



formulations

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A Reconsideration of Trial by Jury

by Wendy McElroy

Six Papers Presented at Forum on Law

On Saturday, 10 October 1998, FNF held its eleventh semiannual Forum. The topic of the daylong meeting was "Law in a Free Nation." Five of the six speakers, Michael Darby, Roy Halliday, Gordon Diem, Philip Jacobson, and Richard Hammer presented their own papers. The sixth, Hal Noyes, presented the paper by Roderick Long who was unable to attend. All these papers were carried in the previous, Autumn, issue of *Formulations*. In addition to the speakers, the Forum was attend by five FNF Members. As before, we met at Oliver's Restaurant. Δ

In February 1997, Laura Kriho was convicted of criminal contempt and fined \$1,200 for failing to volunteer unrequested information about her political beliefs during jury selection for a trial concerning methamphetamine possession. Among the specific information Kriho "withheld" from the Colorado court was her familiarity with the doctrine of jury nullification. According to this doctrine, a juror can nullify a law—that is, refuse to convict a defendant despite instructions from a judge—if she believes the law is unjust or that the application of the law in a specific instance is unjust. Jury nullification had been established in common law since 1670 when the English jury in the trial of William Penn refused to convict him for preaching Quakerism, and were imprisoned for doing so. In response, the English high court ruled that juries must be able to reach their own decisions without

fear of punishment by the court. In 1735, jury nullification was affirmed in America when jurors refused to convict the publisher John Peter Zenger for printing material critical of the governor of New York.

Libertarianism tends to embrace jury nullification as a crucial aspect of trial by jury—the right to have your case tried by a randomly chosen group, usually numbering twelve. This "right" is championed by The Fully Informed Jury Association (FIJA), popular with modern libertarians. The 19th-century tradition tended to embrace the jury system as well. According to Benjamin Tucker, editor of the pivotal 19th-century individualist anarchist periodical *Liberty*, "The truth is that jury service is of much higher importance than the right of suffrage; but our newspaper wiseacres and reformers are not aware of that..." The

(Continued on page 8)



Facing the camera: Roy Halliday, Gordon Diem, and Richard Hammer

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formulations

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Statement of Purpose

The purpose of the Free Nation Foundation is to advance the day when coercive institutions of government can be replaced by voluntary institutions of civil mutual consent, by developing clear and believable descriptions of those voluntary institutions, and by building a community of people who share confidence in these descriptions.

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Subscription or Membership

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Send orders to the postal address above. Checks should be made payable to the Free Nation Foundation. Additional contributions are welcome.

Information for Authors

We seek columns, articles, and art within the range of our work plan. We also welcome letters to the editor which contribute to our debate and process of self-education.

Our work plan is to work within the community of people who already think of themselves as libertarian, to develop clear and believable descriptions of the critical institutions (such as those that provide security, both domestic and national) with which we libertarians would propose to replace the coercive institutions of government.

As a first priority we seek formulations on the nature of these institutions. These formulations could well be historical accounts of institutions that served in earlier societies, or accounts of present institutions now serving in other societies.

As a second priority we seek material of general interest to libertarians, subject to this caveat: We are not complaining, we are building. We do not seek criticism of existing political institutions or persons unless the author uses that criticism to enlighten formulation of an improved institution.

Submissions will be considered for publication if received by the first of the month preceding the month of publication. So our deadlines are: February 1, May 1, August 1, and November 1. All submissions are subject to editing.

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Thanks to Chris Spruyt for the photographs in this issue. All of these were taken either on the evening of 11 September 1998 or at the Forum on 10 October 1998.

Roderick Long Heads to Auburn University. Michael van Notten Describes Project in Somalia.

On the evening of Friday, 11 September 1998, FNF held two back-to-back meetings at the Colonial Inn, in Hillsborough, N.C.

From 6–8 p.m. we held a send-off dinner for Roderick Long, who was soon to depart for a one-year teaching assignment at Auburn University, in Alabama. Because space appeared limited, invitations to this dinner were mailed only to FNF Members and Friends. About 20 attended.

From 8–10 p.m. Michael van Notten described his proposal for Somalia and answered questions. Michael, who lives most of the time in East Africa, was in the midst of a busy visit of a few weeks duration to North America. Wayne Dawson brought him from the airport to our meeting. (See Wayne's report on page 7.) Although invitations for this later meeting were sent to a broader circle than for Roderick's send-off dinner, virtually the same group attended, with only a few changes.

The time arrived when the meetings in the Colonial Inn were scheduled to end. But interest continued. Rich Hammer invited any who wanted to continue discussions to come to his house a few blocks away, where Michael was to be an overnight guest anyhow. Of the six who responded the last were kicked out at 2 a.m. The following morning Rich took Michael to the airport again.△



Roderick Long surrounded by: from the left Robert Mihaly and Wayne Dawson; on the right Jorie Long, his mother



Richard Hammer telling the assembly of Roderick's contributions

Commercial Banking in a Free Society

by Steven Horwitz

Although we can say a great deal about the institutions of a free society, and why they are desirable, speculating about the specific ways in which people will choose to organize themselves within such institutions is always a tricky matter. After all, the whole justification for the institutions of a free society is that only through its institutions can human beings discover progressively better ways of dealing with scarcity (of both goods and knowledge) and thus improve both our material and non-material welfare. Our ignorance of the details of a free society is precisely why having a free society is so important.

Nonetheless, this need not completely discourage us from imagining what the details of some aspects of a freer economy might look like. One way to go about this task is to look at the various ways a particular industry is unfree and imagine what removing those restrictions might do. In conjunction with such a thought experiment we might also look for historical examples where the industry in question was more free and explore the ways in which it operated and organized itself.

The banking industry is especially suited for just this kind of analysis. If we want to know what commercial banking might look like in a free society, we need only turn to contemporary regulation and the historical record to begin to piece together a coherent story.

There are four major areas in which the freedom of American commercial banks is restricted. The first area is the set of prerogatives taken away by the existence of government central banks, particularly the private issuance of currency. The second deals with restrictions on geographic location, while the third concerns the relationship between banks and non-bank firms. Fourth, as a result of the first three, is mandatory deposit insurance.

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Central Banks and the Issuance of Currency

In order for central banks to undertake the activities they, or their political overseers, have deemed necessary, they must acquire a monopoly over the production of currency. This restriction on the freedom of individual banks to create the kinds of financial instruments their customers might want has large and pervasive effects on the macroeconomy and the size of government more generally. Because "customers" must use the government-issued currency, they have no way of indicating their dissatisfaction with its quality or value. This is what enables governments to use the banking system to raise revenue; if they create more currency, it will be accepted by someone somewhere.

Central banks also have had a notorious time, even when the political incentives to inflate can be overcome, figuring out precisely what the right quantity of money should be. In a small version of what would face a comprehensive economic planner, central bankers attempt to estimate the demand for money and create the appropriate amount in response. For the reasons so skillfully articulated by Mises and Hayek, there are enormous knowledge barriers to this kind of central planning, even in one industry.

In a free society one would expect banks to produce their own brands of currency which would compete for the business of money users. Although this may seem a bit strange, having lived in an economy with only one currency, it really is not that much different from where we are today. Firstly, banks already offer competing monies. A checking account at Chase Manhattan is a different brand of privately produced money from a checking account at Citibank. Checking accounts are liabilities of the banks that create them, making them privately produced. They also differ in various ways: interest paid or not, rate of interest, fees charged, services offered, overdraft protection, and so on. Depositors choose among banks today based on the total package of products and services that accompany a checking account. One would expect the same if currency were competitively produced.

More important, competition in currency production would give producers the incentive to neither overproduce nor

underproduce currency, and therefore maintain its value. In order for banks to get their liabilities (either currency or checking accounts) accepted, they would have to make them redeemable in some commodity (such as gold) or some other asset. Customers would not accept mere paper liabilities without some connection to an item which had value outside of the banking system.

As a result, any bank which overproduced would find customers returning unwanted currency which would lead to a fall in the bank's holding of the backing commodity, reducing its ability to create loans. Banks cannot afford to risk reserve shortages like this, so they would reduce their outstanding currency liabilities until those losses stopped. Banks that issued too little currency would see their reserves piling up and would be sacrificing the interest they could earn by making loans backed by those reserves. In a free society, the same market forces that create incentives to produce the correct quantity of shoes, toothbrushes, or eggs, would apply to currency. Because the banking system of a free society would get the supply of money generally right, it would also avoid the macroeconomic problems of inflation and deflation that have resulted from unfree central banking systems.

Virtually every country on the planet has had some experience with privately produced currency. The historical evidence suggests that countries with less regulated currency production had fewer bank failures and more stable macroeconomics. The Scottish banking system of the late eighteenth and early nineteenth centuries is a good example of the benefits of freedom, especially when compared with the substantially less free English banking system of the time. The U.S. experience of the nineteenth century provides a good example of how problems can develop when even private currency production is overregulated. The recurring crises and panics of the period can be seen as unintended consequences of misguided bank regulations.

In order to make their currency monopoly work, central banks have imposed other restrictions that would be absent in a free society. For example, central banks require banks to hold certain minimum levels of reserves. Normally these are higher than banks would



At the FNF Forum: Bobby Emory, Hal Noyes, Philip Jacobson

otherwise hold and they usually do not earn any interest. Effectively they are a tax. In addition, reserve requirements prevent the public from having accurate information about bank portfolios. Banks that could afford to hold fewer reserves because they are safer are prevented from doing so, and banks who are riskier and might choose to hold higher reserve levels, especially in the absence of government mandated deposit insurance (see below), have no need to do so. In a free society, banks could pick the level of reserves they saw fit and would have to bear the consequences of holding too many or too few reserves.

More generally, a free society would not see central banks in the way they have developed in the nineteenth and twentieth centuries. There is nothing inherent in the evolution of banking that necessitates them, and their existence results from constitutionally unconstrained politicians striving after a cheap source of revenue. Of course banks in a free society would likely develop interbank institutions such as clearinghouses, but these would have no special government privileges and would be forced to compete for members and business.

Interstate Banking

A more general way of thinking about banking in a free society is that banks will be subject to the same laws as other corporations. One example of how that is not true today is the issue of

interstate banking. It is very difficult for many American banks to open up branches across state lines. Laws permitting interstate banking are made at the state level and they vary from state to state. Although most states have liberalized these laws to some extent in the last 10 or 20 years, full nationwide banking does not exist.

One result of this is that many banks are insufficiently diversified because they are too closely tied to industries specific to their state. When those industries falter, the banks fail with them. Banks that can spread their risks across different industries, by operating in different states, are less likely to fail. One bit of historical evidence for this contention comes from Canada. Canadian banks have historically been able to operate nationwide. While over 5,000 American banks failed in the 1920s and early '30s, only one Canadian bank did. Although a number of bank offices closed, only the one bank failed. This statistic is even more compelling when one considers that the variation in economic conditions between rural and urban Canada is greater than in the United States, posing a greater diversification challenge.

In a free society, we could expect banks to operate wherever they pleased, just as other firms do now. The need for traveler's checks, or the hassle of finding a new bank after moving, would disappear as true nationwide banking would

make it far more likely that one's bank would have offices in more places. One consequence of this change would be a smaller number of larger-sized banking organizations. However, as evidence from countries which permit nationwide banking indicates, these larger banks would operate more offices per capita than smaller banks. This would both improve access to banking for most people and enable banks to capture the cost efficiencies of large-scale production that are now closed off.

Glass-Steagall Restrictions

One other set of regulations on contemporary American banks are so-called Glass-Steagall restrictions. As part of the banking reform acts of the 1930s, a firm may not own both a commercial bank and a non-bank business. Firms like Sears that provide financial services can only provide those services to *non-commercial* customers. These laws also prevent banks from selling insurance or underwriting securities. Many argued that such an intermixture of banking and commerce was responsible for the numerous bank failures of the early 1930s, so a regulatory wall was needed to separate banking from commerce. Subsequent research has found this explanation of the bank failures to be incorrect and the justification for Glass-Steagall restrictions has been greatly weakened. Even the Clinton administration has recognized this and included liberalization of these regulations, as well as those on branching, in its reform package.

In a free society we would expect to see financial supermarkets where one could address all of one's financial needs (banking, insurance, investment) in one firm. There are obvious efficiency gains to producers in such a situation, as well as better service to consumers with one person or group overseeing their whole financial portfolios.

Because of the activities of central banks and the various other regulations noted above, bank failures are a real worry in unfree banking systems. As a result, governments have imposed mandatory deposit insurance in order to prevent the potential bank runs that their own regulations can trigger. If banks in a free society are unencumbered by central banking and other regulations, we would expect the whole problem of bank runs to

be far less significant. Given this, any possible justification for government-mandated deposit insurance disappears.

Private Deposit Insurance

Banks in a free society might choose to purchase privately supplied deposit insurance as a way to reassure customers. They might also enter into interbank mutual aid agreements, or be insured through clearinghouses. Historically, banks have used these and other methods to convey trust to customers. Before deposit insurance banks would advertise their balance sheets and list the members of their boards of directors. Providing this kind of information was a way to establish their trustworthiness to actual and potential depositors. With deposit insurance, banks need not do this. It is reasonable to expect that banks in a free

society will use these ways, and discover new and imaginative ones, of creating the trust on which all banking systems rest.

Banks in a free society will be literally nothing special. What makes banking so unfree today is that banks are treated differently from other business enterprises. The rule of law that would characterize a free society would demand that banks be treated no differently than other firms. If they are fraudulent or use force, then they need to face the consequences. Otherwise, any sort of voluntary arrangement banks make with customers will be allowed. The result will not only be a more free banking system, but a more efficient, safe, and productive one.△

Steven Horwitz is an associate professor of economics at St. Lawrence University in Canton, NY. He is the author of Monetary Evolution, Free Banking, and Economic Order (Westview, 1992) as well as numerous articles on Austrian economics, monetary theory and US financial history. He also has a book on Austrian macroeconomics forthcoming from Routledge. He has a special interest in the economics of monetary deregulation. Steve is the book review editor of The Review of Austrian Economics and a member of the board of advisors of Critical Review. For more on Steve and his research, see his website:

<www.stlawu.edu/shor>

Editor's note: See the review of Steven Horwitz's *Monetary Evolution, Free Banking, and Economic Order* which we carried in *Formulations*, Vol. II, No. 2 (Winter 1994-95). You can find this review, which was written by Eric-Charles Banfield, in the web archive.

Milestone

All Early FNF Articles Posted in Web Archive

<www.freenation.org/fnf/a>

The team who are posting FNF's prior publications have completed the largest and most difficult part. They have completed all issues of *Formulations* through Spring 1997 (Volume IV, No. 3). These issues required extra processing because they had been prepared in an early version of a specialized program.

Thus most of the work to reach our goal, of catching up within three issues or nine months, has been completed. Thanks to Phil Jacobson, Earnest Johnson, Hal Noyes, and Tara Calishain for sticking with this often tedious task.△

A Report
**Meeting
Michael van Notten**

by Wayne Dawson

Michael van Notten. What does that name mean to me? It means a man who is willing to take a risk. It means a man who is willing to find the one place in the world with the least amount of state activity and move there.

I met Michael van Notten at the Raleigh-Durham Airport. I had had him paged twice: once to meet me at his arriving gate and once to meet me at baggage claim. After having waited at the gate for a few minutes, I decided to meet him down at baggage claim, since I figured that must be where he was anyway, and I didn't want to make him go back up to the gate. So after having him paged for the second time, I proceeded to baggage claim and began speaking his name. No one responded, but a couple of minutes later a man came walking down the corridor to the baggage claim area. My first sight of him was a man pointing at me saying "You are there and I am here."

We shook hands and Michael van Notten had been officially met at the Raleigh-Durham Airport. I was to drive him to Hillsborough where he was to speak at a Free Nation Foundation meeting that night, Friday the 11th of September. As he was hungry and wanted to "calm his stomach" before getting to the dinner meeting, we drove around looking for some place he could get some cookies or something appropriate. He wound up getting some granola bars at a hotel shop.

Back on the road the highway was surprisingly congested, and we were about half an hour late to the meeting. The dinner was in honor of Roderick Long, Founding Scholar of the Free Nation Foundation. Notwithstanding Roderick's tremendous contribution to FNF (so far—I have no doubt that he will continue) and my immense respect for

him, I was happy to be trapped in a traffic jam with Michael van Notten.

Michael and I spoke of his efforts to find an appropriate business with which to fund the start-up of his Freeport in Somalia. There were several businesses he has looked into, and I would not want to jeopardize any of them by discussing details here—having little experience in the area of business development, I prefer to err on the side of caution. When we arrived, I wasn't sure whether to an-



Michael van Notten

nounce him as you might be announced at a formal dinner or what, so I just stood there until Michael saw Rich Hammer and they greeted each other. The table was quite full, so Michael and I sat at a new table and a couple of my friends joined us. We chit-chatted about what was good on the menu and such. Then as it invariably does the conversation came around to libertarian issues.

The time came for Michael to speak. After being introduced by Rich, he jumped right into telling the story of his activities in Somalia. It is quite a treat to hear Michael himself tell the story. After his talk, he took questions. Here I will try to give a brief synopsis of Michael's presentation that night.

Because Somalia has existed without central government for nearly a decade, Michael believes this is the perfect opportunity to set up a freeport there, where true free enterprise can flourish without the yoke of the state to oppress wealth production and wealth producers.

If a group of Westerners wishes to set up a freeport in the Somali region, they must have a way of interfacing with the existing social structures. For the Somali region is not in chaos, as the Western media would have us believe. To quote Michael, "City life, urban life is quite possible there, because there is order and there is law—customary law."

Much of what Michael talked about was this customary law. Tribes are the primary social/political/legal entities in the Somali culture. Any group of non-Somalis who would create an enterprise there would need to create essentially an artificial tribe, which would need to have within it judges and institutions that correspond with, or at least perform the same functions as, what the Somalis are used to dealing with. There would need to be some sort of "mechanism for solving conflicts" between what I am calling the new artificial tribe and Somali tribes that currently are in existence.

One thing that Michael made clear is that Somalis in general do not want political democracy. They have seen the corruption that is inherent in this overrated system, and "they want none of it." What impresses me the most is that there is a nation-sized region of the world in which (apparently) most people feel this way about the state. And they feel strongly about it. Approximately eight years ago they intentionally dismantled the state that had been imposed upon them by the colonial powers and returned to their customary law system, which had existed for thousands of years before the colonial powers came in.

Before the day I met Michael van Notten, I had been wanting to meet him for months. I had wanted to meet him, in fact, since I had first learned of the existence of this intrepid soul who had set out to put libertarian ideals into practice, in an area that most people regard as quite backward and without promise. If you ever have the opportunity to meet him, I highly recommend that you take it. △

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Trial by Jury

(Continued from page 1)

venerable 19th century legal theorist Lysander Spooner is commonly considered to have penned the definitive position on the jury system in his treatise *Trial by Jury*, the first chapter of which is entitled "The Right of Juries to Judge the Justice of Laws."

Nevertheless, there are reasons to be uncomfortable with trial by jury. Although members of society have a right and, perhaps, a duty to judge the propriety of the laws under which they live, trial by jury means more than this. In 1804, Supreme Court Justice Samuel Chase declared, "The jury has a right to judge both the law as well as the fact in controversy." In other words, the jury weighs not only the propriety of the law, but it sits in judgment on a human being who is the defendant as well. It judges the man *and* the law.

Yet, under libertarian theory, no collective entity—no government, no group of twelve people—can claim a right unless such has been assigned to it by an individual, because all that exists are individual rights. It was on this very basis that both Tucker and Spooner argued against the legitimacy of a government established through anything less than a unanimous vote. How, then, does the collective entity called a jury come to possess the right to sit in judgment on a dissenting individual, whom it may well sentence to imprisonment or to death? It cannot be argued that the dissenter has relinquished his or her rights due to having aggressed, because the very point of assembling a jury is to assess whether aggression has occurred. Until the verdict is rendered, the defendant must be presumed innocent. Thus, the question returns: how can a collective entity have a right that a dissenting individual either does not possess or has not assigned?

The 16th-century classical liberal John Locke dealt specifically with this problem. Locke, believed that the need to protect the property of "life, liberty, and estate" in society was what led men to form a Government. In exchange for government's protection, men willingly relinquished the right to adjudicate their own disputes—that is, the right to try their own cases in court. Thus, trial by

jury evolved as a means to resolve a Hobbesian state of nature (the war-of-all-against-all) so that co-operative society could exist.

Locke also developed a doctrine of tacit consent which bound even those who had not explicitly agreed to Government. That is, each person in society remained free to withdraw his implied consent by withdrawing back into a "state of nature" with relationship to other people. As long as the person chose to stay in society, however, he was deemed to have consented to its jurisdiction, including its right to adjudicate disputes. Within modern libertarian theory, the doctrine of tacit consent—of people tacitly relinquishing inalienable rights through silence or inactivity—has not been popular.

In *Trial by Jury*, Lysander Spooner did not spill a great deal of ink addressing the problem of how twelve people came to possess what he acknowledged to be an individual right: namely, the right of an individual to try his own case. In 1889, "Free Political Institutions: Their Nature, Essence, and Maintenance"—advertised as "an abridgement and rearrangement" of *Trial by Jury*,

prepared by the anarchist Victor Yarros—began to run serially in *Liberty*. Yarros considered the question of how juries acquired the right to adjudicate cases to be so important that he repositioned text from Spooner's concluding chapter to the very beginning of the new work.

Yarros' "rearrangement" began with a statement of what Spooner called "free government": "The theory of government is that it is formed by the voluntary contract of the people individually with each other." From this observation, Spooner had contended that free government involved the belief that certain laws or conditions would be so obviously beneficial that all members of society would explicitly agree to them and to being taxed to support them. Clearly, Spooner considered trial by jury—which he called "trial by country" as opposed to trial by government—to be one of these overwhelmingly beneficial conditions to which all of society would agree. Indeed, the bulk of *Trial by Jury* is a rather persuasive presentation of why this legal procedure is and has formed a grassroots protection against oppressive government.

– announcement and solicitation –

a New Web Site on Lysander Spooner

<www.lysanderspooner.org>

from Randy Barnett

<rbarnett@bu.edu>

I have created a new website devoted to the life and works of Lysander Spooner, the nineteenth-century lawyer, constitutional scholar, abolitionist, entrepreneur, legal theorist and political radical.

This site is part of a Spooner Project I have initiated with the help of the Center for Independent Thought, a nonprofit foundation administered by Andrea Millen Rich, to promote greater awareness of this seminal libertarian thinker. The website contains a biography, bibliography, links to Spooner's works and writings about him, and photos of and directions to his birthplace, his grave, and the place he died. It is still under construction, and I intend to add additional e-texts of Spooner's work over the next several months.

We are currently raising funds to support this website as well as to erect an appropriate monument to mark Spooner's grave, which I have received permission from the cemetery to erect, and a plaque for his birthplace. Any contribution is appreciated, but those who contribute \$250 or more will receive a copy of *The Lysander Spooner Reader*, which includes a forward by George Smith.

Send your contributions to:

The Center for Independent Thought

938 Howard Street, # 202

San Francisco, CA 94103

Be sure to indicate that you are contributing to the Spooner Project. All contributions are tax deductible.

Yet Spooner's implied argument that all members of society would embrace trial by jury was refuted in the debate on this issue that ensued within the pages of *Liberty*. Adolph Herben, writing under the pseudonym of Basis in an article entitled "The Guiteau Experts", declared that he would rather have his case tried by experts than by twelve men who would be ignorant of important technical matters: if he had been Guiteau, he would have preferred experts on medical insanity. Basis considered it to be absurd to hang a person on the "mere opinion of twelve ordinary men". After all, a jury had convicted demonstrably innocent anarchists to death in the infamous Haymarket incident.

In *Free Political Institutions*, Spooner had anticipated precisely Basis' objection about jury ignorance, and answered, "the powers of juries are not granted to them on the supposition that they know the law better than the justices, but on the ground that the justices are untrustworthy, that they are exposed to bribes, are fond of authority, and are also the dependent and subservient creatures of the legislature..." As clearly as this statement may answer any objection to juries trying the law, it does not address the problem of how twelve people can rightfully try and punish another human being, especially someone, such as Basis, who openly protests the procedure. The Chicago radical George A. Schilling added his perspective by arguing: If trial by jury was based on the right of every individual to judge the law, did not juries—in practice—rob the individual of the very right upon which they drew for justification?

The egoist Steven T. Byington contributed an original article on "trial by jury" to *Liberty*, which began by quoting from an editorial run by the *Times of Natal*—an English speaking country in which racism made "trial by jury" for black defendants unjust. Moreover, judgments could not be obtained against whites who committed crimes against blacks. Byington claimed that in the presence of such prejudices, "trial by jury" became an instrument of injustice. The prejudice did not even need to be wide spread for it to have a disastrous impact on an anarchistic, or free market, jury system.

"If only ten per cent of the people were of this sort, more than sixty-four per cent of the juries would include one or more of these men to prevent a conviction. In order that there should be an even chance of twelve men taken at random being unanimously willing to judge according to certain principles, it is necessary that there be not so many as six per cent of the population who reject those principles."

Byington raised a further and intriguing objection to trial by jury based on "the need for certainty in some kinds of laws, where it has been reasonably said that certainty is sometimes more important than justice." For example, some publishers preferred there to be a clear standard of obscenity by which they could predict the legality of an article rather than to depend on the unpredictable decision of twelve men. If, as Spooner had suggested, there were conditions and laws so beneficial that all people would assent to them, trial by jury obviously did not fit into this category.

Perhaps the most interesting of Byington's objections to trial by jury, however, was a procedural and practical one. He maintained that the voluntary defensive associations which would arise in an anarchistic society would be unlikely to adopt the jury system because it was clumsy and expensive. A defensive associate who preserved the jury system would operate at a distinct disadvantage, probably having to charge considerably more than its competitors. He speculated on how justice would be provided in a "society where things are done on a business basis." Byington wrote,

"[D]efensive associations will have their judges, and their treaties as to the method of arbitration when two associations are on opposite sides of a case, and these tribunals of one or three professional judges will settle all cases where some one does not distinctly demand a jury. I suppose a case will almost never come before a jury except on appeal..."

Moreover, being practical men of business, those who ran the defensive associations would probably institute a policy stating that cases "clearly identical with ones" previously adjudicated required no jury.

"If any defensive agency persistently followed the contrary policy, of demanding juries in such cases whenever its clients asked for them, it would go bankrupt with litigation..."

Conclusion

From the preceding analysis, it is obvious that trial by jury is not necessarily a natural issue for libertarians to champion. Whether a jury system appears desirable seems to hinge on the observer's viewpoint. If the jury is seen to sit in judgment on the law, it may well be an effective strategy against oppressive government. If the jury is seen to sit in judgment on other and unconsenting human beings, the procedure seems to be at odds with libertarianism because it is difficult to understand where a collective entity derives such a right if it is not assigned by the individual.

Perhaps Byington resolved the debate by observing that, as a procedure, trial by jury had not evolved within a "society where things are done on a business basis," and any system of justice that did so evolve would be unlikely to embrace it. Moreover, to the extent a free market justice system existed, the jury system's current function of mitigating oppressive laws might lose much of its value. In place of this strategic advantage, the disadvantages of trial by jury might loom large: its expense, the unpredictability of its verdicts, the problem of dissenting defendants, the widespread tendency toward prejudice... In short, trial by jury may be a procedure that can be justified only in the presence of oppressive government. It may be an object lesson in how a free market society should not look to structures and institutions that evolved in response to oppression, but seek instead to sculpt their own. △

Wendy McElroy is the author of XXX: A Woman's Right to Pornography, and The Reasonable Woman: A Guide to Intellectual Survival. Her next book is entitled 19th Century Individualist Feminists: the Forgotten Roots of American Feminism. She is a contributing editor to The Freeman, The New Libertarian, Free Inquiry, and Liberty magazines. Much of her writing can be found posted at her web site:

<<http://www.zetetics.com/mac>>

Defending a Free Nation: The Status Economy

by Gary F. York

This article was written in response to an article by Roderick T. Long, "Defending a Free Nation," that was presented at the 15 October 1994 Forum, which I discovered in the Archives.

Mr. Long introduces Phil Jacobson's distinction of Three Economies: the Profit Economy, the Charity Economy and the Labor Economy. It occurred to me that there is one further economy that could be addressed, the Status Economy, that offers possibilities of its own for the provision of national defense.

Introduction

As human beings, despite years being bombarded by egalitarian propaganda, we remain creatures who value status, recognize it in others, and seek it for ourselves. Despite an egalitarian facade, we look for the visible signs of status in others and offer respect and deference to those we identify as having higher status than ourselves just as we expect deference from those we identify as of lower status than our own. Just as goods can be taken by force of arms, status can be demanded and deference compelled. But in a free society, goods are exchanged voluntarily, status is determined by personal achievement, and deference is offered freely as a token of respect for those achievements.

I would suggest that, as we have come to recognize the social utility of profit seeking or "greed" and the futility of systems that attempt to deny or suppress such behavior, we should also recognize the social utility of status seeking and cease to disparage such behavior. The pastor who delivers a thunderous sermon on the evils of greed may still recognize the "social utility" of awarding gold stars or Certificates of Attendance as incentives to desired behavior. A gold star may carry less social cachet than a Doctoral Degree, but then, it took less effort to achieve.

If we want individuals to contribute their time, money, and, where indicated, their lives to our national defense, we

must be prepared to offer them the respect and deference appropriate to the magnitude of their contribution.

Using Status to Motivate Defense

Let us consider a man who has agreed to underwrite the expense of defending a segment of Libertaria about the size of a county. Would we admire the beneficence of this man? Would we nod to him in passing or tip our hats? Would we clamor to attend his parties?

What if we knew him to be a champion of liberty? What if we knew him to be a man of honor, bound by his word? What if he uttered in public a great oath to defend with his life and all his resources: our liberty, his honor, and his nation? Would that not be noble? Would we acclaim his nobility? Could we do any less? Would we cheat him by withholding our respect and admiration?

Would it do us any damage to acclaim him, "Count?"

A Modest Proposal

I propose an Aristocracy of Service. We could call it something fancy like: "The Noble Order of the Protectors of Liberty" (NOPL) or, "The Libertarian Order of Righteous Defenders of Sovereignty" (LORDS) or even "National Organized Bastion of Libertarian Enterprise" (NOBLE).

In an anarchy this Order could be a completely private institution. For that matter, there should be competing Orders and Orders specializing in different competencies, perhaps one or more for each so-called "public good." It may seem a little absurd at the moment to contemplate "The Noble Order of Bridges and Roads," but it might not be entirely out of line. A minarchy might want to take official notice of military Orders as a means of regularizing defense, but there would be no truly compelling reason to do so.

Any such Order would lay out the requirements for acquiring a Patent of Nobility of each degree awarded. Some, those based on no real commitment or significant contribution, would be a joke. Those boasting of such "Patents" would be rightly seen as silly climbers of no merit, worthy only of being snubbed by the more discriminating. Others would require real contribution, impose serious and sometimes deadly obligations, and merit very real respect.

If I were running such a military Order, I'd make Knighthood available to those serving in the Order's militia who had demonstrated good character and dedication to the defense of liberty and who had achieved the military rank of Captain. One way then of encouraging citizens to participate in the militia is to have it be the "poor man's" route to the Aristocracy. As I envision it, anyone should be able to achieve a knighthood by his mid twenties if he's willing to trade about as much time as is now required for participation in the US National Guard and is trainable and of good character. If individuals are selected a couple of years in advance for potential candidacy and "apprenticed" to existing Knights, it might be useful to identify them as "Squires" or "Cadets." The major benefit to the Squire, as I see it, is that he gets to attend better parties while in the company of his Knight and, while not yet actually a member of the Aristocracy, he's clearly identified to the local ladies as having good prospects.

Alternatively, it should be possible to simply buy your way in—at least at the lowest levels and presuming some test of character and willingness to assume the duties and obligations of the rank. Perhaps a month or two of obligatory Officer Candidate School and intensive schooling in "Customs and Courtesies" would be required in addition to a donation, of say \$100,000 to \$200,000, to the Order's defense fund.

Finally, some Knighthoods (and the accompanying training) would be conferred on a few young people of special merit who sought a military career and exhibited extraordinary aptitude.

Moving up; perhaps a Million gets you an Earldom and Ten Million a County. (Or perhaps the other way around.) At some level, you're more of an administrator than a military man—you HIRE military men—and this is better suited to those industrialists and entrepreneurs who, having made far more than enough to ensure their personal comfort, are ready to expend some funds and time acquiring status.

With some luck, the Aristocracy will prefer to hobnob with others of their class and, by preference, trade with them

(Concluded on page 12)

A Single-Owner Proprietary Nation: Advantages, Problems, and Solutions

by Roy Halliday

In a single-owner, rental-income, proprietary nation, all the land and other natural resources are owned by one person, partnership, or firm, and all residents voluntarily agree, by contract, to abide by the rules of the proprietorship and to pay rent for the use of specific portions of the property.

Advantages

From a libertarian perspective, a single-owner proprietary nation has several advantages over other free-nation proposals:

1. All the inhabitants of the nation voluntarily accept the rules of the proprietorship. This conforms to the libertarian principles of private property, freedom of contract, and nonaggression. Taken as a whole, the leases agreed to by the residents of a single-owner proprietary nation would actually fulfill the requirements of a legitimate social contract. The leases in a proprietary nation would do what Supreme Court Justices imagine the U.S. Constitution does—they would establish a contract between the administrators and the residents of the country.
2. The proprietor could establish rules that would make the nation less likely to be invaded by other nations. For example, the proprietor could forbid the use and possession of drugs that are outlawed by the USA, and, thereby, make it less likely that the USA would invade.
3. The proprietor could establish rules for settling disputes, punishing criminals, and compensating victims of crimes or torts. By including these rules in the leases that all residents agree to, the proprietor could establish a uniform system of law for the nation. This would solve the vexatious problems caused by the fact that

there is no objective way to determine what punishment is exactly appropriate for any particular crime and the fact that there is no objective way to prove that one form of compensation is more fair than all others for any particular tort or crime.

4. The proprietor could achieve the benefits of zoning and the esthetic symmetry of a planned community without violating anyone's rights.
5. So-called market failures due to what economists refer to as *externalities* could be solved by adding appropriate clauses to the leases. For example, the proprietor could solve the problems of water and air pollution by stipulating appropriate rules for the use of water and air or by specifying a method, such as mediation or binding arbitration, to solve disputes involving pollution and other nuisances.
6. Because the administrators of a single-owner proprietary nation could have the ability to address all social problems, residents would have less incentive to demand the creation of a coercive, centralized State. Since a proprietary nation could conceivably have as many rules and regulations as a State, it is easier for people who believe in central planning to believe that a proprietary nation could work.
7. Double-entry bookkeeping would enable the proprietorship to track its income and expenses and its profits or losses, which would give it an objective way to measure the success of the administrators at satisfying the needs of the tenants.
8. As long as the proprietorship is a profitable enterprise it can be self-perpetuating.

Problems

A single-owner proprietary nation would not appeal to libertarians unless it solved the following problems:

1. A single-owner proprietary nation might not allow any more freedom than the USA or other statist nations.

So, even though a single-owner proprietary nation is, by hypothesis, morally legitimate, it might not be attractive to people who are interested in obtaining more personal freedom.

2. Unless safeguards are included in its design, a single-owner proprietary nation runs the danger of stifling competition in various industries. This would prevent a market from being developed in those industries and, as a consequence, it would prevent experimentation with alternative solutions to social problems and prevent information from being derived about which rules and methods work best.
3. The moral legitimacy of a single-owner proprietary nation rests on the legitimacy of its property title to all the land in the nation. It seems unlikely that one person, partnership, or firm could legitimately obtain title to enough land to create a nation. Typical free-nation plans involve negotiating with an existing State to purchase or lease land from them. Since States have no legitimate title to the land in the first place, the would-be proprietors of a free nation cannot obtain legitimate title to land in this way.

Solutions

The disadvantages of a single-owner proprietary nation could be reduced if the proprietorship is in the hands of enlightened libertarians.¹

1. A libertarian proprietor would limit freedom as little as necessary to preserve the existence of the nation. For example, the proprietor, through lease contracts, might outlaw drugs banned by the USA but might allow other vices that the proprietor believes will not incite the USA to attack.

¹ "A Model Lease for Orbis" by Spencer MacCallum in *Formulations* Vol. III, No. 3 is a master lease for a libertarian, single-owner proprietary community. MacCallum has done a great deal of thinking about this subject, and he had incorporated his wisdom in the details of this lease as well as in the explanatory notes that accompany it.

2. The proprietor could handle the problem of competition within the nation by refusing to grant monopolies in any industry. The proprietor could divide the nation into multiple, semi-autonomous communities, each of which could have its own rules established by its own subleases. This would allow competition between communities, which would yield information about which social rules work better. The overall proprietorship might limit its own role to establishing the minimum conditions necessary to preserve the safety of the nation.
3. The problem of obtaining legitimate title to all the land in the free nation seems to me to be the most difficult of the problems facing a single-owner proprietary nation. The proprietorship could establish legitimate ownership of some land by homesteading

or through market transactions with legitimate owners. In this way, perhaps a very small nation could be established and recognized by the rest of the world. The proprietorship could gradually expand its territory by purchasing contiguous, or non-contiguous, land through legitimate market transactions or by accepting donations of land from sympathetic property owners seeking to join the free nation.

If the single-owner proprietary nation becomes an economic success, the competitive advantages of doing business under the terms of the proprietary nation could make it worthwhile for individuals and corporations to transfer title to their land holdings to the proprietorship or, better yet, to imitate it by establishing competing proprietary nations based on similar principles.△

Roy Halliday, ironically, was involved in the Atlantis project, which spawned "A Model Lease for Orbis." In 1968, Roy became the second full-time resident of the Atlantis community, which was located in Saugerties, New York. Since Roy was working for IBM as a technical writer at the time, Werner Stiefel (the proprietor of Atlantis) asked him to write a business prospectus for the proposed free nation of Atlantis. Roy declined the offer because he did not think he had sufficient business and legal training. Fortunately, Stiefel found Spencer MacCallum and commissioned him to write a model lease for the proprietary nation. Spencer did a masterful job and has continued to refine the model ever since.

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Defense through status

(Continued from page 10)

as well. I consider this a feature, not a bug. The Aristocracy will be more willing to do certain deals on the shake of a hand and the given word with fellow members of the Aristocracy. After all, that bit about "good character" isn't just smoke screen and ritual. It means someone has looked into your past dealings! If you hope to join the Aristocracy some day, better keep your dealings "squeaky clean." Exemplary behavior (as a libertarian) is what we're looking for. Not just keeping "the letter of the contract" but adhering to its spirit as well. Nothing that even hints of shady dealing allowed.

If the incentives all work out, the aristocracy of wealth (who have come by their wealth honestly) will seek to become members of the Aristocracy of Service. And members of the Aristocracy of Service, if not wealthy already, will have opportunities, over time, to join the aristocracy of wealth.

Conclusion

It is possibly too late (or unwise) to draft the status symbols of an earlier age for the defense of our nation. We may need to create new, more appropriate means of recognizing and designating status: symbols, rituals, rank, and hierarchy with less accumulated baggage. Regardless, the desire to acquire status is a powerful motivating force in human beings and its use should not lightly be discarded.

Men of good heart and sound mind will always offer their genuine respect and deference to those who demonstrate great achievement, honor, and valor. In this sense, there will always be an aristocracy whether acknowledged as such or not. Those who have honestly come by their wealth will always be a part of that aristocracy. They who extend their protection beyond the bounds of self and immediate family and who, with their life and labor, shield the rest of us from harm also deserve to have their nobility recognized.

By acknowledging and legitimizing the status-seeking needs of human beings, we can preempt some of the overt symbols of status and direct that normal quest for the recognition of our fellows into behavior that explicitly advances the security and welfare of our country.△

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Is it Wise to Vote? Getting My Head Ready for Freedom

by Richard O. Hammer

For all of my life, until last year, I voted faithfully. I believed what I was taught by my government-school teachers, that good citizens of America vote. And I believed there was something in it for me, that I could gain something by voting.

But during the last dozen years I have become increasingly immersed in libertarian theory. So I have learned that some leaders of libertarian thought argue that voting is immoral.¹ Although these arguments have failed to convince me, and although I have seen counter arguments (in favor of voting) which seem more convincing to me,² still I like the stance of nonvoting. It challenges the politically correct establishment in America.

But my decision has more substance than just the joy of rebellion. By deciding not to vote I believe I take an important step in my psychological journey toward citizenship in a free nation.

I will not argue that voting is wrong per se. Not for you anyway. That is your choice. I write to describe my own choice and to offer you a chance to respond to it. Probably I feel forces which differ from those felt by most other libertarians, because I am committed to this Free Nation Foundation and its unique approach.

Meet Joe

Let me start with a story about Joe, a man who bears a striking resemblance to me as I was five years ago. Imagine that a new free nation has been established somewhere on Earth. Joe, who has just arrived the night before, is in a hotel in this new nation. At 7 a.m. he comes down from his room to start his first day in his new home.

Joe had fought the good fight in America. For years he had struggled for libertarian political causes. But finally his experience overpowered his hope for majority rule. He decided to leave all that behind. Or so he thinks.

Joe has an hour to kill, over breakfast and coffee, before he heads out to check on permanent arrangements. He looks for a local free-nation newspaper. There seem to be a few publications like trade journals and self-help magazines, but Joe cannot find anything like the newspapers which he grabbed up each morning back in America.

Joe, a good citizen of course, wants to get a head start in his participation in the public process in his new home. So he asks where he can find a newspaper. Finally, in a gift shop he finds a few, editions from New York, Washington, and London. A headline on a Washington paper catches Joe's eye. He takes it for his breakfast companion, since he sees no competition from free-nation newspapers.

Soon he is engrossed. He rages again—at what the criminals in government get away with. He exults again—as he sees the word “libertarian” used correctly in three places. The hour flies by. Joe feels that he has completed his duty to refresh his connection to the political world. But now the time has come for him to start life in the free nation. Do you think Joe is ready?

Understand that in a free nation there will be almost no politics. Few if any issues which are important to the people of the nation will be decided through a process of public exposition followed by majority rampage. Unless I am mistaken, there will be little if any public process. Almost everything that people need, including I assume most aspects of law, will be provided through markets. Citizens will express their preferences through choices to purchase, and not through votes or public displays.

As such the media in a free nation will not serve the function that the media serve in the U.S. The needs served in the U.S. by the media, to inform and involve citizens in the process of shaping the social environment, will be served in the free nation by other means.

The free nation will have a marketplace in social services. So some businesses will inform the citizens through advertisements. And, because advertisements tend to be biased, other businesses will fill the need for objective comparisons by rating goods and services in various categories.

So I believe Joe was wasting his time when he went looking for a newspaper to start his participation in the free nation. In the free nation there may be nothing like the newspapers we know in America.

But, more than that, I am worried about Joe. There is more at stake here than just an hour of Joe's time. It has to do with how Joe sees himself in relation to his society, with whether he can be a useful and valuable citizen in a free nation. Thomas Sowell writes repeatedly about cultural capital. He shows that successful people have habits, engrained in their upbringings, which prepare them to trade and work effectively. Unsuccessful people lack these habits.

Joe wants to be a good citizen. He was taught by his government-school teachers in America that he should have public spirit. And in a way those teachers were right, because in America there is a vast (and growing) range of choices which are controlled by the state. These public choices must be policed by public means—or they will not be policed at all. If majority rule has any chance of working it requires self-sacrifice on the part of public-spirited citizens. (Of course we who understand that central planning cannot work, because of the impossibility of processing the requisite information, know that majority rule does not have even this chance of working. But that is another story. Majority rule may have its best chance if some citizens act from public spirit.)

What Virtues Are Important?

Actually, to be honest now, I am worried about myself. I believe that the people who will succeed in the free nation will be businessmen or entrepreneurs, as opposed to proselytizers. Successful free-nation citizens will have traits which Deirdre McCloskey calls “bourgeois virtue” (honesty, modesty, prudence).³ But do I have that kind of

¹George H. Smith, “Party Dialogue,” *New Libertarian*, Vol. IV, No. 8, Dec. 1980 – Feb. 1981. Quoted in Long, below.

²Roderick T. Long, “Dismantling Leviathan from Within, Part I: Can We? Should We?” *Formulations*, Vol. II, No. 4, Summer 1995, p. 11-12.

³Deirdre McCloskey, “Bourgeois Virtue,” *American Scholar*, Vol. 63, No. 2, Spring 1994, pp. 177-191.

virtue? I really soaked up the government-school indoctrination. This told me that if I want to be held up as a model American citizen then I should have public-posturing virtue (rhetoric, publication, self-sacrifice). Will my penchant for this alien virtue make Don Quixote of me in a free nation?

Let me illustrate. The standard American indoctrination makes heroes of certain people who went to jail for their causes, such as Henry Thoreau, Mohandas Gandhi, and Martin Luther King, Jr. Since I absorbed this, I have always thought that it would be cool for me to go to jail for some worthy cause. For years I have been on the lookout for the right chance.

But, apart from jail's reputation as a bad place to spend time, I now believe that there is something fundamentally wrong with this strategy. It attempts to educate the public, and thus to lead representatives of the public, to make the correct choice. But choices should not be made in this public way. To the maximum extent possible, I believe, choices should be private, not public. So my objection to the strategy of going to jail for a good cause, you see, is that it makes an unstated assumption: it endorses the validity of the public, majority-rule mode of decision making.

Putting effort into majority rule is like betting in the lottery, or playing in any negative sum game. Sometimes you win. Sometimes you lose. But in the long run you lose. In the long run the whole society loses, because public process cannot be as efficient as private process.

Now yes, it is true that a few moralistic jailbirds have succeeded in advancing their causes. But I bet the media completely overlook the jailing of most good people. And, should I attempt this tactic, I must predict that my jailing would also fail to attract sufficient sympathetic notice.

Someone who would invest in this way, in going to jail in order to gain publicity for a cause, must believe that the process of majority rule works as advertised. This person must believe that majority-rule democracy eventually reaches the truth, through a process of educating the masses followed by voting.

But my study of political systems had led me to believe that this is false. The majority cannot generally be expected to reach the best decision, through a process of education followed by voting, because there is no way that the majority can assimilate enough information to make the best decision. Austrian economics teaches us that even single experts, who spend all their time specializing on knowing a single issue, cannot perform this feat. So how could the majority, all of whom dedicate only a tiny fraction of their time to each issue, be expected to make a good choice? It does not work.

But Why Not Vote?

Perhaps you agree that going to jail would be a costly investment in a losing cause. But recently some friends have pointed out to me that voting only takes

myths of majority rule, then by voting I carry my psyche further away from home. I reinforce the wrong virtues while neglecting to exercise the correct virtues.

Perhaps you have heard of the traps for monkeys, in which the monkey reaches through a small hole to grasp a nut. But with the nut in hand the monkey's fist is too large to withdraw through the hole. And, as the human hunter approaches, the monkey will not let go of the nut. The monkey is thus trapped by its own choice. I suggest that majority-rule elections may present a similar trap to libertarians. We are capable. Yet we seem trapped.

I believe that we libertarians command easily enough resources to launch a new Hong Kong. Indeed, when I observe the resources which libertarians pour into popular persuasion and elec-



At the Forum: Michael Darby presents his constitution for a limited-power monarchy

a few minutes. Therefore, the argument implies, I should vote and not quibble about the cost. This makes sense.

However some people can be political junkies. I know I am vulnerable. For someone with my weakness, the short time which it takes to vote is not the main issue. The main issue is the whole habit, the propensity to care about the consequences of majority rule. If I care about voting, or if I care about the outcome of some election, that shows where my heart lays up its treasure. To the extent that voting reinforces my addiction to

tioneering, especially during presidential-election years, I think that if just one year's worth of this stream of resources could be redirected, into the founding of a new Hong Kong, that could be enough. Yet we seem trapped. Trapped by our own choice.

We can be free. But first we have to believe in our own ability to craft institutions. We have to believe in ourselves enough to release our frantic grip on the bait of majority rule. I am trying to move my head in that direction, by not voting.

Let me wrap up with another example which shows the clash in me between the two myths. You know that I am an avid writer. And you see now that I argue against voting. So, how do you think I reacted when, before the recent election, I saw this banner headline, "Candidates run against apathy," on the front page of a Sunday paper in a capital city (*Times Union*, Albany, N.Y., 1 November 1998)?

Well, my impulse was to write a letter to editor, to set the record straight about people who do not vote. There are people, I would say, who choose not to vote—not because they feel apathy, but rather the opposite—because they care so much about the future.

Like the monkey, I find this nut appealing. But I checked this impulse as a resource-wasting attempt to make majority rule work. If I spend an hour's energy writing a letter to the editor of a general-circulation newspaper, I steal an hour's energy from my dedication to another myth: that it is possible to get liberty by advocating the FNF approach among libertarians.

But I must admit that I may once again be imprisoned by my grip upon a false myth. What do you think? We welcome debate.△

Richard O. Hammer has run for Orange County (North Carolina) Commissioner on two occasions, for Hillsborough Town Board on three occasions, and for U.S. Congress on one occasion. During the years of his active political involvement he published about 25 columns in the local Chapel Hill Herald, was elected and reelected Vice Chair of the Orange County Republican Party, and served a three-year appointment on the Orange County Board of Social Services.

Call for Papers

Mythology in a Free Nation

We seek papers on the topic of our next Forum "Mythology in a Free Nation." The Forum will meet on a Saturday, not yet scheduled, in April 1999. We need these papers no later than the first of February 1999, which is the writers' deadline for the Spring issue of *Formulations*. The papers will be carried in that issue.

For a full explanation of the topic see the announcement on page 4 of the past, Autumn, issue of *Formulations*. You can also find this announcement on the web, at:

[<freenation.org/fnf/april99.html>](http://freenation.org/fnf/april99.html)

Burros as Individualists

email from

Spencer MacCallum

I stopped and visited along the highway [in Nevada] the other day with a couple, probably in their 30s, who are "trekking" through the Southwest (average two miles an hour) by covered wagon with a six-burro team. I learned a lot about burros. They might make a good symbol for individualists.

So far as these two people know, theirs is the only six-burro team anywhere, because it's tricky driving them. General commands are ignored; com-

mands must be specific to a particular burro and prefaced by that burro's correct name.

Also, did you know that burros will kill canines (unfortunately they don't distinguish domesticated from wild) and in the wild will hunt down coyotes? Burros are definitely happiest when they've some work to do, and despite their individuality, they like companionship. I could do worse, probably, in a future incarnation, than to come back as a wild burro.△

NOTE TO SUBSCRIBERS

We have discovered blank pages in some copies of the last issue of *Formulations* (the Autumn issue). If you received one of these copies please let us know. We will send a replacement. In the instances which we discovered, pages 17 and 24 were blank. Evidently some sheets stuck together during printing.