The Voluntaryist

WHOLE #23 | *"If one takes care of the means, the end will take care of itself."* | JANUARY 1987

"Hard Money" in the Voluntaryist Tradition

By Carl Watner

At least twice in his career, Lysander Spooner (1801-1887) commented on the existence and circulation of privately made gold coins in the United States. In 1844, when rebutting the Postmaster General's claim that the constitutional right of Congress to establish post office post roads was an exclusive one, like that of coining money, Spooner noted that

> Provided individuals do not 'counterfeit' or 'imitate' 'the securities or current coin of the United States,' they have a perfect right, and Congress have no power to prohibit them, to weigh and assay pieces of gold and silver, mark upon them their weight and fineness, and sell them for whatever they will bring in competition with the coin of the United States. It was stated in Congress a few years ago, ..., that in some parts of the gold region of [North Carolina], a considerable portion of their local currency consisted of pieces of gold, weighed, assayed, and marked by an individual, in whom the public had confidence. And this practice was as unquestionably legal, as the sale of gold in any other way.

In 1886, in A LETTER TO GROVER CLEVELAND, Spooner observed that the power of Congress to coin money was simply a power to weigh and assay metals and that there was no necessity that such a service be provided by or be limited to the federal government. Spooner claimed it would have been best if all coins made by the authority of Congress or private individuals "had all been made into pieces bearing simply the names of pounds, ounces, pennyweights, etc., and containing just the amounts of pure metal described by those weights. The coins would then have been regarded as only so much metal; ... . And all the jugglery, cheating, and robbery that governments have practised, and licensed individuals to practice—by coining pieces bearing the same names, but having different amounts of metal—would have been avoided." Spooner also mentioned that for many years after the discovery of gold in California, "a large part of the gold that was taken out of the earth, was coined by private persons and companies; and this coinage was perfectly legal. And I do not remember to have ever heard any complaint or accusation, that it was not honest and reliable."

Spooner's references to private gold coinage reflect the pioneer's search for a way to satisfy their monetary needs. Where there were no government mints and when State coinage was scarce, but where gold was plentiful, it was only natural that the demand for gold coinage would be satisfied by market means. This aspect of numismatic history of the United States demonstrates how "natural society" operates in the absence of the State. If there is a market demand for a good or service, then some entrepreneur(s) will satisfy it. The people of the frontier were more concerned with the intrinsic worth and quality of their media of exchange than with who issued it. There was nothing special about coinage. In the Southeast during the Civil War it became customary to specify the settlement of monetary obligations in "Bechtler gold" rather than Union coin or Confederate or state currencies. A similar preference manifested itself in Colorado, where Clark, Gruber & Co. coins were the preferred media of exchange during the same era.

The production and circulation of these coins was absolutely legal, though never sanctioned by any positive law. "By the time of the Colorado gold rush, (the) private coiners' common law right to issue gold coins of intrinsic value comparable to the Federal products was undisputed." A "common law right" simply means the right to engage in any form of peaceful, honest market activities. No activity, commercial or otherwise, is outlawed, unless it is inherently invasive of another person and/or his or her property.

The "hard money" movement today has little if no understanding of the significance of the voluntary principle and the volunytarist approach to social change. First, few "hard money" advocates believe in a monetary system totally free of State interference. Secondly, only a few seem prepared to abandon legal tender laws and adopt the principle of the specific performance doctrine (that monetary debts can be settled only in accord with the specifications of the contract of debt). Thirdly, many seem enamored of lobbying for legislative changes rather than ignoring unjust laws and seeking to make those laws enforcable through mass noncompliance. Even the legalization of gold ownership and the legalization of gold clauses in private contracts is clouded because of the past confiscatory history of the United States government during the New Deal and the continued existence of legal tender laws today. It should be fairly obvious that a State strong enough to legislate and enforce legal tender laws is certainly strong enough to abrogate such laws when it so chooses. The voluntaryist attitude that positive legislation and court decisions can never overrule the natural rights of individuals to deal in gold or silver is negated by most hard money advocates when they use the legislative process to obtain permission to own gold and use the gold clause in contracts.

Just over a 100 years ago, private issues of gold coins and ingots were the dominant media of exchange in the western areas of this country. Gold issues today, such as the Engelhard gold "Prospector," and the output of Gold Standard Corp. in Kansas City, are reminiscent of this earlier frontier era. Even the United States government is trying to take advantage of investor interest in gold coins, by issuing the new gold "Eagle," a one ounce coin with a legal tender value of $50. Before 1933, when FDR's administration confiscated all privately held gold (with the exception of numismatic coins), an ounce of gold was worth $20 on the

Continued page 4

RE: Bob LeFevre's Biography

Many readers of **THE VOLUNTARYIST** are familiar with Bob LeFevre and the Freedom School in Colorado (now transplanted to Freedom Country Executive Conference Center, Campobello, S. C. 29322). Before Bob died he engaged me to prepare a written biographical manuscript. The manuscript has been completed for some time and is 329 double spaced pages.

I am in the process of trying to locate a publisher that would be interested in publishing the story of Bob's life. The manuscript approaches Bob's passion for freedom philosophy by tracing out his search for truth through his various and checkered careers and experiences.

If any readers have special contacts within the publishing industry or have any special suggestions on how to get Bob's biography published, then please contact Carl Watner, c/o **THE VOLUNTARYIST.**

The Voluntaryist

Editor: Carl Watner

Subscription Information

Published bi-monthly by **The Voluntaryists,** P. O. Box 1275, Gramling, SC 29348. Subscriptions are $15 for 6 issues. 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.

Potpourri from the Editor's Desk

The following items deserve to see the light of day. They have been collecting on my desk for some time.

1. "Robert LeFevre"

Franz Pick, Gordon McLendon, Jesse Cornish, Nick Deak and Charles Stahl were all leaders in the hard money community. Robert LeFevre was a bit different, but it was his type of ideas that were responsible for the remarkable growth and awareness that big government, big debt and paper money is bad and that the best thing you could do to protect yourself is to mistrust the honesty, wisdom and judgment of politicians.

Robert LeFevre was a little known, but highly influential intellectual leader in the libertarian/free market circles. He taught that freedom is the mainspring of human progress and that government, in its essence, is brute force and thus, totally evil. He believed in the great free market and libertarian principles of live and let live and laissez faire.

He had a great influence on my life through not only his own writings, but encouraging and introducing the writings of people such as Murray Rothbard and Ludwig von Mises.

During the summer of 1963, I traveled with a friend to attend summer school in Seattle, Washington. On the way, we stopped at one of the most unusual schools in the United States, the Freedom School, based in beautiful Larkspur, Colorado, in the foothills of the Rocky Mountains near Colorado Springs. In the great frontier spirit of individualism, the school was made entirely of huge natural logs, and his house was a massive log, glass and stone structure, overlooking the Rocky Mountains.

We met him and talked free market philosophy. He explained, in detail, *why* government intervention, in no matter what area, is wrong and will eventually cause distortions in the marketplace.

Many years before 1963, he had predicted the troubles that were in store for the dollar and the international monetary system based on simple facts that government management means mismanagement, and by the very nature, the management of currency means the eventual depreciation of the asset.

After a half day of learning from Robert LeFevre, we stopped at the Freedom School bookstore, and I purchased the two-volume study by Murray Rothbard, "Man, Economy and the State." It was Murray Rothbard's and Ludwig von Mises' writings on money and the nature of government mismanagement of money that had the most fundamental impact on my eventual involvement in the hard asset community and industry.

Robert LeFevre is no longer with us, but his radical, free market, libertarian oriented ideas are (right now) affecting a young pro-freedom "revolution" on America's campuses.

(reprinted from James Blanchard's GOLD Newsletter, October 1986.)

2. "Cradle to Grave"

Most 20th Century American parents unthinkingly register the births of their children with the state. In fact, medical doctors (licensed themselves by the state in which they practice) are usually required to fill out and file birth certificate forms for every birth they attend. Practically the only way to avoid birth registration is for parents to opt for home birth without a doctor.

A recent Associated Press dispatch (Richmond TIMES-DISPATCH, August 20, 1986) reports that both House and Senate negotiators "agree on requiring all people 5 and older to have Social Security numbers." Since children are claimed as deductions on tax returns, the tax bill presently under consideration by Congress would require that a dependent's Social Security number be listed on all tax returns. The IRS claims that one of the "fastest-growing" areas of tax cheating is "when parents separate" both of them claim the child as an exemption.

This same article also reports that agreement has been reached on developing "a return-free system" for taxpayers with only wage and interest income (and no itemized deductions). The IRS would be allowed to calculate their tax from documents supplied by employers and banks. This would be a step towards the ultimate goal of the IRS, which would be to do away with tax returns altogether. The IRS would simply like to send tax bills out based on the comprehensive information gathered from third parties. By eliminating the filing of some 30 million returns (if the first phase of the "return-free" system is instituted), the IRS would be able to expand its audit and collection activities over other taxpayers, who still must presently file.

The "return-free" system (along with the withholding system) makes it appear as though there is no such thing as a federal income tax. You never see the withheld money; all you do is get a bill marked "paid." It will be painless. The fact is that the IRS is operating on the principle of all totalitarian states: that the state has first claim to the life, wealth and earnings of its citizens. Whatever is left after the state satisfies its demands, trickles down to the citizen.

We had reached the regimented society a long time ago without realizing it. A person without a birth certificate is unheard of and a grown person without a Social Security number is a social abberation. The next step is the "return-free" tax.

Where will the noose of statism tighten next?

(Carl Watner)

3. "The Lessons of History"

Since wealth is an order and procedure of production and exchange rather than an accumulation of (mostly perishable) goods, and a trust (the "credit system") in men and institutions rather than in the intrinsic value of paper money or checks, violent revolutions do not so much redistribute wealth as destroy it. There may be a redivision of the land, but the natural inequality of men soon re-creates an inequality of possessions and privileges, and raises to power a new minority with essentially the same instincts as in the old. The only real revolution is in the enlightenment of the mind and the improvement of character, the only real emancipation is individual, and the only real revolutionists are philosophers and saints.

(Will and Ariel Durant, THE LESSONS OF HISTORY, New York: Simon and Schuster, 1968, p. 72.)

4. "Stealing Legally"

A Mexican bandit chief was once reported as saying that if one wished to get ahead in the "stealing" business, the first thing one should do was to "steal yourself a goverment; then you could steal anything else you wanted legally."

5. "Optimistic View of History"

If history is partly made by the movement of ideas, then it follows that a period of high civilization is one in which thoughts fly freely from mind to mind, from one country to another—yes, and from the past into the present. A barbarous epoch, a barbarous country, is one that attempts to paralyze communication, to keep ideas locked up, to treat thoughts as magic—either deliberately held away from the many or heedlessly scorned by the many. A sign of barbarism is the closed mind, which refuses to take in ideas from "foreigners" and will not accept a thought derived from the past. Savages have narrow horizons. Civilized men see all round the planet and far into the past, perhaps even a little distance into the future.

The encouragement of this view of history is that it teaches us to hope. It shows us that it is hard to kill a good idea. A vital thought makes its way across deserts, through jungles, over oceans, between the barriers of language; it often survives the most fearful wars and devastations; it lies dormant but not dead for centuries, until it is revived; it forces its way past nearly every iron curtain,

Continued page 7

Voluntary Musings

A Column of Iconoclasms

By Charles Curley

"Nothing can defeat an idea
— except a better one."

— Eric Frank Russell

On Symbols I recently attended an airshow which was held on a military base. I am not one for disguising my opinions, so I was not surprised to be rebuked for failing to show proper respect for the flag during the national anthem.

I could have given a flip answer, one that any reader of this publication might easily have understood, that I was showing proper respect for that symbol of statist repression, of the IRS and the draft board. But that would not be true. For one thing, the proper respect to show the symbols of those two institutions involves the use of precious bodily fluids. For another, I was on the territory of the rebuker. A more polite answer was required. The sum of my answer follows.

When a queen or king enters a room, or the national anthem of a monarchy is sung, it is considered proper to show respect. In all cases, the respect is shown toward the sovereignty itself. In England or the Netherlands, the sovereign is the Queen herself, so one shows respect to her. However, in this country, it is the theory that the people are sovereign—that I am sovereign. The flag is at best only a symbol of that sovereignty. Just as the British salute the Queen herself when she is in the room, and not the British flag, so also in this country I show respect toward the sovereign himself—myself—and not a mere symbol of that sovereignty.

Of course, I did not say that I would not salute the Queen of England either—some discretion was in order. You see, if a military base can engender discretion in me, they may yet be good for something.

I Hate Meeses to Pieces There is nothing new about the efforts of the Christian religious establishment to suppress the writings of others. The common example of this is, of course, the Inquisition. The Inquisition was founded in 1215 at the Lateran Council, under a Pope with the ironic name of Innocent III. When Innocent died a year later, a contemporary said that his death caused more joy than sorrow.

The Church was certainly gung ho in its efforts to stamp out heresy. Leeches, snails, flies and weeds were at one time or another excommunicated or interdicted. Saint Bernard solemnly excommunicated the devil.

Civil libertarians who observe the Meese Commission may well point to the excesses of its predecessor. "Popes and bishops employed (the powers of excommunication and interdict) out of spite, or hatred, or for ambitious ends. Scheming rulers enlisted papal, or episcopal, help of this sort to humble political rivals for purely secular ends. . . ." (Alexander Flick, **Rise of the Mediaevel Church**, Putnam, New York and London, 1909)

Martin V congratulated himself because, as Pope, he was no longer in danger of excommunication.

Yet, all of this was done with the best of intentions. The Lateran Council was called for the "extirpation of vices, the planting of virtues, the correction of abuses, and the reformation of morals." In his opening sermon, Innocent III urged the clergy to reform themselves so that they could better lead their flocks aright.

But the Inquisition was not the first Christian effort to purge other opinions in blood. It took Charles the Great 33 years to "convert" the Saxons to Christianity (772-805). This war of extermination culminated with a massacre of five thousand people at Verdun and the exile of ten thousand families in 804. This was typical of efforts to bring Germany to worship the Prince of Peace.

But the earliest precedent for the banning of books goes far beyond the middle ages. "The first specific instance of (Church censorship) was that of a synod of bishops of Asia Minor about 150 A. D., which prohibited the **Acta pauli.** After that the condemnation of books was not at all uncommon." (Flick, opus cit.) The first **Index Librorum Prohibitorum** was published in 494 by Pope Gelasius I. Observation of the prohibitions was obligatory upon Catholics on pain of excommunication.

The suppression of heretics was undertaken to protect men against themselves—and others. "A heretic was like a man with a dangerous, infectious disease. Not only was he in mortal danger, but he might innoculate the whole community and carry it too, down to perdition. It was the duty of the Church, therefore, to get rid of that diseased person either by curing him through recantation, or ending his power for evil by death." (Flick, opus cit.)

The power of excommunication was terrifying to the medieval man. He was excluded from the sacraments, including the confessional. Without these, his soul was in danger of Hell. To this spiritual threat was added temporal threats. The devout were expected to shun the excommunicant or turn him in to the authorities. Often houses where heretics were sheltered were burned and both the heretics and his shelterers dispossessed entirely—to the benefit of the Church, of course.

Yet, for all of the power of the Church at its height, it could not suppress heretics or pagans entirely. Formal Church censorship existed from 150 until the index was abolished in 1966. Indeed, a great irony is that many of these heresies are important today only because they were so savagely suppressed! Much of our modern knowledge of these heresies is due to a passion for accurate record keeping on the part of the Church—a passion also displayed by the Nazis.

It is encouraging that, even with powers of which Ed Meese may only dream, and over a span of time not alloted to Meese, the Church failed, finally, in its effort to control the minds of men and women.

It is also encouraging that, even after such a long time, the Church has formally quit that effort (although a rear guard action goes on). But it is discouraging that it took so long even to get to this part. I do hope that the Meese Commission and its ilk are the last gasp of a dying policy.

Le Pen and The Pen The 34 deputies of the National Front in France have had a rough time of it in the National Assembly. Of all their crank proposals, only one has been passed. That was a proposal to increase the value added tax on pornography in order to subsidize local museums across the country. Right. And how long, I wonder, will it take for the enterprising French to organize the Rue de Joie Museum of Erotic Art?

Challenger Disaster The NASA has announced that the effort to recover pieces of the Challenger has been stopped. One major piece of the shuttle to be abandoned on the ocean floor is the left wing. The NASAcrats want to dispose of the 122 tons of recovered parts in "a secure area." Secure from whom? Pressumably, secure only from people who don't have the capability to lift a space shuttle wing off the ocean floor. Their idea of secure is to seal the ruins in two abandoned Minuteman missile silos at the Cape. And here I thought only surgeons got to bury their mistakes.

Bonzonomics "The art of taxation is to pluck the goose as to get the maximum amount of feathers with the minimum amount of squawking." So a finance minister put it in the time of Richlieu, and so it has been ever since. The proposed tax "reform" of 1986 is more of the same.

In the beginning, taxation was simple, direct, and to the (sword) point. If the tax collector wanted three of your pigs, well, he got them. He may have also gotten a rebellion, so after a while, tax collectors began to evince some subtlety. Soon, taxes were charged only on certain people or products—and their constituencies were small or unimportant, by the design of the tax collectors.

In the United States, shortly after independence was won, taxes were all "indirect" taxes—revenue tariffs, excise taxes, and the like. Not until the (grossly misnamed) civil war did the two standbys of the modern politician get introduced to the U. S. under the Constitution, inflation and an income tax. "Taxes," Thomas Paine said, "are not raised in order to wage war. Wars are waged in order to raise taxes." However, the end of the War of Northern Aggression forced a lowering of taxes, and somewhat stable money ensued, along with the abolition of the income tax.

In the last years of the 19th Century, the idea was bruited about of a permanent income tax for the purpose of the redistribution of wealth. As they did with the Federal Reserve Act at the same time, the plutocrats feigned opposition to an income tax, thereby ensuring its passage. The real economic effect of an income tax is not to penalize existing wealth (if you already have it, it isn't income), but to penalize the accumulation of new weath. This prevents any

Continued page 7

The Search For Peace

By Lorne Strider

If we look about us in the world today, it soon becomes apparent that only governments are capable of the large scale regimentation and taxation necessary to conscript, train, arm, feed and clothe armies. Only governments with powers of coercive taxation can amass tremendous piles of money needed to change automobile assembly lines to tank and gun production. Ordinarily the factory owners would have no financial motive to manufacture tanks, huge guns or aircraft with only one seat and missiles under wing. There is no market for such products except for government militia.

Individuals can't do this. It is beyond their means. Even large corporations would be out of business quickly. Many of the world's largest corporations could barely afford just one fighter jet, and would go broke making payments on a nuclear submarine or an aircraft carrier. If they did buy a few tanks and jet fighters, what would they do with them? Corporate battles are fought and won by selling more goods and services. Tanks and guns have no value in this pursuit. Rather, the tools of corporate marketing are competitive pricing, product show rooms, and customer appeasement.

It's true that some individuals are irrational and aggressive, and can explode with violence. Groups and gangs can organize on a small scale and pummel each other. But this is not war. None of this compares with government financed war.

But government and the military are traditional human institutions; how can they be eliminated? If this is the only way to end war then surely the quest is hopeless.

The elimination of government and the military would be difficult if not impossible. And this could only be accomplished through violent internecine strife, and once again, there would be war. There must be a peaceful way to travel the road to peace.

Hardly anyone is against peace. If all the people who are for peace and against war were to take a personal responsibility for peaceful actions in their lives, it just might be possible to solve this age old problem. In fact, it might be the only way.

Taking personal responsibility for one's own peaceful actions is not as simple as it sounds. There is an old saying that holds that the driver of a getaway car for the bank robbers is as guilty as the robbers who entered the bank, pointed guns and demanded the money. This is a sound principle and should be applied to all aspects of ethical living.

When responsibility is secondarily removed from us we are, nevertheless, still primarily responsible. Recognizing our responsibilities where they are once and twice removed is usually difficult, but it can and must be done. It is not enough that we as an individual refrain from direct aggression against others. It is also necessary to avoid the most far removed and subtle aggressions as well.

For example, it is probable that Adolf Hitler never once struck a man. Yet early in his career he lead a rabble political group and instigated numerous violent confrontations. When political power was achieved he was even further removed from the consequences of his ever-increasing aggressions. Here was a man who loved animals so much he was a vegetarian and wanted to outlaw hunting. Was this historical tyrant a peaceful man?

The most cleverly hidden forms of aggression involve our attitudes and beliefs about government. It is easy to get caught up in subtle aggressions sanctioned by the state. It is a common belief that when you or I assault others this is criminal behavior, but when men who claim state authority are violent, this is distasteful, but necessary, official action.

I have asked many people to help me solve a riddle. Why is it that certain actions are considered immoral and criminal when you or I commit them, but are not considered wrong when committed by men with government affiliation? I have yet to receive a satisfactory answer to this.

If we are to be consistent with this principle of primary and secondary non-aggression toward others, there should be no exceptions. To petition others to do dirty work for us does not relieve us of liability for the consequences. Anyone who urges government to use force against others for any reason, even "for their own good," or who support politicians who promise privileges to some at the expense of others, is guilty of aggression. While it may not be wholly fair to accuse people who encourage political strife of war mongering, there is a clear and direct connection.

Those who petition the planning commission to limit other's right to use their property, school board members who condemn and confiscate property, those who seek "funding" for their favorite projects, all tax consumers, whether welfare mothers or Chrysler Corporation, and the self-righteous who urge others to imprison those who use certain non-sanctioned recreational and medical drugs, are part of the larger problem of aggression and war.

If aggression must be curtailed, who shall be excepted? And where shall the curtailment begin? War is not the "sweep of history and events." It is not outside ourselves and unrelated to our personal lives. You and I are where war begins. And you and I can be where war ends.

Careful and honest self-evaluation will reveal that most of us commit many small aggressions daily. Eventually we must realize that every action we take that leads to aggression makes us morally responsible for any violence that ensues.

If we would truly seek the great ideal of peace on earth, we must learn to avoid urging others to act aggressively. If we petition people who claim "state authority" and who welcome our petition, our complicity and responsibility for resultant violence are not diminished.

This approach to peace is the only basis for striking at the fundamental cause of war. To find a non-violent and peaceful world, we must fill our lives with non-violence and peace.

(Lorne publishes the "Strider" **Commentary** *12 times a year for $12. Contact: Box 554, Laytonville, California 95454.)*

Hard Money *Continued from page 1*

market. Since that time no political administration has ever returned the confiscated gold to its rightful owners. Meanwhile the one ounce gold coin which was then referred to as a "double eagle" has become dubbed the "Eagle" (which formerly was only one-half ounce of gold) and the new coin's legal tender value bears no relation to the free market price of gold (which at the time of this writing is about $400 per ounce). Unlike today, the almost complete absence of paper currency, coupled with the traditional use of gold coins, led to the rejection of federal greenbacks in California during the time of the Civil War.

Private gold coinage had its origins during the gold rush that occurred in Georgia and North Carolina in 1828. Prior to the discovery of gold in California in 1849, these southeastern states produced more gold than any other region in the country. In 1840, the Director of the Mint, in his report to Congress, referred to Christopher Bechtler who operated a private mint in Rutherfordton, North Carolina, in competition with the U. S. mint at Charlotte. The Mint Director could take no legal action against Bechtler, for he observed: "It seems strange that the privilege of coinage should be carefully confined by law to the General Government, while that of coining gold and silver, though withheld from the States, is freely permitted to individuals, with the single restrictions that they must not imitate the coinage established by law."

By the time of the California Gold Rush, Bechtler and his family had minted well in excess of 100,000 coins. Though the mint in Charlotte had been established in 1838, the Bechtlers continued to issue gold coins until the late 1840s. Their mint successfully competed with the mint at Charlotte because the Bechtlers were much closer to the gold mining areas and had an established reputation.

In California, many of the conditions which had originally sparked the Bechtler mint into life were to be found. American settlement began in California as early as 1841, and by 1846 there was extreme agitation for making California an American territory. U. S. forces occupied California during the Mexican War, and in 1848 Mexico ceded all of its claims to California to the United States. Gold was discovered in January 1848 and the Gold Rush, as we know it, began in the fall of that year. Military

government lasted until October 1849, at which time a state convention created a constitution and made a formal request for admission to the Union. Meanwhile government on all levels barely existed: There was no formal law, there were no jails, immigration to the gold fields progressed unimpeded, and the military strength of the Federal government was relatively weak. Finally, in September 1850, California was accepted as a state and the struggle began to establish formal government. Communication with the East was difficult until the telegraph reached the state in 1861, and transportation remained a problem even after direct rail connection was made with the East in 1869.

The requirements of the early mercantile community in California, especially of San Francisco businesses, led directly to many of the events in which we are interested. According to Federal law in effect in 1849, all custom duties due the United States were payable in lawful United States coin. Accordingly, every piece of coined money which existed in California was hoarded to pay import duties and the normal channels of trade suffered from a shortage of coined money. At first gold dust was used as a substitute for coined money, but the military governor discovered that the law regarding duties could only be satisfied by a tender of coins, whether gold or silver. Thus gold coins eventually came to command a premium over gold dust since they were desparately needed at the Custom House. Since the supply of coins was so limited, it was suggesed by members of the mercantile community that private assayers issue gold pieces to fill the need. The first suggestion to this effect appeared in July 1848, and by early 1849 private issues were struck. The private issues enabled the miners to get more coined money for their gold dust and allowed a greater number of coins to circulate in general trade.

The first private gold coin was probably issued by the firm of Norris, Gregg & Norris and was followed, during the summer of 1849, by strikes from the assay and gold brokerage business of Moffat & Co. At first gold dust was assayed and formed into rectangular ingots with the firm's name, the fineness (in carats) and the dollar value appearing on the bar. Shortly thereafter a $10 gold piece, struck as a circular coin, was issued by Moffat & Co. By the end of 1849, a virtual avalanche of private issues had found circulation in California, including minting work done by the Mormons in Salt Lake City, by J. S. Ormsby & Co., and the Miners' Bank.

The coins with which the early Californians had to do business soon fell into disrepute, as it was discovered that their intrinsic value did not always match their stamped value. The Mormon coins, which only contained $17 worth of gold in a $20 piece, soon ceased to circulate, as did many of the other private coins. The holders of such pieces had to sell their coins at bullion value and pocket the loss. Moffat & Co., whose pieces were always worth at least 98 percent of their stamped value, continued to issue coins in 1850, at which time there also appeared new issues by Baldwin & Co., Dubosqu & Co., and by Frederick Kohler, the newly appointed state assayer.

By April 1850 the coin situation had come to the attention of the state legislature and during the same month laws were passed which prohibited private mints. Simultaneously, to fill the demand for coined money, the California legislature created the State Assay Office, which was responsible for assaying gold dust, forming it into bars, and stamping its value and fineness thereon. The State Assay Office is unique because it was the only establishment of its kind ever operated in the United States under the authority of a state government, and because its issues were so closely allied to that of gold coinage it is questionable that it did not violate the constitutional clause against state coinage. The State Assay Office was soon superceded by the U. S. Assay Office, which was established by Federal statute on September 30, 1850. Moffat & Co. became the contractor for the U. S. Assay Office and began operations in this capacity in Febriary 1851. A month later the state prohibition on private coinage was repealed, since well over a million dollars' worth of gold had been privately coined in the first quarter of 1851 alone, so great was the demand for bars and coins.

Although Moffat & Co. became associated with the U. S. government as its assay contractor, they always recognized the right of private persons or firms to issue their own gold coins. In responding to criticisms leveled directly at them during the passage of the state prohibition on private issues they stated: "We aver that we have violated no law of the United States in regard to coining (our own) money; that we have defrauded no man of one cent by issuing our coin; that we have in no instance refused or failed to redeem in current money of the United States all such issues without detention or delay, and we hold ourselves ready now and at all times hereafter to do so. . . . We hold ourselves responsible for the accuracy of our stamp, whether it be upon bullion or in the forms of ingots or coin. If there be error in the party aggrieved has his remedy at common law."

Moffat & Co. was apparently the most responsible of the private concerns minting money, for in April 1851, the businesses of San Francisco placed an embargo on all private gold coinage except issues by Moffat. The remainder of the private issues were soon sent to the U. S. Assay Office to be melted down or else were passed only for their bullion content in trade. Under the directive establishing the U. S. Assay Office, slugs of not less than $50 were to be issued. Such ingots were too large for normal trade and soon a demand grew for coins of smaller denominations. Moffat & Co., as contractor for the U. S. Assay Office, requested authority to issue such coins. Since this authority was not forthcoming, in the end Moffat & Co. bowed to the demands of the merchants and minted such coins under their own authority and mark.

The situation worsened in 1852, when the U. S. Customs House refused to accept the $50 ingots issued by the U. S. Assay Office. Although these slugs were issued under the direct authority of the Federal government, their fineness was only that of average California gold, perhaps 884/ to 887/1000 fine. A new federal law required that all custom duties be paid in gold coinage of the fineness of standard U. S. coins, which was 900/1000 fine. Therefore the Treasury Department instructed its agents not to accept the issues of its own Assay Office, until these issues met the required fineness. The Washington authorities did not seem to recognize the ridiculousness of their decision, which not only disparaged their own issues, but practically denied the merchants any circulating medium at all. Eventually the controversy was settled by having the Assay Office conform to the higher fineness.

The Federal mint, which had long been agitated for in California, went into partial operation in April 1854. Within a few years it satisfied all the demand for coins. Until it went into full-scale operation, however, the demand for circulating coins was met by the issues of such private concerns as Kellogg & Richter, Kellogg & Humbert, and Wass, Molitor & Co. At the end of 1855 it was estimated that there was still some five to eight million dollars' worth of private coin in circulation. In the summer of 1856 coin was needed in San Francisco for export purposes, and both the issues of the U. S. mint and private coins were used to meet this need. By October 1856 the Federal mint was apparently able to meet all demands for coins in domestic circulation and for export, so that private issues of gold coin quietly passed out of existence. There is no record of any further private minting in California after this time.

Although paper money found circulation in the East, at no time before the Civil War did banknotes play a substantial part in the circulating media of California. Between the cessation of private issues and the outbreak of the Civil War, the Federal mint in San Francisco continued to satisfy all demands for coins. This tradition of handling gold and silver coinage in California was buttressed by the provision of the state constitution which expressly prohibited the creation of any (paper) credit instruments designed to circulate as money.

The metallic coinage of the Californians had provided them with a remarkable prosperity and stable purchasing power. Therefore, when as a result of the Civil War the Federal government issued legal tender notes in 1862, Californians were faced with the prospect of handling paper money for the first time. Acceptance and use of these new "greenbacks" (which had no gold backing, only the general credit of the government behind them) became a subject of public debate in California. Objections to the new currency concerned its constitutionality and the likelihood of its depreciation in terms of purchasing power.

Creditors were particularly fearful that their interests would be hurt as it would be possible for debtors to repay their loans in depreciated currency. At first this is exactly what happened, as can be seen from the grievance of a Sacramento financier:

About four years ago (1859) I loaned $10,000 in gold coin

of the United States to John Smith of Sacramento City, for which said Smith executed me a note, in the usual form, bearing interest at the rate of one and one-half per cent per month. This note I placed in the hands of my bankers, D. O. Mills & Co., Sacramento, with instructions to receive and receipt for the interest as it accrued thereon, and also to collect the principal at maturity. In January last (1863), Mr. Smith called at the banking house . . . and tendered $10,000 in greenbacks in payment in full of the note executed to me, knowing that the said notes were not at that time worth more than 68¢ on the dollar . . . (My bankers) refused to received the tendered greenbacks without consultation with me, and, moreover denounced the conduct of Mr. Smith as unfair in the extreme, at the same time reminding him of the fact that he had received the whole amount in gold coin. After a conference more protracted than pleasant, Mr. Smith offered to pay $10,000 in greenbacks and $1,000 in gold, which proposition, rather than be a party to a tedious and expensive lawsuit, I assented to. . . . As it is, I am loser to the amount of $2,200, allowing 68¢ on the dollar for greenbacks; and at the rate they are now selling—and I still have them on hand—my loss is about $3,500.

However, there were those who favored introduction of the legal tender notes in California. Loyalty and patriotism to the Union were advanced as the chief reasons. Some thought that a refusal by the people of California to use the currency of the Federal government would be tantamount to secession. Others felt that the greenbacks would act as a stimulus to business, and hoped to profit from the speculation inherent in their use.

Since the Federal notes continued to lose purchasing power, the commercial elements in San Francisco realized that a definite stand had to be taken on the use and acceptance of the greenbacks in local transactions. Business that had contracts with the Federal government were hard hit by the inflation, as they had expected to receive gold coin for their work and instead were paid in paper of a lesser value. Federal employees also found themselves at a serious disadvantage in receiving their wages and salaries in depreciated money, while their expenses were counted in gold. In November 1862 the merchants of San Francisco attempted to counter the use of greenbacks by effecting an agreement among themselves "not to receive or pay out legal tender at any but market value, gold being adhered to as the standard. The plan was to have this agreement signed by all the leading firms of the city; then to have it signed also by all other firms, both those in the city, and those in the country who had dealings with the city. If any one refused to enter the association, or having agreed to pay for goods in gold, paid for them in greenbacks at par instead, then his name should be entered in a black book, and the firms all over the State should be notified so that in all his subsequent dealings he would be obliged to pay for his goods in gold at the time of purchase."

As early as July 1862 questions raised by the circulation of the greenbacks had received attention in the courts. A case was brought before the Supreme Court of California during this month which sought "To compel the defendant, as tax collector of the city and county of San Francisco, to accept from the relator $270.45 in United States notes, tendered in payment for the present year. . . ." The tax collector had refused to accept the tender of paper money, claiming that his duty was to accept only "legal coin of the United States, or foreign coin at the value fixed for such coin by the laws of the United States." The court judged in favor of the tax collector and thus prohibited the payment of taxes in greenbacks.

At the same time the State Treasurer pulled off an ingenious financial coup by taking advantage of depreciation of the paper currency. The plan was to collect the Federal direct tax in coin and pay it into the U. S. Treasury in legal tender notes, saving the difference for the state. This "earned" the state the sum of $24,620, but the action was almost universally condemned. The moral attitude of the San Franciscans on paying their debts in depreciated money is well illustrated by the fact that the interest on the City's municipal bonds were paid in gold at New York, rather than in legal tender notes. To pay in depreciated notes was considered beneath the dignity of the city and a real violation of the faith pledged with the holders of the bonds abroad.

Although Californians could continued to own gold the very existence of the legal tender law created a general feeling of insecurity. The merchants of San Francisco were determined to remain on the gold standard and they were encouraged by the decision of the court in favor of the tax collector. In order to keep the business of the state on a gold basis, however, it became clear to the merchants that legislation must be had to enable the parties to a contract to enforce the collection of the kind of money which had been specified in the contract. They had at first attempted to agitate for exemption of California from the Federal legal tender law, but their resolution to this effect in the state legislature was postponed indefinitely. Later, resolutions were introduced in the legislature to obtain relief for those working for the Federal government by having them paid in gold coin. Nothing was gained by the discussion of these resolutions except to arouse the ire of advocates of the greenbacks.

These legislative maneuvers, even if they had been successful, would not have accomplished what was needed to keep the state on a specie basis. Slowly people realized that, where there were two different types of money in circulation, legislation was needed to make it possible to enforce contracts in either paper currency or metallic coinage, as provided for in the contract. Advocates of such legislation held that "contracts fairly made in view of all the circumstances ought to be enforced. If, then, contracts are made specifically to be performed by the payment of gold, it seems to us to be a duty on the part of the legislature to provide the remedy for their enforcement. Common honesty cannot refuse this."

The legislation which accomplished this objective was approved on April 27, 1863. By amending the procedures in civil cases, writs of execution or judgment on a contract or obligation for the direct payment of money in a specified kind of money or currency had to be fulfilled by the same kind of money or currency that was specified in the original contract or obligation. This came to be known as the Specific Performance Act of Specific Contract Law, since it voided the requirement of the Federal legal tender act and substituted the provisions of each contract for purposes of determining what kind of money was to satisfy a debt. In the discussion that led to the passage of this bill in the state legislature it was pointed out that there was no mention of gold or silver in the law itself. The law simply let freely contracting parties choose the means of payment between themselves. Formerly there had been no legal means to enforce payment of gold coin on a contract or debt, even though it had been specified as the means of payment. A man owing $100 in gold could pay it with $100 of legal tender notes, even if $100 in notes would only buy $50 in gold coin. Now a creditor could seek justice. Supporters of this legislation were not entirely antagonistic to the use of legal tender notes, but they saw no reason to compel acceptance of paper money at an artificially enforced value. The law did not discriminate between the two types of money, but it enabled the parties to make contracts understandingly and upon equal terms, regardless of whether they chose gold or paper as the means of payment.

Any opposition to the Specific Contract Law which may have existed was disarmed by a State Court decision of July 1864, which upheld the act as constitutional. It was ruled that the specific contract to pay in gold was more than a contract merely for the payment of money, but went to the extent of defining by what specific act the contract should be performed. The court noted that,

> A contract payable in money generally is undoubtedly, payable in any kind of money made by law legal tender at the option of the debtor at time of payment. He contracts simply to pay so much money, and creates a debt pure and simple; and by paying what the law says is money his contract is performed. But, if he agrees to pay in gold coin, it is not an agreement to pay money simply, but to pay or deliver a specific kind of money, and nothing else; and the payment in any other is not a fulfillment of the contract according to its terms or the intentions of the parties (25 Cal. 564)

The Specific Performance Act was also held to apply to contracts made before its passage. In an action brought before the court to enforce gold payment of a note which had been executed before the passage of this legislation, it was held that "where laws confessed-

ly retrospective have been declared void, it has been upon the ground that such laws were in conflict with some vested right, secured either by some constitutional guarantee or protected by the principles of universal justice." But this act "takes a contract as it finds it, and simply enforces a performance of it according to it terms," and is not changing the relations of the parties to the contract. The Specific Contract Law was also used to enforce payment under agreements "to pay a specific sum in gold coin or upon failure thereof, to pay such further sum as might be equal to the difference in value between gold coin and legal tender notes." As the San Francisco Chamber of Commerce noted in 1864, the Specific Contract Act "simply enforces the faithful performance of contracts. It enjoins good faith, a principle which lies at the very foundation of public prosperity, and without which there can be no mutual confidence, no progress, no credit and no trade. . ."

Apparently the Federal government took little or no notice of the actions of the Californians during the Civil War. In fact the Specific Contract Law remains on the California statute books (as Section 667 of the Calif. Code of Civil Procedures) and has never been changed by California legislation. And it was not until 1933 that the Federal government took any action to abrogate this state legislation (by outlawing gold clause contracts). However, as early as 1861 the Secretary of the Treasury realized that private coinage was a danger to the government's own prerogatives. Between 1860 and 1862 the firm of Clark, Gruber & Co. was engaged in the manufacture of their own coints from their mint in the city of Denver. Here again, the demand for a circulating medium was satisfied by private means before the government was able to act. The Clark, Gruber coins were of high quality and always either met or exceeded the gold bullion value of similar United States coins. In a period of less than two years this firm minted approximately three million dollars' worth of coin. Their mint promised to outdo the government's own production, and to get rid of them, the government bought them out in 1863 for $25,000.

Such private competition with the Federal mints led to an amendment of the coinage laws of the United States which prohibited private coinage. By an Act of Congress, on June 8, 1864, it was ruled:

> That if any person or persons, except now authorized by law, shall hereafter make, or cause to be made, or shall utter or pass, or attempt to utter or pass, any coins of gold or silver, or other metals or alloys of metals, intended for the use and purpose of current money, whether in the resemblance of the coin of the United States or foreign countries, or of original design, every person so offending shall, on conviction thereof, be punished by fine not exceeding three thousand dollars, or by imprisonment for a term not exceeding five years, or both, at the discretion of the court, according to the aggravation of the offence.

It was not until after 1870, when Federal bank charters were granted to banks in California, that banknote circulation gained any real foothold in California. The entire history of California money up until that time supports the observation that "the more efficient money will drive from circulation the less efficient if the individuals who handle money are left free to act in their own interest." Thus in the early period the Moffat coinage, because it was consistently of higher quality, won out in the struggle among private issues. Since there was no legal tender law compelling people to use the coins of a particular company or mint, that money which best satisfied the people was most often used. Issues of questionable fineness were either rejected, or valued at bullion value and returned to the melting pot. Wherever the government failed to provide sufficient coined money private firms and private individuals soon filled the void, so long as they were not prevented from doing so by law.

The latter period under discussion, dated from the beginning of the Civil War, more closely resembles our own monetary situation today. The period was one of government inflation, caused generally by the budgetary strains of war. Issues of legal tender notes cause prices to rise, and between 1860 and 1864 prices doubled in the northern states. The rate of interest was appreciably affected in California due to the uncertainty of having debts paid off in greenbacks. Nevertheless, Californians avoided much of the government inflation by adhering to the gold standard and enacting the Specific Performance Act. Their main objection to the legal tender notes was to using them at an artificial value enforced by law. This realization defeated the purpose of the Federal government (or debtors who chose to cancel their debts with such notes) since their object was to obtain goods and services on a compulsory basis at an undervalued price. Since the power of the Federal government did not reach as strongly into California as into the North, people there were able to avoid the compulsory aspects of the tender law and value the government notes as they saw fit. (It is interesting to note that in San Francisco both paper and gold continued in use until 1914. With the outbreak of World War I the Federal Reserve Bank was desperate to put a stop to the handling of gold. By allowing the banks to pay only in $20 gold pieces when payment was demanded in gold, $5 and $10 pieces were gradually removed from circulation, and thus the effective base of gold handling was undercut.)

Given the demise of both private and government gold coinage, it is difficult to imgine how commodity money will once again assert its dominance in market exchanges. Yet there is a natural law at work which assures us that paper is not gold, despite all the statist protestations to the contrary. Both voluntaryists and "hard money" advocates need to be aware of the monetary history related in this article. Not only is the moral case for private coinage laid out, but its very existence just over a century ago proves that such a system was functional and practical.

Short Bibliography

Edgar Adams, PRIVATE GOLD COINAGE OF CALIFORNIA, 1849-55, Brooklyn: By the author, 1913 (see pages xi-xii).

Donald Kagin, PRIVATE GOLD COINS AND PATTERNS OF THE UNITED STATES, New York: Arco Publishing, 1981 (see page 9).

Bernard Moses, "Legal Tender Notes in California," THE QUARTERLY JOURNAL OF ECONOMICS, October 1892.

Lysander Spooner, A LETTER TO GROVER CLEVELAND ON HIS FALSE INAUGURAL ADDRESS, THE USURPATIONS AND CRIMES OF LAWMAKERS AND JUDGES, AND THE CONSEQUENT POVERTY, IGNORANCE, AND SERVITUDE OF THE PEOPLE, 1886 (see Section XXII).

Lysander Spooner, THE UNCONSTITUTIONALITY OF THE LAWS OF CONGRESS PROHIBITING PRIVATE MAILS, 1844 (see p. 18).

Carl Watner, "California Gold 1849-65," REASON Magazine, January 1976, pp. 22-28. Much of the present article has been excerpted from this source.

William C. Woolridge, "Every Man His Own Mintmaster," Chapter III of UNCLE SAM, THE MONOPOLY MAN, New Rochelle: Arlington House, 1970.

Potpourri

Continued from page 2

and spreads, multiplies, produces results unlike itself in quality and power. All good ideas outlive individuals—even the men and women who produce them; they outlive societies and creeds; they have a marvelous and unpredictable power to survive and suffer change while retaining their vitality; and when we trace the history of even one of them, it is easy to see why Reason has been called an attribute of the Divine.

[Gilbert Highet, THE MIGRATION OF IDEAS, New York: Oxford University Press, 1954, paraphrased from pp. 76-78.]

Voluntary Musings

Continued from page 3

real competition with plutocracy.

However, with the massive expenses of two World Wars facing the federal government, even a complete and serious program of "soaking the rich" would have been useless. There simply aren't enough rich to go around. So the income tax was extended to reach the middle class and even the poor it was originally supposed to help.

In the 1980s, even this rapacity cannot satisfy the Beast on the Potomac. So a new form of (for bureaucrats) subtle and sneaky tax-

ation is in order.

The new snake oil salesmen are selling, not snake oil (no one lubricates their reptiles anymore), but tax reform. It will be revenue neutral, they say. It will reduce individual income taxes by $120 billion, they say. It will simplify everyone's income tax forms, they say.

The problem is that all of these promises are to be kept, and in the hoopla over this miracle of modern folderol, one thing is consistently being forgotten. That $120 billion in personal tax reductions will have to come from somewhere. Ah, say the proponents, we'll increase taxes on corporations by $120 billion. No problem!

Uh, don't look now, but a tax on a corporation **is still a tax on individuals.** There is no discrete entity called a corporation. It is composed entirely and exclusively of individuals. The tax reform act will not lower net taxes paid by individuals, it will simply shift the form of the taxes paid, and make those taxes more subtle. The feathers will remain the same, but the goose will squawk less.

The taxes won't be paid in the form of money shelled out directly by the individual. Instead, the shareholder will see smaller dividends than otherwise, or a lower capital value on his or her assets. The employees may see a lower pay, but this is not likely. Far more likely is that the employee won't see profits invested in new products to sell later on, profits invested in new capital equipment to make the employee more productive or profits invested in new company infrastructure to make the venture as a whole more productive.

No, the employee and shareholder won't see any of this. And what one doesn't see taken away one doesn't miss. Just as the purpose of income tax withholding was to make the payment of income taxes less painful, so also the real "reform" of this tax bill is to shift the tax burden of the federal government to make it less apparent, and so less painful. And once again the American people are engaged in an anatomical feat as they swallow this nonsense hook, line and form 1040.

But you'll be happy to know that Parliament has recently repealed the tea tax on the North American colonies.

Off Their Fundaments Quick, name an organization which has 22,000 members in 50 states and outside the U. S., and has recently displaced the American Civil Liberties Union as Jerry Falwell's Enemy Number One. The Penthous staff? Nope, not large enough. The various people and organizations engaged in AIDS resarch? Nope, it's not one organization. Give up? Try something called Fundamentalists Anonymous.

Fundamentalists Anonymous was started less than two years ago with a two-line advert in a New York newspaper. The ad was placed by Mr. Richard Yao, a graduate of the Yale Divinity School. Mr. Yao later went to law school and thence to Wall Street. He was given a fundamentalist upbringing, including punishment for reading Darwin and Freud.

Fundamentalists Anonymous has a therapy program for former fundamentalists. They face many of the same problems re-entering society as those faced by former Moonies or other ex-cultists. In addition, according to Yao, they also face the added stigma of having defected from a Christian and therefore Godly group. (Krishnas aren't Godly?) The former fundamentalists are told by their churches to cut themselves off from family members they cannot convert—a tactic that Christians have used since at least 100 A. D.

Mr. Yao is less concerned with making Rev. Falwell's enemies list than with the presidential candidacy of the Rev. Pat Robertson. Robertson claims that by divine inspiration he can divert hurricanes and cure hemorrhoids. "We are in the best position to talk about fundamentalist politicians," Yao says. "We have escaped from the kind of life they will impose on others if they get into office."

On the other tentacle, there is certain charm to having a presidential candidate who knows how to deal with that portion of the anatomy in which Washington often cause us pain.

Thought for Today: "And he gave it for his opinion, that whosever could make two ears of corn, or two blades of grass, to grow upon a spot of ground where only one grew before, would deserve better of mankind, and do more essential service to his country, than the whole race of politicians put together." Jonathan Swift

Charles Curley is a former gold smuggler and founder of the National Committee for Monetary Reform. Mr. Curley now writes both software and books. His interests include ancient and modern history, chess, science fiction, space industrialization, and economics.

Mr. Curley was involved in politics from the 1964 campaign of Barry Goldwater until about 1972 or so, when he quit the Libertarian Party in disgust. He could say that he had quit the LP before most of its current membership had ever heard of the LP, but he won't. He has written speeches for major party Congressional candidates, and worked on local party organizations as well. He is no longer involved in politics, having better things do do, such as earning an honest living.

Mr. Curley is a native of New England, and flies the Gadsden Flag on Flag Day. An expatriate citizen of the Republic of Vermont, he now lives in the redwood mountains of Santa Cruz, California, where he expects his tomato patch to be raided by the Santa Cruz Air Force and the D.E.A. any day now.

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