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Foundation News Notes

FNF Director and *Formulations* Content Editor Roderick T. Long has recently been promoted to Assistant Professor at Auburn University. The position is tenure-track. Roderick had spent the last two years as Instructor (non-tenure-track) at Auburn.

Roderick Long's monograph *Reason and Value: Aristotle versus Rand* has just been published by the Objectivist Center. The monograph, drafts of which have been circulating in Objectivist circles since 1994, is a critical study of the epistemology and ethics of Ayn Rand from an Aristotelean standpoint. The volume includes replies by Objectivist scholars Fred Miller and Eyal Mozes, and a reply by Roderick to the replies. For details, see: <www.objectivistcenter.org/psource/OThought.asp#RVAVRot>.

In September, the FNF Board of Directors elected Earnest Johnson to be a member of the Advisory Senate. Earnest is a long-time FNF member. He has attended most of our events and contributed as an author to *Formulations*. Perhaps his most significant contribution to FNF was to the project which set up our on-line archives of *Formulations*. The conversion of the original version of the first volumes of *Formulations* was made particularly difficult because of the formatting involved. Earnest helped us find and physically make a critical and difficult conversion of the documents which made the archives possible.

On Saturday, April 29, 2000, FNF held a Forum on Financial Systems at the Regal University Hotel in Durham, North Carolina. Three papers were pre-
(Concluded on page 3)

Anarchy, State, and Mixture, Part I: Six Possibilities

by Roderick T. Long

The new libertarian nation toward which we work should have a constitutional structure that combines aspects of government with aspects of anarchy. There are two reasons for this. First, such a compromise is more likely to inspire libertarians of both minarchist and anarchist persuasions to collaborate in the establishment of the new nation. Second, as an anarchist myself, I am convinced that a free nation will need to be fairly anarchistic in order to remain free; but I also concede that such a nation will need to be able to show a governmental face to the world (as well as to some of its inhabitants, especially if the free nation starts off with an indigenous non-libertarian population) in order to maintain its legitimacy.

There are a number of different (not necessarily mutually exclusive) ways of combining governmental with anarchistic features in a single legal system. One suggestion I've made in the past is to have a federal structure in which the central authority was the government but in which the local jurisdictions were competing, non-territorially-based "virtual cantons." Another is to have the national government renounce all governmental power but still use governmental language, and make paying taxes a condition of citizenship. Still another is to have an inner region of anarchy protected by a surrounding buffer zone of government. Which of these methods, if any, is most appropriate to the new nation will depend on the particular circumstances of its formation.

I now wish to suggest yet another way in which aspects of both state and anarchy can be combined into a single system.

A legal system is any institution or set of institutions in a given society that adjudicates conflicting claims and secures compliance in a formal, systematic, and orderly way. A government is

a legal system that claims, and in large part achieves, a coercive *monopoly* on the use of force to adjudicate claims and secure compliance in a given territorial area. So government is, in effect, a monopolistic legal system. But a legal system has three main functions:

"The **judicial** function is the core of any legal system. In its judicial function, a legal system adjudicates disputes, issuing a decision as to how the disagreement should be settled. The other two functions are merely adjuncts to this central function.

The purpose of the **legislative** function is to determine the rules that will govern the process of adjudication. Legislation tells the judicial

(Concluded on page 4)

Inside

The Origins of States by Roy Halliday.....	2
Private Roads, Competition, Automobile Insurance and Price Controls by Walter Block.....	8
A Pessimistic View of Legiti- mizing the Institutions of a Free Nation by Roy Halliday.....	11
The Free Nation Foundation Workplan: Review and Revision by Phil Jacobson.....	13
Toward a Free Nation, Still by Roderick T. Long.....	15

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Statement of Purpose

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

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

Information for Authors

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

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

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

As a second priority we seek

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

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

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sented by their authors: "Money, Banking, and the Gambling-Stakes Paradigm for Loan Collateral and Labor Contracts" by Roy Halliday, "Financing the Future" by Bobby Emory, and "Combine the Power of the Internet and the Gold Standard" by Wayne Dawson. Wayne Dawson also presented "A Note on Credit Institutions in a Free Nation" by Roderick Long, and Phil Jacobson presented Joanna Parker's paper, "Money in a Free Nation."

On Sunday, October 15, 2000, starting at 10 a.m., FNF will hold another Forum at the Regal University Hotel in Durham, North Carolina. The topic is "Legitimacy of Institutions in a Free Nation." Relevant institutions include businesses, labor unions, charitable and religious organizations, the press and other information media, families, common law, courts, legislatures, the armed forces, police, and prisons. Some questions that would be appropriate to address in papers for this forum are:

What criteria must be met for an institution to be legitimate in the eyes of the citizens of a free nation?

What criteria must be met for an institution in a free nation to be legitimate in the eyes of foreign governments?

Can the criteria for domestic legitimacy be reconciled with the criteria for foreign legitimacy? How?

The Origins of States

by Roy Halliday

To find out how states were created, I read *Origins of the State and Civilization* by Elman Service. It summarizes what anthropologists have written about some of the last primitive cultures to acquire states: Zulus, Ankoles, Nupes, and Ashantis in Africa; the Cherokees in North America; and the Polynesians in Hawaii, Tahiti, and Tonga. It also describes what the experts know or surmise about the origins of the earliest civilizations in Mesoamerica, Peru, Mesopotamia, Egypt, the Indus River Valley, and China. As it turns out, a primary state (as opposed to a state that

replaces an existing state) can arise in several different ways.

Of the eight recently developed primary states, six were created by conquest (but one of these was overthrown and replaced by a secondary state created by the leaders of the rebellion), one was created to mitigate disputes with foreign settlers, and one (Tonga) evolved endogenously from a theocratic chiefdom. In the earliest civilizations, primary states arose by conquest in Egypt and Peru and to defend against raiders in China and Mesopotamia. In Mesoamerica and the Indus River Valley there is no definitive evidence of a state until these civilizations went into decline, other people took over, and the old civilization disappeared.

Priests can become kings or king-makers.

Tonga is so small that its people only needed one priest-chief, and it is so remote that the people didn't have to worry about being attacked. So the Tonga state was not created by conquest nor was it created as a defensive alliance against invaders nor was it created as a means to conduct diplomatic relations with foreigners. According to local legends, the Tonga chiefdom was founded by the sky-god Tangaroa who created the lineage of the paramount chiefs (*Tui Tongas*). Apparently, one of the Tui Tongas abused his authority, began acting like a dictator, and got the people upset. To protect himself from a rebellion, he created a second big chief and delegated all the real power to him and to other members of the Tubou family. From then on the Tui Tonga was merely the high priest again and the Tubou family controlled secular affairs—until the arrival of Europeans, which eventually led to the demise of both the traditional religion and the traditional form of government.

The ancient civilization that appeared about 2300 BC in the Indus River Valley and disappeared around 1500 BC, may have been created and controlled by religious authorities who resorted to the political means of force, but we don't know for sure.

The Indus River Valley gets so little rain and the Indus River (unlike the Nile) floods so irregularly that the plains cannot be occupied successfully without manmade irrigation. So the first settlers must have brought knowledge of irriga-

tion with them from somewhere else. People from the uplands to the east of Sumer who had the requisite knowledge of irrigation techniques may have brought their culture into this previously unoccupied territory. Civilization seems to have developed rapidly in this region as the result of a planned transportation of people with a high culture to an undeveloped land—like a Free Nation Foundation scenario, except we don't know whether it started out on a voluntary basis.

In the Indus River Valley, civilized people created the cities instead of the other way around. The two major cities, Harappa and Mohenjo-daro, were about 350 miles apart, yet they were laid out in similar grid-like patterns, indicating they were planned. The structures were built out of kiln-fired brick, which must have required the importation of large amounts of wood, which means somebody had to coordinate the transporting of the wood as well as the labor to create the bricks and to construct the buildings. When the cities got to be about one square mile, people were installed in them. After that the cities may have been allowed to grow naturally.

The cities were not walled in or fortified, which indicates that they were not built for defensive reasons. (They may have started out as religious centers.) Small villages were scattered around rather than clustered for defense. There is little evidence of either offensive or defensive warfare. It is likely that the people were unified by religion rather than by military forces. The whole region, which is larger than the Old Kingdom of Egypt or Sumer, had a uniform culture as shown in their decorative art and architecture. Somebody did central planning and coordinated foreign trade, but there is no evidence that it was done by a coercive state. City planning and foreign trade may have been done under the authority of the priestly class. The people may have been governed by religious rules and may have been organized along hereditary, religious-class lines. This culture could have been the source of the later Hindu caste system.

Around 1500 BC, the Indus River Valley was conquered by invading herdsmen and the civilization vanished. It is possible that no state existed in the region until then.

The Teotihuacán civilization...

(Continued on page 4)

function *how* to adjudicate. The legislative process may be distinct from the judicial process, as when the Congress passes laws and the Supreme Court then applies them; or the two processes may coincide, as when a common-law body of legislation arises through a series of judicial precedents.

Finally, the purpose of the executive function is to ensure, first, that the disputing parties submit to adjudication in the first place, and second, that they actually comply with the settlement eventually reached through the judicial process. In its executive function the legal system may rely on coercive force, voluntary social sanctions, or some combination of the two. The executive function gives a legal system its 'teeth,' providing incentives for peaceful behavior; both domestic law enforcement and national defense fall under the executive function."

If all three functions are monopolized, the legal system is clearly a government. If all three functions are open to competitive provision, the legal system is clearly an anarchy. But what if some of the functions are monopolized and some are not? In that case, we have a blend of government with anarchy.

There are six possible intermediate combinations:

- A. legislative monopoly
judicial monopoly
executive competition
- B. legislative monopoly
judicial competition
executive monopoly
- C. legislative competition
judicial monopoly
executive monopoly
- D. legislative monopoly
judicial competition
executive competition
- E. legislative competition
judicial monopoly
executive competition

- F. legislative competition
judicial competition
executive monopoly

Of these six possibilities, A and D are the most frequent historically. But each is a possibility. In future installments I shall consider the potential benefits and drawbacks of each. Δ

To be continued

Roderick T. Long is Assistant Professor of Philosophy at Auburn University. He has been a small-L libertarian since 1979, a big-L Libertarian since 1987, and an anarcho-capitalist since 1991. (What took him so long?) He can be contacted at <longrob@auburn.edu>, and his webpage is <www.geocities.com/BerserkRL>.

The Origins of States (Continued from page 3)

(centered about 25 miles northeast of what is now Mexico City) appears to have been an original civilization that lasted from about 0 to 800 AD when it was destroyed, probably by nomadic invaders from the north. At Kaminaljuyu, on the outskirts of Guatemala City, ruins of monuments presumed to be for religious services have been found that were built in the same style, and probably served the same gods, as the monuments in Teotihuacán. So Kaminaljuyu may have been a colony of Teotihuacán. The civilization in the Oaxaca Valley (the present day city of Oaxaca in the southern highlands of Mexico) had the same calendar, hieroglyphs, and art styles as the Teotihuacán civilization, started at about the same time, and ended for unknown reasons about 900 AD. The Aztecs were the final invaders from the north who dominated most of highland Mexico from about 1200 AD until the Spanish conquered them in the 1500s.

We don't know whether the people living in Teotihuacán civilization had a state before they were conquered by outsiders. If they did, it may have been a case of the priestly class resorting to the political means to expand their own power.

Conquerors can become kings.

Probably the most common way that primary states originated was by one tribe conquering another. The ones who got conquered were made to work for the conquerors either as full slaves or as tribute payers. According to Franz Oppenheimer:

"The moment when first the conqueror spared his victim in order permanently to exploit him in productive work, was of incomparable historical importance. It gave birth to nation and state..."

Anthropologist Robert Carneiro is fairly sure that states originated this way in Mesopotamia, Egypt, India, China, Japan, Greece, Rome, northern Europe, central Africa, Polynesia, Mesoamerica, Peru, and Colombia.

The Zulu state was created by the war chief Shaka Zulu who made himself the military dictator of his tribe and then created the Zulu empire by conquering neighboring tribes and instituting a reign of terror. The Ankole state was created when Bahima herders conquered Bairu farmers. The Nupe state was created by Fulani conquerors. States in Hawaii and Tahiti were created when one chief managed to conquer all the other chiefdoms.

In Mesoamerica (central and southern Mexico and Guatemala, the lowlands of Salvador, Belize, and part of western Honduras) the archeological record shows clear signs of civilization before any signs of a repressive state and without any densely populated cities. The Olmec and Mayan civilizations arose in the lowlands of the southern and central coast of the Gulf of Mexico. The Olmec culture lasted from about 1500 to 800 BC. The Mayan culture lasted from about 600 BC to about 1 BC/AD. Based on the pyramids, plazas, tombs, and altars they left behind, the priests had a lot of influence in the Olmec and Mayan cultures, but as far as we know, they had no state until they went into decline and were conquered by outside groups.

When a theocracy is conquered by a group that worships different gods or that is not even a theocracy, the conquered people are apt to lose confidence in their own religion. This undermines their willingness to submit voluntarily to their chief-priests. Consequently, to get them to obey, the rulers may have to resort to force or threats of force. For example, the Hawaiian islands changed

from a group of theocratic chiefdoms to a theocratic state when Kamehameha, who acquired guns and light cannon by trading with Europeans, finally completed his conquest of the islands in 1810. He was succeeded by his son Liholiho, who flouted the most sacred taboos of the ancient Hawaiian religion. ("This was as though a medieval ruler in Europe were to publicly deny the divine right of kings.")

This provoked the conservatives to rise against him. He was prepared for this and his army shot them. Thus Hawaii was changed from a theocracy to a secular state in a single generation by the use of guns. (American liberals are taking much longer to secularize the United States because they are squeamish about using guns against religious denominations larger than the Branch Davidians.) With the religious basis for the chiefdom gone, the chiefs had to rely on brute force to maintain their power. The subsequent years in Hawaii were bloody.

Tahiti was an anarchistic theocracy before the Europeans arrived, but upon contact with European sailors the Tahitians became debauched by alcohol, acquired syphilis and other European diseases, left their idols unattended, and began to die off. A Tahitian chief named Tu acquired a few muskets from the *Bounty* mutineers, renamed himself King Pomare, and set up a government based on violence. Since Pomare was not one of the highest of the chiefs in the traditional hierarchy, he could not control Tahiti without a monopoly of military force. When he died in 1803, his son Pomare II noticed that the old religion was undermining his authority, so he decided to adopt a new state religion. He was baptized in 1812 and set about making Tahiti a Christian state. His rivals defeated him and he went into exile on Moorea. He returned with more adherents and won the final battle in 1815. Then he had the ancient temples and idols destroyed and non-Christians put to death. He simply destroyed his rivals and their religion and required everyone to become Christian. By 1815, as a result of contact with Europeans, the establishment of the state, and the forced conversion of the Tahitians to Christianity, ninety percent of the population lost their lives.

Herders of cattle can become herders

of farmers.

A specific version of the conquest theory that explains the origin of some states is the pastoralists-conquer-agriculturists theory. Herders need to learn how to cooperate to manage their herds. They have more need of teamwork and a captain or coach to manage them than farmers do. These habits lend themselves to coordinated warfare.

The first criminal organizations were probably herdsmen. They kept on the move, looking for better pastures. When they came upon farmers who were unprepared to defend themselves they attacked and stole the produce. Eventually, they hit upon the idea of establishing a secure base of operations. They used their herding experience to domesticate the farmers. They realized that killing the farmers and stealing all the crops was not optimal. It was like depleting the herd and forgetting about the future. So they established territories in which the farmers could expect to be robbed regularly by the same gang. To secure steady income, the thieves kept competing predatory gangs out of the territory. Thus a primary state was born.

This is how the Ankole state was created in Uganda.

"The heroic legends and songs of the pastoralists all tell the same story. Essentially, they describe Ankole as originally in peace, occupied by agriculturist *Bairu* and a few pastoral *Bahima*. They lived apart and neither group had a developed political organization. New Bahima arrivals led to struggles between the Bahima and Bairu, with the Bahima the victors. The society became organized as a kingdom, and these legends remain to provide the traditions of the society."

The invading Bahima herders were only one-tenth as many as the local Bairu farmers, but the Bahima were able to subjugate the Bairu because "like pastoralists elsewhere, their constant raiding had developed a superior military discipline. And like other pastoralists, they had natural logistical advantages: they carried their food along with them."

The Ankole Bahima decided to control the local farmers on a permanent basis. This required that they protect the local farmers from other raiding groups and that they protect their own herds from cattle raiders. The Ankole Bahima

established military dominance over all raiding groups in neighboring areas and extracted tribute from them. They arranged the formerly independent chiefdoms into a hierarchy. The Bairu farmers were not allowed to own herds. Bahima cattle owners became clients of their chiefs and the Bahima chiefs became clients of the Ankole king. A cattle owner would swear to follow his chief in war and give him periodic tribute from his herd in exchange for protection from cattle raiders. The extracting of tribute was regulated and authorized by the king. The Bahima chiefs would swear to follow the king in war and pay tribute to him in exchange for protection from rival chiefdoms. The king maintained peace among his clients and tried any transgressors.

Something similar probably occurred in the Ruanda region of Africa, where:

"Nilotes [Hamitic herders] and the Bantu are clearly distinct, racially and culturally, and the Nilotes are the ruling aristocracy. The Ruanda states are strongly centralized, despotic, and complex, with hereditary classes of royalty, nobility, commoners, and slaves. ... it is entirely possible that they are conquest states—though this cannot be proven by historical fact."

The herding theory also seems to be the most likely explanation for the origin of the Baganda kingdom and other kingdoms in the general region of Lake Victoria.

However, this theory cannot explain the origin of all primary states. For one thing, it cannot explain the origin of primary states in Mesoamerica or Egypt or Polynesia where there never were any pastoral nomads. For another thing, it cannot explain the origin of primary states in Europe, because we now know that the earliest states in Europe came before the earliest European pastoral nomads.

Sometimes all the exits are blocked.

Robert Carneiro developed a circumscription (nowhere to escape) theory as a refinement of the more general war and conquest theory. He argues that primary states originate in places where defeated groups can't get away because of geographic boundaries. For example, states arise in areas where unusually good land

is surrounded by deserts such as along the Nile river in Egypt or where good land is surrounded by mountains or seas as in the Tigris-Euphrates and Indus valleys or the Valley of Mexico or the coastal valleys of Peru or the islands of Polynesia.

To illustrate his point, Carneiro contrasts the coastal valleys of Peru and the Amazon basin. In the Amazon basin the rain forests provided virtually unlimited agricultural land. Forest villagers did not go to war to get land—they fought wars for revenge or to capture women or for other reasons. One village or tribe could not subjugate another and make them pay tribute because the defeated villagers could easily escape into the forest.

In contrast to the Amazon basin, all the arable land in Peru lies in 78 short and narrow valleys along the coast. Each of these valleys is bordered by mountains, deserts, and the ocean. In Peru, from 1500 to 100 BC maize cultivation led to increased population in the autonomous villages. By 800 BC the economy of most villages could support a priestly class who fomented a cultural revolution. Villages were organized as theocratic chiefdoms. People were divided into food producers who had inferior status and non-producers, who had superior status. The priests developed forms of worship that enhanced their importance and gave them control of enough labor to have monuments erected and to subsidize religious fine arts. The priest-chiefs in the dry lowlands supervised the construction of irrigation canals, which made the valleys more productive and able to grow enough food to support a larger population. This was apparently done peacefully and voluntarily through religious authority. There is no evidence of military force being used during this period. The art style of this era (named Chavin) spread throughout Peru.

As the village populations grew, some villagers splintered off from time to time to settle in other parts of the valleys and to form new villages, until there was no arable land left unoccupied.

Once the valleys were fully settled, the people were easy to govern because there was no place for them to go. The first appearance of military force in Peru seems to have been for the purpose of conquering neighboring villages rather than for repression of the local popula-

tion. Villagers defeated in war had no place to run to and no way to preserve their autonomy. The mountains, the desert, the sea, and neighboring villages blocked their escape in every direction. So the conquered villagers who were not slaughtered were subordinated to the victorious chiefdom and required to pay tribute.

The political units that fought over land tended to become larger as victorious chiefdoms incorporated vanquished chiefdoms. By 400 AD the Peruvian theocracies had formed super chiefdoms with armies to conquer valuable territories and to provide captives for the warrior-priests to sacrifice in worship services. The same process occurred in each valley. Once valley-wide chiefdoms were formed, the next step was conquest of the weaker valley-wide chiefdoms by the stronger ones until all of Peru was conquered by its most powerful state. The Incas were the last ones to establish an empire in Peru before the Spaniards took over in the 1500s.

Carneiro adds the concept of *resource concentration* to his theory to explain why warfare over land occurred along the banks of the Amazon River but not in the jungle. The riverfront property was extremely productive, valuable, and scarce compared to the rest of the land in the region. This explains why chiefdoms arose along the banks of the river but not elsewhere in the rain forest.

He also explains that circumscription can be social instead of geographical if a group cannot retreat because the adjacent areas are already occupied. The people might submit to conquerors from one direction rather than flee in the other direction where the land is ruled by a worse gang. The people might also submit to indigenous rulers if all the adjacent lands are uninhabitable or governed by worse rulers.

Kalervo Oberg's study of the Kingdom of Ankole in Uganda supports both the pastoralists-conquer-agriculturists theory and the "nowhere to escape" theory because Ankole is:

"one of a series of small primitive states aligned from north to south in a corridor of grasslands along the western borders of Uganda. Everywhere in the corridor the pastoralists were rulers and the agriculturists were serfs."

According to Oberg, the closed corridor eventually brought the Bairu and the Bahima into conflict and prevented the farmers from escaping.

Carneiro's theory seems to explain the birth of the state in Egypt better than the pastoralists-conquer-agriculturists theory. In Egypt, the primary state, called the Old Kingdom, was created when tribes from southern Egypt conquered northern Egypt. Once the Old Kingdom, which lasted from about 3100 to 2200 BC, was established, the people were easily ruled (with little need to resort to force) because their religious beliefs support the ruling class. The entire navigable length of the Nile in Egypt was like a single temple community on a large scale. The Pharaoh was the leader of the state and of the only religion. The economy of the Old Kingdom was a theocratic form of socialism. The desert protected Egypt from raids by nomadic herdsman and foreign ethnic groups such as the Sumerians and Semites. Since the kingdom was protected by the desert, it needed no army:

"There seemed to be no permanent military bureaucracy nor standing army, presumably because Egypt was so safely isolated during Old Kingdom times."

For the same reason, Egypt needed no walled cities. Consequently, Egypt was able to develop a civilization without much urbanism. The desert also allowed a single culture and religion to dominate the whole kingdom. No alternative religion or dissenting groups could gain a foothold or splinter off because there was no place for them to go.

War chiefs can become kings when the country is under attack.

Primitive tribes, which in peacetime usually recognize the authority of the chief-priest, will unite behind a war chief to organize their defense when they are attacked by an outside group. If a tribe is subjected to frequent attacks, the war chief may become a permanent big chief, and he may use his military authority to impose coercive control, usurping the allegiance normally given to the chief-priest.

The Ashanti chiefdoms in west Africa were subjugated by the Denkyira and forced to pay tribute to the Denkyira king. This gave the Ashanti chiefs a rea-

son to unite in a common cause—to overthrow the Denkyira state. The priest-leader Anotche and the chief of the Kumasi tribe, Osai Tutu, united the Ashantis, and they defeated their enemies at the battle of Feyiase. They preserved the military confederation after the revolution and formed the new Ashanti state.

The United States of America was formed in a similar way. The thirteen British colonies in North America forged a military alliance to overthrow the primary state created by their foreign rulers. After establishing their independence by force of arms, they created thirteen new secondary states and a central government to form them into an empire, which created a free-trade zone throughout the whole area and continued their military alliance against foreign intruders.

The Cherokees had no central government in the early 1700s. Each village had its own priest-chief. The first step toward a central government among the Cherokees was a council to negotiate with outsiders, mainly with the colony of South Carolina, to prevent reprisals for Cherokee acts against white settlers. If an organization that uses coercion to restrain its own hot-headed warriors but does not collect taxes and does not use coercion for any other purposes can be called a state, then the Cherokee state was formed by Standing Turkey who was a respected priest-chief.

"The first evidence of truly coercive sanctions against uncontrolled actions by individual warriors is contained in a letter by Standing Turkey, who said, 'We are now Building a Strong House, and the very first of our People, that does any damage to the English, shall be put in there, until the English fetch them.'"

It was not a conquest state nor a case of the war organization or its leaders taking over society. It might not have been a state at all. It was an attempt to reduce conflict between the Cherokee people and the English settlers. Most of the Cherokee people accepted it and believed that Standing Turkey was the best man to have in charge because of his wisdom.

It is possible that the first states in China started as defensive alliances. The steppes of Mongolia came to be domi-

nated by nomadic herdsmen while the valleys of North China filled with farmers. Eventually, the nomadic herdsman acquired horses and, with the use of the compound bow, they became a formidable cavalry. The scattered farming villages were easy targets for them and were dominated by them. Rather than stay and be perpetually exploited, the villagers tended to either join the nomads or move closer to the developing walled cities where they could get better protection from the raiders. The walled cities became city-states ruled by military chiefs.

"The denizens of a city in such a case are more easily ruled; centrifugal tendencies are overcome by the benefits of the protection of the city, compared to alternatives."

In Mesopotamia, the city-states seem to have arisen to provide refuge and protection from nomadic raiders and from neighboring city-states who waged war to grab land. From about 5000 BC to about 3500 BC people in Mesopotamia lived in autonomous villages with no defensive fortifications. They produced enough food and had enough free time to support a priestly class and to build temples for them. From 3500 BC to 3000 BC some of the villages grew into cities in which some people specialized in crafts such as carpentry, pottery, and metallurgy. By this time they had a written language, improved plows, wheeled carts, sailing boats, and bronze tools and weapons. The fact that they had wood and metals, which had to be imported from great distances, means they engaged in foreign trade.

Farmers living between cities came under increasing attack by raiding nomads who wanted to steal their crops and by warriors from city-states who wanted their land. These farmers were forced to join the nomadic raiders or move to the cities for protection. Consequently, the number of nomadic raiders and the number of people living in urban areas increased rapidly. The cities of Kish and Warka may have had 20,000 to 30,000 inhabitants by 3000 BC.

The war-chiefs became the most important chiefs during this period until by 3000 BC the war-chief in each city-state had the power of a dictator. Sometime between 2900 BC and 2500 BC hereditary kingdoms were established in sev-

eral of the city-states. By this time the cities were distinguished by massive fortifications more so than by temples. Society in the city-states was stratified into classes with different levels of power and prestige. The military leaders were at the top, with all the power and most of the prestige. Next came the priests, who also enjoyed higher status than the productive classes. Next came craftsmen and farmers and their families who constituted the bulk of the population. At the bottom were the slaves, who were usually foreigners captured in war.

From 2500 BC to 1500 BC the leaders of the city-states tried to establish empires. In about 2370 BC Sargon of Akkad managed to win control over all Mesopotamia. This empire lasted about 100 years. More stuff happened after that, but we are beyond the point where the primary states originated, so it doesn't matter.

Conclusion

Primary states are created when leaders use their social status, bribes, or intimidation to induce their cadres of followers to systematically impose the leaders' will by force on others. We know of four variations of this method that have been successful: (1) by organizing the conquest of other groups and extorting tribute and services from them, (2) by leading the military defense against outside invaders and taking the opportunity created by the external threat to become a military dictator, (3) by assuming the authority to negotiate with foreigners to reduce the threat of war, and (4) by being the high priest in peacetime, when this position is the most revered, and using this authority to establish coercive rule over one's own people. Three of the four methods require war or the threat of war, and they account for almost all primary states. In the only case we know of in which a primary state was created without the threat of war, the creator was the hereditary high priest of the only religion in the culture. So, in general, primary states arise either out of conquest or out of organized military resistance to conquest. Not only does war provide the best opportunity for leaders to create states, it strengthens the power of already established states: "For war is the health of the state." Δ

Private Roads, Competition, Automobile Insurance and Price Controls

by Walter Block

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Abstract

In the view of most economists, highways and streets are "public goods," not amenable to ordinary market competition. The present paper argues, to the contrary, that the thoroughfares are conducive to competitiveness, and then applies these insights to automobile insurance and price controls.

Introduction

Under present institutional arrangements, there is a modicum of competition which takes place with regard to our nation's roads. Sad to say, however, such competitiveness is superficial, very limited and only indirectly related to these transportation corridors. For example, advertisers compete with one another in terms of highway billboards; insurance companies vie with each other over automobile coverage; roadside restaurants, gift shops, etc., each attempt to wrest market share from their counterparts.

But in terms of knock-down, drag-out competition, of the sort which earmarks, for example, the industries which provide us with ships and sealing wax, computers, automobiles, books and movies, there is none. There could hardly be any, since for the most part roads, highways, streets and other vehicular thoroughfares are all owned and managed by different governmental jurisdictions. None of them can earn profits from wise managerial decision making, nor suffer losses and risk bankruptcy from the lack of same; as with all activities performed in the public sector, such competition cannot, by the very nature of the enterprise, take place.

Why is this an unfortunate state of affairs? Because market competition tends to bring about more economic efficiency than governmental bureaucratic control. *Ceteris paribus*, the weeding out of the inefficient which occurs under free enterprise tends to ensure a higher quality product at a lower price than that

which emanates from the public sector which does not benefit from this process. States one anonymous referee in this context, "privatization of roads could make a society more competitive by allowing more efficient use of resources, including spending on insurance" and much much more. For example, Block (1979, 1983a, 1996) give reasons to believe that competition between private highway owners would reduce the motor vehicle death rate, surely evidence of an efficient use of resources, and Block (1980) demonstrates that such private arrangements will tend to decrease road congestion (more incentive toward peak load pricing), which is certainly another economic misallocation.

It must be faced at the outset, however, that this scenario will strike many as unlikely in the extreme, not to say bizarre. Are not highways the sorts of things that must, by the very nature of things, be assigned to the public sector? How could private streets overcome the free rider problem? Are not roads quintessential public goods? How could private firms surmount the difficulties associated with non-excludability? What about monopoly?

We must object to the claim that there is something intrinsic about roads that renders it necessary for them to be part of the "public" sector. The original highways, turnpike roads, were invariably private concerns; the theoretical arguments opposing vehicular thoroughfare privatization are all invalid. Even nowadays, there are miles of private "streets" which function exceedingly well, despite the fact that most commentators have not appreciated that they accommodate automobile traffic. Nor is there any theoretical reason why such a state of affairs *could* not prevail for the entire vehicular transportation network of the U.S. We are accustomed to regarding long, thin entities such as highways as impossible to privatize. But railroads, which are equally "long and thin" have for many decades been built, owned and managed by profit making firms. Access need not be limited by use of antiquated coin toll booths. The universal product codes which keep

track of groceries could easily be applied to automobiles; even our "horse and buggy" highway authorities are now—at long last—in the process of introducing such automation. Nor need we fear that a private street owner would not allow automobile access, or would charge unreasonably high "monopoly" prices; our experience with the typical for-profit railway line is that it "tried its best to induce immigration and economic development in its area in order to increase its profits, land values and value of its capital; and each hastened to do so, lest people and markets leave their areas and move to the ports, cities, and lands served by competing railroads. The same principle would be at work if all streets and roads were private as well" (Rothbard, 1978, p. 204).

Such irresponsible behavior would be impossible in any case since "everyone, in purchasing homes or street service in a libertarian society, would make sure that the purchase or lease contract provides full access.... With this sort of 'easement' provided in advance by contract, no such sudden blockade would be allowed, since it would be an invasion of the property right of the landowner" (Rothbard, 1978, p. 204).

Having introduced the concept of street, road and highway privatization, let us now utilize it to assess an analysis of a related issue: automobile insurance rates.

Automobile Insurance Rates

Smith and Wright (1992, hereafter SW) set themselves two main tasks. The first is an explicit one. As the title of their paper indicates, it is to explain just why Philadelphians pay higher automobile insurance rates than do people of other cities in the U.S. The second task is an implicit one, or at least it is not so fully explicit. This is to add to the already voluminous literature which seeks to justify price controls on the basis of economic efficiency. The remainder of this paper will confine itself solely to their second point; it will show that although hoary with tradition, this rather clever attempt to justify price controls—

on presumably value free grounds—succeeds no more than any other.

What are the arguments of SW? Simply stated, they maintain that there is a sub-optimal equilibrium (to which Philadelphia and several other cities have sunk), where automobile insurance rates are so high that an excessive number of drivers elect not to avail themselves of this protection. This, in turn, leads to excessively high rates for the law abiders, which deter the non-insurers in the first place. And why is this? It is due to the lack of coverage for accidents of the non-insured which spills over negatively to all and sundry. In the words of SW: “When an uninsured or underinsured driver causes an accident, the damaged party will be forced to collect from his own policy if the at-fault party does not have sufficient resources to compensate his victim. Hence, when there are significant numbers of uninsured or underinsured low-wealth drivers, insurance companies have to charge higher premiums in order to earn a given rate of return, and these higher premiums may be enough to discourage some drivers from purchasing insurance” (SW, 1992, 759).

The contention of SW is that society needs to break through this vicious cycle. How can this be done? Their public policy recommendation is that government should control auto insurance rates, bringing them down to the level where even the law breakers, under the present system of “market failure” (SW, 1992, 771) will choose to insure. Then, all can both enjoy the lower rates, and the better driving conditions that a reduction of lawlessness will bring about.

To be fair to SW, they do not claim that such price controls will necessarily bring us to this nirvana of optimal equilibria; they continually stress only that numerous equilibria “could” or “might” exist; and that even if they do, it is only “possible” that controls (on price, entry, coverage, no-fault, assigned risk, etc.) can reach an optimal situation. They are fully cognizant of the California situation, where ceilings on rates seem to have led to the withdrawal of insurance firms, not to the attainment of any optimal equilibria. Nevertheless, despite their cautious mien, there are grave problems with this analysis, to which we now turn.

1. SW see “market failure” as the underlying cause of the problem, and

government control as the solution. They state:

“Concerning efficiency in *laissez-faire*, our model demonstrates the possibility of market failure in the market for automobile insurance” (SW, 1992, 770).... “In this paper, we have demonstrated the possibility of market failure in the automobile insurance market....” (SW, 1992, 771).

But how can they coherently talk of a failure of markets, or, even more extremely, of *laissez-faire* capitalism, in the context of state owned and managed roads and streets? Their charge is almost akin to the claim that our welfare system, or social security, represents a market failure. This is clearly *government* failure, not market failure.

The plain fact of the matter is that the U.S. now suffers under a Sovietized highway system. Although here and there can be found a private street or bridge, the overwhelming majority of our country’s vehicular transportation arteries are under state authority. So if there is any failure in this sector of the economy, it would be amazing if it were due to “markets.” To characterize the present state of affairs as one of “*laissez faire*” is very wide of the mark indeed.

2. SW seem to have taken the advice of Coase (1937, 1960, 1992) with regard to the importance of institutions. Their footnote 5, for example, constitutes a very detailed examination of a rather minute institutional detail. But this concern is more apparent than real, as indicated by their failure to take into account the statist institutional arrangements which now earmark the nation’s highway system.

They note that “a few cities like Philadelphia and Miami have nearly 40% of their drivers uninsured” (SW, 1992, 760). Under present institutional arrangements there is of course no automatic feedback mechanism to penalize those managers who allowed the situation to get so far out of hand. Under a competitive street industry, of course, there is little doubt that firms which stood by idly under such a state of affairs would long ago have gone bankrupt, and their places taken by those with more competence.

3. The SW analysis fails to take cognizance of the social functions of a freely functioning insurance industry. By discriminating amongst customers,

and charging more for those more likely to file for claims (e.g., people who smoke, drive carelessly—or whose age, sex, race or other characteristics are correlated with dangerous actions) they tend to reduce the incidence of such anti-social behavior. In the present context the uninsured drivers are more likely to create accidents than the insured; if they were effectively denied access to roads—as they would be under highway *laissez-faire*—this would undoubtedly reduce traffic fatalities.

SW propose a plethora of policies designed to handicap the insurance industry, but it is difficult to see how they can improve social welfare given that they have not incorporated the positive contribution of insurance firms to this end.

4. SW discuss sub-optimal equilibria in terms of high premiums deterring poor people from insuring, while lower ones might encourage them in this behavior, to the general benefit of all concerned. Let us, having criticized this proposal, offer an alternative.

Stipulate it as a given that we must regulate automobile insurance rates; perhaps, then, it would be better to require *minimum* rates, not the maximum ones offered by SW. That is, instead of price ceilings, lowering payments, let us suggest for argument’s sake price floors, raising them. How could this be justified, using the methodology for which we must thank SW?

Simple. If insurance companies were required to *raise* their rates, even fewer people would insure. Non-insurance rates of 40%, which are now the exception would instead become the norm. Perhaps the minimum. In many cities we would “achieve” non-compliance rates of 80%, 90% and even 95+%. This, then would render present driving conditions an utter shambles, given the SW analysis. But it would also have the very salutary effect of so predisposing the electorate against present socialized road management that privatization might actually occur. If so, perhaps, the interim “disturbed” era might well have been worth it.

Now I am not advocating any such scenario. But if this *reductio ad absurdum* for a price floor is no less theoretically viable than the SW claims in behalf of a price ceiling, it tends further to dispel any attractiveness of the latter.

An Objection

The public policy recommendations of this paper are very radical, particularly in the context of present day political economy. The solution offered here is one of total laissez-faire capitalism: the government would have absolutely no role to play as regards traffic thoroughfares, apart from protection of private property and defense of contract. Just as radical privatizers of education call for separation of school and state (Richman 1994), radical privatizers of the post office call for the separation of mail and state (Hudgins. 1996), and radical privatizers of welfare call for a completely voluntary system of charity with no state involvement at all (Rothbard, 1973, 142-170), the present paper recommends the total separation of highway, street, road and sidewalk from the government. In these other cases, however controversial, it is at least crystal clear precisely what is being advocated. Not so, perhaps, in the present case. Consider in this regard the following objection: "At the basis of this paper is a concept of privatization of roads being a market driven solution to the insurance dilemma facing cities such as Philadelphia. Most of the specific analysis, however, deals with the issue of privatization of security on these roads. Who builds and owns the roads doesn't have anything to do with insurance. Who is responsible for allowing individual drivers on the roads is. The problem is that uninsured drivers are 'allowed' on the roads by a security force (police) that cannot stop them.... The author seems to be saying that privatizing the enforcement duties will solve the problem. This is very different from the road privatization issue in general (though is obviously a related one) and has virtually nothing to do with the comparison to land collectivization."

There are several difficulties here.

1. The public policy prescription being offered here is by no means confined to "privatization of security on these roads." The solution does indeed involve this, but it involves much more as well; that is, privatization is not at all confined to highway policing. In order to solve the external diseconomy problem of underinsured drivers, the whole ball of wax must be privatized. Security, yes, but also, the entire operation, including purchasing rights of way (there could be

no such thing as eminent domain under laissez-faire capitalism), pouring the concrete, setting up the rules of the road, charging for road usage, filling the potholes, etc. It is as if I were advocating the total privatization of the U.S. Post Office, or a Soviet farm or factory, and this were interpreted as promoting only the private policing of these facilities.

2. While it is undoubtedly true that "who builds and owns the roads doesn't have anything to do with insurance," this need not at all be the case under a regime of economic freedom. There is simply no reason to believe that a private insurance industry would have no role to play in an era of private road ownership. How might this work? One possibility is for an amalgamation of a road owning corporation and an insurance firm. This is something which right now might be considered a conglomerate merger, but might one day be deemed vertical. That is because, second possibility, the two can work together, as firms in different levels of production, toward the creation of the good, safe driving. It is often difficult to anticipate precisely how a newly privatized industry would function; but in one scenario, the road owning firm would base its user charges on the safety category a driver were placed into by an insurance company. For example, if a motorist never had an accident in 20 years, and were charged a low rate by his insurance company, the highway corporation might charge him a lower rate.

3. While there may be a problem where uninsured drivers are "allowed" on the roads by a security force (police) that cannot stop them in some proposals, the present case is not one of them. Here, presumably, the highway owner would hire its out police force, and these officers would be fully empowered to refuse entry to any obstreperous or dangerous driver.

4. It is not true that road privatization "has virtually nothing to do with ... land collectivization." On the contrary, they are intimately connected. For under present institutional arrangements of "road socialism" (Block, 1996), all of the land on which roads, streets, sidewalks, etc., are built is indeed collectivized. During the heyday of communism in Russia, conservative commentators criticized with great glee the long queues in that country waiting to purchase groceries.

But is this really very different from motorists waiting on congested highways such as the Long Island "Expressway" to consume further highway transportation? Our system of providing vehicular transit arteries is every bit as Sovietized as the Stalinist grocery "industry." Both are in dire need of de-collectivization.

Conclusion

There can be political competition in places like North Vietnam and Cuba, but in the absence of free enterprise there can be no economic competition. This is why privatization and competition are inseparably linked. Without the former, the latter is logically impossible. But this applies to roads and highways no less than to cabbages, chalk, and cheese. It is perhaps the contribution of this paper to show that economic competition on the roadways cannot take place in the absence of privatization, and that it is this lack, not any "market failure," which is responsible for the plight afflicting cities such as Philadelphia. Δ

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A Pessimistic View of Legitimizing the Institutions of a Free Nation

by Roy Halliday

Legitimacy comes in several flavors, and people have different preferences for these flavors depending on their philosophies and circumstances. What makes something legitimate to one person might not make it legitimate to another person, and what makes something legitimate to a person in one context might not make it legitimate to him in another context.

Everyone pays lip service to logical consistency as a necessary part of legitimacy, but beyond that people divide up based on whether they believe in morality or not, and those who believe in morality divide up further according to the kind of morality they endorse.

Non-Moral Legitimacy

Those who do not believe in morality do not have to be concerned with moral justifications for the institutions of a free nation or of the state. They allow their opponents to take the moral high ground and try to defend their own position by (1) appealing to economic self-interest or (2) by arguing that whatever exists has proven its legitimacy by surviving the natural selection process, which, given the fact that states have taken over the world, is an argument that is better suited to defend the state than a free nation.

Economic efficiency comes so close to being a value-free value that economists often think they are being objective scientists when they advocate efficient ways of doing things. Economists don't make moral judgments about what goods and services should be produced or how they should be distributed. They let "society" decide those issues. But they often argue that the decision-makers in society should listen to economists so that the goods and services will be produced and distributed efficiently. To economists, an institution is *economically legitimate* if it makes efficient use of resources (capitalism but not socialism).

Biologists generally accept the theory of evolution as an established fact that they can use to prove the *biological legitimacy* of any species that has survived the natural selection process (cockroaches, but not

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dinosaurs).

Sociologists can use the theory of evolution to prove the *social legitimacy* of various institutions. Social institutions that have survived are legitimate (the state, but not free nations).

Moral Legitimacy

Moral legitimacy is established by arguments that appeal to commonly held moral standards. Unfortunately, different people hold different moral standards. So what is legitimate to libertarians is not always legitimate to others and vice versa.

To libertarians, an institution is morally legitimate if it does not initiate force or fraud (capitalism and voluntary socialism, but not state socialism). To anarcho-socialists, an institution is morally legitimate only if it meets two mutually exclusive requirements: (1) it does not initiate force or fraud and (2) it allows everyone an equal voice in the allocation of goods and services (voluntary socialism but not private property, not capitalism, and not state socialism). To statist, an institution is morally legitimate if it is authorized by the state (state prisons but not vigilantism).

All the institutions of a free nation are morally legitimate to libertarians. Some of these institutions such as the family, language, and money, are also morally legitimate to most statist because they are permitted by most states. But some institutions, in particular the unhampered market, are not approved by any statist because they are not authorized by any states.

Libertarians cannot persuade others that all the institutions of a free nation are morally legitimate unless those others (1) accept the non-aggression principle, (2) are willing to judge the actions of the state by the same moral principles as they judge the actions of private individuals, and (3) are willing and able to be consistent and rigorous in their application of the principle. Libertarians lose potential converts at each of these thresholds. Many people are willing to agree with the non-aggression principle when applied to private citizens, fewer are willing to apply it to the state, and only a minute percentage are willing and able to apply it rigorously. The Henry Georgists, classical liberals, and minar-

chists are with us up to the second threshold. The anarcho-socialists drop out at the third threshold.

It was knowledge of the short-term futility of trying to convert the majority to libertarianism that led the founders of the Free Nation Foundation to concentrate on persuading people who are already libertarian to form our own nation. But the Free Nation Foundation still has to face the dilemma that the very things that make the institutions of a free nation legitimate to us make some of those institutions illegitimate to everybody else. If everybody else would leave us alone, we could ignore this dilemma and say it is everybody else's problem. But we know they won't allow us to live in peace. They will insist that we conform to their views about the necessity and legitimacy of the state.

We might be able to fool some of them into believing that our free nation conforms to their requirements by setting up a sham government with many of the trappings of a state. I proposed such a scheme in "A Paper Tiger for a Free Nation" (*Formulations* Vol. V No. 1). But I am skeptical about my own scheme and am not willing to be among the first guinea pigs to test it.

I see no way out of our dilemma short of a science-fiction scenario in which a libertarian scientist invents a technology that would provide an impenetrable, yet moral, defense for a free nation so it could thrive unmolested by statist.

The Power of Negative Thinking

Positive thinking has a lot going for it. After all, if you don't try, you are not likely to succeed, and if you don't have a positive attitude, you are less likely to try. In addition to being a prerequisite for achieving progress, faith also helps people to recover from injuries and diseases. On average, people with deeply held religious beliefs (it doesn't matter which religion) live longer, healthier lives than other people.

Winners generally are confident people who believe in themselves or believe destiny or the gods are on their side. History is generally written from the victor's point of view. This may be why positive thinking gets much better press than negative thinking.

But negative thinking has advantages of its own that ought to be more appreciated. Consider business ventures. The business ventures that succeed often get histories written about them and their founders sometimes become folk heroes whose positive attitude inspires imitators. But historically, most business ventures fail. So a negative attitude is more likely to keep you from taking financial risks and going bankrupt than a positive attitude is likely to enable you to become a millionaire.

Negative thinking also has explanatory powers, which are perhaps more important than the practical advantages of caution and prudence. In particular, I believe a skeptical attitude about the ability of the typical man to think rationally offers the best explanation for the survival of the state in spite of all the logical arguments offered by libertarians. The wars, genocides, slavery, ignorance, gullibility, and stupidity that characterize the known history of mankind tell me that the average man is not rational or intelligent enough to become a libertarian. This negative attitude offers no way out of our dilemma, but, at least, it offers an explanation for our failure while allowing that our principles are legitimate. Our views are not wrong, they are just not likely to be popular with the stupid masses or with their more intelligent but evil rulers. Δ

Roy Halliday now has his own home page at <royhalliday.home.mindspring.com/ROYHOME.HTM> It features his book-length essay Enforceable Rights: A Libertarian Theory of Justice. It also includes short pieces from his radical libertarian period (1966-1972), links to his Formulations articles, and a few surprises.

The Free Nation Foundation Workplan: Review and Revision

by Phil Jacobson

[Editor's note: This essay is a response to several papers by Rich Hammer, Founder and President Emeritus of FNF: *Toward A Free Nation* <www.freenation.org/a/toward.html>; "Life Without Lice!? The FNF Work Plan," *Formulations* Vol. 3, No. 4 (Summer 1996) <www.freenation.org/a/f34h1.html>; "Letter of Resignation," *Formulations* Vol. 6, No. 3 (Spring 1999) <www.freenation.org/a/f63h1.html>; "Get a Free Nation by Running a Professional Think Tank," *Formulations* Vol. 7, No. 1 (Autumn 1999) <www.freenation.org/a/f71h3.html>.]

PART I: CRITIQUE

1.1 Summary of My View of the FNF Workplan

As I see Rich's Workplan, the central theme is that a small group of very wealthy libertarian individuals (the smaller the better) would find an unstable, cash-poor, third world government which nominally controls a sparsely populated province and buy that province (or a part of it) from the de facto regime. The rich individuals would then become, in effect, a feudal nobility for a new sovereign regime to be located in that province and populated by a combination of a few libertarians from Western nations and a large number of refugees from the third world. A libertarian constitution would be adopted, thus making the new regime, at least nominally, a "Free Nation." The primary task of FNF, according to the Workplan, is to assemble a team of highly reputed academic professionals who will write the libertarian constitution and various articles concerning systems of law, for use in the sovereign regime to be established in the purchased province. It is assumed in Rich's Workplan, that the existence of these academic documents—alone—would quickly convince some rich libertarian(s) to undertake the rest of the plan. It also seems to be assumed by the Workplan that the rich libertarian(s) would neither need nor particularly appreciate any other research regarding

possibilities for a libertarian nation. It appears that Rich envisioned this package very narrowly, assuming that any significant deviation from any of its components would be inappropriate and "outside the FNF Workplan."

1.2 My Objections to the FNF Workplan

I disagree with several of the assumptions which seem to be essential to Rich's Workplan. My first objection is that, while I agree that some wealthy people are libertarian, it is unclear how Rich's Workplan would distinguish real rich libertarians from rich impostors. All power in the proposed regime would be based on wealth, concentrated in a few hands, and largely derived from sources outside the free nation itself. I see no way that mere words in a constitution would be able to stop either the original overlords or their successors from hiring armed mercenaries and using them to change the system overnight. A wealthy person could use Rich's Workplan as a cover for purely personal anti-libertarian ambitions. Further, even if the first generation of wealthy overlords is indeed libertarian, the Workplan provides no real mechanism to ensure that their heirs would continue to follow libertarian policies.

Another objection I have is to Rich's assumption that the writing of prestigious scholars is the best or even an especially potent sales tool for approaching wealthy individuals with this project. Perhaps Rich is confusing the tendency of wealthy people to send their children to expensive big-named schools with a true respect for scholarship amongst the wealthy. The benefit of Ivy League schooling to the wealthy is primarily in the networking opportunities this affords for the wealthy to interact with *each other* via fraternities and alumni associations. The professors compete in another world on the same campuses, providing a form of prestige to the institution. Influence between the academics and the wealthy tends to run in the reverse direction of what Rich envisions. When a wealthy individual wants to add prestige to some project, professors are hired to add their prestige after the rich person decides what direction to go in (as was the case with the Cato Institute).

Another objection I have to the Workplan is that the free nation would depend on refugees from the third world

for the bulk of its population, while simultaneously using a Western value and legal system which these immigrants will probably not understand. This is an inherently unstable arrangement. Rich assumes that each immigrant will sign a pledge to abide by the constitution before being granted residency. But how will these immigrants view this pledge, signed to avoid life-threatening forces in their countries of origin, countries not likely to have libertarian traditions? I submit that many, perhaps most such immigrants will sign any contract put in front of them, but will not necessarily feel obligated to abide by its terms. If they become the majority, they may later feel justified in seizing the nation for themselves.

Rich's Workplan lacks a sociological perspective. It ignores the need to build community values before invoking them. It assumes that a value system can be purchased with cash.

It is my own observation that things work the other way around. For every successful nation, there has evolved, by some means, a value system that the nation's laws rest upon. Only after securing the protection of a stable society with widely held key values can individuals accumulate and hold great wealth. On an international scale some societies may be seen to foster piracy—which can cause serious international problems. But at a minimum, within itself, a given society must uphold a set of core values. At a macro-social level, the evolution of this value system is usually linked to the community's economic system, to be sure. But this evolution occurs over generations. At an individual level it is usually a matter of learning an established tradition.

Sometimes, rarely, a new system of values can emerge quickly, attracting enough individuals to it to make up a sizable community. But social ideology cannot be engendered simply with laws or constitutions. It must come from pre-existing sentiments. These cannot be mobilized easily most of the time or marshaled precisely at any time.

Rich's Workplan makes no allowance for ideology or tradition building. Rich envisions "born-again" conversions to libertarian tradition on the part of the immigrant work force, motivated solely by the availability of paychecks. Were the immigrants to be brought in a few at a time, into a larger, already established

libertarian community, they might absorb libertarian values—as individuals. But when a mass of non-libertarian immigrants overwhelms a few libertarians, other cultural values will dominate the resulting majority culture. The local legitimacy of the libertarian constitutions would be threatened by this majority culture. Then the overlords would need to rely on mercenary guns to try to enforce their contracts. It is a recipe for civil strife.

The final objection to Rich's Workplan which I will mention involves international relations. Rich assumes that a chain of legitimacy for the new regime will be maintained on a world scale because the original seller of the province—that weak third world nation—will have had recognition by the United Nations, as most regimes now do. But the UN's track record is unclear on this point. Would the UN back the overlords, or the bulk of the population, if a dispute arose? If the weak regime which had sold the province to the wealthy Westerners were overthrown and a new regime there tried to take back the enriched province, which side would the UN take? The evidence of Kuwait might support the notion that the UN respects the "rights" of a tiny minority of hereditary nobles. The evidence of Kosovo might support the notion that the UN respects the "rights" of a majority population, even if it has entered a province fairly recently. Generally, however, the UN stays out of such things, except for unenforced resolutions. International legitimacy is far from certain in Rich's Workplan.

1.3 A Couple of Clarifying Points

I want to make it clear that I see merit in certain elements of Rich Hammer's FNF Workplan. I am in favor of FNF soliciting articles about constitutions and legal institutions from prestigious academics. And I welcome the support to FNF that any wealthy individual may wish to give. But I feel that the full Workplan—in depending exclusively on these contributions, and in considering all other aspects of FNF to be mere window dressing—is far too narrow.

In the last year, since deciding to resign as FNF President, Rich has made a considerable effort to detail his thinking. However, he has never appeared open to truly questioning it—much less changing his mind about the basic ele-

ments of the Workplan. Rich has said that he is the only person who really supports his FNF Workplan. He has also said that almost no one else fully understands it. Originally I was skeptical. But I am increasingly inclined to agree with these last two statements. Yet I think it is also fair to say that no one in FNF has hindered Rich's Workplan. Now Rich, its only advocate, has abandoned that Workplan. But the unintended consequences of Rich's efforts, most of FNF as it is today, are considerable and valuable. It would be a shame for everyone associated with FNF to abandon them. It is time to move on.

PART 2: NEW DIRECTIONS FOR FNF

Here I will propose some possibilities for a new FNF Workplan. They are not intended as a complete proposal, nor even as a complete set of minimum requirements.

2.1 Continue to Design and Discuss Institutions for a Free Nation

The statement of purpose of FNF calls for "developing clear and believable descriptions of ... voluntary institutions of civil mutual consent." Pursuing this, FNF has published 26 issues of the journal *Formulations*. Half of these issues have been associated with a theme and a presentation of papers at a Forum. These activities have produced a library of ideas. *Formulations* and the Forums should be continued. If the costs seem prohibitive to continue with paper issues, a purely on-line journal could be published. On-line Forums could also be organized. FNF should, however, reach out to a wider audience and solicit ideas from a wider group of authors.

The Internet can be used more effectively. We currently make issues of *Formulations* available on-line. We have an e-mail list. We should also try to promote FNF and its activities with on-line publicity.

2.2 Many Plans, Many Appraisals, Some Endorsements

FNF need not choose one single path to a free nation. The new FNF Workplan should foster the formulation and development of any free nation plan which seems well conceived. FNF should seek to assemble a list of all free nation projects which are currently be-

ing undertaken. Where possible, FNF should help libertarians world-wide find information about these projects—especially contact information for project entrepreneurs. But FNF should also review each of these projects, appraising weak and strong points in each one. If it seems that a particular project is especially well conceived and has excellent organization and resources, FNF may wish to consider actually endorsing it. At the very least, an FNF appraisal should reflect when a project seems to have an very good chance of success. But I do not believe that FNF should pick a single free nation plan as the only one it endorses, when several highly viable plans exist. Instead, FNF should provide individual libertarians with information and networking resources so that they can make their own individual choices in this regard.

Ultimately, we should expect that the existence of one free nation will stimulate the creation of others. But there are many advantages to having several plans in effect at the same time, as soon as possible. Historical, geographic or other concerns may differ significantly from time to time and place to place. Different plans will suit different situations. For various personal reasons, individuals who wish to join a free nation, may find one plan more desirable than another. The very existence of more than one free nation may serve to distribute the random risks that each of them faces. Finally, with more than one free nation, international relations between them can be explored.

2.3 Pre-Positioning Libertarian Social Networks

A system of "property" rights, the possession and control of resources by individuals in a social context, requires the support of a community. For this reason every successful society needs, at its core, at least one social network which provides voluntary enforcement for its value system. (In other contexts I have described this in terms of a community property code.) Such a network provides its members with a social, economic, political, and ideological base of support, though these may be a matter of unspoken tradition rather than openly discussed rules. All wealth, political power, or ideological influence comes from, depends on, or is channeled through such networks.

Any free nation will require such a network from its first day of existence. The network cannot be purchased at the last minute. It must be cultivated long before the nation begins to function as a sovereign entity. Cultivation will be a matter of individuals getting together and developing a keen sense, not only of the values they have in common, but of the methods they will use to legitimize for one another the pursuit of those values. In a libertarian community, traditions of conflict resolution must be developed which maximize the value of voluntary association, while acknowledging the inevitable differences between the specific goals and methods that real individuals will choose.

Michael van Notten has been working on a free nation project for Somalia. He chose this land because a network of dispute resolution already exists in the traditional Somali culture. When two Somalis meet for the first time to do business, they exchange a few words to orient them to the way they will resolve any disputes that may arise between them. Michael presented a lecture on this process at an FNF sponsored dinner. (I hope we can publish an essay version of the lecture in *Formulations* at some point.) Part of Michael's free nation plan is for the Somalis, who are organ-

ized into tribes, to recognize the formation of a Somali-style tribe of libertarians who come from a European-style cultural background. This European Tribe (not a name Michael used) would provide a basis for immigrants to Somalia to fit into the traditional Somali justice system. It would take advantage of the existing networks that the Somalis already have in place, where their traditional culture still thrives (many areas were never affected by either the colonial period or the more recent post-colonial disruptions).

Michael believes that this process would be appropriate only in Somalia itself. But I see no reason why libertarians from European-style backgrounds cannot in fact learn so much from the Somali example that they can practice some Somali virtues even before they go to Somalia—or to any new free nation. (I must point out, however, that Michael does see specific problems. I hope he will discuss them with me in an FNF sponsored context at some point.)

Toward this end, I believe that it is appropriate for FNF to actively foster the development of real world institutions for conflict resolution in the here and now. Members of FNF (and others who may choose to associate with us) should be encouraged to pledge them-

selves to specific methods by which they would attempt to resolve conflicts with other members. We should, of course, discuss how that would work before getting too committed to a particular method or methods. And, indeed, several methods might be tried in several networks, with varying degrees of autonomy from one another, but still within the broad community of libertarians. Then, when a Free Nation is proposed for some specific time and place, a living tradition can be relocated there. Hopefully, enough people will have become associated with this living tradition to form a viable society in the new nation, right from the start. Meanwhile, libertarians could benefit from practicing their beliefs with one another wherever they live.

CONCLUSION

The old FNF Workplan designed by Founder Rich Hammer does not appear to have support from within FNF at this time. It will be hard for FNF to proceed without a revised plan. We have no clear strategy. My own views expressed above are, as I said earlier, intended to start a discussion, not to set in stone another inflexible Workplan. Δ

Toward a Free Nation, Still

by Roderick T. Long

The frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty. — Constitution of North Carolina

Within any organization there will occasionally arise differences of opinion, not only concerning the best means to achieving the organization's goals, but also the identification of those goals themselves. In this article I offer my interpretation of what our own organization's mission was and is.

The Free Nation Foundation takes its origin from two observations:

First, the number of people who would move to or invest in a libertarian nation, were one to exist and appear stable, is very high.

Second, every attempt so far to establish a libertarian nation has ended in utter failure.

Neither of these observations may seem very remarkable by itself. But the two observations are surprising when conjoined. The first observation indicates a high demand for our product; the second indicates that the product is a very hard sell. The former is difficult to explain, given the latter; and vice versa.

Now when two observations are difficult to reconcile, there are two possible strategies. One is to decide that at least one of the observations is mistaken. The other is to accept both observations and look for some special hypothesis that will explain their coexistence.

One might try the first strategy here. Maybe one of the two observations is simply wrong. Now the prospects for challenging the second observation are meager; so a proponent of this strategy would most likely challenge the first observation. The demand for a free nation has been overestimated.

Is this a plausible answer? I don't think so. The evidence for the first observation is pretty overwhelming. All around the world, refugees are desperately seeking political asylum or economic opportunity in relatively free-market countries—in many cases risking their lives in order to cross the border. Likewise, freeports and low-tax, low-regulation havens remain popular with investors.

The second strategy, then, seems more promising. High demand does exist, but for some reason that demand does not translate into support for free nation projects. If that is true, we need a hypothesis to explain why.

FNF was founded, in 1993, on such a hypothesis. Rich Hammer's hypothesis was that no free nation project to date had succeeded in achieving credibility, even among its potential investors and settlers—indeed, even among diehard libertarians themselves.

The purpose of FNF was conceived as being to do what it could to promote

such credibility. Previous free nation projects had never been recognized as legitimate by the states who were their prospective neighbors. (Many libertarians will recall the story of the founders of the Republic of Minerva being chased off their homesteaded coral atoll by the King of Tonga.) Without such legitimacy, a free nation's future is too precarious to attract settlers or investors. The problem is not low demand for a free nation; the problem is that free nation projects have (quite justifiably) been seen as unlikely to be reliable in meeting that demand.

So if legitimacy is crucial to the success of free nation projects, what would induce neighboring states to grant such legitimacy? Well, we could convert the rulers to libertarianism. Or we could pay them a lot of money.

Clearly, the second option seems more likely to succeed than the first. But free nation advocates don't have a lot of money. Why don't we? There are surely plenty of wealthy investors who recognize how lucrative it would be to invest in a free nation. So why aren't they bankrolling our free nation projects?

The answer, once again, is credibility. When investors invest in a project, they want to see a proposal for how the project is going to work. The free nation movement has had a dearth of specific, clear, and detailed proposals for designing the founding institutions of a free nation. Therefore, it seems reasonable for prospective free nation founders to develop a set of proposals. And since we know that competition is a discovery procedure, the best way to do this would seem to be, not to have one single person write up the proposals, but to have many different libertarian thinkers contribute a variety of different proposals. Hence the need for a think tank devoted to this task.

As our initial prospectus (Rich's essay *Toward A Free Nation*, <www.freenation.org/a/toward.html>) makes clear, this is the job that FNF was founded to do. It was never imagined that the job would be an easy one. Without the resources of the major professional think tanks, FNF would have to rely, in the early stages at least, on volunteer spare-time labor, with all the perils to timeliness, professionalism, and quantity of production that such a limita-

tion implies. Still, it seemed a job worth attempting; and so it still seems to me.

In his article "The Free Nation Foundation Workplan: Review and Revision" (this issue) Phil has raised a number of objections to the Foundation's original mission. I think we who support that original mission should welcome these objections, for they identify genuine problems and dangers that the implementation of that mission might face. They deserve our serious attention. That is why, in my opinion, it can be a very healthy thing for an organization to have members who criticize its goals.

But I do not think that our response to Phil's criticisms should be to despair of FNF's original vision. Are the problems he points to important? Absolutely. Are they insuperable? I am not convinced of that.

I shall not attempt a full reply to Phil's objections here. But let me just note a few points that might give us reason not to lose confidence too quickly.

Phil worries about the stability of the regime. What is to guarantee that either the original founders or the new immigrants will not twist the free nation's institutions to promote their own political agendas? As Phil points out, "mere words in a constitution" will not protect against such a result. I quite agree. But constitutional design is not just a matter of writing lists of "Government shall" and "Government shall not." It is above all a matter of creating a *political structure* that will tend to give those within it stronger incentives to support the regime than to undermine it. Immanuel Kant said that a political system should be designed so that it would work even for a nation of demons. I think Kant made the mistake of underestimating the importance of social and cultural context to the functioning of political institutions. But overestimating that importance would be a mistake as well. The very same population will act quite differently if placed in a different political structure. People will use whichever political mechanisms are easiest to use, and those are the ones most readily available; and which ones those are will influence the result. And political mechanisms in turn tend to influence cultural development; it's a two-way street. Conservatives often moan that the influx of immigrants into the U.S. has undermined traditional American

values. But I cannot see that immigrants have had any such affect. Most of the changes, both good and bad, have been brought about by coalitions of long-established U.S. natives. Moreover, the damage that the power-hungry can do will depend on what sorts of check-and-balance mechanisms are in place.

If the free nation collapses into civil war, I do not count on UN recognition to save it. Once genuine civil war erupts it is probably doomed, and certainly the UN is unlikely to stand up for a libertarian regime. (I think of recognition by neighboring countries as valuable primarily with regard to the free nation's *international* disputes, not its *domestic* ones.) The trick is to try to develop institutions that will minimize the likelihood of civil war arising in the first place. Past issues of *Formulations* have treated this subject many times. More work needs to be done. But I am skeptical of Phil's suggestion that the task is impossible. It is difficult, certainly; but it is worth the attempt.

I also do not agree with Phil's implication (though it may be one of the few points on which Phil and Rich agree!) that FNF's original vision was simply an idiosyncratic preference of Rich's, that few other FNF participants ever shared. Certainly the vision originated with Rich, and was promoted and sustained by him with tireless dedication. But a survey of past issues of *Formulations* will show that not only Rich's and my contributions, but the vast majority of others' contributions as well, were written within the framework of the "FNF Workplan" or something close to it. (Phil's articles have been an exception, but I've always regarded those articles as an invaluable contribution to the FNF Workplan nonetheless—partly by providing needed criticism and feedback, and partly by identifying sociological principles and insights that free nation founders should find enormously useful.) I for one do not agree that FNF's original mission "does not appear to have support within FNF at this time." Phil has come to bury the FNF Workplan and not to praise it—but the patient is still alive and kicking.

We welcome debate. Δ