
The Voluntaryist

Whole Number 55

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

April 1992

"For Conscience's Sake"

By Carl Watner

Introduction

George Smith, in his essay "Philosophies of Toleration," reviews the history of freedom of religion and identifies the moral axiom of "righteous persecution," which has been part of most religions throughout the ages. The principle underlying this "persecution complex" was that recalcitrant people should be coerced "for their own good." It made no difference whether people were being compelled to change their earthly behavior or their spiritual beliefs. The justification for persecution was the same in either case: the end—the public welfare in the here-and-now or the salvation of the persecuted in the hereafter—warranted the use of violence. The opposite proposition, based on the principle of persuasion, embraced the voluntaryist prescription for reasonable argument and non-violent behavior. Many defenders of religious freedom understood that force could only make hypocrites of men, or as William Penn put it, "tis only persuasion that makes [true] converts."

An interesting twist on Smith's comments about persecution is to apply them to the ancient practice of State taxation. Since taxation is the taking of another's property by the public authorities without his voluntary consent, clearly taxation may be viewed as a form of persecution by those who would not willingly pay. Indeed, William McLoughlin described "the principal aspect of the struggle against the Puritan establishment" in America as "the effort to abolish compulsory tax support for any and all denominations." If it is correct to characterize religious taxes as coercive and as a form of persecution, then it should certainly be proper to categorize other forms of taxation similarly. The principle at work is the same regardless of the purpose behind the tax. Property must be forcibly taken from some people and applied in ways which they (the owners) would not ordinarily direct it.

Seventeenth and eighteenth century advocates of toleration, like Henry Robinson, William Penn, John Locke, and James Madison, all viewed "freedom of conscience" as a form of property. Robinson claimed that "those who are forced to pay a [religious] fine are subject to a forcing of their conscience." Penn often argued that to punish religious dissent by fines and imprisonment was as much an invasion of conscience as it was of property rights. Locke in A LETTER CONCERNING TOLERATION called "liberty of conscience...every man's natural right." Madison, in his essay on "Property," wrote that "Conscience is the most sacred of all property;" So it was clearly recognized that religious persecution took on many forms—from being compelled to pay taxes to support a minister one did not patronize, to the confiscation of property for the non-payment of such taxes, to the actual imprisonment of the persecuted minorities who insisted on practicing their religion publicly or refusing to falsely swear their allegiance to a king or god of whom their conscience would not approve.

The entire basis on which religious taxes were laid was the idea that "the authority of the church [wa]s as essential to the continued existence of civil society as that of the [S]tate." It was assumed that religion would not be able to sustain itself without some financial assistance from the State. "Thus," as McLoughlin writes,

(T)he controversy over the establishment of religion in America in 1780 was not over the establishment of any one sect, denomination or creed, but over the establishment of religion in general (meaning, the Protestant religion).

The question of support for religion was often compared to the responsibility of the state toward all institutions concerning the general welfare—the courts, the roads, the schools, the armed forces. If justice, commerce, education, religion, peace were essential to the general welfare, then ought these not to be supported out of general taxation? It was no more inconsistent in the minds of most New Englanders to require a general tax for the support of religion than to require, as Jefferson advocated, a general tax for the creation and maintenance of a public school system. (p. 610)

The purpose of this paper is to demonstrate the uniqueness of the voluntaryist argument for religious freedom. The voluntaryist does not advocate separation of Church and State because the issue is a red herring. To argue for separation of Church and State does nothing more than to legitimize the State since it does not question or challenge the State's existence. The issue, by the nature of the way it is framed, assumes that the State must and should exist. The fact of the matter is that Church and State will never truly be separated until either one or the other disappears. Tax exemption of church property or taxation of church property? So long as a State engages in compulsory taxation to raise its revenue, it must inevitably impact on the religious sphere. Has the religionist, who must support the police with his taxes, had his rights violated when the police come to the aid of the atheist? If the State pays a policeman to direct traffic and protect children going to church schools, might not the atheist object to having his tax money spent in such a fashion? Only a voluntaryist would recognize the injustice inherent in these situations. So long as the State violates property rights by its existence—which it must necessarily do—religious freedom or any other form of freedom will never be secure. In principle and in practice, all freedoms are inter-related to one other. If a property right may be violated in one sphere, by the same principle it may be violated in another.

The balance of this paper will discuss the issues of toleration, religious freedom, separation of Church and State, and freedom of conscience from the voluntaryist point of view.

Liberty not Toleration

Religious liberty or freedom of conscience, as the early dissenters called it, means thinking as one pleases, and then using one's body and rightfully owned property to express those thoughts without being coercively molested. For example, religious freedom manifests itself in the right to build places of worship, to print religious literature, to speak of one's ideas without the possibility of physical retaliation, and the right not to have one's property taken or used in ways that the rightful owner deems inappropriate. Yet, no historical religious thinker ever thoroughly understood the principle behind religious liberty. A religious radical, like Roger Williams, saw that it was wrong to "steal" a person's property to support a religion he did not practice. Yet no supporter of religious liberty ever questioned the propriety of compulsory taxation as it applied to the secular realm.

The English dissenters of the late 18th Century, however, did go so far as to support the individual against the collective, no matter what form the issue took. For them, freedom of conscience was "a principle implicit in human nature, a right innate in the heart of every man, constituting the essence of personality. ..." Writing about the dissenters' view of freedom of conscience, Anthony Lincoln says:

It implied that there were certain issues so fundamental
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The Voluntaryist

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Potpourri From The Editor's Desk

1. "New Brochure Available"

The lead article of Whole No. 40 was titled "The Fundamentals of Voluntaryism." It has now been reprinted in an attractive three-fold brochure, suitable as a handout or introductory explanation of the philosophy of voluntaryism (though perhaps only for those already acquainted with libertarian ideas. I would appreciate suggestions for the text of another brochure suitable for those not already familiar with the general framework of our thinking.)

For a copy of the new brochure, please send a large (No. 10) SASE and one 29 cent stamp to THE VOLUNTARYIST.

2. "The Discipline of Peace"

The following letter appeared in the SMALL FARMER'S JOURNAL, Summer 1990 (Box 2805, Eugene, Oregon 97402)

The events of the past year in Eastern Europe have shown us—even though we should have had the sense to realize it years ago—that only a true market, willing buyers transacting with willing sellers, is the way to go to feed the world's ever-growing population. And of course what applies to feeding that population applies as well in supplying shelter, clothing, and yes, even education.

So much for the practical aspects. As far as the ethical aspects are concerned, any improvement in the next century will require that each of us learns, and practices, a genuine "discipline of peace." Which means of course that we all will have to stop the truly violent practice of using the political apparatus to take things from the Joneses and award them to the Smiths.

This is a tough discipline, but it is what it is, and there's no way around it. By all means, practice charity both as an individual and in conjunction with our neighbors! But force takings? No way! No matter what the rationale, we have learned that the Divine Authority of the Sovereign—even when that sovereign goes by the grandiose name of The People—is not a suitable doctrine for life among peaceable individuals, nor among a citizenry where all persons have equal responsibilities for their own wellbeing.

Best regards,
John M. Simons
Sheffield, VT 05866

3. "Is Liberty Too Extreme?"

The following excerpts appeared in FREEDOM DAILY, September 1990 (Box 9752, Denver, Colorado 80209). The article was written by Richard Ebeling, the Ludwig von Mises Professor of Economics at Hillsdale College in Michigan.

"To be reasonable, the free society must avoid extremes, and it does so through the diversity of free men that it both permits and fosters. It restrains the practice of 'extreme' personal behavior because it imposes costs and consequences upon

everyone who practices them—loss of economic opportunity, social ostracism by those who are repelled by it. And it teaches the advantages of moderation—courtesy, good manners, tolerance and 'socially acceptable' conduct.

"In other words, the free society, accepting human nature, nudges men toward better behavior rather than compels it. It teaches rational and moral conduct through reason and example. It fosters compromise by demonstrating the personal costs of being too extreme in one's personal actions. And it raises the ethical conduct of the society by the discovered advantages of personal improvement through time."

4. "SHORT TAKES"

by Tom Case

(1228 Euclid Avenue, Cleveland, Ohio 44115)

Consider how hard it is to change yourself ...

...and you'll understand what little chance you have of changing others.

Give a man a fish and ...

...you will feed him for one meal. Give him a fishing rod and he will be hungry constantly.

Somebody once said ...

...being powerful is like being a lady. If you have to tell someone you are, you ain't.

The things that are wrong with ...

...the country today are the sum total of all the things that are wrong with us as individuals.—Charles W. Tobey

Being in politics is like being a football coach. You have to be smart enough to understand the game, and dumb enough to think it is important.—former Senator Eugene McCarthy

There is one difference between the tax collector and a taxidermist—the taxidermist leaves the hide.—Mortimer Caplin

5. "Carl Menger on 'The Natural Development of Money'"

"The origin of money [is] entirely natural. ... Money is not an invention of the state. It is not the product of a legislative act. Even the sanction of political authority is not necessary for its existence. Certain commodities came to be money quite naturally, as the result of economic relationships that were independent of the power of the state."

—in THE PRINCIPLES OF ECONOMICS

(New York: New York University Press, 1976), p.261.

6. "In the Free Market People Make Choices for Themselves."

All socialist systems "have one characteristic in common: They are systems of coercion. They interfere with the freedom of people to act on their own behalf. ... In a very real sense, the free market is not a system at all; it is the absence of a system. No one is coerced into producing a particular product or paying a specific price."

—Mark Skousen, ECONOMICS ON TRIAL,

(Homewood: Business One Irwin, 1991), p.224.

7. "Out For Blood"

INSIGHT, April 29, 1991 reported the story of Colleen Griffin, who was paid \$50 each time she gave blood plasma. She had dutifully listed that income on her 1988 tax return, but the IRS is not satisfied with its take. The IRS claims she must not only pay income tax on this money, but that Griffin is subject to the 15.3 percent payroll tax on self-employed people. Selling blood is a business!

At the same time, the WALL STREET JOURNAL cites the rates for federal estate taxation. "Although there's generally no limit on assets left to a spouse tax-free (the spouse's estate pays the tax when he/she dies), for other beneficiaries anything over \$600,000 in an individual estate is subject to federal estate tax at rates ranging from 37% to 55%. Many states also impose their own taxes." Who says the tax men are not out for blood? ☐

Academic Freedom

By Carl Watner

Academic freedom has been formally defined by the American Association of University Professors as the freedom of professionally qualified persons (such as the university instructor or researcher) to inquire or investigate, to discuss, publish, or teach the truth as they see fit in the discipline of their competence, subject to no religious, political, or institutional control or authority, except the control of standards of professional ethics or the authority of the rational methods by which truths and conclusions are established in the disciplines involved. In its primary sense, academic freedom is concerned with the freedom of the professor to pursue and teach the truth as he sees it without fear of dismissal or disciplinary action.

Academic freedom is a relative late-comer to Western civilization. That there was no such thing as academic freedom among the ancient Greek teachers, is attested to by the death of Socrates. Nor can any form of it be found during the medieval era, the Renaissance, the Reformation, or the Enlightenment. Neither in 17th nor 18th Century England or America were there found any vestiges of academic freedom. It would even be difficult to identify the calls for unlicensed printing, freedom of speech, freedom of conscience, and the disestablishment of State churches with academic freedom. The first movement towards academic freedom occurred in Imperial Germany, where it began at the University of Berlin in 1810. However it was not until 1850, that "science, and the teaching of it" were recognized as free in the Prussian constitution. Academic freedom in 19th Century Germany was a government dispensation that set the professor apart from the ordinary civil servant (the universities being state institutions, professors were employees of the state). What the Germans called 'Lehrfreiheit' (the freedom of teaching and inquiry) had patriotic overtones, and was associated with the national revival taking place among the German states at the time.

From Germany, the concept of academic freedom spread to the United States, where it was ultimately embraced in a report prepared by the American Association of University Professors in 1915. Dubbed by its critics as the "Professor's Union," the Association (still in existence today) has devoted itself to the formulation of principles of academic freedom and tenure, and to the investigation of its alleged violations. Its most basic vocational claim for professors is that they should have a permanent or continuous non-cancellable employment contract (tenure) after expiration of their probationary period on a faculty, and that their services should only be terminated for adequate cause (academic incompetence and personal misconduct). In such case, the Association demands that the case should be heard before a faculty committee and the governing board of the institution; that the charges be made in writing and presented to the professor so that he may not only be heard in his own defense, but offer outside evidence to rebut his accusers.

The organization and ownership of colleges and universities in the United States at first hampered the spread of the Association's doctrine. Private institutions were normally governed by a nonacademic board of trustees, who were responsible for hiring and firing administrators, as well as teachers. Moreover, large benefactors who supported such institutions throughout the 19th and early 20th Century believed that they had, and indeed they did, the right to control what teaching went on and what opinions were put forth in the schools they helped endow. (Universities in the South were loath to appoint abolitionists, and even as late as 1900, Mrs. Leland Stanford was responsible for the dismissal of a sociologist from Stanford University.) Even in state-funded universities, administered by state-appointed trustees, the same argument was heard: teaching in these institutions should conform to the philosophies of the citizens whose taxes supported them (or at least not violate the conscience of any of those taxpayers.)

The principles of academic freedom and tenure are paradoxical, for they attempt to separate ownership from control. Academic freedom applies to the producer rather than the consumer. He who buys a certain service may not prescribe the

nature of the service to be rendered, nor use his purchasing power to express his disapproval of the product. As Sidney Hook (a professor himself) once explained:

I can share a public platform with my grocer, my butcher, my doctor, and my lawyer. We all exercise our constitutional right of freedom of speech to advocate the same unpopular heretical proposal. Select your own particular abomination as an illustration. Let us say voluntary euthanasia or the deportation of illegal aliens or curtailing social security. Every one of my fellow speakers may pay a very large price for the expression of his opinions. They may lose trade, or patients, or clients to a point where their livelihood may be affected. I, however, to the extent that I have academic freedom, claim and enjoy complete immunity from any institutional sanctions. Neither my salary nor my prospects of promotion can be affected. ... I am absolved of the normal costs of unpopularity and sometimes even of my defiance of convention.

Many of the defenses of academic freedom have not changed from the days of Socrates, when he argued for complete freedom of thought and expression, free of reprisal. In 299 B.C., Socrates asserted that freedom of thought implied the freedom to teach, and he justified this claim both as a duty he owed the gods and a benefit that he conferred upon the State. More contemporary statements argue that "there are certain professional functions generally recognized to be indispensable in the life of a civilized community which cannot be performed if the specific manner of their performance is dictated by those who pay for them, and that the profession of the scholar and teacher in higher institutions of learning is one of these." The scholar's purpose is to lead in the discovery and promulgation of knowledge, but the performance of his function is hampered if the inquiry is restricted by outside forces (such as religious, political, or economic pressures), if the professor is not allowed to communicate the result of his inquiry, or if he has to revise his findings in light of powerful social prejudices or special interests. According to this argument

a society that believes that its stability, prosperity, and progress are dependent upon the advance of knowledge, and establishes universities for this purpose, is patently inconsistent if it denies these universities the freedom that they must have if they are to fulfill their nature and function. **Academic freedom exists, then, not to serve the interests of the professor but for the benefit of the society in which he functions, ultimately the community of mankind.** (emphasis added)

This refusal to recognize the self-serving nature of academic freedom is self-serving itself. While there is nothing inherently involuntary in a private college providing for the principle of tenure and academic freedom in its employment contracts with its professors, it seems unlikely that any profit-seeking institution would be able to justify such a long-term expenditure, unless it sought a professor of high repute or world-wide standing. For example, non-university research institutions, whether they be business or not-for-profit foundations, rarely grant their professional researchers tenure.

Another angle to consider is that the large majority of the institutions of higher learning inside and outside the United States have been socialized. Either direct or indirect State control has been achieved, through political regulation, or government subsidization of tuition or research. For example, in the United States, three out of every four dollars in need-based tuition aid to public and private colleges comes from the federal government. To prove that there is nothing inherently libertarian about the nature of academic freedom, we need only look at the collectivist countries of eastern Europe. While their governments claim adherence to the principles of academic freedom, they direct the entire system of higher education. Despite the seeming autonomy of certain academies, institutes, and universities, "academic freedom is explicitly restricted to those who do not, by their ideas or actions, threaten the existing socialist regime." In fact, even the term "academic freedom" is a bit of a misnomer because it is more in the nature of an occupational privilege than any sort of restraint against the government or private parties.

Even in the West, academic freedom has proved to be no bulwark of liberty. It was one of the first "freedoms" to be dispensed with in Germany during the 1930s nazification program. It is inevitable that he who pays the piper chooses the tune. The fact of the matter seems to be that so long as the State controls the educational process and the apparatus by which "education" is administered there can be no such thing as academic freedom. The State has always used the school and university for propaganda purposes and to preserve its own power and the status quo. So long as schooling and the State are not separated, academic freedom is more apt to be a handmaiden of the State than a pillar of liberty. ☐

For Conscience's Sake

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that no municipal laws or conventions, no social or conventional machinery, could compass or even approach them, but could be resolved only in the reason and conscience of the individual: an inner sanctuary into which all commands of priest and magistrates penetrated only as idle, meaningless echoes. (p. 11)

In his 1837 sermon on "Intellectual Liberty," Reverend Horatio Potter described the principle which lies at the foundation of the right to freedom of conscience as one which is at the very basis of all intellectual and religious liberty. It is an epistemological bias against violence which, he said, is predicated on the premise that "error is to be refuted, that truth is to be made manifest and its influence extended not by external force, but by reasoning. ...Produce your strong reasons—employ your intellect to shew wherein my intellect has erred or led others into error, but abstain from violence, which can prove only that you are powerful and vindictive, without proving that you have truth and justice on your side." The resort to violence is a confession of weakness because he who would employ force would not do so unless his arguments and reasoning were weak and unconvincing. Truth or the effort to obtain the truth does not need to rely on force. "If a man believes he possesses the truth, then let him convince others by argument, not compel them by threats."

Henry Robinson (1605-1664), along with other Englishmen of his age such as John Milton, John Lilburne, and Richard Overton, were among the first of the moderns to see that the idea that violence was not a convincing argument (and hence compulsion should not be threatened or used in order to bring about a change of opinion) applied just as much to the economic and political realm as it did to the religious sphere. In his book, *LIBERTY OF CONSCIENCE*, published in 1643, Robinson brought forth just about every "argument that the modern world has been able to advance in defense of religious liberty." The right of private judgment or freedom of conscience, as Robinson identified it, was as much an individual right as the right to life, liberty, or property. None of these rights were secure so long as people could be imprisoned, fined, and coerced for their religious or political beliefs. In fact, Robinson compared the freedom to choose one's religion to the freedom to engage in free enterprise activities. As William Haller explained, Robinson argued that since "no man has a monopoly on truth" in any sphere of life,

'the more freely each man exercises his own gifts in its pursuit, the more of truth will be discovered and possessed.' As 'in civil affairs...., every man most commonly understands his own business,' as 'every man is desirous to do with his own as he thinks good himself,' and as it would be absurd for the State to make laws requiring men to manage their worldly affairs after one 'general prescript forme and manner,' so in religion every man should be permitted to go his own way. Compulsion compels men only to hypocrisy or rebellion. [Vol I, p. 69]

Although the distinction was not articulated until the following century, Robinson and others of his era could see that there was a difference between religious toleration and religious liberty. The voluntarist argues for the latter, while the statist implicitly endorses the former. The difference is that what the State at one time tolerates, it may, at another time, condemn and prohibit. Hence, whatever freedom of activity is granted by toleration is

subject to restriction and/or revocation. "Toleration is not the **opposite** of intolerance, but is the **counterfeit** of it," wrote Thomas Paine in 1791 in *THE RIGHTS OF MAN*. Religious liberty, no more than the liberty to own property, is not granted by any one or any institution. It precedes the organization of the State and arises from the nature of man and the manner in which he best lives. Freedom of religion was "a right so sacred" that Mirabeau one explained to the French Constituent Assembly that the word "toleration" seems to "convey a suggestion of tyranny." He pointed out that "the existence of any authority which has the power to tolerate is an encroachment upon the liberty of thought, precisely because it tolerates and therefore has the power not to tolerate."

J.B. Bury in his *A HISTORY OF FREEDOM OF THOUGHT* (1913) surveyed the many different approaches to intellectual liberty throughout the ages, but they all ultimately reduce themselves to the fact that the coercion of opinion is never successful, and that "reasons' only weapon" has been logical "argument." Since the beginning of written history, one can probably find people who "refused to be coerced by any human authority or tribunal into a course which his own mind condemned as wrong." The conflict between the individual and the collective (whatever form the latter took) is simply a replay of the eternal struggle for the supremacy of individual conscience over man-made statutes.

Religion and Citizenship

Two historical observations become apparent as one reviews the history of arguments and the actual struggle for religious liberty. First of all, those who were in fact persecuted, such as the early Christians or the latter-day Puritans, often resorted to persecution themselves, once they attained political power. "Courageous dissenters often became intolerant conformists." The advocates of religious liberty sometimes themselves "practiced religious discrimination." The corruptive influence of political power often manifested itself in such contradictory ways. The other historical observation is that those who supported a tolerant or *laissez faire* attitude toward religious beliefs always thought that man's religious beliefs were of no harm or consequence to anyone else. The Roman emperor Tiberius (43 B.C.-37 A.D.) said that, "If the Gods are insulted, let them see to it (the punishment of the blasphemers) themselves." Tertullian (145-225), an early Christian, took the position that one man's religion can neither hurt nor help another. More modern thinkers embraced the same idea. Martin Luther (1483-1546)—before changing his opinion—defended freedom of religion by declaring that "everyone (should) believe what he likes." Montaigne, Luther's contemporary, once remarked that "It is setting a high value on one's opinions to roast men on account of them." A century later, John Locke as much said that, "If false beliefs are an offense to God, it is really his affair." And Frederick the Great, writing in 1740, a few months after his accession to the throne, noted "that everyone should be allowed to go to heaven in his own way."

What all these thinkers, and a great number of others not mentioned, shared was the belief that "the right of private judgment must be given free scope and every man, being completely responsible for his own soul, must seek and find the truth in his own way." For them, "the right to seek the truth in one's own way" comprises one of the most important and necessary responsibilities of life. Under normal circumstances, whatever faith a person might profess is irrelevant to his status as a good citizen. The problem is that often times the demands of good citizenship can conflict with the demands of one's religion. Thus Marcus Aurelius, one of the most enlightened and stoical of the Roman emperors, persecuted Christians "because they refused to recognize the sacred character of" his position, "a refusal which threatened to undermine the foundations of the state." Centuries later, the Anabaptists were persecuted because they denied the Magistrate's right to use force, and hence called into question their "right to exist at all." John W. Allen in his *A HISTORY OF POLITICAL THOUGHT IN THE SIXTEENTH CENTURY* (1928) pointed out:

...It was mainly on the ground of their denial of rightful jurisdiction in the magistrate that they were everywhere

"I AM THE SPIRIT OF LIBERTY"

I Am The Spirit of Liberty

With me life has purpose and meaning
Infinite variety is mine, and Paradise beckons those who love
to know me.

Embrace me—and the commonplace becomes high
adventure; the infinite becomes real.

Turn your back upon me, and you are doomed to
conformity, and monotony.

I Am The Spirit of Liberty

When you look into my eyes, you must forsake all others.
With me there is solitude and grandeur. I cannot abide fear
and the fearful, and the huddling together of masses.
Throughout all recorded time, I have stood with the brave.
Those who have known my smile have dared the impossible.

I Am The Spirit of Liberty

If you live with me, you will achieve gloriously.
I do not promise success. But with me, even a failure is
magnificent.
The irresponsible and the thoughtless cannot find me.
I am always alone. But I am never lonely. If you aspire to my
radiance you will experience the joy of initiating.
You will know the unalloyed thrill of creation.

I Am The Spirit of Liberty

I am with you all the way—or I am not with you.
You must be loyal to me with all that you have and are.
Join me and we are both indivisible.
You must give your ear only to my voice.
The siren songs of security, and benefits at the expense of
others are alien to me.
You must give no heed to those who promise regulations
and controls, all in the name of happiness and peace.

There are other and easier paths to follow than the one you
must travel if you come with me.
But if you abandon me—you and generations to come will
drift into oblivion and death.
Sometimes the snow and ice of apathy and indifference
cover me. Yet you must know that so long as life endures
a spark of me can be fanned into a flame,

I Am The Spirit of Liberty.

[Colorado Springs GAZETTE TELEGRAPH editorial by Robert
LeFevre December 25, 1954, page 12.]

persecuted. ...They were persecuted as anarchists rather than as heretics. But theirs was a religious anarchism: and it was just this fact that made the problem of dealing with them a difficult one for Protestant governments inclined to toleration. To say that they were condemned as anarchists was, really, simply to suppress part of the truth; since it could be shown that their anarchism was one with their religious opinions. We prate religious toleration as though it rested on some principle of universal validity. But religious toleration may be inconsistent with the maintenance of government. [pp. 40-42]...

In the Netherlands, ...Menno Simons (1492-1559) taught ...[the Anabaptists that] "[t]he faithful must refuse any military service. If they really held that the use of force was in all cases unlawful... they were logically bound not to accept it [military service and the coercive government which it supported]. They were bound, indeed, to refuse to pay taxes at all to support the evil thing." [p.46]

Consequently, what was a State to do if it was faced with a large portion of its populace, who refused to serve in the military or pay taxes to support its activities (military or otherwise)? Historically and theoretically, if the State was to continue its State-like functions, it must not and could not tolerate such behavior. Few would serve or pay if conscientious objection to military service and taxation were an integral part of its legal

structure.

The British colonies and early American states were faced with this dilemma. For example, the New England Baptists claimed for themselves the same principle which the American revolutionists used to justify their separation from the mother country. Isaac Backus, leader of the New England Baptists, repeatedly used the argument that "the Baptist grievances...were much more serious than the three-penny tax on tea, which anyone could avoid by abstaining from drinking tea." The Baptists thought that they had as much right to seek liberty of conscience (and freedom from religious taxes which they vigorously opposed) in Massachusetts as Americans did to seek civil liberty from Parliament in England. Baptists were repeatedly jailed and had their goods auctioned off for non-payment of religious taxes.

The basic premise behind the imprisonment of Baptists and other dissenters was that civil cohesion could not exist without religious unity. Many Americans reject this premise today, because we have 200 years of "cohesive" nationalism behind us, but the situation in the early 1790s was not so clear. Although the drafters of the federal Constitution confirmed the lack of federal jurisdiction over religion, the fact is that in 1789, when James Madison proposed an amendment to the federal Constitution "prohibiting the states from violating certain rights, including freedom of religion, the House of Representatives approved of Madison's proposal but the Senate voted it down." The "representatives" of the people were not so sure that individuals, rather than the states, could be trusted with responsibility for their own religious freedom.

The Massachusetts Constitution of 1780

The contradictory and inconsistent reception of Church and State "separation" in the early American states is well documented in the case of Massachusetts. Under Article II of its Constitution of 1780, Massachusetts recognized:

It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

But Article III of the same document practically denied religious freedom to non-believers and believers in non-protestant faiths in the state:

As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community but by the institution of the public worship of GOD, and of public instruction in piety, religion, and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with the power to authorize and require, and the legislature shall, ..., authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of public worship of GOD, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, [The article then continues, giving the legislature power to compel attendance for the purpose of religious instruction, and the power to coercively assess all citizens of the state for the support of public teachers of religion.]

The controversy over the passage and ratification of the Massachusetts Constitution of 1780 has been documented by modern-day historians, such as Oscar and Mary Handlin and William McLoughlin. The latter found that Article III "was the only one in the entire constitution which did not receive the necessary two-thirds vote for approval." Those who tabulated the votes "were able by careful juggling of the statistics, to make it appear as though it had." The returns from towns which actually

opposed Article III, but offered an amendment to it, were counted in favor of the existing article, rather than opposed to it.

Middleborough, one of the towns that opposed Article III, protested that it "might compel individuals under some circumstances to pay money contrary to the dictates of their consciences." The citizens of West Springfield, Mass. explained that if the legislature had the power to compel citizens to attend public worship "at stated times and seasons," then it could "prohibit the worship of God at any other time...and also define what worship shall be and so the right of private Judgement will be at an end." One letter writer during the campaign summed up the opposition in the following manner. A person signing himself "Philanthropos," wrote that "The third article is repugnant to and destructive of the second. ... The second says the people shall be free, and the third says they shall not be free. ...To use an old saying [Articles II and III are] like a cow that gives a full pail of milk and then kicks it over."

The supporters of Article III believed that if the restraints on religion were broken down by not compelling religious attendance or support, then it would be hopeless to "preserve the order and government of the state." The "trouble with allowing anyone to exempt himself from religious taxes on grounds of liberty of conscience" was that "the most abandoned wretch who has no conscience at all and is too avaricious to do anything...has only to say that he is conscientiously against" public worship and religious taxation. "The pretended proposal grants full liberty to every man to have no conscience at all, and to be as deceitful and hypocritical as he pleases." The most daring argument for Article III went so far as to claim that its opponents wanted "to deprive a respectable part of the community of what they esteemed a right of conscience, viz., the right of supporting public worship and the teachers of religion by law." In a stunning reversal of natural rights thinking, the supporters of Article III believed that the community at large had the right to tax and control everyone under their jurisdiction. Hence, the loss of this power would be a violation of the consciences of those who advocated religious taxes.

The Baptists, Universalists, Quakers, Shakers, Episcopalians, and Methodists were all sects that opposed Article III, and suffered by its enforcement. Despite the provisions of Article II, the seizure and confiscation of private property of religious believers took place. Some constitutional test cases were taken to court, but none were successful in overturning Article III. Theophilus Parsons, a member of the committee that drew up Article III, wrote a judicial opinion when he was Chief Justice of the Supreme Judicial Court of Massachusetts in 1810, that explained its rationale. He wrote that since "every citizen derives the security of his property and the fruits of his industry, from the power of the state, so as the price of this protection he is bound to contribute in common with his fellow-citizens for the public use, so much of his property and for such public uses as the state shall direct. ...The distinction between *liberty of conscience and worship*, and the *right of appropriating money*, is material; the former is unalienable, the latter is surrendered as the price of protection. Religious teaching is to enforce the moral duties and thereby protection of persons and property."

To the objection that it is "intolerant to compel a man to pay for religious instruction from which as he does not hear it, he can derive no benefit," Parsons answered that, "The like objection may be made by any man to the support of public schools, if he has no family who attends; and any man who has no lawsuit may object to the support of judges and jurors on the same ground." Religious instruction supports "correct morals among the people" and cultivates "just habits and manners, by which every man's person and property are protected from outrage and his personal and social enjoyments promoted."

Almost two hundred years after Parsons wrote these words, we find that his arguments are still used to justify statism. The safety of the State and the preservation of the general welfare both require public taxation. Without money to fund itself, the State could not provide for the security of private property (as though private property is ever secure when subject to the depredations of the State). In a sort of perverse way, those who supported religious taxation in America during the late 18th and early 19th centuries were at least consistent in their reasoning. They

realized the "virus" of voluntaryism (whether religious or secular), could undermine the foundation of the State. If the general welfare could be best served by permitting each individual to follow his own self-interest, then this argument should apply as much to the religious sphere as to the economic realm. Just as religious liberty is more than a fight for religion, so economic liberty is more than a fight for free economic transactions. Both are part of the struggle for liberty in all spheres of life. Just as religion flourishes best when left to private voluntary support, so do economic transactions, protection of property, and the settlement of disputes. The "virus" of voluntaryism is contagious and consistent. It leaves no stone unturned; it applies to all the affairs of people, whether public or private. It leaves no room for the State or coercion.

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For Reasons of State

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essence of the State is, from the standpoint of the State, its supreme duty and is greatest virtue. It bears the name *patriotism*, and it constitutes the entire *transcendent morality* of the State. We call it transcendent morality because it usually goes beyond the level of human morality and justice, either of the community or of the private individual, and by that same token often finds itself in contradiction with these. Thus, to offend, to oppress, to despoil, to plunder, to assassinate or enslave one's fellowman is ordinarily regarded as a crime. In public life, on the other hand, from the standpoint of patriotism, when these things are done for the greater glory of the State, for the preservation or the extension of its power, it is all transformed into duty and virtue. And this virtue, this duty, are obligatory for each patriotic citizen; everyone is supposed to exercise them not against foreigners only but against one's own fellow citizens, members or subjects of the State like himself, whenever the welfare of the State demands it.

This explains why, since the birth of the State, the world of politics has always been and continues to be the stage for unlimited rascality and brigandage, brigandage and rascality which, by the way, are held in high esteem, since they are sanctified by patriotism, by the transcendent morality and the supreme interest of the State. This explains why the entire history of ancient and modern states is merely a series of revolting crimes; why kings and ministers, past and present, of all times and all countries—statesmen, diplomats, bureaucrats, and warriors—if judged from the standpoint of a simple morality and human justice, have a hundred, a thousand times over earned their sentence to hard labor or to the gallows. There is no horror, no cruelty, sacrilege, or perjury, no imposture, no infamous transaction, no cynical robbery, no bold plunder or shabby betrayal that has not been or is not daily being perpetrated by the representatives of the states, under no other pretext than

those elastic words, so convenient and yet so terrible: "for reasons of state."

These are truly terrible words, for they have corrupted and dishonored, within official ranks and in society's ruling classes (many) men... No sooner are these words uttered than all grows silent, and everything ceases; honesty, honor, justice, right, compassion itself ceases, and with it logic and good sense. Black turns white, and white turns black. The lowest human acts, the basest felonies, the most atrocious crimes become meritorious acts.

The great Italian philosopher Machiavelli was the first to use these words, or at least the first to give them their true meaning and the immense popularity they still enjoy among our rulers today. A realistic and positive thinker if there ever was one, he was the first to understand that the great and powerful states could be founded and maintained by crime alone—by many great crimes, and by a radical contempt for all that goes under the name of honesty. He has written, explained, and proven these facts with terrifying frankness. ... Machiavelli concluded from these facts, with a good deal of logic, that the State was the supreme goal of all human existence, that it must be served at any cost and that, since the interest of the State prevailed over everything else, a good patriot should not recoil from any crime in order to serve it. He advocates crime, he exhorts to crime, and makes it the *sine qua non* of political intelligence as well as of true patriotism. Whether the State bear the name of a monarchy or of a republic, crime will always be necessary for its preservation and its triumph. The State will doubtless change its direction and its object, but its nature will remain the same: always the energetic, permanent violation of justice, compassion, and honesty, for the welfare of the State.

Yes, Machiavelli is right. We can no longer doubt it after an experience of three and a half centuries added to his own experience. Yes, so all history tells us: while the small states are virtuous only because of their weakness, the powerful states sustain themselves by crime alone. ...

Such are the conclusions to which we are inevitably led by an examination of the external relations which the so-called free states maintain with other states. Let us now examine the relations maintained by the State founded upon the free contract arrived at among its own citizens or subjects.

We have already observed that by excluding the immense majority of the human species from its midst, by keeping this majority outside the reciprocal engagements and duties of morality, of justice, and of right, the State denies humanity and, using that sonorous word patriotism, imposes injustice and cruelty as a supreme duty upon all its subjects. It restricts, it mutilates, it kills humanity in them, so that by ceasing to be men, they may be solely citizens—or rather, and more specifically, that through the historic connection and succession of facts, they may never rise above the citizen to the height of being man.

We have also seen that every state, under pain of destruction and fearing to be devoured by its neighbor states, must reach out toward omnipotence, and, having become powerful, must conquer. Who speaks of conquest speaks of peoples conquered, subjugated, reduced to slavery in whatever form or denomination. Slavery, therefore, is the necessary consequence of the very existence of the State.

(Excerpts from Sam Dolgoff (ed.), BAKUNIN ON ANARCHY, N.Y.: Alfred A. Knopf, 1972, pp. 131-137.) ☐

The Open Society

by F. A. Harper

The advantages of an open society on a world basis have been explored to only a slight degree and would seem to deserve much more thought as a solution for solving major international problems. To see its potential, one might think of how it works on a smaller scale.

I have noticed in the city where I live that the geographic location of people's homes and work have no necessary relation to the societies to which they belong. As you go down the street, one neighbor may belong to the Baptist Church, work for General Motors, help the Girl Scouts, and shop at Smith's grocery. The next one down the street may be a Roman Catholic, work for Ford Motor Company, help the Boy Scouts, but also shop at Smith's

grocery. The open society is vividly in evidence as you go down the street and find out to what societies each one belongs.

The distinctive feature of this arrangement as an open society is that all these people with potentially violent differences live relatively peacefully side by side. This is because the open society is so open and varied that the participants leave each other alone to a great extent, certainly relative to compulsory arrangements. Trouble arises only when one tries to make another join his society against his will, or vice versa, or trespasses upon some of his rights. If the societies have set up their operational plans to maximize the voluntary features of the arrangement, observing rights of disassociation as well as rights of association, little conflict can arise to cause trouble.

Trouble would at once arise, however, if various sorts of compulsion, such as geographic arrangement, should be introduced into this city. Suppose the city authorities should say that all people on the north side of the tracks must belong to the Baptist Church, and those on the south side must belong to the Roman Catholic Church. Real trouble would very likely be generated. Then suppose, in addition to the religious compulsion, those on the north side of the tracks must all shop at Brown's grocery, and those on the south side of must all shop at Johnson's grocery. Troubles could multiply rapidly.

Now transfer this analysis of a peaceful community in Podunk to the entire world. Suppose we really put our minds to the problem of letting persons live wherever they wish, as long as they could buy or rent the space properly from the owner. They would not be compelled, however, to join any societal combine against their wishes; or they could join them all; or they could join a select few. They could trade at the neighborhood grocery or at any other grocery anywhere in the world. They could work for any employer anywhere in the world, if mutually desired, or they could work for themselves. For whatever society they joined, they must meet the terms of membership, pay their required dues, and reap whatever benefits the societal arrangement offered in return.

One feature of such an arrangement would immediately be noted: no monopoly status of any society would then be possible. There could be no exceptions. Whatever any one society might be doing, anyone could at any time set up another society to try to do the same thing and do it better, attracting members away from the other.

Compulsion would not be possible in such an open world society since anyone could escape from any society which tried it and could perform its function himself, join another society doing it, or start a new society at will.

Such a societal arrangement, if opened up to the entire world as rapidly as existing monopoly segments could be induced to join, would maximize the advantage of society in benefitting from the innumerable human differences throughout the participating world. National political boundaries would disappear, to be sure, but in their places would arise whatever societal arrangements people wanted to serve the same purposes—and membership would be added as rapidly as the benefits became apparent to any person. The program would not need to await majority approval before it could start. The meaningless geographic identities of common societal interest, concerns, and presumed solutions would no longer be allowed to prevent progress in all these vital areas of social science and societal affairs. An Englishman would no longer need to be conscripted into enmity against an Irishman, merely because of the location of the two men's homes and places of work. Cooperation to the fullest in societies of various sorts could then go on even though the people lived at a distance, for cooperation and common interest are usually not at all functions of the distance two persons may live from one another, as we know from all the things we do on this basis.

I have no illusions about being able to arrange this dream about an open society immediately, but it is something toward which to work.

[Editor's Note: The above text was taken from Professor Harper's THE FRUITS OF FREEDOM AND THE THORNS OF SLAVERY: "A Science of Human Variation." This was a series of lectures sponsored by the Free Enterprise Institute, June 28-30, 1963, and published by the Institute for Human Studies in 1985. The excerpt appears on pages 72-74, and is subtitled (in the original) "A World Open Society.") ☐

"For Reasons of State"

By Michael Bakunin (circa 1867)

We shall now examine what the State, thus constituted, should be in relation to other states, its peers, as well as in relation to its own subject populations. This examination appears to us all the more interesting and useful because the State, as it is here defined, is precisely the modern State... Let us see, then: of what does its morality consist?...

The great statesmen of our days, the Palmerstons, the Muravievs, the Cavours, the Bismarcks, the Napoleons, had a good laugh when people took their religious pronouncements seriously. They laughed harder when people attributed humanitarian sentiments, considerations, and intentions to them, but they never made the mistake of treating these ideas in public as so much nonsense. Just what remains to constitute their morality? The interest of the State, and nothing else. From this point of view, which, incidentally, with very few exceptions, has been that of the statesmen, the *strong men* of all times and of all countries—from this point of view, I say, whatever conduces to the preservation, the grandeur and the power of the State, no matter how sacrilegious or morally revolting it may seem, *that is the good*. And conversely, whatever opposes the State's interests, no matter how holy or just otherwise, *that is evil*. Such is the secular morality and practice of every State. ...

The existence of one sovereign, exclusionary State necessarily supposes the existence and, if need be, provokes the formation of other such States, since it is quite natural that individuals who find themselves outside it and are threatened by it in their existence and in their liberty, should, in their turn, associate themselves against it. We thus have humanity divided into an indefinite number of foreign states, all hostile and threatened by each other. There is no common right, no social contract of any kind between them; otherwise they would cease to be independent states and become the federated members of one great state. But unless this great state were to embrace all of

humanity, it would be confronted with other great states, each federated within, each maintaining the same posture of inevitable hostility. War would still remain the supreme law, an unavoidable condition of human survival.

Every state, federated or not, would therefore seek to become the most powerful. It must devour lest it be devoured, conquer lest it be conquered, enslave lest it be enslaved, since two powers, similarly and yet alien to each other, could not coexist without mutual destruction.

The State, therefore, is the most flagrant, the most cynical and the most complete negation of humanity. It shatters the universal solidarity of all men on the earth, and brings some of them into association only for the purpose of destroying, conquering, and enslaving all the rest. It protects its own citizens only; it recognizes human rights, humanity, civilization within its own confines alone. Since it recognizes no rights outside itself, it logically arrogates to itself the right to exercise the most ferocious inhumanity toward all foreign populations, which it can plunder, exterminate, or enslave at will. If it does show itself generous and humane toward them, it is never through a sense of duty, for it has no duties except to itself in the first place, and then to those of its members who have freely formed it, who freely continue to constitute it or even, as always happens in the long run, those who have become its subjects. As there is no international law in existence, *and as it could never exist in a meaningful and realistic way without undermining to its foundations the very principle of the absolute sovereignty of the State*, the State can have no duties toward foreign populations. Hence, if it treats a conquered people in a humane fashion, if it plunders or exterminates it halfway only, if it does not reduce it to the lowest degree of slavery, this may be a political act inspired by prudence, or even by pure magnanimity, but it is never done for a sense of duty, for the State has an absolute right to dispose of a conquered people at will.

This flagrant negation of humanity which constitutes the very
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