The Voluntaryist

Whole Number 66 *"If one takes care of the means, the end will take care of itself."* **February 1994**

Patriotism or Voluntaryism?— "Anywhere So Long As There Be Freedom"

By Carl Watner

The motto on Charles Carroll's (the Settler, 1660-1720) family crest seems an appropriate sub-title for this article because it epitomizes my concern and search for a free(er?) place to live, work, and raise a family. Over three centuries ago, it might have been possible to find such a place—a place where you didn't need a passport to enter or exit, a place where you didn't need government permission to work, a government license to move about, and where ignoring government bureaucrats and political law would not land you in jail. As the Separatists and Puritans discovered during the 17th and 18th Centuries, one such place was North America. But nothing lasts forever. In reaction to increasing doses of British domination came a new country, the United States of America. With the creation of this new political structure came conscription, inflation, taxation, coercive monopolization of public services, and all the other politically-induced ills which were spoken of in "A Declaration of Personal Independence" and "In All But Name," which appeared in Whole No. 62 of THE VOLUNTARYIST (June 1993).

Is there a place in today's world where lovers of freedom and liberty can live without molestation from coercive government? Apparently not. There are, however, some political states which offer freer environments than others. Also, there are various methods by which people have attempted to structure their affairs in order to minimize the effects of government intervention. These steps include such things as the use of tax havens and shelters, dual citizenship, off-shore trusts, and, in the shipping industry, the resort to flags of convenience. This article will deal with some of these topics from a voluntaryist point of view. None of them seems to get us closer to that elusive place where freedom might be found, but getting a better handle on how our statist world is organized and operates might some day give us the chance to avoid the political mistakes that earlier generations have made and which are causing the problems we currently face.

If there is no "free" geographical area to which we can escape, we must then search for the state with the least restrictive political laws. Locate the "loopholes" and take advantage of the state's laxness in a particular area. Which state has the fewest regulations and the lowest taxes? The answer is not so simple. Jim Stumm, editor of LIVING FREE newsletter, has noted: "To find a place where there are fewer laws seems like a good idea, but every place I know of that's freer in some respects, is less free in other respects. There's no populated place on earth, that I know of, that has substantially fewer laws overall." In my opinion, Jim's observation is correct, but international ship owners might disagree. They have found that there are some countries in the world that offer them substantially fewer regulations and lower taxes. That is their answer to "anywhere so long as there is freedom," even though these countries often have a low international reputation and are referred to as "flags of convenience," "runaway flags," or even "pirate flags."

The Law of the Flag

The history of international shipping and ship registration is an interesting one to voluntaryists because the principle of freedom of the high seas implies that no state may permanently subject (with certain limited exceptions) the oceans to any part of its sovereignty. The international law of the sea is predicated upon three principles: 1) " a preference for the freest possible access to and widest enjoyment by all peoples;" 2) that no single state has exclusive authority over the ocean; and 3) that states should have jurisdiction over ships, people, and events upon the oceans "in order to protect the common interest in shared use." As developed by Hugo Grotius and other international law theorists, the principle of "freedom of the seas" is statist to the core. It implies that no part of the oceans may be homesteaded or taken into individual ownership, and that "freedom of navigation" is reserved only to those ships which take on a "national character," that is, to those vessels which have been granted "nationality" by their respective states, and which are authorized to fly their maritime flag.

Why should ships, which clearly belong to individuals or groups of individuals, take on a "national" character, and be required to fly the flag of their country of registration? The modern authors give various answers to this question, but essentially they all sift down to the following reason: for the maintenance of law and order. They argue that since ships on the high seas "are not within the exclusive territorial jurisdiction of any particular state," they must be subject to some controls in order to insure safe navigation and to establish responsibility for accidents and injuries upon the high seas. Historically, this control has been assigned to the flag state, "to which exclusive jurisdiction of the ship is, as a general rule, accorded on the high seas."

The registration and identification of ships can be traced back as far as ancient Rome, and was practiced by the Italian city-states during the Middle Ages. However, the statist ramifications of the practice did not really surface until the advent of mercantilism in England during the late 13th and early 14th Centuries. Here, ship registration became a means of preventing unauthorized ships from sailing under the English flag and taking advantage of the benefits conferred upon them by the Navigation Acts. Until the end of the 18th Century, the concept of "the nationality of ships" was not well-developed. References to merchant vessels still retained vestiges of the idea that they were private property. They were referred to as "belonging to the subject of a state," rather than being "subject" to the state itself. During the 1820s, states began making bilateral treaties which stipulated the conditions "under which they would recognize the nationality of each other's merchant vessels." This practice continued until it became common parlance and was embraced in treaties of Friendship, Commerce, and Navigation, "in which (the) two nations would agree to recognize each other's vessels and to admit them to port."

Under international law this privilege was reserved to maritime states. Ship owners living in landlocked countries could not fly their country's flag upon their ships. For example, the Swiss Federation Council refused to allow "Swiss nationals to use the Swiss national flag at sea." They had to register their Swiss-owned ships in foreign maritime countries. Thus, ships owned by Swiss nationals had to fly the flag of the country of registry, not ownership. Landlocked countries agitated for the right to register ships because they thought that without it they were lacking some attribute of sovereignty. It was not until after World War I, that ship registries were opened in landlocked countries. This was confirmed by a declaration on April 20, 1921, in Barcelona, Spain at the International Conference on Communication and Transit.

The "law of the flag" has been embraced by the 1958 Geneva Convention of the High Seas, which states that "Ships have the nationality of the State whose flag they are entitled to fly." However, states are not subject to any international laws which impose conditions or standards for the granting of

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Potpourri from the Editor's Desk

1."On the Origin of the State"

Somebody in prehistoric times invented government and thereby added taxes to death as tribulations mankind could not avoid. It is hardly clear that we are better off for it.

Anthropological research has shown that government grew out of conquest, especially the conquest of peaceful settlements by nomadic warrior tribes. The nomads learned that slaughtering a farm village for its meager possessions is much less profitable than enslaving and taxing it. This meant that a few of the nomads had to settle among the villagers to keep an eye on them and pretend to look busy. Presumably once a year at harvest time they extracted their tribute at spearpoint, skewering a few malcontents who resisted or cheated on their form 1040.

Later, the rulers learned to pose as gods, settle local squabbles and hand out favors, to make the system look better and keep their subjects in line. They also invented writing and bookkeeping to record their deeds and tax rates, which was the beginning of history. But the system remains essentially unchanged, as Albert Jay Nock gleefully reminded us in OUR ENEMY, THE STATE. It is still in the tribute business, although nowadays we have more sophisticated terms for it, such as "bracket creep" and "revenue enhancement" and "tax reform". ...

The trouble is, we *don't* think about the nature of government, the government which imposes taxes. Its actions affect us daily, and we think a lot about those. But its underlying nature is as invisible to us as water is to a fish. We accept it as something we are born into, that is there, that has always been there, that will always be there. This mute and unquestioning acceptance is a victory for the state and all its pretensions.

—George Roche, ONE BY ONE,
Hillsdale: Hillsdale College Press, 1990
pp. 140-141

2. "Voluntaryism in Practice"

Dr. Robert S. Jaggard has sent me a sample copy of the billing form used in his office. It demonstrates how he practices "private medicine" in an age of collectivist health care.

Robert S. Jaggard, MD
Independent Practitioner, Private Medicine
10 E. Charles St., Olewein, Iowa 50662
Phone (319) 283-3491 ID No. 42-1246681
(Type in patient's name and address in this space)

PLACE OF SERVICE is at the office unless otherwise specified. TIME listed is approximate number of minutes devoted to this service for this patient by Dr. Jaggard. FEE listed is that amount agreed upon by the patient and Dr. Jaggard as the proper payment for this service. No real or implied contract exists between Dr. Jaggard and anybody else but the patient.

DATE	TIME	SERVICE & DIAGNOSIS	FEE

I have NO fee schedule. I use no "code numbers". I use plain language that the patient understands. I do my best for the individual patient. ALL of my patients are Private Patients. Each private patient pays me the amount that the private patient decides is the proper amount to pay me for this service for this private patient on this occasion. I make suggestions, but the final decision as to the value of my service is up to the individual private patient. The amount of payment is listed in the right-hand column as the FEE. When this is paid, then that item is marked, "Paid", and dated, and that is the receipt.

If patients have private insurance, they can use this statement (or receipt) to submit THEIR claims to THEIR insurance company. Patients understand up front that I have NO contract with any insurance company, and I am not part of THEIR insurance contract, and it is up to the company to pay THEM in accordance with THEIR contract with THEIR company. My ONLY contract is with the patient.

Patients who have been trapped in the government tax-paid programs (such as "medicare" and "medicaid") are frankly told, up front, that I am NOT part of those political programs, because they do NOT allow the doctor to serve the patient, and they do NOT give the patient or doctor any right to make any choices in regard to treatment. Patients are informed that I will give them medical service at "no charge", but, I can NOT help them get any money from "medicare" or "medicaid". The big sign hanging in the office front window says, "PRIVATE MEDICINE". There is a sign on my front desk that says, "I Am NOT a Government Doctor". My policy has been (and still is) well publicized in the local newspaper.

I do NOT have to follow the "medicare" rules because I am NOT part of their program, AND, neither are my patients. My service is available to patients at "no charge", so there is no possibility of reimbursement from medicare (or supplemental insurance), so, there is no reason to fill out a claim form. Also, my service is NOT "medically necessary". My service is helpful, and sometimes lifesaving, yes, but, "medically necessary" is a political term that has no relationship whatsoever to scientific medicine. I have NEVER certified ANY care as "medically necessary". Since there is "no charge", and, it is not "necessary", my service is not involved with, and is not part of, the "medicare" program.

To those patients who have Part B of Title XVIII, I explain that my service is available at No Charge, and, any money they pay me will NOT be reimbursed in any way by "medicare" or their supplemental insurance company. Patients who appreciate my service for them give me money to help pay the office expenses. I help them. They help me. We deal with each other in peace and honesty. We enjoy freedom together.

3. "Conquest By The State"

The following excerpt is taken from the "Introduction" to THE ECONOMIC RAPE OF AMERICA by Frederick Mann. This and other literature is published by the Free America Institute, 2430 E. Roosevelt #998-Vol, Phoenix, Az 85008. Its purpose is to provide opportunities to individuals and groups to promote freedom at a profit. Write for more information.

From history we may conclude that a nation or a people can be conquered by one or more of five methods—or any combination of these methods.

The most common has been conquest by *war*. In time, though, this method fails, because the captives hate the captors. Eventually the captives rise up and attempt to drive out the captors. Much force is needed to maintain control, making it expensive for the conquerors.

A second method of conquest is by *religion*, or manipulation of religious belief, where people are convinced they must give their captors part of their earnings as "obedience to God." Such a captivity is vulnerable to philosophical exposure or by overthrow through armed force, since modern religion by its nature lacks military force to regain control once its captives become disillusioned.

Political ideology is the third method of conquest. Compulsory state education is the foundation. Children are forced into schools where moral and political values are subtly imparted. Submission to authority. The law of the authority is absolute and must be obeyed. The discipline of the clock. The state controls what shall be taught and who shall teach it. Implement a federal school lunch program, so children will learn that big daddy government is the great provider.

The fourth method is *"legal conquest"*—the legislative,

judiciary, police and penal systems. Article I, section 8 of the U.S. Constitution grants Congress "the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States, or in any department or officer thereof." A political party, or a coalition of interests can get effective control of Congress. Meanwhile the Supreme Court, year by year, chips away at undermining the protections ostensibly provided by the Bill of Rights.

The fifth method can be called "*economic conquest.*" It takes place when a nation or a people are placed under "duty" without the obvious use of force or coercion, so the victims never realize they have been conquered. "Duty" is collected from the victims in the form of "legal" taxes. The victims are led to believe that they pay for their own good, for the good of others, or to protect all from some enemy. The captors become the "benefactors" and "protectors" of the victims.

The first method—conquest by war—tends to be swift. The other methods can be applied gradually—almost unnoticeably—over long periods of time. Small, incremental changes. Generally, the captives show little opposition, because they seldom see any military force arrayed against them. Their religion may be left intact; they have freedom to speak and to travel, and they seemingly participate in the "election" of their rulers. Their government, it seems, implements "the will of the people." Without realizing it, the victims are conquered. The instruments of their own society are used to transfer the fruits of their productive labor and their wealth to their captors, until the conquest is complete.

4. "Two wrongs do not make one right!"

"The worst part of the whole tax-thy-neighbor system is that it is so addictive—it feeds on itself. When much of our money is taxed away, we feel cheated and lose all our moral qualms about getting to the trough ourselves, one way or another, to get it back. That's only fair, isn't it? I understand perfectly, but no, it isn't. All we are doing is resorting to the same bad means that cheated us in the first place. It is precisely this that gives overweening government its strongest hold on us. But two wrongs still do not make a right. Someday we must learn to say no to what is not ours, even if we have been cheated.

"On a national scale I do not have any answers for this unholy addiction to other people's money. From a historical view, it is a fatal disease that has brought down many a rich and proud civilization before us. On a personal level, the answer could not be more obvious. Just say no. Let us be the cheated, if it comes to that, but not the cheaters. It is we who must lead and who must do what needs doing. Nobody else can, least of all the government. It's that simple."

—George Roche, ONE BY ONE,
Hillsdale: Hillsdale College Press, 1990,
pp. 137-138.

5. "Young Bill Clinton"

Mr. Clinton's third grade teacher aroused young Bill's interest in "world history and politics when (he) taught (his) course in the Decline and Fall of the Roman Empire. ...At the end of the course, Little Willy stood up and said that if he had been emperor, Rome wouldn't have fallen."

—from THE WALL STREET JOURNAL,
January 6, 1993, p. A10.

6. "Start Small, Start Now!"

"Charity begins at home. Yet people don't realize this. They feel if they want to volunteer they have to go through United Way or a hospital or go into a big organization. No. ...It's up to us in each individual community to help each other."

—Betty Flood in THE WALL STREET JOURNAL,
January 4, 1993, p. A8.

7. "The Fight for Truth"

Dr. Robert Conquest delivered a speech entitled "Has the Lesson Been Learned?" in San Francisco at a dinner held in his honor by The Independent Institute on July 7, 1992. He described the last half century of the Soviet regime as "falsification on an enormous scale. History, production figures, census results, were all faked. But even more demoralizing, the whole sphere of thought was controlled and distorted. The inhumane and continuous pressures of the state demanded of all minds their acceptance of a fantasy of happiness and belief. The struggle... was above all a fight for truth. It was a struggle against terror and oppression, but it was above all a fight against lies." Reading these words reminded me of Erich Fromm's discission of "truth" and "reality."

> The basic question which Orwell raises is whether there is any such thing as "truth." "Reality," so the ruling party holds, "is not external. Reality exists in the human mind and nowhere else...whatever the Party holds to be truth *is* truth." If this is so, then by controlling men's minds the Party controls truth. In a dramatic conversation between the protagonist of the Party and the beaten rebel, a conversation which is a worthy analogy to Dostoyevsky's conversation between the Inquisitor and Jesus, the basic principles of the Party are explained. In contrast to the Inquisitor, however, the leaders of the Party do not even pretend that their system is intended to make man happier because men, being frail and cowardly creatures, want to escape freedom and are unable to face the truth. The leaders are aware of the fact that they themselves have only one aim, and that is power. To them "power is not a means; it is an end. And power means the capacity to inflict unlimited pain and suffering to another human being." Power, then, for them creates reality, it creates truth. The position which Orwell attributes here to the power elite can be said to be an extreme form of philosophical idealism, but it is more to the point to recognize that the concept of truth and reality which exists in *1984* is an extreme form of pragmatism in which truth becomes subordinated to the Party.
>
> It is one of the most characteristic and destructive developments of our own society that man, becoming more and more of an instrument, transforms reality more and more into something relative to his own interests and functions. Truth is proven by the consensus of millions; to the slogan "how can millions be wrong" is added "and how can a minority of one be right." Orwell shows quite clearly that in a system in which the concept of truth as an objective judgement concerning reality is abolished, anyone who is a minority of one must be convinced that he is insane.
>
> —"Afterword" by Erich Fromm
> to George Orwell, *1984*, New York:
> New American Library, 1962, pp. 263-264. ▼

Thoughts at the Lincoln Memorial

By Kurt Schuermann

Damn, they sure made you big.
Shiny boot half-dangling off the edge.
Boot big enough to crush a man.
They made you bigger than life.
Your chest was forged empty.
Your heart must be hard like bronze.
Dead eyes reflect back into your hollow head.
Ears echo with the sound of the wounded's screams.
The hope of the dead is forever lost inside you.
The blood of the dead runs into the earth and accuses you.
Flared nostrils catching the scent of powder from Bull Run.
Keep your lifeless eyes open.
Hold these things in your hard old heart.
From your perch, watch out for any truly free man.
We made you big to keep an eye on you.
If you come down, we will be ready for you this time.
People now know that flesh and blood is more precious than bronze.
Freedom is being free from big men with hollow heads.
Freedom is being free from men with pretty words and empty chests. ▼

Patriotism or Voluntaryism?

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nationality to ships. This is a matter left entirely to the internal law of each individual state. As one authority has noted, "(T)he traditional rule of international law of each particular country determines which vessels should be considered as endowed with its national character, and that this act of the state conferring its nationality upon a vessel, motivated by whatever reasons and establishing whatever criteria of eligibility, is conclusive for all purposes that may arise, and must be honored and recognized by other states." Some countries, like the United States, maintain very strict safety and inspection requirements, comprehensive regulations regarding crew training, crew nationality, cargo originations and destinations, and what ship owners describe as confiscatory tax rates on their world-wide earnings. Other countries, like Liberia, Greece, and Panama, have less stringent regulations. Consequently, many of the world's ocean-going vessels are listed in their ship registries.

Unlike people, the location where a ship is built or launched has no bearing whatsoever on its nationality. Nor may ships possess dual nationalities like people. One state may not impose its nationality upon a ship which already has the nationality of another state. A ship must be removed from the registry of one country before it can be assigned to another country's registry. It is also the law of the flag which determines the political jurisdiction which will apply to crimes and events that take place in international waters. The enforcement of criminal and civil law becomes the responsibility of the state whose flag the ship flies. (Although, as a general rule of international comity, when a ship enters port it become subject to the laws and jurisdiction of that foreign country.). The "law of the flag" is completely a political concept because, in fact, ships have no nationality; they only have owners who must bow down before the sovereign law of the state. "The law of the flag" has been developed to nationalize and control the world's shipping.

Flags of Convenience

Simply put, a flag of convenience may be defined as "the flag of any country allowing the registration of foreign-owned and foreign-controlled vessels under conditions which, for whatever reasons, are convenient and opportune for the persons who are registering the vessels." The practice of registering merchant vessels under a foreign flag is not a new phenomenon. In the 16th Century, English merchants sailed their ships under the Spanish flag, "in order to circumvent Spanish monopolies in the West Indies trade. During the War of 1812, American ships sailed under the Portuguese flag in order to protect themselves from British warships blockading the American coast. English fishermen have frequently sailed under French and Norwegian flags to escape restrictive English legislation." In 1922, U.S.-owned cruise ships took advantage of re-registering in Panama in order to be able to transport and serve alcoholic beverages outlawed under "Prohibition."

A 1977 report by Lord Rochdale, prepared for the British government, outlines the main features of flags of convenience.

i) the country of registry allows ownership and/or control of its merchant vessels by non-citizens.

ii) Access to the registry is easy; a ship may usually be registered at a consulate abroad. Equally important, transfer from the registry at the owner's option is not restricted.

iii) Taxes on income from the ships are not levelled locally, or are very low. A registry and annual fee, based on tonnage, are normally the only charges made. A guarantee or acceptable understanding regarding future freedom from taxation may also be given.

iv) The country of registry is a small power with no national requirement under any foreseeable circumstances for all the shipping registered, but receipts from very small charges on a large tonnage may produce a substantial effect on its national income and balance of payments.

v) Manning of ships by non-nationals is freely permitted, and

vi) The country of registry has neither the power nor the administrative machinery to effectively impose any government or international regulations; nor has the country even the wish to control the companies themselves.

Thus, flag of convenience countries offer freedom from union harassment, and from government paperwork, bureaucracy, and monetary exchange controls. They offer easy and inexpensive incorporation fees, and have, few, if any, restrictions on crew nationality. However, the two biggest inducements to those shipowners seeking a flag of convenience are freedom from high taxes and high operating and labor costs. "(S)ince World War II, the taxing authorities of almost all the traditional countries have regarded shipowners as chickens ripe for the plucking." Detractors have pointed out that while ship operators in flag of convenience countries have saved 14 to 20% in direct operating costs, they also have a poor safety record. As noted in the February 12, 1993 WALL STREET JOURNAL, "Flags of convenience, with notable exceptions, often are flags of danger. Seven of them—Panama, South Korea, Honduras, Malta, Turkey, Cyprus, and Indonesia accounted for 60 out of the 111 total ships lost last year,... ."

Such criticism proves nothing more than shipowners must be concerned with safety, whether they register in flag of convenience states or not. Nor does the flag of convenience offer them safety from seizure and confiscation by government authorities. All states recognize the commercial and military significance of the maritime assets of their citizens, especially in times of war. Some countries, like the United States, exert "effective-control" over ships owned by their nationals, but registered in other countries. The United States does this by asserting its right to requisition "during any national emergency" any vessel or watercraft owned by its citizens, wherever located. This conflicts with the right of the flag of convenience countries "to control the movements and activities of the vessels registered under their flags." For example, during World War II, the U.S. government, pursuant to the President's Executive Order No.9054, requisitioned the 'Balboa' and the 'Empresa,' both vessels owned by the United Fruit Company and registered in Honduras. This act of eminent domain on the part of the United States violated both the Honduran nationality of these two ships, as well as the ownership rights of United Fruit.

Governments have a special name for these types of confiscations. In international law it is called the "the right of angary," from the medieval Latin, referring to "forced service to a lordship." Angary is the right under absolute military necessity to requisition neutral property and neutral ships within the jurisdiction of the belligerent state exercising the right. "The right of angary was applied on several occasions during World War I. Thus, by proclamation on March 20, 1918, the president of the United States took over merchant vessels of Dutch registry lying in U.S. waters. Similar action was taken by Great Britain, France and Italy." There is a fine line between requisitioning a ship on the high seas and one in territorial waters. After World War I, the Netherlands protested the British seizure of Dutch-registered ships in international waters. The Dutch successfully argued that if a vessel is on the high seas, it may, in principle, only be seized by the navy of its state of registry. Needless to say, even if the

"It is better to be crudely right than precisely wrong."

—Tod Neubauer

right of angary is properly exercised according to international law, it is still thievery.

Another instance in which ownership rights are ignored is when a ship is not registered, and hence becomes stateless. "Every ship sailing without (national) authority and ... without the flag of a State is liable to be captured, prosecuted, punished,..." and confiscated. As another authority on international law has put it,

> So great a premium is placed on the certain identification of vessels for purposes of maintaining minimal order upon the high seas,..., that extraordinary deprivational measures are permitted with respect to stateless ships. Thus, it is commonly considered that ships having no nationality or falsely assuming a nationality are almost completely without protection.

To understand how rapacious international law is, consider the case of the 'Asya', an immigrant ship sailing to Palestine in 1946, before Israel became a recognized nation. The 'Asya' was apprehended about 100 miles off the Palestine coast by a British destroyer. When first sighted she was not flying any flag; then she hoisted the Turkish flag, which was soon hauled down and replaced by a Zionist flag. "Having no documents with which to prove its national character, the ship was subsequently taken by the destroyer to Haifa, and eventually by court order forfeited to the Government of Palestine." A 1948 British decision affirmed that ships sailing without any maritime flag or registry papers lose the right to navigate the seas, that such ships may be confiscated without violating any international laws, and that the ship owners forfeit all their property rights in the vessel.

Statelessness and International Law

As will be seen, there are close parallels between stateless people and stateless ships, both which essentially lose their rights to remain unmolested. It also becomes apparent that the principle of assigning nationality to people, just as we assign nationalities to ships, is for the sole purpose of controlling, regulating, and being able to tax their activities. As one legal author put it, "Nationality is an element of international order which allocates individuals to a specific State." The stateless person may be said to have no nationality, but only if we ignore the cultural and historical roots of a person's relation to the community into which he is born. Statelessness in individuals originates in one of two ways: either the individual may expatriate himself by the voluntary renunciation of citizenship (without assuming a new one); or else the political government to which an individual owes allegiance may unilaterally denationalize a person by depriving him of the status of citizen.

The rules of international law affecting nationality and citizenship are based upon the premise that "the determination of nationality is a matter which falls within the domestic jurisdiction of each State and is regulated by its municipal law." In this respect, it follows the international rule regarding assignment of nationality to ships. Ultimately, this results in inconsistencies and illogical situations. For example, one state may not expel their nationals to the territory of another state, without the consent of the receiving state. This principle is based upon the concept of the territorial supremacy of each state over the area it controls. Yet, under the internal laws of each state, it is quite possible for a state to deprive its own citizens of their nationality, wherever they might be. Consider the 11th Ordinance passed by the German government on November 25, 1941. By virtue of the Reich Citizenship Law, all German Jews who resided abroad were deprived of their German citizenship. As a result German Jews living in England at the time found themselves stateless. There was nothing they could do to remedy the situation. The municipal law of England could not re-assign them German citizenship once the Reich had denationalized them. Nor could the laws of Germany make these ex-Germans English citizens. Such people became stateless because there "is no rule in international law which requires the continued recognition of an individual's nationality for humanitarian reasons even when a state cancels the individual's nationality for inhumanitarian reasons."

Another curious inconsistency resulting from such practices as the compulsory deprivation of citizenship is the fact that the host state loses the right to return the stateless citizen to the country of origin. Thus, England lost the right to return German aliens (under British law) to Germany, once they had lost their German citizenship. Nor is there any rule of international law which binds States to admit their former nationals who have not acquired another nationality. Stateless persons can often find themselves in limbo because they cannot return to their place of birth, and have not obtained (and often do not have the power to obtain) citizenship anywhere else.

Sometimes the situation is reversed. Since the power of a state to confer nationality is based on its territorial sovereignty, the state has the ability to impose its nationality on those residing in its territory, whether they want such citizenship or not. This often occurs when territory is annexed or ceded by one state to another. (It also happens when birthright citizenship is assigned to people born in a given territory, regardless of whether they consent or not.) Thus states have the power to compel aliens to accept nationality in the host country. This seldom occurs because it inherently threatens the state to which the aliens belong. If those aliens are forcibly prevented from returning to their homes (because of their new nationality) then the origin state is deprived of its subjects. However, the compulsory nationalization of stateless persons is not illegal under international law on the theory that no state is being deprived of its subjects. Of course, international law overlooks the rights of the individual and concern itself solely with the rights of governments.

The most famous international adjudication dealing with these issues is designated as the Nottebohm case, which was decided by the International Court of Justice in 1954-1955. Kurt Nottebohm was born in Hamburg, Germany on September 16, 1881 and was thus a German national by birth. He journeyed to Guatemala in 1905, where he lived for the next 34 years. Concerned about the outbreak of hostilities at the beginning of World War II, he travelled to Liechtenstein where he applied for naturalization on October 9, 1939. He took the required oath of allegiance eleven days later, and then returned to Guatemala. "After Guatemala's entry into the Second World War he was classed as an enemy alien and handed over to the American forces. As a result he was interned in North Dakota for some two years and two months." His Guatemalan properties were confiscated because of his "enemy" character, and after the war he was not allowed to re-enter Guatemala. He returned to Liechtenstein, and remained there until his death.

On December 17, 1951 Liechtenstein filed an application before the International Court of Justice claiming that Guatemala had breached her international obligations by refusing Nottebohm reentry and seizing his properties. Ultimately, the court decided that Guatemala was not obligated to recognize Nottebohm's naturalization in Liechtenstein because there was no "genuine connection" nor any "real and effective link" between Nottebohm and Liechtenstein. "Hence, Liechtenstein had no standing to present the claim," and it was denied. The Court did not question the right of each state to determine its own rules for granting nationality, but what it did say was this: For "the grant of nationality by State A to an individual to be effective vis-a-vis State B, and to be recognized by State B, in the sense that it could give State A the right to (diplomatically) protect that individual, the nationality must be real and effective, reinforced by the existence of a genuine connection between the individual and State A. If the nationality granted is not based upon a genuine connection (link)...it need not be recognized by other states, and cannot be invoked against those other states as an effective and valid act on the plane of international law."

The problem with this decision (as the dissenters in the case noted) is that it effectively left Nottebohm stateless and without any state to present his claims against a foreign state, such as Guatemala. When he became naturalized in Liechtenstein, he had foregone his German nationality, but Guatemala refused to

The way to get rid of corruption in high places is to get rid of high places.
—Timothy Wheeler

recognize his ability to divest himself of that status. As far as Guatemala was concerned he was still a German, even though he no longer held a German passport.

The Nottebohm case illustrates the vulnerability of the individual vis-a-vis the state. There is probably little, given the circumstances, that Nottebohm could have done to avoid these problems. Perhaps he could have become a Guatemalan citizen had the war not broken out. Otherwise, all he could have done, was to uproot himself, sell his property, and return to Liechtenstein before he was interned by Guatemala. Obviously, this was not his first choice. He hoped by renouncing his German citizenship and becoming a citizen of a neutral state, that he could remain in Guatemala for the duration of the war.

Expatriation and U.S. Citizenship

Even in the case of the United States, today in the 1990s, it is easy to see how the state uses its political sovereignty and territorial jurisdiction to control its people and their property. First of all, the United States government is one of the few countries that taxes its citizens on both their domestic and international earnings and income. Second, should a U.S. citizen renounce his citizenship in an effort to avoid taxes, the United States claims the right to continue to collect taxes from him for 10 years following his expatriation. Aliens may not leave the United States without an income tax clearance from the Internal Revenue Service (U.S. Code Title 26, Sec. 6851-d). The Federal District Courts which enforce the collection procedures of the Internal Revenue Service have awesome powers. In the event that a taxpayer will not comply with Internal Revenue orders to pay, provide information, or surrender property, these courts are specifically empowered (by Congress) to issue 'ne exeat republic' orders, which require a citizen to surrender his passport and not leave the country under penalty of contempt or fine (U.S. Code Title 26, Sec. 7402). A person who is in the custody of the court may be ordered to repatriate his or her assets located abroad, in order to satisfy tax liens in the United States (446 Fed Supp 90 (1973)). Assuming that person has no domestic assets which may be seized by and forfeited to the government, that person may be held in contempt by the court and jailed until he repatriates those assets. Similarly, a U.S. citizen residing outside of the United States may be fined and have his or her property in the United States seized by the government if the citizen refuses to honor a court subpoena requiring testimony in the United States (284 US 421 (1923)).

There are certainly many other anomalies in U.S. citizenship laws. Under the Constitution of 1787 Congress was authorized "To establish an uniform Rule of Naturalization," and "No person except a natural born Citizen, or a Citizen of the United States ...shall be eligible to the Office of President; ... ," but no effort was made to "define the status of citizen or to prescribe how this status could be acquired." Although it seems to be assumed that "birth in the United States would confer citizenship automatically," citizenship was denied to native-born Indians (who were sometimes referred to as "non-citizen nationals") and to blacks, both free and slave. It was not until after the Civil War, and the passage of the 14th Amendment that the principle of birthright citizenship was fully embraced. But even "birthright citizenship is something of a bastard concept." As Peter Shuck and Roger Smith, authors of CITIZENSHIP WITHOUT CONSENT, have asked: Why should the children of illegal aliens (those children being born in the United States, and hence entitled to birthright citizenship here) be legal citizens when their parents cannot? Why should their parents be kept out and they be kept in? Their observation as to why this issue was never raised at the time of the Congressional debates surrounding the passage of the 14th Amendment speaks volumes for how far down the totalitarian road the U.S. has travelled: "The question of the citizenship status of the native-born children of illegal aliens never arose (after the Civil War) for the simple reason that no illegal aliens existed at that time, or indeed for some time thereafter." The issue was a moot one because there were no immigration restrictions during the 1860s.

The issue of expatriation was discussed in Whole No. 49 of THE VOLUNTARYIST, but a few additional comments are in order. The only time that the U.S. government permits a U.S. citizen to voluntarily renounce his or her citizenship without removal from the country is if the United States is at war, and if such expatriation is approved by the Attorney General "as not contrary to the interests of national defense." In all other instances of renunciation of the United States citizenship, the citizen must go beyond the borders of the United States to exercise that right (and hence either become stateless or acquire the nationality of some other country). There has never been a regularly available process for domestic expatriation in the United States. As Shuck and Smith pointed out, "If individuals could relinquish their political subjectship whenever they wished, then the state (would) always be in danger of losing its members through unilateral expatriation," but they also suggest that domestic expatriates be guaranteed permanent resident status in the U.S.

If such domestic expatriation procedures were available would it be an attractive option for voluntaryists? The drawbacks (if one chooses to label them as such) are that one would become stateless, that travel out of or back into the United States would be difficult (no passport), that one would continue to owe taxes to the United States government, and even possibly military service in time of war. What would the advantage be? By officially expatriating one's self, a person could remove himself one step from the crimes of the government of the United States and the other governments of the world. Living stateless in the United States would be a statement of non-consent.

But when all is said and done, what difference would it make? Why should a person have to reject something (birthright citizenship) they never consented to in the first place? All U.S. residents (whether or not they are citizens) can still be imprisoned and have their property seized by the government for non-payment of taxes. Thus, the distinction (not being a U.S. citizen) would not result in any significant difference.

Voluntaryists see no need for nationality—either for ships or people. Ship classification societies and insurance companies would provide whatever registration services were demanded by ship owners. Within the domestic confines of the United States, birthright citizens have always been free to live anywhere they wanted—whether they were citizens of Pennsylvania or California. There has never been any need to keep track of their individual state citizenship, anymore than there would be a need to keep track of their nationality in a free world. Voluntaryists reject the concepts of nationality and expatriation, much as Rose Wilder Lane once explained her rejection of American patriotism.

She wrote that her attachment to the United States was only to its revolutionary character, not to its government or geography. "(T)he very word, patriot, has collectivist connotations," she penned in a letter to Jasper Crane on February 14, 1961.

> I do not go into rhapsodies about "my country," its rocks and rills, its superhighways and wooded hills, ... This whole world is almost unbearably beautiful; ... . If I lived long enough I would find and join the revival of the Revolution wherever it might be in Africa or Asia or Europe, the Arctic or Antarctic. And let this country go with all the other regimes that collectivism has wrecked and eliminated since history began. So much for patriotism, mine. ▣

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"By institutionalizing their monopolistic controls over all geographic areas on this planet, governments have transformed the known world into a vast prison system from which there is virtually no escape."

What If?

When anybody's rights are threatened, everybody's rights are

By L. Neil Smith

Suppose you were fond of books.

You liked their leather bindings, their fancy endpapers, the way they speak to you of other times and places, the way they feel in your hand.

You even liked the way they smell.

Naturally you were aware that books are dangerous. They give people ideas. Over the long, sad course of history, they've resulted in the slaughter of millions—books like "Uncle Tom's Cabin," "Das Kapital," "Mein Kampf," even the Bible—but you had too much intelligence, too much regard for the right of other people to read, write, *think* whatever they please, to blame the books themselves.

Now suppose somebody came along who agreed with you: books are dangerous—and something oughtta be done about it! Nothing you couldn't live with: numbers could be stamped inside them, a different number, not just in each kind of book, each title or edition—but in each and every individual book.

"We can keep track of 'em better that way—it'll help get 'em back if they're stolen."

But wait...Isn't the right to freedom of expression, the right to create, exchange, and collect books—without a trace of government harassment—to read, write, and think whatever you please, suppose to be guaranteed by the First Amendment to the U.S. Constitution? No matter who thinks it's wrong? No matter how "sensible" their arguments may sound for taking that right away?

You tried to defend your rights, but nobody listened. You appealed to the media; they were even more dependent on the Bill of Rights than you were, and American journalism always gloried in its self-appointed role as watchdog over the rights of the individual. But the sad truth was, that during its long, self-congratulatory history, it was more like a cur caught bloody-muzzled time after time, savaging the flocks it had been trusted to protect.

You were alone. You insisted that books don't kill people, people kill people. They laughed and told you that people who read books kill people.

Time passed... Still they weren't satisfied. They wanted the serial numbers written down in record books. Then they wanted your name written down beside the numbers, along with your address, your driver's license number, your age, your race, your sex: "Cause we gotta right to know who's *reading* all these books!"

Soon they were demanding that book stores be licensed. They forbade you to buy books by mail or in another state and required that your dealer report you if you bought more than one book in a five-day period. They forbade you to buy more than one book a month. They demanded that you wait five days, a week, three weeks before you could pick up a book you'd already paid for—at a store subject to unannounced, warrantless inspections and punitive closure by heavily-armed government agents. In Massachusetts and New Jersey, the mere possession of a book meant an automatic year in jail. At one point they offered to spend tax money to buy your books: "You've got too many. This is a purely voluntary measure—for the time being."

Now they want to confiscate any of your books they think are *too long*. "No honest citizen needs a book with *that* many pages!"

Your taxes will be spent to burn them, and somehow you have a feeling that it's just the beginning. That some dark midnight, no matter how peaceable or agreeable or law-abiding you are, you're going to hear that knock on your door...

Yes, books are dangerous. They start holy wars, revolutions, and make people dissatisfied with their lives.

But this is ridiculous!

Is it a nightmare? Another Gulag horror story? A bloodsoaked page from the history of fascism? No, it's just the commonplace oppression people suffer every day when they feel about *guns* the way you feel about *books*.

Okay, maybe that feeling's hard to understand. But just try justifying your own love of books to a Reverend Donald Wildmon or an Ayatollah Khomeini. The very requirement that you must, in violation of your basic human rights, will make you inarticulate with rage.

Gun owners laugh at the notion of human rights, because they have none.

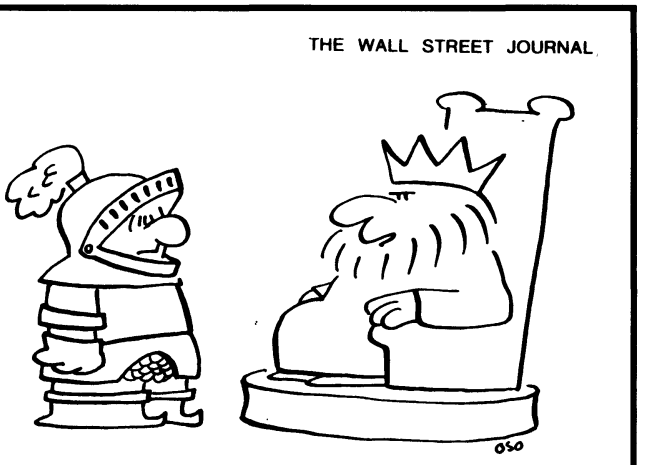
Guns *are* dangerous. Like books. Like books, the right to create, exchange, and collect them without a trace of government harassment, is supposed to be guaranteed. No matter who thinks it's wrong. No matter how "sensible" their arguments may sound for taking your rights away.

So what makes you think your books are any safer than your neighbor's guns? Whether you like books or guns, the issue's the same: **WHEN ANYBODY'S RIGHTS ARE THREATENED, EVERYBODY'S RIGHTS ARE THREATENED.** ☒

(Reprinted from LIBERTARIAN PARTY NEWS, May 1993.)

"Freedom, which is of the human essence, implies the possibility of producing error as well as finding truth. To achieve a good society requires men unremittingly devoted to the pursuit of good and truth; but it requires also that no one have the power to impose beliefs by force upon other men—and this whether those beliefs be true or false."

—Frank Meyer,
IN DEFENSE OF FREEDOM (1962), p. 127.



"Never mind the dirty stuff—I want you to burn all the books on *economics!*"

Letter to the Editor

I am deliberately a non-voter because I believe the political arena is the cause of most problems people have and is a solution to none.

Twenty-two years ago I was very active in the political arena and even registered people to vote. Three years later, as a new student of the Free Enterprise Institute, I discovered the difference between the Declaration of Independence and the U.S. Constitution and became a serious student of human action-liberty-freedom-capitalism.

I am pro-freedom and not anti-anything. Others can have all the government they want. I just wish they wouldn't force it on me as I don't want it or need it. I am self-governing and will not force my ideas on them via the ballot box (or any other way).

J.C. Hawblitzel
Canoga Park, Ca.

(This letter was first published in the VALLEY NEWS, March 7, 1980.)

Amish Economics: A Lesson for the Modern World

By Gene Logsdon

... Henry Hershberger taught me the deeper truth and wisdom of Amish economy. Hershberger is a bishop in the Schwartzentruber branch of the Amish, the strictest of the many sects. I went to visit Hershberger in 1983 because he had just gotten out of jail, which seemed to me a very curious place for an Amish bishop to be. Hershberger had been in jail because he would not apply for a building permit for his new house. Actually, he told me (in his new house), it was not the permit or the building code regulations that got him in trouble with the law. He groped for the unfamiliar English words that would make the meaning clear. Most Amish can't meet certain requirements of the code because of religious convictions. But there is an understanding. The Amish buy the permit, then proceed to violate its rules on details, of lighting and plumbing or whatever, that their religion disallows. The authorities look the other way.

Hershberger had given that practice considerable thought. Not only did it smack of dishonesty, but he realized with the wisdom of 400 years of Amish history that had survived more than one case of creeping totalitarianism, at any time the authorities could decide to enforce the letter of the law. This was particularly worrisome because it would mean greatly increased costs of construction, if indeed someway to get around the religious problem were found. But more importantly, it could mean, with the way the permit business is being handled, that authorities might someday stop Amish from building more houses on their farms. So Hershberger refused to play the game. The bureaucracy was ready to accommodate Hershberger's religion since it is common knowledge that the Amish build excellent houses for themselves—they would be fools not to, of course—but for Hershberger not to offer token obeisance to bureaucracy was unforgivable. That might lead, heaven forbid, to other people questioning the sanctity of the law.

Taken to court, Hershberger was found guilty and given 30 days to pay up and get his permit. He refused. The judge, underestimating the resolve of a Schwartzentruber bishop, fined him $5,000. Hershberger refused to pay. The judge sent him to jail to work off his debt at $20 a day. A great public hue and cry arose. In two weeks Hershberger was set free still owing $4,720. The sheriff was ordered to seize enough property to satisfy the debt. But local auctioneers said they would not cry the sale. No one would haul the livestock. The judge resigned (for other reasons, I was told). Henry Hershberger lives in his new house, at peace, at least for now.

The flood of letters in the Wooster paper over the event became a community examination of conscience. At first the debate centered on the question of "the law is the law" versus freedom of religion. But slowly the argument got down to the real issue of the permit law: Where does it lead? Who in fact is being protected? Henry Hershberger's contention that building permits can be used to keep housing out of certain areas if the powers on high want it that way is common knowledge: You just make the soil percolation requirement more rigid or start enforcing those already on the books. Nor do building codes guarantee good buildings, as every honest builder will tell you. Codes establish minimum standards which then become ceilings on quality, enabling minimum-standard builders to underbid high-standard builders, encouraging the latter to follow the minimum standards, too. Furthermore, building regulations are rather easily out-maneuvered, glossed over, and bribed away, if the rewards are high enough. Often building codes prevent people from building their own homes for lack of proper certification or a supposedly proper design. Building codes protect not the buyer but the builders, the suppliers of the approved materials, and an army of career regulators. The Amish understand all this. When a culture gives up the knowledge, ability, and legality to build its own houses, the people pay. And pay.

But there are even more practical reasons why the Amish economy wants to retain control over its housing. First of all, the Amish home doubles as an Amish church. How many millions of dollars this saves the Amish would be hard to calculate. Amish belief wisely provides for the appointment of ministers by lot. No hierarchy can evolve in Amishland. A minister works his farm like everyone else. That is mainly why the religion so effectively protects the Amish culture of agriculture. Its bishops do not sit in exceedingly well-insulated houses in far-off cities uttering pious pronouncements about the end of family farming.

Secondly, the Amish home doubles as the Amish retirement village and nursing home, thereby saving incalculably more millions of dollars, not to mention the self-respect of the elderly. The Amish do not pay Social Security, nor do they accept it. They know and practice a much better security that requires neither pension nor lifelong savings. ... ▣

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