The Voluntaryist

Whole Number 42 *"If one takes care of the means, the end will take care of itself."* **February 1990**

Two Undergrounds: The Case for Disobedience to Wicked Laws

By Carl Watner

In October 1850, several weeks after the date of the enactment of the second Fugitive Slave Law, Charles Beecher, pastor of the Free Presbyterian Church of Newark, New Jersey, preached a sermon entitled "The Duty of Disobedience to Wicked Laws." He argued that the moral obligation to "feed the hungry and clothe the naked" included the slave and the fugitive, and urged people to break the Fugitive Slave Law:

> DISOBEY THIS LAW. ...I counsel no violence, I suggest no warlike measures of resistance. I incite no man to deeds of blood. ...As much as lieth in you, live peaceably with all men. To the fugitive, touching the question of self-defense, I offer no advice, as none can be necessary. The right of self-defense is unquestionable here, if ever. Of the expediency of its exercise, each man must judge for himself. I leave the question of self-defense undiscussed, to the settlement of every man's own judgment, according to circumstances.
>
> But if a fugitive claims your help on his journey, break the law and give it to him. The law is broken as thoroughly by indirectly aiding his escape as directly, for both are penal. Therefore break the law, and help him on his way, directly if you can, indirectly if you must. Feed him, clothe him, harbor him, by day and night, and conceal him from his pursuers and from officers of the law. If you are summoned to aid in his capture, refuse to obey. If you are commanded by the officer to lay hands on the fugitive, decline to comply;... .

During the years since 1850, there have been occasions in American history when opponents of statist "law" either openly disobeyed it or secretively went underground in order to evade it. This includes the original Underground Railroad, conducted by the Quakers and abolitionists, as well as the latter-day underground railroad by which draft resisters were removed to Canada during the Viet Nam War. Today another underground railroad exists. Thousands of mothers (with their sexually abused children in tow) are fleeing their abusive husbands and ex-husbands when the courts refuse to protect the children from their fathers. Most often they are in violation of state custody and visitation laws, and frequently there are outstanding warrants for the mother's arrest. The mothers subject themselves and their children to the arduous and sometimes frightening life on the run in the hope that they can leave their past behind them, and eventually settle into new lives, under assumed identities.

Sparked by a cover article they read in U.S. NEWS AND WORLD REPORT (June 13, 1988, "Mothers on the Run"), Patricia and Kevin Cullinane, operators of Freedom School, became part of this modern-day underground network. The article spoke of the unofficial head of the southeast underground, Faye Yager, who had experienced first-hand the frequent injustices of the courts in these matters, and decided to do something about it. The Cullinanes contacted her, and offered to become a "safehouse." Much like the Underground Railroad of yesteryear, their experiences have paralleled many of those who have resisted State authority in the past. Besides presenting a brief overview of voluntaryist resistance and disobedience, this article will indicate the similarities between the Cullinanes' attempt to protect one underground family and the attempts of the abolitionists to shield fugitive slaves.

From September 22, 1988 until September 9, 1989, Freedom Country, the home of Kevin and Patricia Cullinane, had been the hiding place of Dona Washburn and her four children, ages 5 to 10.* Dona Washburn's life on the run began in May 1988, when a ten-year old nephew reported that her husband, Derrell, had sexually abused him. After talking with her children, Dona soon came to believe that her husband had also been abusing their children for a number of years. (It was only later that she learned that several prominent members of the Macon, Georgia community where she lived had been involved in perpetrating this abuse as part of a large child pornography ring.) She immediately began working with the Georgia Department of Family and Child Services, but the resulting investigation was inept and nearly non-existent. Medical evidence corroborating the childrens' stories notwithstanding, Dona believed her children were in imminent danger of being returned to the custody of their father. She then requested assistance from Faye Yager, who helped Dona and her children find a safe refuge.

After moving from house to house, around the country, Dona and her children finally arrived at Freedom Country in Campobello, South Carolina in September 1988. They moved into the Cullinane's guest house, where they lived rent-free; the Cullinanes provided all their food and necessities. Knowing that a federal warrant for her arrest on charges of parental kidnapping had been issued in June 1988, Dona did not work and home-schooled her children. Their safe refuge came to an end on September 9, 1989.

At about 7:40 a.m. that Saturday, the coercive apparatus of the State converged upon the Cullinanes and Dona. A large contingent of federal, state, and county authorities raided Freedom Country. Led by at least one F.B.I. agent, approximately 40 Spartanburg County (S.C.) deputies and State Law Enforcement Division personnel cut through a locked gate, and sledge-hammered down the door of the house where Dona and her children were living. A helicopter circled overhead, to prevent escape on foot, and the five fugitives were quickly rounded up.

At the same time as the authorities were rounding up the Washburns, Kevin Cullinane and his wife were awakened, with guns trained on them, and were told that the F.B.I. was there. Kevin rolled out of bed, grabbing and cocking his .45 pistol, and demanded to see a search warrant. As soon as he ascertained the warrant was legal, he put his gun down on the bed and stepped away from it, never having pointed it at anyone. Shortly thereafter, hearing the screams of Dona's children, knowing there were other loaded guns in the house, and realizing his self-control might slip, Cullinane requested that he be handcuffed in order to restrain himself. The F.B.I. agent in charge of the raid complied with his request, placing Kevin under arrest and taking him (with Dona) to the nearest federal detention center. Kevin was not arrested for threatening law enforcement officers with his gun, but rather because he was handcuffed. According to judicial guidelines a person is not to be handcuffed unless first placed under arrest. Despite the fact that Dona and her children had been seized before he was handcuffed, Kevin was charged with violently interfering and impeding a federal officer who was serving and executing a search warrant. Conviction on such criminal charges carries a potential fine of $250,000 and up to ten years in jail.

Although Dona was extradited to Georgia, and bailed out on $15,000 bond, Kevin was detained in jail for 11 days before his bail was set at $425,000. Using his real estate property as bond,

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Two Undergrounds

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he was released, but not before discovering that the common law rule of "innocent until proven guilty" had no application to one accused of committing a serious federal crime. Kevin was subsequently indicted by a federal grand jury, but a trial date had not been set at the time of this writing. Meanwhile Dona is fighting a legal battle for determining who will retain custody of her children. For the time being, the state court in Macon has ordered them into protective custody, meaning that the state acts *in loco parentis*, until a final decision is reached.

Although Dona's case has not received much national publicity, there is at least one "mother on the run" who has been in the national spotlight. Elizabeth Morgan, a successful Washington, D.C. plastic surgeon and author, was jailed in August 1987, because she would not disclose the whereabouts of her then five-year old daughter, Hilary. Citing medical and psychological evidence, Dr. Morgan had accused her ex-husband, Dr. Eric Foretich, a prosperous Virginia oral surgeon, of sexually abusing their daughter since 1983. Citing his own expert witnesses and evidence, Dr. Foretich denied the allegations of abuse, and claims that Hilary was coached to lie about him. When the D.C. courts continued to permit unsupervised visits by her ex-husband, Dr. Morgan hid Hilary in 1987. For refusing to tell the court where Hilary was hidden, Dr. Morgan had her home seized, was fined $200,000, and was ordered to pay her ex-husband's legal fees. She was also held in civil contempt of court, and ordered imprisoned until she was ready to comply with the court's order that she disclose Hilary's whereabouts. Refusing to divulge the secret, she was held in jail over two years, until Congress passed a special law in September 1989, designed to release her. (The bill provided that no resident of Washington, D.C. should be imprisoned for more than one year on contempt of court in a child-custody case.) As it was, Dr. Morgan was held in jail for civil contempt longer than anyone else in the judicial history of the United States. Without the special legislation, she could have remained in prison until her daughter was 18 years old, and beyond the court's jurisdiction.

The use of civil contempt orders to enforce court decrees is nothing new. Passmore Williamson, a Quaker lawyer in Pennsylvania, became an abolitionist hero when he was held in jail for three months during 1856, for participating in the rescue of a female slave and her children, who had come to Philadelphia with their master. After being accused in state court of forcible abduction and assault, he was imprisoned for contempt of court, when he said that he did not know where the slave mother was.

The pre-Civil War Underground Railroad began in the early decades of the 19th Century, as Quakers and other sympathetic northerners attempted to assist slaves making their way to Canada and to freedom. Some conservative Quakers opposed taking part in the Underground Railroad because it was illegal, and some of the most zealous Quaker participants like Isaac Hopper of New York—of whom it was said, "fugitive slaves know him as well as they know the North Star"—were even disowned by their own meetings. Another Quaker, Levi Coffin, was one of the major figures of the Underground Railroad in the midwest. Often referred to as the "President of the Underground," Coffin harbored more than one hundred fugitives a year in his house in Newport, near Richmond, Indiana. Another Quaker member of the Underground was Thomas Garrett, a shoe merchant in Wilmington, Delaware. A big confident man, he gathered around him a group of people, black and white, violent and nonviolent, who rendered assistance to fugitive slaves. One such person was Harriet Tubman, the Negro conductress who made a score of trips into the South to lead slaves to freedom. Garrett himself lost all his worldly possessions in 1848, at sixty years of age, when he was prosecuted by a Maryland slave owner and had a judgment levied and executed against him for having helped the man's slaves escape.

It is estimated that the Underground Railroad helped between 40,000 and 100,000 slaves, but not all escapes were successful. Henry "Box" Brown was one of the lucky fugitives. In 1849, he originated the idea of being shipped north in a wooden box. Samuel Smith, a Richmond shoe dealer who made the box for Brown, helped two other slaves by making them boxes and shipping them off. However rumors about Smith's boxes had spread and the boxes were intercepted. The slaves were forced back into slavery, and Smith went to prison for seven years for violating state and federal fugitive slave laws. These statutes were passed by the southern states, as well as by the federal government, in order to enforce the provision of the U.S. Constitution which required that a "person held to service or labor in one State, ...escaping into another shall," not "be discharged from such service or labor, but shall be delivered upon claim of the party to whom such service or labor may be due." (Article IV, Sec. 2, sub 3.)

The first federal statute of 1793, provided that any federal district or circuit judge or any authorized state magistrate could decide (without a jury trial) the status of an alleged fugitive. This measure met with resistance in the northern states, resulting in the passage of state Personal Liberty Laws (Indiana, 1824; Connecticut, 1828; New York and Vermont, 1840; Massachusetts, 1843; Pennsylvania, 1847; Rhode Island, 1848) under which state officials were prohibited from enforcing the law or permitting the use of state jails to hold fugitives captured by the federal authorities. Some state laws extended the right of jury trial to those fugitives who appealed the original judicial decision ordering them to be returned to the south.

The second Fugitive Slave Law (which was passed as part of the Compromise of 1850, and which was not repealed until 1864) made life more difficult for the escaped slave, as well as for those assisting him. First, federal judges were no longer to decide the fate of the slave; rather special commissioners were to make decisions in a summary hearing. Second, the fugitive slave could no longer testify in his own behalf, and he was still not entitled to a jury trial. Third, penalties were imposed upon marshalls who refused to enforce the law or from whom fugitives escaped; those convicted of assisting the fugitive could be fined $1000 and jailed for six months. Emphasis was placed on convictions, since the special commissioners were paid a fee of $10 when their decisions favored the claimant, and only $5 when they favored the fugitive. As a result of the new federal law, resistance in the northern states increased and a new spate of Personal Liberty Laws was passed. These laws forbade state officials from assisting in the recapture of slaves, extended the right of *habeas corpus* and trial by jury to the fugitive, and punished false testimony severely. At least one confederate state referred to these laws as a justification for secession at the outbreak of the Civil War.

The new federal law strengthened the will of those opposed to slavery. It resulted in heightened activity on the Underground Railroad and prompted anti-slavery men to rescue slaves who were being held in the north, pending their return to slavery. The first attempt after the passage of the act to return an escaped fugitive from Boston met with failure in early 1851. Federal officers arrested Shadrach, a waiter in a Boston coffeehouse, on the claim that he was an escaped Virginia slave. He was taken to the courthouse, but a large mob of free Negroes entered the courtroom. Moving about in a hubbub of laughter and jostling, the mob leaders hid Shadrach from the view of the officers long

enough to rush him out of the room and start him on his way to Canada. Secretary of State Daniel Webster, called the rescue treason, and it induced Senator Henry Clay to call for strengthening the provisions of the new law. When Thomas Sims, another Negro, was apprehended later the same year in Boston, the federal authorities viewed his rendition as a test of their strength. The courthouse was ringed with chains and troops. William Lloyd Garrison's LIBERATOR proclaimed, "Justice in Chains." A vigilance committee plotted another rescue, but the attempt was unsuccessful.

By 1854, some fifty or sixty slaves had actually been forced to return south under the Fugitive Slave Law. In that year, Anthony Burns, a young Negro tailor and ministerial student in Boston, was claimed by a Virginia slave owner. Abolitionists in Boston became determined to resist his removal. Officials held Burns in a courthouse. A small group of men, led by a local antislavery pastor, Thomas Wentworth Higginson, battered the courthouse door down with a wooden beam. In the process a guard was killed and the mob retreated, deciding that its numbers were insufficient to effect Burns' rescue. State and federal troops poured into Boston to prevent another rescue attempt, and large crowds milled about the courthouse. Public sentiment was clearly against any attempt to take Burns south: William Lloyd Garrison and three hundred friends of liberty marched about the courthouse square carrying freedom placards; protesting citizens draped their stores and offices in black or hung American flags upside down; all day and night Negroes stood on the sidewalk outside the hotel where Burns' master was staying, in a nonviolent protest vigil. Officials gathered the largest military force in Boston since the time of the American Revolution to prevent citizen interference when Burns was taken from the courthouse to a waiting government cutter in the Boston harbor. Although Burns was returned to Virginia, further protest meetings were held in Massachusetts. At one in Framingham, William Lloyd Garrison held up a copy of the Fugitive Slave law and burned it. Then he held up a copy of the United States Constitution under which Burns had been returned to slavery, and he denounced it as "a covenant with death, and an agreement with hell." Thereupon he burned it, saying, "So perish all compromises with tyranny!"

The question of obeying or disobeying the law is an age old question in Western political philosophy. So long as there have been organized political States, men have been faced with the problem of what to do when the dictates of their reason and conscience tell them to do otherwise than what the State commands them to do. Though the consequences may not be simple or palatable, the voluntaryist answer is relatively straight forward—obey no law which violates one's conscience (especially those which require the doing of physical harm or injury to another person). Law in the voluntaryist sense of the word is something existing in the nature of the real world, such as physical laws (i.e., the law of gravity), or something required by the nature of man, such as the recognition that man must produce in order to survive. Political statutes, political regulations, and statist restrictions upon man's activities are not laws. They are nothing else other then commands sanctioned by the legitimacy of those issuing the orders, and backed up by violent force. Hence, in disobeying political statutes one is not disobeying true law.

In one sense every political "law" is wicked; that is, "all legislation is an absurdity, usurpation, and a crime." It is absurd to think that political rulers can promulgate "laws" of their own. Nothing could be right by political enactment, if it was not first right by nature. If the government directs something to be done that is contrary to reason, then it is reasonable to defy the government. If the government decrees something to be done, which reason indicates should be done anyway, then statist legislation is superfluous.

It is in this light that we can distinguish between just and unjust political "laws." The Roman natural law theorists, who coined the expression *Lex Injusta non est Lex* (an unjust law is no law at all), assumed that truth and right are objective, and can be ascertained by man's ability to reason. Since an unjust or wicked political "law" is no law at all, it may be or even must be disobeyed—for if it is not "law" then there is no natural penalty attached to its violation. The person who believes a political "law" is unjust might on the same grounds, refuse to pay the statist penalty for its violation. The punishment is actually a further aspect of the very political "law" that has been disobeyed. So while there is nothing inherently wrong in disobeying a "political" law or in refusing to accept the penalty, there may be no easy or practical way of avoiding the consequences of disobeying statist "law" and the punishment it exacts.

The existence of an underground railway, whether it be the 19th Century version, or a 20th Century one, shows dramatically how important public opinion and public sentiment are to the legitimacy of the State. If there is too broad a chasm between the dictates of political "law" and people's consciences, then the State begins to lose legitimacy. People are forced to decide between doing what they think is right or doing what their statesmen direct under threat of force. Abraham Lincoln, at the time of the Civil War, recognized that public support was all important to the enforcement of political "laws" and the success of the State:

> Public sentiment is everything. With public sentiment, nothing can fail; without it nothing can succeed. Consequently he who moulds public sentiment goes deeper than he who enacts statutes or pronounces decisions. He makes statutes and decisions possible or impossible to be executed.

Those abolitionists who refused to abide by the Fugitive Slave Law, and their modern day counterparts who harbor fugitive mothers on the run, have clearly decided that the best way to nullify bad laws is to disobey or ignore them. Their claim to violate "laws" of their own choosing is not a claim to violate all laws, but rather only the unjust or wicked ones. They recognize the need for societal-wide rules based on reason, but they do not accede to political "laws" which require that they ignore those in need or that they do injury or harm to others. Their behavior parallels Henry David Thoreau's dictum that, "It is not desirable to cultivate a respect for the (political) law so much as for the right."

Sources

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Carleton Mabee, BLACK FREEDOM, New York: Macmillan, 1970.

Jane Podesta and David Biema, "Running for Their Lives," PEOPLE, January 23, 1989, pp. 71-88.

*A packet of documentation of the facts in this article may be obtained from the Cullinanes. Please send $3 for postage costs and mail requests c/o THE VOLUNTARYIST.

Addendum

On October 21, 1989, Superior Court Judge John Lee Parrott ordered Dona Washburn's four children removed from protective custody and turned over to their father, permanently. This was done in spite of expert medical testimony which confirmed sexual abuse of the children, in spite of the fact that the attorney for the Georgia Department of Family and Child Services recommended the children be returned to protective custody, and that the children continued to accuse the father of having molested them. Judge Parrott further ordered that Dona Washburn undergo psychiatric treatment, before he would allow her to visit her children. Dona has retained a new attorney, and is continuing her legal fight for the children.

Kevin Cullinane was acquitted of all charges by a federal jury in Greenville, S.C. on December 11. The jury determined that he neither "knowingly and willfully" assaulted a federal officer with a deadly weapon, nor "knowingly and willfully" impeded the execution of a federal search warrant.

As a result of the newspaper publicity surrounding Cullinane's indictment, a local I.R.S. agent "decided" to check his tax records, and found that Cullinane had not filed personal tax returns since 1981. As the agent put it, "If a person is willing to break one law, he's often willing to break a second law." As

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Emergencies!

By Carl Watner

As last fall's natural disasters in the United States have shown, overt respect for property rights by the public authorities is usually the first thing to be jettisoned in an emergency. In the wake of Hurricane Hugo, which struck the Caribbean and South Carolina in September 1989, the political authorities declared "a state of emergency," directed and compelled evacuation of threatened and/or destroyed areas, prevented homeowners from returning to their homes (in some instances, even prevented them from rebuilding), established curfews, and passed and enforced anti-profiteering statutes. Similar political restrictions were put into effect after the earthquake hit San Francisco in late October 1989. My limited research indicates that emergencies in this country have always been treated in this fashion. The National Guard cordoned off and controlled the burned district of Baltimore, after its great fire of February 1904. Martial law, though not officially declared, existed in San Francisco after the quake of April 1906. The Pennsylvania National Guard assured that "law and order" prevailed after the Johnstown flood of May 1889.

Statists, however, are not the only ones to violate or support the violation of property rights in such situations. Nearly 100 years ago, Benjamin Tucker in his paper, LIBERTY, advocated the destruction of private property without the owner's consent under certain "necessary" circumstances.

> Take still another illustration. A fire starts at one end of a large city; a strong wind is blowing; the flames gain terrific headway, and sweep over acres of ground; the heat becomes so intense that the buildings, as fast as attacked, almost shrivel up and vanish; the conflagration is entirely beyond control; the whole city is threatened with destruction; there is but one way to save it,—namely, to doom a strip of territory stretching across the city at some distance from the flames and in their path, and to blow up with gunpowder all the houses thereon, thus creating a levelled surface across which the flames cannot leap; to this proposal the occupants of the doomed houses object; they say: "This fire cannot in any case do more than deprive us of our property; there is a chance that the wind may change, and our property be thereby saved; true, this chance is only one in a thousand, but, small as it is, we prefer to take it; we did not cause this fire; we are not invaders, and we insist that no one shall invade us." There is no denying that the blowing up of these houses would be a violation of equal freedom. But...[would not] circumstances...make this violation a necessity[?] It seems to me that...[the] answer (must be) "Yes." (LIBERTY, No. 310, Page 4, April 6, 1895)

What Tucker posited is exactly what transpired in San Francisco in 1906. Since the earthquake had ruptured city water lines, practically no water was available to fight the ravaging fires. Consequently, soldiers and firemen attempted to use artillery pieces and dynamite to blow up buildings and create firebreaks in order to contain the fire. Although adequate dynamite and artillery were available, their efforts failed. Due to the inexperience of those engaged in this willful destruction, "more often than not flying debris and blazing roof timbers from the dynamited structures ignited houses that until then had not been endangered." In short, the violation of property rights helped to create a situation worse than if nature had been left to take its own course.

Although the success or failure of a policy to destroy private property to prevent the spread of conflagrations would not be any justification for the violation of private rights, such a practice had been earlier upheld by the California Supreme Court in the case of Pascal Surocco v John W. Geary. The plaintiff had sued the city of San Francisco to recover damages resulting from the destruction of his house and store on December 24, 1849. City authorities had used gunpowder to blow up his property in an effort to create a fire break during San Francisco's first great fire. "The right to destroy property to prevent the spread of a conflagration has been traced to the highest law of necessity and the rights of man independent of society or civil government," read the case.

In the case of the San Francisco earthquake of 1906, other violations of civil rights existed. The Mayor issued orders that profiteers were to be arrested on complaint (some draymen were charging $75 to carry household effects a distance for which they normally charged $2), and saloon keepers who refused to close their establishments were to have their liquor stocks destroyed on the spot. All private automobiles in the city were to be placed at the disposal of city authorities, and those not voluntarily surrendered were to be commandeered. Police were ordered to conscript manpower to dig latrine trenches, all indoor cooking fires were banned, and a dusk-to-dawn curfew was imposed. More than a dozen looters were shot and killed on the spot (often without warning). "More than once militiamen denied property owners entrance to their homes and offices." California Governor Pardee declared a banking holiday.

At least part of this history was repeated in Charleston, South Carolina, after Hurricane Hugo struck. As David Laband, a Clemson University economics professor, labelled it, the Charleston anti-profiteering legislation was a "Man-Made Disaster." As a result of the storm and power outages, the prices of certain commodities skyrocketed. Generators went for $1000; bags of ice, needed to preserve food in the absence of electrical refrigeration, went from $1 to $10 a bag. "A post-hurricane chainsaw was in the $600 range, plywood was available at $200 a sheet." Profiteering of this nature was punishable by a $200 fine or 30-day jail term.

Such legislation was a violation of property rights, both of buyer and seller. The person who wanted to sell a chainsaw was forced to sell it at a below market price; and the person who was willing to pay $600 for a chainsaw was prohibited from purchasing it at that price. The person who had neither chainsaw or only $300 would have been no worse off in the absence of such legislation. His misfortune was the result of the hurricane that was caused neither by the buyer or seller of the chain saw.

As Laband points out in his article, the economic effect of the anti-profiteering law was to make matters worse from everyone's perspective (except the politicians who reaped brownie points). The appearance of "high prices motivate producers to increase production" or suppliers to more rapidly move inventory to market to take advantage of temporarily high prices. If prices are controlled, no one has the incentive to satisfy high demand. If plywood was allowed to go at $200 a sheet, suppliers of building

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"So the long and the short of it is that I decided to fight the system and the system decided to fight back."

Voluntary Musings

A Column of Iconoclasms

By Charles Curley

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

"No government can exist without compromise."
Edmund Burke

Year of Heavenly Peace—Almost. There is an old Chinese curse: may you live in interesting times. For the people of China right now, the meaning of that curse should be apparent. For the observer of political events world wide, 1989 has been one of the most exciting since the Russian Revolution.

Events in China were well reported, and need no repetition here. The irony is that the center of the world for a month was Tiananmen Square. Tiananmen is Chinese for The Gate of Heavenly Peace, which some Chinese found rather abruptly. Voluntaryists knew socialism to be morally bankrupt years ago, but now this is so obvious that even in the Peoples Republic of Santa Cruz, people are demonstrating in favor of the pro-democracy movement in China. In Boston, the Chinese Student Center ran up a $30,000 phone bill in June randomly faxing news photos and stories into China. (A new high in samizdata, that.)

How ironic that the way the Hong Kong Chinese chose to protest to the communists in Beijing was to depress the value of their stock market!

Events elsewhere in the world were no less interesting. In the Soviet Union, the Vanguard of The Proletariat has been strong-armed by its General Secretary into almost a complete *volte-face*, less some fig leaves for the hardliners (for the time left before they go completely senile). The (newly created) Congress of People's Deputies called for a more effective securities market in, er, the workers' paradise. Perhaps Mr. Ivan Boesky can set up shop in the People's Stock Exchange.

A recent editorial in the NEW YORK TIMES put an interesting idea out: they said that if a Martian had landed on earth and asked to be taken to our leader, he would have been taken to Mr. Gorbachev, not Mr. Bush. This is for a simple reason, which the TIMES may or may not have missed: Mr. Gorbachev is doing far more to loosen up the economy of his country than Mr. Bush is for his country.

In Japan, a plain vanilla money for votes scandal has brought low an entire government. This means that, for the first time since 1945, the Liberal Democratic party may lose its majority in the lower house in the next election. Implication: Japan may finally end its subsidies for rice growers. This would allow the price of rice in Japan to decline from its present level of four times the world price. This will also release some land from rice growing to other uses, which will give people in the world's most expensive city some relief. (Half the people of Japan live within a hundred miles of the Imperial Palace. Yet, in Tokyo Prefecture, some 3% of the land is devoted to rice growing.)

What is amusing is that none of the fallen politicians did anything that was considered scandalous at the time: the indignation has grown up since the events for which they are now being pilloried. Mr. Sosuke Uno, the replacement Prime Minister, was barely a month in office when he was discovered to have had a 'geisha'. Part of the scandal is that the woman was paid so little, only 300,000 yen a month ($2,000), and was given no farewell gift. Tsk, Tsk.

In Eastern Europe, things are moving fast in several countries. With the Soviet hardliners distracted by Mr. Gorbachev, the looser countries are moving full steam ahead to rejoin Europe: an election in Poland (in which every Communist candidate who had an opponent was defeated), another one due soon in Hungary, and free market institutions popping up everywhere except Bulgaria and Rumania. Symbolic events of the year: liberal Hungary tore down its barbed wire on the border with Austria, so hardliner East Germany started to put one up on its border with Hungary! Since then, the GDR has changed its stripes, and the Berlin Wall has come down. Now, they even print the schedules for West German TV in East German newspapers!

The West is jumping into the act as well. In Vienna, the Institute for Human Sciences held a conference on proposals to aid the eastern Europeans in shifting from a command economy to a market one (or, to be precise, a more nearly market economy). Mr. George Soros, a Hungarian-born New York capitalist has become communism's leading external reformer. He has put a proposal to a number of Soviets, including prime minister Nikolai Ryzhkov, calling for "open sectors" in which firms would work for profit, face competition, set their own prices, and select their own suppliers. They would get no subsides and would be subject to a lot less than the usual Soviet bureaucracy.

This proposal, like others made at the conference, is like a dancing bear. The amazing thing is not that it dances so well, but that it dances at all! That Mr. Soros wasn't thrown out on his ear by Mr. Ryzhkov for terminal temerity is in itself a croggling fact!

Events in China are having their effect in Britain. The treaty returning Hong Kong was written by Foreign Minister Sir Geoffrey Howe's civil servants (Mandarins, in British slang), and now is being questioned by conservative back benchers. A stronger Basic Law for Hong Kong looks in the offing.

Even in South Africa, apartheid is evaporating to the point where South African free market anarchist Leon Louw says that apartheid exists more in the American media than in South Africa. Free market experiments in some parts of South Africa are being greeted with enthusiasm by blacks and whites. (Louw has been nominated for a Nobel Prize for the book which he co-authored with his wife, Frances Kendall, SOUTH AFRICA: THE SOLUTION.)

Even in Argentina, after a silly start, the new, populist, president, Mr. Carlos Menem, has cut back government spending and increased privatization to where the IMF looks favorably once again on the country.

In fact, it would appear that there is only one country in the world in which no progress is being made. That country is the U.S., where not a thing is happening to 'get government off our backs'. Mr. Bush's caretaker government is not even mouthing the free market rhetoric of the Reagan administration. Does anyone wonder why Mr. Gorbachev is more popular in West Germany than Mr. Bush?

Quote: "If all mankind minus one were of one opinion, and only one person were of an contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind."
John Stuart Mill

Libertarian Movement: My wife, Campbell, and I have removed ourselves from the Peoples Kakistocracy of California to Colorado, which ought to be in improvement. We have relocated to Fort Collins, a center for libertarian activity. Apparently, Mr. Rex May, who draws cartoons under the pseudonym of Baloo, is also planning a move here. If that happens, then two of the three regular contributors to THE VOLUNTARYIST will be in Fort Collins.

Between a low cost of living and beautiful countryside, this part of Colorado is an excellent place to live. Unlike San Jose, it isn't wall to wall suburbs. It is possible to drive fifteen minutes from downtown Fort Collins and be in rolling farmland. Also, the weather has great variety, which is a lot better than California. And, at least the white stuff on the ground isn't cocaine.

Anyone interested in moving to the real center of the libertarian movement is invited to contact

Ms. Mary Margaret Glennie
Freedom Now
1317 Lakewood Dr.
Fort Collins, CO 80524

for more information.

"If the individual is led to believe he is not totally responsible for his actions, his actions will become largely irresponsible."

Traffic Problem Solved: Mr. Pierre Beregovoy, France's finance minister, has solved the Parisian traffic problem for at least the rest of his term in office. Having moved the Treasury from the Louvre to the eastern outskirts of Paris, Mr. Beregovoy must now attend meetings at other ministries and the Presidential Palace, all in central Paris. His solution: he will travel by speedboat or helicopter. Now, if only we could get all the Parisian 'crats off the roads.

Bright Prospect: The Polish Ministry of Privatisation is responsible for breaking up the State's economic holdings and returning them to private hands. A daunting job, considering that the State controls some 90% of the economy in Poland. The ministry has four full-time employees, one phone line, one typewriter, and two computers. Think we could get the IRS down to that size? Think we could get any American government department down to that size?

On Private Property: "If universal love won't induce people to take care of things, private interest will. Hence, privately owned goods will multiply. Had they remained in common possession, the opposite would by true."

Thomas de Mercado
SUMMA DE TRATOS Y CONTRATOS
Seville, 1571

Quote: "In the current political vocabulary, 'need' means wanting to get someone else's money. 'Greed', which used to mean what 'need' now means, has come to mean wanting to keep your own. 'Compassion' means the politician's willingness to arrange the transfer."

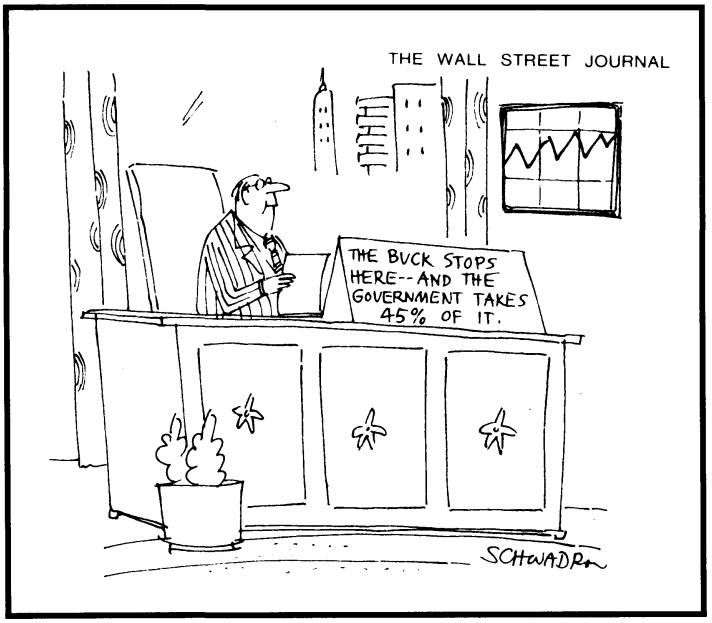
Joseph Sobran

And the politicians' transfers are always at gunpoint, too.

How come they call it an unemployment tax? Ever notice that you only pay it when you're employed?

Skimming—of Oil and Other Things: To help clean up the Alaskan oil spill, desperate measures were employed: among other things, Exxon hired two Soviet ships to skim up the oil, this at $15,000 per day. After two weeks, they proved to be a complete flop, and were dismissed by Exxon. However, American 'crats made even bigger fools of themselves: The Jones Act requires that ships used in US waters for commercial operations must be US flag ships. This, of course, to 'aid' the US merchant fleet and its parasitical unions. In order to get a waiver for the two Soviet ships, the Treasury Department had to declare that the two Soviet ships were carrying out an American "national defense" mission.

Against who were the Soviet oil skimmers "defending" us? Exxon? The state of Alaska?



Emergencies

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materials would charter airplanes to fly plywood to Charleston. "High prices are the free market's mechanism for ensuring that economic resources flow to their most valued uses. On the demand side, high prices guarantee that scarce goods are allocated to those buyers who place the highest value on them." Even the prospect of price controls deters disaster emergency preparedness, because merchants are less likely to stock up in advance if they suspect they will not be able to take advantage of higher prices.

Although Laband concentrated on the importance of the price structure to the free market, he did not point out that there were many other ways (besides raising prices) of helping disaster victims. In fact, every natural disaster of any magnitude in this country has called forth an outpouring of voluntary relief aid. For example, in South Carolina individuals and businesses offered their many services and knowledge, as well as their time and their employees, to aid those in trouble. Numerous banks, with branches all over the state, acted as collection points for monetary donations for the Red Cross. Community Cash, one of the state's largest chains of grocery stores, not only set up its individual stores as collection points for non-perishable foods and other relief items, but itself donated merchandise, trucks, and drivers to transport relief aid. Churches acted as rallying points for those wanting to send supplies to Charleston and other areas hit by the hurricane. Radio and TV stations aired public announcements, and the newspapers printed information about collection points and relief supplies that were in short measure. Help poured in from all over the country.

Despite the fact that people realized that government relief would be forthcoming, they did not wait for the federal or local government to act. The outpouring of voluntary, charitable aid (which often arrived before government assistance) leads one to believe that the injured and homeless in a free society would be cared for. The question of curfews and limiting access to damaged areas might or might not arise in a free society, but if it did, the solution would have to be consistent with respect for property titles. Insurance companies, who estimated their insurable losses from Hurricane Hugo to be around $4 billion, would undoubtedly play a more important part in administering relief aid and in preventing looting. Owners of roads and their insurance companies would have the right to close down roads leading to damaged areas, and/or restrict hours of access, but they would not have the right to abrogate property rights except where their contracts or policies stipulated in advance that if there were a natural disaster, property owners would be compelled to vacate threatened homes or businesses (otherwise their policies would not pay for loss of life, etc.).

Another category of "emergency" which is of voluntaryist interest involves lifeboat situations. These puzzles have been discussed as long as man has thought about his relations with other men. The question of "two men in mid-ocean, on a plank only capable of supporting one" can be traced at least as far back as Carneades, the Stoic (214?-129 B.C.) and Cicero (106-43 B.C.) Three situations are possible here: a) the person that is not on the plank manages to push off the person who is already on the plank; b) both parties reach the plank at the same time, and one thrusts the other aside; and c) the party who is already on the plank repulses the one who seeks to push him off. Although some have argued that the order of justice terminates in such lifeboat situations, and that the order of charity governs the case, law commentators point out that these three situations really reduce to two: either there is no one on the plank or there is someone already on the plank.

What are the respective rights and wrongs of the actors, on or off the plank, assuming that neither of them has a valid prior claim to do it? First of all, it must be admitted that neither actor has the right to attack the other, except in self-defense. Therefore, neither of the innocent men would have the right to pull the other off the plank, if he were not to reach it first. Nor would either be justified in causing the death of the other, if both reached the plank simultaneously. The case of "necessity" which

has been introduced into the law to justify murder under exceptional circumstances is no justification for the violation of property or personal rights.

An actual historical lifeboat situation will serve to illustrate this thesis. The "William Brown" was an American ship struck by an iceberg in the North Atlantic on April 19, 1841. Two lifeboats were lowered, and in the one that was the last to be rescued there were 9 seamen and 31 passengers. This longboat was soon in danger of capsizing, and on its second day out, the sailors began throwing overboard some of the passengers. Fourteen male passengers were cast away before the boat was finally rescued. Alexander William Holmes was one of the crew to be indicted for manslaughter and prosecuted in Philadelphia in August 1842. The prosecution argued that the perilous condition of the lifeboat did not justify homicide. If any were to be sacrificed it should have been the sailors rather than the passengers, because the sailors had accepted and undertaken an obligation to transport passengers safely. The defense claimed that in the emergency all were reduced to a state of nature where a resort to "necessity" (the apparent sinking of the lifeboat) justified some being thrown overboard.

The jury convicted Holmes of manslaughter, and on appeal the decision was upheld on the basis that "the sailor's duty is the protection of persons intrusted to his care, not their sacrifice,—a duty that rests on him in every emergency of his calling." The appeals court maintained that Judge Baldwin had rightfully explained to the jury, that even if a state of emergency had existed, the law of necessity did not apply to Holmes, since he owed the passengers a superior duty. The voluntaryist position was outlined in an editorial in the Philadelphia PUBLIC LEDGER on July 3, 1842:

> No human being is authorized to kill another in self-preservation, unless against an attempt of that other to kill. If one man attempts to kill another, the one assailed may preserve his own life by killing the assailant, but when two are exposed to a common danger, from which one may escape by killing the other, but which if neither yield, will destroy both, neither has the right to killing. ...If no one will consent to be sacrificed, all must perish together, for no one can lawfully save themselves by crime. ...But, shall all perish together, because one will not consent to perish alone? Certainly. 'But then this one, who refuses to die, causes the destruction of all the rest; and this is wrong, because he has no right over their lives.' (It might thusly be argued, but we disagree.) We admit that he had no right over their lives, and neither have they any right over his. They must consent to leave their fate together in the hands of events and take what comes. ...While there is life, there is hope; and therefore all should have defended each other, and left the rest to Providence. They might throw overboard dead bodies, but could not throw overboard a living being without murder.

The premise of this editorial shares with the general libertarian philosophy the principle that no one may initiate violence against another peaceful person. As the brief history of natural disasters related here demonstrates, this principle is just as applicable to emergencies as it is to everyday circumstances. It may be more difficult for the parties involved to apply them simply because the consequences may be more life-threatening (to themselves or others), but this in no way lessens their applicability. The history related here also, at least to some extent, shows that the end of "saving property" can never justify compulsory means. The means always stand alone and must justify themselves. Since the means are all we have to work with, regardless of the circumstances at the time of their application, it is to the means which we must look for salvation, if any is to be had. Or as we have repeatedly said, "if one takes care of the means, the end will take care of itself."

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Two Undergrounds

Continued from Page 3

a result of this investigation, Cullinane is now faced with a tax bill from the Internal Revenue Service for more than $477,000. The I.R.S. action took place less than two weeks before Cullinane's trial and was clearly politically instigated. The only way the I.R.S. could have had access to some of the "alleged" information was by way of the F.B.I. A Notice of Jeopardy Assessment and Tax Lien were filed (without prior notice) against Cullinane because the I.R.S. thought he appeared to be "designing to quickly depart from the United States or to conceal" himself, and "place (his) assets beyond the reach of the Government... ." (Neither allegation was true.)

In deciding upon their action, the I.R.S. asserted that 1) Cullinane was a member of an underground network concealing fugitive women and children from federal and state authorities; 2) foreign currency was found in his home by federal agents executing a search warrant; 3) he had not filed income tax returns for a number of years; 4) his real property was for sale (it has been since October 1988); and 5) he used an alias to conceal payments he received and assets he owned. There was just enough substance to these spurious claims to make them look as if they may have been true. Although the local I.R.S. people were unaware of it, Cullinane had recently filed some of his back returns, and according to his accountant the amount owed (even after computing penalties and interest) was far less than the amount claimed by the I.R.S. It is clear that federal agents must have had a "cover" on Cullinane's mail because they were apparently confused by the many different people at his home receiving mail (Cullinane does not use an alias). Other than one piece of currency brought to Freedom Country by his Argentine son-in-law, there was no foreign currency on the premises; nor was there any underground network of which he could be a member.

The Cullinane affair is a perfect illustration of the "bag of tricks" and "double standard" by which the State works. Most of the I.R.S. charges were pure fabrications and required no proof on their part. Any of us could be accused of the same "crimes." If he had been convicted of violently interfering with the execution of a search warrant, Cullinane could have been jailed for 10 years, and fined $250,000, a sentence far in excess of that given to people convicted of manslaughter. Why is it worse to assault a federal agent than to kill your neighbor? It wouldn't be because the State wants to strike fear into the hearts and souls of its citizens, and have them remain compliant and docile in the face of its coercive apparatus? Even though Cullinane was acquitted, he is faced with large legal bills, for which he is personally responsible. The entire federal law enforcement system which charged him and then tried his case is paid for by the hapless taxpayers. The federal tax lien against him makes it impossible to sell his property without obtaining permission from the I.R.S., and if he cannot reach an amicable agreement with them over the amount due, the I.R.S. clearly has the last say, as his property may be seized and auctioned off.

Legal defense funds have been established for both Kevin Cullinane, and Dona Washburn and her children: The Kevin Cullinane Legal Defense Fund, c/o Anthony L. Hargis & Co., 1515 W. MacArthur Boulevard, #19, Costa Mesa, California 92626; and The (Dona Washburn) Children's Defense Fund, Box 5303, Spartanburg, South Carolina 29304.

"This vision of 100 million taxpayers every year that file their returns and basically pay what they owe... if you stand back and look, it's an exquisite system. It's important not to lose sight of that."

—IRS Commissioner Fred Goldberg

Freer Is Safer

By John Semmens

One of the most common delusions of our age is that government is enforcing regulations that will actually help improve safety. In the wave of deregulation that hit the economy in the last decade, many observers have found comfort in the knowledge that safety was not one of the components in the loosening of government controls. Oversight of safety was routinely retained as a responsibility of the public sector.

Why anyone would place such confidence in government for the promotion of safety has always been a mystery to me. Granted, the protection of the public's safety has historically been a primal justification for the existence of government. But why should we expect government to be better at this job than it has been at the multitude of other tasks it habitually bungles? Let's face it, bureaucracy and quality workmanship are far from synonymous.

The only logical explanation for the great trust in public sector regulation of safety must be that it is an unexamined article of faith. Examining this faith is the major purpose of Professor Aaron Wildavsky's recently published book: SEARCHING FOR SAFETY (New Brunswick: Transaction Books, 1988). The concept of outlawing hazards via legislative or administrative means is premised on the belief that we know what is safe and what is not. What if we don't know?

The idea that we may not know what is safe may strike many people as ludicrous. Surely, we can identify hazards like motor vehicle collisions, toxic chemicals, dangerous workplaces, and the like. However, identifying hazards is only part of the answer. If we are to deal with them, it is even more critical that we know whether they can be prevented and at what cost. For example, we could prevent traffic victims by prohibiting motion. Obviously, imposing total immobility would be too costly a remedy. At what point between complete immobility and runaway breakneck speed do we attain an optimal balance between safety and utility?

The very real question of costs cannot be dodged by the all-too-common cliche "that as long as one life is saved, it's worth it." The costs incurred by a specific safety measure consume resources that could have been used for other, perhaps more cost-effective, safety-enhancing measures. One effective means for improving safety is to promote economic growth. Greater material wealth is a direct path to better health. If wealthier is healthier, then the diversion of scarce resources to relatively inefficient attempts at imposing safety will actually end up costing rather than saving lives.

The contemporary political environment has fostered a pathological obsession with risk aversion. The rules aimed at "erring on the side of safety" are impeding the technological and economic progress that have been the key to increasing human longevity. Fear of the unknown results in cumbersome restraints on research and experimentation. These restraints endanger the very public health and safety they purport to protect.

Since our present condition is not perfectly safe, it obviously could be improved upon. Daring to make improvements entails the willful assumption of some degree of risk. Exploring the unknown, whether it be in pursuit of better drugs, new modes of transport, or whatever, is a necessary step if we are to advance the frontiers of knowledge. Progress really does impel us to venture where no man has gone before. In this sense, the adage "nothing ventured, nothing gained" succinctly states the case for experimentation.

Venturing, experimenting, and risking are all activities ill-suited to the public sector. As the role of the public sector expands, there is apt to be less "venturing" and more "controlling." The gains that could be made through progress will be retarded or foregone entirely. Human beings will be less safe than they otherwise could have been.

Not surprisingly, it turns out, once again, that the free market appears most conducive to human health and well-being. The decentralized decision-making characteristic of private enterprise means varied ventures will embark upon divergent paths. Many of these ventures, of course, will fail. Others will learn from these mistakes. Knowledge, the foundation of progress, will be produced. By the increments of many trials, the errors will be sorted out from the successes. Thus, the diversification inherent in the market approach to problem-solving has the effect of reducing the aggregate risk to society.

In the long-run, results weigh heavily in favor of the marketplace. Open, market-oriented environments produce longer-lived and healthier individuals. The search for safety brings us back to the enduring truth that freedom works.

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