

FREE NATION

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of a forum on the subject

**SECURITY
IN A FREE NATION**

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A Review of Libertarian Ideas about Security
a presentation by
Richard O. Hammer

1. Introduction

I have never had a clear concept of how we libertarians would defend the borders of the realm in which we would like to live. My desire to learn more of this subject led me to suggest, several months ago, that in this forum we address a related question:

How, and to what extent, could the inhabitants of a free country rely upon private institutions, insurance and defense agencies, to satisfy their needs for security, both domestic and national?

I will use the term 'security companies' to name these hypothetical institutions which combine insurance and defense.

During the past few months I have asked several people where I might find information on this question. I have followed many leads. But I have not found solid fare; all available material seems to be speculation. It is good speculation to be sure, but I had hoped to find a developed theory. So, the best I can do is to present some of what I have found, and contribute some of my own speculation.

I see that there is some redundancy in the materials we have distributed to you in the pre-forum packages. Therefore I will shorten this presentation, leaving out ideas which will be presented to you by other speakers.

1.1 The subject of national security is both important and unpleasant

This is I believe the most critical subject faced by the free nation movement. On the one hand, I expect that few sensible people would be willing to invest their lives or property in a free realm unless they felt secure from international invasion. And on the other hand, if somehow there were created a free realm in which somehow all felt secure from invasion, I believe libertarians and many others would flock into this realm without pausing to worry about any of the other services which they may be accustomed to expect from government. In the recipe for a free nation, national security is probably the critical ingredient which can make everything else jell.

But I find national security to be an unpleasant subject for two reasons. First, it is about war and violence. And second, it is not easy, when taking about fighter bombers and armies, to escape realizing how impossible it seems that our small and disorganized movement could ever wield a respectable defense.

Naturally we experience the impulse to put this onerous subject aside. In this regard our instincts may serve us well. It makes sense for us to do today what we can, and to hope that the tasks which we put off today, because they look impossible, will come within reach tomorrow. But we can do more than hope. Looking toward the seemingly impossible goal, let us ask what we might achieve today so that, come tomorrow, that goal might begin to look possible.

1.2 Can a formulation for domestic security stretch to cover national security as well?

Recall that the question which drives this discussion includes both domestic and national security. Regardless of the scale of a threat, whether from an individual or from a state, we can think in general terms of the means we might use to defend ourselves. These means include, for instance: amity, diplomacy, counterattack, and preemptive strikes. For the sake of simplicity, it would be good if we could produce one general formulation for a set of institutions which could span all our needs for security, both domestic and national.

But a theory has limits, and can comfortably span only certain instances. For my part at least, my research thus far has left me believing that security on a domestic scale can be achieved through private means. See for instance Chapter 2 in "The Enterprise of Law" by Bruce Benson. Therefore my desire to stretch my understanding leads me to ask questions about national security.

2. Ideas about security in general

While searching for material on the question of whether security companies could provide national defense, I found little that addressed my question directly. But I came upon many ideas which addressed the broader subject of security. These seem worth repeating, so I will go through them now.

The reader may notice that some of these ideas beckon us to think of security in new ways. If we ask, "how are we going to finance an air force and induct an army?" we may be asking the wrong question.

- 2.1 Free people cannot be conquered in one fell swoop
(covered by other speakers)
- 2.2 Free people may be heavily armed
(covered by other speakers)
- 2.3 Free trade provides incentives for peace
(covered by other speakers)

2.4 Potential aggressors can be discouraged from even trying

Kevin Cullinane draws a distinction between protection and defense that is worth repeating. Protection, as he describes it, is what you do to discourage an aggressor from even trying. Examples are: locks, fences, camouflage, credit checks, mine fields. Defense, on the other hand, is what you do to respond to an aggressor who is attacking. Examples of defense are: fighting with an aggressor, and counterattacking into the aggressor's territory. Cullinane says that if your protection is good enough then you do not need defense. Defense involves violence and you want to avoid it if possible.

This distinction, which I first heard described by Kevin Cullinane, probably originated with Robert LeFevre. See the appendix to Scott McLaughlin's paper, starting on page 16.

2.5 People naturally want to avoid war

As I have frequently heard Philip Jacobson argue, there are great incentives to avoid violent conflict. War is costly. If it starts each party tries to destroy the valuables of the other. War is a negative sum game. Whereas peace with free trade is a positive sum game. We can normally expect potential antagonists to be willing to invest heavily in avoiding war.

2.6 Security companies would attend to the needs of their customers

Writing primarily about defense agencies on a local scale, Murray Rothbard shows how private agencies satisfy the needs of their customers better than government agencies. For instance a private security company will emphasize restoring stolen loot to its owner, the customer. Whereas a government agency on learning of a theft emphasizes catching and prosecuting the criminal, and sees the loot only as evidence to be guarded and not as property to be returned. And as Bruce Benson recounts, government agencies are so intent on doing their thing, prosecution, that they treat the victims of crime not as customers to be served, not as people who need help, but as evidence to be presented at the right time in court.

These failings of government policing on a domestic scale make me think it likely that government policing on the national scale also falls short of what could be achieved by a market system. In many ways that we should be able to imagine large-scale security companies should serve us better than government agencies.

2.7 A national defense can be mounted in the traditional way

If we libertarians compromise, and admit limited government, then we may assume taxes and a strong national defense of the traditional sort. But I do not want to make this compromise unless I am convinced it is necessary.

3. Ideas about security companies

On a domestic scale, in a free market, it is natural to expect the formation of security companies, that is to expect merger of functions we may now, by habit, consider separate: insurance and defense. Both involve security. A customer might sign a contract with a security company to purchase security in certain defined categories. As we are accustomed, the insurance aspect of this contract would pay unrecovered losses, probably with a certain deductible. But as we are not accustomed, the security company would not only pay losses, but to prevent losses from occurring in the first place it would also police and provide protections.

I expect the most successful companies would minimize their expenses, and thus reduce the charges to their customers, by intelligently balancing their mix of expenditures on policing, protections and payments.

Some risks they might choose not to protect at all, planning simply to pay in case of loss. This would apply if the potential cost of the risk were low but the cost of the protection high.

Other risks might be secured through heavy investments in protection or policing. This would occur in a risk category where the cost of protection is low relative to the expected cost of payments should protection fail and a claim for payment be made.

3.1 Private security companies would allocate police in response to market incentives

This private industry in security would differ in some notable ways from the state-sullied mess we experience now in the United States. In some cases we can predict: we would see either less policing or more policing. In other cases we can expect changes in the nature of the policing, but it is difficult to predict the nature of those changes.

3.1.1 where we would expect less policing

Customers would be willing to pay for their own security, and to pay for prudent policing toward that end. But few customers would be willing to pay more to have police beat up unpopular minorities such as Rodney King, David Koresh, prostitutes and drug dealers.

In addition to frugality the financiers of the police forces - that is the customers - would experience the usual motives of civility. These are:

The positive motives for civility - desire to continue receiving the benefits of friendly, trusting, relationships. In relationships free of state-sponsored coercion people are naturally willing to tolerate all differences in others which they do not perceive as invading their own private space.

The negative motives for civility - fear of reprisals and counter attack provoked by assault into a space that someone else considers their private business.

3.1.2 where we would expect more policing

It is easy to think of places where a sensible private security company would invest more, by comparison with government, in protections and policing. Generally speaking, just think of any situation which regularly scares you. Probably you would be willing to pay to feel more safe from this predictable threat. If you ask why there is no company prepared to profit by selling you such protection, you will probably find some action of the state which bars or discourages this protection from being marketed.

Think, for example, of a frightening street in an inner city. If the street were private, the customers of the street, that is the residents, would have an economic relationship with the owner of the street through which the customers could express their desires and expect to be heard. Consider the parallel of private shopping malls. Owners of malls police their corridors because they need revenue from their customers, the operators of the shops, who can stay in business only if you drop by. And you will drop by only if you feel safe.

3.1.3 where we expect changes in policing, but cannot predict whether more or less

There is also a category in which it is not clear to me whether security company agents would be more or less evident in our day-to-day affairs. Consider motor vehicle laws regarding drunken driving, seat belts, and speed limits. Do these laws save life and property sufficient to justify the cost of policing of their enforcement? A free market in security would answer this question more honestly than any legislature.

Private companies would calculate, using some statistics I expect, ways to minimize their total costs, for both payments and protections. I expect their contracts would offer options. A customer might save money by signing a contract which stated that he would buckle his seat belt. But should he be tempted not to bother with his seat belt, he would be wise to know what the contract stipulates in this regard. We can certainly expect the security companies to protect their interests; they may demand the right to snoop, or police if you will.

3.2 Security company protections in larger zones

I have outlined a few of the reasons why I trust that security on a local, domestic scale can be handled by private enterprise. Here I present arguments, pro and con, on the question of whether private enterprise could likewise provide national security.

There is a fundamental similarity between large-scale and small-scale security companies. Both have a base of customers that they charge rates sufficient to cover expected costs. Both employ both protections and policing. Both need arms sufficient to their risks. Both need to be prepared to pay should their protection and defense fail. Both rely on good relations with their customers, and thus both are constrained to provide a real and valued service. Both are in the same sort of business, just on a different scale.

3.2.1 optimistic argument

I know that insurance companies share their risks in a business called reinsurance. And I recall hearing boasts from this industry:

- 1) that Prudential life insurance was prepared even for nuclear war, in its policies which did not exempt for war.
- 2) that when Hurricane Andrew tore a swath across Florida the insurance companies paid up without twitching.

This last example should show us that a small country, no bigger than the swath across Florida, should be able to trust private security. Of course this assumes an international business in reinsurance, that the residents of a ravished small country could expect payments from a pool beyond their borders.

3.2.2 pessimistic arguments

Leading libertarian light David Friedman regards national defense as a daunting problem, and offers little hope for private provision.

Also my novice's scan of "Limits of Insurability of Risks" by Baruch Berliner, has shown me that: 1) insurance is a business of statistical calculation; 2) insurance companies calculate the probability of their losses, and in the worst case calculate the probability of their big losses all happening at once; and 3) they judge whether they can safely assume new risks by calculating whether loss might threaten their margin of safety. This book, by showing the science of deciding what risks are too big, implies, in not too subtle a way, that some risks are too big. I am disappointed, but I should not have been surprised.

It is possible, I would like to believe, that either I misunderstand this book, or that this book misunderstands reality. For my taste Berliner kowtows too readily to the state and "public policy" when his analysis displays limits. Some economists, I know, see the work of the invisible hand, while others see only a need for state action. Possibly a specialist in insurance who favors free enterprise would write quite a different book.

4. Conclusion

Our quest to formulate security is just beginning. We welcome input.

Bibliography

Bruce Benson. "The Enterprise of Law: Justice Without the State". Pacific Research Institute, 1990.

Baruch Berliner. "Limits of Insurability of Risks". Prentice-Hall, 1982.

Kevin Cullinane, "Militarism to Libertarianism", a talk in Bethesda, Md, by at Summit '86 of the Advocates for Self Government. Tape available from Advocates for Self Government, Atlanta, GA.

David Friedman. "The Machinery of Freedom". Second edition, Open Court, 1989.

John Hospers. "Libertarianism". Nash Publishing, 1971.

Philip E. Jacobson. A libertarian friend who lives in Cary, NC.

Albert Loan. "Institutional Bases of the Spontaneous Order: Surety and Assurance". Institute for Humane Studies. "Humane Studies Review", Vol. 7, No. 1, 1991/92.

Gustave de Molinari. "The Production of Security". Originally published in French in the late nineteenth century. Excerpts published, thanks to Carl Watner, in "The Voluntaryist", December 1988.

Murray N. Rothbard. "For a New Liberty". Collier Books, 1978.

Morris and Linda Tannehill. "The Market for Liberty". 1970. Reprinted in "Society without Government", Arno Press, 1972.

PROTECTIVE SERVICES IN A FREE NATION

A Presentation By
Scott E. McLaughlin

“The Constitution is what the cop on the corner says it is .”

This age-old street maxim regarding law enforcement points to the central problem with typical public police agencies. In spite any libertarian theory underlying a nation dedicated to freedom, the development of a centralized organization vested with a monopoly of police power will eventually erode the reality of libertarian ideals. This presentation will explore the possible role of private security agencies, operating in a competitive market, to replace the present-day reliance upon monopolistic public law enforcement agencies.

1. The Agent-Principal Relationship

All protective service organizations- whether public or private- act as agents for certain principals. Under this common-law relationship the principal is responsible for the actions of the agent; while the agent may not perform activities outside the scope or limits set by the principal. According to common-law principles, the principal may remove and/or replace any agent, and may act on his own behalf despite the existence of an agent representing him. For example, most people are familiar with the concept of “citizen arrest.” A principal (the citizen) may take an action (an arrest) even when an agent has been established to perform that action on his behalf. However, in North Carolina, recent legislation has ended the citizen arrest. Only government commissioned law enforcement officers are empowered to effect an arrest- even if you, as a principal, witness or suffer a violation and are capable of effecting an arrest yourself. This is a corruption of the basic agent-principal relationship, and is

evidence of the exclusive, or monopolistic public police agency¹. Public law enforcement departments now act as exclusive agents with all of the rights of the principal- the principal having lost or abandoned the right to act for himself. Thus, public law enforcement departments are no longer “agents” under the common-law understanding. As in many cases of government hegemony, public law enforcement has become detached from its legal basis for existence. The only true agency in the area of law enforcement is the private security industry who are empowered to act only in those areas specified by the principal.

2. Public Agents

There are three types of modern day public law enforcement agencies.

The first is a municipal police department. This agency, in theory, has the inhabitants of a municipality as its principal. Again, in reality, town and city police departments are the agents of the city government and- to the extent the local government is controlled by higher governmental units- police are also the agents of all governments in a law enforcement “pyramid” to exact compliant behavior by the hapless inhabitants of their jurisdiction.

The second type is the sheriff of a county. Unlike the typical police chief, the county sheriff is usually an elected official. The sheriff’s department has as its principals the inhabitants of the county. Normally, a county sheriff displays more autonomy than other law enforcement agents, since, in theory, voters will hold the sheriff accountable for the success or failure of the department.

The third group of public law enforcement agencies is the myriad specialized units commissioned to provide enforcement of specific sections of the legal code. Examples include the B.A.T.F. on the federal level, the A.L.E. on the state level, and Animal Control Officers on the local level.

All public agencies take a reactive approach to protective services. Police today spend very little time deterring criminal activity². Instead, police are most often called upon to react after a person’s property rights³ have been violated. Specialized units spend most of their time monitoring compliance with laws or regulations under their control.

As usually happens in cases of “public ownership”, police agencies no longer represent a flesh-and-blood principal. In each case above, the principal has

¹ This same condition applies to the concealed carry of weapons in North Carolina. The “Bayonet Constitution” of 1868 prohibited citizens’ ability to carry concealed weapons- only commissioned government law enforcement officers are granted this ability.

² “Criminal activity”: For the purposes of this presentation, criminal activity includes only those acts which injure or cause the loss of one’s person or chattels by the use of force or fraud.

³ “Property Rights”: For the purposes of this presentation, property rights include those rights normally referred to as “personal rights.” The term “chattels” is used to denote real or personal property.

become a mythological “city,” “county,” “state,” or “federal authority.” For example, if George Smith assaults Brenda Jones and is arrested by public agents, the subsequent adjudication will be styled “The State of North Carolina vs. George Smith.” Under these conditions, the true principal seeking justice- Brenda Jones- is not considered important, except perhaps as a witness for the State.

3. Private Agents

Private protective agencies provide a variety of services to a wide-ranging market. All private agencies share a common trait, however. In each case, the principal is an individual client (person, corporation, etc.) who directs the level of activity of the agent, sets policy as to the enforcement of the principal’s property rights, and makes decisions regarding the disposition of a violation of the principal’s property rights. Security guard companies, security motor patrol agencies, private investigators, bail bondsmen, bounty hunters, alarm services companies, and armored car companies are but a few examples of the types of services offered in the private protective marketplace.

Some private agencies are proprietary- employed exclusively by and for the benefit of only one principal. However, most private suppliers are contract agencies- providing one or two specialized services to as many clients as possible.

Most private protective services are “proactive,” since deterrence of criminal activity and protection of the principal’s interests are the paramount concerns. In fact, a violation of the principal’s person or property is evidence of failure by the private agency.

Every private protective service provider is heavily regulated by various government bureaucracies- especially since private security is increasingly regarded as a threat to public police forces. Some states grant private protective agents a limited power of arrest. Typically, arrest powers are granted to security guards only while employed on the property of a client. This provision is denied to private agents in North Carolina- but would be present in a free society.

4. The Enforcement Hierarchy

According to LeFevre⁴, law enforcement may be divided into four stages: protection, defense, retaliation, and punishment. Briefly, protection encompasses all passive activities taken to deter criminal activity. Defense includes active steps

⁴ LeFevre, Robert, *The Libertarian*, (Orange, CA, 1985), p. 38-49. See Appendix.

when one is faced with an aggressor. Retaliation includes the concept of restitution and “getting even.” Punishment is a class of activities whereby an aggressor is punished, or “taught a lesson” for his aggression. LeFevre concludes that protection alone is a viable option in a free nation, since the stages of defense, retaliation, and punishment require compromises of individual autonomy, a “crossing of the boundary” of another. For purposes of this presentation, LeFevre’s hierarchy will be named as follows: protection, self-defense, restoring the victim, and punitive damages.

5. The Individual As Principal

“The armed society is a polite society.”

Robert Heinlein

Any discussion of the role of private security agents in a free nation⁵ must begin with the individual. An individual is the only “real” entity that exists. All other forms of entities- partnerships, corporations, joint ventures, etc.- are artificial persons formed in a voluntary fashion. Ultimately, each individual is responsible for the protection of his person and chattels. Individuals intuitively practice protective activities when even vaguely aware of a possible threat. Contra to LeFevre, if an individual is granted the ability to take preventative measures, but denied the ability to defend himself when faced with an aggressor, or to seek to be restored from a violation of his property, then one must question the value of the ownership of property or the value one places upon one’s own life.

Since crimes are activities conducted by one person against another, an individual acting as a principal is rightfully entitled to LeFevre’s entire hierarchy of enforcement. It is only when an agent is employed that an unequal or tyrannical “crossing of the boundary” is likely to occur in day-to-day situations. In practical terms, most individuals are not the victims of crime. In the same sense, few individuals are criminals. The vast majority of individuals do not hire agents for individual protection. Those that do, do so for only limited periods of time and for special circumstances. It has been my experience that individuals who feel the need for private protective agents decide to protect themselves when the cost of such services becomes known. This would likely be the case in a free nation as well. It is quite possible that *no* special protective agency could financially survive if it offered only this type of service, at least on this basic level.

Historically, the individual’s right of protection has occasionally been extended, not to an agent *per se* , but to another entity. Family protective

⁵ “Free Nation”: For purposes of this presentation, I am assuming no governmental units exist in regards to law enforcement, except for those listed under # 6, Model B , below.

organizations have been used in many societies. Another example is the spontaneous group reacting to criminal activity- otherwise known as vigilantism. It is quite possible that these adaptations will occur in the absence of a monopolistic police power. Further, one should not discount the effectiveness or the wisdom of such practices under certain circumstances. Vigilante groups have usually consisted of property owners who have each been a victim of a particular aggressor. Once the aggressor is no longer a threat, the vigilante group breaks up and returns to normal productive activities. Vigilantes have been defamed by government police agents- whose jobs do not consist of normal productive activities.

6. Models for Private Law Enforcement

There are several alternatives for private agents to assist in providing a safe and secure environment, as well as assisting individuals who have been the victims of force or fraud. All models assume that individuals can and do act as principals for their own protective needs- whether or not represented by a security agent. Furthermore, any community based privately supplied protection is assumed to be locally controlled.

Model A. Neighborhood and/or community contract. This is the model being implemented by many small towns- a privatization model. Under this model, a competitive contract would be awarded to a security supplier to act as an agent for an entire community or neighborhood. This agent would supply the entire enforcement hierarchy for the community. If an individual desires to participate, payment would be made based upon the value of property owned by the individual. However, individuals and corporations would still be able to contract with other suppliers for their own specialized security needs.

Model B. Market Competition and Grand Jury. This model represents a qualified market environment. Each security agency would contract with as many entities as possible in the community. These companies would primarily supply protection alone (in the enforcement hierarchy). If a violation occurs, the victim would present evidence to a grand jury. If the jurors feel a hearing to determine guilt or innocence is necessary, a contracted agent could be given the task of beginning the remaining enforcement hierarchy. The grand jury would contract with a private agent to accomplish these tasks (service of arrest, hearing security, follow-through of restitution and follow-through of punitive damages awarded). Since each security supplier would attempt to gain the grand jury contract for the community, co-operation between protective agents should develop. (See LeFevre's hypothetical situations, attached). The grand jury could be aided by a type of "sheriff" for the local community- the

grand jury chosen by lot and the sheriff elected from among the individuals of the community. Payment to these suppliers could be made as in Model A, above.

Model C. Pure Competition and Specialists (Bounty Hunters).

This model represents a market only environment. All entities in the community would be responsible for their own security needs, as principals, with an unlimited ability to contact with any agent. Contracts would be awarded for protection (first level of hierarchy). If a violation occurs, a specialist (rather akin to today's bounty hunter) could be hired to effect the remaining components of the enforcement hierarchy.

7. Indemnification and Insurance

If one considers protection as the only valid "enforcement" activity (after Lefevre), there are several alternatives to the activities of restoring the victim and punitive damage.

The first is an indemnification of the principal, should he suffer loss while employing an agent for security. It is common for security companies to assess a client's property prior to offering security service. This assessment pinpoints activities or improvements a client should do to fully protect himself and/or his chattels. This assessment limits the security contractor's liability should a loss occur connected with the weaknesses detected in the assessment. This present practice could be easily extended in a free nation. A protection agent could indemnify a client (principal) against any loss suffered during the contract period. It is a valid assumption that part of the contract negotiations would center on the amounts of indemnity to be paid for various possible occurrences. Private agents could also re-insure themselves against possible losses resulting from a violation of a client's person or chattels.

The second alternative is for the principal to insure himself against loss with a specialized insurer. It is a valid assumption that substantial premium discounts would be granted to entities who contract with a security agent. Such insurers would also be able to inform clients of the effectiveness of various security contractors.

9. A Warning

All protective activities should be conducted in as de-centralized fashion as possible. Current public law enforcement suffered a great decline in community responsiveness and local accountability when the United States federal government

began to “assist” local public agencies. If one surveys local police department practices prior to alcohol Prohibition, one finds that police officers conducted foot patrols of neighborhoods and enjoyed personal relationships with residents on their “beat.” A simple, inexpensive “call-box” was used for reporting incidents and verifying officer safety. These practices are still the norm for private security companies. However, public departments have suffered from federal interference since Prohibition (many local police refused to enforce the Volstead Act). Since that date, the federal government has mandated standards and practices for local law enforcement officials and extended control of local departments by the use of federal matching funds, property seizures, and grants (bribes). The result is a community alienated from its “protectors” and understandably suspicious of intervention in their private affairs. Police officers have also suffered a disassociation from those whom they purportedly serve. An entire police sub-culture now exists- the public is now the “enemy.”

8. Conclusion

Today, the private security industry is growing four times faster than appropriations for public law enforcement. It has been calculated that private agents can supply the same services at one-fourth to one-third of the cost of current public law enforcement. Security in a free nation would be inexpensive, readily available, and very effective.

Appendix

from *The Libertarian* (Orange, CA, 1985)

by Robert LeFevre

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Protection, Defense, Retaliation, Punishment

The first of these actions I will label *protection*. Whatever we do with our own persons or properties, at our own expense, prior to the commission of a crime, which actions are calculated to prevent a crime from occurring, or to achieve a lessening of probability that a crime will occur, can be called by that name.

Bear in mind that no protective device or plan will be perfect. But when that action that we take does prevent a crime, then we have been protected in fact.

Example: A person installs a good bolt lock on his front door. A burglar decides to break in but finds that he cannot open the door because of the lock. He leaves without accomplishing his mission. The owner has been protected.

The characteristic of protection is that when it exists and a crime does not occur, all other questions in respect to defense, retaliation, or punishment become academic insofar as the protected person is concerned.

Protection is, in fact, what we earnestly seek. All of us, including even the criminal, want to be safe in person or property. One of the difficulties in dealing with this area is that we have lumped protection in with all the other kinds of actions we might take. If protection exists, we

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have achieved our goal. The achievement of protection eliminates any necessity of worrying about the other kinds of actions.

Because we turned the problem of protection over to governments a very long time ago, most of us practice a kind of lump-think. We imagine that defense, retaliation, and punishment protect us. They do not. They are all *reactions* to a lack of protection. Government has rarely accomplished much in the field of protection, although we often think it has. It is an agency that deals primarily with defense, retaliation, and punishment. Even granting that there may be some slight gain through the criminal's knowledge that if he commits a crime, he may face defense, retaliation, or punishment, such knowledge rarely deters him. Most criminals imagine that they are clever enough to escape defense, retaliation, or punishment.

Nor is the criminal taking an unwarranted position. Statistics establish that fewer than 19 per cent of all crimes are ever solved by the police. Far fewer than this are convicted, and still fewer serve out their sentences. The odds are and always have been favorable to the criminal when the criminal is facing only the government posture in these areas. Bear in mind that if, in fact, we were protected, there would be nothing for government to do. It is not in the best interest of politicians that we protect ourselves. Were we in fact to be protected, government, even in the fields of defense, retaliation, and punishment, would be as obsolete as the dodo.

There is no major conflict in the libertarian position respecting the desirability and the morality of protection.

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Defense is a word used here to describe whatever is done by the person being victimized, at the time of the criminal act. It relates to the "hot encounter" period. Example: The householder has installed a lock, but it is ineffective and the burglar breaks in. The householder now confronts the burglar and takes steps to motivate him to leave. Obviously, if the burglar had not broken in, such steps would not be necessary. Whatever these steps may be, they can be classified as defense. They might be argument, threat, a show of force, or the application of force.

Many heated exchanges have occurred among libertarians relating to defense. By general agreement, all libertarians admit that in a hot-encounter situation anyone might conceivably do "anything" in order to drive off or defeat an intruder. The pacifists and moralists, while admitting that they, too, might do anything at all under the pressure of expedience, contend that they should not violate the boundaries of an aggressor, and if they do in the excitement of the occasion, they would be in error and performing a wrongful act. Thus, the pacifist and moralist would (hopefully) seek to remotivate the aggressor by peaceful means: reason, argument, persuasion, or by recourse to nothing more serious than a threat.

Activists and egocentrists, on the contrary, argue that in such a situation, anything they do is warranted. Thus, in a hot encounter the party defending himself is justified in no matter what he does. Thus they place themselves in a position that appears practical to them, even though philosophically speaking they are engaged in redefining

their terms and hence adopting a kind of situational ethics. To wit: injury imposed on another is not always wrong. It is wrong only under some circumstances. A major emphasis is placed upon the apparent difference between aggressive and defensive actions. Thus, the initiator of violence is wrong, but the defender is right.

Since, in fact, contenders on both sides agree that they probably would act in their own self-interest, the debate is philosophic and refers to whether there exist principles telling us which actions are right and wrong or whether, in the face of pressure, expedience is the only consideration.

The moralist position contends that reason is more practical than force, that wrongful actions cannot be defined as rightful actions to suit our own egos, and that the personal character of a man will determine how he behaves.

The egocentrists, and others, contend that force is the ultimate weapon; that under pressure imposed by others they will use it and that anyone who argues to the contrary is setting himself up as a martyr. It is unlikely that this debate will be resolved easily or soon.

Retaliation is a word that ties to the concept of retribution. A sister word would be vengeance. It contains the thought of "getting even." A crime has occurred and the criminal has made good his escape. The victim wishes to practice a kind of "one-up-manship." He isn't going to let the criminal "get away with it." Assuming the victim knows who the criminal is (a wholly unlikely contin-

gency), he now initiates an action that is calculated to cross the boundary of the criminal against his will. He retaliates. That is, he imposes on the criminal by force, either to the degree that the criminal has imposed upon him, or in excess.

There is a corollary here that is a subcategory but cannot be overlooked. It is *restitution*. The victim wants to put things back the way they were before he became a victim. If restitution is the objective of the retaliation undertaken, there is a kind of appeal to it that is fondly sought after. If someone takes ten dollars, a TV set, or the family silver, isn't it only right and proper that the items thus taken be returned? And shouldn't the criminal pay for the damage inflicted?

Certainly, restitution is desirable. But it is important to point out that restitution is only possible when minor crimes are under consideration. There is no possible way of obtaining restitution for serious crimes. Assume that someone has been killed by an intruder. How do you get that life returned? Assume a kidnapping, a rape, or criminal arson. How do you put it back as it was before? You cannot. You are left only to wreak vengeance upon the person or property of the criminal.

The argument often stated here is that by killing or jailing the criminal you are protecting society and that we "owe" this to society. If it is the responsibility of the victim to serve society in this regard, a case can be made equally well to show that the individual owes society many other things, including jobs, money, food, or other

benefits.

Punishment is the final category. It contains the assumption that the victim, by some process, has obtained authority over the criminal and may now teach him a lesson by imposing on him. This presumes that the criminal has now become a property belonging to his victim. The victim takes title and then disposes of the criminal as he might with any other property he owns. This is to sanction slavery, the concept that one man may properly own another man and do with him as he pleases.

It appears that if one were to champion slavery, the criminal would be the very last slave anyone would wish to own. Surely, it would be more desirable to own a productive and a constructive slave than one who has engaged in a criminal act. A variation would be that the criminal is a property owned by society. Government, acting allegedly for society, imposes the punishment.

Let us for the moment presume that defense, retaliation, and punishment are desirable. In each case, the assumption is made that the victim, or an agency acting for him, can do rightfully what was a wrongful act when the criminal did it.

This supposition reintroduces what has already been called situational ethics, that is, no action taken against another is right or wrong in itself. All actions are right or wrong, depending upon who performs them and the justification employed in each case. This tends to reinforce the egocentrist position, a crime isn't a crime unless the victim thinks it is. It is all a matter of subjective judgment.

If we assume that defense, retaliation, and punishment are desirable, and at the same time examine the essential ingredient of each act, we learn that in order to perform some defensive actions and all retaliatory and punishing actions, the boundaries of others must be crossed and presumably against the will of the new victim, the known criminal.

If we are to employ an agency for this purpose, then we must grant to that agency the power to impose on anyone at any time by crossing that person's boundary against his will. This is precisely the grant of power originally made to men in government. This is the reason some libertarians believe we must always have a government, even though they imagine a government could be limited to performing the functions of defense, retaliation, and protection, and no more.

It is at this point that the libertarians of the anarcho-capitalist school raise their voices. They recognize that even the limited government championed by the former group can only exist if taxation is continued and if a monopoly of power is granted. So, in place of taxation and a monopoly of power, they suggest the creation of competing market-place agencies, each of which would have as many customers as it could obtain. By this process, taxation could be eliminated. Each retaliatory agency would have only that income which it was able to achieve through selling its services. And each would have only the power granted to it by its own customers.

But the pro-government advocates have some telling

arguments against this position, however attractive it may sound. What would happen in a community of 10,000 persons, they ask, if two competing agencies were created, each having only the income each one obtained from its customers as well as the obligations undertaken to those customers?

Assume that Paragon has 5,000 customers; Acme has 3,000. There are 2,000 persons in the community who decide not to employ the services of any agency. Suppose a customer of Paragon believes he has been victimized by a subscriber of Acme. Would not Paragon seek to violate the boundary of a customer belonging to another agency in order to obtain retribution? If it did, would not Acme, which is under contract to protect its customers, have to defend this customer from Paragon? Is not the situation one which could lead to civil war? Or at best, might it not result in a condition approaching the kind of violence often noted where vigilante committees were formed or where frontier-type feuds took place? And if so, would this improve the chances of a free society?

Here is Mr. A, a customer of Acme, who is accused by a Paragon agent of having stolen Mr. B's television set. Mr. A says he is innocent and declines to discuss the matter. He asks his agent, Acme, to protect his property and prevent an agent of Paragon from entering his home for purposes of search, seizure, or arrest. But Mr. B has a contract with Paragon which requires that agency to institute retaliation in his name and to obtain restoration of the missing television set. The two agencies are now embroiled in a contest over whether or not Paragon

has a right to violate the boundary of a customer of Acme. But how can Paragon prove or disprove the location of the missing set unless it is empowered to search any house? It is unlikely that the thief has left a trail.

Or suppose that suspicion now points to one of the 2,000 persons who have hired no agency to represent them. Does not an innocent man, one viewed merely with suspicion, stand in graver danger from private retaliatory agencies than he might stand if he had to face the present government?

Is it possible for Mr. B, in signing up with Paragon, to grant the power to search Mr. A's house, when Mr. A detests Paragon and prefers Acme? How can one man grant to a third man the power to search a second man's house, whether or not that second man has signed up with anyone?

But all these questions relating to retaliation and punishment disappear if we go back to the point made relating to protection. Protection is something that exists, and is provided for, prior to the commission of any crime. Protection is clearly a market-place function. It requires no grant of power by anyone over anyone. Indeed, private protection already exists and has become a boom industry during the past several years because of government's obvious failure to deal realistically in this area. Individuals, businesses, and industries have purchased private protection despite the heavy taxation they have already paid. Best of all, private protection, purchased in the market, has demonstrated a high level of success. When an individual obtains private protection

through market-place patronage, he finds that his chances of remaining unmolested in his person and property are infinitely greater than before. And note again: if he is protected, the question of defense, retaliation, and punishment becomes academic. He has no further concern. He has paid for his own safety and he has been made safe.

But now the question will be raised: What happens when the individual buys some kind of private protection and it does not work?

The answer, of course, goes to a basic understanding libertarians have respecting all goods and services. Nothing is perfect. If a tailor sells you a suit of clothes that proves to be without merit and contrary to promises and expectations, the normal procedure is to patronize another tailor. If one buys a car that doesn't work well, one buys a different make and model as a replacement. When something goes wrong in the market, whether in respect to price, quality, or normal expectation, the correct procedure, and, indeed, the most efficient procedure, is to patronize another firm. If one buys a lock for his front door and a burglar breaks in, despite the lock, the answer is to get a better lock and, if necessary, a better front door.

Government has taught us to seek vengeance when something goes wrong. We are forever on the prowl for certain of our fellow men whom we wish to ferret out, arrest, convict, and punish. How much more reasonable, economic, and practical to go back to the market to buy a better product or service.

If human beings did not have to pay taxes, the amount of money they would have available for the protection of their lives and property would be prodigious. Given a flow of money in this area, the number of innovations that could be anticipated staggers the mind. There are hundreds of new devices and ideas already coming to the fore, and in a totally free market such innovative new methods and devices would probably multiply rapidly.

One other point should be made. A very great number of so-called crimes are crimes only because government says they are. There are no victims. Some bit of legislation has been violated but no person or property has been injured. When one considers the number of legal actions taken against people who have not paid their taxes, who have gone through stop lights, overparked, or possibly purchased some commodity which government doesn't think they should have, the mind boggles. Better than 60 per cent of all "crime" has produced no victims, unless one presumes that a legislative enactment is a person and so should be protected against trespass.

Government makes no distinction here. The tax evader and the bank robber, to government, are in the same category. Both are thieves. Yet the one has only retained his earnings, while the other has created victims.

Were we to abandon government totally and, along with it, the urge for vengeance and punishment, we would at a single stroke have reduced the amount of crime by a probable two-thirds. Protection can be handled by market-place agencies. It is only vengeance and punishment that require grants of power for some to employ

against others. And at every point where protection works, no other action is necessary or possible. Where protection doesn't work, the libertarian answer is to find a superior product or service.

The libertarian realizes that liberty is not a panacea. Nothing will ever work perfectly. But by relying upon voluntary processes, putting vengeance from the mind and thinking *protection*, a major move toward a free society can and will occur.

No one has any idea how far these ideas can be successfully carried. But there is no question but what the restoration of human liberty has become the most compelling need in human society today.

The libertarian movement has existed for hundreds of years. It will continue to exist. Whether it becomes a major factor in human thinking or a minor subject for scholastic discussion, in large measure relates to the manner in which present-day libertarians conduct their own affairs.

If libertarians will make themselves attractive and successful by market-place activities and by solving their own problems without recourse to government, they will establish a pattern of behavior that cannot help but attract both the wise and the honest.

Defending a Free Nation

by Roderick T. Long

Free Nation Foundation

Forum on Security

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Defense: How?

How should a free nation defend itself from foreign aggression?

Defense: Why?

This question presupposes a prior question: would a free nation *need* to defend itself from foreign aggression? Some would answer no: the rewards of cooperation outweigh the rewards of aggression, and so a nation will probably not be attacked unless it first acts aggressively itself.

On the other hand, if this were true, conflicts would never occur — since no one would make the first aggressive move. It's true that the rewards for cooperation are evident enough that most people do cooperate most of the time. That's what makes human society possible. If people weren't basically cooperative, no government could make them so — since the people in government would have as much difficulty working together as all the rest of us.

Still, a small but troublesome minority obviously do believe they're better off not cooperating: we call them criminals. Maybe they do tend to lose out in the long run — but on the way to that long run they cause a heck of a lot of damage to the rest of us..

More importantly, governments face different incentives from those faced by private individuals. Under a government, the people who make the decision to go to war are not the same people as those who bear the greatest burden of the costs of the war; and so governments are much more likely than private individuals to engage in aggression. Thus it's a mistake to model a nation-state as if it were a single individual weighing costs against benefits. It's more like a split personality, where the dominant personality reaps the benefits but somehow manages to make the repressed personality bear the costs. (Hence the superiority of private protection agencies: a protection agency that chooses to resolve its disputes with other agencies through war rather than arbitration will have to charge constantly rising premiums, and so will lose customers to nicer agencies.)

That doesn't mean governments are completely isolated from the bad effects of war. Certainly the people in power will suffer if they *lose* the war, especially if their country is conquered by the enemy. And they can also share in the prosperity that peace and free trade bring. But the disincentives for war are much weaker for governments than for individuals — which means that it's a dangerous world out there, so a free nation needs a defense.

Why Not a Government Military?

Most societies, at least in this century, handle the problem of national defense by having a large, well-armed, permanent military force, run by a centralized government, funded by taxation, and often (though not always) manned by conscription. Is this a solution that a free nation can or should follow?

I don't think so. First of all, I don't think there should *be* a centralized government. My reasons for this position have been set out in some detail both in FNF Forums and in recent issues of *Formulations*, so I'll just summarize the main points briefly:

First, government is unjust. Government, by definition, requires its citizens to delegate to the ruler all or part of their right to self-defense. (An institution that does not require this is no

government, but something else.) But to "delegate" a right involuntarily is no delegation at all; the right has simply been obliterated. And I do not see how this can be justified. By what right does one group of people, calling itself a government, arrogate to itself the right to take away the rights of others? (As for taxation and conscription, I can't say that these are anything more than fancy words for theft and slavery.)

Second, government is impractical. Government is a monopoly: it prohibits competition and obtains its revenues by force. It thus faces far less market pressure, and its customers are not free to take their money elsewhere. As a result, governments have little incentive to cut costs or to satisfy their customers. Hence governments are, unsurprisingly, notorious for inefficiency, wastefulness, and abuse of power.

So, since I don't want a government, I obviously don't want a government military. However, even in societies that do have a government, I think it's still a good idea not to have a government military. A government which has an *army* that it can turn against its own citizens is a lot more dangerous than a government that doesn't. That's why so many of this country's Founders were so adamantly opposed to a standing army, seeing it as a threat to domestic liberty (see, *e.g.*, the Virginia Declaration of Rights, drafted by George Mason). (A standing navy worried them less because it's harder to impose martial law on land by means of sea power! If the United States had been an archipelago of islands, they might have thought differently.) In this country today, U.S. soldiers are reportedly being asked whether they would be willing to shoot American citizens! A free nation needs to find a less dangerous way of protecting its citizens.

The Dangers of Centralization

Centralized government poses yet another threat to a nation's liberty. The more that control over a society is centralized in a single command center, the easier it is for an invading enemy to conquer the entire nation simply by conquering that command center. Indeed, invaders have historically done just that, simply taking over the power structure that already existed.

By contrast, a society in which power is decentralized lacks a command center whose defeat or surrender can deliver the entire nation into bondage. For example, during the American Revolution the British focused their energies on conquering Philadelphia, at that time the nominal capital of the United States, on the assumption that once the capital had fallen the rest of the country would be theirs as well. What the British failed to realize was that the United States was a loose-knit confederation, not a centralized nation-state, and the government in Philadelphia had almost no authority. When Philadelphia fell, the rest of the country went about its business as usual; Americans were not accustomed to living their lives according to directives from Philadelphia, and so the British troops ended up simply sitting uselessly in the occupied capital, achieving nothing. Hence Benjamin Franklin, when he heard that the British army had captured Philadelphia, is said to have replied, "Nay, I think Philadelphia has captured the British army."

The Dangers of Decentralization?

Having pointed out how excessive centralization can make a nation more vulnerable to foreign domination, let me also point out a respect in which extreme *decentralization* might seem to pose a similar threat.

In the fourth century B.C., the mass murderer we fondly remember as Alexander the Great conquered nearly all of the area we know today as the Middle East. If you want to read a terrifying story, put down the latest Stephen King novel and pick up Arrian's *Campaigns of Alexander*, which in dry and matter-of-fact style records how this erratic psychopath and his tired and aging army somehow swept like lightning across the shattered remnants of the Persian Empire,

conquering city after city after city after city

Now if the various cities had organized some sort of collective defense, and attacked Alexander simultaneously, they would have destroyed his army. Hundreds of thousands of lives would have been saved, and hundreds of cities would have kept their freedom. Instead, the cities faced Alexander one by one, each confident of its own unassailability. And one by one they fell.

This might seem to show that some sort of centralized defense is needed in order to provide effective security. But I don't think it shows exactly that. It does show the need for *organization* — for collective, concerted, cooperative action. But not all organization should be viewed in terms of a top-down hierarchical model in which a central authority issues directives and imposes order on the lower ranks. The key to defending a free nation is to have a system of security decentralized enough to lack a command center the enemy can capture, but organized enough so that the invader must face a united collective defense, not a series of individual skirmishes.

In other words, the key is:

ORGANIZATION WITHOUT CENTRALIZATION

Organization Without Centralization, then, is the goal. How to realize that goal is, of course, another matter.

An Encouraging Note

It is admittedly a difficult balance to strike. Before we despair, however, we should notice that the goal we are trying to achieve is relatively modest. The defense of a free nation will be limited to just that: defense. No military interventions around the globe, no imperialism, no foreign adventuring, no gunboat diplomacy. Which means that a free nation's defense budget will be *much cheaper* than those of its potential enemies. If we put that fact together with the fact that a free nation is also likely to have a much more prosperous economy than its enemies have, we can see some reason for optimism.

Let the Market Take Care of It

Most libertarians have heard the joke: "How many libertarians does it take to change a lightbulb?" "None, the market will take care of it."

Perhaps we can give the same answer to worries about national defense. As students of Austrian economics (see, *e.g.*, the writings of F. A. Hayek) we know that the free market, by coordinating the dispersed knowledge of market actors, has the ability to come up with solutions that no individual could have devised. So why not let a solution to the problem of national defense emerge through the spontaneous order of the market, rather than trying to dictate ahead of time what the market solution must be?

In a sense I think that *is* the answer; but it's incomplete. As students of Austrian economics (see, *e.g.*, the writings of Israel Kirzner), we also know that the efficiency of markets depends in large part on the action of *entrepreneurs*; and on the Austrian theory entrepreneurs do not passively react to market prices (as they do in neoclassical economics), but instead are actively alert to profit opportunities and are constantly trying to invent and market new solutions. I see our role in the Free Nation Foundation as that of intellectual entrepreneurs; our coming up with solutions is part of (though by no means the whole of) what it means for the market to come up with solutions. We *are* the market.

The lightbulb joke captures the Hayekian side of libertarian economics, and Hayek's insight is an important one. But before following Hayek in a tirade against the evils of "constructive

rationalism," we should remember to balance the Hayekian insight against the equally important Kirznerian insight that the working of the market depends on the creative ingenuity of individuals.

I would thus suggest a different ending to the joke: "How many libertarians does it take to change a lightbulb?" "I'll do it, for a dollar."

The Three Economies

In short, then, although we cannot hope to predict precisely what solutions the market will come up with, it's worth trying to figure out what could work — and indeed, like good entrepreneurs, try to influence the market process in the direction of the solutions we like. (In any case, we'll have an easier time getting people to join the free nation movement if we have something to tell them about how we propose to defend the nation we hope to found!)

In attempting to devise solutions to the problem of national defense, we need to make sure that we're not limiting our search to an excessively narrow range of options. In this context I find extremely useful a distinction that was first explained to me by Phil Jacobson. Jacobson pointed out that one can distinguish three kinds of economy: the Profit Economy, the Charity Economy, and the Labor Economy. (I'm not sure I'm using Jacobson's exact terminology, but never mind.) In the Profit Economy, the people who want some good or service X can obtain X by paying someone else to provide it. In the Charity Economy, the people who want X can obtain it by finding someone who will give it to them for free. In the Labor Economy, the people who want X can obtain it by producing it themselves. As Jacobson notes, when free-market anarchists start looking for voluntary private alternatives to government, they tend to think primarily in terms of the Profit Economy — while left-wing anarchists, on the other hand, tend to think primarily in terms of the Labor Economy. Yet in any real-world market system, all three economies coexist and interact, in different combinations depending on culture and circumstances.

Suppose, for example, that a family emergency arises, and I need more money than my regular income supplies. How can I get the extra money?

I might take a second job, or get a loan. Both these solutions are available through the Profit Economy; if I take the job, I am paying for the money with my labor; if I get a loan, I am paying for the loan through interest payments. In either case, I solve my problem by finding someone who will help me in exchange for some good or service I can offer.

Or I might appeal to a private charity, or to a government welfare program — or obtain an interest-free loan from a friend. In this way, I would be getting my money through the Charity Economy: I find someone who will help me for free.

Or I might cut down on expenses by growing my own food in my garden; or perhaps I could draw on the pooled resources of a mutual-aid organization like those I have described in "How Government Solved the Health Care Crisis: Medical Insurance that Worked — Until Government 'Fixed' It" (*Formulations*, Vol. I, No. 2 (Winter 1993-94)) and "Anarchy in the U.K.: The English Experience With Private Protection" (*Formulations*, Vol. II, No. 1 (Autumn 1994)). This solution involves the Labor Economy: I find some way of helping myself (perhaps in concert with others who are helping themselves).

In looking for free-market approaches to national defense, then, we should be sure to consider ways in which each of Jacobson's "three economies" might be able to help.

Defense via the Profit Economy

In the literature of market anarchism, the most commonly offered solution to the problem of *domestic* security is the private protection agency. (I shall assume general familiarity with this

theory. For more details, see, *e.g.*, David Friedman's *Machinery of Freedom*, Murray Rothbard's *For A New Liberty*, and Bruce Benson's *Enterprise of Law*.) In this context, the most obvious solution to the problem of *national* security is simply to have the protection agencies (or some of them, or a consortium of them) offer to sell protection against foreign invaders as well as domestic criminals.

Some market anarchists, like David Friedman, are sympathetic to this solution, but pessimistic about its viability. The difficulty is that national security poses a much greater *public goods problem* than domestic security, because it is much harder to exclude non-contributors from the benefits of national security — and if non-contributors can't be excluded, there's no incentive to contribute, and so the agencies selling this protection can't gain enough revenue to make it worth their while.

I have explained elsewhere why I do not regard the public goods problem as a terribly serious difficulty. ("The Nature of Law, Part I: Law and Order Without Government," *Formulations*, Vol. I, No. 3 (Spring 1994); "Funding Public Goods: Six Solutions," *Formulations*, Vol. II, No. 1 (Autumn 1994).) So I won't say much about it here.

There are other problems associated with a Profit Economy solution. A united military defense seems to require some degree of centralization in order to be effective, and there is the danger that a consortium of protection agencies selling national security might evolve into a government, as the Anglo-Saxon monarchs in the Middle Ages, thanks to the pressure of constant Viking invasions, were able to evolve from military entrepreneurs providing national defense in exchange for voluntary contributions, to domestic dictators with the power to tax and legislate.

This danger might be especially pressing if the consortium's soldiers are more loyal to the consortium than to the clients. Political authors from Livy to Machiavelli have warned against the use of foreign mercenaries rather than citizen soldiers, because it is easier for a government to turn foreign mercenaries against its own citizens. A vivid example of this was seen during the Polish government's attempt to crack down on the Solidarity movement in the 1980's; when a crowd had to be crushed and beaten, the government used Russian troops, because they feared Polish troops might be divided in their loyalties. (This perhaps gives us some reason to view with alarm the increasing use of multinational U.N. forces by Western governments.)

But the problem is perhaps not insuperable. A consortium of defense agencies would lack the mantle of legitimacy and authority available to a king or government, which would make a power grab more difficult. Moreover, the citizens of a free nation would presumably be armed; and the freedom of any people against an encroaching government rests, in the final analysis, on their possession of arms and their willingness to use them. (Hence governments bent on consolidating their power have generally followed Cardinal Richelieu's advice to the French monarchs: disarm the people, disband local militias, and monopolize access to weapons in the hands of the central government. But Machiavelli advised the opposite, since he saw an armed populace as an integral part of national defense; thus, like such earlier political thinkers as Xenophon, he would have regarded today's advocates of gun control as unwisely weakening their nation's security against invasion.¹ In any case, whether a government or would-be government can succeed in disarming the people ultimately depends on the vigilance of the people themselves; and for this I know no automatic formula.)

Defense via the Charity Economy

People donate money all the time to causes they care about. And the more prosperous they are, the more they donate. Unless libertarian economics is hopelessly wrong — in which case we might as well give up now — people in a free nation would be extremely prosperous. And

they would presumably care about national security. So we can predict that a great deal of money could be collected for purposes of national defense by charity alone. Since, as mentioned above, the financial needs of a truly *defensive* national defense are relatively modest, charity could easily be a major source of defense funds.

Let me mention two problems that occur to me. First, there's the matter of determining the appropriate *recipient* of these donations. How could such a recipient be prevented from misusing the weapons it purchases? In essence this is simply the problem of a consortium turning into a government, which was discussed above. The subject of how to prevent libertarian anarchy from evolving into government again — and perhaps a worse government than the one the anarchist system displaced — is a vitally important issue, but one too vast to consider in depth here. (I think this would be an excellent subject for a future FNF Forum.)

The second, related difficulty is this: As I mentioned in "Funding Public Goods: Six Solutions" (*Formulations*, Vol. II, No. 1 (Autumn 1994)), large companies will have a motive — namely, good publicity — to donate large sums to national defense (just as they now improve their image by donating to environmental causes, *etc.*). That's the good news. But the bad news, seemingly, is that these contributions might enable such companies to skew national security decisions in their favor (analogous to large corporations like United Fruit / United Brands getting the U.S. military to intervene to promote corporate interests in Guatemala — or oil companies getting the CIA to oust Mossadegh in Iran; for details, see Jonathan Kwitny's *Endless Enemies*).

But I think this would be much less of a problem in a market anarchist society than it is today. Government *magnifies* the influence of the rich, because government decision-makers do not own the money they control, and so are willing to spend a larger sum to promote corporate interests than they actually receive from those interests in the way of bribes and campaign contributions. Private protection agencies' costs would be internalized, and so the corporate class would be deprived of this crucial lever. (This would not make it utterly ineffective; for my worries on this score, see my article "Can We Escape the Ruling Class?" (*Formulations*, Vol. II, No. 1 (Autumn 1994))). But it would significantly decrease its power.)

Defense via the Labor Economy: An Armed Populace

I think both the Profit Economy and the Charity Economy are viable as providers of defense services. There are admittedly problems about trusting the providers of those services, but I think those problems may be soluble.

But to the extent that it *is* dangerous to delegate the power of national defense, perhaps a significant degree of *self-help* should be an important ingredient in any national security package. As mentioned above, an armed populace is the ultimate safeguard of a nation's liberties, against threats both foreign and domestic.

A possible drawback to a heavy reliance on armed civilian-based defense is that it cannot take effect until the enemy has already entered the country — at which point it might seem that the cause is hopeless. But Machiavelli, in his *Discourses on Livy*, argues persuasively that it is better to meet the enemy on your own home ground rather than his — *if*, he adds, you have an armed populace. If your populace is *not* armed, he warns, you should engage the enemy as far from your own soil as possible.

I have often heard it said that it takes roughly three times as many troops to invade a country as to defend it; the defender knows the territory better, does not face hostile locals, and has a much shorter and so less vulnerable supply line. Many military theorists have argued that the South might have won the Civil War if they had stayed put and relied on sniping and guerilla warfare against the invader instead of marching forward to meet the Northern troops on equal terms, in

regular battle array. The armed citizenry of Switzerland has long posed a powerful deterrent against potential invaders, enabling that country to maintain peace and freedom for what in comparative terms is an amazingly long time. (Of course, having your country surrounded by Alps doesn't hurt!)

An armed populace, then, may be a viable defense. But recall the lesson of Alexander: unless an armed defense is *organized*, an invader can simply pick off individual armed neighborhoods one at a time. What is needed, then, is some kind of citizens' militia. But a militia called up and directed by a centralized government poses difficulties we've mentioned already. The key, remember, is: ORGANIZATION WITHOUT CENTRALIZATION.

The best kind of militia, then, might be one organized along the following lines. Begin with a number of local neighborhood militias, run by their members on a democratic basis — the military equivalent of the mutual-aid societies discussed in recent issues of *Formulations*. A number of these local militias get together to form a county militia, which in turn combines with others to form a statewide militia, and so forth — so the ultimate National Militia would be organized as an "association of associations" (the French anarchist Proudhon's formula for what should replace the state), with power and authority running from bottom to top rather than top to bottom. (As for manpower, although many militias have traditionally relied on conscription, this seems unnecessary; if a nation is genuinely under attack — as opposed to engaging in foreign interventions — there is never a shortage of volunteers. And where the populace is used to bearing and handling arms, the training period required for new recruits would be shorter.) Members of each militia would elect their commanding officers (as American soldiers did during the Revolutionary War), and so on up to the commander-in-chief of the National Militia. This bottom-up approach, replacing the top-down approach of a traditional military, would make it much more difficult for the supreme military leader to seize power. Such a militia might well be able to achieve the goal of organization without centralization.³

This model might have to be changed somewhat in order to be adapted to a minarchist rather than an anarchist society; we would need to think about whether or not to make the commander-in-chief of the militia subordinate to the libertarian government. Both a yes and a no seem to pose dangers. I welcome suggestions on this topic.

Defense via the Labor Economy: Nonviolent Resistance

Another possible form of organized self-help against an invader is the strategy of nonviolent resistance. This may sound impractical; yet sustained and widespread nonviolent resistance ultimately drove the British out of India, the French and Belgians out of the Ruhr, the Kapp Putschists out of power in Weimar Germany, and racial segregation out of the United States. Nonviolent resistance — "the secession of the plebs" — was also used effectively in ancient Rome by the plebeians against the Senate; and nonviolent resistance by war protestors in this country played an important role in ending the Vietnam War. Nonviolent resistance also had a significant impact against the British in the early phase of the American Revolution, and more recently against totalitarian governments during the Fall of Communism.

Nonviolent resistance often fails, of course, as the blood of Tiananmen should remind us. But violent resistance often fails too. It's worth considering whether, to what extent, and under what circumstances nonviolent resistance could be an effective tool of national defense.

Many theorists of nonviolent resistance — *e.g.*, Tolstoy, Gandhi, LeFevre — advocate it primarily on ethical grounds, because they view the use of violence as immoral even in self-defense. I do not share this view. (For my reasons, see my article "Punishment vs. Restitution: A Formulation," in *Formulations*, Vol. I, No. 2 (Winter 1993-94).) But a recent article by Bryan

Caplan ("The Literature of Nonviolent Resistance and Civilian-Based Defense," *Humane Studies Review*, Vol. 9, No. 1 (1994)) defend the superiority of nonviolent resistance on purely *strategic* grounds:

"The ability of the government to use violence greatly exceeds that of the rebels. Indeed, violent rebellion often strengthens oppressive regimes which can plausibly claim that rebel violence necessitates repression. Government's comparative advantage lies in violent action. The comparative advantage of the people, in contrast, lies in their ability to deny their cooperation without which it is nearly impossible for government to persist. Consider the deadliness to a government of tax strikes, boycotts, general strikes, and widespread refusal to obey the law. While these tactics are nonviolent, their universal and unyielding use should terrify any government.

Nonviolence has other advantages as well. Because it seems less dangerous and radical than violence, it more easily ... wins broad public support. The costs of participation are lower, so more people are likely to participate. Traditional noncombatants like children, women, and the old can effectively participate in nonviolent struggle. It is more likely to convert opponents and produce internal disagreement within the ruling class. It generally leads to far fewer casualties and material losses than violence. And since it is more decentralized than violent action, it is less likely to give rise to an even more oppressive state if it succeeds."

(Caplan, p. 6.)

To those who object that an oppressive government can simply mow down such defenseless dissenters, making nonviolent resistance impractical, Caplan replies that

"... ideology and consent — whether grudging or enthusiastic — rather than brute force are the ultimate basis of political power. If a large enough segment of the population refuses to comply with the government, it will lose its ability to rule. Merely the threat of non-compliance is often serious enough to provoke the government to redress grievances. Moreover, when governments use violence against protesters who are clearly committed to nonviolence, they undermine their ideological foundations and often make uncontested rule even more difficult. ... the very fact that the protesters remain committed to nonviolence even as the government turns to repression to combat them tends to win over previously neutral groups, and inspire and involve other members of persecuted groups. [Gene Sharp] refers to this as 'political jiu-jitsu' — jiu-jitsu being a style of martial art that uses an opponent's aggressiveness and ferocity against him. ... insofar as it succeeds, it usually does so by converting opponents, making repression too costly to maintain, and threatening the very ability of the government to maintain power."

(Caplan, pp. 4-5.)

The rise of Christianity might be a good example of what Caplan is talking about; through their nonviolent resistance to persecution, the tiny sect won the sympathy and admiration of many Romans, and ultimately secured their conversion. (Unfortunately, after the Christians gained power, their attachment to nonviolence waned)

Caplan extends the idea of nonviolent resistance to the arena of national defense:

"... deterrents are not limited to standard military ones. Rather, it is merely necessary to make occupation so difficult that the costs of conquest exceed the benefits. Massive tax

resistance, boycotts, incitement of desertion, and strikes might accomplish this. And, if a would-be conqueror realized that nonviolent techniques might make the costs of occupation skyrocket, he might be deterred from trying."
(Caplan, p. 7.)

Nonviolent resistance to foreign invasion has had a surprisingly strong history of success, and Caplan cites many fascinating examples. He also notes that nonviolent resistance has sometimes been effective, at least in a limited way, even against the most brutal and totalitarian of invaders: "the nations which nonviolently resisted National Socialist racial persecutions [*e.g.*, Norway, Denmark, Belgium] saved almost all of their Jews, while Jews in other Nazi-controlled nations were vastly more likely to be placed in concentration camps and killed." (p. 10.) But he stresses that nonviolent resistance could be far more effective through *organization*:

"... since most nonviolence has historically been sporadic and unorganized, it might be possible to increase its effectiveness through training and strategic and tactical planning. ... What would happen if countries spent as much energy preparing for a nonviolent struggle as they do for a military struggle?"
(Caplan, p. 6.)

Among possible stratagems for increasing the effectiveness of nonviolent resistance, Caplan suggests

... "general education and training in the techniques of nonviolence, as well as a 'West Point' for training specialists; the wide-spread dissemination of publishing and broadcasting equipment to prevent invaders from seizing all of the means of communication; and local stockpiles ... to ease the pain of a general strike."
(Caplan, p. 7.)

Caplan's main source for the ideas he discusses is Gene Sharp, who has devoted his career to investigating how the techniques of nonviolent resistance might be applied to the problem of national defense. Among the works by Sharp cited by Caplan are: *The Politics of Nonviolent Action*; *Exploring Nonviolent Resistance*; *Gandhi as a Political Strategist*; *Social Power and Political Freedom: Making Europe Unconquerable*; *National Security Through Civilian-Based Defense*; and *Civilian-Based Defense: A Post-Military Weapons System*. Caplan also cites dozens of other works on the subject; I shall simply mention two of the ones that sounded most interesting: *Civilian Resistance as a National Defense* by Adam Roberts, and *War Without Weapons* by Anders Boserup & Andrew Mack. I have not read any of these books, but I intend to.

I can also recommend two delightful science-fiction novels that illustrate these ideas: Eric Frank Russell's *The Great Explosion* and James Hogan's *Voyage From Yesteryear*. In *The Great Explosion*, a very funny and satirical book, bureaucrats and military brass from Earth attempt to reestablish Earth's control over the planet Gand, a world of anarcho-pacifists who successfully apply the techniques of nonviolent resistance to frustrate and/or win over the would-be invaders. In *Voyage From Yesteryear*, a less satirical, more realistic work, the basic plot is the same, except that the anarchist planet (now Chiron, not Gand)³ is not pacifist, and its inhabitants are willing and able to use violence to defend their freedom. They do not rely on violence alone, however, but successfully blend violent with nonviolent techniques to frustrate and/or win over the invaders, with the same result as in Russell's book. (On a rather different note, Vernor Vinge's

novel *Across Realtime* tells the story of a government whose invasion of an anarchist society fails because rich crackpots holed up in the anarchist wilderness turn out to have been stockpiling privately owned nuclear weapons! Different strokes for different folks, I guess. All three books are well worth reading.)

I am, I suspect, somewhat less optimistic than Bryan Caplan is about the effectiveness of a purely nonviolent approach to national defense. I'm still inclined to rely on an armed populace, private protection agencies, and an organized but decentralized militia. (For a more cautious assessment than Caplan's of the effectiveness of nonviolent techniques, see Ted Galen Carpenter's "Resistance Tactics: A Review of *Strategic Nonviolent Conflict: The Dynamics of People Power in the Twentieth Century* by Peter Ackerman and Christopher Kruegler," in *Reason*, January 1995.) But Caplan's suggestions deserve our serious consideration. Perhaps the best solution would be one that, rather than either rejecting nonviolence altogether or relying on nonviolence *alone*, managed to integrate aspects of nonviolent resistance into a violent-if-necessary militia framework (thus following the example of Chiron rather than of Gand).⁴

In any case, I strongly endorse Caplan's closing plea for further research by libertarians into this area:

"Despite their distrust of state power and interventionist foreign policy, classical liberals have had a difficult time envisioning specific alternatives to violence to combat tyranny. The literature of nonviolent resistance is filled with penetrating insights in this area. And, while classical liberals frequently long for alternatives to both electoral politics and violence, specific suggestions have been sparse. These are merely a few gaps that the nonviolence literature may fill. On a more aesthetic note, many of the historical examples of nonviolence are beautiful illustrations of the power of voluntary institutions to supplement or replace the role of the state."

(Caplan, p. 12.)

Who Will Defend Against the Defenders?

On surveying the options, then, I would argue that as libertarians we have reason to place confidence — albeit cautious confidence — in a three-pronged strategy for defending our free nation, should we be fortunate enough to get one.

- First prong: a regular high-tech military defense, supported by paying customers and charitable contributions alike.
- Second prong: an armed citizenry, organized into a decentralized militia.
- Third prong: organized nonviolent resistance.

These prongs might well be combined into a single fearful scimitar: a militia, collecting dues from its combatant members and contributions from noncombatants or nonmembers, and coordinating violent and nonviolent resistance through one and the same democratic structure.

This would be an impressive military force, I think. And it makes me wonder: what will protect other nations from *us*? As I read more and more ancient and mediæval history, I come to realize that anarchic, decentralized, egalitarian, individualistic societies are not necessarily peaceful societies. The Celtic and Viking societies we admire so much as libertarian models were

among the most effective raiders and conquerors in history. What is to prevent our free nation from itself becoming a threat to the security of other nations (and thus ultimately a threat to its own security, as those nations are provoked into attacking us)?

This worry might be reinforced by reading Machiavelli's *Discourses on Livy*, a book I have already cited several times now — and a much more interesting and important book, I think, than his more famous (or notorious) work *The Prince*. (The *Discourses on Livy* is not a libertarian book by any means; but it contains much for libertarians to ponder. What strikes a libertarian in reading it is the odd way in which Machiavelli manages to combine the *political* insight and perspicacity of an Isabel Paterson — with the *economic* insight of a log.)

Machiavelli argues that a free nation is the greatest possible threat to the freedom of other nations:

- free nations are more prosperous, and thus better armed;
- they are more politically stable, and thus harder to defeat through treachery;
- there is higher morale among their citizens, thus making them better soldiers;
- equal opportunity and free competition among citizens tend to reward, and thus to foster, what Machiavelli calls *virtù* (by which he means, not "virtue" in our sense, but a combination of self-discipline, boldness, and ingenuity — which are nice things to have in your own nation, but can be dangerous traits in a vigorous and aggressive nation next door);
- and the high standard of living enjoyed by free nations leads to an increase in population, thus creating a pressure to expand into the territory of their neighbors.

Machiavelli cites Rome and Athens as instances (see also the account of Athens in Thucydides' *History of the Peloponnesian War*, in particular comparing Pericles' panegyric to Athenian libertarianism at II. 34-46 with the Corinthian speech on the restless energy and *virtù* of Athenian imperialism at I. 68-71); today Machiavelli might add the United States. Of course there are counterexamples: Switzerland, for instance. And despite Machiavelli's brilliance, he seems to have little understanding of the free market; his notion of a free society thus does not appear to include the concept of free trade, which nineteenth-century classical liberals favored in part because of its tendency to create ties of mutual dependence that discouraged war. Still, it is true that freedom, together with the technological progress that freedom brings in its train, has the effect of increasing people's options; and one goal one can better pursue when one's options have increased, is the decreasing of one's neighbors' options.

But maybe the solution is that the free nation's neighbors had better become free nations themselves!

Notes

¹ Though Machiavelli may not be consistent on this point. He insists that it weakens a nation militarily to have a *disarmed* populace; but he also insists that it's dangerous in peacetime to have an *armed* populace — since, in the absence of an external enemy, they might turn their arms against the government. (Oh no!) But I suspect Machiavelli's solution would be to keep the nation constantly at war — since his model of an ideal nation is the Roman Republic, which

Machiavelli praises precisely for its policy of permanent war, whereby it constantly and unceasingly expanded and gobbled up other people's territory. That way, since pesky peacetime never arrives, you get all the advantages of an armed populace with none of the disadvantages. Since my aims are rather different from Machiavelli's (I want to *discourage* imperialism and *encourage* resistance to government, not the other way around), I can accept his analysis without sharing his precise recommendations!

² Phil Jacobson has pointed out to me that volunteer fire departments have historically succeeded in coordinating their activities with one another without centralized control; an unusually large fire in town A will bring in fire departments from towns B, C, and D as well. This example makes me wonder whether an association-of-associations militia would need a commander-in-chief at all.

³ Gand is named, of course, after Gandhi. The significance of the name Chiron is harder to guess. In Greek mythology, Chiron was the centaur who tutored Achilles, and Hogan's use of the name may be a reference to the fact that the first generation of his Chironians were reared by robots rather than humans. Another hypothesis (somewhat less likely given Hogan's militant antipathy toward Christianity) is that Chiron is a pun on Chi-Rho, the traditional Greek abbreviation for Christ, signifying that the Chironians embody the true essence of Christianity.

⁴ As these Proceedings go to press, the secessionist rebels in Chechnya are having a surprising, though sadly limited, degree of success in employing a mixture of violent and nonviolent techniques against Russian troops.

Insurance for Security: History and Theory

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Forum on Security
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*This piece is a supplement to my main piece, "Defending a Free Nation,"
and consists of three articles reprinted from Formulations.*

How Government Solved the Health Care Crisis Medical Insurance that Worked — Until Government "Fixed" It by Roderick T. Long

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Today, we are constantly being told, the United States faces a health care crisis. Medical costs are too high, and health insurance is out of reach of the poor. The cause of this crisis is never made very clear, but the cure is obvious to nearly everybody: government must step in to solve the problem.

Eighty years ago, Americans were also told that their nation was facing a health care crisis. Then, however, the complaint was that medical costs were too *low*, and that health insurance was too *accessible*. But in that era, too, government stepped forward to solve the problem. And boy, did it solve it!

In the late 19th and early 20th centuries, one of the primary sources of health care and health insurance for the working poor in Britain, Australia, and the United States was the fraternal society. Fraternal societies (called "friendly societies" in Britain and Australia) were voluntary mutual-aid associations. Their descendants survive among us today in the form of the Shriners, Elks, Masons, and similar organizations, but these no longer play the central role in American life they formerly did. As recently as 1920, over one-quarter of all adult Americans were members of fraternal societies. (The figure was still higher in Britain and Australia.) Fraternal societies were particularly popular among blacks and immigrants. (Indeed, Teddy Roosevelt's famous attack on "hyphenated Americans" was motivated in part by hostility to the immigrants' fraternal societies; he and other Progressives sought to "Americanize" immigrants by making them dependent for support on the democratic state, rather than on their own independent ethnic communities.)

The principle behind the fraternal societies was simple. A group of working-class people would form an association (or join a local branch, or "lodge," of an existing association) and pay monthly fees into the association's treasury; individual members would then be able to draw on the pooled resources in time of need. The fraternal societies thus operated as a form of self-help insurance company.

Turn-of-the-century America offered a dizzying array of fraternal societies to choose from. Some catered to a particular ethnic or religious group; others did not. Many offered entertainment and social life to their members, or engaged in community service. Some "fraternal" societies were run entirely by and for women. The kinds of services from which members could choose often varied as well, though the most commonly offered were life insurance, disability insurance, and "lodge practice."

"Lodge practice" refers to an arrangement, reminiscent of today's HMOs, whereby a particular society or lodge would contract with a doctor to provide medical care to its members. The doctor received a regular salary on a retainer basis, rather than charging per item; members would pay a yearly fee and then call on the doctor's services as needed. If medical services were found unsatisfactory, the doctor would be penalized, and the contract might not be renewed. Lodge members reportedly enjoyed the degree of customer control this system afforded them. And the tendency to overuse the physician's services was kept in check by the fraternal society's own "self-policing"; lodge members who wanted to avoid future increases in premiums were motivated to make sure that their fellow members were not abusing the system.

Most remarkable was the low cost at which these medical services were provided. At the turn of the century, the average cost of "lodge practice" to an individual member was between *one and two dollars a year*. A day's wage would pay for a year's worth of medical care. By contrast, the average cost of medical service on the regular market was between one and two dollars *per visit*. Yet licensed physicians, particularly those who did not come from "big name" medical schools, competed vigorously for lodge contracts, perhaps because of the security they offered; and this competition continued to keep costs low.

The response of the medical establishment, both in America and in Britain, was one of outrage; the institution of lodge practice was denounced in harsh language and apocalyptic tones. Such low fees, many doctors charged, were bankrupting the medical profession. Moreover, many saw it as a blow to the dignity of the profession that trained physicians should be eagerly bidding for the chance to serve as the hirelings of lower-class tradesmen. It was particularly detestable that such uneducated and socially inferior people should be permitted to set fees for the physicians' services, or to sit in judgment on professionals to determine whether their services had been satisfactory. The government, they demanded, must do something.

And so it did. In Britain, the state put an end to the "evil" of lodge practice by bringing health care under political control. Physicians' fees would now be determined by panels of trained professionals (*i.e.*, the physicians themselves) rather than by ignorant patients. State-financed medical care edged out lodge practice; those who were being forced to pay taxes for "free" health care whether they wanted it or not had little incentive to pay extra for health care through the fraternal societies, rather than using the government care they had already paid for.

In America, it took longer for the nation's health care system to be socialized, so the medical establishment had to achieve its ends more indirectly; but the essential result was the same. Medical societies like the AMA imposed sanctions on doctors who dared to sign lodge practice contracts. This might have been less effective if such medical societies had not had access to government power; but in fact, thanks to governmental grants of privilege, they controlled the medical licensure procedure, thus ensuring that those in their disfavor would be denied the right to practice medicine.

Such licensure laws also offered the medical establishment a less overt way of combating lodge practice. It was during this period that the AMA made the requirements for medical licensure far more strict than they had previously been. Their reason, they claimed, was to raise the quality of medical care. But the result was that the number of physicians fell, competition dwindled, and medical fees rose; the vast pool of physicians bidding for lodge practice contracts had been abolished. As with any market good, artificial restrictions on supply created higher prices — a particular hardship for the working-class members of fraternal societies.

The final death blow to lodge practice was struck by the fraternal societies themselves. The National Fraternal Congress — attempting, like the AMA, to reap the benefits of cartelization — lobbied for laws decreeing a legal minimum on the rates fraternal societies could charge. Unfortunately for the lobbyists, the lobbying effort was successful; the unintended consequence was that the minimum rates laws made the services of fraternal societies no longer competitive. Thus the National Fraternal Congress' lobbying efforts, rather than creating a formidable mutual-aid cartel, simply destroyed the fraternal societies' market niche — and with it the opportunity for low-cost health care for the working poor.

Why do we have a crisis in health care costs today? *Because government "solved" the last one.* ▲

Bibliography

David T. Beito. "The 'Lodge Practice Evil' Reconsidered: Medical Care Through Fraternal Societies, 1900-1930." (unpublished)

David T. Beito. "Mutual Aid for Social Welfare: The Case of American Fraternal Societies." *Critical Review*, Vol. 4, no. 4 (Fall 1990).

David Green. *Reinventing Civil Society: The Rediscovery of Welfare Without Politics*. Institute of Economic Affairs, London, 1993.

David Green. *Working Class Patients and the Medical Establishment: Self-Help in Britain from the Mid-Nineteenth Century to 1948*. St. Martin's Press, New York, 1985.

David Green & Lawrence Cromwell. *Mutual Aid or Welfare State: Australia's Friendly Societies*. Allen & Unwin, Sydney, 1984.

P. Gosden. *The Friendly Societies in England, 1815-1875*. Manchester University Press, Manchester, 1961.

P. Gosden. *Self-Help: Voluntary Associations in the 19th Century*. Batsford Press, London, 1973.

Albert Loan. "Institutional Bases of the Spontaneous Order: Surety and Assurance." *Humane Studies Review*, Vol. 7, no. 1, 1991/92.

Leslie Siddeley. "The Rise and Fall of Fraternal Insurance Organizations." *Humane Studies Review*, Vol. 7, no. 2, 1992.

S. David Young. *The Rule of Experts: Occupational Licensing in America*. Cato Institute, Washington, 1987.

Anarchy in the U.K.

The English Experience With Private Protection

by Roderick T. Long

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Among the aims of [this] Forum is to consider the extent to which private insurance might, in a free society, take over the functions we currently assign to government. The principles of laissez-faire economics may convince us that private insurance could indeed play this role, but we will undoubtedly feel more confident if this theoretical conclusion can be backed up by concrete examples from history.

[Above] I have discussed how one particular form of insurance, the *mutual-aid association*, acted as an effective private substitute for government welfare programs, particularly in the area of medical care. ... In this [article] my concern is with the role of mutual-aid associations in providing security; and I shall focus on two historical cases from England, which has a long history of private provision of "government" services.

Law Enforcement by Mutual Aid: The *Borh*

Before the Norman Conquest in 1066, government in England was radically decentralized. The King had little or no role in setting domestic policy; this was left to the *moots*, local courts

that passed judgment in accordance with customary law. The King's authority lay primarily in the area of foreign policy, and here he acted simply as a war leader, a kind of military entrepreneur, whose followers supplied financial contributions and military service *voluntarily*. England possessed neither a police force nor a standing army; law enforcement and national defense alike were the prerogative and responsibility of the armed citizenry.

For purposes of security, the most important social unit was the *borh*. A *borh* was an association, typically of twelve people, who stood surety for one another's good behavior. If a member of a *borh* committed a crime, the other members were committed to bringing him to justice — but also to helping him pay restitution for his crime. (Financial restitution rather than retribution was the normal sentence for most crimes; those who refused to pay restitution were outlawed, that is, placed outside the law — meaning that anyone could kill them with impunity.)

The *borh* may have originated as a kinship group, but if so, its kin-based aspects soon dwindled; at the height of the Anglo-Saxon system, *borhs* were purely contractual arrangements. Individuals were free to apply to a *borh* of their choosing, and members of that *borh* were likewise free to accept or refuse the applicant; once accepted, an individual was free to leave, and could also be expelled. Since the members of the *borh* would be held responsible for one another's actions, there was a strong incentive to police members' behavior. Likewise, there was a strong incentive to belong to a *borh* and not be kicked out, because few were willing to deal with someone who belonged to no *borh*; such a person was in effect an uninsured risk, since he had no fellow *borh*-members standing surety for him. The *borh* system thus created powerful incentives for responsible behavior.

As Tom Bell notes:

"Such reciprocal voluntary agreements have a certain timeless appeal. Consider the modern parallels: like insurance agencies, the surety groups [*borhs*] helped members to spread risk by pooling assets; like credit bureaus, they vouched for the good standing of their own members and denied access to outsiders who had demonstrated their unworthiness; like credit card companies, they stood behind the claims and acts of their members." ("Polycentric Law," p. 4.)

It might be objected that such a system could not work in today's vast, impersonal, and highly mobile society, where the close ties and personal knowledge required for effective *borh* membership are often absent. Reputation, it might seem, can serve as an effective incentive only in a small community where everyone knows everyone else. But the experience of the Law Merchant suggests otherwise: this vast system of private mercantile law that operated via reputation, credit, and economic boycott, was able to regulate commercial transactions across all Europe in the late Middle Ages, among merchants of different nations, without the benefit of either face-to-face interaction or government enforcement. And in the modern information age of instantaneous electronic communications, credit reports, and the like, one might well expect reputation to serve even more effectively as a tool for maintaining social order privately.

What ultimately destroyed the *borh* system was the subjection of England in 1066 by the Norman invader William the Conqueror, who sought to consolidate his victory by completing a centralization of royal power that had actually begun as early as the ninth century with Aelfred the Great. William and his successors sought to bring the *borh* system under royal supervision and control, in part so that a healthy slice of the financial compensation administered by the *borhs* could be diverted to the royal coffers.

Whatever the reason, the Norman conquerors introduced the Frankpledge system, which replaced the *borhs* with *tithings*, ten-person groups that served the same function as the old *borhs* — with the crucial exception that membership in a *tithing* was *not voluntary*. Without the right of free entry and exit, and the correlative right to refuse admittance or to expel, the Frankpledge system could not reproduce the *incentives* of the former system. The *borh* system penalized irresponsible behavior; but under the Frankpledge system, a *tithing* had no comparable leverage over its members, who could now misbehave with impunity. The element of *competition* had been eliminated — with predictably bad results.

Law Enforcement by Mutual Aid: The Thief Takers

In the late eighteenth and early nineteenth centuries, the mutual-aid approach to law enforcement was active in England once again. England had no police force in the modern sense before 1829, when Home Secretary Sir Robert Peel (whence the term "Bobby") established Scotland Yard for the London area; similar police administrations for other areas followed in the 1830s and 1840s. The classical liberal feminist and social reformer Josephine Butler responded with alarm, penning a ringing denunciation of the budding police state in her book *Government by Police*.

But before the reign of the Bobbies, English law enforcement relied heavily on organizations known as Associations for the Prosecution of Felons — also known as thief-takers' associations. Imagine a cross between a Neighborhood Watch group, an insurance agency, and an Old West style posse. People in a particular neighborhood would pool their resources, and supply their own labor, to support their local thief-takers' association. The association would keep its eyes open for robbers (particularly those who robbed houses displaying the plaque of association membership!). If a crime (against an association member) did occur, the association would hunt down, or pay to have hunted down, the wrongdoer, often cooperating with similar associations in other districts — and then use the pooled resources to pay for the felon's prosecution in a government court. (Criminal justice was not free in those days.)

The traditional English system — with its roots in Anglo-Saxon antiquity, but extending as recently as the nineteenth century — is worlds away from the modern system of centralized police and gun control. Under the old system, every able-bodied male citizen was in effect a policeman, and the behavior of these policemen was regulated not by government edict but by the laws of economic self-interest. Despite important differences in details, both the *borhs* and the thief takers operated according to the principle of *mutual assurance*: individuals pooled their resources and effort for the purpose of mutual protection.

Is insurance for security a libertarian fantasy? On the contrary — it's history. ▲

Bibliography

H. W. Arthur. *Without the Law: Administrative Justice and Legal Pluralism in Nineteenth-Century England*. University of Toronto Press, Toronto, 1985.

Tom Bell. "Polycentric Law." *Humane Studies Review*, Vol. 7, No. 1, 1991/92.

Bruce Benson. *The Enterprise of Law: Justice Without the State*. Pacific Research Institute, San Francisco, 1990.

Stephen Davies. "Private Provision of Public Goods in Nineteenth-Century Britain." Unpublished paper. Douglas Hay and Francis Snyder, eds. *Policing and Prosecution in Britain, 1750-1850*. Oxford University Press, Oxford, 1989.

Albert Loan. "Institutional Bases of the Spontaneous Order: Surety and Assurance." *Humane Studies Review*, Vol. 7, No. 1, 1991/92.

William Alfred Morris. *The Frankpledge System*. Longmans Green, New York, 1910.

Funding Public Goods: Six Solutions

by Roderick T. Long

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The Argument for Market Failure

A *public good*, as economists define the concept, is any good from whose enjoyment non-contributors cannot be excluded. The theory of public goods is of interest to libertarians for two reasons: first, because a great many things we care about — highways, education, law enforcement, fire protection, national defense, *etc.* — are widely thought to be public goods, or to have public-good characteristics; and second, because the majority of economists are convinced that such public goods cannot be supplied on the free market.

The argument for the inadequacy of markets in this area runs as follows. Suppose there is some good X that 200 people value; but if X is produced, each of those 200 will be able to benefit from it, whether or not they contributed to its production. If you are one of the 200, what is your reaction if you are asked to contribute?

According to the orthodox theory of public goods, you reason as follows: "Either the other 199 are going to raise a sufficient amount of money to fund X, or they aren't. Suppose they do raise enough. Then the good will be funded whether I pay or not, so I might as well not pay, so I can take advantage of the benefits without paying the costs. [This is the Free Rider problem.] On the other hand, suppose they don't raise enough. Then the good won't be funded even if I do contribute, so there's no point in throwing my money away. [This is the Assurance problem.] The chance that my contributing or not will make the decisive difference to X's being funded or not is so minuscule as to be quite properly ignored. So either way, regardless of what others do, it's in my interest not to contribute. So I won't." And you don't.

The problem is that the other 199 people in the group are reasoning the same way, and so X never gets funded — despite the fact that everyone would be better off — by their own standards — if X *were* funded. It's in everybody's *collective* interest to cooperate, but in everyone's *individual* interest to defect; and since it is individuals, not collectives, who make decisions, the result is that no one cooperates and the public good is never produced. The market system of voluntary cooperation appears to have failed.

Solution One: Force

There is a way of solving this public goods problem: make contribution compulsory. If everyone is forced to contribute, then the public good will be funded, and everyone will be better off — in respect of that public good, that is. They will of course be worse off in another respect: they will no longer be free. Nevertheless, coercive force is widely endorsed as the sole possible solution to the public goods problem. Forced contribution, whether of labor or of property, is certainly the solution of choice in the modern state: taxation, military conscription, eminent domain, and jury empanelment are among the obvious cases.

But is force the only possible solution? By no means. Throughout history, countless so-called "public goods" have been produced through non-coercive means, thus rendering the public-goods problem no more than a bogey from an economist's fantasy. Economists who proclaim, from their ivory towers, that non-coercive solutions to public-goods problems are inconceivable — without ever bothering to examine the empirical facts of private production all around us every day — are in effect demanding that the rest of us be held hostage to their lack of imagination and observation. Perhaps entrepreneurs who stand to make a profit from solving public-goods problems have more incentive to discover solutions than economists

whose income is unaffected by their failure to solve such problems!

Leaving governmental coercion aside as both unethical and dangerous, I here offer five other solutions to the funding of public goods. (My list here is not meant to be exhaustive, and I welcome further suggestions.) As I go along I will consider in particular how each solution might apply to what is generally considered the most difficult public-goods problem: national defense.

Solution Two: Conscience

Public goods can be funded through reliance on custom, morality, and non-material rewards. Many public goods are already so funded; volunteer fire departments are an obvious example. A less obvious example, perhaps, is churches: one can walk into a church, listen to the sermon, ignore the collection plate, and walk out. Indeed, everyone who wants to hear the sermon could free-ride in the same way. Hence the economists ought to predict that no churches would ever be built and no ministers paid; yet somehow this is not the case. A still less obvious example of a public good is tipping: waiters and waitresses provide better service in the hope of getting a tip, so the practice of tipping has the beneficial result of producing better service. (At least I'll assume for the sake of argument that this is true; I don't actually know that countries without the practice of tipping really have worse service.) But why should I leave a tip in a restaurant to which I have no plan to return? I benefit from the tips of other diners, and they benefit from mine; but in this case I could free ride, enjoying the benefits without tipping. Why don't I? The power of custom.

Morality — the conviction that we are obligated to do our part — also plays an important role in overcoming free rider problems. When we consider the millions that are contributed to charity, telethons, *etc.*, there is no reason to doubt that there would be at least as much voluntary support forthcoming for the funding of public goods. Indeed, as Robert Axelrod shows in his book *The Evolution of Cooperation*, both biological and cultural evolution tend to promote the emergence of cooperative dispositions, because those who manifest such dispositions acquire a reputation as a cooperator, and thereby attract other cooperators; as these cooperators flourish by reaping the benefits of increased cooperation, the cooperative impulse is further selected for.

The LiveAid telethon concert generated impressive contributions to feed the starving Ethiopians. Would not people also contribute money to defend their country? (Keep in mind that a military confined to national defense, as opposed to foreign adventuring, would be quite a bit cheaper.) And have not people always volunteered their labor as soldiers in great numbers when their country was attacked? A citizens' militia, manned by volunteers and funded by charity, has been the standard form of national defense throughout human history.

Solution Three: Delegation

The third solution is really a variation on the second, but it is distinctive enough to warrant separate mention. Those wishing to solicit contributions to some worthy cause will raise much more money if they devolve responsibility by assigning local people to collect from friends, family, and co-workers. This strategy is employed with great effectiveness by the United Way. Social pressure, and the desire to look good in front of one's peers, are powerful incentives — incentives that might well serve to motivate contributions to the patriotic defense of one's homeland.

Solution Four: Guarantee

In his book *The Limits of Government: An Essay on the Public Goods Problem*, David

Schmidtz suggests offering moneyback guarantees as a way of increasing the incentive to contribute. Remember that a public-goods problem comprises two elements: the Free Rider problem (the temptation to free ride if others contribute enough) and the Assurance problem (the fear that one will end up a sucker if one contributes and others end up not contributing). If those soliciting funds offer to refund contributors' money if insufficient funds are raised to fund the public good, the Assurance problem is defused. The Free Rider problem still remains, of course; but once the incentive to defect has been cut in half, the non-monetary incentives to cooperate may be enough to overwhelm it. War bonds could be offered in this way.

Solution Five: Privatization

The problem with funding public goods is that non-contributors are not excluded from enjoying the good. An obvious solution, then, is to try to invent some way of excluding those non-contributors — thus privatizing the public good. For example, although highways are supposed to be a paradigm case of a public good, we all know about toll roads: if you don't pay, you can't drive. At one time in this country fire protection was offered in the same way that insurance is now; firemen only saved houses whose owners had paid their premiums. (This obviously works better if houses are not too close together!) Methods of exclusion may also be discovered as technology progresses; it was once impossible to exclude anyone from viewing television transmissions, but we now have cable TV and broadcast scramblers. In addition, any good that can only be enjoyed in a particular location can be turned into a private good by making the location private property.

It is difficult to apply this solution to national defense; if you defend my fellow citizens from foreign invasion, you *ipso facto* defend me too, whether I contributed or not. There's no way to let enemy missiles through to hit just the houses of non-contributors while leaving those of contributors alone.

But there are at least ways of slicing the problem up into more manageable pieces. If we consider defense of the continental United States as a whole, it becomes clear that *local areas* that are net non-contributors can certainly be excluded from that good. So we implement Solution Five by decomposing national defense into a plurality of regional defenses, and then allow the other Solutions to operate within those regions. (Solution Three in particular will naturally work better at the regional than at the national level.)

Solution Six: Packaging

One way to fund public goods is to package them with private goods (from which non-contributors *can* be excluded). In 19th-century England, private roads were built that were not toll roads: they were completely free, and anyone could use them. Why was it in the road-builders' interest to supply this public good, then? Because the road-builders owned property — a private good — alongside the site of the proposed road, and once the road was built, increased traffic brought increased commerce, and the value of their property was increased. (I learned of this example from Stephen Davies.)

Lighthouses are another example. For decades, standard economic textbooks had loftily explained that lighthouses could never be supplied privately, because ships at sea benefit from the light whether or not they pay. But one day free-market economist Ronald Coase decided to do some research, and discovered that in fact lighthouses in Britain had in the past been supplied privately for many years. True, it was impossible to exclude non-contributors from the light of the lighthouse — but it *was* possible to exclude non-contributors from using the harbor, so the lighthouse fees were simply packaged with the harbor fees. Once again,

entrepreneurs who stood to make a profit were motivated to devise innovations undreamed of by pessimistic academic economists. (Coase's article may be found in Tyler Cowen's anthology *Public Goods and Market Failures* — also published under the title *The Theory of Market Failure*.)

Broadcast TV is another classic public good: viewers can receive the signals whether or not they pay. If we had never had broadcast TV — if we had started with cable to begin with — economists would no doubt predict the impossibility of broadcast TV (unless financed by tax revenues). But TV broadcasters (and radio broadcasters before them) managed to pay for the broadcasts by packaging them with a private good: advertising. Providers of goods and services value advertising air time — and this definitely *is* a good from which they can be excluded, and for which they are consequently willing to pay. Advertising revenue is then used to fund the broadcasts; a public good for the viewers is funded by being packaged with a private good for the advertisers.

Could the public good of national defense be funded by advertising as well? Perhaps so. How much money would Coca-Cola be willing to donate to national defense, in exchange for the right to advertise:



COCA-COLA:

WE DEFEND AMERICA!



Quite a bit, I would bet.

Private weapons ownership also represents a kind of packaging, one that operates on its own with no entrepreneurship needed. In a free society, people will have the right to own weapons, and will buy them for the sake of a private good: defense of their own homes and families. But this pursuit of private good brings along with it an important public good: an armed society, formidable to any would-be conqueror, itself represents a powerful deterrent, and thus, to that extent, serves as a means of national defense.

Perhaps another packaging strategy might work as follows. Suppose a group of private protection agencies, individually specializing in domestic law enforcement, were to make binding and enforceable contracts with one another to form a consortium, pooling their resources for the purpose of national defense. These protection agencies could then sell a package of protection services — domestic law enforcement and national defense — and refuse to sell the former to anyone who would not pay for the latter.

At this point, of course, a new entrepreneur in the security field could come along and try to undersell the consortium by charging for domestic law enforcement only. But at this point Solution Six might be combined with Solution Two; just as many people today practice "socially responsible" investing, refusing to invest in companies with bad environmental records or poor employment conditions, many might refuse to deal with any protection agencies other than consortium members.

All these ideas are only armchair speculations, of course. Once again, I expect that entrepreneurs alert for profit opportunities would be a lot more imaginative than I have been here. Thus I am optimistic about the ability of the market to supply even such public goods as national defense. \triangle

Devil's Advocate - No Defense Department is Needed
a presentation by
Bobby Yates Emory

Defense is not needed, just an excuse

A national defense organization is not a real requirement for a modern nation. It has been used as an excuse for increasing the power and scope of the state. Each state uses its neighbor's military as an excuse to build its own military.

Military is its own excuse

Each state's military creates a rationalization for each of its neighbors to create a larger military. That larger military creates a rationalization for the first state to increase its military and around we go in a repetitive cycle until the productive energy of each state is used up in producing goods that do no one any good.

No military - no response

If we do not create a military then we will not provoke a response from our neighbors. All that is necessary is to break the repetitive cycle. Even if other states have or acquire a military, if we do not respond, those other states will not be pushed into further escalation. If we do not have a military, we will not cause others to be fearful and we will not push them to conclude that a military is necessary.

Don't bother them, they won't bother us

If we can restrain ourselves from attacking our neighbors, we greatly reduce our chances that we will be attacked. Some wars have started because one nation thought another was going to attack. If we have no military, no one can think we might attack. None of Costa Rica's neighbors will ever decide Costa Rica is about to attack and launch a preemptory strike because Costa Rica has no military.

Note: This paper is a minor adaptation of one that appeared in Formulations Vol. II No 1.

Couldn't take over anyway

If we didn't make it easy for aggressors, they would not be able to conquer and rule a territory.

If no structure in place - no one can take over

If there is no governmental structure in place for ruling the residents of an area, aggressors will have a doubly difficult task. They will not only have to overcome the resistance of the residents, but also will have to create a structure from scratch. This caused the English hundreds of years delay in their attempt to conquer Ireland.

The aggressor's nightmare - an armed citizenry

Usually conquerors do not want to capture just a barren plot of ground. They want to capture the people and the material goods those people have created. If the residents are armed and prepared to defend their property, the aggressor is faced with a game that even statisticians can see is negative sum. This principle is utilized by the two most successful militaries in the world today. Switzerland has not been attacked in seven hundred years. Israel has never lost a war. Both require military training of many citizens and give them arms to take home. If we do not prevent our residents from acquiring arms, many of them will and we will have a voluntary defense based on the most successful models governments have provided.

Relations with others

The best we can do to try to help other nations is to set them a good example and trade with them, not send troops to invade and to kill their residents. The best way we can deal with others is neutrality.

Example will spread to others

Just as we will be following the lead of other nations, so others may be inspired by our example. If we can exist without a military other people will want to avoid it also. Statists will not voluntarily give up any of the prerogatives of power, so the number of nations actually abolishing or significantly reducing their military will be dependent on the ability of citizens to wrest control away from governing elites. At least, we can be satisfied knowing we are not providing an excuse for the growth of other nations' militaries.

Export goods not war

If a nation trades widely with other nations, they will be hesitant to attack it. "World peace through world trade" may be a little overstated, but by helping each other economically, a side benefit will be less war. (This assumes no exclusionary tariffs and trade barriers, part of the causes of WW2.)

Neutrality

The smartest thing the founding fathers said was "Friendship with everyone, entangling alliances with no one." They realized the tragic consequences of being dragged into European wars and wanted to avoid it. Our foreign policy should be founded on their sterling example. If we do we eliminate one more reason the statists have for saddling us with an overbearing government and we greatly reduce our risk of being attacked. It has worked for seven hundred years for Switzerland in the middle of war after war.

Fewer excuses

If we will eliminate a government controlled military and allow our residents to defend themselves, we can eliminate an enormous economic and personal burden on our society and simultaneously eliminate one of the statists' favorite excuses for destroying our freedoms. The discussion consensus was while some important issues are raised by this point of view, there will still be a need for the residents of an area to coordinate and cooperate in their defense and technical defenses are too expensive for individuals to fund. While individuals can make an important contribution to defense, something more is needed.

Providing Defense by Voluntary Means
a presentation by
Bobby Yates Emory

Plan for everything needed

One of our central problems in convincing people of the possibility of a workable libertarian society is that we must show them how each of the goods and services they foresee as being needed will be provided. For goods and services customarily provided through government, people will be concerned about how little or no government could provide the services needed. We will have to convince people that the free market or a small government can fulfill their needs. Different people will have different concerns but we can predict many of the questions likely to be raised. First we must convince libertarians that we have an outline of a solution to each troublesome area. Later, when libertarians start trying to convince others that we have a better solution, it will be necessary to catalog each of the concerns raised and document solutions for those raised by more than a few people. A concern that will occur to most people is defense. We must address defense if we are to have a chance of talking to most people or even to other libertarians.

Most goods and services no problem

Most USA residents will not have concerns about most goods and services because they are accustomed to receiving them from the free market. If we take our message to other countries, we will need to customize the message to each country.

Some services are supposed to be a problem

Unfortunately, many people have been convinced that some services will not be provided if the government does not pay for them. If these people believe the services to be necessary, then it follows that we need government to provide them. Nowhere is this problem more stark than in defense. Most people could not conceive of a country without a defense. They have been convinced that every country must have a defense and that only a large and powerful government can provide a defense, therefore we must have a large and powerful government.

Note: This paper is adapted from "A SERVICE PROVISION ALTERNATIVE", which appeared in *Formulations* Vol. II No. 1.

Artificial mandate for government

The conviction that the government must provide some goods and services has been used to create an artificial mandate for government. Statists have been able to persuade people "If the government doesn't do it, it won't get done."

Welfare statisticians think charity is a problem

One prominent example of this thinking is the need for charity. Most people believe that there will always be a need to provide help for some people who are unable to support themselves. Welfare statisticians used this unfortunate fact as the foundation for building an elaborate bureaucracy in almost every country in the world by convincing people that "if the government doesn't do it, it won't get done." (Other appeals are also used, such as "the government has free money to apply to this problem" and "receiving help from private charity is demeaning but receiving money from government helps recipient's self esteem" but these are easier to debunk.)

USA generosity

The idea of socialism came from Europe, where generosity does not appear to be a strong tradition (or, to be more charitable, were there has been such a long tradition of care flowing from above (starting with patronage under the monarchy) that generosity to one's peers has had neither the opportunity nor the necessity to flourish). The welfare statisticians and the socialists forgot to adjust their theories to local conditions when they brought them to the USA. USA residents are exceedingly generous. Of all the charitable giving in the world, 80 percent is in the USA. So any country with a most of its population from the USA should benefit from this custom if it is not undermined.

If need perceived, response follows

When USA residents perceive that a need exists, they have consistently shown they will respond generously. This happens spontaneously, without central direction, whenever a natural disaster occurs. Some charities, such as those providing seeing eye dogs for the blind, receive more money than is required to provide the quantity of help that is needed.

Minor needs funded, certainly more important ones will be

While not belittling the importance of seeing eye dogs for the blind, needing a dog is less life threatening than individuals being destitute or the country being undefended. We can count on people with a heritage in the USA to be equally generous in more important areas. After one country sets a good example, other areas may learn to be charitable also.

How to convince

Our problem may not be how to provide the funding for defense (and other needed goods and services). We have many examples of successful charities to learn from. We merely need to select from the different models already in use the techniques best suited to defense solicitation. When we apply these techniques to a new area it probably will inspire innovations. So we should be able to create a method for raising the funding for defense. Our major concern then becomes: How do we convince people that charitable means are reliable, feasible methods of raising the money needed to finance an adequate defense.

Same old problem

This is another part of the same old problem libertarians have always faced - how do we convince non-libertarians that voluntary contributions can be counted on to provide for the society's need for charity. The new facet of the problems is how do we convince libertarians that voluntary contributions can be counted on to provide for the society's need to be defended from other countries (among others).

Definition is key

The key to convincing libertarians about the viability of voluntary contributions for financing courts, police, defense and similar goods and services may be in the designation of these services as public goods. By creating a special category, economists may have created our problem. If we can show people that "public good" is merely a mental abstraction used to discuss a theoretical economic construct and not a description of something that exists in the real world, we may break this mental log jam. Just as there is no such thing as perfect competition (usually all potential buyers do not have complete and accurate knowledge of all potential sellers), so there are no public goods, only services that provide benefits to many individuals.

Any alleged public good can be shown to benefit many individuals. To a typical resident of some other state, there is a benefit to providing a Federal Court for Detroit. If such a court is not provided, the cost of doing business will rise for automakers. This will cause the price of cars to rise and/or production to move to areas with adequate legal systems. Almost everyone has an interest in preventing further increases in the prices of cars. Admittedly, for each of us, our interest in keeping the price of cars from rising is small.

Likewise, each of us has a larger, but still small, interest in providing a national defense. If Jerry's Kids can gather together many people's small interest in supporting MD research, then another version of Jerry's Kids can collect our small interest in providing a Federal Court in Detroit or a Trident submarine. Yes, a United Way may be needed to collect all these contributions to many different needs together, and yes, a United Way introduces its own inefficiencies, but it is much preferable to a large, coercive government.

In the discussion, it was suggested the contribution be funneled thru the local militia to avoid creating another United Way.

Overcoming civics texts

There are other mistaken notions children are indoctrinated with in the government schools that need correcting, but this is an excellent place to start. The "public goods" assumption is one of the root causes of our problems in convincing people of our ideas. We merely have to get across that "public goods" is a simplifying assumption used to make the discussion easier, not an observation of something that occurs in the real world.

Historical examples of "public goods" charity

During the early years of the USA, at least one warship was purchased through public subscription. Many communities in North Carolina, until recently, had truly voluntary fire departments and in many of them the tradition of voluntary fund raising persists. Many of the early schools in the USA were proprietary, but a significant minority were financed by local subscription. In "Funding Public Goods: Six Solutions" Roderick T. Long (page 39) presented two examples from England: Public roads were built and not made toll roads. Lighthouses are the classical example used by economists to justify the "public goods" assumption. Several were built in England by private means and the costs bundled with the harbor charges for the harbor to which the lighthouse guided boats.

Building a compelling case

If we wish to convince libertarians to consider voluntary contributions we will need to collect the data to support our case; documentation of historical and current examples, data on charitable giving, and descriptions of the operations of current charities and councils of charities. We will need to document the history of the "public goods" assumption. Then we will need to write a description of how this would work in the critical area of national defense (and others such as courts and police). To get the ideas widely read we would need to write a science fiction or fantasy story that incorporated the ideas.

A way that works

Voluntary contributions provide us with a solution to many of the dilemmas facing us. We can provide for necessary functions to be performed without creating a framework for building a government which will grow beyond the control of the citizens. It will be flexible and will easily grow as citizens perceive needs, and will contract when the needs no longer exist. A government based on voluntary contributions will leave power in the hands of individual citizens rather than transfer power to an uncontrollable bureaucracy.

The consensus of the discussions of this presentation and others was: a four prong defense based on voluntary contributions would be a workable way of providing national defense. Organized nonviolent resistance would come into play if defense failed. An armed citizenry would provide the basis for defense. A militia, organized from the bottom up like in the Revolutionary War, would coordinate the defense of states and smaller areas. A technical defense would operate the more expensive weapons such as tanks and aircraft. The militia and technical defense would be supported by voluntary contributions flowing through the militia.

Contra Insurance
a presentation by
Bobby Yates Emory

A diversion for morality

A forum discussing the use of insurance in a libertarian society raises questions about whether we are endorsing a product to which there could be objection. Objections could be raised to most insurance products available today.

Current insurance overpriced

Risk can be evaluated

Most risks that are covered by insurance policies can be evaluated on an actuarial basis to determine the cost of bearing the risk. For example, if a vehicle is worth \$10,000 and the risk of it being stolen in a year is 1 in 1,000; the actuarial cost of this risk is \$10 per year. Actuarial studies are not as trivial as this example implies. Real world cases often require the processing of large data files and the exercise of professional judgement but there are people who can answer these questions.

Prices exceed value

When we compare the price charged (the premium) to the value received (the actuarial cost) we find that the price is usually at least double the cost. One example is airline travel insurance. Many credit card issuers now provide accidental death coverage if the credit card holder uses the card to buy a scheduled airline ticket. In their accounting systems they allow 17 to 20 cents for the actuarial cost of providing \$150,000 coverage. To buy equivalent coverage at the airport costs \$5.00.

Prices must exceed actuarial cost

The reason price usually exceeds the actuarial cost is; for the insurance company to remain in business it must cover all its costs and make a profit. The company must pay salesmen, record keepers, taxes, office space, a multitude of other costs and pay claims to its policy holders. After meeting all these costs, it must make a return for its stockholders.

Reason for concern

So the reason for concern is: Insurance premiums usually greatly exceed the actuarial costs of the risk to the consumer.

Note: These comments are a minor adaptation of those made in *Formulations* Vol. II No. 1.

But - Values are subjective

Austrian economics teaches us that all values are subjective. Knowing the real cost of production of any good or service does not tell us what it will be worth to any individual. Only that person can judge what it will be worth to them. One example, of many possible, is to consider a travelling salesman's need for auto theft insurance. If a salesman's job is dependent on his vehicle, he has no monetary reserves, and auto theft insurance is a small fraction of his income; his individual subjective valuation of insurance may place a much higher valuation on the insurance than the actuarial risk cost.

If a purchaser in the free market, whose access to information is not prevented by force, wishes to make a purchase at a price higher than someone else deems proper, the purchaser should be free to do so.

Guilt by association

As a practical matter in the current environment, most insurance companies are much too close to the state agencies that are supposed to regulate the industry. Any libertarian must question doing business with a company so supportive of the state.

Proposals are for speculative uses of insurance

FNF proposals are speculations on future solutions

These proposals are intended to stimulate thinking and discussion about the perplexing problem of how, in the future, we might provide what some economists have chosen to call public goods. We have been challenged by the public goods categorization to propose methods for providing goods and services in which many people in a society share the benefit and thereby have (supposedly) no incentive to pay to have the good or service produced. We are proposing ways of organizing a society in the future, not making suggestions for purchases by people living in the current society.

Not an endorsement

Any proposal or speculation we formulate is in no way an endorsement of any currently available insurance policy.

Insurance may be less overpriced than government

Government services routinely overpriced

We are well aware that most of the services provided by government are usually overpriced if we add to the user fee, if any, the cost of subsidies. For example, when fire protection services are provided by private companies the cost is usually one fifth the government cost.

Insurance still a better buy than government

Even if we conclude that using insurance to provide a good or service will cost citizens at least double the cost of production, as insurance premiums are often double the actuarial risk cost, insurance may still have a significant cost advantage over government. A society may improve its overall efficiency if it shifted from government to insurance.

Insurance morally preferable to government

Insurance provided by private means does not entail the use of force. Government almost always involves the use of force (where it doesn't we encounter the argument it is not really a government). So even if the cost of insurance is higher, libertarians would still find it preferable since it does not have to involve the use of force.

Bottom line

Even though concerns may be raised about endorsing current insurance policies, advocating insurance as part of a future method to deliver goods or services may be preferable to advocating government. The objections raised were to purely financial insurance rather than fire or security protection structured somewhat like insurance. Mixed insurance and fire or security protection remains an open question. The consensus of the discussion was there was no objection to these speculations.

The Power of Ostracism

by Richard O. Hammer

In this talk I will introduce a few ideas about ostracism, a social tool which can have great power.

People who have studied libertarian theory more than I often take positions which I question. I may want to believe what they are saying, but I find it difficult. An important example for us has to do with contentions about the way that private legal systems could work. Take, for instance, the idea that defendants, charged with wrongdoing, would come to court voluntarily. This sure does not seem likely. But I must recognize that my expectation, that this would never happen, is rooted in the culture in which I was raised. In this culture that would never happen. Possibly in a different culture, which I may need to work to imagine, it might happen.

About ostracism, there are four points that I want to make. And I will organize this talk around these four points. They are:

- 1) Ostracism can have great force.
- 2) Ostracism works in private spaces, not in public spaces.
- 3) Ostracism gets its power from reality.
- 4) The power of ostracism is limited - by reality.

1) Ostracism can have great force.

1 a) Ostracism can mean death.

Ostracism can have great force. To show this I will start by repeating the account that Roderick Long has given us in the current issue of *Formulations*. In England, before the Norman conquest, ostracism could mean death:

For purposes of security, the most important social unit was the borh. A borh was an association, typically of twelve people, who stood surety for one another's good behavior. If a member of a borh committed a crime, the other members were committed to bringing him to justice - but also to helping him pay restitution for his crime. (Financial restitution rather than retribution was the normal sentence for most crimes; those who refused to pay restitution were outlawed, that is, placed outside the law - meaning that anyone could kill them with impunity.)

Outlaws then were people who were outside the protection of the law.

Bruce Benson gives a similar example in his book, *The Enterprise of Law* (page 18). Describing a primitive tribe in New Guinea:

... when the offender would not accept a judgment that the group considered to be just, the offender could be declared an outlaw. His reciprocal arrangements for protection were no longer in force, so anyone in the confederation was obligated to pursue him, either killing him or driving him from the area (which presumably would also lead to his death).

I have one more story which shows that the ultimate strength of ostracism could mean death, in primitive, pre-state societies. This comes from fiction, from the novel *The Clan of the Cave Bear*, by Jean Auel. The clan, which was a group of cave-dwelling Neanderthals, could punish members by banning them from the clan for a period of time, after which the offender could return. In extreme cases the banishment would be permanent. The assumption was that this would mean death; that a person cut off from the mutual supports of the clan could not survive alone in that environment.

In the story this happened to the heroine. She had committed an unforgivable offense; she had used a weapon, and weapons were supposed to be touched only by men. So the clan's ruling council of men met to decide her fate. It was not an easy decision for them, because, if I recall the story correctly, she had used the weapon, a sling, to kill a hyena which was carrying away the infant son of the clan leader. And the infant was still alive, so she had saved his life. But nonetheless, rules are rules, and they banished her - expecting that would be the end of her. I will return to this tale when I am making my fourth point, later on.

1 b) But ostracism can also have lesser force, scaled to the infraction.

These examples show, I believe, that ostracism can have the power to inflict the punishment which we normally consider the ultimate punishment, death. If you accept this, then it should be easy to believe in the possibility of lesser punishments, which also might be meted out by ostracism. Thus I would assert, the power of ostracism can adjust to the scale of the infraction.

It seems to me that life is full of examples that illustrate the lesser powers of ostracism. An example is references: a person applying for a job typically is asked to supply references, and often enough those references are checked. Someone who burns their bridges behind them will soon find less avenues open before them.

We have an example in what happened to Tonya Harding. For her involvement in the attack on a rival figure skater, she was expelled from future participation in much of the sports world.

I have a story which I can tell from my personal experience, running a business. In my business of remodeling houses and building additions, there were a few times early on, when I was just getting started, when I wanted more work, so I advertised. But I never got a single customer from these ads. Because, as I now see looking back, people who are looking for a contractor to work on their house do not trust advertisements, which could be purchased by anybody. What they do is they ask around, among people they know and whose judgment they trust, and ask if anyone knows of someone who would be good for this kind of work. After I had been in business for several months I found that I had a steady stream of people calling me, asking me if I could do some work on their houses. All of these came from referrals.

My story I suppose illustrates not ostracism, but the other side of the coin, the building of trust. I believe I could not have gotten into business if I had not left my customers satisfied. I think almost all business transactions assume trust at some level. Our willingness, in our interactions with others, to extend somewhat more trust than we have extended before, depends upon the trust which has been built thus far. And we have all kinds of ways we can cut each other off if ever the trust we have extended is violated.

One final example of the power of ostracism in business is given by the way merchants in mediaeval Europe policed themselves. They developed for themselves a system of law called the law merchant. Ostracism was the threat that made merchants comply with the judgments of the law merchant. If they wanted to stay in business they had to comply, because others would stop trading with them. A merchant who spurned a ruling of the merchant court stood to lose his customers, suppliers, or even his passage home - a ship owner who relied upon his reputation for his future business may be reluctant to accept the fare of a scofflaw.

No doubt each of us can think of many more examples of how ostracism works. But to wrap up this point, ostracism can have all the power it needs: from the minimal frowns with which we police mispronunciation of words, to refusals to come to the defense of one being attacked for committing murder or rape. I believe ostracism, in the right cultural environment, could conceivably be the only force necessary for enforcement of social rules.

2) Ostracism works in private spaces, not in public spaces.

This second point is something that I have been thinking about during the past few years. My ideas are still evolving, so I can not claim that I know I am right about all this, but it does seem to fit with other theory which I have been learning. So I assert: ostracism works in private spaces, not in public spaces.

Let me start with an example. Consider the way you behave when you are in a private restaurant. This is a private space. You know that your behavior must conform to certain standards. Although people rarely talk about this, almost everyone who

frequents restaurants knows it without needing to talk about it. The owner can kick you out, and probably will kick you out if your behavior deviates from acceptable norms. And it works quite well, I would say. Behavior in private restaurants is, for the most part, policed satisfactorily.

Now, let me give definitions of what I mean here by private space, and public space.

Private space is a space where some individual (or single clearly defined authority) can judge and decide what will happen in regard to that space. That is, the individual has clear property rights.

Public space, on the other hand, is space in which rules are made and enforced collectively, either through direct democracy or through some scheme of representation, legislation, and delegation of policing power.

Now for an example of a public space, consider the public street outside the restaurant. In the public street, behavior is policed, if at all, by collective process or government police.

Public spaces are not only spacial or geographic, but extend wherever law might extend. A class of behavior becomes public space, I believe, when it is regulated by legislation. For instances, practices such as hiring and firing are now regulated so that employers often are restrained from exercising either ostracism or (the other side of the coin) trust. Control over employment practices, when legislated, becomes public space, a space in which the power of ostracism can no longer act effectively.

What causes the creation of public spaces? I am aware of three causes:

- 1) Government prohibits private property rights outright by declaring public ownership. An example is the public roads.
- 2) Government overrides private property rights, piecemeal, through regulations which take from private parties the choices which formerly characterized private ownership. Examples are laws regarding employment practices and building codes. Decisions constrained by government, such as the placement and number of electrical outlets in private residences, become public space.
- 3) Private property rights are uneconomic, too expensive to establish and maintain. This is true, for example, in frontiers not yet populated.

Now I am not saying that public spaces go completely without control. Policing does happen in public spaces. And commonly most citizens understand the ways that antisocial behavior in public space can be policed. Three of these ways are: 1) They can

take upon themselves the role of public enforcer. But this is normally risky, unsupported and ineffective. 2) They can call the police. 3) They try a longer term approach such as phoning their elected representative or writing a letter to the editor of their newspaper. But, when it comes to policing behavior in public spaces, few if any people have clear authority of the sort found in private spaces, of the sort that the owner of a restaurant has.

We can see the difference between public spaces and private spaces in another light if we consider anonymity, the condition in which the identity of a person is not known. Anonymity is for the most part, I think, a feature of public spaces. Private property owners always have the right to know who you are if you are in their space. Or, they may be willing to accept not knowing your identity provided they have some other assurance that your behavior in their space is somehow constrained. Public spaces are spaces in which a person can escape being known. Public spaces, by their very existence, provide wrongdoers, people who would suffer ostracism in private spaces, with a way to escape a history of wrongdoing. And public spaces provide wrongdoers a way to travel into a new community where they might receive, once again, the benefit of the doubt as honest persons.

Another example here has to do with body language and rude behavior regarding pressing into the space of another person. I am sometimes annoyed by the behavior of some drivers on the public roads. This might be tailgating, or flashing lights to demand passage, or cutting me off. But notice that this is happening in a public space which has, by virtue of being public, these two features:

- 1) *Anonymity* - the offender probably expects never to face the person who is the brunt of their rude behavior, and expects that no memory of the offence will ever come back to burden him.
- 2) Honest *ambiguity* about the rules and uncertainty about enforcement of the rules. I may think the person I call the offender is breaking a rule, but that person may think the same of me.

In a private space such rules could be set simply and efficiently, by the proprietor. In a public space the amount of civic energy, which would be required to decide and enforce such rules, frustrates those who might favor such rules. Thus this particular aspect of the public space will probably remain completely unpoliced.

To wrap up this point, I assert that ostracism fails as a tool in enforcing social behavior only where the existence of some public space strips ostracism of its power. Now I believe this enough that I challenge you to tell me, in a few minutes when we get into our discussion, of an example where you believe ostracism would fail to police unwanted behavior. And then I will take the challenge to try to show that, in the circumstances you describe, you must be assuming the existence of some public space.

3) Ostracism gets its ultimate power from reality.

Just as reality limits what any one of us as an individual can do (I cannot expect to run a four-minute mile), reality likewise limits what any group of individuals, or society, can do (I would maintain that the United States could not have landed a man on the moon during the decade of the 1940's). This limit gives ostracism its ultimate power.

I will try to establish this point by giving a few examples. First consider restraints on violence, perhaps the most obvious need of social order. This ostracism is sustained by reality because, in the competition to survive, a society which did permit unprovoked violence may not survive. Now the individuals ostracized for their violence could try to live alone, not a happy prospect, or could try to form a new society which did permit unprovoked violence, but, my point is, that would not work either. External, extra-societal reality backs up this ostracism.

My next example is less obvious, and therefore I think is more likely to be a subject of debate. Consider a society which values honesty, uprightness in contract, and which therefore ostracizes liars and cheaters. It will prosper better than other societies, I contend, because of economics. These economics regard the benefits of being able to plan, and the cost of policing. Regarding planning: the most beneficial projects which may be undertaken in a society often require a long time frame, and it makes sense to undertake these projects only if that society offers some certainty in the future, if an investor can have confidence that contracts will be fulfilled. Regarding the cost of policing of promises: this is achieved with the least expense if people police themselves. Therefore ostracism of liars and cheaters is backed up by economic reality.

Incidentally this sustenance of honesty and contract may explain in part, I think, the economic success of Western civilization.

4) The power of ostracism is limited - by reality.

When a society tries to impose rules upon an individual who does not agree with the rules, then the individual may decide to relinquish membership in that society. If the individual can then live successfully outside the society (carrying on in ways that would violate the rules within the society) this proves that the rules were not necessities imposed by external reality, but rather were matters of taste or values incidental to the requirements of life. If a society becomes foolish in the rules it tries to impose, then many members will exit and live quite successfully outside that society. Here we see a limit on the power of ostracism.

For an example, consider prohibition, the attempt by the American government in the early 1900's to prohibit the drinking of alcoholic beverages. A great many people who chose to ignore the rule were able to continue their lives successfully. This limited the power of those who attempted to enforce the rule.

And I find another example in the novel *The Clan of the Cave Bear*. The heroine was a woman of exceptional capability. In spite of being banished by the clan she was able to carry on, alone for a few years, till she found new society.

Conclusion

Now, pause a minute to look at these last two points: that ostracism gets its power from reality, yet its power is limited by reality. We see that reality empowers only certain types of ostracism. Reality, I suggest, empowers ostracism of acts which libertarians would call real crimes, crimes which have victims. But it does not empower ostracism of victimless crimes. Ostracism has just the power which libertarians would like a law enforcement agency to have.

Ostracism is a tool which most of us do not think of when we think of public problems. And this is reasonable because public space can be policed only by public action. But I would encourage you to learn to recognize public spaces, which are not only pieces of real estate but are also any domains, of choice or action, regulated by government law. And once you recognize that a mismanaged space is public, ask how behavior in that space might differ if the space were private, and if therefore the power of ostracism were returned.