

formulations

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Foundation News Notes Personnel Changes at FNF

The new year brings several personnel changes at FNF. As announced in advance in our Spring 1999 issue, Rich Hammer stepped down, effective 31 December 1999, from the roles of FNF President (which he has held since the foundation's inception) and Editor of *Formulations* (which he has held since 1997). He retains the roles of Treasurer, President Emeritus, and member of the Board of Directors.

The Board has chosen Bobby Yates Emory to succeed Rich as President. Roy Halliday is taking over Bobby's former role as Secretary. The task of editing and producing *Formulations* has been divided among three people: Roderick Long as Content Editor, Roy Halliday as Copy Editor, and Robert Mihaly as Production Editor.

Candi Copas is also stepping down from membership of the Board of Directors. Robert Mihaly has been chosen to succeed her.

FNF expresses its gratitude for the extraordinary past services of those who are leaving old roles, and extends a warm welcome to those who are taking on new ones.

This issue contains Bobby's and Roderick's "inaugural addresses." Δ

Forum Announcement: "Financial Systems" April 29, 2000

An important aspect of any future or existing nation is how the financial system operates. It is something that many people take for granted, yet there are many issues involved—issues which when examined may well be resolved very differently in any future free nation than is typical in the current nations of the world.

We will be discussing such issues at our next Forum, which will meet on Saturday, April 29, 2000, from 8:30 a.m. until 12:00 noon, at the Regal University Hotel in Durham, North Carolina. Join us there!

Oftentimes those who attend a Forum still want to discuss the topic after the Forum has ended. So afterwards there might be an informal gathering at a restaurant to eat, drink, and continue the discussion in a more relaxed social atmosphere.

You can find five papers for the upcoming Forum in this issue of *Formulations*. Three papers will be presented by their authors: "Money, Banking, and the Gambling-Stakes Paradigm for Loan Collateral and Labor Contracts" by Roy Halliday, "Financing the Future" by Bobby Yates Emory, and "Combine the Power of the Internet and the Gold Standard" by Wayne Dawson. Also to be discussed is "A Note on Credit Institutions in a Free Nation," by Roderick Long. Phil Jacobson will present Joanna Parker's paper, "Money in a Free Nation."

You may pay (\$15 general admission or \$12 for FNF Members) at the door. But if you plan to attend you might let us know ahead of time, and we will reward you with a computer-printed nametag. You could let us know by sending a check to pre-register or emailing contact@freenation.org.

(Concluded on page 3)

Greetings from the Editor by Roderick T. Long

This issue marks my return to the Editorship of *Formulations*. I'm happy to be back. Since leaving North Carolina I've felt frustrated at not being able to have greater involvement in the work of FNF, and so this opportunity is most welcome.

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formulations

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Free Nation Foundation
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Statement of Purpose

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

Board of Directors

Bobby Yates Emory, President
Richard O. Hammer, President Emeritus
Roderick T. Long, Founding Scholar
G. Wayne Dawson
Roy G. Halliday
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FNF is a 501(c)(3) federal income tax exempt organization.

Send correspondence to the postal address above. Or email to: contact@freenation.org.

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Subscription or Membership

Subscriptions to *Formulations*, may be purchased for \$15 for four issues (one year). Membership in the Free Nation Foundation may be purchased for \$30 per year. (Members receive: a subscription to *Formulations*, an invitation to attend regular meetings of the Board of Directors, copies of the Annual Report and By-laws, and more inclusion in the process.)

Send orders to the postal address above. Checks should be made payable to the Free Nation Foundation. We now accept credit cards on our webpage. Additional contributions are welcome.

Information for Authors

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

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

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

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

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

We consider material in *Formulations* to be the property of its author. If you want your material copyrighted, tell us. Then we will print it with a copyright notice. Otherwise our default policy will apply: that the material may be reproduced freely with credit.

Philosophy of the Presidency

by Bobby Yates Emory

Abstract

My thoughts on the role of the President of a nonprofit foundation, with particular emphasis on the Free Nation Foundation.

Introduction

My philosophy for the President of a nonprofit research foundation includes two conflicting objectives. But one clearly has precedence over the other. The most important objective is to facilitate the members' wishes for the foundation. But also the President must have and articulate a clear vision for the work and the future of the foundation.

Facilitate the Members' Objectives

A voluntary organization will only succeed and grow if the members and volunteers feel their personal objectives are being met. Members will only renew their membership if they see the foundation moving in a direction they like. Volunteers will only continue to work if they feel their work is moving the foundation in the direction they want, their work is important, they are working on something they want to work on, and their work is appreciated. As long as we do not have an extensive endowment and a professional workforce, we must make sure the foundation fits with the objectives of the members and volunteers.

One primary way to make sure the

organization stays congruent with the objectives of the members and volunteers is for the board and especially the President to look on their job as being to facilitate the interactions of the members and volunteers to help them accomplish their objectives.

If the organization grows to the scale of the American Red Cross, with an immense budget and a large staff of paid workers, then a strictly goal-oriented approach would be appropriate. Paid workers expect to be directed to work on the areas the management has decided are best. An endowment protects the organization from the vagaries of fluctuating contributions. The contributions continue to flow, in spite of a lack of attention to the supposed objectives of the organization and even in spite of administrative scandals. If a foundation grows to this status, it can pursue its goals in whatever manner the management thinks will meet their objectives.

But a more modest organization must keep its actions focused on the objectives of its contributors, members, and volunteers. Anything else and the constituents will drift off to other pursuits.

Since our constituency is libertarian, this is even more imperative. Herding cats is popularly taken to be an impossible task, but herding libertarians is probably even more difficult. The President of any small nonprofit foundation must be sensitive to the wishes of the constituents of the foundation—especially if those constituents are libertarian. But this is not a problem, it is an opportunity; Harnessing the energy present in a diverse group will propel the

organization.

Even a modest sized organization will have many brains to bring to bear on the problems to be solved. So it is likely to be able to develop better solutions than one person deciding in isolation. Since we champion the market mechanism, partially because it includes via the pricing mechanism the contributions of the knowledge of many people, we should build a system that integrates the knowledge of as many (freedom-oriented) people as possible.

All of these considerations lead back to the conclusion that the most important job of the President of a modest sized nonprofit foundation is to facilitate the interactions of the members, the Board, and the volunteers, and secure from each their best contribution to the objectives of the foundation.

Create a Vision

The President must have and project a vision for the organization. To move effectively, without false starts, the President must have a direction in mind. With a compelling idea for the future, the President can inspire the organization to do more.

Conclusion

Articulating a vision for the direction of the organization is an important duty of the President of a small nonprofit foundation. But the most important duty is to keep the organization moving in a direction that matches the objectives of the members, the Board, and the volunteers. Δ

Financial Systems Forum

(concluded from page 1)

Directions: The Regal University Hotel is at 2800 Campus Walk in Durham. Their phone number is 919-383-8575.

From points east, take I-40 to Highway 147 (the Durham Freeway). Next, take Highway 15-501 South toward Chapel Hill. Take the Morreene Road exit off 15-501, and turn left at the end of the exit ramp. Turn left at the stop light at Campus Walk, and left into the parking lot.

From points west, take I-85 North to Highway 147 (the Durham Freeway). Take Highway 15-501 South toward Chapel Hill. Take the Morreene Road exit off 15-501, and turn left at the end of the exit ramp. Turn left at the stop light at Campus Walk, and left into the parking lot. Δ

Vision

by Bobby Yates Emory

Abstract

This is my vision for the future of the Free Nation Foundation.

Objective

To make possible the founding of a free nation by developing credible descriptions of viable institutions necessary for the founding and continuing existence of a free nation.

Strategy

Develop a foundation to produce the descriptions. Make the foundation grow.

Enumerate the questions that must be answered.

Develop alternative solutions to each problem. Include both minarchist and anarchist solutions.

Produce scholarly versions of selected solutions.

Publish popular versions of selected solutions.

Tactics

Operate and present ourselves in a professional manner.

Depend on volunteer scholarship.

Work on those questions in which members, directors, and volunteer scholars are interested.

Encourage work on any problem which is needed for a complete solution and which has interest from members, directors, and volunteers.

Increase usage of the Internet to find potential members, to facilitate the work of directors, to develop solutions, and to provide members and outsiders with access to our results.

Report on and rate new country projects.

Build a community of respected free



nation builders.

Prioritize the problem list.

Projects

Core Work

Enumerate questions

Prepare and consolidate lists of the questions that must be answered and the problems that must be solved in order to start a free nation.

Design solutions

Design one or more solutions for each of the problems or questions identified by the foundation or others.

Construct prototypes

Where there is no clear solution to a problem or question, develop

prototype solutions that answer as much of the problem as the foundation is able to.

Operations

Formulations

Continue the quarterly publication of *Formulations*. This includes finding authors, working with them to produce suitable articles, editing, production, and mailing.

Forums

Continue to hold semi-annual Forums to discuss papers. This includes selecting topics and sites, contracting with suppliers, registration, and running the Forum.

Website

Develop and administer the website. Add content, fix problems, and answer inquiries. Search for ways to improve our website and increase its usage.

Development

Fund-raising

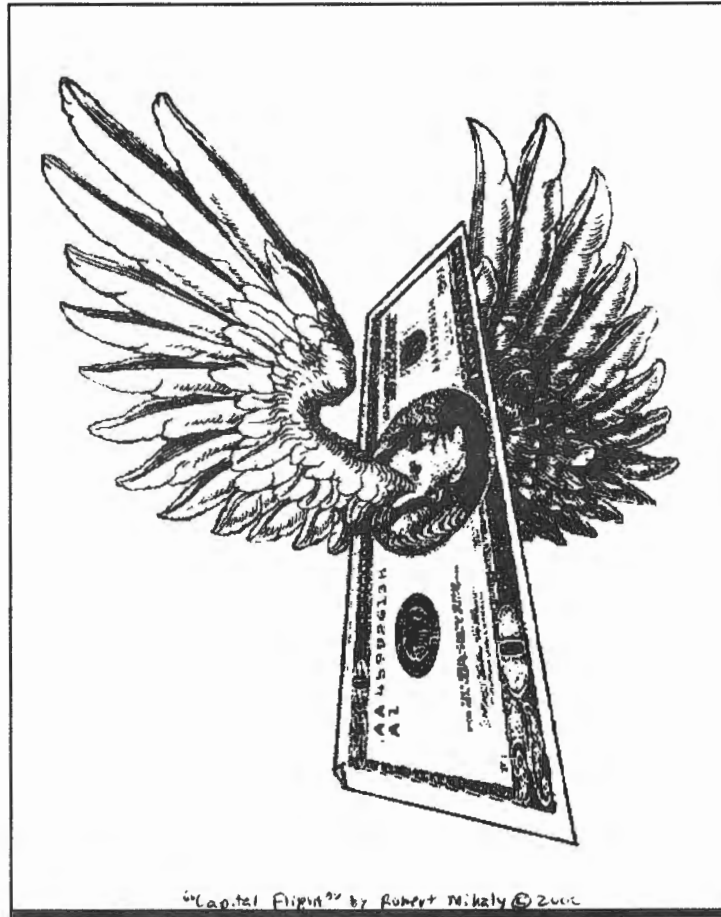
Solicit contributions from members, subscribers, and outside grant makers.

Recruitment

Members: Encourage current members to renew. Solicit memberships and subscriptions from libertarians who are not members.

Contributors (Financial): Develop new sources for funds.

Contributors (Scholars): Find additional writers and scholars to contribute to *Formulations* and our Forums. Δ



Financing the Future

by Bobby Yates Emory

Abstract

There is a danger of a cartel forming among the holders of capital. This could prevent the economic growth of the free nation. Tests are proposed for the existence of this danger and a type of institution is proposed to prevent it.

Introduction

The incredible growth in individual wealth that has taken place in the United States, Australia, Japan, and other wealthy nations has many preconditions. A free nation will have the potential for even more rapid growth. One of the reasons for a free nation is to be able to participate in this growth. In designing the institutions for the free nation, we must be careful to meet all the preconditions. One requisite of growth is for

capital to be available to new businesses. Stock and bond markets provide efficient financing for the growth of already proven enterprises. Much of economic growth is provided by very small enterprises, which will not have the track record to participate in the stock or bond markets. Many of the innovations that propel growth come from small and new enterprises, making this a very sensitive point if we value growth.

For a free nation to grow there must be many people with access to capital for business formation.

The Market Could Provide Capital

A free market in a large country with widely dispersed wealth will spontaneously create small and large enterprises as needed to exploit technological inno-

vations as they become available. While we cannot expect a somehow perfect advance of technology, it has been repeatedly proven that a free market will do a better job than bureaucratic planning. Even where economies have had to start from a relatively backward and small base, if the free market is allowed to work, substantial growth has been the result in every case. Fifty years ago, Hong Kong was just some rocks in a harbor. From that small and backward base, it became one of the wealthiest places on earth. So obvious is its success, that the Communists are trying to preserve it rather than turning it into another slave-labor camp.

Counterexamples

The oligarchies of Central and South

America control sizable assets. But they are concerned with maintaining their control rather than helping the economy grow. Many of these economies have been stagnant over extended periods. A free nation in its initial phase will probably not be as large as these economies. If wealth is not widely dispersed, the holders of wealth could agree to retard growth in the hope of creating an oligarchy. One plan for a new nation envisions a wealthy entrepreneur and penniless residents. This could be even worse than an oligarchy.

The only saving grace is that there will be no levers of power for the would-be oligarchs to control. Part of the reason the oligarchs were successful in Central and South America was their control of the political apparatus.

Our Dilemma

This places free nation advocates on the horns of a dilemma. We believe the free market will provide the best solutions for almost everything, including economic growth. And yet we can see cases where growth did not take place. Some of our scenarios will create situations similar to the no-growth cases.

A Suggestion for Testing Proposals

In many proposals for a free nation there will be adequate capitalization available for small enterprises to get started and we will not need to generate institutions to solve this problem. To determine if there is a problem, we need to know if there are thousands of small pools of capital available. If the new nation is projected to attain a population below 100,000 in the first five years, check to see if 5% of the population will have a net worth of \$100,000 or more. If the population is between 100,000 and 1,000,000, set the cutoff at 3%. If the population will be over 1,000,000 use 1%.

These levels were chosen to ensure that there will be a large pool of potential capital in many hands. In each case, there would be thousands of holders of modest amounts of capital. The same amount of capital in a few hands would be much easier to bring into a cartel. The percentages were kept small to make it less likely the test would be triggered. We would only want to get involved in

this detail if it were necessary.

Levels above these triggers will make difficult the formation of a cartel of capital providers. If one is attempted, there will be a large pool of people who could benefit by ignoring the cartel (the usual fate of cartels if they don't have the force of government behind them).

Suggestion for a Cure

If a cure is called for, we should include, in the institutions necessary for the new free nation, a credit union. Credit unions provide a means for people of modest means to pool their funds, make loans to each other at low rates, and receive higher interest rates on deposits. Because they are member-run, the would-be oligarchies would have trouble controlling the credit unions.

Similar institutions have proven themselves even in Bangladesh, where microloans to microbusinesses have enabled the businesses to get started and to succeed. Hopefully the free nation would not have to start at such a low level.

In cases where the proposed test does not require that we provide a solution, we should not discourage credit unions (or any other non-fraudulent economic enterprise). But if the proposed free nation fails the test above, a credit union charter should be included in the founding documents.

In either case, the atmosphere of freedom will be attractive to international capital; since there will be no restrictions on capital coming in, no restrictions on the formation of new businesses by foreign nationals, and no restrictions on exporting profits. Any opportunities not pursued by domestic businesses or entrepreneurs may be exploited by foreign nationals. So, to a considerable extent, this problem could be self-correcting. But since other nations may not look favorably on the new, free nation and may attempt to prevent their nationals from exporting capital to it, we cannot count on this flow of funds being available.

Inflated Currency as a Source of Capital

Another source of funds for growth in the United States and other countries with politician-managed currency systems is the continuing expansion of M3 (currency, checking accounts, savings

deposits, money market funds, and large CDs). M3 growth for the USA is usually above 5%. It has been varying from 0 to over 20% from July 1998 to December 1999 (*Business Week* 17 January 2000, p. 26).

Many who have been accustomed to these growth rates will assume them to be necessary. If we allow the market to determine the money supply, a more stable money supply may result. A stable money supply will require mental adjustment by business people, but it should have a positive long-term effect on growth. (Austrian Economics teaches us that continuing inflation of the money supply interferes with the ability of economic actors to project the future effects of their actions. If we remove this handicap, it would be like giving a pair of contact lenses to a myopic person. It may take them a while to adjust to the new visual field, but once they do, they will be able to make better predictions of the results of their actions. This will help inspire greater confidence in making investment decisions, thereby having a positive effect on growth. Interest rates will probably be higher than in an economy with a continual growth in the money supply providing most of the capital requirements, but the higher rates will allow potential savers to receive full payment for deferring consumption.)

Conclusion

In free nations composed of an overwhelming majority of people without capital, there is the possibility that economic growth will be stunted. We can test for the possibility of this and propose institutions to prevent the formation of a capital cartel. Δ

Bobby Yates Emory of Raleigh, North Carolina, has retired from a career as a programmer and systems analyst at IBM. A longtime libertarian activist, he has run for offices from County Commissioner to U.S. Senator, and held political party offices from Precinct Chairman to Regional Representative to the National Committee. He was recently elected President of the Free Nation Foundation.



Combine the Power of the Internet and the Gold Standard

by Wayne Dawson

In considering possible financial systems for a future free nation, it seems to me that the most fundamental question to be asked is: what will the most basic financial system element, the monetary system, be like?

Even among libertarians, the idea that money must be issued by coercive government is often not questioned. It is an idea whose validity (or lack thereof) is rarely even looked at. It is assumed that a government monopoly of the money supply is necessary. That assumption has no logical basis. There is a history of free banking to back up this assertion. (See *The Experience of Free Banking* edited by Kevin Dowd, available at Amazon.com.)

Imagine, if you will, a monetary system that is 100% backed by gold. It is not necessary that money be backed by gold, but for several reasons it has been used throughout history as a monetary standard.

1. It is relatively scarce, but not excessively so.
2. It is nearly indestructible.
3. It is highly divisible.
4. It is fungible (which means that a certain quantity of a specified purity of gold is essentially the same as any other gold of the same quantity and specified purity).
5. It has historically held its value well, in relation to other things.

Let me point out that when the United States (oh, so many decades ago) was on the so-called “gold standard,” the United States dollar was never 100% backed by gold. You could be fairly sure that if you wanted to walk into a bank and exchange dollars for gold, you would be able to—but this was because most people were not exchanging dollars for gold at the same time you were. Even though it was called the “gold standard,” it was still a fractional reserve system. Perhaps 70% of dollars were backed by gold. Or maybe 50%. More likely 20% or 10%. I don't actually know.

But in our hypothetical monetary system, the currency is 100% backed by

gold. Every single holder of the currency could exchange every bit of currency they held for physical gold, and the system would be able to accommodate the situation.

Now imagine that through the power of the Internet our hypothetical monetary system allowed instantaneous clearing of payments. After all, what is necessary for the clearing of funds is communication, and the Internet is the greatest communication system yet devised by mankind.

Suppose further that through the power of cryptography, our hypothetical monetary system allowed for security and privacy. Perhaps even a completely anonymous system of money could be developed, based on our hypothetical monetary system. Our base monetary system could not include anonymity, because there is something of an inverse relationship between absolute security and absolute anonymity.

Now one important aspect of a monetary system that is 100% backed (by gold or anything else) is that the payments system be separated from the lending/borrowing function. You see, when you deposit money in your checking account, that money is used by the bank to lend out to others. It is a demand deposit, which means you can demand that the money be taken from your account and given back to you. But they are banking (pun intended) on the fact that not everyone will demand their money at the same time. This is the nature of a fractional reserve system. It is part and parcel of the borrowing and lending institutions of today. The only way to have a monetary system that is 100% backed is to separate the transactions of borrowing and lending from the payments system. So our hypothetical monetary system is one in which the issuer of currency provides only a payment system, and allows other entities to handle the lending/borrowing function (s).

Also in our hypothetical monetary

system, the issuer of the money is a private entity, with contracts and accounting audits and other mechanisms providing assurance that the issuer is kept honest and held accountable for its actions. For an example of another mechanism, suppose that some powerful communication system (such as the Internet) allowed a customer to instantaneously view the amount of currency outstanding and the amount of gold backing it. Wouldn't this provide significant assurance of the safety of the currency? It would.

Imagine that in some future free na-

suppose that some powerful communication system (such as the Internet) allowed a customer to instantaneously view the amount of currency outstanding and the amount of gold backing it. Wouldn't this provide significant assurance of the safety of the currency?

tion, such a monetary system were to be developed and put in place. Actually, it already has. It's called e-gold. You can learn about it at <http://www.e-gold.com/>.

Which brings me to the issue of transition plans—if the system has been designed and developed, then the transition has already begun. The transition plan question with respect to this issue is: how do we transition from a monetary system based on "the full faith and credit" of your favorite government (in other words nothing), to a monetary system that is 100% backed by some real, physical, valuable commodity?

The answer is: you set up a currency exchange which freely exchanges currency from either system to currency of the other system. By this I mean *not* that there is no transaction cost in making the exchange ("free"), but instead that the exchange is completely voluntary on

the part of the customer and the exchange service operator.

Of course this means that the exchange service operator has a floating exchange fee schedule that depends on the relative supply and demand of the given currencies (and perhaps other things). Otherwise, why would the exchange service operator be willing to take exchange orders based on the desires of its customers? If it were not able to charge a transaction fee, it would not be so willing.

In the existing e-gold system, the first such exchange service is called the Gold & Silver Reserve, which you can learn about on the e-gold website mentioned earlier.

So what can a hypothetical future free nation base its financial system on? One possible answer is to simply use e-gold as its monetary base. Δ

Wayne Dawson wishes to thank Reid Jackson of e-gold for all his help in researching the e-gold system. Much of the fruits of that research would not fit in this article, though it may very well be discussed during the upcoming Forum on the subject of Financial Systems. Wayne Dawson has made it his lifetime goal to "make the world free." He lives in Virginia Beach, Virginia, and teaches classes in computer programming and other computer subjects. Wayne is FNF's Webmaster and a member of the Board of Directors. Email may be addressed to him at <jongalt@pinn.net> or <Wayne@FreeNation.org>, and he has a web page at <http://www.pinn.net/~jongalt>.



Money, Banking, and the Gambling-Stakes Paradigm for Loan Collateral and Labor Contracts

by Roy Halliday

A *free nation* is a jurisdiction in which the laws support each citizen's right to decide what to do with his own life and property — because all the laws are based on the non-aggression principle. A free nation would have a *free market economy* in which the only legal restrictions on trade are: (1) trades must be voluntary (because theft is outlawed by the non-aggression principle) and (2) the people who are trading must be the rightful owners of the property being traded (because fraud is outlawed by the non-aggression principle). This means that before a legitimate trade can occur, the person offering to trade something must be its legitimate owner or he must have permission from the legitimate owner. That is, he must have the author-

ity to trade the property and he must have acquired that authority in a way that is consistent with the non-aggression principle rather than through theft or fraud.

The economic laws that govern a free market consist of the logical implications of the non-aggression principle applied to voluntary exchanges of property titles. These natural laws, rather than legislation or government regulations, determine the short-term and long-term consequences of market transactions and the ownership at any given time of all economic resources and wealth including money, labor, capital, consumer goods, and services.

So in analyzing such things as money, banking, loaning, and interest

rates in a free nation, the first step is to determine the limits set by the non-aggression principle on these phenomena. That is, we must distinguish between transactions that are enforceable in the courts and transactions that involve theft or fraud. Then, when we know what is allowed and what is not allowed in a free market, we can use the natural laws of economics, elaborated most rigorously by the Austrian School of economists, to analyze the practices that are allowed and try to make predictions about which practices are likely to prevail.

This paper is my attempt to take the first step—to determine what business transactions are allowed by the non-aggression principle. In keeping with

the topic of this FNF Forum, I am only concerned here with how the non-aggression principle restricts business practices in the general areas of creating money, saving money (banking), loaning money (financing), paying off loans, and forcing people to work. (I include forcing people to work as a topic because it is related to the topic of paying off loans.) I leave it to others who know more than I do about investments (anybody at random would qualify) to make predictions about the evolution of these business practices in a free nation.

Before people can begin to trade property titles legitimately, that is, before a free market can begin to operate, people have to acquire property titles in a manner that is consistent with the non-aggression principle. If people don't have legitimate property titles to exchange in the first place they can't legitimately exchange them, and a free market cannot exist. In my paper "A Theory of Property Rights for a Free Nation" (*Formulations* Vol. V, No. 2), I explain how initial property titles can be obtained in a way that is consistent with the non-aggression principle. The current paper assumes that the theory of property rights developed in my previous paper is essentially correct.

Creating Money

In a free nation the will of the people, so to speak, as expressed in the market, determines what is acceptable as a medium of exchange. There is no fiat money. There are no legal tender laws that require people to accept Federal Reserve Notes or any other particular pieces of paper or any particular commodities as money. Such laws are overruled by the fundamental principle of a free nation's legal system—the non-aggression principle.

It is not necessary for the founders of a free nation to decide in advance what everybody will use as money. Initially, people would probably continue to use existing currencies (U.S. dollars, Swiss francs, British pounds, etc.). Eventually, as banks get established they may begin to issue tokens or certificates of deposit. Since people will not be forced by law to accept anyone's tokens, the acceptance of these tokens as currency will depend

on the reputation of the bank that issues them and on other factors that determine market value.

Those who know a lot more about economic behavior than I do predict that gold and certificates of deposit that are redeemable in gold will be selected as the medium of exchange in a free nation. I am inclined to defer to the predictions of Ludwig von Mises and Murray Rothbard about this, but it doesn't matter to me whether these predictions turn out to be accurate. Whatever medium of exchange people select in a free market is what will serve the function of money. I am not a gold bug. I prefer beer. But if the people in the free market settle on gold or silver or any other commodity as the medium of exchange rather than beer, I will go along with them. The non-aggression principle does not prescribe any particular commodity as money other than whichever commodity people freely choose to accept.

Saving Money (Banking)

In a free nation, banking, like everything else, will be a private enterprise. There will be no central bank and no regional or state banks that have special legal privileges, because special legal privileges are overruled by the non-aggression principle.

Banks will be simply warehouses for safeguarding economic goods. The clients will pay these banks a fee for the service of storing and guarding property that they deposit in the banks. The banks will issue certificates of deposit that their clients can redeem at any time. For money deposits, banks may establish checking accounts and issue checkbooks so that their customers can write checks to buy things and avoid the risks involved in carrying other forms of money around.

Banks will not make loans. They would keep 100% of the deposits in their vaults at all times. If they kept less than 100% of the deposits on hand, they would be committing fraud, which is not permitted by the non-aggression principle. Expressions such as "You can bank on it" or "It's like money in the bank" will make sense in a free nation where banks are places for keeping valuables safe.

Loaning Money (Financing)

Presumably, some people and businesses in a free nation will want to borrow money for various reasons. Financial institutions will be established by entrepreneurs to meet the demand for loans. These financial institutions will make contracts that involve risks to themselves and their clients. Investors will loan money to these institutions in exchange for a chance to get the money back in the future with interest. The institutions, in turn, will use the money from the investors to make loans to other people or businesses in exchange for a chance to get the money back in the future with enough interest to pay back their investors and to cover the institution's expenses and to make a return on their investments.

Contracts between a financial institution and its investors and between that financial institution and the people it loans money to would determine who owes what to whom. These contracts should spell out the property rights of the respective parties in the case of loan defaults or they should, at least, specify a procedure such as arbitration for determining property rights when loan payments are not made as scheduled. Otherwise, a financial institution may have higher costs for collecting payments and be less profitable than its competitors.

Since such financial institutions do not keep 100% of their depositors' money in their vaults, they should not be called *banks*. They should refer to themselves as *loaning institutions* or some other appropriate name that does not include the word *bank*—to avoid the appearance of fraud. People who invest in these financial institution should understand that they are risking their money. They should not be led to believe that their money is as safe as if they had deposited it in a bank.

Financial institutions would be free to offer their investors the opportunity to withdraw their money on demand as long as they do not mislead their investors into believing that all of them could do so at the same time, as they could if it were a bank. Financial institutions could offer banking services in addition to loaning services, as long as they keep

them separate and manage them under separate rules and clearly disclose to their clients which services operate under banking principles and which ones do not.

In a free nation there would be no usury laws that limit the rate of interest that can be charged by financial institutions or by individuals. The rate of interest for each loan should be specified in the contract for the loan. Usury between consenting adults would be legal, but fraud and deceptive loan contracts would not be legally enforceable.

The general rate of interest for loans will fluctuate with the time preferences of those who choose to risk their money by participating in the loan market. As the interest rate goes up, more people are induced to invest in loans, which increases the money available to be loaned, which lowers the interest rate, which causes fewer people to invest, which reduces the money available to be loaned, which raises the interest rate, which yada, yada, yada, other things being equal, and so on, etc.

Paying Off Loans

Libertarians do not agree on how the non-aggression principle applies to those who fail to pay their debts. If you do not have enough money to pay back a loan when it is due, does the loan contract imply that you have an enforceable obligation to work until you repay the loan? Can you enter into a loan contract that has the potential result of giving someone the right to force you to work? Such a contract could be tantamount to a voluntary slavery contract.

Robert Nozick, during his brief libertarian phase, believed that a free system would allow people to sell themselves into slavery.¹ Randy Barnett argues against voluntary slavery but advocates involuntary slavery to force criminals to pay their debts to their victims.² Murray Rothbard agrees that voluntary slavery contracts are not enforceable, but he regards failure to pay a debt as equivalent

to theft, and he regards thieves as having given up their right not to be forced to work and to be imprisoned, if appropriate, until they pay their debts (restitution) and then to be punished on top of that (retribution).³ Other libertarians like me regard imprisonment for debt as a violation of the non-aggression principle, whether the prisoner is a criminal or not and whether he signed a voluntary slavery contract or not. An-

In a free nation, banking, like everything else, will be a private enterprise. There will be no central bank and no regional or state banks that have special legal privileges, because special legal privileges are overruled by the non-aggression principle.

other libertarian view might be to enforce whatever debt-repayment procedure is specified in the loan contract.

These disagreements about when forcing someone to work is an act of aggression are also disagreements about what constitutes a free market. Depending on how we interpret the non-aggression principle, a free market can include or exclude such things as slave markets and debtors' prisons.

My position is that a loan contract should specify the collateral that is at risk in case of default. The collateral must be alienable property that legitimately belongs to the borrower at the time he negotiates the loan. During the course of the loan, the collateral should not be sold by the borrower or the loaner except as specified in the loan contract or by mutual agreement, and the borrower should not try to use the same collateral to get another loan from another financial institution unless he has permission from the institution that already has a lien on the property and he informs the second institution about the lien. The loan agreement should say that title

to the specified collateral goes to the loaner upon failure of the borrower to repay the loan and that title reverts to the borrower when he pays off the loan on schedule. This is an enforceable property right. If the person who defaults on a loan repayment refuses to turn over the collateral, he is committing aggression by physically preventing the new owner from using the collateral. It would be a legitimate act of defense against aggression for the loaner or his agents to use force against the debtor to take possession of the collateral.

However, property that is not alienable or that is not owned by the person seeking to negotiate a loan is not legitimate collateral. For example, I have no right to put up *your* house as collateral for *my* loan without your permission. That would be fraud. No legitimate property titles are exchanged by fraud. A loan contract in which the borrower risks collateral that he does not own is not

a valid contract, so the money loaned still legally belongs to the loaner and the loaner has the right to use force if necessary to get his money back.

Forcing People to Work

Readers of *Formulations* already believe that slavery, in many situations, is wrong. So does the American public at large. But libertarians make fewer exceptions than the general public. For example, we recognize military conscription as a form of slavery, whereas, when the draft was enforced, most Americans regarded military service as a duty that citizens (at least males of a certain age) owed to their country. The average American does not think of the draft as slavery, but we libertarians use a broad definition that includes all forms of involuntary servitude, no matter how limited or temporary the servitude may be. So we say that, even though draftees were not bought and sold in slave markets or subjected to the kind of chattel slavery that African Americans endured, draftees were slaves nonetheless, because they were forced into involuntary

servitude.

The general public has even more trouble seeing the slavery in other government impositions such as truancy laws, compulsory jury duty, taxes, and court-mandated alimony, child-support, liability, and other payments backed up by threats of imprisonment. The justification for these forms of slavery is that we have all entered into some sort of social contract whereby we have consented to obey the laws enacted by the government for the public good. In other words, these laws that restrict our liberty result from voluntary servitude rather than involuntary servitude and, therefore, they are morally legitimate.

Radical libertarians argue that we did not sign any such contract. So we still have our rights, and the impositions of the federal, state, and local governments are not legitimate. While I agree with this argument, the point I want to make here is that even if we actually did enter into a contract to be slaves, the contract would not be binding. In other words, to enforce so-called "voluntary slavery" contracts violates the non-aggression principle.⁴

The argument in favor of voluntary slavery goes like this: If you own something, you have the right to sell it, rent it, give it away, risk it, or make any other arrangements regarding the disposition of it, as long as you don't violate the rights of others. It seems to follow from this that if you own your own body, you may unconditionally transfer ownership of it to another person. That person would then be the rightful owner of your body, and he could rent it, sell it, dismember it, destroy it, or, if you are still alive, he could make you his slave. Anything that person wanted to do to you would be his right, and you would be a criminal if you resisted.

Why can't you legitimately transfer ownership of your labor to another person and become a slave such that you would have a legal obligation to obey all your master's commands? Suppose you voluntarily sell yourself into slavery and, after a while, you run away because you are tired of being bossed around. Should law-enforcement agencies try to catch you and return you to your master?

If voluntary slavery is legitimate, it is the ultimate example of placing property

rights (of the slave owner) above human rights (of the slave). I tend to agree with Jean Jacques Rousseau's argument that you would have to be an idiot to volunteer to be a slave and if you are an idiot, you are not competent to make contracts. But for those of you who do not regard voluntary slavery contracts as absurd on their face, I offer three additional arguments for your consideration.⁵

The Moral Autonomy Argument: We can set some limits on voluntary slavery contracts right off the bat as follows:

1. You cannot legitimately make a contract to do something that you have no right to do such as to sell someone else's property without their consent.
2. A crime is something that you have no right to do.
3. So you can't legitimately make a contract to commit a crime.
4. If you make a contract to become someone's slave and to obey that person's orders, the contract cannot legitimately include an obligation to obey that person's orders to commit crimes, because you have no right to give that person such authority in the first place.
5. So if your master gives you an order, you still have the duty to decide whether it would be a crime to obey the order, and if the order is an order to commit a crime, you have a duty to disobey the order.
6. If you have a duty, you must have the right to do your duty and you must have ownership and control of your mind and body so that you can perform your duty.
7. So you cannot legitimately give up complete ownership of your mind and body through a voluntary slavery contract. You cannot voluntarily give up your moral autonomy.

OK. So you have no right to give up your moral autonomy and your duty to respect the rights of others, and you have no right to give up total control of your mind and body, because you have to decide whether your master's commands are orders to a commit crime. You could use this as a loophole to justify refusing to obey all of your master's commands. But suppose you don't use this loophole dishonestly. Is there an

argument against making a voluntary commitment to obey the *non-criminal* commands of another person? I offer two: the inalienability argument and the fraud argument.

The Inalienability Argument: Can you make a valid contract to do something that is intrinsically impossible to do? If not, then voluntary slavery contracts are not legitimate for the following reasons:

1. At any particular moment prior to becoming a slave you are the owner of your body.
2. Consequently, you have the right to alienate parts of it. For example, you could donate an eye or a kidney or some blood to someone who needs it.
3. However, your body as a whole, while you are alive, is different from other kinds of property in ways that are not taken into account by the argument for voluntary slavery. The deliberate actions of your body are controlled by the decisions of your mind (your will). Your mind, therefore, owns the parts of your body that it still controls.
4. This ownership and control cannot be transferred. It is truly an inalienable right. Your body, while you are conscious, is different from all other property, because control of it cannot physically be alienated from your will. When you sell your car, the new owner can drive it without your cooperation—you do not have to steer it or even be in it. But when you sell your body, the new owner cannot get any work out of it without your willing cooperation.
5. To sell something is to give up ownership and control of it.
6. Your purposeful actions such as your labor are controlled by your will, which is inalienable.
7. Therefore you cannot sell your labor and you cannot sell yourself into slavery.

Even Randy Barnett, who advocates slavery for criminals, accepts this argument for non-criminals:

"... if control cannot be transferred, then a right to control cannot be transferred. One may as well consent to transfer a right to control the movement of the stars."⁶

The Fraud Argument: To trade something that you do not legitimately own is a fraud. Here is an argument that voluntary slavery contracts are fraudulent:

1. You have no right to trade (give away, sell, rent, wager, or use as collateral) something that you don't own.
2. The labor that you perform in the future will be controlled by the decisions that you make in the future (your future-will).
3. To enter into a voluntary slavery

contract now is to trade ownership and control of your future labor now, which entails trading ownership and control of your future-will along with your body.

4. Such a trade can only be legitimate if you own and control your future-will at the time you trade it. In other words, the argument for voluntary slavery assumes that the person contracting to become a slave has the ability now to control the decisions that he will make in the future concerning the labor that he will perform in the future. If he does not have this ability, the trade is fraudulent.

5. We *do* carry out plans, perform multi-step tasks, make appointments and keep them, and so on. If we had no such ability we couldn't accomplish much. We expect each other to have some self-control. We rely on each other to keep our promises. Promise-keeping makes cooperation possible and is mutually beneficial.

6. So your current-will has some control over your future-will. Your will is somewhat self-determining.

7. However, your will is not completely self-determining. That is, your intentions when you make a commitment do not have the power to control your future intentions enough to guarantee that you won't change your mind. If we had this power, then everyone who has ever filed for a divorce must have been just kidding or lying when they took their wedding vows. They must not have intended to stay married in the first place. This is clearly not the case. So it must be true that we do

not now own and control our future feelings and decisions and labor.

Even though people do make long-range plans and, in many cases, demonstrate continuity in their intentions over time, there are so many instances of people changing their minds that it should be clear that you do not now control your long-range future intentions sufficiently to claim ownership of them. You cannot guarantee that the intentions you have now will be the intentions you have in the future, especially in the distant future.

8. Since, the argument for voluntary slavery assumes that the person contracting to become a slave has the ability now to control the decisions that he will make in the future concerning the labor that he will perform in the future and since he does not have this power, it is fraudulent for him to sell himself into slavery.

Your future labor and services and everybody else's future labor and services are uncontrolled and unowned now and, therefore, not legitimate collateral for a loan. So a loan contract in which you put up your future labor and services as collateral is not a legitimate contract. You do not now own your long-range-future labor—so it is fraudulent on your part to use that labor as collateral.

The fraud argument applies not only to loan contracts and labor contracts and voluntary slavery contracts, but to any other contracts involving promises to think, feel, or act in a specified way. Promises to stay married to someone, and promises to work for someone or to serve in the armed forces, and solemn oaths to sell your soul to the Devil and worship him forever are all promises involving future thoughts and emotions, which we do not now own or control. No matter how sincere these promises may be, they cannot transfer rights from one person to another. You always retain the right to quit a job, desert the army, get a divorce, or renege on a promise that involves your future-will.

The fraud and the inalienability arguments do not apply to property that can be controlled without your will. For example, it is legitimate to put up your car

or your house as collateral for a loan because, unlike your labor, your car and your house are alienable property that are not intrinsically tied to your will. Another person can physically operate your car or live in your house regardless of your past, present, or future intentions. But another person cannot make you work unless you currently choose to work. The decision to work that controls your labor is the decision you make at the time you work—not before or after. Your *decision* to work or not work at any given moment is physically and logically inalienable; consequently, your *right* to work or not work is inalienable.

Gambling

All of this might seem to imply that contract labor and loan contracts are on shaky ground, but they really aren't. Only forced labor is illegitimate. "Selling" services and making loans pretty much the way they are done now in market economies can be justified.

In fact, current practices in the United States fit somewhere between my interpretation of the non-aggression principle and Murray Rothbard's. Imprisonment for debt is outlawed by the constitutions of most states. Courts, however, use many ingenious techniques to get around this. They don't put people in prison for failure to pay debts, they put them in prison for contempt of court or for failure to perform their legal obligations. For example, if you refuse to pay court-decreed alimony you will be pleased to know that you are not put in jail for nonpayment of your debt. You are put in jail for your status as a person who refuses to meet his legal obligations.

Gambling is the model for the legitimate way to make contracts involving your future intentions. Bets can be used innovatively to make your future more secure. For example, you could make a bet with your spouse that for the next 10 years the two of you will continue to live together and to support any children that may result from your union. If you stop living together during that time, title to whatever property you wagered belongs to your spouse. The stakes might be called *alimony* or *child support*. Either spouse might risk paying the alimony or child support, depending on the terms of

the bet.

Insurance policies are another way to use the gambling-stakes paradigm to make your future more secure. If people in a free nation want to insure themselves against some of the uncertainties of the future, they will create financial incentives for entrepreneurs to create insurance companies, which, if they are sufficiently capitalized with money from investors, can legitimately offer policies to customers to insure them against many contingencies. Insurance policies are wager contracts that spell out in detail who owns what in the event that a specified contingency does or does not occur. An insurance policy is a way to hedge your bets.

Performance bonds are another variation of the gambling-stakes solution to the problem of uncertainty caused by the requirements of moral autonomy and freedom. A performance bond is the stake that you put up when you bet that you will perform services for someone in the future. Performance bonds are often used in the entertainment industry to encourage stars to show up and perform as advertised. The star does not exchange title to his services. Instead, the star makes a bet that he will perform as specified in the contract (the terms of the bet). The general form of the bet is: the star bets something that he owns (a performance bond—usually money) and the booking party (theater owner, movie producer, or whatever) bets something he owns (a performance fee—usually money). The title to the performance bond and the performance fee will belong to whoever wins the bet. The subject of the bet is whether the star will perform as specified in the contract.

To justify labor contracts, we need to look at them from a new point of view. We need to see them as wagers. For example, you do not exchange title to your body and its labor for money. Instead, you make a bet with your employer. You bet that you will work for the employer and he bets that you won't. You risk nothing except your reputation for promise-keeping (which you don't own anyway⁷) and the transformations that you make to the employer's property that result from any labor that you may perform at his request. The employer risks paying you money (wages) and other

benefits, and capital investment. If you perform the services as prescribed by the terms of the bet (employment contract) then the employer "loses," and the wages that he wagered (note the similarity between these two words⁸) and the other benefits he risked become your property and the transformations that you made to his property by the labor that you performed become the employer's property. If you decide not to work for the employer (if you quit your job) then you lose (or fail to gain) title to whatever wages and benefits were detailed in the terms of the bet.

Unsecured Loans, Secured Loans, and Risks

You could make unsecured loans to family members and friends, and maybe they will pay you back. If they don't, you may have an enforceable claim to the money in their possession, but you cannot force them to work to pay you back. They have a moral obligation, but not a legal obligation, to work for you. That is, whether they work to pay you back indicates something about their moral character, but they retain the enforceable right to not work. So unsecured loans are very risky. It would be unwise to make such loans unless you are motivated more by charity than by the prospect of financial gain—and you can afford to lose the money and still meet your own obligations.

To increase the chances of reaping financial gains by loaning money, you should only loan money to people who put up enough collateral to satisfy you. Then, if they fail to pay their debts, the collateral that they wagered becomes your property and you are sufficiently reimbursed.

Conclusion

The laws of a free nation would not honor slavery contracts or allow people to be imprisoned for failure to pay their debts. Instead, the laws would uphold contracts involving performance bonds, insurance policies, and other wagers and trades that pertain to alienable property already owned by the parties to the transaction.

In summary, in a free nation there will be no fiat money, central bank, fractional-reserve banks, usury laws, or debtors' prisons because these phenom-

ena are outlawed by the non-aggression principle that makes a free nation possible.

Δ

Roy is pleased to announce that both of his grown-up, libertarian sons are now living in Raleigh. Jesse has been in Raleigh since 1994. Matthew moved to Raleigh from Florida in January during the biggest blizzard ever recorded here.

¹ Robert Nozick, *Anarchy, State, and Utopia* p. 331.

² For Randy Barnett's argument against voluntary slavery see *The Structure of Liberty* pp. 77-82. For his advocacy of imprisonment for criminals as a means to force them to pay restitution see *The Structure of Liberty* pp. 176-184.

³ See *Man, Economy, and State* pp. 154-155.

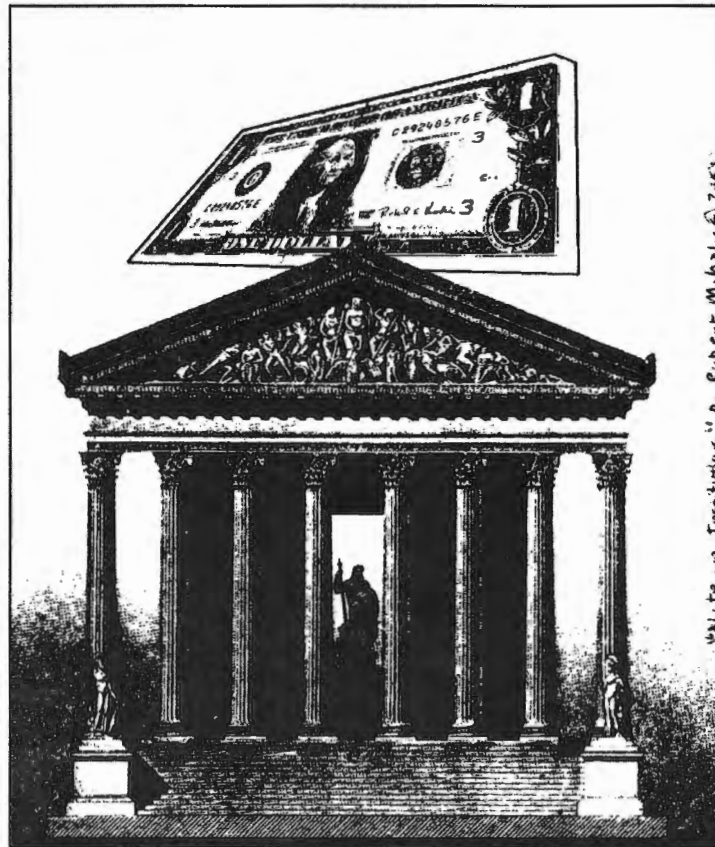
⁴ There are other forms of slavery that most people, including most libertarians, condone (for example, imprisonment of criminals as a form of punishment). This paper does not address these other forms of slavery. For my arguments against punishment see "The Anticrime Industry" and "The State as Penalizer" in *Formulations* Vol. IV, No. 1 and Vol. III, No. 4 respectively.

⁵ If my arguments against slavery contracts confuse or fail to persuade you, maybe Roderick Long's argument would be more to your liking. See "Slavery Contracts and Inalienable Rights: A Formulation" (*Formulations*, Vol. II, No. 2).

⁶ Randy Barnett, *The Structure of Liberty*, p.80.

⁷ Your reputation consists of the opinions that other people have about you, which is their property not yours.

⁸ *Wage* is the Middle English word for *pledge* in the sense of a payment (usually money) for labor or services (usually according to contract or on an hourly, daily, or piecework basis) and it is the Middle English word for *pledge* or *stake* in the sense of something (as a sum of money) risked on an uncertain event. See *Merriam-Webster's Collegiate Dictionary* 10th edition.



A Note on Credit Institutions in a Free Nation

by Roderick T. Long

In his article "Money, Banking, and the Gambling-Stakes Paradigm for Loan Collateral and Labor Contracts" (this issue), Roy Halliday argues that in a free nation, neither fractional-reserve banking nor the enforcement of unsecured loans would be legally permissible. I am in broad agreement with Roy's arguments, but just want to register a couple of caveats.

First, Roy grants that fractional-reserve institutions could legitimately exist (since they represent a voluntary agreement between a service provider and its customers), but denies that such institutions should be called *banks*, since the term "bank" suggests a 100% reserve. I do not see that the term "bank" suggests any such thing. Institu-

tions called "banks" have been around for centuries, engaging in both fractional-reserve and 100% reserve services. To insist that the term be restricted to the latter strikes me as unjustifiable linguistic legislation in defiance of standard usage.

It is indeed fraudulent to represent a fractional-reserve system as a 100% reserve system, but as long as an institution makes clear which of its services are which, I cannot see anything inaccurate in fractional-reserve institutions describing themselves as banks.

It follows that there is also nothing wrong with fractional-reserve currencies, so long as they are not fraudulently represented to their recipients as 100% reserve currencies. One can even pay

one's bills with lottery tickets, so long as people are willing to accept them. (After all, even 100% reserve currencies are not devoid of risk; the bank might be hit by a tornado, or what have you.)

On the issue of unsecured loans: I agree that one cannot surrender one's right to control one's future labor. Thus, if I borrow \$1000 from Roy, but when the repayment date comes I am broke, he cannot force me to labor to repay it. But what if I do eventually become able to pay? May he *then* permissibly insist on repayment?

Roy's answer is unclear. He says, "you may have an enforceable claim to the money in their possession, but you cannot force them to work to pay you back." But is Roy referring to "the

money in their possession” only at the time the loan comes due, or later on as well? If he means the latter, then unsecured loans are enforceable through garnishment of wages and the like. However, he also insists that “a loan contract should specify the collateral that is at risk,” which suggests that unsecured loans are not enforceable after all.

I’m not sure what position Roy means to take on this issue, but here is mine: If Roy transfers \$1000 to me *on condition* that I pay him back in a year’s time, then if I do not do so, the condition on which the transfer depended is not met, and so the transfer is nullified; ownership of the \$1000 reverts to Roy and he has the right to collect it. If I have no money then he cannot permissibly force me to work to pay off the debt, but once I do become able to pay then forcible collection becomes permissible.

There are limits to this, however. As I have argued elsewhere:

“Coercion, to be legitimate, must pass three tests: first, it must be a *response* to aggression on the part of someone else; second, it must be *necessary* in order to end or prevent that aggression; and third, it must be *proportionate* to the seriousness of the aggression.”¹

“I think a libertarian justice system would probably recognize some limitations on the right to garnish wages. Even when A has a right to recover some property in B’s possession, there are limits to the harm A can inflict in exercising this right. If you swallow my diamond ring, I do not have the right to cut you open to get it out, possibly killing you or causing serious injury. If you are trespassing on my property, I do not have the right to shove you off my front lawn and onto the street at the *precise moment* that a truck is coming that would flatten you. I think similar considerations would limit the percentage of a poor person’s wages that

a wealthy creditor could legitimately claim.”²

“[One’s] response to a rights-violation should not be disproportionate to the seriousness of that violation. (For example, although one has a right not to have one’s foot stepped on, one does not have the right to use deadly force in order to prevent someone from stepping on one’s foot—even if in the circumstances only deadly force would prevent the act.) The burdens imposed on the perpetrator by the restitution requirement, then, cannot be so oner-

If you are trespassing on my property, I do not have the right to shove you off my front lawn and onto the street at the *precise moment* that a truck is coming that would flatten you.

ous as to be out of proportion to the seriousness of the offense. For example, if a billionaire’s million-dollar vase is broken by a fellow billionaire, the second billionaire may be required to pay full restitution to the first; but if the vase is broken by an indigent laborer, a million-dollar debt constitutes a greater burden (a lifetime of debt)—a burden which, in this case, is arguably out of proportion to the seriousness of the offense—and thus the amount of damages that can be demanded of the offender is far less.”

Hence not only has Roy no right to force me to work in order to repay him, he also has no right to seize \$1000 from me once I get it, if his doing so would cause me harm disproportionate to his loss. But if such seizure would not cause disproportionate harm, it seems to me that Roy would be within his rights in seizing the debt. So unsecured loans are *enforceable*, at least to some extent.

However, if the enforcement of unse-

cured loans is to be justified by the principle of conditional transfer, this seems to set a limit on the amount of interest whose payment may be enforced, contrary to Roy’s statement that in a libertarian society “there would be no usury laws that limit the rate of interest that can be charged.” Suppose Roy lends me \$1000 but charges 500% interest. That is, he transfers \$1000 to me now, on condition that I transfer \$6000 to him a year from now. If I refuse to pay him the \$6000, then the condition is nullified, and I now owe him his \$1000 back, plus damages—but I do not owe him \$6000.

One final point: even if unsecured loans were *not* enforceable, it would not follow that it could never be rational to make any such loans except to close friends one trusted. For there are other ways to secure compliance besides the use of force. Consider the Law Merchant, an early system of commercial law which, as I have pointed out elsewhere, “relied not on state-imposed penalties but on credit reports; those who refused to abide by the system’s rules and decisions would have a

hard time finding other merchants willing to deal with them.” Many contracts not enforceable by law—including “usurious” ones—would still exist and thrive in a free nation. Δ

¹ “Punishment vs. Restitution: A Formulation,” *Formulations*, Vol. 1, No. 2 (Winter 1993-94): <www.freenation.org/fnf/a/f1212.html>.

² “Beyond the Boss: Protection from Business in a Free Nation,” *Formulations*, Vol. 4, No. 1 (Autumn 1996): <www.freenation.org/fnf/a/f4112.html>.

³ “The Irrelevance of Responsibility,” p. 128, in *Social Philosophy & Policy*, Vol. 16, No. 2 (Summer 1999), pp. 118-145.

⁴ “The Nature of Law, Part I: Law and Order without Government,” *Formulations*, Vol. 1, No. 3 (Spring 1994): <www.freenation.org/fnf/a/f1312.html>; cf. William C. Wooldridge, *Uncle Sam, the Monopoly Man* (New Rochelle: Arlington House, 1970).



In Defense of Moral Agents

by Roy Halliday

The Aristotelian approach to Natural Law, which is based on archetypes and definitions of essences, appeals to libertarians of a philosophical bent such as Ayn Rand and my own mentor, Murray Rothbard. I have read most of Rand's and Rothbard's works as well as Aristotle's *Nicomachean Ethics*, and modern works on Natural Law by d'Entreves, Strauss, Veatch, and others. I have found nothing in these books that persuades me that the archetype approach to moral philosophy is correct. On the contrary, I think it sets moral philosophy off in the wrong direction and quickly leads to futile disputes over the essential nature of man.

Since this approach has little intrinsic merit, I believe its appeal to libertarians lies in the fact that it is one of the few attempts to provide a philosophical

basis for natural rights, which, in turn, provide the moral basis of libertarianism. I too believe in natural rights, but if they must have a philosophical foundation, they need a better one than this.

In *Formulations*, Vol. IV, No.3, Roderick Long responded to my attack on the archetype Natural Law philosophy, which was published in the same issue. Roderick deflects my arguments by saying that the Natural Law philosophers do not hold the views that I attack. For example, Roderick agrees with me that it is silly to make moral judgments about animals, plants, and inanimate objects and that it is a mistake to equate physical health and virtue, but he contends that Natural Law philosophers do not make these mistakes. Maybe some of them do not make these mistakes, but Henry Veatch, who is one of the leading

proponents of Aristotelian ethics, is critical of unhealthy plants and birds. That is why I included a quotation from him to that effect.

"A plant, for example, may be seen to be underdeveloped or stunted in its growth. A bird with an injured wing is quite obviously not able to fly as well as others of the same species... And so it is that a thing's nature may be thought of as being not merely that in virtue of which the thing acts or behaves in the way it does, but also as a sort of standard in terms of which we judge whether the thing's action or behavior is all that it might have been or could have been."

If Veatch is not criticizing unhealthy life forms, then I have no idea what point he is trying to make.

The archetype approach makes no

sense to me at all. So, in criticizing it, I tried to interpret it in different ways to see if I could find one that was reasonable. In doing this, I probably attacked some interpretations that have no adherents.

Roderick wrote that in the Aristotelian scheme, *reason* "is the ability to employ *abstract concepts*, to grasp the relations among them, and to communicate this understanding to others." This could be a definition of *philosophizing*. It is not surprising to me that a philosopher such as Aristotle would define reason in this way and then claim that philosophizing is the essential attribute of man and the highest moral good. But while it is understandable that philosophers would define themselves to be the most virtuous, worthy, and admirable of mortals, why should we believe them?

St. Augustine, being a Christian bishop, held that faith rather than reason was the only legitimate tool for investigating man's nature and man's proper ends.

Murray Rothbard, being an economist, chose to define the essential nature of man as a creature who can only live and prosper by his own production and by exchange with other producers.² This definition leads quickly to the libertarian conclusion that parasitism is against human nature and is therefore wrong.

A child psychologist or pediatrician might define man as the most parasitic of all primates who depends on others for his survival for the first several years of his life. We are not born as rugged individualists and producers. On the contrary, we are born as helpless dependents whose survival depends on the altruistic efforts of others. A moral philosophy based on man's essential dependence on others could lead to a social philosophy quite different from libertarianism.

It is apparent to me that natural law theorists choose the "essential" characteristic of man according to their own personal dispositions and goals. They make the mistake of generalizing from their own interests and attributing those interests to man per se. Instead of sweeping generalizations such as "The essential nature of man is reason (or faith or production and exchange)," we

would be closer to the truth if we said, "Aristotle was essentially a rationalist, St. Augustine was essentially a man of faith, and Murray Rothbard was essentially interested in the workings of the free market."

If we grant that these statements capture the essence of Aristotle, Augustine, and Rothbard, we could say that the natural good for these men would be to pursue philosophy, religion, and economics respectively. This would reduce natural law to one of those pop-psychology theories of self-fulfillment that keep making appearances in the best-seller lists.

I propose an approach that treats morality itself rather than self-fulfillment as the goal. In particular, I am interested in justice more than other aspects of morality. In my approach, it isn't necessary to reach agreement on the "essential" nature of man. Since the subject is morality, the relevant aspect of human nature is the fact that people are moral agents, that is, we are creatures who develop moral principles of right and wrong and take these principles into account when we make decisions to act and when we evaluate the actions of others.

The Nature of Moral Agents

What attributes must a creature have to be a moral agent, and what circumstances must such a creature be in so that he can exercise his moral faculty?

Since a moral agent must be able to understand abstract moral principles and be able to apply them in making decisions, a moral agent must be a living creature with self-consciousness, memory, moral principles, other values, and the reasoning faculty, which allows him to devise plans for achieving his objectives, to weigh alternatives, and so on. Secondly, to weigh his options morally he must attach a positive value to acts that conform to his moral principles and a positive value to some of the results that he can achieve by violating his moral principles. (If someone is never in a situation where there is a conflict between his moral principles and his other values, he never has to make moral decisions and he can't be a moral agent.) This means that to be a moral agent you must live in a world of scarcity rather

than paradise. (If all your values could be attained instantly, without effort and without sacrifices and trade-offs, you wouldn't have to choose between your moral goals and your nonmoral goals, and you couldn't exercise your moral agency.)

To be the kind of moral agent who makes decisions about justice and takes action based on those decisions, you have to live in a society with others whom you deem to have moral rights. If you live alone or with only creatures that have no rights, then you can't make decisions to respect or to violate anyone's rights, so you can't be just or unjust.

Finally, to exercise your moral faculty meaningfully, you must be free to act. If you are enchained or paralyzed to the point that you cannot act, you cannot have moral responsibility.

The Minimum Morality of Moral Agents

If morality has any meaning and there is such a thing as a moral agent, then that moral agent must have the right to make moral decisions and to take action based on those decisions. If a moral agent has this right, that means that other moral agents must have a duty to respect that right. Since it is illogical to posit conflicting rights, each moral agent's rights must be compatible with the rights of all other moral agents. This leads to the libertarian principle that each moral agent has the right to make moral decisions and to take action based on those decisions as long as he does not violate the equal rights of all other moral agents.

What creature that we all know and love fits this description of a moral agent? I contend that the normal adult human fits this description, regardless of what preference you have for his "essential" definition.

Normal adult humans are creatures with self-consciousness, memories, moral principles, other values, and the reasoning

¹ *For an Ontology of Morals* pp. 7-8.

² *The Ethics of Liberty* p. 49.



Archetypes vs. Agency: A Response to Roy Halliday

by Roderick T. Long

Two Approaches to Justifying Rights

Among those libertarians who do not justify individual rights *solely* by an appeal to their instrumental value, the two dominant moral approaches are Kantianism and Aristoteleanism (both broadly understood). Roy Halliday is a proponent of the former, I of the latter. We both agree, however, that a purely consequentialist defense of rights is inadequate.

In his article “In Defense of Moral Agents” (in this issue), Roy continues a discussion we began three years ago,¹ concerning whether rights should be grounded in the essence of human beings (my position) or in facts about the nature of moral agency (Roy’s position). I’ll begin with a response to Roy’s criticisms of my position, and then consider his case for the Kantian alternative.

Three Levels of Value

On the Aristotelean view, rights are defined by the virtue of *justice*, which is one of the virtues expressive of a flour-

ishing human life (*eudaimonia*), where the standard for what counts as *eudaimonia* is determined by an appeal to the human essence (or what Roy calls an *archetype*).

Roy’s first criticism is that to make the human essence a moral standard is to condemn as immoral all those who fall short of full-fledged ideal humanity, *even if their falling short is no fault of their own*. This is a criticism I attempted to forestall in “In Defense of Archetypes” by distinguishing three levels of value (which I there called physical health, moral health, and moral praiseworthiness). Let me try to explain more clearly what I mean by this distinction, and why an appeal to this distinction constitutes a reply to Roy’s criticism.

In my previous discussion I may have given the impression that I regarded these three levels as mutually separate. Instead, however, I regard each as a subset of its predecessor. To make this clearer, I shall employ new

terminology: *natural* well-functioning, *moral* well-functioning, and *responsible* well-functioning. An organism is *naturally* well-functioning when, and to the extent that, it is living up to its highest potential in every respect, whether moral or nonmoral. Thus arthritis and cowardice would both count as failures of natural well-functioning.

Moral well-functioning is a subset of natural well-functioning. A moral defect is one that affects our emotions, desires, attitudes, will, choices — in short, those aspects of our nature that are expressed in *actions*. Whether a defect is in our *control* or not has nothing to do with its status as a moral defect; control is the province of *responsible* well-functioning, the subset of moral well-functioning for which we can be praised or blamed. (If I am a coward through no fault of my own (because of my twisted childhood upbringing, say), my cowardice is still a moral failing — a respect in which I fall short of having a perfectly virtuous character — though not a re-

sponsible one. Thus moral evaluation is broader than mere praise and blame.)

Roy condemns Henry Veatch for “criticizing unhealthy life forms.” But the term “criticize” can mean different things in different contexts. To criticize something is, broadly speaking, to find it defective in some way. Thus it is quite appropriate to “criticize” an unhealthy organism, i.e., to note that it is falling short of complete natural well-functioning. It seems to me that this is just what Veatch is doing in the passage Roy quotes. But of course it would be a mistake to “criticize” unhealthy organisms if this were taken to mean attributing to them defective *moral* or *responsible* functioning.

For an Aristotelean, it is not moral well-functioning by itself (let alone responsible well-functioning by itself) that serves as the proper standard of choice, but natural well-functioning taken as a whole. Our choices are moral to the extent that they are guided by the overall ideal of natural well-functioning. The standards for evaluating moral and/or responsible functioning are not drawn solely from moral and/or responsible functioning alone; these narrower kinds of functioning are embedded in the broadest context of functioning, i.e. natural functioning. But it is important to see the difference between *regarding natural well-functioning as providing the standard for moral and responsible functioning* and *regarding all failures in natural functioning as failures in moral and responsible functioning*. Moral and responsible functioning are to be evaluated in terms of what they *aim* at, not necessarily in terms of what they actually achieve. So, for example, having no broken limbs is a condition of natural well-functioning. In what sense does this condition serve as a moral criterion and in what sense doesn't it? Well, if a person has a broken limb through no fault of her own, then this failure of natural functioning has no implications for moral and responsible functioning. But if a person has a broken limb because she failed to exercise due care to avoid an accident, then she has failed to regulate her choices by the ideal of natural well-functioning, and thus is open to moral criticism and (in most cases) to blame as well.

Once these different senses of criticism are taken into account, it seems to me that Veatch, along with Aristoteleans generally, is not open to Roy's charge of condemning organisms for being unhealthy.

Why Reason Is Essential

The various different operations that comprise natural well-functioning are not all equal in importance; for the Aristotelean, they form a natural hierarchy of the more and less fundamental, with the most fundamental — because the most explanatory — being the operation of *reason*. This brings me to Roy's second objection: that the identification of reason as the most essentially human feature reflects the parochial perspective of philosophers and would not win the assent of theologians, economists, or psychologists.

In response to my characterization of reason as “the ability to employ *abstract concepts*, to grasp the relations among them, and to communicate this understanding to others,” Roy writes, “This could be a definition of philosophizing,” and suggests that only a philosopher could take such a trait to be definitive of human flourishing. But I do not see why my description of reason strikes Roy as fancy and philosophical. It seems to me to apply to the most ordinary tasks of life — reading a map, ordering a cheeseburger, writing up a grocery list. Reason, as I've characterized it, is involved in all our thinking and all our speaking. (Reason becomes *philosophical* only when it is applied to philosophical *subject matter*.)

Roy suggests that a theologian would find faith, rather than reason, the essential human characteristic.² But reason, in my sense, is not something to which faith could be an *alternative*. On the contrary, religious faith *presupposes*, and is an *exercise* of, reason. Faith involves assenting to religious *propositions* concerning entities and properties not evident to the senses. Imagine a gerbil or a cougar having faith in the existence of a God or the doctrine of the Trinity or the Incarnation. It would be impossible. Only a being capable of reason could grasp such ideas enough to count as believing (or, for that matter, disbelieving) them. Reason explains the

very possibility of faith, and the more explanatory characteristic is the more essential one.

Roy offers Murray Rothbard as an example of a broadly Aristotelean thinker who nevertheless — because he is an economist, Roy assumes — finds production and exchange to be more essentially human features than reason. It's been fifteen years since I read *The Ethics of Liberty*, so I'm in no position to debate Rothbard exegesis; but if that is what Rothbard says, then he is making the same sort of mistake as that of treating faith as the essential human characteristic. Writing of the natural human “propensity to truck, barter, and exchange one thing for another,” Adam Smith writes:

“Whether this propensity be one of those original principles in human nature of which no further account can be given; or whether, *as seems more probable* [emphasis mine], it be the necessary consequence of the faculties of reason and speech, it belongs not to our present subject to inquire. It is common to all men, and to be found in no other race of animals, which seem to know neither this nor any other species of contracts. ... Nobody ever saw a dog make a fair and deliberate exchange of one bone for another with another dog. Nobody ever saw one animal by its gestures and natural cries signify to another, this is mine, that yours; I am willing to give this for that.”³

Smith is surely right in suggesting that the distinctively human capacity to engage in economic exchange is a by-product of the more general human capacity for reason. To propose an exchange or barter is to communicate a highly abstract idea to another person, one beyond the perception-bound mentality of the lower animals. Our economic capacities are logically dependent on, explained by, and thus less essential and fundamental than, our “faculties of reason and speech.”

Finally, Roy suggests that a psychologist might find dependence on others to be the most essential human trait, on the grounds that human beings, as

children, undergo a longer period of helpless dependence than do the young of other species. But in order for this trait to be more central to our essence than reason, it must explain more about us than reason does. This is a tall order. Our long period of early dependence does explain some facts about us, including some of the less pleasant facts, as I have argued earlier:

“Statist régimes exist because people want them. ... Human beings ... have the longest childhoods, the longest period of dependence. Thus we ... learn early that we need someone to take care of us, to make our decisions for us. And what we learn earliest is the most deeply ingrained, the most difficult to unlearn. Hence the desire for the State, as a replacement for the Parent.”⁴

But this trait is no more a *competitor* to reason as a candidate for the human essence than faith or economic exchange is. On the contrary, the unusual length of our early dependence is itself a by-product of our nature as rational beings:

“Animals at the bottom of the evolutionary ladder ... operate almost entirely on instinct. Very little of their behavior is learned; for the most part it is encoded in their genes, and passed from one generation to another through biological reproduction. As we pass to more advanced species, however, we find the ratio of learned to instinctual behavior steadily increasing, until we reach human beings, whose ability to learn is tremendous — and whose repertoire of instinctive behavior is minimal. Reliance on learning rather than instinct makes for a more flexible and versatile organism; when environmental conditions change, animals whose behavior is not pre-programmed can adapt more quickly. Moreover, animals with the capacity to learn can acquire new, successful behavioral strategies by imitating one another and in addition, knowledge can now be transmitted to all the other members of one's species, not solely one's immediate descendants Species that rely heav-

ily on instinct, by contrast, are less flexible, and so rely on quantity rather than quality in their reproductive strategies; rather than raising just one or two offspring and investing time and effort teaching them the skills needed to survive, as occurs in the higher animals, the lower animals produce hundreds of offspring at once, and turn them loose with little or no guidance. ... So we're lucky to be human. ... There is a downside to all this, though. Because we depend so heavily on learning and are so ill-equipped with instincts, it takes us a long time to acquire the ability to survive on our own. Many insects begin life entirely alone, with the parents long since dead or flown off; the insect knows instinctually how to go about surviving. As we climb the evolutionary ladder, dependence on parenting increases; but even here we find, e.g., that colts can stand and walk, albeit shakily, from the day they are born. Human beings, because of our heavy learning-to-instinct ratio — that ratio that is our glory, that makes us what we are — also have the longest childhoods, the longest period of dependence.”⁵

In short, it is precisely because we survive by reason rather than instinct that we need such long childhoods. It is not as though evolution selected directly for long periods of dependence (why would it?), and as a result humans had time to develop the capacity to reason. Rather, evolution selected for the capacity to reason, and lengthy childhood was the necessary side-effect. So it is reason that *explains* our long period of early dependence, not vice versa.

As I wrote in my first reply to Roy:

“For Aristoteleans, what makes a property essential is its *explanatory centrality*; rationality is our most essential feature, not because only humans are rational, but because rationality *explains* more about us than any other feature.”⁶

Roy suggests that one's choice of profession will determine which features one will find essentially human. But if a property's being essentially human is a

matter if its role in an *explanatory hierarchy*, then it is not a mere matter of taste, but an objectively verifiable theorem, that reason is more explanatory, and thus more essential, than any of the rival characteristics that Roy has proposed.

Grounding Morality in Agency

Roy proposes to ground morality on the nature of moral agency. In this respect Roy is following in the Kantian tradition, though the details of his view are different from Kant's. I am not entirely certain how Roy's argument is supposed to go, however. He starts out by giving what looks like a list of *necessary* conditions for being a moral agent:

“What attributes must a creature have to be a moral agent, and what circumstances must such a creature be in so that he can exercise his moral faculty?”

But he ends up concluding that human beings must be moral agents because they meet the conditions:

“Normal adult humans are creatures with self-consciousness, memories, moral principles, other values, and the reasoning faculty, who live in a world of scarcity in societies with others of their own kind. This makes them moral agents who have the natural right to make their own moral decisions in freedom.”

Somehow what started out as merely *necessary* conditions for moral agency have turned into *sufficient* conditions. I won't dwell on this quibble, however, since I agree that human beings are moral agents.

Circularity and Justice

Another worry I have concerns the possible circularity of Roy's account. Roy wants to base morality on the features of moral agents. But one of the features of moral agents to which he appeals is the ability to develop, and act in accordance with, moral principles. Yet, as I argued in my previous exchange with Roy:

“It would be circular to base moral principles on the ability to respond to

moral principles; there must be something to respond *to*, something independent of our responses themselves.”

How can moral agency be the *source* of moral principles if moral agency *presupposes* moral principles?

Perhaps Roy means to avoid this objection by narrowing his argument to the special case of *justice*. Roy does say that he is “interested in justice more than other aspects of morality.” So Roy might be offering us a two-level theory, with moral principles concerning justice being grounded on moral agents’ possession of *other* moral principles. If so, then I simply wish to point out, first, that this leaves the origin of our other moral principles unexplained, and second, that it is unlikely that the requirements of justice can be defined with any precision in the absence of such an explanation. For how could an account of the nature of justice be entirely uninfluenced by facts about the proper standard for bravery, generosity, kindness, integrity, self-discipline, and other virtues distinct from justice?” It would be like plotting the trajectory of the moon without taking into account the gravitational attraction of the earth.

Consider the following example. Suppose I borrow from Roy, and promise to return to him, an irreplaceable heirloom. But as I am carrying it home I am approached by a mugger who demands that I surrender the heirloom. What should I do? Well, from an Aristotelean viewpoint, I should act as required by the virtues. But the current situation falls within the domain of two different virtues: courage and justice. Courage is the virtue of determining which risks are worth taking and which are not. (In the Aristotelean tradition, being too heedless of danger is just as much a departure from courage as being too cautious.) Justice is the virtue of respecting people’s rights and honoring one’s agreements. Now justice requires me to do the best I can to return the heirloom to Roy intact. But justice presumably does not require me to *die* in order to protect the heirloom; it requires only that I take *reasonable* risks, not unreasonable ones. But if I were to resist the mugger, would I be taking a rea-

sonable risk or an unreasonable one?

This is the kind of judgment for which the virtue of courage is required. So the requirements of justice are not completely determinate apart from considerations of courage. On the other hand, the requirements of courage are not completely determinate apart from considerations of justice: when I try to decide whether resisting the mugger would be courageous or foolhardy — whether it is a risk worth taking or not — considerations of *justice*, such as the fact that the item is Roy’s property and is something I promised to return (and cannot possibly replace), will be *relevant* to answering that question. Neither justice nor courage has a completely determinate content independent of the other; their respective contents can be specified only through a process of mutual adjustment. (And so with all the virtues generally.) So any attempt to specify the content of justice in isolation is bound, I think, to fail.

Morality and Conflict

Roy also claims that moral agents must value things other than moral principles, so that they can make moral decisions between their principles and their other values. This view seems to depend on the assumption that there is a sharp dividing line between moral values and nonmoral values. But for the Aristotelean there is no such divide. There is, as I noted above, a distinction between moral functioning and natural functioning, but the proper *goals* of moral functioning are set by natural functioning. On the Aristotelean view, moral choice is not between moral value and some other kind of value, but between what is eudaimonically valuable *all things considered* and what is eudaimonically valuable only from an incomplete perspective.

For example, going back to the case I described above, suppose that the mugger is fairly small, and unarmed, so that in the circumstances resisting the mugger is a risk worth taking. Hence what courage and justice require of me is to resist the mugger. But suppose that I am very frightened and am tempted to give in to the mugger nonetheless. For Aristotle this is not a conflict between a moral value and a nonmoral value. My

desire to give in to the mugger is a desire for safety from bodily injury. Now safety from bodily injury is a good thing, part of natural well-functioning; so it is perfectly appropriate for me to desire it. Indeed, I would be morally defective if I did not desire it. But if I were to give in to that desire on the present occasion, I would be treating safety from bodily injury as if it were *the* most important consideration in the circumstances; I would be ignoring the other values at stake in the context. This would not be a conflict between morality and self-interest; rather, it would be a conflict between a narrower and a broader appreciation of what is the best (morally best, self-interestedly best) thing to do in the circumstances.

From Agency to Libertarian Rights?

The most important section of Roy’s argument, I take it, is the attempt to derive libertarian rights from the bare notion of moral agency. His argument has two steps: from agency to rights in general, and from rights in general to specifically libertarian rights.

The first step goes like this:

“If morality has any meaning and there is such a thing as a moral agent, then that moral agent must have the right to make moral decisions and to take action based on those decisions. If a moral agent has this right, that means that other moral agents must have a duty to respect that right.”

Roy seems to be reasoning as follows:

1. A moral agent has a right to make, and act on, moral decisions.
2. If a moral agent has a right to make, and act on, moral decisions, then other moral agents have a duty to allow the first moral agent to make, and act on, moral decisions.
3. Therefore, moral agents have a duty to allow other moral agents to make, and act on, moral decisions.

I agree that (3) follows from (1) and (2). But has Roy given us reason to accept (1) and (2)?

I think (1) and (2) are ambiguous, because I think the notion of a *right* is

ambiguous. Sometimes having a right to do X merely means being justified in doing X, or being morally free to do X. (Call this a Hobbesian right.) In other cases having a right to do X means not that one is morally justified in doing X, but rather that others are bound to refrain from interfering with one's doing X. (Call this a Lockean right.) To make the contrast clear, consider a football player who scores a touchdown. Is the football player doing something he has a right to do? Well, in the Hobbesian sense, the answer is clearly yes; the football player isn't violating any moral obligation in making the touchdown. However, in the Lockean sense, the answer is equally clearly no; the players from the opposing team are under no obligation to refrain from interfering with his making the touchdown. (Of course, they are restricted in the *manner* in which they may permissibly interfere with him, but interference as such is obviously not forbidden.)

Now suppose in talking of rights Roy means *Hobbesian* rights. In that case, (1) seems undeniable; how could someone be a moral agent unless she were morally justified in making and acting on moral decisions? But in that case (2) stands in need of defense; from the fact that it is permissible for *me* to do something, it doesn't follow that everyone else is obligated to let me do it. We've seen from the football example that Hobbesian rights don't entail Lockean rights.⁸

Suppose instead, more plausibly, that Roy has *Lockean* rights in mind. In that case, (2) is no longer problematic; indeed, it becomes true by definition. But now (1) is no longer so obvious. From facts about what *one* moral agent is justified in doing, how does any conclusion follow as to how *other* moral agents are obligated to treat the first agent? What rules out the possibility that it's every moral agent for himself? I don't see any way to rule this out except by appealing to the *content* of moral principles; nothing morally substantive seems to follow from their form alone.

Even if Roy had established (3), however, he would not yet have established *libertarian* rights. For (3) surely cannot mean that moral agents are obli-

gated to let other moral agents act on just *any* moral decisions they make. (After all, some moral decisions might violate the rights of others.)⁹ So (3) must be compatible with *some* restrictions on the freedom of moral agents to act on their moral decisions. Until we know what those restrictions are, we don't yet know whether anything like libertarianism is in the offing.

Roy makes a move toward libertarian rights by noting that rights must be *compossible*. This seems unobjectionable, at least if it is Lockean rather than Hobbesian rights we are talking about. But what is needed, *minimally*, for libertarian rights is not only compossibility but *equality*. Now Roy moves from the claim that "each moral agent's rights must be compatible with the rights of all other moral agents" to the claim that "each moral agent has the right to make moral decisions and to take action based on those decisions as long as he does not violate the *equal* rights of all other moral agents." (Emphasis mine.) But the second claim does not follow from the first. Aristotle himself, for example, thought that wise people have more rights than foolish people. This, obviously, is an area where I, as a libertarian, must disagree with the Maestro. But simply appealing to *compossibility* will not refute Aristotle; for one can add rights to the wise and at the same time subtract rights from the foolish.

The Aristotelean Alternative

Roy's Kantian-style approach, then, does not seem to provide an adequate foundation for libertarian rights. Can the Aristotelean-style archetype-based approach do better? I think so. To summarize the argument I gave in the piece that initiated this debate between Roy and myself:¹⁰ Since reason is the most essential human trait, we are obligated to live as rational a life as possible. A life that exemplifies reason only in its choice of means is not as rational as one that also exemplifies reason in its choice of ends. Hence a life in which one deals with others through reason and persuasion is more human than a life in which one deals with others through force. So we are obligated not to *initiate* force against others. (When others initiate

force against us, dealing with them through reason alone *is no longer an available option*, so the prohibition on force applies to initiatory force only.) This prohibition on the initiation of force is the crucial libertarian principle that Roy's agency-based approach does not seem to support. Δ

¹Roy G. Halliday, "Don't Start with Archetypes," and Roderick T. Long, "In Defense of Archetypes: A Response," in *Formulations*, Vol. IV, No. 3 (Spring 1997): <www.freenation.org/fnf/a/f43h4.html>.

²Roy names Augustine, but Augustine's view of the central explanatory and normative role of reason in human flourishing is actually much the same as mine; see Augustine's treatise *On Free Choice of the Will*.

³Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, Book I, Chapter 2.

⁴Roderick T. Long, "The Return of Leviathan: Can We Prevent It?," *Formulations*, Vol. III, No. 3 (Spring 1996): <www.freenation.org/fnf/a/f3311.html>.

⁵Ibid.

⁶Long, "In Defense of Archetypes."

⁷Kant himself did not suppose that a proper account of justice could be developed in isolation from morality as a whole, but many latter-day Kantians, such as John Rawls, have thought that it could. Apparently Roy is in their company!

⁸Nor do Lockean rights entail Hobbesian rights. I have a Lockean right to publish statist propaganda, since no one has any business interfering with me; but I have no Hobbesian right to publish statist propaganda, since advocating statism is immoral.

⁹I assume that by "moral decision" Roy means "a decision based on the agent's moral principles," not "a decision that is in fact morally correct." (A right to act on moral decisions would hardly count as a *libertarian* right on the latter interpretation, since it would permit no right to do wrong.)

¹⁰Roderick T. Long, "The Nature of Law, Part IV: The Basis of Natural Law," *Formulations*, Vol. 4, No. 2 (Winter 1996-97): <www.freenation.org/fnf/a/f4211.html>.

Greetings from the Editor

(Concluded from page 1)

I originally stepped down from the position because it had grown too time-consuming. The job of Editor now involves both less and more than it did when I left it in 1997: less, because this time around I will be dealing solely with content editing, leaving the details of design and production to Roy Halliday and Robert Mihaly; and more, because previously my content editing tasks were shared informally with Rich Hammer. But the overall result adds up to a streamlined process that I expect will enable everyone involved to make the most efficient use of their time.

Under my Content Editorship, the editorial policy of *Formulations* will continue to be governed, as it has been since its first issue, by the vision that Rich Hammer originally expressed in FNF's founding document, *Toward a Free Nation*:¹ Nations come and go. Boundaries change. Libertarians could play a decisive role in influencing the constitutional structure of a new country, if a movement of sufficient capital and sufficient numbers of people could be organized. What blocks the formation of such an organization is a lack of believable, detailed proposals for how the free nation would work. Hence the need for a think tank devoted specifically to the formulation of such proposals.

Accordingly, the primary focus of *Formulations* will remain the *description* and *assessment* of the voluntary institutions that, in the proposed free nation, might replace the coercive institutions of government. We will not be analyzing election results or complaining about the latest outrage from our politicians and bureaucrats. The subject of *Formulations* is the politics of free nations, not the politics of unfree nations.

A hundred years ago, another libertarian editor — E. L. Godkin of the *Nation* (at that time a classical liberal periodical) — looked ahead to the dawning 20th century with trepidation, in a gloomy piece entitled “The Eclipse of Liberalism.” Godkin wrote:

“As the nineteenth century draws to its close it is impossible not to con-

trast the political ideals now dominant with those of the preceding era. It was the rights of man which engaged the attention of the political thinkers of the eighteenth century. ... Government, it was plainly seen, had become the vehicle of oppression; and the methods by which it could be subordinated to the needs of individual development ... were the favorite study of the most enlightened philosophers. In opposition to the theory of divine right, whether of kings or demagogues, the doctrine of natural rights was set up. ...

These eighteenth-century ideals were the soil in which modern Liberalism flourished. Under their influence the demand for Constitutional Government arose. Rulers were to be the servants of the people, and were to be restrained and held in check by bills of rights

To the principles and precepts of Liberalism the prodigious material progress of the age was largely due. Freed from the vexatious meddling of governments, men devoted themselves to their natural task, the bettering of their condition, with the wonderful results which surround us. But now it seems that its material comfort has blinded the eyes of the present generation to the cause which made it possible. In the politics of the world, Liberalism is a declining, almost a defunct force. ... Only a remnant, old men for the most part, still uphold the Liberal doctrine, and when they are gone, it will have no champions. ...

The Declaration of Independence no longer arouses enthusiasm; it is an embarrassing instrument which requires to be explained away. The Constitution is said to be ‘outgrown’ The old fallacy of divine right has once more asserted its ruinous power, and before it is again repudiated there must be international struggles on a terrific scale.”²

Around the same time, classical liberals like Herbert Spencer and William Graham Sumner were penning similar prophecies, predicting — all too accurately — that the world would have to pass through a hundred years of social-

ism and war before the flame of freedom would begin to burn again.

Standing at the verge of a new century, I see more reasons for optimism this time. Throughout most of the 20th century, defenders of liberty were indeed a tiny remnant; but in the last three decades that has begun to change dramatically. Thanks to the work of organizations like the Institute for Humane Studies, the number of libertarian scholars in academia has skyrocketed. The Nobel committee keeps showering our economists with prizes. Political groups like the Libertarian Party and the Cato Institute have moved into swankier digs in Washington DC, and their representatives are regularly featured on C-SPAN. The Movimiento Libertario is a significant force in Costa Rica. When I visited the ISIL conference in Rome in 1997, I was delighted to see enthusiastic young libertarians from all over Europe, including former Communist countries. The tables at the conference were heavily laden with new Italian translations of libertarian classics by Hayek, Rothbard, and Friedman. (*David Friedman!*) Libertarian ideas dominate the Internet, a communications network that in turn is starting to dominate the world — and which is inherently libertarian in its very structure. In short, the worldwide libertarian movement is a force to be reckoned with — a force that has barely begun to flex its muscles.

Thus far, most of the participants in the burgeoning libertarian movement have directed their energies to turning back the tide of statism in their home countries. That is a worthy goal, and the Free Nation Foundation certainly does not oppose it. But FNF points to another possibility as well: laying the theoretical groundwork for the creation of a new libertarian nation.

Join us. Δ

Roderick T. Long teaches philosophy at Auburn University, is an avid reader of history and science fiction, and maintains a dandy website at <www.geocities.com/berserkr!>.

¹ <www.freenation.org/fnf/a/toward.html>

² E. L. Godkin, “The Eclipse of Liberalism,” *The Nation*, August 9, 1900; reprinted in David Boaz, ed., *The Libertarian Reader: Classic and Contemporary Readings from Lao-tzu to Milton Friedman* (New York: Free Press, 1997), pp. 324-326.



Money in a Free Nation

By Joanna Parker

*Unless you become as a little child,
you shall in nowise enter the
kingdom of heaven.*

Mt. 18:3

An itinerant preacher once said that heaven and hell are the same place. "Hell is just heaven misunderstood," he added, "and neither is anywhere but here, nor for any time but now."¹

All that most of us know of life is our sensory experience of it, our emotional reactions to it, our mental speculations about it, and occasionally a revelation that seems to transcend all of these. One piece of knowledge that even our "hard" sciences perceive to be incontrovertible is the fact that the universe operates on a principle of equilibrium. It is a

rule that children recognize easily because their judgment has not yet been skewed by the frauds that abound in adult society.

Fraud and freedom, unlike heaven and hell, cannot live in the same space. A free nation, therefore, must have honest money.

"You can't print gold."—Ron Paul²

My grandson Daniel trades Pokémon cards with his friend Russell. Each transaction is in balance, just as on a scale. "I'll trade you this one for that one." Each youngster gets full value for what he surrenders to the other. But if one day Russell were to offer Daniel a piece of paper with "Dewgong card" written on it in exchange for Daniel's

Charizard card, Daniel would probably tell his friend—and quite properly—to get real.

The key word is *real*. In a free nation, as it is with children, exchanges must be real. And words used to signify the nature and substance of exchanges must mean what they say; otherwise they are not real words. In a free nation, words having to do with mundane matters must mean what they say, and any word that cannot be defined by unanimous agreement among or between the parties involved is not a real word. A word to which an unequivocal meaning has not been assigned is not a word. It signifies nothing. It is just a string of letters.

Long-time hard-money advocate Paul Hein³ tested a bogus word a couple

of years ago with the U.S. Treasury Department. He wrote requesting that someone at Treasury give him the definition of a dollar according to U.S. Law, and added that he wanted the exact citation.

"Customer Assistance" at the Treasury Department replied that a dollar is defined as "a currency bill and monetary unit of the United States, equal to 100 cents" but that they had no information on a specific citation in the federal regulations. They suggested that he contact the Federal Reserve.

Hein wrote back, with more questions, and received an even emptier non-answer than before and a *firm* request, this time around, that he contact the Federal Reserve.

Hein wrote a third time, posing a new set of questions and expressing his amazement that the Treasury Department could not give him the definition of a dollar in U.S. Law. This time the Treasury's Customer Assistant informed him that the Department does not "have regulatory authority over actual currency" and that its office would "not respond to any other inquiries regarding the definition of a dollar."

Long before initiating this fruitless correspondence with the Treasury, Hein had already engaged in the same experiment with the Federal Reserve. And with the IRS before that. The Fed replied that due to the "technical nature" of Hein's questions, the official he had contacted was "unable to answer at this time." The IRS was even more candid: "The term 'dollar' is not defined in the Internal Revenue Code."

So, in the nation vaunted as the world's freest and richest, nobody in "authority" knows what a dollar is. Thus we can reasonably deduce that no one in the rest of the world knows, either. Nor what their own units of exchange are. The British don't know what a pound is, the French don't know what a franc is, the Germans don't know what a mark is, the Japanese don't know what a yen is, and so on. Since all these supposed currencies are fiat (forced tender without intrinsic value), they cannot be defined because they aren't *anything*. The very existence of Legal Tender Laws is *prima facie* evidence of a currency's worthless-

ness. If it were any good, as economist Larry Parks points out, people would not have to be forced to use it.⁴

"Paper money has had the effect in your state that it will ever have, to ruin commerce, oppress the honest, and open the door to every species of fraud and injustice."—George Washington⁵

What will people living in a free nation use for money? The question begs an immediate second question: *where*? If that free nation is geographical, rather than virtual, exchanges among its inhabitants will necessarily have to be as real and as physical as the terrain on which they live. And the media of such exchanges cannot be given a forced definition as "legal tender" but must be left to all parties in all exchanges to decide, by mutual consent, what the medium or media are to be. Otherwise, there is no way that the inhabitants of such a nation will remain free.

So, within the borders of a free nation, no central authority needs to decide what constitutes "money." However, the inhabitants of this territory, just as those in any other, are going to need all manner of goods to sustain their lives in all sorts of ways. Let us suppose, from here on out, that these inhabitants are *us*. And let us suppose that we have put enough fiat money together to lease a relatively virgin territory from an East African nation. We will have to start from scratch. We will need to import almost everything, from foodstuffs to plumbing fixtures. So, the first kinds of exchanges in which we will have to engage will not be among ourselves but will have to be across borders—international. And once we are fully established and thriving, we will still have to do a great deal of importing (and, hopefully, exporting) because the world's resources are international. We will need a medium of exchange that works everywhere, not just at home.

Inside our borders, we may reach the consensus that coinage in fixed weights of silver and gold will serve as our internal money for most exchanges, but clearly we cannot be sending such bulk

around the world for what we want to buy nor demanding it from foreigners to whom we wish to sell. But if we have understood that fiat money is immoral⁶ and have banished it from our lives, how are we going to engage in world trade without it?

Easy. Establish accounts with real-money depositories such as The Gold & Silver Reserve, Inc. Or, if we have among us someone with an expertise equal to that of the creators of G&SR, we can create our own depository. But I suggest that we begin with a depository that has already tested its method and worked out the kinks.

G&SR is more familiarly known as "e-gold."⁷ It is the ultimate bank, but only because it is not a bank—not by any contemporary standard, nor even by any standard since the Middle Ages. Gold & Silver Reserve is a depository of real money, wealth that is neither lent nor borrowed but simply *kept*, ready at any time to obey the will of the owners of this wealth, and of whoever cares to become an owner. It has turned the tables on the modern alchemists, the wizards of deception who believe they have succeeded in turning gold into paper. G&SR will take your paper and turn it back into gold.⁸

"Paper money eventually returns to its intrinsic value—zero."—Voltaire⁹

Let us suppose that several hundred (thousand?) pioneering FNF members, sponsors, and affiliates have managed to lease a relatively undeveloped territory from the Tribal Confederation of Dewgong, a third-world country. A Hong-Kong-like autonomy for the lessors is bound into the contract—and perhaps also, ideally, an option to purchase. Once the deal is done, those of us who are ready to leave our various homelands will have no problem doing so if our fiat money has *already* been electronically transmuted into gold by means of a G&SR account. This is because once our dollars, bahts, pesos, and pounds reach the account, they no longer exist. What we will own instead are physical weight-units of precious metals at their going market value, upon which we can draw in tangible specie or turn back into

fiat money—for bill-paying, gifts, whatever—any time we wish and anywhere we wish, with a single keystroke or mouse click.

Thus a person can quit any country whose government imposes controls on a citizen's ability to do so and take all his money with him; and he can do it with a smile (read: smirk).¹⁰ The new citizen of Free Dewgong Territory will leave his former land with little more than a few traveller's checks and pocket change. He will pass by his government's *duoanier* (Customs agent) with "nothing to declare." Nor will he have any foreign bank accounts to confess-to on future tax forms. As far as respective national authorities are concerned, everyone emigrating to Free Dewgong¹¹ Territory is virtually broke.

"All the perplexities, confusion and distresses in America arise not from defects in the constitution or confederation, nor from want of honor or virtue, as much as from downright ignorance of the nature of coin, credit, and circulation."—John Adams, letter to Thomas Jefferson¹²

Actually, every one of us really *is* broke; but because we are forced to play the fiat-money game, and in view of the murkiness in our crystal balls regarding future economic and political outcomes, we usually try to keep at least a savings account going. However, even some libertarians don't realize that these very accounts are contributing to—indeed, *aiding and abetting*—everything we hate about what has been happening to our lives because of the relentless growth of government. For every dollar "deposited" (lent) to the bank, the bank is allowed to lend out nine more. These new dollars surface magically with a keystroke, a numeric virgin birth; and with these pseudo dollars, created from nothing and backed by nothing, the bank

then makes the loans from which it "earns" more dollars—which are also created out of nothing.¹³

The Federal Reserve engages in the same fraud on a larger scale when it "buys" government securities. This is the way tons of new paper chits marked "Federal Reserve Notes" (IOUs) are cranked out and circulated as "legal tender." It is also how the 50 vassal states of America get their pork barrels filled perennially, and to relentlessly higher levels. Above all, it is the way our so-called "national debt" has reached its dizzying altitude of \$5.5 trillion.

There is no such debt, of course,

"What is e-gold? e-gold is the first electronic currency that unleashes the potential of worldwide e-commerce. From Azerbaijan to Zaire, e-gold is the largest, fastest growing, privately issued currency in the world. e-gold is World Wide Money."

since everything has been paid-for with nothing to begin with. But in order to fool the citizenry into believing it is all very serious and real, government pretends that their earnings (and their boats, booze, cigars, cigarettes, gasoline, phone calls, capital gains, and so on *ad infinitum*) must be taxed.¹⁴

Thus fiat money is the ultimate instrument of control, an unwritten *quid pro quo* between bankers and rulers. The State gets to rule the mob, and the central banker gets to rule the State. These are the true *Partners in Power*.¹⁵ The only possible way for a free nation to break this link, or escape its long reach, is to have nothing to do with banks.

"What is e-gold? e-gold is the first electronic currency that unleashes the potential of worldwide e-commerce. From Azerbaijan to Zaire, e-gold is the largest, fastest growing, privately issued

currency in the world. e-gold is World Wide Money."¹⁶

Using a deposits-and-payments facility that operates on a 100% precious-metals purchase-and-sell basis is the only honest and freedom-protecting way to carry on day-to-day financial transactions in a free nation. Since precious-metals accounts continuously reflect ongoing market value, the true cost of every commercial activity is always transparent. Inflation is now impossible, and prices are now valid measures.

The psychological reward of this reality-based economy is automatic. If I buy a book at Phil's bookstore, I will no longer have to cheat him with fiat paper or junk-metal coins. I can pay him what the book is really worth. I can pay him with real money. It won't even matter if he has priced the book in dollar terms. I can go to the computer terminal he has set-up in his store, call up my e-metal account, and instantly transfer to *his* e-metal account the exact dollar-equivalent of whichever metal I want to spend.

Lending and borrowing will also be possible, in the form of privately-negotiated contracts between or among account holders. If Roderick decides to start a school, he can solicit financing from one or more of his fellow account holders at an X% interest rate in e-metal. Then, if I want my grandson to attend Roderick's school but can't afford to pay a year's tuition in advance, he can offer me a monthly payment arrangement at a premium of Y% in e-metal. We will all be agreeing in a real-world framework that cannot help but produce harmony. It will feel good to earn and spend real money. It will feel good to be *free* to be honest, to be like children—innocent—exchanging our Pokémon cards. And, it will feel good to think that, just maybe, it's really possible to turn hell back into heaven.

(Concluded on back cover)

Money in a Free Nation

(Concluded from page 27)

Afterword

The Coinage Act of 1792 fixed the value of a dollar at the same silver content (.7982 oz.) as that of the Spanish 8 reales (known as the Spanish Milled dollar or "Pillar" dollar). This "foreign" coin circulated freely in colonial America and the United States from the early 1700s [because the money-value was its silver content, not what image graced the coin] until 1857. The Pillar dollar also came in smaller denominations, which people referred to as "bits"—thus the expressions "two bits, four bits, six bits" that still persist today for a quarter, half-dollar, and three quarters.

Colonial Pillar Dollar, 1758

The average market price of silver in 1792 was \$1.293, and although the price fluctuated in the 19th century because of massive new discoveries of the metal, in 1965, the year that the United States government debased our coinage by eliminating its silver content, the market price was still \$1.293. The same story for gold. In the Coinage Act of 1792, gold was figured at 20 times the price of silver. The price remained consistently stable until 1933, when the president of the United States (FDR) debased the coinage for the first time in our history. (And confiscated everybody's gold, in the bargain.) The Coinage Act of 1792 has not been repealed. One of its provisions mandates the death penalty for any public official convicted of debasing the coinage. Nor have Sections 8 and 10 of Article I of the U.S. Constitution been annulled by any amendment to the Constitution. In 1833, when official records of the London Fix price of gold were first published, the year's average price was \$20.65; in 1930, it was still \$20.65. In 1932, it was \$20.69. By 1980, the year's average price had reached \$612.56 (with a spike at one point to well above \$800). In other words, our money had been debased by an average of 97%.

The dollar had become three cents. No one has been hanged.¹⁷ Δ

Joanna Parker began with an economics degree from Seattle University but did her graduate work in French and linguistics at Washington State University and Tulane. She spent many years doing books (accounting) and as many more teaching English and French at every level from elementary to college. Her last full time post was at Holy Cross College in New Orleans, a small 4-year undergraduate institution where she doubled as both English professor and its one-person French department. Retired since 1989, she is now widowed and living near her sons in Ocean



Shores, Washington.

¹ Harry Priestly (1915-1996), in several oral dissertations, heard by only a few of the famous, such as actress Jane Russell and her immediate family and friends. I knew him for 35 years, ever urging him to publish his insights. He never did.

² Attributed to unidentified issue of *Readers Digest* in "The Return of the Gold Standard?"

³ Dr. Hein is a contributing essayist at www.gold-eagle.com. He tells this story in his September 21, 1998 article "What a Web We Weave" (at http://www.gold-eagle.com/gold_digest_98/hein092198.html).

⁴ Lawrence M. Parks, Foundation for the Advancement of Monetary Education (<http://www.FAME.org>), in *The Fight for Honest Monetary Weights and Measures* (Jersey

City, NJ: Palisade Press [White Paper No. 2, January 17, 2000]), p. 5.

⁵ Letter to J. Bowen, Rhode Island, January 9, 1787 (quoted in Parks, op. cit., Introduction, p. ii).

⁶ Because it is created out of thin air and backed by nothing. It is simply legalized counterfeit. By its very nature, fiat money cannot represent any specific value. The dollar amount printed on a piece of paper labeled "Federal Reserve Note" would be worth the same, intrinsically, were the denominations printed as One, Five, Ten, Twenty, Fifty, or 100 Dewgongs.

⁷ www.e-gold.com/e-gold.asp?cid=100889

⁸ Or into silver, if you wish, or into platinum or palladium or all four metals. G&SR uses the term *gold* for simplicity's sake, as shall I.

⁹ Quoted in Parks, op. cit., Intro, p. ii.

¹⁰ For the first time in its history, the United States now exerts similar controls. Thanks to the Clinton Administration (and the War on Drugs), one cannot leave the country with more than \$10,000 in cash. He or she must also satisfy IRS reporting requirements, of course, so that Uncle can be sure the departing individual is not leaving to avoid taxes.

(Heaven forbid!)

¹¹ Simple-minded as it may seem, I have often thought a free nation's name should be "Liberty." Admittedly, this didn't work very well for Liberia, but its newly emancipated settlers didn't have the time that we will have had to plan ahead.

¹² Quoted in Parks, op. cit., Intro, p. ii.

¹³ Since 1971, after President Nixon put an end to the gold standard (formalized by Congress in 1978).

¹⁴ Llewellyn Rockwell, Jr., of the Mises Institute, once quipped, "The truth is the Fed doesn't need our taxes any more than a counterfeiter needs to rob the local gas station." ("Mad Fed Disease", *The Free Market* May 1996: n.p. (see reprint at www.lewrockwell.com/archives/fm/5-96.html).

¹⁵ Title of Roger Morris' 1999 book on Bill and Hillary Clinton (Regnery Publishing).

¹⁶ From the GS&R "Questions and Answers" page (link on the page given in note 7). I recommend the Site Map, also.

¹⁷ These data (average London Fix, as world standard) were taken from www.kitco.com/cgi-bin/yearly_graphs.cgi. Records for U.S. prices only are posted at www.globalfindata.com/tbsilver.htm and www.globalfindata.com/tbgold.htm