congress in bills of credit, for the defense of America." The confederated colonies pledged their credit to redeem the bills. On July 21, 1775, the new paper money finally came from the printers and it was immediately seen that it would be exhausted by the time the notes were numbered and signed. "Straightway (July 25) Congress authorized the issue of another million." Before the end of the year 1775, six millions had been emitted or authorized, and even that was but a small beginning for what was finally issued. (Cody, 82) By July 22, 1776, the Second Continental Congress had issued over \$20,000,000 of notes. (Rothbard, III-383) At the beginning of 1777, Congress was forced to make an enactment to try to give forced circulation to the continental paper. It was resolved that the paper bills ought to be equal to Spanish dollars, and whoever shall ask, offer, or receive more in said bills for gold or silver than of any other kind of money or shall refuse to receive such bills for goods, "ought to be deemed an enemy and forfeit the value of the money, or goods, . . . ; and the States are recommended to enact laws to this effect." (Sumner, 61)

Sumner notes that depreciation of the continental paper must have begun almost immediately. "It was regarded as the highest crime against patriotism to depreciate it, or to recognize and admit that it was depreciated." (Sumner, 48) Although the Continental Congress did not have the power to make its own notes legal tender, the Congress did support price tariffs and price conventions. These tariffs and devices were "devices for giving a forced circulation to the continental paper, against fact and truth and right. On account of the legal, financial and political vices of the continental currency, in the shape which it had taken by the end of 1776, it failed of its purpose because it encountered the resistance of persons whose interests were imperilled by it. The price Conventions were intended to bear down this resistance in the hopes of still attaining the purpose, in spite of it." (Sumner, 53)

The Second Continental Congress was the governing body of the 'united colonies' at the outbreak of hostilities against England. It was the successor to the First Continental Congress, which was the result of an invitation issued by the Virginia House of Burgesses on May 28, 1774. The 12 committees of correspondence were to send delegates to Philadelphia in September, and consult together as to what measures should be taken to procure a repeal of the "Coercive Acts" passed earlier that year by Parliament. The group was an entirely "extra-legal consultative body" (Morison, XXXIV) that had no legal authority, unless it was able to assume sufficient authority to enforce its recommendations. (Becker 143-144)

Delegates to the First Congress were selected in a variety of ways. Some were appointed by colonial assemblies and others by the committees of correspondence in their respective regions. The strangest election process took place in Kings County, New York. There, two persons assembled; one was made chairman, the other clerk; and the latter certified to the Congress that the former, Mr. Simon Boerum, was unanimously chosen for the County of Kings. (Becker, 139-140) Samuel Seabury, one of the leading Tories in the colonies, criticized it for its presumptuousness. Seabury maintained "that Congress could bind its constituents was nonsense. 'Not one

Continued next page

A Plague on Both Your Houses (continued)

person in 100, in the province at least (New York), gave his vote for their election." (Becker, 160). Although the First Continental Congress was supposedly a representative body, it is questionable just whom it represented. In New York, particularly, where there was a great deal of local dissent, the question inevitably arose as to "who were the people and how were their wishes to be known?"

In perfecting the organization of the Congress, which met at Carpenter's Hall in Philadelphia, on September 5, 1774, it was essential at the outset to determine the method of voting. It was agreed that each colony should have one vote. (Cody, 36, 38) On October 20, 1774, the Congress adopted the plan of Association: "a solemn agreement on the part of the several colonies to pursue a rigid policy of non-intercourse with Great Britain until the grievances complained of should be resolved." (Cody, 55) The Association primarily relied upon social boycott and ostracism to bring round those who refused to honor the non-importation agreement. The problem was that while individuals could certainly control what they did with their property and control whom they had dealings with, no individual or group of individuals had the right to force merchants or traders who wanted to trade with Britain to cease doing so.

The Second Continental Congress met in Philadelphia on May 10, 1775, pursuant to a resolution of the first Congress that a second congress be held if the King had not redressed their grievances by the following spring. Meanwhile, the Battle of Concord and Lexington had taken place (April 19, 1775) and an informal army of revolutionists had gathered outside of Boston. Fort Ticonderoga was captured the same day that the Congress convened, but the news did not reach them until a week later. The primary business before the Second Congress presented itself in early June. The Provincial Congress of Massachusetts requested advice on two points: First, should the colony of Massachusetts take up and exercise the powers of civil government? And second, would the Continental Congress take command of the army then forming around Boston?

The delegates to the Continental Congress pondered these questions deeply. To take command of an army and call for the establishment of a new civil government in the Massachusetts colony would be a definite move towards independence. It would also be a definite move towards statism.

On June 7th, Congress decided to temporarily sanction the creation of a new government in Massachusetts, at least until such time as a "Governor of his Majesty's appointment, will consent to govern the colony according to its charter." (Cody, 74) A week later, the Continental Congress took measures to raise an army of 15,000 to 20,000 men and on June 15th, Washington was chosen as commander-in-chief of the forces assembled about Boston.

It was shortly thereafter that the Battle of Bunker Hill was fought. Several days before the news of the fighting reached Philadelphia, the Continental Congress had laid out the groundwork for the prosecution of those who "illegally obstructed the American cause." On June 24, 1775, the Continental Congress defined "treason" as the levying of war against the "united colonies," being an "adherent to the King of Great Britain" or "giving him aid and comfort." The resolution authorized the revolutionary legislatures to "pass laws for punishing such persons." (Calhoun, 306) The Second Continental Congress remained in session until August 2, 1775, but before adjourning it set up the continental postal system (July 26, 1775) and appointed two treasurers (July 29, 1775) to keep track of the first emission of paper money which it had authorized (June 22, 1775).

When the Second Congress reconvened on September 5, 1775, its immediate concern was with the status of the revolutionary army and combatting the disaffection and disloyalty of the Tories residing in America. Although the Congress refused to do anything about hunting down Tories, it did urge the various local committees to crack down on everyone that might endanger the safety and liberties of America. (Rothbard, IV-67) In early November, Congress empowered court martials to impose the death penalty on soldiers convicted of aiding the enemy. (Kettner, 177) By the end of 1775, Connecticut became the "first colony to enact a systematic body of

law against Tories, including such severe punishment as forfeiture of all property and three years imprisonment." (Rothbard, IV-72)

The Continental Congress had reason to be concerned about the Tories, particularly in the areas around New York. In November 1775, the freeholders of Queens County declared their neutrality in the war and armed in their own defense. The Continental Congress resolved to smash this resistance and in January 1776, sent 1,200 soldiers to Queens County. The continental troops declared the entire county in a virtual state of outlawry and announced that no inhabitant was to leave the county without a passport issued by the New York Committee of Safety. (Rothbard, IV-75)

During the year 1776, the radical revolutionaries in the colonies and the Continental Congress found themselves in a quandry. How could they assert the sovereignty of the soon-to-be independent "United States" without violating the rights of those who remained neutral and those who took the King's side? Was there any way to assert exclusive jurisdiction without injuring the Loyalists and neutrals? Congress was faced with a dilemma, for boycott and ostracism did not seem adequate. Therefore on January 11, 1776, Congress resolved "that whosoever should refuse to receive in payment Continental bills, etc. should be deemed and treated as an enemy of his country, and be precluded from all trade and intercourse with the inhabitants." (Being declared an "enemy of his country" implied other forceful penalties.)

During the next few months, the movement for independence forged ahead. Tom Paine's COMMON SENSE was published in early January 1776, and word of Parliament's law of confiscation reached the Continental Congress at the end of February. By early May 1776, Congress advised the colonies to suppress all crown authority and to assume the reins of government. On June 7, 1776, Richard Henry Lee introduced a three-part resolution before the Continental Congress.

That these United Colonies are, and of right ought to be and independent states, that they are absolved from all allegiance to the British Crown and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved.

That it is expedient forthwith to take the most effectual measures for forming foreign alliances.

That a plan of confederation be prepared and transmitted to the respective colonies for their consideration and approbation.

Before the Continental Congress took up debate on the Lee resolutions, it had to deal with the pressing problem of defining the legal status of dissent in the soon-to-be independent colonies. Congress recommended to the New York Provincial Congress that it "make effectual provision for detecting, restraining, and punishing disaffected and dangerous persons in that colony and to prevent all persons from having any intercourse or correspondence with the enemy." (Nettels, 43) On June 18th, Congress confirmed that suppression of the disaffected Tories was to be carried out by public authorities and not by private action: "No man in these colonies, charged with being a tory or unfriendly to the cause of American Liberty, be injured in his person or property, or in any manner whatsoever disturbed; unless the proceedings were sanctified by the Continental Congress or the local authorities." (Kettner, 178)

On June 24, Congress moved to clarify the legal situation and took steps that turned disaffection into treason. Recognizing the need to provide a clear legal basis for the suppression of the internal threat, the delegates passed three resolutions:

That all persons residing within any of the United Colonies, and deriving protection from the laws of the same, owe allegiance to said laws, and are members of such colony; and that all persons passing through, visiting, or make (sic) a temporary stay in any of the said colonies, being entitled to the protection of the laws during the time of such passage, visitation, or temporary stay, owe during the same time allegiance thereto.

That all persons, members of, or owing allegiance to any of

Continued next page

A Plague on Both Your Houses (continued)

the United Colonies, as before described, who shall levy war against any of the said colonies with the same, or be adherents to the king of Great Britain, or other enemies of said colonies, or any of them, within the same, giving to him or them aid and comfort, are guilty of treason against such colony. (Kettner, 179) (The resolve then urged the 'legislatures of the several united colonies' to enact 'laws for punishing, in such manner as to them shall seem fit, such persons . . . as shall be provably attainted of open deed . . . of any of the treasons before described.' (Nettels, 39)

"The third resolve of June 24 urged 'the several legislatures of the United Colonies' to enact laws for the punishment 'in such manner as they shall think fit' of persons who were guilty of counterfeiting the continental currency or of passing counterfeit bills." (Nettels, 42)

These resolutions defining allegiance and treason provided the individual states with authority to crush internal dissent. As we have already seen, every state established oaths and declarations to test the loyalty of its inhabitants. Non-jurors were subjected to penalties ranging from imposition of punitive fines, disenfranchisement and deprivation of legal rights to confiscation of their property and banishment. In effect, what the Congress and states were saying was: "Love this country or else leave it. If you remain within the protection of our laws by residing here, then your loyalty is assumed. Any acts of disaffection will be construed as treason and disloyalty."

Finally on July 1, 1776, Continental Congress as a whole considered Lee's June 12th resolutions: "Both Pennsylvania and South Carolina cast their votes in the negative, while Delaware, having but two members present, was divided." (Cody, 182) The following day, 12 of the voting colonies unanimously approved the Lee resolutions. Since the New York delegation had not been instructed to vote on a resolution of independence, they abstained. "Thus at last did Congress, on the 2nd of July, 1776, after long hesitation and not a little squirming, resolve the henceforth the United Colonies should be free and independent states." (Cody, 182-184) On July 4th (2 days after the vote on the resolution) a revised version of the Declaration of Independence was adopted.

New York's abstention was not cleared away until July 15th, when the Continental Congress received notice that a new convention in New York had approved the vote for independence. On July 19, 1776, Congress resolved that the Declaration should be engrossed on parchment and should then be signed by every member of Congress. It was not until August 2, 1776, that the engrossed parchment was laid before Congress to sign. "A good many of the signers were not actually in Congress on July 4; some of them, in fact, were not even members of Congress at the time; and some of the actual signers had actually given their individual votes in opposition to the Declaration. (Cody, 192) Due to the treasonous nature of signing the Declaration, their signatures were not made public until January 1777.

During the last part of June, even before the formulation of the Declaration of Independence, the Virginia Bill of Rights was adopted. Virginia and New Jersey had approved new state constitutions on June 29th and July 2nd, 1776, respectively. (Kettner, 175) "None of the (state) constitutions had to stand the test of a public vote. All the revolutionary conventions that drafted them . . . were chosen without foreknowledge by the voters that the elected body would draft a constitution. Every one of these first constitutions" fell short of what strict consent theory would require (Tate, 379) The colonial separation from Great Britain did not create a state of nature in which individuals could decide where to place their allegiance. The State never totally disappeared. **"In the colonies royal authorities were gradually replaced by ad hoc provisional governments that were in turn legitimized or superseded as new state constitutions were drafted and ratified. But there was no general perceptible break in the actual continuity of the government. The Continental Congress defined (and thereby imposed) membership in the new states even before**

formalizing independence. And state governments easily and automatically claimed jurisdiction over the same inhabitants and territories that had constituted the colonial dependencies." (emphasis added, Kettner, 190) The revolutionary bodies simply assumed that the will of "their" majority was authorization enough "to extend jurisdiction over those who renounced independence and professed their continuing loyalty to the King." (Kettner, 187)

Although an oft-quoted part of the Declaration of Independence is that governments derive "their just powers from the consent of the governed," it should be rather obvious the framers of the Declaration did not mean it in the sense outlined by Lysander Spooner: "the separate, individual consent of every man who is required to contribute, either by taxation or personal service, to the support of the government." In fact, the Virginia Declaration of Rights asserted the right of **"a majority"** (emphasis added) to "reform, alter, or abolish" government "in such manner as shall be judged most conducive to the public weal." (Section 3) The implication of the Virginia Bill of Rights was that a majority could set themselves up as a State and "compel" the minority to accept its rule. In fact, majority rule itself is never a guarantee of respect for individual rights. Thus when "consent of the governed" masquerades under the guise of majority rule it can become dangerously tyrannical.

No members of the First or the Second Continental Congress could pass the "principal-agency" test applied by Lysander Spooner to political officials elected under the Constitution (nor could the Declaration of Independence any more pass muster as a contract than could the Constitution). The historical context of the Declaration and the struggle of the Continental Congress to survive demonstrate it took on the essential elements of the State. The principles of representative government and majority rule were never called into question, or was it reflected on how these concepts might conflict with the idea of "consent of the governed."

The fact that the opening paragraphs of the Declaration of Independence are full of natural rights doctrine represents a step towards enunciating a philosophy of individual rights. However, the Declaration is a statist document, issued by politicians that were struggling for their lives. How much the Declaration was a propaganda device, used to help them establish the legitimacy they were looking for may never be known. But in contrast to the opening passages, the closing paragraph of the Declaration reveals just how much its authors were still embedded in statism:

We, therefore, the Representatives of the United States of America, in General Congress, Assembled . . . do in the Name, and by the Authority of the good People of these colonies, solemnly publish and declare, That these United Colonies are, and of Right, ought to be Free and Independent States; . . . and that as Free and Independent States, they have full Power to levy War; conclude Peace, contract Alliances, establish Commerce and to do all other Acts and Things which independent States may of right do.

Albert Jay Nock in his *OUR ENEMY, THE STATE* makes an interesting observation about the Declaration. He writes that there was a great dissension about the form of the political institution which the Declaration was forging, "but none about its nature . . . Dissatisfaction was directed against administrators, not against the institution itself." (Chap. 4, Section II, 131-132 of the 1950 edition) Walter Lippmann in *ESSAYS IN PUBLIC PHILOSOPHY* (1955) puts it this way:

Jefferson and his colleagues . . . were in rebellion because they were being denied the rights of representation, and of participation which they, like other subjects of the same King, would have enjoyed had they lived in England. The Americans were in rebellion against the "usurpations" of George III, not against authority as such but against the abuse of authority. The American revolutionists had in fact participated in the colonial governments. They intended to play leading parts, as indeed they did, in the new govern-

Continued next page

A Plague on Both Your Houses (continued)

ment. Far from wishing to overthrow the authority of government, . . . they went into rebellion first in order to gain admittance into, and then take possession of the organs of government.

When they declared that "a prince (George III) whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people," they were not saying that there was **no one** who was fit to be a ruler of a free people. They were imbued with the English idea that the governing class must learn to share its special prerogatives by admitting new members who had been unjustly, in fact illegally, excluded from the government of the colonies. They, themselves, meant to govern the colonies after they had overthrown the government of the King. (emphasis in original, 67-68)

Looking at the Declaration 'in toto' as well as considering the historical situation and the actions of the states and the Continental Congress reinforces the point made by Nock and Lippmann. The Declaration played a conspicuous part in helping to establish a new State. (Isn't a political document declaring the independence of one nation from another already statist?) The history surveyed here, only deals with the earliest part of the revolution, until 1777. The fact of the matter is the Continental Congress which had started out as an extra-legal consultative body grew more and more statist as the years progressed. One bright side to its existence, however, is that it was the Alexandria Convention and not the Continental Congress that gave rise to the Constitutional Convention. The early State in the United States was relatively weak because its constantly moving westward boundary made it possible for people to escape its jurisdiction by moving to the frontier. America became the land of opportunity during the 19th century largely because the State here was weaker than States in other countries of the world.

Nevertheless, it should be clear now that what happened during the American revolution was the swapping of one State for another. Whenever two States or two State factions have pitted themselves against each another (usually in times of war or revolution), freedom lovers have been confronted with a difficult strategic choice. They could either choose the "lesser of two evils" or "reject any and all evils." In the course of American history, this happened at the time of the Civil War, and again during World War I and World War II. Patriotism and State propaganda normally sway one in favor of the nation State where one was born. But is this right? All States are criminal; only some more so than others. By engaging in violence, even if it is to fight a more totalitarian State, a

methodology is being used that can never lead to liberty. So, what position would a consistent advocate of freedom philosophy and self-government take towards the British and American struggle? One would be inclined to maintain a strict neutrality and a refusal to obey edicts of either side. One would have to say, "A plague on both your houses."

References:

Carl L. Becker, *THE HISTORY OF POLITICAL PARTIES IN THE PROVINCE OF NEW YORK 1760-1776*, Madison: University of Wisconsin Press, 1960 (orig. 1909).

Peter Brock, *PACIFISM IN THE UNITED STATES FROM THE COLONIAL ERA TO THE FIRST WORLD WAR*, Princeton: Princeton University Press, 1968.

Edmund Cody Burnett, *THE CONTINENTAL CONGRESS*, New York: W. W. Norton, 1964 (orig. 1941)

Robert Calhoun, *THE LOYALISTS IN REVOLUTIONARY AMERICA 1760-1781*, New York: Harcourt Brace Javanovich, 1973.

ENCYCLOPEDIA OF THE SOCIAL SCIENCES, Vol. 7, Entry: "Government," New York: The Macmillan Company, 1959.

James E. Kettner, *THE DEVELOPMENT OF AMERICAN CITIZENSHIP, 1608-1870*, Chapel Hill: University of North Carolina Press, 1978. Especially see Chapter 7, "The Idea of Volitional Allegiance."

S. E. Morsion, *SOURCES AND DOCUMENTS ILLUSTRATING THE AMERICAN REVOLUTION 1764-1788*, Oxford: at the Clarendon Press, 1923 and 1948. This volume contains the articles of the Association, the Virginia Bill of Rights, etc.

Curtis Nettels, "A Link in the Chain of Events Leading to American Independence," *3 WILLIAM AND MARY QUARTERLY* (1946), pp. 36-47.

Murray Rothbard, Vol. 3 and 4, *CONCEIVED IN LIBERTY*, New Rochelle: Arlington House, 1979.

William Graham Sumner, Vol. 1, *THE FINANCIER AND THE FINANCES OF THE AMERICAN REVOLUTION*, New York: Dodd, Mead and Company, 1892. Several chapters deal in detail with taxation, paper money, price controls and impressment.

Thad W. Tate, "The Social Contract in America 1774-1787, Revolutionary Theory as a Conservative Instrument," *22 WILLIAM AND MARY QUARTERLY* (1965) pp. 365-391.

Claude H. Van Tyne, *THE CAUSES OF THE WAR OF INDEPENDENCE*, Boston: Houghton Mifflin, 1922.

Claude H. Van Tyne, *THE LOYALISTS IN THE AMERICAN REVOLUTION*, New York: Macmillan Company, 1902 (reprinted Gloucester: Peter Smith, 1959). A complete list of the "Test Laws Passed by the Legislatures of the Thirteen Colonies During the Revolutionary War," is found in Appendix B.

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