

# MRS LOGIC AND THE LAW: A CRITIQUE OF AYN RAND'S VIEW OF GOVERNMENT



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## INTRODUCTION

In November, 1997, the Internet discussion group “Objectivism L”, coordinated by Kirez Korgan at Cornell, began a “Great Anarcho-Capitalist Debate” with the intention of thoroughly airing, if not necessarily deciding, the issue of whether a government is necessary to protect individual rights. Participants in the debate have included well-known libertarian or Objectivist personalities such as George H. Smith, David Friedman, David Ross and Chris Sciabarra.<sup>1</sup>

Naturally enough, the ideas of Ayn Rand featured extensively in the discussions, and since it could be claimed that Rand started the debate back in the Sixties, I thought it might be timely to take a close look at her thinking about government. Another reason for doing so is the current upsurge of interest in Rand’s work, highlighted recently by an Oscar nomination for the documentary *Ayn Rand: A Sense of Life*. This last, by all accounts — I have not seen it — presents Rand’s thought as totally consistent. Because I dispute that view, and because I now hold that government is *not* necessary to protect rights, my ‘close look’ amounts to a fairly detailed critique.

Several of the topics I cover will be familiar to most Libertarians, and/or Objectivists, they may even be ‘old hat’. However, I have not seen them discussed alongside my other material and, as my essay would be incomplete without them, I thought they should be included. Other issues covered here I have either not seen elsewhere, or have not seen directed at Rand, so I hope there will be enough original observations in these pages to compensate for the familiar ones.

In concentrating my fire on Rand, I am very conscious that other thinkers, some of whom she inspired, have put the case for limited government — or have advanced arguments against anarchism — far more extensively, persuasively or learnedly than Rand herself. I think particularly of John Hospers, Robert Nozick and Tibor Machan. However, it is not my intention to be exhaustive. Rand remains the prime source for one side of the anarchy-minarchy debate and much of what I say in criticism of her may be applied equally to any proposal for monopoly government, whoever advances it. Besides, the authors just mentioned deserve far more attention than I could give them in an essay of this length.<sup>2</sup>

A note on semantics: I use ‘force’ to mean initiated violence or the threat of it. By ‘state’ I mean a permanent institution, by ‘government’ its current personnel; but I tend to use the

terms interchangeably to refer to any group of people claiming exclusive authority to make and enforce rules of conduct in a given geographical area. ‘Monopoly’ refers to activities made exclusive by state-initiated force.

Finally, my criticism of Ayn Rand implies no disrespect. Despite some reservations, I still think her novels and philosophy are magnificent achievements.

## ONE: LOGICAL PROBLEMS

To set the stage, I shall begin with a brief presentation of what I consider to be the essence of Rand’s politics. This will also serve as a reminder of how she herself expressed the ideas I intend to criticise.

### A. Rand on Government

For Ayn Rand, the sole purpose of government is to protect rights. This idea was elaborated, forcefully but briefly, in a single essay, “The Nature of Government” (1963),<sup>3</sup> in which Rand argued for a government monopoly on the use of force, and against anarchism.

Her exposition began with the *sine qua non* of individual rights: “the basic social principle without which no moral or civilized society is possible.” [108] She then proceeded to the non-initiation of force, Rand being the first philosopher fully to enunciate this vital principle: “The precondition of a civilized society is the barring of physical force from social relationships. ... In a civilized society force may be used only in retaliation and only against those who initiate its use.” [108]

Consistent with her devotion to objectivity, Rand related the necessity of government to a necessity for objective law: “The use of physical force — even its retaliatory use — cannot be left at the discretion of individual citizens.” [108] “If physical force is to be barred from social relationships, men need an institution charged with protecting their rights under an *objective* code of rules.” [109]

To achieve this objectivity, and to prevent unwarranted use of force, Rand held that government had to be a monopoly: “a government holds a monopoly on the legal use of physical force. It has to hold a monopoly, since it is the agent of restraining and combatting the use of force.” [109] By ‘monopoly’ Rand meant *coercive* monopoly, not ‘sole producer’. Government “holds the exclusive right to *enforce* certain rules of social conduct” her essay begins. [107, Rand’s italics]

Following Locke, and the Founding Fathers of her adopted country, Rand held that government was justified if based on consent: “The source of the government’s authority is ‘the consent of the governed’.” [110] However, Rand did not allow any choice in the matter: “There is only one basic principle to which an individual *must consent* if he wishes to live in an a free, civilized society: the principle of renouncing the use of physical force and *delegating to the government* his right of physical self-defense.” [110, italics added]

Rand was vehement in her rejection of anarchy: “Anarchy, as a political concept, is a naive floating abstraction ... a society without an organised government would be at the mercy of the first criminal who came along .... even a society whose every member were fully rational and faultlessly moral, could not function in a state of anarchy; it is the need of *objective* laws and of an arbiter for honest disagreements among men that necessitates the establishment of a government.”

She was equally caustic in her dismissal of anarcho-capitalism: “A recent variant of anarchistic theory ... is a weird absurdity called ‘competing governments’”;[112] “this theory ... is obviously devoid of any understanding of the terms ‘competition’ and ‘government’.” [113]

Finally, Rand was fully cognizant of the dangers of a state monopoly on force. Government had to be “rigidly defined, delimited and circumscribed” [109] and its activities strictly confined to police, armed forces and law courts. [112] She was a great admirer of the original American constitution, whose system of checks and balances was an “incomparable achievement ... the concept of a constitution as a means of limiting and restricting the power of the government.” [114]

In sum, Rand saw government as essential to protect rights. However, to achieve this end, it was equally essential to protect rights from government.

## B. The Conflict with Individual Rights

Rand argued for a state monopoly on the use of force.<sup>4</sup> Yet the establishment of a state monopoly automatically involves an *initiation* of force, something which Rand asserted must be barred from civilized society: a state monopoly is by its nature restrictive and coercive. Further, a state monopoly is absolute, it permits no competition. Elsewhere, however, Rand maintained that the right to liberty is inalienable, i.e. absolute: “inalienable means that which we may not take away, suspend, infringe, restrict or violate.”<sup>5</sup>

But an inalienable right to liberty would imply that citizens were free to set up their own systems of rights protection. Evidently then, if a state monopoly is established, the state immediately comes into conflict with the inalienable rights it is supposed to protect.

Many libertarians have pointed to this or related problems. The late Roy Childs, for example, wrote an “Open Letter” to Ayn Rand in 1969 asserting that her conception of limited government was self-contradictory: “a limited government must either initiate force or cease being a government ... the very concept ... is an unsuccessful attempt to integrate two contradictory elements: statism and voluntarism.”<sup>6</sup>

Rand riposted, if I recall correctly, by saying that Childs’ alternative idea of free market anarchism — a purely voluntary society — was nonsense; there just *had* to be a ‘monopoly on the use of force’. To my knowledge, she never denied the contradiction Childs had pointed out.<sup>7</sup> Rather, she appeared to imply that it was a paradox: something

which only *seemed* contradictory, and then only to the uninitiated; the wise accepted a coercive monopoly on coercion as unavoidable.

Locke, Paine, Jefferson and other Enlightenment thinkers certainly accepted this inevitability. Mankind had ‘fallen’; government was a badge of lost innocence, a necessary evil. Yet a ‘necessary evil’ is at best an oxymoron, self-contradictory for literary effect. One could not have an *actual* ‘necessary evil’. That would be a true contradiction, and contradictions cannot exist, as Rand so often reminded us.

The central, insuperable difficulty faced by Rand’s exposition, as by any defense of monopoly government, is that coercive monopoly conflicts with freedom. If humans as individuals have an inalienable right to liberty, no person or group can have or acquire the right to curtail that liberty.

The issue is entirely straightforward. There is nothing obscure or problematic about it: a state monopoly on law and law enforcement simply cannot be established or maintained without immediately infringing the liberty of any citizen who might wish to offer, or to employ, alternative forms of protection or arbitration.

Contradictions cannot exist. We must check our premises. Either the concept of an inalienable right to liberty, or the concept of a monopoly state, is false. One or the other has to be abandoned.

## C. The End Justifies The Means?

Rand’s thinking in support of monopoly government appears to be along these lines:

- a) Individuals have rights, the prerequisites of human life.
- b) All experience, whether historical or day-to-day, shows that organised protection of rights is essential.
- c) Protection of rights cannot occur without objective law.
- d) Objective law cannot arise if ‘governments’ compete; agency A’s interpretation would differ from agency B’s, etc.
- e) Therefore, protection of rights has to be a monopoly.
- f) Coercive monopolies are per se wrong, but *this* monopoly is permissible because it is the only way to achieve the objective law necessary to protect rights.
- g) To ensure rights are in fact protected, the state monopoly on the use of force will be retaliatory only, and will be rigorously controlled by a constitution.
- h) Because our end is good, and our means constitutionally controlled, we can live with something which is, in all other circumstances, evil.

The problem is, this argument is no different from (e.g.): “We are elected to protect liberty. The enemy is at the gates. We have insufficient troops. To protect liberty we must conscript.” But one cannot defend liberty by destroying it. The contradiction is blatant. If an action is morally wrong, it does not become morally right by being carried out for a good purpose. A is A, not B; there is no logical connection between them. Thus, if my analysis is correct, Rand’s politics are vitiated by an ‘end justifies means’ argument.

In a private letter disputing my criticisms of Rand, the late Dr Ronald Merrill stated that “government is morally justified because it protects rights.”<sup>8</sup> Even taking into account the informal source of this proposition — it might have been

phrased differently in a book — it does seem clear that the statement merely repeats the ‘end justifies means’ pattern of argument outlined above, only in different terms and much more succinctly.

For if ‘government’ in Dr Merrill’s proposition refers to ‘a monopoly on the use of force’, my earlier objection stands: the establishment of such a monopoly would itself initiate force. A government monopoly not only breaches individual rights — by eliminating liberty of choice — it also conflicts with Rand’s principle of barring force from social relations: a state monopoly, to *be* a monopoly, must be both absolute and enforced. It is therefore, by its very nature, coercive.

With due respect to Dr Merrill, it seems evident that to say “government is justified because it protects rights” is merely to sidestep the crucial issue of the initiation of force entailed by a state monopoly. Although intended to be reasonable and just, the assertion attempts to deflect attention from the state’s *prior* breach of morality by pointing to the state’s moral *end* of protecting rights. *Ergo*, the proposition rests on the false assumption that an end can justify the means used to attain it.

#### D. The *Ad Hominem* Attack on Anarchism

When I reread Rand’s essay on government after many years, I was dismayed to notice that most of her critique of anarchism consisted of *ad hominem* arguments. She neither presented the case for anarchism nor criticised the reasoning behind it. Rather, she simply asserted that anarchism is a “naive floating abstraction” or an “unthinking protest”, whose variant, “a weird absurdity called ‘competing governments’” is “befuddling some of the younger advocates of freedom” despite being “obviously devoid of any understanding of the terms ‘competition’ and ‘government’” and “devoid of any contact with or reference to reality ...”. [VOS 112-3]<sup>9</sup>

Rand’s only approach to an actual critique of anarchism consisted of an unsupported, Hobbesian assertion that “a society without an organised government” would be precipitated “into the chaos of gang warfare” [112], and an equally unsupported allegation that “competing governments” would not be able to resolve jurisdictional disputes: “You take it from there” she concluded ominously. [113]

Despite the vigour of Rand’s protestations, it hardly needs to be stated that *ad hominem* arguments are fallacious, and that mere assertion, unsupported by evidence or argumentation, is philosophically unconvincing — even when it comes from Ayn Rand. Any dispassionate observer would have to admit that Rand’s attack on anarchism establishes nothing.<sup>10</sup>

Writing in her own journal to presumed supporters (the essay first appeared in *The Objectivist Newsletter*), it seems clear that Rand — possibly in a hurry to make a deadline — was confident that her authority would carry the day, as indeed it has with many Objectivists, and that the forcefulness of her remarks would overcome doubts. Who in the youthful Objectivist movement would want to be known as ‘naive, unthinking, and devoid of understanding’?

Certainly, Leonard Peikoff, leader of the ‘official’ Objectivists, has followed exactly the same formula as Rand in his published discussion of anarchism: anarchists are “foolish” and a lot else besides.<sup>11</sup>

However, one does not need much knowledge of philosophy to be aware that appeals to authority are as fallacious as *ad hominem* arguments, and so are attempts to intimidate, if in-

deed that is what we are faced with. Rand herself wrote a fine warning against the latter, “The Argument from Intimidation”, which concludes *The Virtue of Selfishness*.

#### E. Rand’s Circular Argument

Rand maintained that “a government holds a monopoly on the legal use of physical force. It has to hold a monopoly, since it is the agent of restraining and combatting the use of force.” [VOS 109]

This seems to me completely circular. ‘A government holds a monopoly on force. It *must* hold a monopoly because it is *the* agent — i.e. the *sole* agent — for combatting the use of force.’ Which is to say that it is a monopoly and has to be a monopoly because it is a monopoly.

I had to go over this passage several times to be sure I was reading it correctly. It was disturbing to come across such blatant question-begging in an essay by ‘Mrs Logic’.<sup>12</sup>

#### F. The Hasty Generalisations of ‘Consent’

Rand spoke of the authority of government being derived from the ‘consent of the governed’. Again, many libertarians have asked: what of those who have *not* consented? For example, consent for the US federal Constitution was last sought in AD 1787. What of all the generations since?

Obviously, there is *some degree* of consent to government, otherwise it would not exist: it has the sanction of its victims. But if consent is the *basis* of government authority, government can have no authority over those who have *not* consented.

The point was famously made in 1850 by Herbert Spencer, who wrote powerfully and convincingly about “the right to ignore the state” — if one had not consented to it.<sup>13</sup> Twenty years later, the case was made even more forcefully by Ly-sander Spooner in his fiery pamphlet *No Treason*, a devastating refutation of any consensual or contractual obligations supposedly created by the US Constitution.

Spooner noted, among many other things, that owing first to property qualifications, next to the disenfranchisement of women, Negroes and others, probably not more than one tenth of the population, perhaps less than one twentieth, were even *permitted* to vote in the elections which created the US federal government;<sup>14</sup> and even then only a politically active minority of eligible voters would *in fact* have voted.

The latter point was confirmed by the 1824 presidential election, the first for which there are reliable records, when only 350,000 out of a population of some 11 millions actually voted, a mere 3.2%.<sup>15</sup> Yet, despite its pitifully fragile foundations, the US Constitution and the political reality it has spawned have been held up to the rest of the world for 200 years as the archetype of government *by consent!*

Rand’s consent argument might be stronger if universal consent were demonstrated to exist, but it never has been and almost certainly never could be. Most states therefore rely entirely on ‘majority rule’ — or some semblance of it. But ‘majorities’ are only *presumed* to consent to government. Further, they seldom amount to more than one third of the population. Besides, according to the consent argument itself, majorities still have no right to appoint rulers, or to rule themselves, over those who have not consented.

Some advocates of a state monopoly on force maintain that mere residence in a country implies ‘tacit’ consent to the

authority of its government. But what exactly is ‘tacit consent’? Who defines it? Who measures it? Who proves its existence? It seems odd for upholders of ‘objective law’ to rely on something so nebulous and subjective.

It is also self-evident that individuals born into a society of many millions cannot possibly by themselves change the governmental structure of that society. Nature imposes an obligation upon all humans to live somewhere, and the vast majority choose to stay in familiar territory. But to assert that residing in the country of one’s birth implies tacit consent to its form of government — which one did not create, and has no power to change — is to leap way past the evidence.<sup>16</sup> The notion seems little more than a rationalisation for the status quo.

Even if it were true that people did tacitly consent to the state’s existence, and to the authority of particular administrations to make law, this would not imply that the same people tacitly consented to the laws which that government did make. Even if one approves of the system of supposedly delegated authority upon which most Western governments depend, one may all too easily disapprove of what one’s government does.

For example, many of those who voted for British Prime Minister Margaret Thatcher heartily objected to her signing away British sovereignty to the European Community. Similarly, while Thatcher’s supporters applauded her repeal of foreign exchange controls, many bitterly opposed her imposition of insider trading laws and the other gross economic interventions of her years in power.

While it is probable that a sense of powerlessness or an unthinking inertia lead most people to accept things as they find them, acquiescence is not at all the same thing as consent.<sup>17</sup> In any case, one cannot base a political theory on unproven suppositions. Who can tell what the answer to an actual question — ‘Do you consent?’ — might be?

What is more significant is the bottom line: if government authority does indeed rest on consent, government can have no authority over those have not consented.

### G. The Root *Non Sequitur* — from Rights to State

I am not the first to question Rand’s uncritical dependence on the invalid ‘consent of the governed’ premise. Peter Saint-André, for example, pointed to the problem in a thought-provoking article in 1997.<sup>18</sup> He also criticised two other Randian assertions: that in a civilized society one must delegate one’s right of self-defense to government, and that the use of retaliatory force may not be left to individuals, both notions being just as suspect as government by consent. For it has always been obvious that people faced with muggers on the street, or intruders in their homes, are free to defend themselves and their property as best they can; in no possible way could it reasonably be asserted that by living in society people forswear the use of defensive force. According to John Locke, one has the right to kill in such circumstances, even if only threatened by the wrongdoer.<sup>19</sup>

Rand might possibly have said that it is the *exercise* of the right of self-defense which is granted to government, not the right itself, but even that would assert too much. In defending oneself when government protection is not at hand one is exercising one’s right.

What Rand should have said is that dedication to a life of reason automatically commits one to persuasion — and thus to a self-imposed prohibition on initiating the use of force.

But leading a moral life does not diminish either one’s right of self-defense or its clear implication, the right to retaliate. As long as one has the former, one may do the latter, either oneself or, more wisely and if possible, through a dispassionate third-party.

Yet there are greater problems with Rand’s position than the ones dealt with by Saint-André. For the self-restraint just referred to says nothing in support of *government*, and nothing to endorse a government *monopoly* on the use of force.

Throughout history, reasonable people have recognised that emotion can upset judgment and that one is usually best advised not to be a judge in one’s own cause. But the value of arbitration and of third party defenders emphatically does not, and logically can not, imply a state *monopoly*, nor imply any *obligation* to delegate a vital right to the state.

The limited government case advanced by Ayn Rand, and of course long ago by John Locke, rests heavily on the logical fallacy of *non sequitur*. Locke, for example, in paragraphs 87-89 of the *Second Treatise*, simply slips in the notion of a state monopoly on law and justice almost by legerdemain: “the Commonwealth comes by a Power”. [para. 88] Yet no matter how clearly people recognise the need for protection and arbitration, that recognition cannot possibly justify monopolization of those needs by a self-perpetuating institution imposed on society by force. The *non sequitur* is transparent. There are not now, and never have been, any necessary, essential or *logical* links between self-defense or justice and a state monopoly on law.

## TWO: HISTORICAL PROBLEMS

Logical flaws hardly exhaust the problems with Rand’s politics. Another egregious error is her failure to consider relevant historical facts. It is unfortunate that when she first started to think about politics she did not ask herself the same profound question she asked about ethics: “Does man need values ... and why?” [VOS 13]; i.e., does man need a state, and why? Instead, she set out to defend a “new conception of the State”.<sup>20</sup> Assuming the primacy of the state from the very beginning, she overlooked one of the most important questions in political philosophy: where did the state come from?

### A. The Origins of Government

Aristotle said “the fact is the starting point”,<sup>21</sup> and the most significant historical fact about states concerns their origins. There are currently some 200 or 300 states in the world, all with exclusive jurisdiction over a specific area. They have many differences, but one thing they all have in common was noted succinctly by Herbert Spencer: “Government is begotten of aggression and by aggression.”<sup>22</sup> All states were originally established *by force*.

In his detailed account of state origins, Franz Oppenheimer wrote: “The State ... is a social institution forced by a victorious group of men on a defeated group ... [for] no other purpose than the economic exploitation of the vanquished by the victors. No primitive State known to history originated in any other manner.”<sup>23</sup>

Oppenheimer’s judgment was later confirmed by Rand’s near contemporary, Albert Jay Nock: “The positive testimony of history is that the State invariably had its origin in conquest and confiscation.”<sup>24</sup>

Once in power, governments or states have sought to legitimise their authority by appeals to grand-sounding concep-

tions such as Divine Right, the General Will, the Spirit of the Times, or Manifest Destiny; and have perpetuated their rule by such means as military might, various forms of election and, in particular, by creating dependants.

In all cases, the state's exclusive jurisdiction has been and is *enforced*.<sup>25</sup> No competition is permitted in the core areas the original group arrogated unto itself — at the minimum war-making and taxation — or in later areas of involvement such as law-making, law enforcement and money, any competition being eliminated by force or the threat of it.

The origins of states were well known to the American revolutionaries so admired by Rand. Tom Paine, for example, famously depicted the creation of the British state: “A French bastard landing with an armed banditti, and establishing himself king of England against the consent of the natives, is in plain terms a very paltry rascally original.”<sup>26</sup>

However, historical knowledge did not inhibit the revolutionaries from following the precedent set by William the Conqueror. We have already seen that only a very small, politically active minority was involved in setting up the United States. More significant, perhaps, is the fact that the citizens of the Thirteen Colonies were never offered a choice between a central government or none, but only between English or American government.<sup>27</sup> In fact, the citizens' consent hardly mattered. As Josiah Tucker complained bitterly at the time: “did, or doth any of their Congresses, general or provincial, admit of that fundamental Maxim of Mr. Locke, that every Man has an *unalienable* Right to obey no other Laws, but those of his own making? No; no; — so far from it, that there are dreadful Fines and Confiscations, Imprisonments, and even Death made use of, as the only effectual Means for obtaining that Unanimity of Sentiment so much boasted of by these new-fangled Republicans, and so little practiced.”<sup>28</sup>

Once securely in place, the United States government thereafter conformed to the practice of all states by *enforcing* its exclusive jurisdiction. Any threat to its monopoly on power has been promptly and ruthlessly crushed; whether during Shays Rebellion or the Civil War, at Wounded Knee or Waco. (The original inhabitants of America, whose free way of life presented an especially serious threat to the US state, were dealt with most ruthlessly of all, being driven from their lands by the US Army and wherever possible, massacred. The US government's deliberate policy of genocide against native Americans is well documented.<sup>29</sup>)

It is not possible to deny these two facts: 1) there exists in all countries a social condition in which force was at some point in the past initiated against the rest of the society by the group which created the state; and 2) force has invariably been used ever since to perpetuate the state's exclusive jurisdiction. The present world order thus flatly contradicts Ayn Rand's assertion that “The precondition of a civilized society is the barring of physical force from social relationships.” [VOS 108]

The significance of all this, as George H. Smith has pointed out, is that the coercive origins of government “block the most popular method of justifying the present State: consent theory. If the State originated in conquest and usurpation, it is clear that its citizens, those who are exploited by those who control the political machinery of the State, *did* not, and *would* not consent to be so exploited.”<sup>30</sup>

We have already seen that on purely logical grounds consent theory is of very limited value. Had Rand taken time to

consider the historical facts, she must surely have realised that ‘consent’ is no argument for government at all.

## B. Gang Warfare?

Rand maintained, with Hobbes,<sup>31</sup> that the absence of a government monopoly on force would precipitate gang warfare: “a society without an organised government would be at the mercy of the first criminal who came along and who would precipitate it into the chaos of gang warfare.” [VOS 112] Yet the historical and ethnographic record, much of it published before or during Rand's intellectual lifetime, belies this assumption emphatically.

While a single negative instance suffices to invalidate a universal affirmative proposition, there are literally *thousands* of examples of societies the world over — from primitive forest dwellers to miners in the Old West — all of whom recognised individual rights and worked out methods for protecting them, and for resolving disputes, without recourse either to gang warfare or to monopoly government.

What these societies had in common was *customary* law: voluntary, usually unwritten codes which evolved over time through trial and error, yet which were willingly and near universally obeyed, often for centuries on end, because they were *practical*, and because it was in every individual's *self-interest* to do so. Let us look briefly at some examples.

Herbert Spencer told us, for instance, about the “utterly uncivilized Wood Veddahs” on the island of Ceylon, who were “without any social organisation at all”, yet who thought it “perfectly inconceivable that any person should ever take what doesn't belong to him, or strike his fellow, or say anything that is untrue.”<sup>32</sup>

In the Americas, French ethnographer Pierre Clastres has pointed to the great personal freedom and contentment of the stateless aborigines who, when one peels away the European prejudice that saw them as primitive, were actually healthier, wealthier and in many ways *wiser* than those who conquered or annihilated them. For example, according to Clastres, the mutilation that marked entry into manhood in many tribes was deliberately devised to prevent the development of tyranny: “Archaic societies, societies of the mark, are societies without a State, *societies against the State*. The mark on the body [mutilation scars], on all bodies alike, declares: *You will not have the desire for power; you will not have the desire for submission ...*”<sup>33</sup>

In Europe and the Middle East, Rose Wilder Lane has reminded us (even if she does exaggerate a bit) that while Europeans were enduring the ‘Dark Ages’, a great Moorish civilization stretched in a shining crescent around the Mediterranean; largely anarchical — there was no state provision of justice or policing — yet educated, scientific, clean, healthy, free and prosperous for nearly a millennium.<sup>34</sup> It was the Moors, or Saracens, who introduced modern Europe to Aristotle, and also to astronomy, modern medicine, geography and other sciences.

David Friedman has shown us the freedom-loving and — the sagas notwithstanding — usually peaceful Icelanders, who lived on their isolated island in complete anarchy for centuries until overwhelmed by the Norwegian state.<sup>35</sup>

Murray Rothbard drew our attention to medieval Ireland, “a highly complex society ... the most advanced, most scholarly, and most civilized in all of Western Europe” where there was “no trace of State-administered justice” and where

customary law held sway for 1000 years, until destroyed by the English state.<sup>36</sup>

Coming closer to our own times, Bruce Benson has reported on recent studies of the American 'Wild West' which show that its supposed 'lawlessness' before the arrival of government was in fact the opposite: "some long-cherished notions about violence, lawlessness and justice in the Old West ... are nothing more than myth."<sup>37</sup> Most Westerners were far too busy trying to survive or get rich to be fighting each other.

What the 'Wild West' more often provided were examples of the spontaneous generation of customary law: universally accepted, efficient, cheap, and usually a lot more just than the state law which eventually superseded it. Far from lawless, Western settlers, ranchers and miners were as law-abiding as any people in history: "Doors were not locked."<sup>38</sup> Here again, the heart of the matter was simple self-interest. In the trenchant words of Eric Hoffer: "Those who have something worth fighting for, do not want to fight."<sup>39</sup>

Dr Benson also pointed to marked likenesses between the customary law of primitive societies and that of early medieval Europe. He refers, for example to the Kapauku of New Guinea, who were described by an anthropologist in the 1950s. Like all 'primitive' societies the Kapauku had no government, yet enjoyed a thriving culture based on individual rights. Protection was provided by kinship groups, and arbitration by competing judges called *tonowi*.<sup>40</sup> The similarity between the customary, state-less law of the Kapauku and that of Anglo-Saxon England is striking.<sup>41</sup>

Much may also be learned from the northern Iroquoian peoples, some of whose descendants lived on Rand's doorstep in New York State. The Seneca, Mohawk and their confederates, and the Hurons in Ontario, had existed as cohesive societies without government for centuries prior to the arrival of Europeans. Their secret was a true freedom involving genuine equality and consent. Among the Huron, "No man could be expected to be bound by a decision to which he had not willingly given his consent."<sup>42</sup> Among Iroquoians generally, "The implementation of the decisions of ... councils required securing the consent of all those involved, since no Iroquoian had the right to commit another to a course of action against his will." Far from a war of all against all, Iroquoian society was characterised by "a respect for individual dignity and a sense of self-reliance, which resulted in individuals rarely quarrelling openly with one another." It was also marked by "politeness and hospitality to fellow villagers and to strangers" and by "the kindness and respect they showed towards children".<sup>43</sup>

Even Jesuit missionaries, who were appalled by various aspects of Huron life, such as their sexual 'licence', freely acknowledged the cooperativeness and tranquillity of Huron communities — in which thousands of people lived closely together in conditions of considerable discomfort. Jean Brebeuf SJ, for example, writing in the 1640s, commented at length on the "love and unity" that existed among the Hurons and "their kindness towards each other" even in times of great stress.<sup>44</sup> A hundred years later, Pierre Charlevoix SJ confirmed the "harmony" which characterised the domestic and community life of the many interior tribes he visited.<sup>45</sup>

It is true that the Iroquoians engaged in constant inter-tribal warfare, but this was waged for vengeance, prestige and to obtain victims for sacrifice, not for conquest. Their wars were thus quite unlike European wars, which were launched

for territorial gain and for the exploitation of subject peoples.

The origins of most Iroquoian conflicts were ancient blood feuds, but the futility of these had become well recognised. The main purposes of Huron confederacy councils were to "prevent disputes between members of different [Huron] tribes from disrupting ... unity" and to "maintain friendly relations with tribes with whom the Huron traded." The Huron were well aware that "no tribal organisation and no confederacy could survive if internal blood feuds went unchecked. One of the basic functions of the confederacy was to eliminate such feuds ... indeed, between Huron, they were regarded as a more reprehensible crime than murder itself."<sup>46</sup>

The above evidence shows that it is simply *not true* to assert that in the absence of a state, internecine conflict immediately breaks out. What the historical and anthropological records actually reveal — anticipating the computer studies of Robert Axelrod — is that when people are left to their own devices what emerges is not a Hobbesian war of all against all, but *cooperation*.<sup>47</sup>

### C. Objective Law

The most crucial aspect of the case for monopoly government as advanced by Ayn Rand, is the assertion or implication that objective law is not possible without it. Since anybody ruled by law must desire their master to be non-arbitrary, just, and impartial — i.e. objective — plainly the assertion that objective law can only be created by a monopoly government is going to carry great weight.

Yet the assertion is false. We have just seen compelling evidence that objective law can and does arise without government. Just as 'spontaneous order' arises in economic life, so spontaneous or 'customary' law arises in social life.

But there is nothing *subjective* about customary law. It is every bit as objective as the products of legislatures. Another compelling example cited by Bruce Benson is the Law Merchant of medieval commerce. This arose spontaneously to facilitate trade when Europe was emerging from the 'Dark Ages' and still forms the bedrock of modern commercial law.

The *Lex mercatoria* was private, created by the merchants themselves, yet was universal, being recognised all over Europe and beyond. It was extremely efficient and cheap to run, and had its own courts with their own rapid and informal procedures. Rulings were followed without question because the judges were merchants themselves — who knew intimately what plaintiff and defendant were arguing about. Besides, it was in the interest of the courts and everybody else that judgments be reasonable and just.

A defendant was of course free to ignore an unfavorable ruling, the court had no power to enforce. But to outlaw oneself in this manner was to put oneself out of business, for nobody traded with merchants who disrespected the merchants' own law. *Compliance was thus achieved without coercion*, perhaps the most vital lesson the Law Merchant has to teach.

The Law Merchant's success was due to its objectivity. It was simple, clear, confined to essentials and, its *raison d'être*, was a practical requirement of trade. It arose because merchants needed independent arbitration, and continued because it performed that service efficiently. Yet it was created and sustained voluntarily — without any invol-

vement from government — and functioned effectively *for centuries* without costing a penny in tax. Although later submerged in most countries by the growing power of the state, the Law Merchant lives on today in the underlying principles of the (non-state) law which guides international trade.

The history of the Law Merchant demolishes the notion that state-created law is a prerequisite for the free market. Prior to 1600 or so, commercial and contract law was entirely private — and vastly cheaper and more efficient for being so. In Bruce Benson's words, the spontaneous generation of the Law Merchant “shatters the myth that government must define and enforce ‘the rules of the game’.”<sup>48</sup> Equally, the well-documented existence of customary law societies all over the world — in which law-generation, policing and justice were carried out effectively without government — shatters the myth that only state monopolies can create objective law.

It might be objected that I am relying on work published after Rand's death and hence am being completely unfair. That would only be true if Benson's book were the sole source for such material, which is not the case. Spencer, Spooner, Oppenheimer, Nock, Lane and other critics of the state all wrote long before Rand composed her essay on government. (Spencer's *The Man versus the State* was actually ‘recommended reading’ at the Nathaniel Branden Institute, which promoted Rand's ideas, with her approval, until 1968.) Similarly, students of customary law such as Friedman, Rothbard and the Tannehills, and anthropologists such as Clastres and Trigger, all published their ideas well prior to Rand's retirement from active intellectual life. She could have been, and should have been, better informed.

Furthermore, Rand studied history in St Petersburg, and must surely have known of the medieval Hanseatic League, which dominated trade in the Baltic, and whose trading was governed by private mercantile law. She must also have studied the transition in Europe from customary to authoritarian law which occurred from the 10th century onwards. The medieval era has always been important in the history syllabus and would have been particularly so in Russia under the Soviets, the rise and fall of feudalism being integral to the Marxist thesis.

To conclude this section, it must also be averred that the historical record hardly supports the contention that monopoly government *does produce* objective law. Whether one thinks of John Locke's strictures on 17th century lawyers; or the spurious 18th century doctrine of the Sovereignty of Parliament; or the despairing 19th century cry “The law is an ass” immortalised by Dickens in *Bleak House*; or the labyrinthine 6,000 pages of the 20th century ‘IRS Code’ (the US tax law), or one of Rand's own favourite targets — the manifestly unjust and self-contradictory US Anti-Trust Laws: history seems rather to show that much, if not most, state-made law is and always has been the *opposite* of objective.

Nor is state-provided justice any better. One could cite a thousand examples of judicial perversity. But just one will have to suffice here. In the 1997 *Woodward v. Massachusetts* case, Judge Hiller Zobel approvingly quoted John Adams to the effect that the law is “inflexible, inexorable and deaf”, then informed the world: “evidence is evidence if the jurors believe it; what they choose not to believe is not evidence.”<sup>49</sup> I have not come across a better illustration of

outright subjectivity entrenched in a state-made legal system.

We can see from the above brief review that the basic problem with customary law is not any want of objectivity, but rather the lack of objectivity of those who disparage or ignore it. Brought up in the tradition that ‘law is made by government’, and swaddled from cradle to grave in state-made, *fiat* law, supporters of monopoly government assume that objective law can *only* be made by government. As Nock put it: “There appears to be a curious difficulty about exercising reflective thought upon the actual nature of an institution into which one was born and one's ancestors were born.”<sup>50</sup>

But in point of historical fact, government is a newcomer. Most laws of any true benefit in use today are merely formalisations or logical extensions of customs or customary laws which existed long before the legislatures which enacted the modern *fiat* versions.

Law was invented prior to government. The state has merely *expropriated* the law, and has only gradually succeeded in creating the monopoly on law-making and law enforcement which it now claims as its discovery and birth-right.

#### D. The Grim Tale of State Monopoly

All of which brings us back to the problem we started with, the monopoly status which Rand and its other proponents claim ‘limited’ government must have.

Many fine minds have devoted huge efforts to detailing the devastating effects of government monopolies. Rand was aware of this and enthusiastically endorsed the work of such thinkers as Frederick Bastiat, Ludwig von Mises, Henry Haslitt and others. But when one sees the havoc government monopolies have wrought in the economic sphere, is it not unduly optimistic to expect them to be efficient in *any* sphere?

When one then surveys the domains over which Rand claimed government should have exclusive control — law-making, courts, police and defence — the litany of disasters makes one wonder what faith inspired her. Taking the US alone, one could fill libraries with the names of people, places, events and laws symbolic of crushed rights, military adventurism, genocide, waste, murder, cruelty, stupidity, duplicity, injustice, or what Thomas Sowell has called “passionate delusion”<sup>51</sup> — all perpetrated by agents of government operating under an exclusive license: Fallen Timbers, Sand Creek, Little Bighorn, Jim Crow, Comstock, the Philippines, Selective Service, Prohibition, Sacco and Vanzetti, Purple Codes and Pearl Harbour, the USS Indianapolis, Yalta, Hiroshima, Social Security, Julius and Ethel Rosenberg, Bay of Pigs, Vietnam, Watergate, Rodney King, Whitewater, Donald Scott, Ruby Ridge, and those endless unconstitutional acronyms: BATF, DEA, EPA, FDA, HEW, HUD ...

Rose Wilder Lane put her finger on the core of the problem: “Being absolute, and maintained by police force, a Government monopoly need not please its customers.”<sup>52</sup> And of course this applies whether the monopoly is a railway network, an air traffic control system, a post office, a currency, a legislature, a police service, a judiciary, or any bureaucracy appointed to carry out a state task.

Spencer, writing 100 years before Lane, described the result of the state's exemption from the normal rule of business —



that the customer is king. He characterised the functioning of state officials in the social sphere in his day as “slow, stupid, extravagant, unadaptive, corrupt and obstructive”, and in the realm of law as, “treacherous, cruel, and anxiously to be shunned.”<sup>53</sup> Who today can point to a state bureaucracy or state legal system — anywhere in the world — where things are any different?

In one of the most apt uses of statistics ever, Spencer also pointed out that four fifths of all British laws passed between 1236 and 1872 later had to be repealed as unworkable.<sup>54</sup> Imposed by persons claiming the exclusive right to direct British life, the laws all turned out to be asses.

There was evidently great hope that the system of checks and balances built into the various American constitutions would resolve the problem of monopoly in government. Alas, it failed. Bruce Benson’s *The Enterprise of Law* cites innumerable examples of corruption, inefficiency and stifling of improvement in every branch and level of government in the USA, whether municipal, county, state or federal. The problems have been there since before 1776 and persist despite huge efforts by reformers to root them out. Newspapers and one’s own experience in Britain and Europe tell the same story daily on this side of the Atlantic.

Corruption and inefficiency have always existed in government. They always will. Government is force. Thus government service tends to attract those of lower self-esteem (power seekers) as well as the less scrupulous and the less able. Thereafter, the exercise of unwarranted power, lack of competition, absence of personal financial responsibility, and the insular, self-serving nature of bureaucratic life, tend to eat away the moral fibre of even the most honest officials.

For citizens who have had legal or economic monopolies foisted upon them, government power usually resolves itself into the withholding or granting of permissions. Obviously, those who need to get round these obstacles, or who seek to exploit them, will resort to whatever is necessary to do so successfully. Corruption is the inevitable result. And since competing with government is forbidden, inefficiency is corruption’s steadfast companion in crime.

The uniformly awful record of state monopolies is too well known to require further elaboration. One need do no more than draw attention to it as one of the most serious objections to ‘limited government’. As long as the providers of *any* service do not have to please their customers, as long as they hold a monopoly, corruption and inefficiency will bloom — as persistently, hardily and perennially as the ugliest weeds.

Advocates of limited monopoly government have a great tradition of philosophical debate, heroic deeds, and revered Founding Fathers to fall back on. But no amount of flag-waving can eradicate the historical fact that the only product of government monopolies, whether in commerce or in justice, has been “the law’s delay” and “the insolence of office”. State monopolies always have, and always will, hold back human progress like cannonballs shackled to the legs of slaves.

The solution is obvious: expose *all* the services now provided by government to competition.<sup>55</sup> Thus arguments for continuing the state’s ‘monopoly on the use of force’ must be very powerful indeed. I have shown that those provided by Ayn Rand are inadequate. If better ones exist, I hope someone will point them out.

### THREE: CONSISTENCY PROBLEMS

One of Rand’s major claims about her philosophy, and one of the facets for which it is most admired, is logical consistency. Objectivism begins with solid metaphysical foundations in reality and continues with impressive logic through an epistemology of reason and an ethics of rational self-interest to a conclusion in laissez-faire capitalism. Unfortunately, this logical structure does not extend to Rand’s political thought: there are serious inconsistencies between her politics and the rest of her philosophy.

#### A. The Malevolent View of Mankind

Rand advocated an ethics of rational self-interest and upheld the essentially benevolent nature of the universe. Her Hobbesian assumption that gang warfare would ensue in the absence of a state monopoly on force hardly inspires confidence in these viewpoints.

Rand consistently maintained that “There are no conflicts of interest among men of goodwill.” The historical record shows that she was right. Wherever and whenever people have been left free, they have tended to be or to become benevolent and reasonable towards each other, not violent.<sup>56</sup> A war of all against all, on the other hand, assumes the complete irrationality of the population. Alternatively, rule by a strongman<sup>57</sup> assumes a complete lack of virtues such as independence and courage amongst those ruled, and neither recognition nor acknowledgement of individual rights by tyrant or by subject. There could be no room in either of these societies for ‘Objectivist Man’.

The Objectivist ideal is of men and women devoted to reason, purpose and self-esteem; to rationality, productiveness and pride; to honesty, independence, integrity, and justice. But people of this kind have been found in all communities throughout history. Besides being historically inaccurate, it is a grave injustice to maintain that without a coercive central state they would have been instantly at each others’ throats.

Good people live peacefully and recognise each other’s rights because that is the rational, practical way to live. They are good because they choose to be, not because someone else keeps them in order. In modern society 99% of people neither steal nor murder. But they do not refrain from such acts out of fear of the state. They refrain because they wish to live moral lives. While they do know that punishment and ostracism would follow if they did commit violent crimes, that is not their incentive. They prefer honesty and integrity to taking that which is not theirs. *Human conviction is vastly more powerful than any state.*

The fact is that the universe is *actually* benevolent, and those who are not coerced generally respond in kind. An assumption of mayhem ensuing in the absence of government is completely counter to a benevolent view of mankind. It also implies the vanity of any hope that Objectivism might prevail. Most notably of all, perhaps, the assumption clashes horribly with Rand’s own depiction of an ideal society — Galt’s Gulch in *Atlas Shrugged* — which was a haven with neither government nor dispute.

The great frightener the state holds up to us is ‘*après moi le déluge*’ — that we are doomed without it. Historically, this is nonsense pure and simple: law and order everywhere emerged spontaneously, with no involvement by the state.

It is unfortunate that Rand did not recognise this truth. For by scorning anarchism she encouraged people to believe the

state's propaganda. She ought rather to have been first to acknowledge the overwhelming historical and contemporary evidence that it is not freedom which corrupts, but power.

### B. Conflicts with the Objectivist Ethics

The Objectivist ethics is a *standard-based* morality. It defines principles or standards which act as guides for individual judgment.

Laws made by governments, in contrast, are clear examples of, or analogous to, *rule-based* systems of ethics — such as Christianity, Kantianism or Utilitarianism — which Objectivism rejects.

State-made laws are rules made by some men demanding the obedience of others. A law is a command backed by the willingness to use force. “Command is the growl of coercion waiting in ambush” as Spencer so pithily put it.<sup>59</sup> State-made law appeals not to reason, but to fear.

A standard, on the other hand, is derived by reflection from the facts of reality, and is reaffirmed generation after generation because it conforms to the common experience and common sense of mankind.

A standard is available to anybody at any time and is employed voluntarily and individually. Its appeal is to reason, its acceptance comes through persuasion. Freely accepted rational standards are the hallmarks of civilization. They are the antithesis of state-made law.

That laws may be based on rational standards offers no way out here. If people are free by right, employing civilized standards is up to each individual person. It can never be the right of some one group of people to judge for the rest and thereafter to enforce their judgments ‘by law’.

It is not only in the general sense of espousing standards rather than rules that Objectivism conflicts with a government monopoly on law. We have already seen that a coercive monopoly conflicts with individual rights. Such a monopoly also conflicts with particular Objectivist virtues such as independence and justice. One cannot rationally uphold independent judgment as a virtue, then maintain that in vital areas of human life ordinary people are not fit to judge. Similarly, one cannot extol the virtue of justice — treating people on merit — while denying everyone the right to exercise justice in the area where it matters most, self-defense. Nor does Rand's trader principle fare well under limited government. How does “a free, voluntary, unforced, uncoerced exchange”<sup>60</sup> take place in the face of a coercive monopoly on the law of contracts?

### C. Reason, Persuasion and Force

Setting up and maintaining a monopoly government is an employment of force to resolve human problems: a monopoly on law-making and law enforcement is coercive. In George Washington's words: “Government is not reason, government is not persuasion, government is force ...”<sup>61</sup>

Yet Objectivism upholds reason as man's highest value. Reason abjures the use of force. The method of reason is persuasion. Therefore to employ force is to *abandon* reason.

We thus face another contradiction. But we know that contradictions cannot exist. The choice is stark: either abandon monopoly government or abandon reason.

The consequences of admitting force into human affairs are catastrophic. Once you concede the principle, once you

allow coercion in one area, you cannot deny it in others. There is no stopping it. Pandora's box is opened, the cat is out of the bag. And that has been the story throughout history. Whenever a coercive state has taken over a society, or when it has been granted (by default or explicitly) the right to use force in, or to monopolize, any one area of life, it has gradually pushed its way into, or taken over, all others.

The logic is irresistible. Abandon reason, introduce the premise that it is permissible to initiate force *sometimes*, and force will eventually be used *at all times*. Let a coercive state get one foot in the door, and it gradually takes over the whole house.

The classic example is North America. When Europeans first landed in what is now the United States, there was no state. Today, there is not one single aspect of American life which remains untouched by state intrusion.<sup>62</sup>

The clearest possible logical chain leads directly from the Norman Conquest — and the Norman state's subsequent suppression of Anglo-Saxon customary law<sup>63</sup> — to the actual chains which fetter Americans today: the dictatorial acts now being committed, in the name of justice, by the uncountable and unaccountable agencies of the US state.

Ayn Rand was a great admirer of the US Constitution. For many years so was I: it was the noblest attempt in history to cage and chain the beast of force. But the beast broke its shackles almost immediately and with little difficulty. Aided and abetted by the morality of altruism, the beast has since proceeded to devour, at an ever-increasing rate, both the constitution so painstakingly designed to restrain it and the individual rights which that hallowed but helpless document was intended to protect.

The premise that coercive monopoly, i.e. force, is justifiable in any one part of life, leads inexorably to a total state — even when the purpose of the monopoly is to protect individual rights. History and logic demonstrate beyond question that government cannot be limited. Any limited state power eventually becomes *unlimited*.

In sum, Objectivism, advocating reason; a standard-based ethics; virtues such as independence and justice; inalienable individual rights; and laissez-faire capitalism, cannot consistently support a state monopoly on the use of force.

### POSTSCRIPT

Loyalty to Rand made reaching the above conclusion a long and hesitant process. My interest in politics, my intellectual life itself, *began* with Rand, in 1963. But doubts about limited government surfaced early. The first occurred when reading Thomas Jefferson at university. His emphasis on *self* government seemed almost to preclude external forms of control. Rand's ‘monopoly on the use of force’ also clashed with all those checks and balances I was learning about. Surely they were intended to *prevent* monopoly?

Some years later, about 1970, while reading the journals of Samuel Champlain and other explorers of North America, I was struck, as they were, by the great contentment of the aborigines, in most of whose societies respect for individual rights thrived despite a complete absence of government. Anarchism suddenly lost some of its anarchic connotations.

Later still, during the 1980s, in the course of devising a programme for limiting government in the UK, I began to see more clearly the weaknesses of the minimal state position, particularly *vis-à-vis* its monopoly status. However, I wasn't

yet ready to abandon ‘minarchy’, so I sidestepped, or perhaps evaded, my own acknowledgement of the logical strength of the anarchist case: “... if one is setting out to control government, it must be admitted that the most effective method is to dispense with government entirely.”<sup>64</sup>

Then, in 1993, a friend, Kevin McFarlane, to whom I shall always be indebted, urged me to read Morris and Linda Tannehill’s *The Market for Liberty*. This, while highly abstract and at first sight not fully convincing, did at least present a consistent argument for anarcho-capitalism which revived my earlier doubts about limited government.

Kevin next lent me Bruce Benson’s *The Enterprise of Law*. That remarkable book had something of the effect that Rand had had on me thirty years before. Like Cortez in Keats’s poem, I found myself staring at a vast, new, *apolitical* horizon, my mind filled with the “wild surmise” that a stateless society might indeed be possible — even in our complex modern world.

The last little piece of the puzzle fell into place in 1995, when I heard about Murray Franck’s essay on taxation.<sup>65</sup> Startled to find an *Objectivist* in favour of taxes, I reread Ayn Rand’s essay on government. I was even more startled, and considerably dismayed, when I noticed for the first time the flaws and empty spaces in her arguments.

Yet, so what? Rand’s mentor Aristotle said, “one swallow does not make a summer,”<sup>66</sup> and even a whole flight of errors in one branch of knowledge says nothing about a philosopher’s work in others. Aristotle made some pretty fair blunders himself; e.g., over women, slavery, evolution and astronomy. We might have been on Andromeda by now if he hadn’t. But he was still the greatest of the great philosophers. Rand’s errors in politics do nothing to invalidate the rest of Objectivism, which in my judgment remains solid: it *works*; both as a guide for living and — though far from complete — technically as a philosophy, especially in its logical integrity.

Nonetheless, everything I have read since 1993 — when the Tannehills and Bruce Benson jolted me out of my dogmatic slumbers — and all the facts and arguments presented in this paper, have convinced me that for its logical structure to be sustained from start to finish, the political destination of Objectivism must be sought not among the archives and marble monuments of the District of Columbia, but in the ideal, yet-to-be-realised world of Galt’s Gulch.

## NOTES

1. I am very grateful to Roger Donway of the Institute for Objectivist Studies who kept me informed of the debate despite disagreement with my views. Since I refer only briefly to Objectivism L, I should point out that this essay was written before their debate began. Also, I followed only the first month, during which postings focussed on topics I do not address. In addition I would like to thank Tibor Machan, Kevin McFarlane and William R. Minto for critical comments which lead to a number of significant amendments.
2. John Hospers, *Libertarianism*, Reason Press, Santa Barbara, 1971, p. 417ff, and *Anarchy or Limited Government?*, Gutenberg, San Francisco, 1976; Robert Nozick, *Anarchy, State and Utopia*, Blackwell, Oxford, 1990, “the minimal state is inspiring as well as right”, p. ix; Tibor Machan, *Human Rights and Human Liberties*, Nelson-Hall, Chicago, 1975, and *Individuals and Their Rights*, Open Court, LaSalle, Ill, 1989. For *unpersuasive* discussions of anarchy v. minarchy see Leonard Peikoff, *Objectivism: The Philosophy of Ayn Rand*, Dutton, New York, 1991, Ch. 10, and Robert James Bidinotto, “The Contradiction in Anarchism”, *Full Context*, Objectivist Club of Michigan, Troy, Michigan, May and June 1994.
3. See Ayn Rand, *The Virtue of Selfishness* [VOS], New American Library, New York, 1968. Numbers in brackets refer to the current paperback edition.
4. A view shared by many ‘right-wing’ contemporaries. Cf Rose Wilder Lane, *The Discovery of Freedom*, Laissez-Faire Books, San Francisco, 1984, pp. 201 and 204; and Leonard E. Read, *Government — An Ideal Concept* (1954), *passim*.
5. Ayn Rand, “Textbook of Americanism” in Harry Binswanger, *The Ayn Rand Lexicon*, Meridian, New York, 1986, p. 211.
6. “Objectivism and the State: An Open Letter to Ayn Rand”; *Liberty against Power: Essays by Roy A. Childs, Jr.*, Fox and Wilkes, San Francisco, 1994, p. 146; original in italics. Childs’ essay was followed in 1970 by two brilliant treatises on anarchism, Morris and Linda Tannehill’s *The Market for Liberty* and Murray Rothbard’s *Power and Market*.
7. I have not been able to find Rand’s reaction to Childs’ letter, but I have a distinct recollection of reading it, I think in *The Objectivist*.
8. 23 October 1997; quoted with permission. Ronald Merrill’s early death saddened me greatly. He was a sharp thinker and an entertaining writer whose book *The Ideas of Ayn Rand*, Open Court, LaSalle, Ill., 1991, encouraged me to develop a more critical approach to Rand.
9. Chris Tame, Director of the UK Libertarian Alliance, informs me that no advocate of anarcho-capitalism has referred to ‘competing governments’. Since the phrase is confusing and self-contradictory, Rand may have employed it to disparage.
10. Rand’s rejection of anarchism may stem from experiences during the collapse of Czarist Russia. She often went in fear of her life, and at age 13 was robbed in the dark at gunpoint by a bandit gang. See Barbara Branden, *The Passion of Ayn Rand*, Doubleday, New York, 1986, p. 30.
11. Leonard Peikoff, *Objectivism*, *op cit*, p. 371ff.
12. Rand’s 1960s nickname in New York Objectivist circles.
13. In his great work *Social Statics* (1850), ch. XIX.
14. Lysander Spooner, *No Treason*, James J. Martin Ed., Ralph Myles, Colorado Springs, 1973, p. 14.
15. *Ibid*, p. 14, note 2.
16. Cf Hospers, *Libertarianism*, *op cit*, p. 14.
17. I owe this point to George H. Smith. See his excellent “Introduction” to Oppenheimer’s *The State*, *loc cit*, p. xix.
18. “Gentlemen, Leave Your Guns Outside”, *Full Context*, April, 1997. Saint-André also noted, correctly: “A fully consistent Objectivist theory of government remains to be developed.”

19. *Second Treatise*, Ch 3, 18-19.
20. *The Journals of Ayn Rand*, David Harriman, Ed., Dutton, New York, 1997, p. 73.
21. *Nicomachean Ethics*, Bk 1, Ch 4, 1095b 6.
22. Herbert Spencer, *The Man Versus The State*, Penguin, Harmondsworth, Middlesex, 1969, p. 112.
23. Franz Oppenheimer, *The State*, Fox and Wilkes, San Francisco, 1997, p. 9.
24. Albert Jay Nock, *Our Enemy the State*, Caxton, Caldwell, Idaho, 1950, p. 44.
25. Cf Rand: "A government is an institution that holds the exclusive power to enforce certain rules of social conduct in a given geographical area." [VOS 107]
26. Tom Paine, *Common Sense*, Penguin, Harmondsworth, Middlesex, 1976, p. 78.
27. I owe this point to George H. Smith, "Introduction", Oppenheimer, *op cit*, p. xvii.
28. *Ibid*.
29. Dee Brown, *Bury My Heart at Wounded Knee*, Barrie and Jenkins, London, 1971, *passim*.
30. George H. Smith, "Introduction", in Oppenheimer, *op cit*, pp. xx-xxi.
31. "Hereby it is manifest, that during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war as is of every man, against every man .... In such condition there is no place for industry ... no culture of the earth ... no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish and short." Thomas Hobbes, *Leviathan*, Edited by Michael Oakeshott, Blackwell, Oxford, 1946, p. 82.
32. *The Man versus the State*, *op cit*, p. 173.
33. Pierre Clastres, *Society Against the State*, Robert Hurley trans., Blackwell, Oxford, 1977, p. 157, italics in original.
34. *Discovery*, *op cit*, p. 82ff; she noted Hebrew anarchy too.
35. David Friedman, *The Machinery of Freedom*, Arlington House, New Rochelle NY, 1973, Appendix to 3rd Edn. R. J. Bidinotto, *op cit*, scorns Icelandic anarchism for being unable to resist Norwegian invasion, a criticism which implies might is right. Bill Stoddard (objectivism1@cornell.edu 18 Dec 1997) argues that medieval Iceland's court system was in fact a monopoly and thus that the island did have a state, albeit minimal. This may overlook the fact that sole suppliers arise naturally under freedom, the most able supplier winning the competition for the consumer's favour. (E.g., as has happened with many other standards, the simplicity of the metric system has gradually eliminated British Imperial measure.) There is every reason to believe that in a completely free society, there would eventually be one code of justice, worldwide. The Law Merchant has already shown the way.
36. Murray Rothbard, *For a New Liberty*, Libertarian Review Foundation, New York, 1978, p. 231.
37. Bruce Benson, quoting Dr Roger McGrath, *The Enterprise of Law: Justice without the State*, Pacific Research Institute for Public Policy, San Francisco, 1990, p. 312.
38. *Ibid*, p. 313.
39. In *The True Believer* (1951).
40. *The Enterprise of Law*, *op cit*, p. 15ff.
41. *Ibid*, p. 21.
42. Bruce G. Trigger, *The Children of Aatensic: A History of the Huron people to 1660*, McGill-Queen's University Press, Kingston, Ontario and Montreal, Quebec, 1976, 1987, p. 54.
43. *Ibid*, pp. 102-4.
44. Bruce G. Trigger, *The Huron: Farmers of the North*, 1969, 2nd Edn, Harcourt, Montreal, 1990, p. 72.
45. Bruce G. Trigger, *Natives and Newcomers: Canada's Heroic Age Reconsidered*, McGill-Queens, Kingston and Montreal, 1985, p. 24.
46. *The Children of Aatensic*, *op cit*, pp. 59-60.
47. Robert Axelrod, *The Evolution of Cooperation*, Penguin, Harmondsworth, Middlesex, 1990: "Finally, no central authority is needed: co-operation based on reciprocity can be self-policing." (p. 174) It is, in fact, the history of government which is replete with gang warfare; a reality ignored by writers like R. J. Bidinotto, *op cit*, who attempt to link anarchism to state-created evils such as the Mafia, civil war in Bosnia, Ulster terrorism, or inner city street gangs. The forecast of chaos sans state is a clear case of psychological 'projection'.
48. *The Enterprise of Law*, *op cit*, p. 30. One influential paper which argued this case — although written when the author was still a student — is David Kelley, "The Necessity of Government", *The Freeman*, April 1974, pp. 243-8.
49. Quoted in *The Daily Telegraph*, 11 November 1997, p. 2.
50. *Our Enemy the State*, *op cit*, p. 30.
51. Thomas Sowell, *Is Reality Optional?*, Hoover Institution Press, Stanford, 1993, p. 72.
52. *The Discovery of Freedom*, *op cit*, p. 42.
53. In *The Man versus the State*, quoted in Nock, *op cit*, pp. 53-4.
54. *The Man Versus the State*, *op cit*, p. 118.
55. US libertarian Sy Leon has made the point in a way that has stuck in my mind: "Some of the things done by government are essential, but it is not essential that they be done by government."
56. The growth of human knowledge results in a tendency towards peace and cooperation. The resurgence of the state since the Renaissance — in essence a re-run of the Roman Empire — has stifled, and is stifling, this trend.
57. An embellishment added by Leonard Peikoff; see *Objectivism*, *op cit*, p. 373.
58. I am indebted to George H. Smith for clarifying this point. See "Objectivism as a Religion", in his *Atheism, Ayn Rand, and Other Heresies*, Prometheus Books, Buffalo, NY, 1991, p. 213ff. Dr Merrill contradicted this, but his untimely death prevented me from discussing it with him. See his "Objectivist Ethics: A Biological Critique", *Objectivity*, Chicago, Illinois, Vol 2, #5, p. 70.
59. *Social Statics*, *op cit*, p. 162.
60. Ayn Rand, "The Objectivist Ethics", quoted in David Kelley, *Unrugged Individualism*, Institute for Objectivist Studies, Poughkeepsie, NY, 1996, p. 25.
61. Quoted in "Interview with John Stossel", *Full Context*, January 1998, p. 4.
62. Exactly the same can be said of Canada, most of Central and South America, Africa, and other large areas of the globe. In the words of Russian historian Vasilii Klyuchevski, "The State swells up; the people diminish." Quoted by James J. Martin, "Introduction", Spooner, *No Treason*, *op cit*, p. 2.
63. Brilliantly summarised in Benson, *op cit*, p. 43ff. The forts built by the US Army in native American lands are exactly analogous to the castles built by William the Conqueror and his 'armed banditti'.
64. Nicholas Dykes, *Fed Up With Government? The Manifesto of the Reform Party*, Four Nations, Hereford, UK, 1991, p. 16.
65. Murray I. Franck, "Taxation is Moral", *Full Context*, June 1994, p. 9, and subsequent issues.
66. *Nicomachean Ethics*, Bk 1 Ch 7, 1098a-18.