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LITERATURE of LIBERTY

A Review of Contemporary Liberal Thought

Volume I, No. 1 January—March 1978

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The *Literature of Liberty*, published quarterly by the Cato Institute of San Francisco, is an interdisciplinary periodical intended to be a resource to the scholarly community. Each issue contains a bibliographical essay and summaries of articles which clarify liberty in the fields of Philosophy, Political Science, Law, Economics, History, Psychology, Sociology, Anthropology, Education, and the Humanities. The summaries are based on articles drawn from approximately four hundred journals published in the United States and abroad. These journals are monitored for the *Literature of Liberty* by the associate editors.

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Editorial

Liberty, in the face of successive alternatives, endures as a central concern for scholars studying human affairs. Liberty can serve scholars as the broadest theme to guide an interdisciplinary approach in monitoring research. Beginning with this premier issue, *Literature of Liberty* will endeavor to alert scholars to what is substantial among current work that pertains to human liberty and explores its richness and diversity. The summaries published in this quarterly journal are of scholarly writings, selected by the journal's editors for their relevance to liberty. The articles summarized are nominated by forty associate editors—scholars across America and abroad—who survey some four hundred journals in their special fields.

Literature of Liberty's summaries emphasize the universal and interdisciplinary aspects of each article's scholarship. They aim to communicate the relevant ideas, insights, and analyses clearly. They will faithfully express the views of the author of the original article. The articles summarized are chosen because they draw attention to new facts, new analyses, new methodology, and new lines of thought or research. The summaries are written to interest and challenge scholars, who—it is hoped—will find the journal both a forum for stimulating ideas and a research guide. In addition, each issue will feature an eminent scholar's bibliographical essay, which illuminates some aspect of liberty and contributes reference information.

In future issues, the Readers' Forum will give the journal's readers an opportunity both to supplement the research information presented in the bibliographical essays and summaries, and to respond to the issues presented. The editors welcome the readers' help in calling attention to significant articles that merit summarizing in *Literature of Liberty*.

The editors wish to express their warm appreciation to the Board of Directors of the Liberty Fund, Inc., of Indianapolis, Indiana and to its chairman, Dr. Benjamin Rogge, for their strong interest in and encouragement of the *Literature of Liberty*. Miss Helen E. Schultz, president of the Liberty Fund, and Dr. A. Neil McLeod, vice-president and executive director, creatively assisted in the early development of the journal. David Franke, director of Liberty Press, also extended generous cooperation.

Bibliographic Essay

A Founding Father's Library

by Forrest McDonald

Of the many generalizations customarily made about the Founding Fathers, one of the most common but least defensible is that they all thought pretty much of the same things about the nature of man, society, and government. On one level of consciousness, we know better. Had there been such unanimity of opinion the American public would scarcely have taken so long to work out an acceptable governmental system. Our political union—begun in 1774 and crystallized with the writing of the Constitution thirteen years later—was at first only a paper union of states with widely divergent social customs, economic interests, and ideological conceptions; and secession movements repeatedly threatened to tear the Union asunder for nearly a century after independence, when the telegraph and the railroad finally gave it sinews and substance.

On the other hand, despite their differences the Revolutionary generation *did* achieve independence, they *did* write a number of strikingly similar state constitutions, and they did draft and put into operation the federal Constitution. What underlay and made possible these monumental accomplishments, however, was not a universally accepted set of philosophical principles. Rather, I suggest, most Americans shared a common *matrix* of ideas and assumptions about government and society, about liberty and property, about politics and law. These ideas and assumptions, together with the belief (however inaccurate) that they shared a common historical heritage, made their achievements possible. They derived those ideas and assumptions, as well as their perception of their heritage, from a variety of sources, but the principal wellspring was the printed word.

Reading Habits of Early Americans

The Americans were a remarkably literate people, and they were even more remarkable in the voracity of their appetites for things to read. Apart from the Bible, of course, which was to be found in

nearly every home, the most common reading fare was the newspaper. Cities of consequence were few and far between, but nearly every hamlet of any pretensions had a newspaper. It has been estimated that newspapers went into roughly 40,000 homes on the eve of the Revolution, and possibly twice that number by the end of the century. That figures out at approximately one of every eight or ten families, and when we realize that private copies circulated from neighbor to neighbor and that nearly every coffee house and inn kept files that were open to the public, we may safely estimate that half the adult male population read the newspaper with some frequency. For a colonial population stretched thinly out over a thousand-mile frontier in a raw land, that is an impressively high reading rate; indeed, one might wish that Americans today could and would read so avidly.

Even more impressive is the eighteenth century American's reading of books. As early as 1766 the *New York Gazette and Mercury* observed that "every lover of his country hath long observed with sacred pleasure, the rapid progress of knowledge in this once howling wilderness, occasioned by the vast importation of *books*; the many public and private libraries in all parts of the country; the great taste for reading which prevails among people of every rank." The editorialist's enthusiasm was well founded. By the time of the Revolution, nine sizable college libraries existed in British North America, and more than sixty subscription libraries (several of which, like Franklin's Philadelphia Library Company, boasted that tradesmen and mechanics considerably outnumbered "gentlemen" among their users). In addition, a large number of individuals had substantial private libraries that they made available to their neighbors—not merely such well-known bibliophiles as Jefferson, Franklin, and John Adams, but also such others as William Byrd of Westover (who had 3500 volumes) and Robert Carter of Nomini Hall (1500 volumes).

Popularity of Histories

Thanks to the industry of bibliographers and intellectual historians, we now know a great more than we once did about what the Founding Fathers read. Contrary to what we used to believe, the Fathers were not especially attuned to the French Enlightenment and not much given to reading theoretical philosophy, political or otherwise. Rather, as an empirical, practical, essentially nonideological people, they belittled speculative theorizing, preferred experience as a teacher, and treasured history as experience writ large. Thus John Dickinson spoke a common American attitude when, in the Constitutional Convention of 1787, he said that "Experience must be our only guide. Reason may mislead us."

It has been tabulated that in the Convention, while references to philosophers were relatively infrequent, the delegates made nearly 400 references to history to justify their positions. Nor was history an abstract subject to them; rather, it was to be studied with a practical civic purpose. Americans quoted with approval Bolingbroke's aphorism, "history is philosophy teaching by example"; they shared Locke's belief that history was "the great Mistress of Prudence, and civil Knowledge." Jefferson and Adams insisted that history *on true principles* was indispensable to the statesman, and Franklin said that "Good History" could "fix in the Minds of Youth deep Impressions of the Beauty and Usefulness of Virtue of all kinds."

The Classical Tradition

Every educated American was exposed to the ancient world in the originals—Virgil, Cicero, and Tacitus in Latin, Thucydides in Greek—but most preferred translations and popularizations. For instance, Charles Rollin's two-volume *The Ancient History*, an abridgement in translation of Greek and Latin authorities, was widely read in America, as were David Langhorne's edition of *Plutarch's Lives* and James Hampton's 1762 translation of *The General History of Polybius*, which went through four editions. Equally popular were works on ancient history by seventeenth and eighteenth century writers. Among these were Walter Moyle's *The Whole Works* (1727), Edward Wortley Montagu's *Reflections on the Rise and Fall of Ancient Republics* (1759), and Oliver Goldsmith's *The Roman History* (1769). Jefferson owned copies of all these, as did many public and private libraries.

In a class by itself, forming a bridge between the ancient and medieval worlds and laying the foundations for Americans' perception of their own heritage, was Tacitus's *Germania*. In 1728 Thomas Gordon, coauthor with John Trenchard of the celebrated *Cato's Letters*, published a translation of Tacitus's works in two volumes. Jefferson regarded Tacitus as "the first writer in the world without a single exception," and averred that his works were "a compound of history and morality of which we have no other example."

Anglo-Saxon Roots

It was English history, however, that most Americans studied, and especially the history of the Anglo-Saxons prior to the Norman Conquest. Probably the most widely read author on the subject was, curiously enough, the Frenchman Paul de Rapin-Thoyras, whose five-volume *History of England* (English translation by Nicholas Tindal, 1732–1747, reissued in part in Boston, 1773) was commonly found in American libraries. Rapin depicted the early Anglo-Saxons

as the direct descendants of Tacitus's noble Germans, and carried the English story down to the early eighteenth century.

Other words popular in America that told the same story, with variations, included Nathaniel Bacon's *Historical Discourse of the Uniformity of the Government of England* (2 vols. 1647–1651); John Jacob Mascou's *History of the Ancient Germans* (translated by Thomas Lediard, 1737, with the title *The History of Our Great Ancestors*), Henry Care's *English Liberties* (1680), and Henry Home, Lord Kames's *British Antiquities* (1763). Another book, eagerly read in America on the eve of the Revolution, was Obadiah Hulme's *Historical Essay on the English Constitution* (1771). John, Lord Somers' *The Judgment of Whole Kingdoms and Nations*, first published in 1710 but reprinted in cheap editions in Philadelphia in 1773 and Newport in 1774, was even more widely read.

Of the eighteenth century British historians who wrote about modern as well as more remote times, the most popular in America, by far, were Henry St. John, Viscount Bolingbroke, whose *Remarks on the History of England* was published as part of his collected works in 1754; David Hume, author of a six volume *History of England* (1754–1762); Catherine Macaulay, who published nine volumes on the same subject (1763–1783); and James Burgh, whose most famous work was his three volume *Political Disquisitions* (1774). So fashionable was history, in both England and America, that works on other subjects were likely to be couched in historical form; most of Burgh's works may be so described, as can Sir William Blackstone's classic *Commentaries on the Laws of England*. (The Philadelphia printer Robert Bell published a subscription edition of Blackstone's *Commentaries* in 1771–1772; his list of subscribers, printed with the fourth volume, ran twenty-two pages.)

As the British imperial crisis came to a climax in the 1770s, Americans suddenly discovered an interest in another and especially relevant kind of history—that of subject colonial peoples. For instance, William Molyneux's *The Cause of Ireland*, which had originally appeared in 1698, became so popular in America that three new editions were published between 1770 and 1776. Similarly, after the Revolution Americans looked to the past for instruction in the nature of confederations, and thus such works as Sir William Temple's *Observations upon the United Provinces of the Netherlands* found themselves newly in vogue.

History's First Lesson: Nations Fall by Moral Corruption

History was, to colonial Americans, something irrefutable, and occasionally that proved embarrassing. For example, Blackstone's famous dictum, that for practical purposes sovereignty resided exclusively in Parliament, was scarcely palatable to Americans resisting what they regarded as Parliamentary encroachments on their

historical liberties. Soon we shall consider how Americans worked their way around such obstructions. For now, let us consider the more positive implications of their history.

Generally speaking, history taught them two lessons. Ancient history taught that nations rose and fell. When they fell, it was not from external conquest but from internal corruption. The process of corruption and decay was clearly understood: it took place when a people lost its virtue—virtue, in the original Latin sense, meaning manliness and being closely related to virility. The opposite of virtue was effeminacy, a term that was used interchangeably with vice, corruption, softness, and love of luxury. Once a nation started down the road to a love of luxury, it was doomed; only sumptuary legislation might save it, but sumptuary legislation usually came too late. A related danger was the resort to standing armies—partly because a standing army was inherently inimical to liberty, partly because it required a large and continuous public expenditure, which increased debts and taxes and thereby contributed to luxury—but mainly because it entailed a most unmanly shifting of responsibility for one's own defense to the hands of others.

The lesson from British history was more involved. According to what is variously known as the Anglo-Saxon myth and the Whig interpretation of history, England had once been the scene of a free agrarian paradise. The Germanic peoples who had dominated England between the Romans and the Normans had constituted a society of landholders, large and small, who had enjoyed security in their liberty and property through the operations of a perfect constitutional system. They had an elective monarch who shared power with elected representatives; justice was dispensed through the instrumentality of the common law by elective (and recallable) judges. Men looked after their families and their lands, respected one another, and worshiped God freely in accordance with the dictates of their own consciences. When the nation was in peril, they defended it through their militias, to which all men owed service. Their society was untainted by artificial privileges in any form, and priestly castes and standing armies were unknown to them.

History's Second Lesson: Eternal Vigilance. . .

Then the Normans gained power over them—not through conquest or the Anglo-Saxons' loss of virtue, but through treachery, which taught the lesson that eternal vigilance was the price of freedom. Having relaxed their vigilance, the Anglo-Saxons found themselves saddled with the tyranny of an alien king and landlords. The Normans imposed a system of religion by force, and replaced the Saxons' militia and their allodial (or fee simple) landholding system with a feudal system of holding land from the king in exchange for military service. In 1215 the Saxons won back their

Eden, at least in part, through the Magna Carta, but it continued to be imperiled. In fact, the history of England ever since had been a history of struggle between virtuous Englishmen, striving to cast off the Norman yoke, and dark and sinister forces which were engaged in a never-ending conspiracy to deprive them of their liberties by undermining the ancient constitution.

Fanciful though it was, British-Americans like their counterparts in the mother country embraced this version of the past with an almost racist pride. Indeed, when John Adams referred to Alexander Hamilton as the "bastard brat of a Scotch peddler," the most contemptuous of his epithets was "Scotch," for Adams never tired of boasting about the purity of his own Saxon ancestry. (Ironically, though most Americans from Pennsylvania southward—including James Wilson, Patrick Henry, Thomas Jefferson, and George Washington—had far more Celtic or Celtic-Scandinavian blood in their veins than Saxon, they too subscribed proudly to the Anglo-Saxon myth.)

Revisionist "True Principles" in the Pre-1066 Constitution

As indicated, history sometimes failed to square with what Americans preferred to believe about themselves or to legitimize certain advantages that Americans enjoyed. Most importantly, Americans had a fee simple system of landholding, against which such feudal remnants as primogeniture and entail and quitrents were only nominal impediments. Seven centuries of British history, with its accompanying evolution of the law, had witnessed a considerable departure from feudalism in its original and pure form, but also justified the continuation of a complex system of encumbrances on real property. To get around that embarrassing fact, the Americans simply ignored it. More properly, they looked back into history until they found constitutions and laws on "true principles," namely to the pre-1066 years, and treated everything subsequent as tyrannous usurpation or false precedent. They disposed of impediments upon freedom of the press and of questions of the divisibility of sovereignty by reinterpreting history in other ways.

When such methods failed, some of the Founding Fathers—most notoriously, Jefferson—proved to be not above tampering with the record. Jefferson encouraged and facilitated the dissemination of a "republicanized" version of Blackstone, bowdlerized by St. George Tucker, and he spent many years in an unsuccessful effort to have a purified version of Hume's *History* published in America. The "seductive Tory," Hume, had written quite the best and most readable history of Britain but, according to Jefferson, was not only an "apologist" for the Stuarts in "all their enormities," but also described the Saxon and Norman periods "with the same perverted view." (By contrast, Alexander Hamilton considered Hume to be

"judicious" and described his work as "cautious and accurate.") An Englishman named John Baxter, sharing Jefferson's view, had put together a version of Hume in which, "without warning you of your rescue from misguidance," Baxter silently republicanized Hume's Toryism. Jefferson sought diligently, though vainly, to substitute Baxter's version of Hume for the original in America.

Science and International Law

History and historicized legal works were, of course, by no means all that the Founding Fathers read. Throughout the century, for instance, there continued to be a considerable American interest in science. Sir Isaac Newton's *Principia Mathematica* was to found in most good American libraries, and two popularized versions of Newtonian science circulated even more widely: Oliver Goldsmith's *History of the Earth and Animated Nature*, of which a thousand copies were sold in Virginia alone in one year, and W.B. Martin's *Philosophica Britannica, or a New and Comprehensive System of the Newtonian Philosophy* (1747). George-Louis Leclerc Buffon's *Natural History* (1749–1783) also had a considerable American circulation, if only because Buffon's denigration of all things American so outraged his readers. Moreover, quite a number of eminent Americans were enthusiastic students of science or at least followers of its progress—especially the American Philosophical Society's "circle," which included Jefferson, Franklin, Benjamin Rush, David Ritzenhouse, Charles Willson Peale, and later the celebrated English-American scientist Joseph Priestley. By and large, however, science was a matter that Americans were willing to give lip service to but not seriously pursue.

There was considerably more interest in international law, which might be regarded as a bit surprising in view of the fact that the subject was of little practical concern to Americans prior to nationhood. In any event, a large number of colonial Americans became astonishingly well versed in international law, as is attested by the depth of learning they displayed after independence, when the subject suddenly became quite relevant.

Judging from the citations and comments made by Alexander Hamilton—who became the nation's most learned expert on international law—the crucial works on the matter were those of four authors, each of them a pioneer in the field of "natural law." The earliest was Hugo Grotius, professor of law at Groningen, whose three volume *The Rights of War and Peace* was originally published in Paris in 1625–1626, the first English edition appearing in 1654. The best edition, in Hamilton's view, was that of 1738 (reissued 1749) with notes by Barbeyrac. Hamilton observed that though "this celebrated work contains many excellent precepts," it was "neither methodical nor comprehensive."

The second major author was Samuel F. Pufendorf, whose *The Law of Nature and Nations* appeared first in Latin and was published in English in 1703 (the 1712 edition had notes by Barbeyrac). Hamilton dismissed Pufendorf rather contemptuously with the dry remark that "this work is not free from error." (Hamilton's political enemies, including Jefferson, Madison, and John Adams, revered both Grotius and Pufendorf, much as they preferred the soft Whig Edward Coke over the tough, systematic, and vastly superior Blackstone.)

Third, Hamilton cited Jean Jacques Burlamaqui's *The Principles of Natural and Political Law* (2 volumes 1747, first English edition 1748, 1752). Burlamaqui's work, according to Hamilton, was one of "Perspicuity and elegance," but was unfortunately "rather an *introduction* than a *system*." Hamilton reserved his highest praise for Emmerich Vattel's *Law of Nations* (1758, English edition 1759), which comprehended, compressed, and perfected the massive work of "the great Saxon philosopher," Wolfius.

Political Theorists

But the bulk of the Fathers' reading, apart from history, was concerned with political and legal tracts whose main focus was directed toward two subjects—liberty and property—and toward the social, constitutional, and legal institutions best adapted to the preservation of man's "sacred" rights in regard to those subjects. Curiously, and most significantly, what Americans read and believed about both matters were ambiguous; and their ambiguity affects us to this day.

Before analyzing that proposition, let us survey briefly the works most frequently read, cited, and praised by eighteenth century Americans. All gentlemen were supposed to be able to cite Plato and Aristotle, but when they did so, it was usually by way of oratorical flourish rather than out of genuine appreciation, approval, or even knowledge. Rush and Rittenhouse thought Aristotle a "tyrant" and his works utterly useless—an opinion shared by Jefferson and Adams. As to Plato, Jefferson raged against the "whimsies, the puerilities and unintelligible jargon" of *The Republic* as being the "sophisms, futilities, and incomprehensibilities of a foggy mind." Adams said he learned only two things from reading Plato: one was where Franklin had plagiarized some of his ideas, and the other was "how to cure the hiccups." By contrast, a goodly number of Americans read Machiavelli, though few found it expedient to cite him.

Overwhelmingly, the political works the Fathers really read, absorbed, and incorporated into their own thinking included those of no more than a dozen or so authors, almost all of them seventeenth and eighteenth century British writers. Several leading

Americans made lists of authors they regarded as indispensable, and between them the field is fairly well covered.

On everyone's list was John Locke's *Second Treatise on Civil Government*, for that work said simply and persuasively something that Americans devoutly wanted to hear on the eve of Independence. As Madison said, in justifying England's Glorious Revolution, Locke had written a work "admirably calculated to impress on young minds the right of nations to establish their own governments and to inspire a love of free ones."

Madison's own preference for a guide to the establishment of free ones was clearly James Harrington's *Oceana*, as his Tenth Federalist essay abundantly illustrates. Adams would have added to that pair of seventeenth century authors Algernon Sidney's *Discourses Concerning Government*, Henry Neville's *Plato Redivivus*, Nathaniel Bacon's *Historical and Political Discourses*, Marchamont Hedham's *Excellencie of a Free State*, and the several works of Sir Robert Melesworth and John Milton—a compilation that few American Whigs on the eve of independence would have amended.

There was likewise little disagreement as to the indispensable eighteenth century writers: they were Charles Davenant, John Trenchard, Thomas Gordon, Henry St. John Viscount Bolingbroke, and James Burgh. (There were two exceptions of consequence. First, Montesquieu's *Spirit of Laws* was widely quoted—far more than the works of Rousseau and Voltaire—but there was disagreement over its value. Adams thought it extremely valuable, but Madison disagreed with much of it and Jefferson wrote that it "has done mischief everywhere." Second, Hamilton seems to have been much influenced by Malachy Postlethwayt's *Universal Dictionary* (1751), though few others were.)

Ambiguities About Liberty and Property

And now to the ambiguities. The first is that the Americans developed a deep-seated reverence toward the sanctity of private property and simultaneously developed a strong anticapitalistic bias. The explanation of this adroit, if most unfortunate, intellectual feat lies in what the Americans read to confirm and systematize the love of liberty that was born of their heritage and environment. The seventeenth century writers they so respected—Sidney, Harrington, Locke, and the others—had been concerned with the political threat to the constitution imposed by the Stuarts' attempts to establish executive tyranny in England. The eighteenth century writers who appropriated and carried on that body of thought, however, were concerned with what they saw as a new and different danger to liberty and the constitution, that imposed by what historians now refer to as the Financial Revolution.

In the half-century after the Glorious Revolution, the social, political, and economic order in England was thoroughly disrupted by the development of central banking (the Bank of England) and by the creation and monetization of the Public Debt. Those financial developments were nourished and incorporated into the English political system under Sir Robert Walpole. Walpole's economic policies modernized England, greatly increased its material standard of living, and made possible its emergence as the most powerful nation on earth. But they also brought to power and influence a new class, the "money men," and correspondingly undermined the influence and status of the old landed gentry.

Without exception, the major British political writers who carried the English libertarian tradition through the eighteenth century were gentrymen who were writing in fierce opposition to the new financial order. Davenant's *Political and Commercial Works* were penned early in the century, when the Financial Revolution was just getting under way, and warned of the evils to come. Trenchard and Gordon's most notable work, *Cato's Letters*—which modern scholars affirm was the most quoted book in all the American's prerevolutionary writings—was published in 1721, in the wake of the financial corruption of the South Sea Bubble, and prophesied that doom was at hand. Bolingbroke's works, first published in a weekly Oppositionist journal called *The Craftsman* (1727–1737) and later condensed into five volumes which John Adams said he read at least five times, treated the prediction of Davenant and "the divine Cato" as a *fait accompli*, codified the thinking of the Opposition, and set forth a revolutionary plan for a return to "first principles." Burgh, in a series of works of which the most influential was his *Political Disquisitions* (published on the eve of the American Revolution and sent directly to John Adams and possibly other American leaders), penned and published a popularized version of the *Cato cum* Bolingbroke gospel.

A Prejudice Favoring Real Property over Paper Money

The crucial point is this. Americans had evolved a set of advanced ideas and institutions regarding the rights of individuals to hold unfettered title to real property; indeed, they had developed the quite radical practice of treating land as an actual *commodity*, to be bought and sold at will. They also, and less radically, treasured personal liberty. But the major writers of the eighteenth century who confirmed them in their prejudice for liberty also entertained a prejudice in favor of the value of real property as opposed to personal property—by which the eighteenth century English Oppositionists meant "mere" money or "mere" paper. To the Oppositionists, dealers in government paper—"money men," "stock-jobbers," "speculators,"

and "paper shufflers," along with placemen (beneficiaries of government salaries) and other toadies of the ministerial system erected on this "corrupt" monetary system—were the new enemies of the constitution, replacing the traditional "tyrants" and "usurpers." To the Americans, that spurious roster of devils came prepackaged with paeans of praise to liberty, and was hammered into their consciousness for a half century and more. Thus the Americans absorbed the poison of antifinance capitalism with their mother's milk of liberty. This is a principal thesis of *The Gospel of Opposition: A Study in Anglo-American Ideology*, a forthcoming book by Professor Rodger D. Parker of Clark University. Parker's work traverses some of the same ground covered by the most important students of eighteenth century English and American ideology—Caroline Robbins, Isaac Kramnick, Bernard Bailyn, and Trevor Colbourn—but he has been more thorough than any of them. Moreover, he has perceived the deep significance for America of the Oppositionists' shift in targets, as no previous scholar has.

Who Will Define Virtue?

The second ambiguity concerned the Americans' conception of liberty itself. To them as to the English authorities they read, liberty meant the absence of governmental restraint or favor. In the words of the cliché, that government was best which governed least. Such a notion was based on the assumption that society would function better and men would behave themselves better in proportion as the power of government was reduced—or, more simply, that the fewer the external restraints, the better people behaved.

Underlying that assumption was still another, namely that people were basically or "naturally" good. Questionable as the underlying assumption was, some found it believable by accepting Locke's idea that man was born *tabula rasa*, neither good nor evil but with limitless possibilities in either direction, and by the romantic conception of primitive man as a creature of boundless virtue. But if people were good and government were evil, it followed that the greater the share the people had in their government, the better government would be. Yet history and theory alike taught just the opposite: that democratic governments had an insatiable appetite for power and inevitably degenerated into tyranny. Liberty and pure democracy, in other words, were antithetical.

One way around this contradiction was to posit an eighteenth century version of Lord Acton's celebrated dictum about the corrupting influence of power. Most of the Fathers did in fact embrace that idea, only to find themselves impaled on the horns of another dilemma. The experience of the 1780s and 1790s taught many Americans that too little government was as dangerous as too

much—that in the absence of energetic government neither liberty nor property was safe.

And there was one more contradiction inherent in their thinking about liberty, possibly the most vexing of all. Eighteenth century Americans, like many twentieth century conservatives, sometimes found themselves advocating a minimum of government but at the same time advocating a regime of “law and order” that would impose suffocating restraints on personal liberty. Thus, for instance, George Mason could rise near the end of the Constitutional Convention of 1787 and object to the proposed new Constitution on the grounds (a) that it had no bill of rights to protect the citizens from government, and (b) that it did not empower Congress to pass sumptuary legislation, laws regulating the morality and private behavior of individuals.

The British writers and their American readers justified this dual stance by distinguishing between liberty and licentiousness, the one resting upon virtue, and the other upon depravity. But the distinction was scarcely one to satisfy any true libertarian, for what it implied was that people were to be free only as they comported themselves virtuously, *as virtuousness was defined by government*.

The Lessons of Books

The literature provided no answers to these problems. What it did do, as indicated, was provide the Founding Fathers with a broad intellectual *matrix*, a set of related frames of reference, through which certain of the obstacles to the erection of viable free institutions became visible. What they read, when tempered by hard experience, enabled the Fathers to understand that the road to freedom is not toll-free, and to point out some of the pitfalls along the path. One could hardly ask for a more precious lesson. ■

Bibliographic Essay

Modern Historians Confront the American Revolution

by Murray N. Rothbard

I. Basic Causes of the Revolution

The historian must be more than a chronicler, a mere lister of events. For his real task is discovering and setting forth the causal connections between events in human history, the complex chain of human purposes, choices, and consequences over time that have shaped the fate of mankind. Investigating the causes of such a portentous event as the American Revolution is more, then, than a mere listing of preceding occurrences; for the historian must weigh the causal significance of these factors, and select those of overriding importance.

Constitutional Conflict Historians

What, then, were the basic and overarching causes of the American Revolution? The older view, dominant in the first two or three decades of the twentieth century, laid greatest emphasis on the conflict of constitutional ideas, on the fact that the American colonists saw the actions of Great Britain after 1763 as interfering with their constitutional rights as *Englishmen*. Typical of these works were Charles H. McIlwain, *The American Revolution: A Constitutional Interpretation*; Randolph G. Adams, *Political Ideas of the American Revolution: Britannic-American Contributions to the Problem of Imperial Organization, 1765–1775*; and Claude H. Van Tyne, *The Causes of the War of Independence*. While constitutional interpretations and conflicts played a role, the entire emphasis came to seem to historians—and properly so—to be stodgy and unsatisfactory: for what event as wrenching and even cataclysmic as a revolution is ever launched on the basis of mere legalisms, and

legalisms that were often dubious at that? The "Constitutionalists," and other early writers, were closer to the mark in noting the influence of John Locke's libertarian natural rights philosophy. Locke's influence was particularly stressed in Carl L. Becker's *The Declaration of Independence: A Study in the History of Political Ideas* and at least mentioned by the other writers. But while the assertion of the natural rights of man could far better stir the passions than mere legal and constitutional differences, there was still a vital missing link: for how many colonists indeed sat down to read the abstract philosophy of John Locke?

The Progressive Historians and the Economic Dimension

The "Progressive" historians, dominant in the later 1920s and the 1930s, added another, and exciting dimension to the analysis of the causes of the American Revolution. For they added the important economic dimension—the struggles over the British attempt to impose taxes, mercantile restrictions, and a monopoly over the importation of tea into the colonies. But the Progressive historians did more. Inspired by the overall work on American history of Charles A. Beard, the Progressives also posed a contrast to the constitutional or philosophic American motivations asserted by the older historians: namely, economic motivation and class interests. In short, the American leaders, in particular the wealthy merchants, struggled on behalf of their economic interests, against British restrictions and tax levies.

Believing in the inevitability of class conflict, and seeing only the merchants as driven by their economic interests toward rebellion, the Progressives then had to explain two things: the continuing recourse to ideas and ideology by the American leaders, and the adoption of this ideology by the mass of the public. To explain this, the Progressives fell back on the theory of "propaganda" popular in the 1920s and 1930s: that the ideology propounded by the leaders was mere windy rhetoric which they never believed. The "propaganda," they claimed, was used to dupe the masses into going along with the revolutionary agitation.

The result was a curious "left-right" agreement between the Progressives and the minority of American historians of the "Imperial" school. The latter maintained that the American Revolution was the result of the unwarranted propaganda of sinister agitators who succeeded in duping the masses to break their beneficent ties with the British Empire. The major works of the "Imperial" school are Lawrence H. Gipson, *The British Empire Before the American Revolution*, and George L. Beer, *British Colonial Policy, 1754–1765*.

The writings of the Progressive historians are legion, ranging

from such popular but poorly researched books as John C. Miller, *Origins of the American Revolution*, to Philip G. Davidson, *Propaganda and the American Revolution, 1763–1783*, to the thorough and scholarly work by Arthur M. Schlesinger, Sr., *The Colonial Merchants and the American Revolution, 1763–1776*. The last gasp of the Progressive interpretation in diluted form is Merrill Jensen, *The Founding of a Nation: A History of the American Revolution, 1763–1776*.

But ideas *do* count in human motivation. It is impossible to read the letters, or the published writings of the leaders, as well as of the American public, and doubt the passionate sincerity with which they held their revolutionary ideas. Furthermore, the Progressives overlooked several other important points.

First, while the economic interpretation is often insightful in gauging the motivations for State action, particularly by small groups of pullers of the levers of State power, it is highly inadequate in explaining the motives of mass actions, especially revolutionary actions, *against* the State—whether by leaders or by the public. For a revolution is a passionate and radical, indeed a *revolutionary* act. It is difficult to believe that a people will wrench themselves out of their habitual lives to risk at a blow “their lives, their fortunes, and their sacred honor,” from a mere chafing at a tax or at mercantile restrictions. There must be more to it than that.

And secondly, the economic interpretation overlooked the very nature of the libertarian ideology that moved the revolutionaries. This ideology integrated moral, political *and* economic liberty. Therefore it integrated all of these revulsions against what these libertarians saw as British invasions of their rights. Neither the Constitutionalists, stressing the legal and philosophic, nor the Progressives, stressing the economic grievances, saw the nature of the integrated whole of American revolutionary ideology.

The Consensus Interpretation

Neither did the “Consensus” school of historians, who became ascendant in the 1940s and 1950s. Just as the Progressives reflected the Marxian outlook of American intellectuals of the 1930s, so the Consensus school reflected the neo-Conservative “American celebration” that typified intellectuals in post-World War II America. The Consensus historians were anxious to see consensus rather than conflict in American history. And since both ideology and economic interests can cause conflicts, both were discarded as causal factors in the American past. Instead, the Consensus school saw American history as guided not by “doctrinaire” ideas nor by economic interests but rather by a flexible, pragmatic, ad hoc approach to problem-solving. Since a *revolution* can hardly be a flexible approach to consensus, the American Revolution had to be

written off as a mere localized "conservative" resistance to the British government. Furthermore, by deprecating the revolutionary nature of the American Revolution, the Consensus school could isolate it from the indisputably radical French Revolution and other modern upheavals, and continue to denounce the latter as ideological and socially disruptive while seeming to embrace the founding heritage of America. The leading Consensus historians were Daniel J. Boorstin and Clinton Rossiter. On the American Revolution, their works include: Boorstin, *The Lost World of Thomas Jefferson* and *The Americans: The Colonial Experience*; and Rossiter, *Seedtime of the Republic: the Origins of the American Tradition of Political Liberty*. Also in this school, stressing in particular the alleged "democracy" of the American colonies, is Robert E. Brown, *Middle-Class Democracy and the Revolution in Massachusetts, 1691–1780*.

Thus, by the end of the 1950s, American historians were further away than ever from appreciating the fact that the American revolution was truly revolutionary. They did not perceive that it was largely animated by a passionately held and radical libertarian ideology that integrated the moral, political, and economic reasons for rebelling against the British imperial regime. But the Consensus historians did make one important contribution. They restored the older idea of the American Revolution as a movement of the great *majority* of the American people. It replaced the view held by Progressives and Imperialists alike that the revolution was a minority action imposed on a reluctant public. Particularly important in developing this position was the judicious work by John Richard Alden, *The American Revolution, 1775–1783*, still the best one volume book on the revolutionary war period. On the left, the Marxian historian Herbert Aptheker also advanced this position. He chided the 1930s Progressives for their opposition to the revolution as a minority class movement in *The American Revolution, 1763–1783*.

In the stifling atmosphere of Consensus history, an important advance came with the publication of the first volume of the monumental two-volume work of Robert R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America, 1760–1800, Vol. I: The Challenge*. Weaving together a scintillating tapestry of trans-Atlantic history, Palmer vindicated the radicalism of the American Revolution. He pointed to its decisive inspirational effect on the succeeding European revolutions of the late eighteenth century, as well as to the similarity of goals and ideologies. Palmer thereby restored the older tradition of linking these revolutions on both sides of the Atlantic, as did Jacques Godechot in *France and the Atlantic Revolution of the 18th Century*. Palmer also showed that, by one important criterion, the American Revolution was *more* radical

than the French, since proportionately far more Tories were driven out of America than aristocrats were to be exiled from France. As a "European" historian, however, Palmer was not read by the hermetically specialized guild of "American" historians.

Bailyn's Crucial Breakthrough

The crucial breakout from the miasma of American historiography of the Revolution came from one man. He was able by sheer force of scholarship to overthrow the Consensus and Progressive views and to establish a new interpretation of the causes of the American Revolution. This was Harvard Professor Bernard Bailyn, who, breaking through the hermetic separation of European and American historians, found his inspiration in the great work of Caroline Robbins, *The Eighteenth Century Commonwealthman*. For Bailyn realized that Professor Robbins had discovered the "missing link" in the transmission of radical libertarian thought after John Locke. She had found it in a group of dedicated writers, inspired by the English Revolution of the seventeenth century, who continued to reject the centrist Whig settlement of the eighteenth century. These writers carried forward the ideals of natural rights and individual liberty. In the course of editing a volume of Revolutionary pamphlets, Bailyn discovered that Americans were indeed influenced, on a massive scale, by these libertarian articles and pamphlets. Many of these publications were reprinted widely in the American colonies, and clearly influenced the revolutionary leaders. The most important shaper of this libertarian viewpoint was *Cato's Letters*, a series of newspaper articles in England in the early 1720s written by John Trenchard and his young disciple Thomas Gordon. The collected *Cato's Letters* were republished many times in eighteenth century England and America.

Trenchard and Gordon, and the other libertarian writers, transmuted John Locke's abstract and often guarded political philosophy into a trenchant, hard-hitting, and radical libertarian creed. Not only did men have natural rights of life, liberty, and property, which governments must not invade, but "Cato" and the other writers declared that government—power—was always and ever the great enemy of liberty, and stood ready to aggress against it. Hence, power must always be diminished as far as possible. Men must watch it continually with utmost hostility and vigilance, lest it break its bonds, and destroy the rights of the individual. "Cato" particularly denounced the propensity for tyranny of the British government of the day. This message found an eager reception in the American colonies.

Thus, Bernard Bailyn established the American Revolution as at one and the same time genuinely radical and revolutionary. He

showed that it was motivated largely by firmly and passionately held libertarian ideology, summed up in the phrase "the transforming libertarian radicalism" of the American Revolution. Bailyn's findings were first presented in the "General Introduction" to his edition of *Pamphlets of the American Revolution, 1750–1776, Vol. 1, 1750–1765*. The only volume of pamphlets yet published in the series, it included the works of such revolutionary leaders as the Rev. Jonathan Mayhew, Thomas Fitch, James Otis, Oxenbridge Thacher, Daniel Dulany, and John Dickinson.

An expanded version was published as Bailyn, *The Ideological Origins of the American Revolution*. Also see the companion volume by Bailyn, *The Origins of American Politics*, which offered an excellent explanation for the British royal governors being weak in the eighteenth century at the same time that the King was dominant at home. A useful summary of the Bailyn thesis is provided by Bailyn's "The Central Themes of the American Revolution: An Interpretation," in S. Kurtz and J. Hutson, eds., *Essays on the American Revolution*. The scintillating writings of "Cato" have been collected in an excellently edited volume by David L. Jacobson, *The English Libertarian Heritage*.

One problem with the generally correct Bailyn thesis is its exclusive emphasis on ideology, as it affected the minds and hearts of the Americans. Historians find it easy to slip into the view that the deep ideologically motivated hostility to Britain, while genuinely felt, was merely an expression of "paranoia." Indeed, Bailyn himself almost fell into this trap in his recent overly sympathetic biography of the leading Massachusetts Tory, *Thomas Hutchinson*. One of the best historians of this period, Edmund Morgan, in the *New York Review of Books* duly noted and warned against the trap in his review of this work.

An excellent corrective to this exclusive concentration on the subjective is the work of the most important political (as contrasted to ideological) historians of the pre-Revolutionary period. In the definitive history of the Stamp Act crisis of 1765–1766, Edmund and Helen Morgan demonstrated the majority nature of the revolutionary movement. They attacked, as well, the actual depredations of Great Britain on American political and economic rights. Edmund and Helen Morgan, *The Stamp Act Crisis: Prologue to Revolution*. Also see the companion source book of documents, Edmund S. Morgan, ed., *Prologue to Revolution: Sources and Documents on the Stamp Act Crisis, 1764–1766*. Particularly important is the monumental and definitive, though densely written, two volume political history of the coming of the American Revolution by Bernhard Knollenberg, *Origins of the American Revolution: 1759–1765*; and *Growth of the American Revolution, 1766–1775*.

By examining British archives, Knollenberg shows that the supposed paranoia and "conspiracy theories" of the American colonists were all too accurate. The British officials were indeed conspiring to invade the liberties of the American colonies after the "salutary neglect" of the pre-1763 period.

II. The Pre-Revolutionary Period

Political and Economic Conflicts

We are now fortunate in having the two-volume Knollenberg work, which supplies by far the best political history of the events leading up to the outbreak of the Revolutionary War. Historians had long set 1763 as the date for the beginning of conflict between Britain and the colonies. Knollenberg's *Origins* pushes the date back to 1759, toward the end of the American phase of the Seven Years War between Britain and France.

Jack P. Greene has shown that the Board of Trade, headed by the imperialist Lord Halifax, had tried abortively to impose British restrictions on the colonies in the late 1740s and early 1750s. The Board's attempt was finally halted by the outbreak of war with France. See Jack P. Greene, "An Uneasy Connection: An Analysis of the Preconditions of the American Revolution," in Kurtz and Hutson, eds., *Essays on the American Revolution*.

John Shy's *Toward Lexington: The Role of the British Army in the Coming of the American Revolution* is a judicious discussion of British army policies and conflicts in this period, although favorable to the British position. Howard H. Peckham's *Pontiac and the Indian Uprising* now replaces the venerable classic by Francis Parkman, *The Conspiracy of Pontiac* as the best account of Pontiac's notable uprising.

The Western lands were highly important in the politics of this period. The best accounts of the intricate connection between government policy, land speculation, and Western conquest are still Clarence W. Alvord, *Mississippi Valley in British Politics: A Study of the Trade, Land Speculation, and Experiments in Imperialism Culminating in the American Revolution* and the later Thomas Perkins Abernathy, *Western Lands and the American Revolution*. A pro-British view is provided by Jack M. Sosin, *Whitehall and the Wilderness: The Middle West in British Colonial Policy, 1760-1775*. The important activities of the swindler, land speculator, and Indian trader George Croghan are covered in the definitive account by Nicholas B. Wainwright, *George Croghan: Wilderness Diplomat*. A lively and vivid account of Indian relations on the frontier appears in Dale Van Every, *Forth to the Wilderness: the First American*

Frontier, 1754–1774.

As noted above, an excellent study of American resistance to the Stamp Act is Edmund and Helen Morgan, *The Stamp Act Crisis*, with supporting documents in Edmund Morgan, ed., *Prologue to Revolution*. The Boston Massacre has now been treated fully in Hiller B. Zobel, *The Boston Massacre*, and the Boston Tea Party in Benjamin W. Labaree, *The Boston Tea Party*. Labaree emphasizes the importance of the role of the monopoly East India Company, in administering the tea tax in America, in the final development of American fears of the loss of traditional liberty. The company's tax looting in Bengal had caused a disastrous famine which was widely reported in the American press. The English beneficiaries of the exploitation of Bengal returned to England with their loot and purchased seats in Parliament. A recent study of these "Nabobs" is P. J. Marshall's *East India Fortunes: The British in Bengal in the Eighteenth Century*.

Disgracefully, there has been very little work done on two vital revolutionary organizations and institutions in the pre-Revolutionary period: the committees of correspondence, and the Sons of Liberty. The only overall study of the committees of correspondence is the old and brief work by Edward D. Collins, *Committees of Correspondence of the American Revolution*. The role of the Boston Committee of Correspondence has been recently studied in Richard D. Brown, *Revolutionary Politics in Massachusetts: The Boston Committee of Correspondence and the Towns, 1772–1774*. There is no overall study of the Sons of Liberty, but there are some valuable sectional accounts. The best is Richard Walsh, *Charleston's Sons of Liberty: A Study of the Artisans, 1763–1789*. The New York Sons are studied in Roger J. Champagne, "The Military Association of the Sons of Liberty," *New York Historical Society Quarterly*, 41 (1957); Champagne, "Liberty Boys and Mechanics of New York City, 1764–1774," *Labor History*, 8 (1967); and, from a Marxian perspective, Herbert M. Morais, "The Sons of Liberty in New York," in Richard B. Morris, ed., *The Era of the American Revolution*. A realistic and thorough history of the use of mobs in the American resistance is now available, however; in Pauline Maier, *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765–1776*.

Several excellent studies deal with various aspects of mercantilist restrictions and enforcement by Britain as causes of the American resistance. Oliver M. Dickerson's *The Navigation Acts and the American Revolution* deals with the Navigation Acts. Carl Ubbelohde treats the Admiralty courts in *The Vice-Admiralty Courts and the American Revolution*. And Joseph J. Malone covers the White Pine Acts in *Pine Trees and Politics: The Naval Stores and*

Forest Policy in Colonial New England, 1691–1775. On the same subject is Robert G. Albion, *Forests and Sea Power: The Timber Problem of the Royal Navy, 1652–1862*.

While marred by its consistently Progressive interpretation, Arthur M. Schlesinger, Sr., *The Colonial Merchants and the American Revolution, 1763–1776* is an important, thorough and still definitive account of the merchants and the various movements and struggles for nonimportation boycotts of England. Beverly W. Bond, Jr., *The Quit Rent System in the American Colonies*, stands as the only work on the feudal quitrents which provided a continuing source of irritation in the colonies.

The Role of Ideas in the Revolution

The best works on the influence of libertarian ideology on the budding American revolutionaries are the Bailyn and other works mentioned earlier. George Rudé studies the radical libertarian Wilkite movement in England in *Wilkes and Liberty: A Social Study of 1763 to 1774*. And Pauline Maier examines the relations between the English Wilkites and the American radical libertarians in "John Wilkes and American Disillusionment with Britain," *William and Mary Quarterly*, 20 (1963); as does Jack P. Greene in "Bridge to Revolution: the Wilkes Fund Controversy in South Carolina, 1769–1775," *Journal of Southern History*, 29 (1963).

Thomas Hollis was an English libertarian who dedicated his life to reprinting and disseminating libertarian works throughout the world, and particularly in the American colonies, and in corresponding with like-minded people. He has been studied in Caroline Robbins, "The Strenuous Whig: Thomas Hollis of Lincoln's Inn," *William and Mary Quarterly*, 7 (1950). The impact of American revolutionary thought upon English radicalism has received thorough examination in Colin Bonwick's *English Radicals and the American Revolution*.

The influence of French libertarian thought can be found in Howard Mumford Jones, *American and French Culture, 1750–1848*. Also see Jones, *O Strange New World: American Culture, The Formative Years*. The most recent study of the impact of French eighteenth century thought on American revolutionary developments is Henry F. May, *The Enlightenment in America*.

Religion played an important role in the development of revolutionary and libertarian ideas. The great radical Massachusetts minister Jonathan Mayhew has found his biographer in Charles W. Akers, *Called unto Liberty: A Life of Jonathan Mayhew, 1720–1766*. The best work on the "black regiment" of Congregationalist ministers in New England is Alice M. Baldwin, *The New England Clergy and the American Revolution*. While scarcely definitive, Herbert M. Morais, *Deism in Eighteenth Century America* has pro-

duced the only work on the significant role of deism.

Part of religion's role in generating a revolutionary spirit resulted from the general American fear of England's placing Anglican bishops in the American colonies. Arthur L. Cross has produced the classic work on this subject in *The Anglican Episcopate and the American Colonies*. It is now partially superseded by Carl Bridenbaugh, *Mitre and Sceptre: Transatlantic Faiths, Ideas, Personalities, and Politics, 1689-1775*.

An admirable treatment of the role of the American press in revolutionary agitation is Arthur M. Schlesinger, Sr., *Prelude to Independence: The Newspaper War on Britain, 1764-1776*. It happily supersedes the volume by Philip G. Davidson, *Propaganda and the American Revolution, 1763-1783*, which was fatally marred by the Progressive view that all ideology is mere "propaganda" rhetoric.

Michael G. Kammen studies the vital role of American colonial agents to London in *A Rope of Sand: The Colonial Agents, British Policies, and the American Revolution*. See also: Jack Sosin, *Agents and Merchants: British Colonial Policy and the Origins of the American Revolution, 1763-1875*. The letters of the most important of these agents, and a leading pro-American British Whig, are included in Ross J. S. Hoffman, ed., *Edmund Burke, New York Agent, with his Letters to the New York Assembly and Intimate Correspondence with Charles O'Hara, 1761-1776*.

The best treatment of British politics in relation to the developing American resistance is Charles R. Ritcheson, *British Politics and the American Revolution*. Rudé discusses the Whig and radical opposition to British imperial designs and to Tory government at home in *Wilkes and Liberty*, mentioned earlier. Also see Eugene C. Black, *The Association: British Extraparliamentary Political Organization, 1769-1793*; Archibald S. Foord, *His Majesty's Opposition, 1714-1830*; George H. Guttridge, *English Whiggism and the American Revolution*; Lucy S. Sutherland, *The City of London and the Opposition to Government, 1768-1774: A Study in the Rise of Metropolitan Radicalism*; and Maurice R. O'Connell, *Irish Politics and Social Conflict in the Age of American Revolution*.

Several recent works examine the great English Whig, the Duke of Newcastle, and his policy of "salutary neglect." But none are satisfactory. The definitive political biography of his successor, the Marquis of Rockingham, is difficult reading. It assumes a detailed knowledge of English politics of the period; it is Ross J. S. Hoffman, *The Marquis: A Study of Lord Rockingham, 1730-1782*.

The most relevant discussion of Edmund Burke's views and activities in this period is Carl B. Cone's *Burke and the Nature of Politics, Vol. I. The Age of the American Revolution*. Several works detail the Tory, or "Namierite," point of view on English politics in

this period, the most famous being Sir Lewis Bernstein Namier, *England in the Age of the American Revolution*.

Revolutionary Accounts of Cities and States

Boston was the heartland of the revolutionary movement, but there is no history of the Boston or even Massachusetts movement per se. Robert E. Brown, *Middle-Class Democracy and the Revolution in Massachusetts, 1691–1780* is a basic work on Massachusetts in the eighteenth century. But the author's naive consensus view of colonial "democracy" badly mars the book. The Boston Massacre and Tea Party have been covered in the books cited above.

The premier leader of the revolutionary movement, Samuel Adams, has been ill-served by historians; no satisfactory biography has been published. John C. Miller's *Sam Adams: Pioneer in Propaganda* is hostile and vituperative, under the influence of the Progressive "propaganda" theory. Of the numerous biographies and studies of John Adams, best for this period, though not always reliable, is Catherine Drinker Bowen, *John Adams and the American Revolution*. Though mired in detail, Page Smith's *John Adams, 1735–1826* handles Adams's political and economic thought weakly.

The heroic and often neglected Dr. Joseph Warren is in John Cary, *Joseph Warren: Physician, Politician, Patriot*. William T. Baxter studies the Hancock family, as well as the life of Boston merchants of the period, in *The House of Hancock, Business in Boston, 1724–1774*. For non-Boston merchants, see Benjamin W. Labaree, *Patriots and Partisans: the Merchants of Newburyport, 1764–1815*.

Robert J. Taylor has written an important work on rural Massachusetts: *Western Massachusetts in the Revolution*. Also see Lee N. Newcomer's *The Embattled Farmers: A Massachusetts Countryside in the American Revolution*. A major revolutionary leader in Western Massachusetts receives a biography in E. Francis Brown, *Joseph Hawley: Colonial Radical*.

The outstanding work on Connecticut in this period is Oscar Zeichner, *Connecticut's Years of Controversy, 1750–1776*. A sensible work on Rhode Island politics, placing the Ward and Hopkins camps as sectional factions rather than embodiments of a class struggle, is David S. Lovejoy, *Rhode Island Politics and the American Revolution, 1760–1776*. On the same theme, see also Mack F. Thompson, "The Ward-Hopkins Controversy and the American Revolution in Rhode Island: An Interpretation," *William and Mary Quarterly*, 16 (1959).

The classic work on New Hampshire, Richard F. Upton, *Revolutionary New Hampshire*, has now been supplemented by Jere R. Daniel, *Experiment in Republicanism: New Hampshire Politics and the American Revolution, 1741–1794*.

Vermont was unique in that its own guerrilla rebellion against New York rule and land grants merged easily into the Revolutionary War. Frederic Van de Water, *The Reluctant Republic: Vermont, 1724–1791* contains a lively account of the Green Mountain Boys and of the Vermont rebellion. John Pell's *Ethan Allen*, a biography of the Green Mountain Boys' great leader, has now been supplemented by Charles A. Jellison's *Ethan Allen*. Darlene Shapiro's "Ethan Allen: Philosopher-Theologian to a Generation of American Revolutionaries," *William and Mary Quarterly*, 21 (1964), is a particularly good account of the influence of the libertarian and Deist thought of the guerrilla leader.

Despite its age and its Beardian interpretation, Carl Lotus Becker, *The History of Political Parties in the Province of New York 1760–1776* is still the best work on the political struggles in New York in the pre-Revolutionary era. Alternative interpretations can be found in Bernard Mason, *The Road to Independence: The Revolutionary Movement in New York, 1773–1777*, and in the later chapters of Patricia Updegraff Bonomi, *A Factious People: Politics and Society in Colonial New York*. However, the neo-Beardian approach to New York politics, especially in the correct stress on the continuity of the major conflicting groups in the pre- and post-Revolutionary periods, is found in the splendid work of Alfred F. Young, *The Democratic Republicans of New York: The Origins, 1763–1797*.

The tenant risings in the Hudson Valley of New York are treated in the only full-scale work on the subject: Irving Mark, *Agrarian Conflicts in Colonial New York, 1711–1775*. This should be supplemented by the accounts in the early chapter of Bonomi, *A Factious People*, and in Chapter III of Staughton Lynd, *Anti-Federalism in Dutchess County, New York: A Study of Democracy and Class Conflict in the Revolutionary Era*. Dorothy Dillon looks at *The New York Triumvirate: A Study of the Legal and Political Careers of William Livingston, John Morin Scott, William Smith, Jr.*

No works are devoted to New Jersey for this period. Donald L. Kemmerer offers the best approach in *Path to Freedom: The Struggles for Self-Government in Colonial New Jersey, 1703–1776*. Although missing the dimension of political and constitutional ideology, the political conflict in New Jersey after 1763 is detailed in Larry R. Gerlach, *Prologue to Independence: New Jersey in the Coming of the American Revolution*.

The best work on Pennsylvania politics in this period is Theodore Thayer, *Pennsylvania Politics and the Growth of Democracy, 1740–1776*. No book fully replaces Charles H. Lincoln, *The Revolutionary Movement in Pennsylvania, 1760–1776*. Carl and Jessica Bridenbaugh have written a valuable social history in *Rebels and Gentlemen: Philadelphia in the Age of Franklin*. Frederick B. Tolles offers

an excellent account of the leading Philadelphia merchants of the period in *Meeting House and Counting House: The Quaker Merchants of Colonial Philadelphia*.

Most of the rebel leaders of Pennsylvania remain unknown and untreated by historians. An early liberal leader, John Dickinson, now has a good biography, in David L. Jacobson, *John Dickinson and the Revolution in Pennsylvania, 1764–1776*. The only radical leader to be the subject of a biography is an old one by Burton A. Konkle, *George Bryan and the Constitution of Pennsylvania, 1731–1791*. There is a good article on the vitally important Charles Thomson, John J. Zimmerman, "Charles Thomson, The Sam Adams of Philadelphia"; *Mississippi Valley Historical Review*, 45 (1958).

Of the innumerable works on the opportunistic Tory Benjamin Franklin, most are adulatory and uncritical. This includes the standard account by Carl Van Doren, *Benjamin Franklin*. There is some good material, nevertheless, in Verner W. Crane, *Benjamin Franklin and a Rising People*. Most objective and illuminating on Franklin's machinations in colonial politics, is William S. Hanna, *Benjamin Franklin and Pennsylvania Politics*.

There is nothing good on Delaware in this period. Here we must still fall back on the old and unsatisfactory John T. Scharf et al., *History of Delaware, 1609–1888*.

For an overall account of the South in this period, John R. Alden, *The South in the Revolution, 1763–1789* is excellent. Charles A. Barker covers Maryland's unique political and social structure in *The Background of the Revolution in Maryland*. This should be supplemented with James Haw, "Maryland Politics on the Eve of Revolution: The Provincial Controversy, 1770–1773," *Maryland Historical Magazine*, 65 (1970).

The best and most thorough history of colonial Virginia is Richard L. Morton, *Colonial Virginia*; and the latter chapters of Volume II deal with the Parsons' Cause and other Virginia grievances down to 1763. No one has made a specific study of Virginia in the pre-Revolutionary period. But Charles S. Syndors' *Gentlemen Freeholders: Political Practices in Washington's Virginia*, is an excellent study of Virginia's political and social structure in the colonial period. Robert E. and B. Katherine Brown's *Virginia, 1705–1786: Democracy or Aristocracy?* is an absurd attempt to apply the Browns' "democratic" model, designed for Massachusetts, to a colony where it can scarcely be relevant. Two important revisionist articles demolish the myth that Virginia's planters were exploited by being indebted to British merchants. They find this grievance was not of critical importance in the Virginia revolutionary movement. See James H. Soltow, "Scottish Traders in Virginia, 1750–1775," *Economic History Review*, 21 (1959); and Emory G. Evans, "Planter Indebtedness and the Coming of the Revolution in

Virginia," *William and Mary Quarterly*, 19 (1962).

On Patrick Henry see Robert D. Meade's *Patrick Henry*, Vol. 1. Though old, Moses Coit Tyler's *Patrick Henry* contains long excerpts from Henry's famous speeches. On that other great radical leader, Richard Henry Lee, see Oliver P. Chitwood's *Richard Henry Lee, Statesman of the Revolution*.

As in the case of Franklin, the historiography of the conservative rebel leader George Washington suffers from uncritical adulation. Among these, the definitive biography is Douglas Southall Freeman's *George Washington: A Biography*. While a disorganized collection of essays, Bernhard Knollenberg's *George Washington: The Virginia Period, 1732-1775* contains valuable revisionist insights.

The literature on North Carolina is sparse, old and unsatisfactory. Robert D.W. Connor, *History of North Carolina*, Vol. I deals with the entire colonial and revolutionary period. Hugh T. Lefler and Albert R. Newsome, *North Carolina*, is a rehash.

For South Carolina the venerable general history is Edward McCrady's *The History of South Carolina Under the Royal Government, 1719-1776*. The standard modern work is David D. Wallace, *History of South Carolina*, Vol. I. Richard Maxwell Brown has written an excellent history of the South Carolina Regulators in *The South Carolina Regulators*. The advance to revolution in South Carolina has now been covered in Robert M. Weir, "A Most Important Epoch": *The Coming of the Revolution in South Carolina*.

The only thorough history of the Sons of Liberty in any area is Richard Walsh, *Charleston's Sons of Liberty: A Study of the Artisans, 1763-1789*. Unfortunately no biographer has chronicled the great radical rebel leader, Christopher Gadsden. But Richard Walsh has collected his writings: Christopher Gadsden, *Writings, 1746-1805*.

On the coming of the Revolution in Georgia, see Kenneth Coleman, *The American Revolution in Georgia, 1763-1789*. On the royal government of Georgia in this period, William W. Abbot's *The Royal Governors of Georgia, 1754-1775*, is particularly valuable.

III. 1775 and After

Revolutionary Warfare

A concise, judicious, overall summary of the military, political, social, and economic history of the American Revolution is fortunately available in John R. Alden, *The American Revolution, 1775-1783*.

The most important and dramatic change in interpreting the history of the American Revolutionary War has come about very recently: the realization that the Americans won because, and in-

so far as, they were conducting a massive guerrilla war. They fought a "people's war" against the superior firepower and orthodox military strategy and tactics of the British imperial power. With modern guerrilla war coming into focus since the late 1960s, recent historians have begun to apply its lessons to the American Revolution, not only to the tactics of individual battles but also in basic strategic insights. For example, they realize that guerrilla war can only succeed if the great majority of the populace back the guerrillas. This was the condition during the American Revolution. The valuable military histories of the Revolution, therefore, can be grouped into two categories: those which antedated and those which have incorporated modern insights into the nature and potential of guerrilla warfare.

Thus, the best detailed history of the military conflict, devoting keen analysis to each battle, is Christopher Ward's *The War of the Revolution*. Willard M. Wallace has prepared a useful and relatively brief one-volume military history: *Appeal to Arms: A Military History of the American Revolution*. More specifically for the standard military history of the first year of the war, see Allen French, *The First Year of the American Revolution*. And Arthur B. Tourtellot describes the initial battle of Lexington and Concord in *William Diamond's Drum*.

None of these books, however, was written recently enough to incorporate modern insights on the importance of guerrilla as opposed to conventional war. But an important one-volume military history does so: Don Higginbotham, *The War of American Independence: Military Attitudes, Policies, and Practices, 1763–1789*. Two books edited by George Athan Billias are particularly important, both for guerrilla insights and for penetrating "revisionist" studies of particular generals and their strategies and tactics: *George Washington's Generals* and *George Washington's Opponents: British Generals and Admirals in the American Revolution*. Particularly important in the former volume is George A. Billias, "Horatio Gates: Professional Soldier," about a general who used guerrilla strategy and tactics against Burgoyne, culminating at Saratoga. In the same volume, Don Higginbotham's "Daniel Morgan: Guerrilla Fighter," apologizes for the fact that his valuable biography of the war's greatest guerrilla tactician had been written before the advent of his own and general interest in guerrilla warfare (Higginbotham, *Daniel Morgan: Revolutionary Rifleman*.) Particularly see John W. Shy, "Charles Lee: the Soldier as Radical," in which Shy looks with favor at the outstanding military libertarian and guerrilla theorist, as well as strategist and general, of the American Revolution. Lee, who had been drummed out of his number two post of command and court-martialled unfairly by George Washington, is favorably reassessed in a biography by John R. Alden, *Charles Lee: Traitor or*

Patriot?

Professor Shy, who of all historians has the best grasp on the importance of guerrilla warfare in this period, brilliantly interprets the various phases of British strategy during the war (from police action to conventional war to counter-guerrilla attempts at "pacification" in the South) in his "The American Revolution: The Military Conflict Considered as A Revolutionary War," in Kurtz and Hutson, *Essays on the American Revolution*. John Shy, *A People Numerous and Armed: Reflections on the Military Struggle for American Independence* is a collection of Shy's essays on military history, some of which contribute to a positive reevaluation of the importance of the militia in defensive warfare. R. Arthur Bowler, *Logistics and the Failure of the British Army in America, 1775-1783* shows that the hostility of the local populations contributed to the failure of food supplies. This hostility was compounded by British attempts to seize the food they could not purchase.

For the political direction of the war, see Gerald S. Brown, *American Secretary: Colonial Policy of Lord George Germain*. An important volume on militia and guerrilla warfare as against the orthodox deployment of the Continental army in a local area is Adrian C. Leiby, *The Revolutionary War in the Hackensack Valley: The Jersey Dutch and the Neutral Ground, 1775-1783*.

On the fierce guerrilla vs. counter-guerrilla conflicts in South Carolina during the last phase of the war, see Russell F. Weigley, *The Partisan War: The South Carolina Campaign of 1780-1782*.

The essay by Ira D. Gruber, "Richard Lord Howe: Admiral as Peacemaker," in Billias, *George Washington's Opponents* indicates clearly that one of the major reasons for the British failure to crush Washington's army in the first two years of the war was the Howe brothers' treasonous opposition (as dedicated Whigs) to the British war effort against the Americans. On the British view of the war, see Piers Mackesy, *The War for America, 1775-1783*; and William B. Willcox, *Portrait of a General: Sir Henry Clinton in the War of Independence* on the best British general, who suffered from an inability to work well with his colleagues.

The most recent general history of the American Revolution, Page Smith, *A New Age Begins: A People's History of the American Revolution* incorporates many detailed insights about guerrilla warfare from primary sources.

Political History of the Revolution

On the political history of the American Revolution, Edmund C. Burnett, *The Continental Congress* remains a thorough and definitive history of that national political institution. Merrill Jensen, *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774-1781* is an

excellent study of the struggles around the Articles and the attempt to carry Nationalism even further. Despite its age, Allan Nevins, *The American States During and After the Revolution, 1775–1789* remains by far the best, indeed the only satisfactory, state-by-state political history of the revolutionary period. In an unfortunate attempt to replace Nevins, Jackson Turner Main, *The Sovereign States, 1775–1783* is sketchy and overly schematic, while Main's *Political Parties Before the Constitution* is a tangled statistical web based on a fallacious and unenlightening division between alleged "localists" and "cosmopolitans."

Carl Lotus Becker's *The Declaration of Independence: A Study in the History of Political Ideas* is a well-written and valuable study of the Declaration. Curtis P. Nettels, *George Washington and American Independence* demonstrates Washington's early devotion to independence. Eric Foner's *Tom Paine and Revolutionary America* is an excellent and sympathetic study of the great sparkplug of independence as a libertarian and laissez-faire radical. None of the full-scale biographies of Paine do him justice. Best is David Freeman Hawke's *Paine*.

For a valuable Beardian study of state politics during the Revolution see Elisha P. Douglass, *Rebels and Democrats: The Struggle for Equal Political Rights and Majority Rule During the American Revolution*. A thorough documentary history of the struggle over a Massachusetts state constitution during the war is presented in Robert J. Taylor, ed., *Massachusetts, Colony to Commonwealth: Documents on the Formation of its Constitution, 1775–1789*. The older view that confiscated Tory land in New York did not devolve upon the tenants of the feudal landlords is set forth in Harry B. Yoshpe's *The Disposition of Loyalist Estates in the Southern District of the State of New York*. Staughton Lynd refutes this view in *Anti-Federalism in Dutchess County* as does Beatrice G. Reubens, "Pre-Emptive Rights in the Disposition of a Confiscated Estate: Philipsburgh Manor, New York," *William and Mary Quarterly*, 22 (1965).

Pennsylvania, the most radically libertarian state during the war, is examined in Robert L. Brunhouse, *The Counter-Revolution in Pennsylvania, 1776–1790*. John P. Selsam deals with its radical constitution specifically in *The Pennsylvania Constitution of 1776*. A valuable general work on Western Pennsylvania politics in the revolutionary and post-revolutionary periods is Russell J. Ferguson, *Early Western Pennsylvania Politics*. Maryland is studied in Philip A. Crowl, *Maryland During and After the Revolution*.

The Revolutionary Leaders

In addition to the biographies of American revolutionary leaders mentioned above, one of the numerous Jefferson biographies stands

out: the magisterial study by Dumas Malone, *Jefferson and His Time*, of which see here Volume I: *Jefferson the Virginian*. There is no wholly satisfactory biography of the great George Mason, whose Virginia Declaration of Rights inspired both the Declaration of Independence and the Bill of Rights. But Robert A. Rutland, *George Mason: Reluctant Statesman* provides a brief but useful account. Also see Robert A. Rutland, ed., *George Mason, Papers, 1725–1792* and Helen Hill Miller, *George Mason: Gentleman Revolutionary*.

The radical Pennsylvania leader, the astronomer David Rittenhouse, is studied in Brooke Hindle's *David Rittenhouse*. And two leading New York conservative rebels receive biographies in Frank Monaghan's *John Jay*, and George Dangerfield's excellent *Chancellor Robert R. Livingston of New York, 1746–1831*. For a biography of General Nathanael Greene, see Theodore Thayer's *Nathanael Greene, Strategist of the American Revolution*. A moderate Pennsylvania leader receives an important biography in Kenneth R. Roseman, *Thomas Mifflin and the Politics of the American Revolution*. New York's great wartime governor is studied in Ernest W. Spaulding, *His Excellency George Clinton (1739–1812): Critic of the Constitution*.

Economic and Social Aspects

On the economic and financial history of the war, E. James Ferguson, *The Power of the Purse: A History of American Public Finance, 1776–1790* is a superb account of the machinations of Robert Morris and the Nationalists during and after the war, including the expropriation of public funds for private purposes by Morris and his associates, and the drive for a strong central government to consolidate and extend those and similar privileges. This should be supplemented by Ferguson's study of the first Nationalist drive, which, though failing, prefigured the later push for the Constitution: E. James Ferguson, "The Nationalists of 1781–1783 and the Economic Interpretation of the Constitution," *Journal of American History*, 56 (1969). For a useful biography of Morris see Clarence L. Ver Steeg's *Robert Morris; Revolutionary Financier: With an Analysis of His Earlier Career*. There is no overall study of inflation during the war, but Anne Bezanson, "Inflation and Controls, Pennsylvania, 1774–1779," *Journal of Economic History Supplement*, 8 (1948) is a careful statistical study.

Special groups in relation to the American Revolution are treated in Charles H. Metzger, *Catholics and the American Revolution: A Study in Religious Climate* and in the excellent work by Benjamin Quarles, *The Negro in the American Revolution*. Jesse Lemisch's

rather quixotic program for writing history "from the bottom up" works in a particular case where data are fortunately available. See his article, "Jack Tar in the Streets: Merchant Seamen in the Politics of Revolutionary America," *William and Mary Quarterly*, 25 (1968). Scholars have shown increased interest in recent years in the fate of Tories during the Revolution. Among the best works are William H. Nelson, *The American Tory* and Paul H. Smith, *Loyalists and Redcoats: A Study in British Revolutionary Policy*. Also see Mary Beth Norton, *The British-Americans: The Loyalist Exiles in England 1774-1789*; Carol Berkin, *Jonathan Sewall: Odyssey of An American Loyalist*; and Robert M. Calhoun, *The Loyalists in Revolutionary America, 1760-1781*.

Foreign Policy

The classic work on the foreign policy of the American revolutionaries is Samuel Flagg Bemis's *The Diplomacy of the American Revolution*. A far more revisionist work, treating the origins of the American Empire and focusing on internal and external policies of European states rather than on strictly diplomatic history, is Richard W. Van Alstyne's *Empire and Independence; The International History of the American Revolution*. The detailed work on the negotiations of the Peace of Paris is Richard B. Morris's *The Peacemakers: The Great Powers and American Independence*. But Cecil B. Currey, *Code Number 72/ Ben Franklin: Patriot or Spy?* provides a fascinating corrective. Currey not only demonstrates Franklin's participation in Robert Morris's peculations during his ministry in Paris; he also offers newly discovered evidence of Franklin's probable role as a double agent on behalf of Great Britain. Currey describes Franklin's shift to a pro-French role during the peace negotiations, as well as the well-founded distrust of Franklin by Arthur Lee, John Adams and John Jay.

Meaning and Consequences of the Revolution

There is no space here to deal with the numerous works on the nature and consequences of the American Revolution, or on the vitally important topic of the relationship between the Revolution and the Constitution. Here we will mention Gordon S. Wood's careful and important study of the way in which libertarian ideology was conservatized during and especially after the Revolution: *The Creation of the American Republic, 1776-1787*. Richard B. Morris has many judicious insights in his *The American Revolution Reconsidered*. He treats the American Revolution more fully as the first war of national liberation and independence from European colonialism in his *The Emerging Nations and the American Revolu-*

tion. Also see Richard L. Park and Richard D. Lambert, eds., *The American Revolution Abroad*.

Perhaps the most important controversy was on how radical and how revolutionary were the nature and consequences of the American Revolution. We have seen Robert R. Palmer's challenge to the consensus view in his monumental *The Age of the Democratic Revolution*. J. Franklin Jameson produced the classic Beardian view on the social radicalism of the American Revolution in *The American Revolution Considered as a Social Movement*. This thesis was attacked and seemingly refuted during the Consensus period of American historiography, particularly by Frederick B. Tolles, "The American Revolution Considered as a Social Movement: A Re-evaluation," *American Historical Review*, 55 (1954-1955); and by Clarence Ver Steeg, "The American Revolution Considered as an Economic Movement," *Huntington Library Quarterly*, 20 (1957). But Robert A. Nisbet, in a brilliant article, has now rehabilitated the thesis of the American Revolution as having radical consequences, not in a Beardian, but in a libertarian direction. In his *The Social Impact of the Revolution*, Nisbet shows that the Revolution had a radical libertarian impact on American society: in abolishing feudal land tenure, in establishing religious freedom, and in beginning the process of the abolition of slavery. Thus, to Bailyn's insight on the libertarian sources of the Revolution, Nisbet adds his conclusion on its libertarian consequences.

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I

Paradigms of Freedom

*In the phraseology of Thomas S. Kuhn's influential book *The Structure of Scientific Revolutions*, diverse thinkers have viewed human freedom from conflicting "paradigms" or conceptual frameworks.*

Here, the first sequence of summaries treat ancient and modern rival definitions of freedom, and also the dilemma of thinkers caught in transition between such distinct definitions. Kuhn would describe

such perplexity as a "crisis" in paradigms which may precede the achievement of a new, canonical paradigm and a "revolution" in ideas.

Often the observer who is operating within the filtering presuppositions of an old paradigm will find it difficult or impossible to categorize a newly emerging paradigm.

Conflicting Paradigms

Adler, Mortimer J.

"Freedom: A Study of the Development of the Concept in the English and American Traditions of Philosophy." Magi Books, Inc., 33 Buckingham Drive, Albany, N.Y., 47 pp.

The clash of rival definitions of freedom and liberty disturbs international and domestic areas such as social legislation, penal reform, educational policy, family relations, and moral development. Everyone, as Karl Jaspers observes, desires this problematic "liberty," yet this same ill-defined liberty arouses anxiety, and we often overlook it in the quest for cozy security. Plato, the Stoics, the Epicureans, Marx, Freud, Dewey, Locke, Hobbes, and Bentham all disagree on the nature of freedom. Philosophical analysis should at least help sort out several distinct meanings of freedom under discussion. Philosophers might also discuss how and why strong feelings are aroused by this competition in ideas about freedom. They might

also explore how to reconcile such diverse ideas of freedom.

As a beginning we can identify, among the confusing uses of freedom, three key conceptions that scholars have woven into all discussions of American, British, and Continental thought: (1) freedom as "self-perfection" or exemption from slavery to our internal passions, (and more positively the individual's possession of virtue); (2) freedom as "self-realization" or exemption from the slavery of external circumstances (e.g., coercive laws, duress, etc.); (3) freedom as "self-determination" or the psychological and moral ability to freely choose an alternative (as opposed to determinism).

The chief contenders for the allegiance of minds are freedoms (1) and (2). Freedom (2), the laissez-faire notion of freedom which characterizes English philosophy, emerges perhaps because of empiricism, and can be summarized as "doing what one wishes." Hobbes, Locke, Hume, Bentham,

and the two Mills, as well as Russell, Moore, Broad, and Ayer subscribe to various qualified versions of this. On the other hand, those favoring freedom in sense (1), stress the moral notion of "doing as one ought." This moralized freedom goes back to Plato and brands the second kind of freedom as not liberty but libertinism since it does not stress leading the life proper to man qua good man. Outwardly free, man could still be inwardly an abject slave lacking moral autonomy.

Moral freedom (1) tends to be unconcerned with the influence of external constraints, since the good and virtuous man can still be "free" to will the good even in prison (e.g., the Stoics and modern personalist-oriented people). Laissez-faire

freedom (2) tends to believe that both morally good and bad men can be "free," provided we remove external constraints on the will and action.

There have been various attempts to reconcile the moral and the laissez-faire notions of freedom as well as freedom as self-determination, (together with a fourth narrower notion of "political freedom," the ability of citizens to participate in making laws). These attempts have either (a) sought to combine all three major freedoms in a consistent composite theory keeping each distinct, or (b), maintained that we can fuse all three consistently into a single freedom when each is modified.

Paradigms as Procrustes' Bed

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Scholars should be more knowledgeable in their methodology and attend to the interdisciplinary application of various social science techniques in studying history. Such methodological self-awareness and sophistication would produce significant insights into social values and assumptions that inform historical events. Negatively, sound methodology would expose the warping effects of unexamined assumptions [cf. Thomas S. Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1970, 2d ed.; A.W. Gouldner, *The Hellenic World: A Sociological Analysis* (New York: Harper & Row, 1969); and T.F. Carney, *Content Analysis* (Winnipeg: University of Manitoba Press, 1972)].

Traditional methods of historical analysis often ignore how the historian can manipulate putative "facts" subjectively. He thereby erects conceptually impressive but realistically flimsy edifices of interpretation. Thomas Kuhn has shed light on the blinkering effect of adhering uncritically to a particular theory or "paradigm" in studying history. The dangers of unacknowledged assumptions appear for example in the time-honored

"Towards a Better Understanding of Ancient Societies." (*Helios Journal of the Classical Association of the Southwestern United States*) 4 (1976): 3-15.

theory that the topography of mountains and valleys "caused" the numerous small city-states of ancient Greece. Here a conjecture, endlessly repeated, becomes a historical cause, an assumed "fact" in need of no further defense. Merely because the conjecture satisfies the paradigm's logical or formalistic requirements of cause and effect, scholars elevate it to a truth and "fact."

This methodological "Procrustes' Bed" imposes causality simply to frame an elegant hypothesis, yet it disregards recalcitrant facts: (a) that Greek political fragmentation was the rule even when the geography was favorable for union, and (b) that in other non-Greek societies, with terrains similar to Greece's mountain-valleys, political fragmentation did not occur. An aesthetically pleasing theory sometimes pleases more than the true facts. The paradigm bewitches the mind from noting contradictory evidence that

does not fit the paradigm. This bewitchment blinds scholars from inquiring why the Greeks desired this political form; it also conceals the anachronistic modern assumption that "larger states" are good and that "extensive division" is a curse.

An unexamined paradigm or uncritical methodology creates a cognitive strait-jacket. To overcome the blinkering effects of a reflex use of unexamined methods we must consciously inspect our inherited patterns of thought. We must question our assumptions and thus compel ourselves to

ask different questions and produce different answers.

History, particularly ancient history, can use one particular form of a more self-conscious methodology. It employs the methods of the social scientist (techniques of controlled data gathering, construction of models, scrutiny of classifications, and especially, "content analysis"). These tools allow us to search beneath the visible social surface to underlying values of culture and society.

Interest and Ambition

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"Liberty in Classical Antiquity." *Aspects of American Liberty*. Philadelphia: American Philosophical Society, 1977: 8-15.

The partisan, confused, and inconsistent usage of classical Greek and Roman examples of "liberty" by America's Founding Fathers should arouse a sobering distrust about apostles of "liberty" in any age.

Richard M. Gummere, *The American Colonial Mind and the Classical Tradition* (Cambridge, Mass., 1963) and Meyer Reinhold ed., *The Classick Pages* (University Park, Pa., 1975) have documented the powerful influence of classical ideas on eighteenth century Americans. Ancient notions of liberty, in particular, fanned the ideological passions for independence from Great Britain. But the sad history of the Greek and Roman political abuse of that term cautions us to be suspicious in accepting at face value any political appeals to liberty.

For example, early fifth century B.C. Athens, after Cleistenes' experiment with "free" political institutions, embarrasses students with its many illiberal inconsistencies. Athenian *isonomia* (the notion of "Liberty and Order" or equality before the laws) opposed arbitrary power, but in oligarchic fashion it did not extend political equality to all the *demos* or common

people (not to mention the women and slaves). This old order sought to curb the rule of the *demos* but had to yield, because of imperial ambition, to democracy. Athenian imperialism with its need for military manpower compelled the oligarchs, by 462 B.C., to recognize both the military and political sovereignty of the popular assembly.

In Rome, neither democracy nor equality ever held sway. A senatorial aristocracy dominated politics and the people throughout the Republic. Hypocritically, *libertas* was the political slogan of this privileged nobility. As a legal term, *libertas* could honorably denote a citizen's free status and his juridical guarantees against the arbitrary rule of magistrates. But *libertas* soon became an abused term. It had the emotional connotations of the prerogatives and dominion of the oligarchic ruling class. *Libertas* could even signify Rome's imperial dominion over its subjugated provinces. Imperialism undercut the old order. Rome's world empire fostered individual power and ambitious generals who ultimately toppled the senatorial ruling class from their hegemony. Still the senate's partisans defended their lost privileges in the name of "liberty and the laws." The new autocrats, the Caesars, responded in kind with empty claims to being restorers of lost "*libertas*."

The ancient republics of Greece and Rome had a very restricted and cir-

cumscribed notion of political liberty. The modern liberal movements stripped away most of those limits on liberty. The Declaration of Independence declared that "all men were created 'equal' with certain inalienable rights." Yet "liberty" continued as an ambivalent term since it could be

applauded by slaveholders. The American Founding Fathers were aware of the ambiguities of political slogans and the deceptions of ethical and emotional terminology and how easily it could be debased.

Thesis and Antithesis

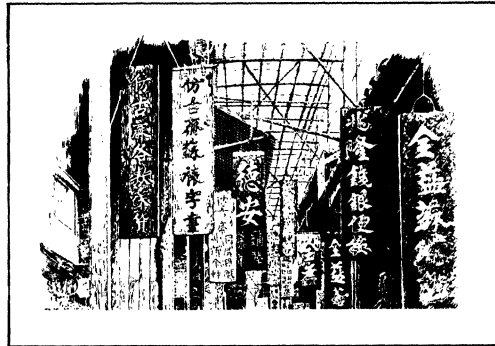
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"Human Rights: What About China?" *Foreign Policy* (USA), 29 (1978): 109-127.

Since Mao's death, mainland China has been struggling to suppress political dissidents. A Chinese official boasted that its government deprived only 5% of Chinese of their rights. This means that 40 million of China's 800 million people now undergo "reeducation," imprisonment, or supervision. However, the Carter administration has maintained a curious silence on these human rights violations in China. By exploring some recent examples of dissidence within China, we may speculate about the likely emergence of at least a small, vocal, and prominent group of dissidents within China. They will pressure the Chinese government (in much the same way as Russian dissidents have) by focusing international attention on the suppression of political and civil liberties within the country.

Several examples evidence a growing willingness by Chinese citizens to protest unpopular government actions, including the strikes by factory workers in Hangchow in Spring 1975 and the riot in Peking's Tien An Men Square in April 1976. However, the most interesting example involves the Li I-che poster entitled "Concerning Socialist Democracy and Legal System" displayed in Canton in November 1974. The poster extended over 100 yards in length and covered 67 sheets of newsprint. This poster is significant because a number of former Red Guards authored it, and because it stresses the need for democratization and guarantee of political rights. The Li I-che poster represents a sophisticated variation of the "new class" argument regarding the political consequences of authoritarian rule (reminiscent of the writings of the Yugoslav dissident



Milovan Djilas). The authors of the poster contend that Chinese socialism has generated a new ruling class within the Communist Party and the state apparatus that uses political power to appropriate privileges to itself. The poster criticizes the arbitrary nature of political authority, especially since the Cultural Revolution.

Mao's passing and the subsequent factionalism within the political elite has severely weakened the moral legitimacy of central political authority in China. At the same time, while Mao failed to provide an institutionalized guarantee of political criticism and democracy, he did leave a legacy of antiauthoritarianism best epitomized by his statement that "to rebel is justified." We may speculate that the Red Guards will be the most likely source of domestic dissidence. Disillusioned by the aftermath of the Cultural Revolution, many Guards have grown stern and resentful of the lack of democratic institutions.

Freedom and Authority

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"Freedom and Authority." *Yale Review* (USA), 66 (1977): 237-251.

Authority can exist without freedom, but freedom cannot exist without authority. Moreover, authority is a necessary function of freedom, rather than the antithesis of it.

What type of authority or social condition best maximizes freedom? Consider the following assumptions regarding freedom: (1) it is always relative; (2) it is tempered and limited by social norms; and (3) it can only be a condition of social structure, of choices balanced against choices, interests against interests.



A study by sociologist Gerard DeGré, written in the late 1940s, identified five types of societies that represented five responses to the concentration of power and authority, and five insuring expressions of freedom—atomistic, multipartite, pluralistic, oligarchic, totalitarian.

With DeGré, one could believe that only in the pluralistic condition does authority act to organize larger associations into a democratic balance in which freedom is maximized.

Sin and Society

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"Adin Ballou and the Perfectionist's Dilemma." *Journal of Church and State* (USA), 17 (1975): 459-476.

A dilemma surfaces in studying Adin Ballou's life: How could the pre-Civil War "perfectionists" live a sinless life in a sinful world? Unlike those who considered socialist utopianism to be an "intellectual dalliance with pseudoreform," perfectionism rested on the bedrock of revivalism which swept the country at that time. Turning to Adin Ballou, founder of Hopedale community in 1842, we may ask: How did this middle class, moderate man come to believe that the only way to change society was to separate himself completely from it? What exactly was the perfectionist's analysis of the American society which so repelled him, and how did he arrive at it?

Perfectionism was a compelling system of thought, one which dictated a precise and powerful view of man and his relationship to both the God who created him and the society in which the perfectionist lived. Perfectionism defined a specific goal, the regeneration of society, but it prohibited the believer from utilizing the institutions of society to achieve that goal. This dilemma could only be solved in one way: by a complete break with society and its sin-ridden institutions. The solution to it was found in utopian socialism.

In describing Adin Ballou one meets a man who claimed to be a Christian socialist, but is dealing with perfectionism in general. One thereby can examine the attempts to resolve the conflict between the individual and the state, with the consequent disavowal of the state as an agency of reform. One can also trace how a large number of reformers sought a way out of statism.

Autonomy and Authority

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Did Locke think, in his *Two Treatises of Government*, that the state of nature really existed, or did he present it as an invented or imagined state? The state of nature is not only a persistent fact but a necessary and pervasive component of political life.

In the state of nature, all men are perfectly equal and perfectly free. Every man has the right to judge and punish violations of the law of nature. The essential defining characteristic of the state of nature is a defect—the lack of an authority, commonly accepted, to settle controversies that may arise.

Locke used the term and the thought to set out the limits of political power. To both ruler and the ruled, the admonition is to beware of bringing back the full state of nature in a worse form than the ordinary

"Locke's State of Nature in Political Society." *Western Political Quarterly* (USA), 29 (1976): 126–135.

state of nature. The teaching to both is one of restraint and moderation.

The ruler who understands will be restrained in the exercise of his authority; he will be aware that the effort to make political society completely civil cannot succeed; so he will not seek to accomplish the impossible. The people, if they understand, will be alert to the danger of excessive use of power by the authorities; they will not take the law into their own hands as long as the government functions with right and authority.

Virtue and Status

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Many assume that Locke was an entirely consistent classical liberal and exponent of freedom. But it was only in the early nineteenth century that Locke was first viewed in that fashion. Locke, in fact, did not champion a fully free market.

Locke's political philosophy must be viewed in its historical context. In the seventeenth century, cataclysmic economic upheavals disturbed England. It experienced an evolution and transition from feudalism towards mercantilism or state capitalism. Late seventeenth century England was not a free market economy. Severe inflation, land transfers through enclosures, and abandoned royal prerogatives during the Civil War (1640–1660) characterized not so much the rise of a free market middle class but a threat to hereditary aristocracy. Faced with this historical situation, Locke did not claim that the aristocracy was illegitimate, but rather that some aristocrats—those who lived idle and debauched lives—deserved to lose their authority and social status.

"Market Society and Meaning in Locke's Political Philosophy." *Journal of the History of Philosophy* (USA), 15 (1977): 33–44.

Locke did not attack inherited hierarchy. His concern was to refute the claim that manual labor was ignoble or inferior. He maintained that any job allowed an individual to demonstrate his rationality and productivity. If anyone fell or rose from a lack of these qualities, it was just. Whether one was a farmer or a lord, he could lead a virtuous life. Being poor did not of its nature make one depraved or animalistic; it simply fostered such a tendency.

In sum, Locke was more interested in analyzing and justifying a certain personality and moral type than an economic system. We should be careful not to view political philosophers out of context, ignoring their practical political policies or their historical milieu.

Utility and Progress

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"J. S. Mill: Socialist or Libertarian." *Prophets of Freedom and Enterprise*. Edited by Michael Ivens. London: Kogan Page, 1975.

Mill is generally regarded as becoming a socialist late in life. But a careful examination of his later works suggests he was considerably closer to a position advocating personal liberty. He was not certain, for instance, that common or socialized ownership would satisfactorily bring intellects into stimulating collision so as to produce mental and moral progress.

Mill's major concern was with ownership by free association (rather than state ownership), groups which would presumably compete in the market. He also opposed confiscatory death taxes, progressive taxation, and subsidy or monopoly of workers' cooperatives. He totally rejected monopoly in any form and regarded every

restriction on competition as evil. He favored restricting government to promulgating information but then leaving individuals free to use their own means.

Even where government was delivering the mail or providing for the sick in public hospitals, Mill favored private competition. Similarly with education: "A government which can mould . . . the people from their youth upwards, can do with them whatever it pleases."

Even in his last work on socialism, Mill warned of the dangers of making all decisions politically and collectively. He urged that communes be tested in a market framework. He was skeptical about rooting out money-making ambition, fearing that struggles for preeminence and influence would produce bitterness when the money-making desire was diverted to seek gratification in other directions.

Diversity and Equality

Brudnoy, David

"'Liberty by Taste': Tocqueville's Search for Freedom." *Modern Age* (USA), 20 (1976): 164-176.

Many find Alexis de Tocqueville difficult to categorize as a political and social thinker. Was de Tocqueville a liberal, conservative, or individualist? In nineteenth century terms, he was both conservative and liberal at the same time. He favored the system of government most conducive to liberty, regardless of the precise admixtures of equality or inequality within that system. However, he never ceased believing that a general tendency to equality was salubrious. While Mill might be seen sometimes in the tradition of Rousseau, de Tocqueville is

better seen as Montesquieu's heir: balances, checks on arbitrary power, specifically defined liberties historically descended from feudal privileges, and emphasis on diversity and liberty.

Among de Tocqueville's conservative tendencies were: a staunch defense of property; fear that liberty would be lost, not through laissez-faire, but through guaranteeing welfare to all by an increasingly omnipotent state; and a recognition that religion was fundamental to freedom. Fearing the danger arising from the omnipotence of the majority, he saw the seeds of majority tyranny in an excess of *individualisme*. De Tocqueville also feared power. He wanted to limit government, not expand its power. ■

II

Nonspontaneous Order

Differing paradigms of man, state, and society have led to radically contrasting views of the legitimacy and role of government. The following summaries illustrate variations on an ethical-political theme: human good and social order derive from coercive and centralized authority, rather than from the voluntary or spontaneous personal choices of free individuals. Here

freedom is conceived as moral perfection imposed forcibly by the political community, which directs individuals to realize their moral and social goals nonspontaneously.

In this sequence, the last five summaries analyze the ruler's methods of eliciting obedience and conformity to create the moral or ordered society.

State vs Society

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In his *Politics*, Aristotle confuses and shifts equivocal meanings of *polis* or city-state. Failing to discriminate the distinct concepts of *polis*₁ (the state as a coercive political agency monopolizing law and force over a given territory) and *polis*₂ (the larger community which includes both the coercive state and the various voluntary social institutions such as family, religion, schools, friendship, and commercial associations) misleads him into conflating both notions of *polis*. This semantic error results in the Stagirite's faulty argument that *polis*₁ (the coercive state) should not merely protect individual rights from force or fraud but also, confusedly assuming the functions of *polis*₂, should make men good, moral, and virtuous—by force. Aristotle's confusion about *polis* as state and *polis* as community blinds him to the valuable con-

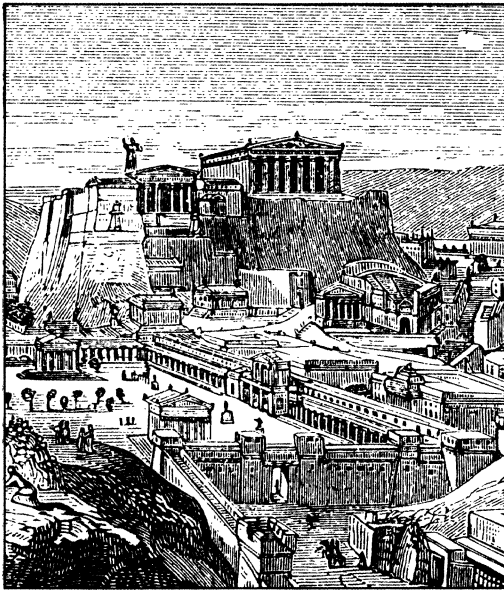
"The State and the Community in Aristotle's *Politics*." *Reason Papers* (USA), 1 (1974): 61-69.

tributions to political justice and the proper limits of state activity offered by an ancient Greek version of libertarianism.

Throughout the *Politics*, Aristotle strives to refute the Sophists' challenge that all social institutions are merely conventional (*nomos*), and that by nature (*physis*) the strong should exploit the weak by erecting a natural and moral base for the *polis* and its laws (*nomoi*). He grounds the naturalness of the *polis* on his teleological theory of human nature. Man, by his own nature, requires the various institutions and relationships of the *polis* to achieve his proper human end, perfection

and self-actualization.

Accordingly, Book I of the *Politics*, employing *polis*₂ (in the sense of broader community) demonstrates that man is by nature a polis-oriented animal (*politikon zoon*). The *polis* emerges from the prior and more fundamental units of the household, and later, villages, which provide men with their natural and vital needs. The *polis*, as Aristotle summarizes its development, "came into existence for the sake of life, but exists for the sake of the good life" (*Pol.* 1252b27–34). Thus, the *polis* is the end of human association since it is the natural or perfecting context in which the individual can live the good and



virtuous life. It is evident, however, that this moral view of the *polis* in *Politics* I cannot be narrowly identified with the political state (*polis*₁), but is rather the broader community (*polis*₂), which includes the intricate web of voluntary and spontaneous human relationships and activities (friendship, career, the pursuit of wisdom, etc.), which enables the individual to live and achieve the good and examined life. This meaning of *polis* as community is clear from its genetic roots in the voluntary, noncoercive social unit of the household.

Later, in Book III of the *Politics*, Aristotle's shifting definition of the *polis* in the

dual senses of coercive state and broader community elucidates why he criticizes the early "libertarian" conception of the state as articulated by the sophist Lykophron and the famous town planner, Hippodamus of Miletus. Developing the notion of political justice, both protolibertarians defined the just state (*polis*₁) as one limited to protecting individual rights from domestic and foreign force or fraud. Lykophron viewed the *polis*₁ as a limited state: "an association of men in a territory with the aim of preventing them from doing injustice to themselves and of promoting commerce" (*Pol.* 1280b29–31). Both limited state theorists argued that law should be similarly limited in scope. Defining law as "a guarantor of mutual rights (*dikaion*)" (*Pol.* 1280b10–11), Lykophron seems to agree with Hippodamus in limiting state laws to those proscribing *hubris* (violent personal assault), *blabe* (property damage), and *thanatos* (homicide) (see *Pol.* 1280b37–39). Both Lykophron and Hippodamus imposed clear limits to the scope of state power and law, and permitted it only to defend individual rights. Aristotle opposes this libertarian limitation from his confusion that if the *polis* (state?) does not also enforce the virtuous life, the *polis* (community?) is not being moral.

The Greek libertarians' conception of political justice breaks down the influential but false dichotomy that allowed only the alternative of Sophistic "natural justice" (the "naturally" stronger should enslave the weaker) or conventional altruism (see Plato's *Laws* 891a2–9: serving others according to convention and law). Lykophron undermines this false alternative by his new conception of libertarian justice that obliges citizens to show mutual respect for each other's rights, and allows neither exploitation of one's fellow citizens by force or fraud nor self-sacrificial servitude to one's fellow citizens.

Aristotle's objection to this limited state, law, and circumscribed theory of political justice, follows from his conflation of two distinct notions of *polis*. The end of the community—the fundamental justification for its existence—is the happy life. But this is best interpreted as the motivating reason why individuals choose to live

in the broader community (*polis*₂): in order to partake of those personal, vocational, educational, and moral activities that perfect them in human virtue. Aristotle engages in a *non sequitur* in maintaining that it is *polis*₁'s function (the state's) to use coercive force against its citizens to make them virtuous and happy. This con-

fuses the educative, moral, and perfecting role of the broader community (*polis*₂) coupled with all its voluntary institutions, with the limited legal framework, which the state (*polis*₁) supplies to enable the community to perform its voluntary and moral functions. Men cannot be forced to be happy or virtuous.

The Therapeutic State

Szasz, Thomas

Today we risk transforming the state from a legal entity concerned with individual justice into a medical therapeutic one. Law and medicine have intertwined to the disadvantage of both. We confuse legal methods of social control with medical methods of social control. Instead of regulating human relations by the rule of law in the form of contract between equals, we slip into discretionary control by medical elites. These elites impose psychiatric treatment on "disturbed" individuals even without any preexisting law to justify the therapeutic sentence. Contract fosters the individual's capacity for independent action; therapeutic discretion frees the "expert" to form any restricting rules of justice.

The rise of modern science in the seventeenth century (with its desire to control the physical world) explains the impulse of experts to "therapeuticize" human relations. Two protagonists of this ideology are the American Founding Father, Benjamin Rush, and the contemporary Karl Menninger.

Benjamin Rush (1745–1813) served as physician general of the Continental Army and fathered American psychiatry (the official seal of the American Psychiatric Association bears his image). He transformed moral questions into medical, scientific problems to be cured at the discretion of the expert rather than by legal due process. You will find the following typical of many of Rush's statements as the architect of the therapeutic state: "Were we to live our lives over again and engage in the same benevolent enterprise [political

"Justice in the Therapeutic State." *The Theology of Medicine: The Political-Philosophical Foundations of Medical Ethics*. Harper & Row: New York, 1977, chap. 9: 118–133.

reform], our means should not be reasoning but bleeding, purging, low diet, and the tranquilizing chair." Rush consistently championed benevolent despotism justified by medical need. He subordinated free men to the clinical judgment of a medical autocrat.

More recently Karl Menninger, past president of the American Psychoanalytic Association, follows Rush in advocating the therapeutic state. Menninger views human problems as mental illness; all of life is a disease needing the expertise of the psychiatrist—even if in the process he must ignore individual freedom and rights: "Some mental patients must be detained for a time even against their wishes, and the same is true of offenders."

Menninger would abandon the legal system of limited and prescribed penalties and replace it with a therapeutic system with unlimited, discretionary penalties termed treatments. This therapeutic state mentality seeks prescriptive universal health. Its champions view conflict, especially between the state and the individual, as a symptom of psychopathology. As its chief duty, they claim the state should relieve such conflict by compulsory therapy.

According to individualism, man primarily needs protection from the

threats of unlimited government. According to the therapeutic mentality, man needs state instituted protection from the dangers of unlimited illness. Among recent thinkers who have opposed the behavioristic-scientific forces seeking the "abolition of man," C.S. Lewis reasoned:

"Of all tyrannies a tyranny sincerely exercised for the good of its victims may be the most oppressive. . . . To be "cured" against one's will and cured of states which we may not regard as disease is to be put on a level with those who have not yet reached the age of reason or those who never will. . ." ["The Humanitarian Theory of Punishment," *Res Judicatae* (Melbourne U., Melbourne, Australia), 6 (1953): 228].

Paradoxically, the more ostensibly "loving" the state becomes, the less humane and just it proves to individuals. Far better to keep unimpaired human freedom: man's ability to make uncoerced choices. In its zeal to "free" us from internal limitations of body, mind, and personality (illness or ignorance), the therapeutic state imposes external limitations which diminish our moral choice.

Order and Elites

Silver, Isidore

"Self-Image of a 'Natural Aristocracy': What Flows from Neo-Conservatism." *The Nation* 225 (1977): 44-51.

Neo-Conservatism through its influential academics, such elite publications as *Commentary* and *The Public Interest*, and mass media impact, deserves study for its philosophy, history, and program.

In their roots and perhaps their vision of a future society, many Neo-Conservatives evidence a strong tendency towards pessimistic socialism. Many Neo-Conservatives originated as young socialists, turned into liberals, and then evolved into disillusioned critics of post-New Deal America. At first it seemed that Rooseveltian liberalism or some other reform movement could substitute for their socialist utopia. This reformist surrogate to socialism seemed to offer an orderly institutional framework both to lead gradually towards national prosperity and to guarantee rewards to the intellectually talented.

To give a thumbnail sense of where the Neo-Conservatives stand politically, consider Daniel Patrick Moynihan. His ideas skillfully combine traditional but tight-fisted liberal welfare state economics (gov-

ernment has a duty to provide a rising floor to the less fortunate) with a foreign policy which advocates a return to the Cold War (only a militarily strong America can win its national goals). Pragmatic national interests generally dictate Neo-Conservative attitudes toward other countries: are countries the U.S.'s friends or enemies in the anticommunist conflict? The paramount American responsibility to defend Israel and espouse the cause of Soviet Jews transcends pragmatic calculations.

Neo-Conservatives reject John Locke's philosophical defense of inalienable individual rights because this abstract "ideology" may lead to disorder. They prefer the aristocratic, legalistic, traditionalist, and authoritarian views of Edmund Burke.

The Neo-Conservatives' desperate "search for order" appeared in their response to Senator Joseph McCarthy's anti-communist crusade in the 1950s. They viewed McCarthy as a populist demagogue, a latter-day Jacobin, who invoked disorderly direct democracy to circumvent the orderly conservative institutions of government. Ever fearful of "Mass Man" they sought to defuse any popular ferment by gradual economic reform. Still they were uneasy. According to their analysis the American people, although economically reformist and gradualist,

were socially conservative and potentially reactionary.

In the 1960s they documented in scholarship their belief that the American people's social conservatism included anti-Semitism. Government institutions which could assure gradualist, nonradical reform, a necessary stabilizing proper to social order, stood between dangerous demagogues and a fickle democratic mass. During the Kennedy-Johnson years of the 1960s their ideal was orderly and controlled economic change within a secure framework of national prosperity.

In elitist fashion, they grew disturbed when the Warren Court seemed to endorse a mindless majoritarianism by its "one man, one vote" decision (1964). America needed the antipopulist "safety valves" of a federalist system. Politicians or the Court should not raise mass political expectations.

During the past 20 years, the Neo-Conservatives' unrelenting tone of anxiety, their fear of a relapse into social disorder, and their emphasis on authority and tradition, can be explained in large part as reactions to a major trauma—the

fear of anti-Semitism. Hannah Arendt's brilliant *Origins of Totalitarianism* explains, in Neo-Conservative fashion, this pervasive fear. According to Arendt, strong national states protected the European Jews in the nineteenth century. But Populist movements endangered them. In effect, a conservative elite protected the Jew, whereas the mass, "the people," were the bigoted enemy. To deal properly with the volatile masses, one needed managed reform by elites which produced ordered change.

It is difficult to predict the future shape of the Neo-Conservatives' coalition. Today it consists of an alliance with labor and the Jackson wing of the Democratic party on economic issues; on "social issues" it forms an uneasy alliance with traditional conservatives. As the ongoing major themes of Neo-Conservatism, note respect for authority, the goodness of the corporate *status quo*, and the need both to curb economic appetites and to preach social harmony. Its vulnerable points are elitist bias and antidemocratic fears.

Order and Virtue

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"Understanding the 'New Conservatives.'" *Polity* (USA), Winter 1977: 261-273.

The "New Conservatives" are thinkers who have received considerable attention as recent converts to conservatism. They may not be welcome allies since they do not appear to be defenders of Lockean liberty or laissez-faire, but rather of the traditional conservative values of Burke: "ordered liberty," the aristocratic virtues, and a religious basis for social morality.

We may profitably examine the thought of several of these intellectual leaders of the loosely knit "neoconservative" movement comprised primarily of former liberals and socialists. Such figures include Alexander Bickel, Daniel Bell, Irving Kristol, Nathan Glazer, and Robert Nisbet. What emerges is a rather diverse "movement" united principally by a somewhat unfocused disgust with contemporary

American life: with bureaucratic, monolithic corporations; with ever escalating demands placed upon government by the masses for equality and ample provision of educational, medical, and employment goods; and with the erosion of traditional moral and religious values.

The acknowledged intellectual predecessors of the groups are diverse. However, Burke seems to be a unifying precursor, with de Tocqueville, Proudhon, Kropotkin, Schumpeter, Weber, Madison, and Montesquieu enjoying less universal appreciation. Employing Louis Hartz's

classification of two previous periods in American life in which Whiggery dominated (the post-Jacksonian period and the era of industrialization following the Civil War), Abbott categorizes these "new conservatives" as constituting the third rebirth of Whiggery in America.

The positive content of the "new conservatism" is rather diffuse and unfocused, but its political style is one of "moderation and a spirit of compromise." Nisbet's

prescriptions seem the clearest; what he proposes is a pluralism based upon neighborhoods, local universities, and decentralized economic life. Thus, Nisbet constitutes a link between socialist, conservative, and liberal Whiggish thought. The importance of these thinkers lies in their isolation of elements which are lacking in American life—i.e., a tragic sense of life, devotion to transcendental ends, and the absence of awe-inspiring heroism.

Self-Perfection

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"Some Reflections on Political Nature: Conservative Theory Revisited." *Journal of Philosophy* (USA), 72 (1975): 593–604.

Neither the utilitarian nor the contractarian branch of classical liberal moral philosophy can establish adequately traditional rights and liberties for Constitutional Democracy. What may be needed is a reinterpreted classical conservatism, rooted in Aristotle's political thought. This outlook may provide the philosophical foundations for a good state.

The primary concept for the conservative is the good man, the fully realized or actualized man. The good society is the society that fosters growth toward that maturity. It provides whatever is needed to actualize man. It minimizes opportunities for incompatible courses of development. As for natural man, he is an interesting mass of potential, nothing more; his rights and desires he will acquire only later—from his society. If the society is good, the rights and desires he will acquire will be those encouraging growth to full humanity.

The liberal's theory contracts man into a civil society, whose only claim on the individual's duty is its consistency in providing the appointed benefits. Conservative theory, on the contrary, defends the proposition that tribal association necessarily



precedes political, both psychologically and logically.

Tribal-peace theory of the origin and justification of the state posits a "state of nature" of independent agents, as does social-contract theory—but these agents are tribes, not individuals.

The good state, developing from the tribe, characteristically cherishes political dialogue and its prerequisite: the protection of traditional individual rights.

The classical conservative can thus give a coherent account of the good man and the good state or society, not as opposed, but as mutually reinforcing.

Socialism and Freedom

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"A Note on Freedom Under Socialism."
Political Theory (USA), 5 (1977): 461-471.

Socialists, before attempting to refute it, must recognize the cogency of the classical liberal attack upon the irreconcilability of socialism and freedom.

Criticism of socialism advanced by classical liberals such as Milton Friedman and F.A. Hayek can be surmounted. However, the contentions that socialism and freedom cannot be reconciled should be seriously entertained. When these antisocialist assaults are combined with similar conclusions reached by socialists such as Frank Parkin—that "equality requires socialism and equalitarian socialism seems to require the suppression of civil liberties"—such arguments present a devastating attack upon socialism, if they are correct.

Initially, one can reject the two typical ploys by which socialists attempt to deflect the attack upon socialism as incompatible with freedom. The first ploy contends that it is invalid to cite communist states to support the antisocialist argument; in reality unique historical circumstances prevented them from establishing a regime compatible with freedom. The second ploy counterclaims that the freedom judged to be irreconcilable with socialism is not freedom at all; in reality this "freedom" is an atomistic, bourgeois notion. As regards the first point, even if this were true, it still fails to demonstrate that under more favorable historical circumstances, a socialist regime tolerating freedom could and would have been instituted. On the second point, one can dismiss the "positive freedom" position because it sanctions a slave or conformist mentality.

Three requirements seem necessary for an ideal of freedom appropriate to socialist aspirations: 1) social relations must embody mutual respect so that each individual can develop as a social being and "obey oneself" while responding to shared norms and objectives; 2) each citizen must have options available to carve out his own life; and 3) each must be encouraged to attain self-consciousness. The second requirement necessitates a free interchange of ideas, some autonomy for education, and protection for dissenters. A further diffi-



culty in reconciling socialism and freedom is the problem of identifying local communal interests. Under socialism how can the individual always identify his own interests with the nation as a whole? That is, how can citizens come to identify themselves with the state without the persuasion of repression?

The solution for the socialist is to reformulate the socialist ideal so as to include the three mentioned conditions required for socialist freedom. Such a reconstruction would be founded upon partially autonomous work places and local community control within the nation state. Voluntary consent by citizens to national objectives would follow from this local autonomy. Other institutional arrangements would include local control of schools and publications. These local arrangements would exercise some independence from state control (maybe even a "modest market sector," here), possess an independent judiciary, and guarantee the right of workers to strike. Thus, the socialist's solution to the antisocialist challenge of Friedman and Hayek is to synthesize socialist aspirations with liberal constitutional restraints.

Market Socialism

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"Socialism and the Market." *Political Theory* (USA), 5 (1977): 473-489.

Can a suitably designed market economy satisfy the moral aspirations of a socialist? The motivation behind this proposal is the conviction that planned economies have not succeeded on economic grounds alone, even if one ignores their obvious failures to achieve the democratic ideal. Planned economies failing to coordinate production with demand thus result in surpluses of unwanted goods and black markets; nor have these economies produced the quality of goods attained in market economies. In addition to these obvious failings of planned economies, the works of contemporary political philosophers (Robert Nozick and John Rawls) compel us to reexamine the supposed in-

compatibility of socialist aspirations and a market economy.

The kind of "market" envisioned differs from a traditional free market. This market involves state ownership of the means of production with cooperatives leasing these factories from the state. Goods would be sold on an open market; the private hiring of labor would be prohibited; and an extensive social welfare system would supplement the incomes of unprofitable cooperatives. Such a system might not be as efficient as capitalism, but it would be more efficient than socialism.

The remaining question, then, is whether market socialism can satisfy traditional socialist aspirations of a noneconomic kind. These objections against the market may then pass muster to see whether they would also hold against "market socialism," i.e., the contentions 1) that the market is socially unjust because it does not distribute goods according to need or to desert; 2) that it engenders acquisitiveness; 3) that the market produces alienation; and 4) that it destroys altruism and human community.

The socialist concludes that market socialism provides a reasonable compromise between the claims of social justice and efficiency. To all the specified objections, he answers that market socialism will not fall victim to these allegations. Of the four charges, the last poses the most difficult problem for market socialism, i.e., promoting community.

Socialists recognize the deficiencies of socialism as both a means of maximizing production and satisfying consumer demand. Socialism is in trouble. Socialists can acknowledge that the market is the most efficient way in which to satisfy consumer demands and to allocate scarce resources. Hence, their solution: an attempt to fuse socialism with a market. Naturally, the market proposed bears scant resemblance to a free market. What it amounts to is something akin to the old guild socialism approach—but within the framework of a nation state.



Centralism vs Decentralism

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Although most students of modern political thought know Friedrich Engels's *Anti-Duehring* (1877–1878), few are familiar with the writings and beliefs of Eugen Duehring (1833–1921). He was the blind *privatdocent* of political science and philosophy at the University of Berlin. Not much is known about his influence on the politics of the German Social Democratic Party and its doctrinal skirmishes of this period. Duehring deserves more study in the history of Marxian thought since his was an early and respected voice within socialism that opposed the centralized, bureaucratic state favored by Marx and Engels.

Duehring's own elaborated system of socialism, *Kritische Geschichte der Nationaloekonomie und des Socialismus* (1871), analyzed *Das Kapital*, vol. 1, in what Gerhard Albrecht called "the first serious scientific critique of the Marxian system." As an advocate of a "force theory" stressing the efficacy of political action, Duehring viewed Marx's economic determinism as too one-sided. More importantly, Duehring branded Marx with Hegelian mysticism in his logical formalism and nebulous dialectic of concepts as a substitute for a practical program of political action. He also criticized Marx's failure to spell out the ultimate product of his dialectical evolution, namely, the precise nature of socialist or communist society. Duehring also questioned Marx's labor theory of value and his theory of progressive pauperization.

Duehring's own theories advanced in *Cursus der National- und Socialoekonomie* (1873), and *Cursus der Philosophie* (1875), are somewhat inconsistent. He advocated worker strikes as a means to oppose not only capitalists but also the centralized "force state" which the capitalists used. Although not one himself, Duehring approached the anarchists in his advocacy of political and economic decentralization. A vague utopian system of egalitarian workers' communes marks his ideal socialist system. Duehring stressed decentralization in sharp contrast with the state cen-

tralization advocated by both Marx and the academic Katheder Socialists.

In the first half of the 1870s, Duehring attracted an influential following in the socialist movement because of his radical attack on the prevailing order. Such followers as Eduard Bernstein admired "the liberal element in socialism" as spun out by Duehring, since many socialists feared the state worship and statist thinking in socialist ranks.

Other sympathizers of Duehring's decentralism in socialist ranks were August Babel and the political agitator, Johann Most. They, and others on the left wing of Social Democracy, contrasted Marx's use of a strong state to confiscate the means of production with Duehring's system of democratic egalitarian communes.

Almost the whole leadership of the Berlin Social Democratic Party organization supported Duehring. This provoked the counterattack against Duehring by Engels (and Marx) in his *Anti-Duehring* articles of 1877–1878, perhaps the most systematic presentation of the Marxian system. Engels conceded that Marxism had used Hegel's inevitable dialectical laws with their negation of negations. Engels spelled out how dialectics with an assist from state centralism would "negate" the contradiction of capitalist private ownership of the means of production: "The proletariat seizes state power and immediately transforms the means of production into state property." Engels's advocacy of "one single vast plan" is far removed from the decentralized network of Duehring's communes, the system so popular with German Social Democracy.

"Marx, Engels, and Duehring." *Journal of the History of Ideas* (USA), 35 (1974): 98–112.

In his near-anarchist prescriptions for the future, Duehring stood to the left of Marx and Engels.

Duehring characterized the Marxian system as "*Staatscommunismus*" and protested that it would mean "the enslave-

ment of society by the state." He concluded that "Mister Marx's theocratic, authoritarian state communism is unjust, immoral, and contrary to freedom,"—an echo of Bakunin's critique of a decade earlier.

Voluntary Servitude

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"The Radical Humanism of Étienne de la Boétie." *Journal of the History of Ideas* (USA), 38 (1977): 119–130.

La Boétie (1530–1563), the French Renaissance classicist, gained fame both for his friendship with Montaigne and for his short treatise *La Servitude Volontaire* [see the translation by Harry Kurz and introduction by Murray N. Rothbard of *The Politics of Obedience: "The Discourse of Voluntary Servitude* (New York: Free Life Editions, 1975)]. La Boétie's *Discourse* identifies liberty as the primary human value and condemns all personal authority except parental guardianship. We may summarize La Boétie's political and social vision as "radical humanism." The vision embraces humanism because it proclaims the classical values of a free and equal society guided by reason and nature. We see it as a radical vision because La Boétie completely departs from conventional ways of organizing human life under hegemony and political authority. His vision also offers highly sophisticated insights into ethics and political psychology.

The *Discourse* begins by rejecting all political authority, the subjection of some men by others. It poses Rousseau's paradox that man although born free is everywhere in chains. How did this political servitude come about? This appears all the stranger when we realize that if the subjects withdrew their sanction and consent, their political masters would be toppled from authority: "Only be resolved to serve no more, and you will be free." Since all men are by nature free and equal, how

did unnatural mass servitude become universal?

The answer is complex. It was force that originally constrained men to bend to the political yoke; but gradually the custom and habit of obedience "denatured" men. In the final part of his *Discourse*, La Boétie analyzes the several techniques used by governors and tyrants "to put their subjects to sleep beneath the yoke." Through bread and circuses (paid for through taxes), and through the trappings of the secular and religious symbols of power, rulers stultify and mesmerize the minds of the ruled. Finally, the machinery of the tyranny rests its power, (in addition to public largesse through taxation, pomp, and symbols), on an extensive network of patron-client relationships which passes on the privileges and economic power in concentric circles of vested interests.

In La Boétie's intricate analysis of power, rulers manipulate the strength of custom, ideology, and the bewitching spell of symbols to win obedience. The strong linkages of shared profit and power cementing rulers with privileged underlings reinforce these techniques. In reality, those who are best off in such a system of complicity are those at the bottom, who enjoy some measure of freedom by not worrying about falling from the ruler's favor.

The question is no longer why the many do not throw off the ruler's shackles and realize their nature as free persons. The web of the ruler's techniques seems all-encompassing and explains the ingrained psychology of servitude. The many have been implicated in forging the chains of their own bondage, and have avidly accepted baubles (trinkets) and huckster's tricks in exchange for their natural right to liberty. Any call to regicide, given the

popular delusion and love of servitude, would be vainglorious. Regicide would simply substitute another ruler to rule over still docile subjects.

Thus we see La Boétie as a man of anarchistic premises but nonanarchistic, rather pessimistic, conclusions. La Boétie appears a radical anarchist in opposing all forms of institutionalized authority. But the powerful fear of freedom, and the pessimism about the mass psychology of obedience and voluntary servitude, hide from him any practical alternative. Any call to revolution would be unreasonable since it would merely change the cast of rulers while continuing the popular obedience to the new set of rulers.

La Boétie's melancholic pessimism about the human herd and submissive psychology (reflected in voluntary submission) surfaces in his question: "what un-

happy accident can it have been which has so much denatured man, born, alone among all the animals to live freely; and caused him to lose even the memory of his original being and the desire to find it again."

La Boétie relieves this pessimism, although in elitist fashion, by his humanistic hope that superior men of reason would find their true liberty in an intellectual tradition that rejected the "gross populace's" servitude and valued liberty at least in the silence of their conscience or writings. The sad irony is that La Boétie for all his love of liberty found himself immeshed in the power network he so condemned.

Authority and Obedience

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Stanley Milgram's well-known obedience experiments have been interpreted by social psychologists as establishing human nature's sheeplike submission to authority. The experiments claim to confirm how prone humans are to obey the immoral commands of authority figures, to give themselves over to voluntary servitude to evil.

In his celebrated book *Obedience to Authority*, (New York: Harper & Row, 1974, p. 3), Milgram described the setting of his obedience experiments:

Two people come to a psychology laboratory to take part in a study of memory and learning. One of them is designated as a "teacher" and the other a "learner." The experimenter explains that the study is concerned with the effects of punishment on learning. The learner is . . . seated in a chair, his arms strapped to prevent excessive movement, and an electrode attached to his wrist. He is told that he is to learn a list of word pairs; whenever he makes an error, he will receive electric shocks of increasing intensity [from the teacher].

In reality, the shock machine is a fake; the "learner," as a confederate of the exper-

"The Case that Milgram Makes." *Philosophical Review* 86 (1977): 350-364.

imenter, deliberately misremembers the word pairs to see if the "teacher" will compliantly obey the authoritarian experimenter and increase the bogus painful shocks. The results of nearly 1000 experiments showed that 62.5% of the subject "teachers" obeyed and pressed the shock levers up to maximum "painful" voltage.

Milgram claimed (1) that his laboratory subjects behaved in a "shockingly immoral way;" and (2) that there was nothing immoral in conducting the obedience experiments. Yet if we concede proposition (2), then proposition (1) is undermined. We then face two alternatives: either Milgram's experiments are themselves unethical, or they prove nothing about unethical obedience.

Milgram inferred that most of his experimental subjects acted in unethically obedient ways since they 1) obeyed an authority when there was no good reason to

do so; 2) obeyed without question to commands as such; and 3) committed obviously unethical acts on command. However, Milgram rejects the arguments of his critics who allege that his experiments harmed his subjects. Milgram contends that nothing unethical happened in his experiments.

But if Milgram's experiments were not unethical, then it follows that the experimental subjects did not behave unethically either. In short, if Milgram's method of conducting the obedience experiments was justified, they fail to demonstrate his claims concerning obedience to authority.

Milgram advances two major defenses for the ethical uprightness of his experiments, one denying any harm and the other justifying any possible harm. The first defense cites the testimony of other psychologists to prove that his subjects suffered no long-term injury. Besides evading the issue of whether the subjects suffered short-term harm and stress, this defense is two-edged. If a valid defense, the subjects might use it themselves to ethically justify

their own conduct. The experimenter, for example, told his subjects that the "learners" would suffer "no permanent tissue damage." In Milgram's own view, this means the experimenter denies the very possibility of harm. Thus the subjects can appeal to the same defense of "no harm" if Milgram can.

As his second defense for his experiments, Milgram cites the testimony of questionnaires and conversations to claim that the subjects approved the experiments. Most subjects appreciated the experiments, believed that Milgram should conduct similar experiments, and felt that they learned something. This defense suffers several flaws. If Smith harmed Jones, then Jones's subsequent excusing Smith would not automatically justify Smith's original action. Next, if, according to Milgram's claim, the subjects acted in a grossly unethical way and if he considers them overly submissive, why should Milgram now trust their views to justify their treatment? Most importantly, just as Milgram's defense states that the subjects agreed that the experiments and experience were valuable, so the subjects' parallel defense might justify their actions by the value they provided to psychology.

Milgram might attempt to counter this line of argument by claiming that the subjects are arguing in a circle by denying that their conduct was unethical. For how do they defend their actions? By the submissive line of appealing to the authority's perception of the experiment! But this retort fails. The subjects could counterclaim as justification that they were accepting the claims of expertise. Expertise is not identical with authority. A nurse, for example, is justified in moving a patient's limbs even though it causes pain, because she rightly accepts the doctor's expertise. Similarly, the subjects could appeal to the experimenter's expertise.

Milgram now faces a dilemma. If he claims that no degree of expertise could justify such pain, he implicates himself and admits that he caused the subjects' discomfort during the experiment (e.g., fits, seizures, sweating, nervous laughter). If no degree of expertise justifies pain, then what about the pain Milgram caused his own subjects?



Social Control

Best, R. E.; Jarvis, C. B.; and Ribbins, P. M.
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"Pastoral Care: Concept and Process." *British Journal of Educational Studies* (UK), 25 (1977): 124-135.

Pastoral Care in the fashionable British educational jargon refers to school counseling, guidance, and the noninstructional aspects of teachers and other school personnel. According to conventional wisdom, pastoral care (in the forms of academic counselors, vocational advisers, or personal counselors), appears to be a positive and convivial institution essential to education. But this optimistic assessment lacks both theoretical and empirical proof. The concept may realistically conceal a more sinister face.

If we examine pastoral care from a phenomenological approach, we notice that many of the taken-for-granted assumptions of those providing such care are more problematic. Pastoral care is not necessarily what it seems. An alternative interpretation, the pupil's viewpoint, often disparages pastoral care as a nuisance, a "crashing bore," or an impossible, impractical, and largely unnecessary diversion from the important job of teaching. According to a "conflict model of society" we can question whether educational methods generally, and pastoral care services in particular, are benign. Such counseling services may not primarily be concerned with the problems of the pupil's welfare but rather with facilitating social control and administrative convenience.

Pastoral care also may create alienation in young students. The young may display "deviance" not as a result of "inadequate socialization" but as an understandable response for the student in the oppressive school environment. A direct causal link is evident between the growth of and need for pastoral care "structures," and the increasing size of schools due to reorganization, mixed-ability teaching, and proliferating public examinations. These developments exacerbate old problems while spawning multitudes of new ones. This suggests that the apparently benign pastoral care may be a consciously evolved device for managing a potentially explosive school crisis. Pastoral care enables the teacher to remain "in control"; it serves further as a safety valve in the guise of "administration



periods" that enable a school of over 1500 pupils to run smoothly and efficiently.

Pastoral care structures have also served to divide up the British schools into manageable units such as teams. The term itself has euphemistically cloaked corporal punishment. It has not genuinely guided or counseled many pupils. Finally, by confirming "deviants" in their role as "deviants," pastoral care far from alleviating distress has served to stimulate and confirm it.

In short, schools often function as massive, depersonalizing, pseudoeducational factories where "anomie" expresses itself in violence and destructive acts. It does not surprise us that teachers and counselors have used every means, including pastoral care, to maintain some control.

Power and Ideology

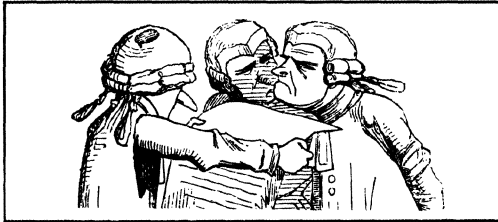
Hay, Douglas

"Property, Authority and the Criminal Law." In Douglas Hay et. al. *Albion's Fatal Tree*. New York: Random House, Pantheon Books, 1975. pp. 17-63.

How does the state's ruling class engineer the consent of the governed to its authority and legitimacy?

In brief, the ruling class uses the power of the state to secure its privileges. Force is one technique, but force must seem legitimate otherwise the majority (the ruled) will revolt. Therefore, to win the assent of the ruled, the ruling class cultivates ideology and loyalty through discretionary law enforcement. The criminal law's lessons (justice, majesty, and mercy), elicit the sanction of the victimized subjects. This benign face of criminal law masks the gallows and the death sentence.

Rulers and feudal property owners know that they must solve the problem of how to induce the many to submit to the few. In the long run, terror and coercion alone cannot cow the more powerful (but ruled) majority. Not physical strength but good "opinion" must win over the people. The ruler wields ideology or propaganda to win



the minds of the people; the criminal law serves as a powerful ideological technique to maintain the bonds of obedience and deference to authority. Criminal law protected rulers, their revenues and authority through a mixture of terror and mercy, gallows and pardons, fear and gratitude.

Eighteenth century England illustrates how criminal law functions as ideology and induces "voluntary" obedience. A paradox presents itself: the number of capital statutes (offenses subject to the death penalty), increased fourfold between 1680

and 1820. Almost all these capital offenses concerned crimes against land. Government and its criminal law thereby protected the interests of the feudal governors. Yet the number of public executions for property offenses remained relatively stable. Thus, eighteenth century criminal law upheld the rulers' interests with bloody sanctions but claimed relatively few lives.

How can we explain the coexistence of bloody laws and increased convictions along with a proportional decline of actual executions? Because royal pardons increased and the courts grew more lenient. But why the "mercy"?

The paradox is resolved in the social and political function of criminal law as ideology to buttress the rulers by winning the deference, assent, and obedience of the ruled. Law appeared to the governed as a Janus-faced force, displaying alternately a stern or a merciful countenance, which molded popular opinion to submit to the few.

As ideology, law combined majesty (awe-inspiring spectacle and the quasireligious pageantry of court proceedings), the appearance of fair justice to the governed (actually a mix of the rulers' self-interest and paternalism), and a show of mercy. By granting mercy to the convicted through royal pardons, the rulers won the gratitude of criminals and the credulous awe of noncriminals. Pardons granting mercy were selective instruments of class justice. They allowed the powerful to bestow favors and thus win the support of the governed.

The law's majesty, justice, and mercy forged the ideological chains of consent and submission (Blake's "mind-forged manacles"). The rulers managed this consent by mixing firmness and "delicacy," the carrot and the stick. Leniency and pardons in capital cases were tools to maintain the rulers' authority. Their motives were not simply humanitarian; they intended their "delicacy" to defuse possible riots.

Hegemony

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How do social transformations emerge? What role do intellectuals play in blocking or promoting such social change?

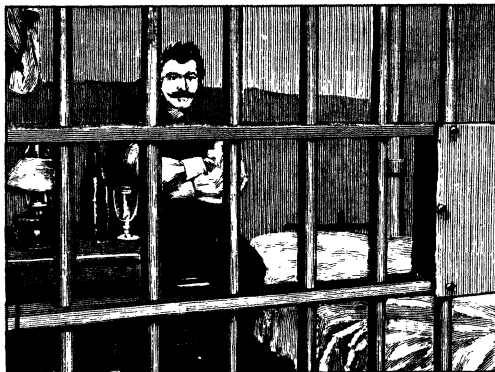
The life and intellectual career of the Italian Marxist, Antonio Gramsci, centers around his concept of hegemony. By piecing together his scattered prison notes on this subject, we will more clearly understand hegemony, which was the capstone of Gramsci's political experience.

While in an Italian prison (during the 20s and 30s until his death in 1937), Gramsci came to appreciate the importance of ideas and intellectuals. He believed that they alone explained the survival of western civilization. In gaining this appreciation, he took issue with the old Marxian argument that every state was a virtual dictatorship, the more successful states did not have to "bare their teeth." The chief reason for this was the factor of hegemony, or rule by engineered consent.

Rulers manipulate consent by popularizing a world view that persuades the ruled to believe that the rulers' actions largely benefit the masses. Gramsci came to this conclusion by distinguishing between "civil society" and "political society." It was in civil society (i.e., the schools, churches, clubs, and publications), that the rulers worked their will by encouraging the intellectual class to propagate particular ideas. The intellectuals served as the mandarins of the ruling class, to control the limits of acceptable discussion of how society could and should operate.

Gramsci arrived at his theory by studying Lenin and interpreting his own experience. But most important in forming his concepts were the writings of Benedetto Croce and the "Machiavellian school" of political theorists, most notably Gaetano Mosca and Vilfredo Pareto. These last two argued that no consensus could exist without force, and no "liberty" without "authority." Like Lenin and most other early twentieth century Marxians, Gramsci was disturbed both by the apparent indifference of the masses to Marxism, and by the unexpectedly popular appeal exerted

"Gramsci and the Theory of Hegemony." *Journal of the History of Ideas* (USA), 36 (1975): 351-366.



by "reformism." He believed that the theory of hegemony explained these anomalies. In effect, the court intellectuals were quite successful in erecting new lines of defense for the old order.

The theory of hegemony had important implications for revolutionary theory and practice. It first explained why dictatorships had become necessary in both Fascist Italy and Socialist Russia: in both cases the "civil society" had become moribund. Next, what these old orders could not deal with were "organic crises," generally caused by war or some other stress; hence their plunge into Caesarism. Furthermore, hegemony unveiled doctrines such as social equity and parliamentary democracy as mere ideological bluffs to dupe the masses. Finally, and most importantly, Gramsci's theory of hegemony showed that the old order will not vanish—nor will a new order emerge—simply because someone points out the relative vices and virtues of the system. A social order, no matter how exploitative, cannot be understood simply as a conspiracy of wicked men. It is not sufficient for the exploited to complain about the bad state of things. They must prepare themselves to change the old order by making themselves better than their rulers, technically, intellectually, and morally. ■

III

Spontaneous Order

This set of summaries portrays yet another rival paradigm or framework for viewing human freedom. Thinkers operating within this paradigm view man and society tending toward a spontaneous order as a result of voluntaristic cooperation. Here freedom is conceived as the absence of those social constraints that compromise free will or self-directed action towards goals and values.

Viewing order as the "daughter not the

mother of freedom," this paradigm of spontaneous human order conceives of personal and social good as flowing from individual free choices, voluntary interaction, and contract, rather than from centralized, coercive authority. In the light of this paradigm, those social institutions that deny personal autonomy and rational, voluntary choice, also deny moral, progressive, or creative human life.

Freedom and Knowledge

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"F.A. Hayek: Freedom for Progress." In *Contemporary Political Philosophers*, eds. Anthony de Crespigny and Kenneth Monogue. New York: Dodd, Mead, 1975, pp. 49-66.

Hayek's classical liberalism defends individual freedom in an ambiguous fashion. His liberalism does stipulate that no one should be coerced by the arbitrary will of another, and does restrict to a minimum the coercive powers of government. But it appears that Hayek does not assert individual freedom as an intrinsic good in itself which is founded in natural rights. For Hayek, individual freedom seems good primarily for utilitarian reasons as a means to assure the social good of attaining material and cultural progress.

Hayek's liberalism is based on the discovery that the enforcement of certain universal rules and the protection of the

private sphere of individuals results in a spontaneous order of human activity. This "invisible hand" generated order, (the impersonal mechanism that integrates the incomplete, dispersed knowledge of individuals), is far more complex and uses more knowledge and skills from individuals than any centrally directed order. The irremediable ignorance (or limited knowledge of any individuals), cannot contain and direct all the knowledge and resultant activity that a spontaneous order (catalaxy) accomplishes by dovetailing scattered plans into a finely meshed whole. The economic coordination of the marketplace and linguistic evolution are two examples of the free and spontaneous orders so generated. Such spontaneous order is open-ended, since we disagree about general ends, needs, and merits. Hayek also rejects a political philosophy based on some particular understanding of man,

since human nature itself is indefinite or open-ended.

Hayek finds liberty or freedom necessary because of each individual's limited knowledge. Freedom is beneficial because it allows the pooled knowledge of unfettered individuals to promote the social betterment through material and cultural progress. The important aspect of progress for Hayek is the acquisition and use of new knowledge. Individual freedom gains value primarily from its contribution to the cumulative growth of knowledge ("If there were omniscient men . . . there would be little case for liberty."). Hayek believes we should value freedom not so much from the standpoint of the individual as from that of society. People are important as potential contributors to social progress rather than as individuals with natural human rights.

It is crucially important, then, to examine Hayek's view of the "rule of law" in its implications to individual freedom and

rights. Rejecting legal positivism and mere legality, Hayek's "rule of law" is a metalegal notion. It seeks to define what "true" law ought to be by devising universal rules that foster a progressive, spontaneous order. True laws, for Hayek, must be general, certain, and equal. They must refer to conduct rather than ends. They serve as the rules of the game to enable a system of free individuals to work effectively. Thus freedom under the law, so defined, is intended to prevent any individual from being subject to another man's will.

Hayek may be criticized for the inadequacy of his "rule of law" to protect individual liberty (certain laws arrived at by majorities may be oppressive to individuals). Hayek is somewhat vague on the limits of majority decisions in lawmaking. He needs to clarify what role discretionary power might play in his impersonal, general, and universal abstract enforcement of laws.

The Case for Government

Nozick, Robert
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A minimal state limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, etc., is justified. A more extensive state will violate individual rights. On examination we can uncover the limitations of utilitarianism, consequentialism, and redistributivism.

The argument consists of three parts, it: (1) justifies the "nightwatchman state" of classical liberalism and (2) contends that a more extensive state cannot be justified and proposes an "entitlement" theory of justice as an alternative to redistributivism à la Rawls's *A Theory of Justice*; and finally (3) argues that the minimal state, despite its shortcomings, is inspiring as well as right; the coercive power of the state should not be used paternalistically to prohibit activities of people for their own protection and to force some citizens to aid others.

The entitlement theory holds that pro-

Anarchy, State, and Utopia. New York: Basic Books, 1974.



tection of property alone justifies redistributive taxation. Any other form of redistribution is unjustified. According to the theory: (1) an individual is entitled to holdings if they were first acquired in accordance with seemingly just principles; (2) property is justly held if transferred to an individual by just means by someone who acquired it justly; (3) a holding is just if acquired in recompense for past injustices in acquisition and transfer.

The Case Against Government

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"Nozick on Anarchism." *Political Theory* (USA), 5 (1977): 247-256.

Robert Nozick's attempt to refute anarchism in *Anarchy, State, and Utopia* (1974) is invalid and fails to justify the state's coercive monopoly of force in a given territory. Nozick creates bogus "rights" when he invokes "procedural rights" (each person's right to resist, in self-defense, if others try to apply to him an unreliable, unfair, or risky procedure of justice). But even if such "rights" were valid, they would not justify the state monopolizing the protection of these "rights." In fact, individuals could claim "procedural rights" and apply them to judge the state's "risky" procedures. This would seem to bolster the anarchist case.

Nozick's justification of the state attempts to derive the state through a natural and moral evolution by an "invisible hand" process. This process, in outline, occurs in four states. First, individuals living in a state of nature and possessing Lockean natural rights would naturally evolve protection associations. In a non coercive society, these would take the form of free market services, which would ward off immoral attacks on their rights by criminals. The second stage sees the many associations giving rise to one association of preeminent power in an area. In the third stage, the one preeminent association evolves into an ultraminimal state which "sells" its protection as an economic good but also exercises a monopoly on force. The fourth and final stage of Nozick's evolution of the state sees the ultraminimal state turning into an identically functioning minimal state which makes a "redistribution" of protection to certain independents (nonclients of the ultraminimum state) at cost to the clients.

The crucial and fallacious stage is the third; the transition from the preeminent association to the ultraminimum state.



Nozick fails to show how the latter can acquire its monopoly on force without violating individuals' rights. The ultraminimum state claims the right to intervene and prohibit victims from privately enforcing justice claims against its clients because of the above described "procedural rights."

Nozick contends that one may have a right (to self-defense), but does wrong to exercise it in the absence of nonrisky procedures guaranteeing fairness (i.e., procedural rights). First, however, even if procedural rights are valid rights, they hardly justify the state monopoly. For if it can punish violators of procedural rights, why cannot independent individuals also judge whether the state itself may violate procedural rights? What independent criterion guarantees that the state alone will follow nonrisky procedures?

But secondly, procedural rights are, in fact, a bogus concept which asserts rights to violate other rights or individuals. If individuals have the right of self-defense and have been injured, whether or not they follow "sound" procedures, they have a natural right to prosecute and punish an actually guilty party. To prohibit a victim from privately arresting and prosecuting his actual assailant is to violate an authentic right.

Community vs. State

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Recent scholarship has evidenced a revived interest in examining the merits of anarchism, as witness Robert Paul Wolff's *In Defense of Anarchism* (New York: Harper and Row, 1970). To further this revival, we can survey the Russian anarchist Peter Kropotkin's (1842–1921) case against the legitimacy of the state.

Kropotkin understood the state as a centralized power which controls the life of a society within a territorial limit by placing vital social functions in the hands of a few people. This centralized power uses coercion to allow certain social classes to dominate others. He denied that the state (even the praised parliamentary or representative variety) is the most humane way to organize a good human society.

Overall, Kropotkin's argument challenges us by its claim that the state causes the decline of a fraternal community. He reasoned that the quest for the human values of liberty, equality, fraternity, and justice will succeed only to the extent that mankind substitutes the alternative of communal life for the centralized state. Anticipating Hannah Arendt's views in *On Revolution* (New York: Viking, 1965), he underlined how state centralism inhibits the public's communal involvement and participation by entrusting public issues to an oligarchy of representatives and bureaucrats. Similarly, Kropotkin warned against the centralized control which Lenin's Communist Party imposed on the Russian Revolution. He believed that such state socialists were engaged in a self-defeating project. They were at cross-purposes by using the hierarchical structures of the anticomunal state to develop communal control of the means of production. It would result inevitably in an economy controlled by a clique of strategically placed government bureaucrats.

The state thus involves the loss of true community. Kropotkin rejected the statist implications of the seventeenth- and eighteenth-century political theorists' ap-

"The Modern State and the Search for Community: The Anarchist Critique of Peter Kropotkin." *International Philosophical Quarterly* (USA), 16 (1976): 3–32.

peal to the "state of nature." Postulating an imaginary state of nature in which individuals were in perpetual conflict with one another, these theorists portrayed an equally imaginary political state as peacefully issuing from a social contract. Thus, they imagined the state serving as the stabilizing savior of men from anarchistic chaos.

Kropotkin sought to invalidate a Social Darwinist reading of human nature's penchant for narrow self-interest and violent struggle. He appealed to ethological evidence from the study of animal life, together with a reflective, historical analysis of human society. He did this to prove the naturalness of human beings establishing a decent community without needing state coercion.

Sociability and mutual support, he maintained, rather than cutthroat competition, are central elements in the evolutionary struggle for human survival. Human life by its very nature is not narrowly individualistic or brutally competitive. A communitarian ethics is a natural device for insuring mankind's biological survival. His ethics of community affirm how such a system promotes justice and freedom. Sociability (as an evolutionary "instinct" developed in the lives of humans and animals) constitutes a biological root of moral behavior. Reason, subsequently, developed the "instinct" of sociability to lead to justice and magnanimity as corollaries for decent survival.

Kropotkin also argued that a nonstatist community can handle the problem of criminal behavior. Society must shift from the state's primarily punitive to a primarily preventative approach to crime. What is needed is mutual aid and a sense of unity within society. To prevent crime we must

encourage truly communal relations among human beings. We must come to know one another fraternally and provide moral support and mutual aid to one other.

Only the future can determine whether Kropotkin's antistatist beliefs are realistic. Can humanity voluntarily develop social structures other than the centralized state to deal humanely with modern prob-

lems? We must acknowledge the evils intrinsic to the state and meet the challenge of devising alternative nonstatist solutions to combat crime, poverty, disease, and ignorance. Finally, we must test the possibility of a social order wherein all members can directly and significantly determine public policy.

State and Morality

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"Socrates on Political Disobedience: A Reply to Gary Young." *Phronesis* (UK), 21 (1976): 185-197.

Despite dissenting interpretations, the argument of the personified Laws in Plato's *Crito* (51b-c), that the good citizen must always obey the laws, is a misunderstanding. It is reconcilable with Socrates' belief in the *Apology* (29d) that civil disobedience is permissible if the state were to forbid the philosopher's mission of rational cross-examination.

Far beyond allowing political disobedience in the narrow case of the philosopher forbidden to philosophize, the Platonic Socrates is concerned with deeper, more radical issues: the nature and binding force of political law as such, and the subordination of law to justice.

The apparent legal positivism of the *Crito* dissolves when we recognize that the speech of the Laws, taken in context, does not advocate blind obedience to do injustice. It calls for a very qualified notion of obedience subject to rational judgment and the norms of justice. In their discussion, Socrates and the Laws both acknowledge justice rather than mere law (49b-c) as the standard to decide the crucial question: should Socrates escape, or should he suffer the injustice of drinking hemlock in obedience to the laws?

Socrates draws a distinction between "doing injustice" and "suffering injustice." Morally, we can never do injustice but we may be allowed to suffer injustice, as from



the state (49e-50a). He argues that we may obey laws in such cases where we suffer injustice, but never when obedience requires our doing injustice.

Other Platonic dialogues clarify the *Crito* discussion of political obedience. These parallel texts allow us to formulate a coherent Socratic philosophy of law opposed to an amoral legal positivism or voluntarism. In these texts, Plato consistently rejects the voluntaristic conception of law as the subjective will (*voluntas*) and interest of the lawgiver, in contrast to the rational content of what is willed. For Plato, a law is a true law because it is just; it is not just because it is a law.

Now the problem arises: what if the state does not grasp the standard of justice in framing its laws? Might it not give other unjust but "legal" commands besides the narrow command to abandon philosophy? The *Apology* teaches that we cannot obey state laws if they conflict with divine commands (*Apol.* 38a). But it is up to the individual citizen to judge such a question rationally. Plato does not call for blind

obedience to any law, but a careful evaluation of each law by the standards of justice, reason, and the good of the governed.

Thus he subordinates law and obedience to justice and philosophy. The *Republic* I and *Gorgias* demolish the voluntarist view of law championed by Trasymachus and Callicles. Justice and truth demand that

each law undergo the process of cross-examination: the critical analysis by each citizen of any act commanded or forbidden by law. In principle, civil disobedience becomes possible on philosophic grounds. Philosophy, the true mentor of politics, encourages rational discernment of laws, not blind obedience.

Freedom and Creativity

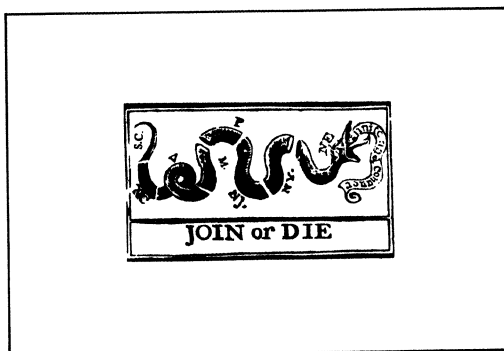
Bailyn, Bernard
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The year 1776 was one of cataclysmic challenges in theology, politics, government, and economics. A variety of great writings challenged the old order of government corruption and mercantilist intervention. Adam Smith's *Wealth of Nations* attacked government regulation including the mercantilist controls that curtailed the American colonies. Smith urged us to replace government management with self-interest to unfetter economic energies. In the same year Thomas Jefferson wrote his antistatist Declaration of Independence declaring the radical notion of "the right of the people to alter or to abolish" government. How can we explain this year of challenges?

Historically, the world of 1776 was undergoing tremendous economic growth and equally tremendous growth in population. The hundreds of thousands of immigrants who migrated to America in the decades before 1776 were seeking a promised land and new frontiers. They sought to escape the political, economic, and social constraints of the continental state-ridden society.

The British Secretary of State for the Colonies from 1768 to 1772, the Earl of Hillsborough, personified the mercantilism that 1776 challenged. Hillsborough epitomized the old mercantilist order that tried to impede the land development scheme of the Grand Ohio Company because it did not promote the commerce or "great national objects" of Britain. Depopulation of the British Isles was threatened by the settlement of America. Hillsborough compounded his mercantilist intervention with his vested interest

"1776: A Year of Challenge—A World Transformed."
The Journal of Law and Economics (USA), 19 (1976):
437–466.



as an Anglo-Irish landowner. Through restrictive laws he sought to halt the exodus of Irish to the New World. He wanted to bolster the British mercantile empire by stabilizing the agricultural population in Northern Ireland.

Benjamin Franklin detected the systematic political corruption of Britain in the urban mismanagement of London: this inability to govern amid the swirl of growth symbolized the major problem of the time. Major institutions were inadequate. As dissenters challenged the religious establishment, Adam Smith and others challenged the economic regulations. A new world of large, available land holdings and high mobility undermined the old legal system protecting privilege and questionable property titles.

Now the American question focused the longstanding demands of English reform-

ers (such as the Chathamites and Rockingham Whigs). The burgeoning New World confounded the old British constitution. The once effective British constitution (government by interests and political manipulation) could not satisfy the new economic interests in America. The American crisis of 1776 was part of the major

domestic issues facing Britain—economic, demographic, religious, and especially political and constitutional. The American Revolution launched a series of ideological challenges to the heart of the old order. 1776 inaugurated long-delayed reforms in Britain, and ushered a new world of change.

Order without State

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"The Problem with Simple Folk." *Natural History* (USA), 86 (1977): 26–32.

For an anthropologist, the Tsimihety people of Madagascar prove maddening to describe because they do not conform to the normal models that anthropology uses to classify human societies. The Tsimihety do not betray any metaphysical curiosity; they lack a coherent social or economic system; they appear to be pragmatic, utilitarian, and wary of the constraints of a systematic ordering structure.

Deeper probing, however, reveals that the Tsimihety exhibit a systematically structured social organization, but one seldom studied by anthropologists. It is a society whose members choose to live and work individualistically. Individualism, nonconformity, and freedom characterize their social mores.

The Tsimihety individualistically choose their vocations as either herdsman or farmers. They live in one village or another, as it pleases them. They have no chiefs or kings. Each villager has an equal say in village affairs; if he dislikes the village ruler, he is free to pass on elsewhere. Such freedom of movement militates against artificially imposed status, hierarchy, or authority. Fiercely egalitarian, the Tsimihety recognize no office of authority to which they owe obedience. Each village is a voluntary union of households, and no

two villages are in political alliance. Yet the Tsimihety people's lives are neither chaotic nor "anarchic." Socially and demographically, they are prospering and multiplying.

In the face of tribal invasion, the Tsimihety flee to the mountains. If that is impossible, they treat the enemy with passive resistance and social boycott. As rugged individualists, some of the Tsimihety accept schooling, others do not. Religion plays only a small role in their lives. There is no trace among them of an orderly kinship system or order of inheritance.

We can best describe this people as "wholeheartedly dedicated to the possibilities of freedom," refusing to be fettered by the demands of system or symbol. Free from social chaos or disintegration, the Tsimihety have developed a flexible and pragmatic solution to their social life. They choose to retain all their freedom by avoiding any confining metaphysical system that might organize their life in an authoritarian fashion. They view the world piecemeal and are free to interpret it in accord with their own needs.

Scientific anthropology has been unable to devise a model of a liberty-centered society, which could serve to organize and explain the research data collected on the Tsimihety. The lack of a suitable model suggests that anthropology is inadequate in some respects. Given its present paradigm of social systems, anthropology is tempted to ignore data that stretch beyond its limited framework. ■

IV

Individual and Social Good

Markedly different perspectives and paradigms have been offered to describe the supposed antimony of the individual vs. the group.

The next set of summaries illustrates a sampling from this perennial debate over the claims and status of the individual in relation to the group.

Does the individual have a sovereign and protected sphere of rights that deserves so-

cial respect in the areas of privacy, autonomy, personal choice, and artistic expression—even if these individual values seem to clash with the community or "social good"?

Methodologically and metaphysically, which has primary reality and significance: the group or the individual? Can or should individual choice, or self-interest, maximize social good and utility?

The Right to Privacy

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A number of social theorists have recently been propounding a gospel of community which suggests that privacy is not worth having. Hannah Arendt is often taken to be among these. But, in fact, she distinguishes between the public (or political) and the "social." She defends privacy against the encroachments of the "social." "Social" here pertains to those theorists who reject Aristotle's view of man as a relatively private individual, a "political animal" whose personal sphere of independence is secure. Social theorists, by contrast, view man as a social animal; their aim is to deprive man of personal privacy and merge him into a communal family all of whose members' lives are exposed and open to the scrutiny of their brothers and sisters.

The classical statement on privacy is the Warren and Brandeis *Harvard Law Review* article of 1890. It stresses not only

"A Private Space." *Social Science Information* (UK),
14 (1975): 41-57.

privacy connected with property and material interests but its spiritual nature as well, an element which American courts have tended to ignore. Warren and Brandeis wished to protect each person's private life against public curiosity. Precisely such a pressure of the mass on the individual is the reason for the assertion of such a right. Hence the ambiguity of the notion that "public interest" can override the right to privacy.

But protecting privacy by law of tort seems absurd since it involves a public court; rather, the right to privacy will be most securely enjoyed when it is widely regarded as a social right, upheld by informal sanctions of public opinion. This

was the case in the nineteenth century, but is no longer.

Given the unsatisfactory legal guarantees and social aids, it seems now best to see privacy as deriving not from the right to property, but from the natural right to liberty—the desire to enjoy some space in which one can have solitude, peace, inner life, and closer contact with a few conge-

nial beings. While public life (politics) is valuable, private life is equally so. "Social theory" which fuses them into a pervasive fraternity (or conceives man as a social animal—like ants—rather than political) is harmful. Old-fashioned despotism deprived men of public life; modern totalitarianism has robbed men of privacy.

Autonomy and Psychiatry

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"Psychiatry and Psychotherapy as Political Processes." *American Journal of Psychotherapy* 29 (1975): 369–382.

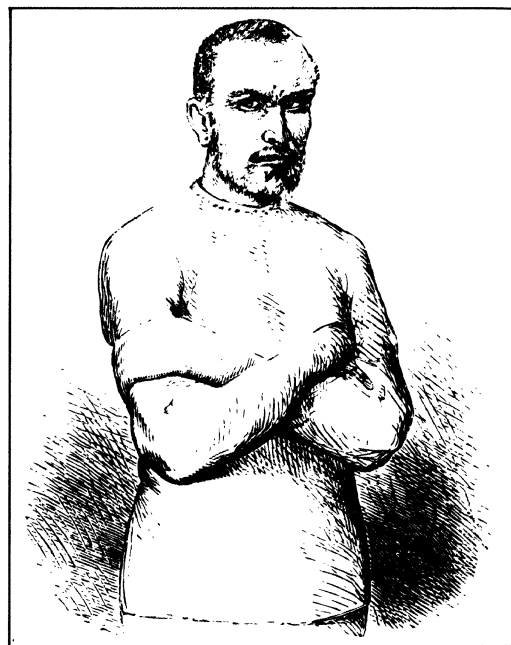
All psychiatric therapy is inescapably political. But this is true in more than just such cases as involuntary hospitalization. In fact, psychotherapy is a political process inasmuch as the client's role in any therapeutic setting is an analogue of the role of a citizen in the political system.

Psychotherapies can be ranked along a continuum from totalitarian to libertarian on the basis of the degree to which they embody and support autonomy and personal freedom—both as goals of therapy, and in their own therapist-client relationship.

Institutions which are run in a totalitarian fashion cannot liberate anyone. The author sees a fundamental error of the mental health movement: that people can be helped toward independence through submission to authoritarian settings. They implicitly teach their clients to live by such ideals of dependency and conformity.

Private practice therapy may also employ authoritarian means. Practitioners label the patient "sick"; they manipulate him, give him drugs, and threaten him with incarceration.

But you can find some autonomous psychotherapy, as first described by Thomas Szasz, which aims to enable the



client to choose his own ethics and politics.

Since every form of therapy will implement a vision of man's relationship to society and to the government, a radical socialist in therapy may have a hard time developing consistently in a setting based on voluntarism and free enterprise. But it is only when the client gains full awareness of these underlying political principles that he can make up his own mind about the implications of the therapy, that he can maximize his ability to choose his own political philosophy.

Personal Choice

Szasz, Thomas

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We see that "Americans think of freedom of speech and religion as fundamental rights. Until 1914, people had thought that selecting one's own diet and drugs was also a basic right. Today, however, virtually all Americans regard ingesting certain substances forbidden by the government as both crimes and diseases. . . . We live in a therapeutic state. Approved drugs are tolerated, indeed actively encouraged. But drugs other than those officially sanctioned as therapeutic are considered to be worthless and dangerous. Therein lies the moral and political point: governments are notoriously tolerant about permitting the dissemination of ideas, or drugs, of which they approve. Their mettle is tested by their attitude toward the dissemination of ideas or drugs of which they disapprove.

"The argument that people need the protection of the state from dangerous drugs but not from dangerous ideas is unpersuasive. No one has to ingest any drug he does

"A Different Dose for Different Folks." *Skeptic* (USA), 7 (1977): 63-70.

not want, just as no one has to read a particular book. . . . The objects we now call 'dangerous drugs' are metaphors for all that we consider sinful and wicked; that is why they are prohibited, rather than because they are demonstrably more harmful than countless other objects in the environment that do not symbolize sin. . . . What society gets out of its war on addiction is what every persecutory movement provides for the persecutors: by defining a minority as evil (or sick), the majority confirms itself as good (or healthy). . . . In short, I suggest that so-called 'dangerous' or 'illicit' drugs be dealt with more or less as alcohol is treated now."

Individuals, Groups, and States

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John Rawls's declared aim in *A Theory of Justice* is "to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract. . . ." But what Rawls accomplishes has fateful consequences for the theory, leaving us with scant guidance on some of the most significant theoretical and practical problems of justice that we face.

The problems relate to groups distinguished by relatively fixed qualities such as race and language, or by a set of fundamental beliefs of comprehensive importance such as religion and nationalism.

No matter how well a theory of justice provides guidance for the treatment of individuals in a homogeneous society, it needs to be supplemented to make it re-

"Justice as Fairness: For Groups?" *American Political Science Review* 64 (1975): 607-614.

spond more fully to the realities of the world. It is arbitrary to assume that justice is only for individuals, or only for individuals and states. To put it differently, it is arbitrary to assume that groups can and should gain status and rights only by becoming states. Groups in fact have status and rights at an intermediate level between the individual and the state, and it is imperative for a theory of justice to take this fact into account.

As an important alternative to Rawls's theory of the social contract, we can consider Robert Nisbet's *A Quest for Commu-*

nity (New York: Oxford University Press, 1953). Nisbet reviews social contract theory in the works of Bodin, Hobbes, and Rousseau; three authors who attacked the feudal and hierarchical status society. In its place these authors produced the con-

tract theory that juxtaposes the individual and the sovereign. These versions of social contract undermined the "intermediate authorities" of society and promoted centralized political power along with cultural and social leveling.

Social Dynamics

Baum, R. F.

"Sorokin, Popper, and the Philosophy of History." *The Intercollegiate Review* (USA), 21 (1972): 21-31.

Does history display patterns and laws (the nomothetic view), and can it be, partially at least, predictable in broad trends if not in specifics? Yes, according to Sorokin in *Social and Cultural Dynamics*; no, according to Karl Popper in *The Poverty of History*.

We can immediately dismiss the popular forms of belief in either progress or decline if these demand permanent and absolute trends. The collapse of seemingly eternal empires and economic prosperity alternating with panics and depressions discredit automatic, irreversible movement in history. There are no permanent or "inevitable" trends since that hypothesis fails to validly meet the following essential conditions: a) that the system perpetually retain the characteristics favoring the change; b) that the system not be capable of any contrary change; and c) perpetual noninterference by external forces capable of stopping the change.

We can overrule such denials of the very possibility of a scientific theory of history, drawn from Croce and Marx, which stress the subjectivity of all historical judgments. This subjective theory invalidates itself since it urges us to be rationally convinced that rational convictions (in history or elsewhere) are impossible. Furthermore, what counts in a theory is not how or why it originated (although important for psychology, biography, etc.) but how it has been tested and if the tests corroborate it.

It is also invalid to deny theories of history on the grounds that we can never generalize about unique historical events. But such theories abstract or focus selectively on only those aspects which certain events have in common. Scientific theory is abstract: it explains and predicts only the typical and not the unique individual. Thus, a historical, predictive theory of recurrences does not need to be deterministic. Historical events need not repeat themselves or be predictable in their totalities but only in certain aspects, and this allows for free will.

Sorokin's own theory, expounded in *Social and Cultural Dynamics*, admirably meets the tests for the validity of a historical theory of recurrence and patterns. His hypothesis claims that at certain times the dominant principles of art, law, and thought have logical similarities flowing from an identical conception of reality that rose to power at the same time in all the fields named.

Sorokin's classification of various cultures and their forms as sensate, ideational, integral, or mixed was based on whether a culture's systematizing conception has been that reality is physical or sensory, on the one hand; or that reality is supersensory or spiritual on the other. (Integral holds that reality is both sensory and supersensory, with reason bridging empirical observation and supersensory revelation.)

Sorokin devised an ingenious test to confirm the historical existence of these types of integrated, interdisciplinary cultural forms. Many scholars applied Sorokin's clearcut criteria to classify centuries or decades of various societies' art, law, and thought as predominantly sensate,

ideational, integral, or mixed, and they discovered a remarkable correspondence among the different disciplines. Medieval paintings were predominantly ideational (absence of concern for visible objects except as symbols of supersensory reality, avoidance of the nude, etc.).

Next, from this discovery of an apparently repetitive order in cultural history, Sorokin went on to consider the extent of its influence on society. The "ideational" culture views its members as children of God or as gods. We would expect such culture to favor an extended family social organization. On the other hand, we expect a "sensate" culture which denies gods, to favor a contractual society. Further, we expect that either type of culture, perceiv-

ing its values threatened, may resort to compulsion and violence. Thus, from 1750 to 1914, a "sensate" West experienced empirical and industrial revolutions, developed contractual, laissez-faire markets, and reflected in art accurate representations of visible objects, individualism, and the erotic use of nudes. From the clear dominance, in any society, of an art portraying the visible world (as did European painting in the eighteenth and nineteenth centuries), we can "deduce" the simultaneous dominance of empiricism in an ethics of worldly happiness and an economics of reliance on contract. Periods of challenge to a culture's values witness disputes in law, frequent intense wars, and internal disorder.

Social Engineering

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Recent books on Karl Popper's thought have failed to assess his social philosophy critically. [See P.A. Schelpp, ed., *The Philosophy of Karl Popper*, LaSalle, Illinois: Open Court, 1974; and Brian Magee, *Popper*, London: Collins, 1973.] Yet Popper appears vulnerable in this area. We need to examine the major defects and criticisms in his approach to the study of society.

First, we can present a sketchy overview of leading themes in Popper's social thought. The methodology of the natural sciences determines Popper's own view of the social sciences, their possibilities and limitations. Natural scientists do not so much absolutely prove a hypothesis to be true, as seek to design experiments that could conceivably falsify or disprove them. "True" theories have survived a number of tests and have not yet been proven false. If theories have not been subjected to this ongoing process of attempted falsification, we term them unscientific. Popper applies this scientific methodology to any claim of the social sciences, and asks whether we can falsify it by observations.

Popper condemns the doctrine of "historicism" precisely on these scientific and "falsification" grounds. [See *The Poverty of*

"Karl Popper as Social Philosopher." *Canadian Journal of Philosophy* 5 (1975): 157-171.

Historicism, London: Routledge & Kegan Paul, 1957.] Historicism claims, through studying the history of society, to detect patterns and recurrences which will enable us to predict the future. The Popperian employs a methodological objection to historicism: historical facts are unique past events; they tell us nothing predictable about future unique events. Popper brands historicism as the ideology that robs people of their freedom to choose their social institutions through its assumption that the future is already determined. "Closed societies" (as opposed to "open" and democratic ones), being conformist and obedient to authority and tradition, do resemble the historicist image because they discourage individual choice.

One can use historicism dangerously as a tool for holistic and utopian social engineering to create the perfect society according to one master plan. According to Popper's methodology of falsifiability,

these large-scale plans are again untestable; in addition, they dangerously concentrate undemocratic power in a central authority. In keeping with proper methodology, piecemeal planning can scientifically observe the effects of change on smaller social units.

These Popperian social ideas are weak in several respects. Popper's criticism of Marxism and psychoanalysis as "unfalsifiable," and thus "unscientific," loses much of its force since he recognizes other unfalsifiable theories that are nevertheless useful and valuable. For example, Popper views metaphysics to be unfalsifiable but, nevertheless, useful because it exists against a background of other theories which heuristically can stimulate inquiry. In addition, in his view, Popper's own work isn't "scientific," because it is unfalsifiable.

More importantly, ineffectiveness colors Popper's critique of utopian social

engineering. Taking physics as the paradigm of science, Popper objects to utopian social and political plans on the grounds that they are untestable. We can try them only on a large-scale and, if they fail, we lose everything. Accordingly, Popper favors piecemeal social engineering and planning because he finds such an approach closer to physics: we try something on a small-scale and, if it works, only then do we extend it on a wider scale. One does not take issue with the testability of the type of change but whether one can justify social engineering in the collectivist sense. Otherwise, we can hold Popper liable to the objection that large-scale plans and small-scale engineering both affect people in similar ways. They differ only in that the latter is "uncoordinated." By stating the issue in the terms of the testability of social plans, Popper fails to deal with the central issue of what sort of planning one can justify.

Individuals and Groups

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"Institutional Individualism." *British Journal of Sociology* (UK), 26 (1975): 144-155.

Which are more important: individuals or institutions? Perhaps both.

A lively but inconclusive debate has been waged in Britain over a proper social sciences methodology. This conflict, initiated by the studies of Friedrich Hayek and Sir Karl Popper (who, in turn, developed the insights of Max Weber and Ludwig von Mises), centered on methodological individualism *vs.* holism.

To explain the complex social processes encountered in economics and politics, methodological individualism focuses on human individuals: their choices and goals are the primary reality that the social scientist must examine. In this individualistic methodology, complex chains of individuals interacting purposefully explain and create aggregate social forces.

Holism, or methodological collectivism,

focuses instead on social wholes (society, the state, and other institutions) as the primary reality. In this view, social institutions explain and determine the goals of individuals.

Holism differs from individualism as a method in three pairs of antitheses: (1) Society is a "whole" which exceeds its parts (holism); only individuals have aims or interests (individualism); (2) "Society" affects the individual's aims (collectivism, voluntary or involuntary); the individual behaves in a way adequate to his aim, given his circumstances (rationality principle); (3) The social framework influences and constrains the individual's behavior (institutional analysis); individuals' actions can change the social set-up (institutional reform).

In reality, these three alternatives are false dichotomies and do not need to exclude each other. They conflict only if we accept the false inference that if "wholes" exist, then they have distinct aims and

interests of their own.

In another form, this debate pits psychologism against institutionalism. Psychologism as a theory claims that one can reduce every social, economic, or political theory to purely psychological explanation, in terms of individual purposes. Institutionalism denies psychologism. It asserts that the social sciences are autonomous, are not reducible to psychological entities, and involve distinct social entities (customs, traditions, societies, etc.).

Again, through three pairs of antitheses, we witness the apparent contradiction of these two viewpoints: (1) Society is the primary social entity (institutionalism); the individual is the primary social entity (psychologism); (2) One's primary duty is to one's society (collectivist morality); the individual conscience may criticize society (autonomy of morals); (3) Social conditions affect individual conditions (collectivism); individuals affect social conditions (institutional reform).

Once again, in reality, we see this second set of opposed tenets as false dichotomies which are not necessarily inconsistent with each other. They contradict each other only if we fail to see that there may be different senses in which

either society or the individual is primary at the same time.

We can escape these traditional dichotomies and reconcile the opposed viewpoints by accepting a revised form of "Popperian" institutional individualism. Combining institutionalism with individualism, this position asserts that both the individual and society are "primary." We cannot reduce individual psychology into sociology, nor sociology into psychology. Institutional individualism agrees that a social institution may have aims and interests, but only when one or more individuals give it an aim, or act according to what they decide should be its interests. A society or an institution cannot have aims and interests of its own. The "aims" of institutions do not affect the individual's behavior. Individuals who created them endow the existing institutions with "aims." Once created, institutions become a part of an individual's circumstances, which together with his aims influence his behavior.

An individual may obligate himself to his society or institutions (Church, lodge, etc.), but only if he freely chooses such obligation. This allows for a collective responsibility without tribalism or collectivist ethics.

Personal vs. Social Goods

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To maximize social good must the abstract ranking of personal preferences infringe on individual rights?

We first examine the literature stimulated by the author's original argument as to the "impossibility of the Paretian liberal." We then reappraise the issue in the light of what has emerged in this literature. We also present some additional results which may clarify the nature of the conflict between the Pareto principle and the principle of personal liberty, which may explain its implications for social choice.

At first sight, two principles seem to stand at loggerheads. The Pareto principle

"Liberty, Unanimity and Rights." *Economica* (UK),
43 (1976): 217-245.

states that if everyone in a society prefers a certain social state to another, we must choose the former, which we take to be better for the society as a whole. According to the principle of personal liberty, each person should remain free to decide what should happen in certain personal matters (the "protected sphere" in Hayek's terminology). In choices over these matters, we must take whatever he thinks is better to be better for the society as a whole, no

matter what others think.

The "impossibility of the Paretian liberal" maintains that the liberty principle conflicts with the Pareto principle if contradictory cycles of social preference must not arise for any set of individual preferences. To illustrate this, suppose a book may be read by John or Bob or by neither. Suppose further, that John prefers that neither should read it to his reading it himself. But he would next prefer to do so rather than have Bob read it. Suppose, however, that Bob would prefer John to read it rather than read it himself. But he would next prefer to read it himself rather than let it go unread. On grounds of individual freedom we find Bob's reading the book socially superior to letting it go unread since Bob wants to read it. But since John does not want to read it, we find letting it go unread socially superior to his reading it. But since both John and Bob agree in preferring that John rather than Bob should read it, John's reading it is "Pareto-superior" to Bob's reading it and so a preference cycle exists.

We find the Pareto principle unacceptable as a universal rule, since it may not be consistent with even a minimal degree of

individual liberty. Yet the idea that a community cannot reject preferences unanimously held by members of that community, carries great force.

To save the Pareto principle and at the same time make it consistent with the liberty principle, we suggest making a distinction between a person preferring x to y and wanting this preference to count in determining social choice. This leads to the idea of a conditional version of the Pareto principle. This revised version stipulates that a person respects the rights of others if and only if he wants a part of his total preference to count when one can combine it with other people's preferences over their respective "protected spheres."

To revise the Pareto principle as a universal rule does not amount to an outsider overriding the wishes of members of the community. The difference between "preferring x to y " and wanting one's preference to "count in favor of x against y " is relevant here. To guarantee a minimal amount of individual liberty requires that certain parts of individual rankings not count in certain social choice. Indeed, in some cases, the persons involved may agree to this.

Individual Rationality

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"Rationality and Morality." *Erkenntnis* (Holland), 11 (1977): 197-223.

The fascination of the philosophical paradox-game called the Prisoners' Dilemma (PD) is its capacity to test rival notions of rationality, morality, individualism, and collective choices.

A. K. Sen presents the following scenario of the Prisoner's Dilemma:

There are, so the story runs, two prisoners to be tried, each known to be guilty of a major crime (jointly committed), but the prosecution does not have enough evidence to prove this. What the prosecution does have is proof of a joint minor crime. So each prisoner is asked sepa-

ately whether he will confess or not. If both do, then they will be tried for the major crime but get a reduced sentence, say 10 years. If neither does, then they will be tried for the minor crime and will get 2 years each. If one does and the other does not, then the pillar of society goes free and the other gets the full penalty of 20 years. Given this choice, each argues that if the other does confess, it is better for him to confess also, and if the other does not, then again it is better that he confesses. So each decides to confess and led by reason they go to prison for 10 years each whereas they would have got only 2 years each if they each refused to confess. That's the dilemma. ["Choice, Orderings and Morality," in Stephen Koerner ed., *Practical Reason* (Yale, 1974), 56.]

Various reasons may invalidate Sen's next point. Sen claims that we are more

correct in interpreting the nature of morality as a moral ordering, not of the outcomes (payoffs) of actions but of the various orderings of such outcomes. By this definition Sen seeks to eliminate the conflict between morality and social optimality. But Sen's arguments will not stand muster.

The PD actually involves three central problems—namely, isolation, coordination, and assurance. The isolation problem occurs when the decisions of individual's independent rationality, made in isolation, are worse for everyone than other alternative actions. The coordination problem arises when we can see an alternative action available to people caught in the isolation problem; but unless they all take the same coordinated action, they will fail to enjoy an advantage of departing from a rationally independent decision. Finally, the assurance problem shows that unless we receive adequate assurance that others will also decide upon the coordinated action, we cannot prefer to depart from independent rationality. However, we would all find this coordinated action more advantageous, and hence seem to

maximize our social utility.

The PD raises the issue of whether it is more "rational" to follow "self-interest" or "morality" when the two seem to conflict. The PD paradox, as Sen interprets it, implies that self-interest (or universal independent rationality) maximizes neither individual nor social utility. Sen's argument would mean that those who define morality as social optimality must accept the corollary that it conflicts with individual optimality. Similarly, those who define morality as individual optimality would have to admit that it conflicts with social optimality.

Such inadequate conclusions call for a deeper analysis of the Prisoners' Dilemma. By clarifying our notions of morality and rationality we can show how perfect rationality and perfect morality necessarily coincide. To extricate ourselves from the PD we need to investigate a purely formal definition of rationality, like "doing what is supported by the best reasons." In addition, we must define a substantive theory of reasons to spell out what facts are reasons for whom to do what.

Self-Interest and Social Good

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The Prisoner's Dilemma (PD) is a two-person, non-zero-sum game, where both agents seem to lose by pursuing their isolated self-interest. This dilemma highlights a situation where individual rationality leads to collective disappointment and suboptimal results. Social scientists, philosophers, psychologists, and economists have perceived these disturbing implications. The moral that PD preaches claims that individual or atomistic action may create social ill.

Can one show, to the contrary, that individual rationality and noncoercive social decision processes produce collective goods even without binding "social contracts"?

One escape from the antiindividualist thrust of PD was attempted. It pointed out

"Information and Strategy in Iterated Prisoner's Dilemma." *Theory and Decision* (Holland), 8 (1977): 293–298.



that realistically the players played this game more than once. The multiple PD games might then result in social optimality. But R. D. Luce and H. Raiffa, in *Games and Decisions* (New York: Wiley, 1958) supposedly demonstrated that even if the players repeated the game a finite number of times, they would not achieve an optimal social outcome.

But the Luce-Raiffa thesis will not, in general, hold true. One would need to satisfy additional assumptions, which the nonrepeated PD game does not require.

These additional assumptions are highly demanding, and rapidly multiply as we increase the game repetitions. This has optimistic implications for individual rationality. In realistic cases where PD game situations are likely to arise more than once (in "iterated" fashion), individual rationality may maximize the "common good" even when individuals have PD preferences. Such optimal results for self-seeking individuals are not quite as unlikely as Luce-Raiffa suggest.

Self-Interest vs. Slavery

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"The Consolation of Slavery." *The Economic History Review* (UK), August 1976: 491-503.

R. W. Fogel and S. Engerman in their book, *Time on the Cross* (1974), claim to make "ten principal corrections of the traditional characterizations of the slave economy." The central proposition asserts that American slaveholding was economically rational from the point of view of the owner; that they saw it as a profitable investment; and that the use of slave labor in agriculture and other activities was predictable from the theory of optimum use of economic resources.

Fogel and Engerman base the measurement of profitability on a very simple model: the consol price/yield relationship where the slaveholder expects his slaves to yield a constant net revenue stream over their lives (on the average). One can question this model on the grounds that its simplicity precludes its use for analyzing the yield of any asset—human or otherwise—to which risk attaches. Even in the case of an equity, one cannot use the current rate of interest as a proxy for all future expected rates of interest because no guaranteed market exists for a particular equity.

Given the price of slaves, Fogel and

Engerman derive estimates of the net revenue expected to accrue from a slave over a lifetime. For this they use a production function for southern agriculture. In estimating a production function it is crucial that we derive the physical marginal product of the input independently of the input price. If we fail to do so, a tautological situation arises where one cannot know if the measure of net revenue justifies the price paid. All attempts to measure physical marginal productivity risk falling into this trap of circular reasoning. It seems that Fogel and Engerman have done so. If we are to specify correctly the production function, we must obtain measures of input services derived from homogeneous units of inputs. We cannot aggregate them by their market value to estimate the marginal physical productivity of inputs. In the case of Fogel and Engerman, it begs the question of profitability and rational allocation at the outset. Besides, even if we assume that the supplies of factor inputs are infinitely elastic at the market price (as far as the individual entrepreneur is concerned), we should still simultaneously estimate the production function and the demand equation. In *Time on the Cross*, however, the two authors estimate the production function singly.

Thus we find the measurement of outputs and inputs is inadequate for testing

the hypotheses concerning profitability of inputs, i.e., slaves.

The main criticism against Fogel and Engerman lies in their search for certainty and finality in their answers. This may be understandable in terms of the political background to the debate about slavery in the U.S. But we must employ patience in seeking elusive finality about such an is-

sue. Economic historians can fruitfully use "cliometrics" (the application of measurement and econometric techniques to historic events) only on those questions which lend themselves to quantitative answers. Even when modestly employed, cliometrics will give answers that by their nature must be qualified by our doubts about the correctness of the data.

Art and Autonomy

Konrad, George

As a victim of both Nazism and Stalinism, the author argues that one "cannot trust the state, only a few friends at best." His aim in life has been to have private conscience, not public loyalty, choose between right and wrong, and to make sure this happens, he has become a writer.

Regardless of the peculiar form of its ideology, right or left, communist or capitalist, the state creates a culture that subordinates its citizens. The state places responsibility in the hands of the leaders and installs a censor in the minds of its subjects. The true symbol of the totalitarian state is the exemplary bureaucrat who is more loyal to the state than to his friends. On the other hand, the writer or literary artist is committed by the creative force which compels him to expression, to tell the truth as his conscience perceives it. The act of creation is itself a radical act in which the artist tests the limits of his consciousness. While the literary artist uses the word to express the truth, the state relies on crude or subtle forms of coercion. "The gallows erected by the state are not more decent than a gun thrust out of the window of a speeding car. In our century more than 100 million people died as a result of orders given by statesmen. No common criminal can match this record. . . . There is no political doctrine that does not reserve the statesman's right to be an accomplice in murder."

Socialism is a term to describe all that has happened in Eastern Europe since 1945 and will continue in the future. Socialism is not merely an ideology, but a

"The Long Work of Liberty." *New York Review of Books* (USA), January 26, 1978: 38-41.

[This address was read by the author, a prominent Hungarian novelist, at the Venice Biennale on Cultural Dissent in November 1977. He has written: *The Case Worker*, New York: Harcourt Brace, 1974; and *The City Builder*, New York: Harcourt Brace, 1977.]

general term for an existing social framework. Despite the state's apparently all-pervasive and enduring culture, we may predict the development of an alternative culture, parallel to that of the state, and based on individual consciousness and the irrepressible human desire for ever more personal freedom. Not at first backed by institutions or even any organized movement, the new culture begins when the autonomous self reacts against the manipulated self. The breaking up of the state's culture and its monopoly of power is a joint undertaking in which, consciously or unconsciously, the entire society participates. Out of this struggle a parallel culture based on individual consciousness begins to leave its mark on every phase of societal life, even upon the state culture. "Freedom is a beautiful word even for an idiot. The desire for it, like the desire for sex, can be suppressed only temporarily."

The quiet revolution of self-rule is slow in coming, but it begins with the individual who does not subordinate his conscience to the needs of the state. The vocation of the literary artist in this revolution

is, in a special way, to be true to his own conscience, to express through his art a lifelong striving for personal autonomy, seeking this utopia through continuous self-liberation.

Finally, western intellectuals must be cautioned against labeling certain literary artists from Eastern Europe as "dissenters." There is no such thing as "dissident" literature; the term itself indicates the acceptance of a politicization of literature. True literature and true art (regard-

less of its national origin) strives to defend the concretely human against the violent and stupid formulations of the abstractly human. Every decent writer is a one man party and church. Lacking his own individual world view which is expressed in concrete images, he has nothing; neither Marxism nor anti-Marxism will help him produce good literature. Political or state culture knows the dissident writer; autonomous culture, that of the individual, knows only the good artist or the bad.

Radical Individualism

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"The Revival of Max Stirner." *Journal of the History of Ideas* (USA), 35 (1974): 323-328.

Max Stirner (né Johann Caspar Schmidt, 1806-1856) presents a curious paradox. Although judged by such diverse critics as his early friend Engels, and such twentieth century authors as Isaiah Berlin and Sidney Hook to be enormously perceptive in theory and social analysis, he has been periodically ignored and forgotten. Until recent years, Stirner and his chief work, *Der Einzige und sein Eigentum* (Leipsig, 1844), have suffered scholarly neglect apart from earlier sporadic revivals of interest. Happily, recent editions of his work

Hans G. Helms, ed. *Max Stirner: Der Einzige und sein Eigentum und andere Schriften* (Munich, 1968); John Carroll, ed. *Max Stirner: The Ego and His Own* (London, 1971); see also the Dover Press reissue of Steven T. Byington's translation of Max Stirner: *The Ego and His Own* (New York, 1963); together with the first comprehensive study of Stirner's philosophy ever to appear in English R. W. K. Patterson's *The Nihilistic Egoist* (Oxford, 1971); and a comprehensive bibliography, Hans G. Helms, *Die Ideology der anonymen Gesellschaft* (Cologne, 1966), 510-600,

signal a scholarly reawakening of interest that Stirner should long ago have

provoked in Marxists and individualist anti-Marxists.

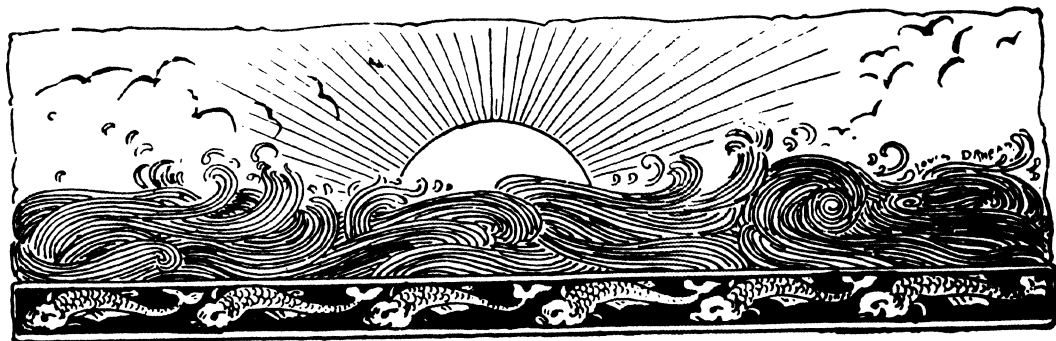
Marx and Engels themselves were quick to realize the radical challenge to communism offered by Stirner's *The Ego and His Own*. Overnight, Stirner established himself as one of the most formidable opponents of the communists, critical philosophers, humanitarians, and various reformers—those with whom previously he seemed to have so much in common. Labeling Stirner's philosophy "Egoism," Engels recognized that Stirner had cap-



tured "the essence of present society and present man," and that it called for an answer. The Marxist answer filled some 500 pages in *The German Ideology*. Stirner's book excited a barrage of other responses, but was largely ignored after the political revolutions of 1848. This should not have been his fate since as Sidney Hook indicated in 1939, the long forgotten debate between Marx and Stirner involved "the fundamental problems of any possible system of ethics and public morality" (Sidney Hook, *From Hegel to Marx*, 173). Stirner's effect, particularly upon the works of Karl Marx, still remains to be fully assessed.

Stirner's own egoism springs from a conscious and total atheism. He refuses to reverence any higher essence than his own uniqueness (*Einzigkeit*). Each individual should guard an unalienated self-ownership (*Eigenthum*) of his being and his thoughts, and reject everything super-

natural. No abstractions should be reified and loom superior to their egoist creator. Abstracted essences such as Man, State, Proletariat, and Truth are merely substituted unreal "gods" which hostilely threaten the egoist's self-ownership, who, in fact, gave rise to them. God, and every other abstraction which claims the individual's self-subordination, become for Stirner simply the alienated essence of man. Marxism deposed the transcendent God of Aquinas only to bend its knee to His secularized surrogate Man rather than the individual ego. As Stirner sums up the matter at the end of *The Ego and His Own*: "Every higher essence above me, be it God, be it man, weakens the feeling of uniqueness, and pales only before the sun of this consciousness. . . . All things are nothing to me." Stirner both anticipated Marx's alienation of the proletariat by one year and went far beyond. ■



V

Ethics, Rights, and Freedom

The following summaries confront unavoidable ethical questions of whether human freedom may be justified in terms of rational and objective moral significance. How are freedom and individual rights related to moral values, virtue, and self-actualization, both in the abstract and in specific issues of social sciences, economics, and political philosophy?

Can a valid value theory (axiology), de-

fending individual freedom and rights, be articulated and shown as rational and natural when applied to law, political science, and economics? Specifically, can the freedom of the marketplace (and its mechanisms of contract, interest, profits, individual choice, and self-interest) justify itself in moral terms rather than by invoking pragmatism or utilitarianism.

Objective Values

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"The Ontological Status of Value." *The Modern Schoolman* 53 (1976): 393-397.

Do values such as "good" and "beautiful" reside wholly in the object (objectivism) and are thus independent of the human subject perceiving them? Or do values reside fundamentally in the human subject (subjectivism) and are essentially independent of the object?

Neither position is adequate. A false dilemma underlies the objectivist-subjectivist debate over values. The objectivist (e.g., G. E. Moore and Plato) fears that unless value is (1) an absolute quality of objects, it is (2) nothing in these objects.

To prevent moral chaos and arbitrary subjectivism in values, the objectivist opts for the first alternative. He maintains that value is an absolute quality whether or not there exist subjects to value objects. The

subjectivist (e.g., Bertrand Russell) chooses the second horn of the dilemma. He fears that making value an absolute quality of objects will turn it into a rigid, dictatorial principle with political implications. The subjectivist insists on making value a quality of the perceiving subject without any essential relation to the object.

The flaw in subjectivism appears in the experience of subjects committing errors in value judgments. If the judging subject were the sole cause of values, then the subject could never "err." Error implies the existence of qualities that exist independent of the subject's fabrication. The flaw in objectivism, on the other hand, appears when we note that subjects do disagree about value judgments.

We can find a way out of the objectivist-subjectivist dilemma concerning values by viewing value as a relational quality of an object dependent on both the object and the subject. Without a subject, the object will

not have value for anyone. This does not mean that value is "subjective" or relative. Value is "objective" since it is a quality of the object; it is "subjective" only in the sense that it results from a relational ontological structure, one of whose elements is a subject. Together—the object, subject, and situation that unites them—are the causes of value. Value is not arbitrary

since it does not depend on the whim of the subject. The solid nature of the object constrains the subject judging it.

We can recognize value ontologically as a relational quality in which the subject plays a vital role in reference to a given object. We do not have to accept either doctrinaire absolutism or value relativism.

Natural Law

Von Fritz, Kurt

Ancient political-social philosophers, particularly Aristotle, offer the twentieth century man and woman valuable insights. They minister a potent antidote against modern ideological intolerance and rigid closed societies by supplying the ancient moderating spirit of open dialogue and tolerance for rival beliefs and values. Ancient philosophy also avoids the modern dilemma of value controversy (which begets intolerance) by its naturalism, that is, its sophisticated analysis of human nature and man in the natural world. The Greeks sought such naturalistic foundations for their ethics and guidance of human life. They believed in a natural order, with which man must comply if he does not wish to harm himself. Greek moralists tried to discover what this natural order is and what is good for man within this order. They did not expect to discover "ultimate values," but only what is good for human beings inasmuch as they are part of the existing natural order.

For the ancients, what is good for man is answered after first deciding what is man's place in the natural order. A social context is necessary for the individual to develop his or her proper excellence. Two items must be respected: by nature men are born as individuals with different individual talents; they require the society of other men, however, to develop their unique abilities. As an empirical fact, individuals are both personally most happy and most useful to the community if they can develop their talents to the full. Seeking to make men equal leads to dangerous consequences. A Procrustean equality is ir-

The Relevance of Ancient Social and Political Philosophy for Our Times: A Short Introduction to the Problem. Berlin, New York: Walter de Gruyter, 1974: 57 pp.

reconcilable with any kind of liberty. As de Tocqueville observed about the egalitarians: "They hate not only privilege but even diversity itself. They worship equality even to the point of equal servitude."

Ancient philosophy's nonabsolutist method of open-ended, tolerant dialogue allowed the possibility of moderately defining and clarifying such vexed questions as the relation of the individual to society, the role of wealth, leisure activity, unemployment, and labor-saving machinery—all in the context of the overall good life proper to man's nature. Such a naturalistic criterion can usefully serve to judge both modern industrial and technological problems by stressing the natural needs of humans. If we ignore or frustrate these needs, dire consequences result. Thus, humans need beauty rather than the cultural ugliness now so prevalent.

Ancient wisdom teaches the need to overcome the habit of ideological excommunication. A major cause of this intolerant habit is the belief in absolutely valid and binding principles of conduct expressible in overrigid formulae. More sane is Aristotle's method of drawing "outlines" which derived from observing the natural order of man's needs as a way to

define the complementary valid "extremes" to reconcile in any question. Observation may at first stress the importance of society to man and tend to conclude that the individual interest is entirely subordinate to that of society. But the "outline" method in open dialogue expands when we add the other factual observation, that any sound society depends both on different individuals' talents collaborating, and on the free development of these talents. Both observations must be realistically reconciled.

This undogmatic and balanced method of ancient philosophy exploring man's na-

ture and needs appears also in Plato's *Republic* (II, 372c2). It raises the question that even the more benign forms of human regulation (such as the democratic socialism of Sweden today) lack the "spice" of human diversity. Likewise, in Plato's *Laws* (746b-c), the Spartan Megillos first praises the strict discipline of the Spartans. But he has to concede that if a free and uncoerced Athenian nevertheless chooses to be a good man, he surpasses all others. Such truly autonomous persons in contrast to the "other directed" possess genuine, rather than artificially, made excellence.

Preambles to Freedom

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"The Bodyguards of Truth." *Proceedings of the American Catholic Philosophical Association* (USA), 50 (1976): 125-133.

The reader can garner illuminating insights from studying the philosophic tradition of Aristotle and Aquinas.

As an example from political and economic philosophy, we can see how such insights reconcile the apparent antagonism between liberty and equality. Should we violate individual freedom to achieve complete equality of condition? Or should we tolerate inequalities of condition to maximize individual liberty? Aristotelian-Thomistic thought resolves this dilemma by eliminating either liberty or equality as a supreme, absolute value. We must subordinate both liberty and equality to the standard of justice. We may not maximize liberty or equality in a way that trespasses on justice, and thus violate the just claims of other individuals.

Further insights from Aristotle and Aquinas cast light on liberty and other values. These insights, "the bodyguards of truth," are central if we are to avoid the many errors to which modern philosophy has succumbed. These insights fall into

two major categories: (1) psychology and the theory of knowledge; and (2) moral and political philosophy. These insights are important to liberty for several reasons. No justification of man's right to liberty can proceed unless we clearly and realistically understand man's nature, his consciousness, and epistemology. Further, we need the aid of these insights to relate liberty to such issues as the common good; and within eudaimonistic ethics, we must carefully distinguish freedom between various ends (and desires) and right desires.

To gain the central insight for the first major category (of psychology and the theory of knowledge), we need to realize that an "idea" is not that which we apprehend but rather that by which we apprehend whatever we do apprehend. This holds true for both perceptions as well as conceptions, that is, for both sensible and intelligible orders of knowing. Once we comprehend this, we no longer need to regard the contents of consciousness as mythical inventions. Even more importantly, we no longer need to consider perceptions and conceptions as mere subjective "ideas" (merely private creations) which have no secure connection to reality. If our ideas do not bring us valid

knowledge of the actual world, such concepts as good, evil, and freedom must remain arbitrary and unjustified.

It makes sense to deny that "ideas" are the objects of consciousness (despite the contrary views of Descartes, Locke, Berkeley, Hume, and Kant's Copernican Revolution). It makes equal sense to affirm that ideas are rather the means which make awareness possible. Both these commonsensical positions come to us as unique epistemological contributions of the Aristotelian-Thomistic tradition. This same framework allows us to solve many psychological, epistemological, and semantic puzzlements.

Aristotelian-Thomistic insights contribute importantly to the second major category (of moral and political philosophy). First, the state is both natural and conventional. It is natural in terms of the purpose it serves since it fulfills a real need for man; it is conventional in terms of how it is established. We do not need, contra John Rawls or Robert Nozick, to imagine the origin of the state by fabricating a myth about men living in a "state of nature."

Second, there are two distinct senses of "common good." On the one hand, the pub-

lic good is common because members of an organized community participate in it; on the other hand, the private good is common because it is the same in all men. The public good is the aim of just governments; the private good is *eudaimonia* or happiness, the individual's natural end and aim. At least in principle, this distinction supports the view that the public good together with private virtue serve as the means to one's natural end.

Third, we can draw a vital distinction between happiness as an end that we reach and enjoy in a given moment (terminal end), and happiness as an end that characterizes the temporal whole of our entire life (normative end). If we blur this distinction we erroneously come to regard happiness in purely psychological terms as satisfying any individual's desire, and tend to ignore happiness understood in terms of satisfying right desire. The latter view of happiness gives rise to Mill's injunction: "better a dissatisfied Socrates than a satisfied fool." Unfortunately Mill's utilitarianism precluded his systematically availing himself of this moral view of happiness. Mill could not connect the general happiness of others to the individual's happiness as a moral end.

Social Sciences and Values

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Leo Strauss's achievements in political philosophy are imposing and difficult to exaggerate. In numerous books, articles, and reviews he explored the key moral and political concepts of both ancient and modern thinkers.

Strauss sharply criticized the moral aridity in the modern social sciences, especially political science. He insistently pointed out that in a quest for behavioristic and value-free scientific validity, these disciplines ignored human concerns of good, evil, and value. His whole lifework focused on the normative dimensions of moral and political philosophy. He opposed relativistic historicism and advocated a return to a deeper study of natural

"Leo Strauss: A Bibliography and Memorial, 1899-1973." *Interpretation: A Journal of Political Philosophy* (Holland), 5 (1975): 133-147.

right theory in his book *Natural Right and History* (1953) and in his "Natural Law" article in the *International Encyclopedia of the Social Sciences* (1968). A good introduction to Strauss's chief themes and deeply moral approach to ideas appears in his volume *What is Political Philosophy* (1959).

His scholarly career advanced our understanding of a wide range of authors including Socrates, Plato, Xenophon, Aristotle, Thucydides, Lucretius, Moses Maimonides, Marsilius of Padua, Hobbes, Spinoza, Machiavelli, and Locke. Between 1930 (*Die Religionskritik Spinozas*) and 1958 (*Thoughts on Machiavelli*) his books centered on the moderns. From 1964 until his death in 1973 his scholarship concentrated on the ancient classics and included such studies as *The City and Man* in 1964 (analyses of the political philosophy of Plato, Aristotle, and Thucydides); *Socrates and Aristophanes* (1966); *Liberalism Ancient and Modern* (1968), including a detailed essay on Lucretius and a reprint of a review article on E. A. Havelock, *The Liberal Temper in Greek Politics*; and *Xenophon's Socrates* (1972), a study of Xenophon's *Memorabilia of Socrates*. A posthumous work published in 1975, *The Argument and Action of Plato's Laws*, rounded out his detailed explication of Plato whom he also dealt with in a chapter of his coedited useful volume, *History of Political Philosophy* (second edition, 1972).

Strauss also advanced a controversial but stimulating thesis in *Persecution and the Art of Writing* (1952) on the relation of political-cultural freedom to the degree of candor and directness displayed by various authors. Socially and politically oppressive epochs often compel skillful, independent thinkers to practice a stylistically indirect "secret writing" to communicate their politically or religiously unorthodox views. Such persecuted authors demanded careful interpretation to unravel their writings and inner thoughts.

Strauss taught and practiced the virtue of moderation by insisting on the relevance of ancient wisdom to modernity. He balanced the importance of the here and now with the universal and timeless, and he supplemented mere scientific fact with value-laden and humanistic concerns. Throughout his scholarship he also demonstrated the demanding art of "careful reading" and detailed explication of ancient and modern texts. His scholarly virtues and insights have stamped many minds with his intellectual integrity.

Reason and Change

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"Radical Change and Rational Argument." *Ethics* (USA), 87 (1976): 66-74.

Are truly radical personal or political changes (or revolutions) rationally justifiable? A somewhat related issue raised by Thomas S. Kuhn, *The Structure of Scientific Revolutions*, 2d edition (Chicago: University of Chicago Press, 1970) suggests that, in principle, revolutionary change cannot be justified: the revolutionary is in the grip of a new world-view or paradigm. The non-revolutionaries, however, cannot fully understand the new framework. They interpret "new" facts in terms of the old paradigm.

In the *Republic*, Socrates argues for a

revolutionary new Platonic society. To the objection that the utopian Republic's Guardian-class will be unhappy without money, property, or marriage, Socrates argues that in the new society, guardians qua guardians will not desire such goods that men (in nonideal societies) rank highly.

If a person seeks personal inner-harmony or a just social order, he is urged to convert and forfeit his present attachments, perspective, and self to believe the new untested things; he cannot trust his old self or present judgment, but must "leap" into the unknown. The same "Leap Before Looking" (LBL) argument is advanced by Marx and Engles in arguing that men should adapt radical change to create a communist society that will, in

effect, transform present human nature and create a new Communist Man purged of the old acquisitive and competitive desires bred into him under capitalism. Similarly, psychotherapists and religionists often recommend adapting radical self-transformation that, from the old self's present perspective seems rationally unjustifiable because there is no continuity between the old self (with its specific personality of wants, desires, and values and the new self that emerges after "conversion."

The flaw in this is "discontinuity." Before leaping, the individual cannot fully know or experience what he is leaping towards. He lacks the continuity or bridge

between old and new selves. Without the psychological equipment and knowledge of his new standpoint, the old self must view the leap as unintelligible. This "psychological equipment" comes to him only after the leap with the newly created beliefs. This "flaw of noncontinuity" afflicts both rationalist radical social reformers and irrationalists.

If the act is justified only afterward or in the process of acting, then at the moment of decision it lacked rational justification. A necessary condition to rationally justify such acts is a context or reference to the needs or wants of the agent in a continuous fashion.

Reason and Choice

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Can revolutionary advances in science proceed in a "rational way"? According to Kuhn and Feyerabend such advances proceed in a disconnected way, making it impossible to find logical connections between the old theory and the new theory that replaced it. This position has several flaws.

The Thesis of Incommensurability (TI), recently popularized and defended by Thomas Kuhn and P. K. Feyerabend, maintains that two scientific theories separated by a Kuhnian conceptual "revolution" may be completely "incommensurable." In other words, TI denies that two successive theories or "paradigms" are rationally comparable; they resemble two completely different languages, organizing the world in such radically different ways that they permit no logical translation. But one can demonstrate that "incommensurability" need not be a stumbling block to methodologists hoping to advance a rational interpretation of the way science works. A solid case exists for those theorists who have tried to find a rational and progressive account of changes in scientific theory, and who are intrepid enough to call such changes a "growth in knowledge" rather than com-

"Incommensurability and the Rationality of the Development of Science." *British Journal for the Philosophy of Science* (UK), 28 (1977): 345-350.

plete discontinuity.

One can level two criticisms at the adherents of TI. The first objection observes that if TI were true it would apply not merely to revolutionary periods but to all periods of theoretical change. However, the champions of TI wish to believe that during periods of "normal" or non-revolutionary science, an improved theory (T') may be rationally comparable or commensurable with the earlier theory (T) from which it developed. This is, of course, true. But according to TI, T and T' would also have to be incommensurable even in these "normal" scientific changes. There is no nonarbitrary way to distinguish between revolutionary and nonrevolutionary periods of scientific development. One reason for this is that historically, new ideas in science often have their greatest or "revolutionary" impact only long after their discovery. Eminent scientists may not know that their discoveries are "revolutionary"; their "normal" science work

may later have "revolutionary" implications.

Accordingly, TI faces a dilemma: either it excludes rational comparisons between theories in nonrevolutionary cases, or it must allow comparison in revolutionary cases.

The second critique against TI rests on a historical fact. A "relation of correspondence" holds between successive theories and we may formulate it in purely formal terms, even when the two theories are "incommensurable" in the sense that

they invest the same terms with different meanings (meaning-variance). Contrary to TI, the character of this correspondence relation allows for a rational and logical continuity in the development of science. One can exhibit this continuity in terms of logical relations among successive theories. Historically, working scientists consciously use such heuristic tools as the principle of correspondence to lead them logically and intuitively to new discoveries. Scientists do not function according to TI.

Economics and Values

Corry, Bernard A.

"Should Economists Abandon HOPE." *History of Political Economy* (UK), 7 (1975): 252–260.

The economics profession particularly in Great Britain, in its preoccupation with econometrics and a narrow *wertfrei* conception of model testing and mathematical prediction, neglects the study and teaching of the history of political economy. This narrow scientific view of economics impedes progress.

Greater knowledge of the history of political economy would make economists and students more aware of the reality of how ideas develop as an ongoing process rather than the naive positivists' account. Such history shows, for example, that scholars do not accept certain models, paradigms, or emphasized areas of interests as a result of careful scientific testing. Instead, complex interactions between personalities, ideologies, and the normal scientific researches lead to economic idea development. Thomas S. Kuhn has documented how little scientific research in general is affected by the history of science ("The History of Science" in *International Encyclopedia of the Social Sciences*, 14:81).

Economists have neglected three key areas of legitimate concern: (1) methodo-

logical considerations, (2) political economy, and (3) alternative systems.

(1) Apart from a few disjointed comments on methodology (mainly dealing with the *wertfrei* presuppositions of an econometric economics), most economic courses neglect key questions in method such as: Should economists maintain the distinction between positive and normative areas of study? Should economists confine their scholarship to positive, *wertfrei* discourse? Why do economists develop certain economic problems to the neglect of "real world" problems? Should economists confine their methodology to the quantitative-mathematical approach? How does economics relate to the private property market system? Should economics entertain the more general approach to social analysis?

(2) Economic science was once called political economy. Should the economist not deal with this older, broader conception rather than compulsively confining himself to his role of *wertfrei* scientist? For example, how does competition and division of labor affect man's nature? Should not economics relate to vital political and moral issues?

(3) Finally, the history of political economy could stimulate economists and students by acquainting them with alternative economic systems including Marxism or more consistent market models.

Legal Naturalism

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Can natural law provide the foundations for a valid theory of law? Yes, if we update the theory of natural rights so as to avoid the alleged static character of morality that Hans Kelsen ("The Pure Theory of Law," in M. P. Golding, ed., *The Nature of Law*, New York: Random House, 1966, p. 132) regarded as essential for any natural law system. This updated theory, resting on a contextualist epistemology, can provide a sufficient content for a legal system. It can distinguish valid from invalid legal systems on moral grounds, while not requiring only morally perfect law to qualify for legality. Thus a non-positivist ingredient is essential for law.

Kelsen raises a very serious objection to the prospect of a moral content in the positive law. It must be answered if we seek to defend a moral legal system that can be differentiated from the Third Reich's legal system. Kelsen maintains that if there is a valid moral system, its nature is so rigidly fixed that no dynamic legal system could be grounded on it. The seemingly irresolvable dilemma is that a moral system is fixed, whereas legal systems are essentially flexible and changing.

But the degree of fixedness that Kelsen finds in morality is also essential to a legal system, while the dynamic character of a legal system is paralleled at many levels by a fully developed rational moral system.

An updated version of the Lockean natural rights theory, resting on a moral position, could provide a legal system with moral criteria for distinguishing valid from invalid legal systems. It need not require that only morally perfect law qualify for legality. This moral position would support the common sense belief that a legal system should secure justice as well as order (or mere internal consistency).

We can achieve our updating by rejecting the rationalistic grounds of natural rights theory without rejecting the essential soundness of its normative content. Traditional natural law theory erroneously rested on an inflexible rationalistic epistemology that took as its model of

"Law, Justice, and Natural Rights." *Western Ontario Law Review* (Canada), 14 (1975): 119-130.



truth, mathematical formal necessity and axiomatic finality. Little room remained for the kind of change required by positive law to accommodate varying social and personal contexts. We need to meet the dilemma that positive law must be flexible in some sense, but moral principles must also be firm for there to be a coherent idea of morality. Subjectivism and intuitionism will not pass muster as responses to the positivist challenge. To answer Kelsen we need objective and verifiable knowledge that is both firm and flexible.

The answer lies in a contextualist epistemology to replace the static and faulty rationalistic underpinnings of natural law. Contextualism rejects the rationalistic contention that entities or knowledge must be fixed. Or that definitions must state the necessary and sufficient conditions for something being what it is forever, timelessly. Contextualist epistemology offers solid, objective, but also flexible concepts and classifications. It holds that at any given time, given the available context of knowledge, one can identify the most appropriate classifications of the objects of consciousness. One can then proceed, given a more expanded context of knowledge, to modify the older classifications based on the newer evidence and facts. Contextualism achieves its

flexibility in classifications without subscribing to relativism, inherent in any positivist legal theory.

Applying contextualist epistemology to natural rights theory allows us to turn to nature rather than convention to base our moral and then legal judgments. In outline, the proper procedure would first identify what human nature is within the available context of our knowledge. What is right for people in society and legal systems follows from the more basic knowledge of what is right for humans as such. The conditions right for people in communities (so as to do what is morally warranted for them as moral agents) would be the natural rights that each person possesses. Within the Lockean scheme, these conditions would be that each person re-

frain from interfering with the other's life, actions, and ownership. These are the natural requirements of moral existence. This outline becomes plausible only after we dispose of the epistemological and sceptical issues discussed earlier.

Thus, contextualism can advance a moral, nonpositivist ingredient essential to law. Value-free human institutions are inconceivable. We need moral-laden law to know when we are securing justice within any particular legal system. On the other hand, contextual natural rights theory exhibits open-endedness to changing definitions of human nature and varying applications based on the flux of circumstances—if we can verify the newly available facts and justify altering our concepts and ideas objectively.

Justice as Restitution

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"Restitution: A New Paradigm of Criminal Justice."
Ethics (USA), 87 (1977): 279–301.

Does punishment fit the crime? In the terminology of Thomas Kuhn's *The Structure of Scientific Revolutions*, our current criminal justice paradigm of punishment is in crisis; its contradictions and the breakdown of its chief defenses of practical efficacy and moral legitimacy call for a new framework or paradigm: restitution, which focuses on individual rights and free market solutions.

Punishment (the deliberate harming of the criminal) creates problems by misdirecting attention to hurting the criminal rather than helping the victim. Penology thereby reigns over victimology.

By ignoring the victim, the paradigm of punishment suffers serious flaws in practice and in moral justification. By themselves, punishment's alleged utilitarian benefits in securing social order do not

morally justify an unjust system. The moral claims in defense of punishment as a good end in itself are weak. They leave unanswered what kind of punishment could possibly fit any crime and who should decide the punishment (state or victim).

The paradigm of punishment collapses from the decline of religious and moral beliefs that once bolstered state punishment. In addition, no rational connection exists between the harm done to the criminal (e.g., the term of imprisonment) and the harm done to the victim.

In sum, punishment forgets the victim, burdens the taxpayer, and hardens the criminal. To the degree that punishments are more severe, the mills of justice in criminal procedures grind more slowly. All reform measures seeking to patch up the old paradigm of punishment are flawed by the inner contradictions of a system that does not primarily attend to the rights of all concerned: victim, criminal, and taxpayer.

The root error of the punishment paradigm is its concept that crime is an

offense against the state; that the state's proper function is to punish the criminal. In contrast, the new restitution paradigm views crime as an offense by one individual against the rights of another individual. Justice consists in the criminal making compensation for the loss he has caused the victim. Crime violates not social but individual rights.

The new restitution paradigm morally focuses on the rights of the victim and his need for compensation; the punishment paradigm wrongly focuses on the criminal and his assumed need to suffer. Restitution shifts attention from the criminal (his deterrence, reformation, or disablement—these goals are proper but incidental or secondary) to the victim (his just reparations). Restitution would be flexible and innovative, employing such devices as crime insurance, sureties, and direct arbitration between victim and criminal. It would treat the victim's right to compensation as a property right which could be transferred or enforced by others (insurance companies or heirs). Current contract and tort doctrines could handle most cases of restitution. Even in cases involving

nonmarket, unique and irreplaceable property (life and limb, etc.), restitution, in contrast to punishment, strives to offer some compensation to the victim or his heirs.

Some advantages of restitution over punishment include its benefits to victim (by its moral concern for his right to just compensation); to criminal (by allowing his active cooperation to serve as an incentive to disposing of his debt to his victim, it assuages guilt and promotes self-esteem); to taxpayer (by shifting the burden of prisons, law enforcement, and compensation wholly onto the criminal). In addition, the legal process would become more simplified and less cumbersome. Victimless "crimes" would not be prosecuted and insanity pleas would be disallowed since what counts is the victim's loss not the offender's alleged motives.

Restitution, as with all new paradigms, requires more research and legal elaboration. But in principle it offers the admirable moral view that the legal system should attend to true justice: assisting the innocent victim rather than vainly consuming itself punishing the guilty.

Justice as Punishment

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In his *Philosophy of Right* (1821) Hegel expounds his retributive theory of punishment. Crime, in this view, attempts both to coerce a "person" (i.e., in Hegelian terminology, the abstraction of man, denoting his free will and "abstract rights"), and to negate his rights. He finds crime contradictory inasmuch as it involves one "person's" free will negating the free will and rights of another abstract "person." Essentially, this attempts to negate the existence of personhood. One person's free will thus denies the existence of the quality enabling him to commit his crime.

Since the injury inflicted by crime amounts to a negation (the denial of rights), only one way remains to annul the injury: to negate the negation and annul

"Hegel's Idea of Punishment." *Journal of the History of Philosophy* (USA), 14 (1976): 169–182.

the crime. Crime (using Hegelian terminology) is conceptually a "nullity." Morally, it is contradictory; we must thus also render it a nullity in the objective world. To nullify the crime, we must punish the criminal. If we did not punish the criminal, we would validate the implicit denial of rights that the crime signifies. This does not amount to "an eye for an eye." The point is that the coercion of punishment should "equal" the coercion of crime.

Hegel's retributive view of punishment intends to respect the criminal's dignity.

The criminal has a Hegelian right to receive punishment. Hegel reasoned that each person has a duty to exercise his rights; otherwise he is not free. Our duty to punish the criminal mirrors his own right to receive punishment. Without punishment, the criminal loses his position as a person with rights. Furthermore, the criminal implicitly consents to his punishment. The criminal's action has denied that persons have rights. Punishment visits that denial on the criminal himself.

Because a person both has a "right" to punishment and has "consented" to it, retribution alone fully respects the criminal as a Hegelian person. The alternative penal theories of deterrence and reform fall far short of that ideal. Deterrence mistreats criminals like animals who are motivated to behave solely by threats. Reform measures mistreat criminals as merely potential persons who must be transformed into persons. Furthermore, retribution alone concerns itself with justice and desert. Because it alone fits the

punishment to the crime. Deterrence and reform regard only future effects or deterring unsavory behavior. Thus these two alternatives to retribution may not impose penalties commensurate to the crime. Seeking to improve the criminal or to instill fear of committing future crimes, deterrence and reform may countenance excessively harsh and cruel sanctions. Recoiling against the barbarous penalties of his age, Hegel intended retribution to soften punishments.

Hegel did not see suffering as the aim of punishment; he intended to deprive the criminal of the rights which the criminal forfeited in violating others' rights. In contrast, deterrence and reform theories of penology inflict punishment with no connection to what the criminal actually did. This punishment treats the criminal as a thing devoid of rights and autonomy. Without retribution we treat the criminal in terms of an external goal unrelated to him (deterrence and reform), rather than in terms of his free will and choice.

Rights and Contract

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"Toward a Reformulation of the Law of Contracts."
The Journal of Libertarian Studies (USA), 1 (1977):
3-13.

In the legal theory of contracts, the free market title-transfer model is superior in its internal consistency, rationality, and appropriateness for a free society. The pure "promised expectations" model of contracts or the present hybrid law of contracts cannot compete. The title-transfer model deals more adequately with those problem areas of the law of contract that have perplexed its rival models.

The expectations model of contracts views contracts as conventions that guarantee a person's expectations from promises. An advocate of this theory, Adam Smith declared: "The foundation of contract is the reasonable expectation,

which the person who promises raises in the person to whom he binds himself; of which the satisfaction may be extorted by force." The philosophic school notable for defending the promised expectations model is the utilitarian-pragmatist tradition emphasizing as it does the social utility, stability, and the predictability of promises kept. Utilitarianism argues that since social order is built on trust in promises, legal force should compel individuals to honor promises. Another component of the expectations model is its partial historical derivation from such Norman legal actions as *assumpsit* that required individuals to fulfill the expectations entailed in their feudal status (e.g., common carriers must be compelled to perform their feudal calling).

The title-transfer model, defended from the natural rights philosophic tradition, views contracts far differently. Contracts here serve as instruments that assign or

transfer rights to things, either present or future alienable goods.

Given the mixed parentage of our current contract law (combining elements of both title-transfer and promised expectations), is it preferable to continue along the path towards a pure expectations model as proposed by pragmatist Roscoe Pound [*Jurisprudence* (St. Paul, Minn. West, 1959), vol. 3, pp. 162–163]? Or, would it be more profitable to change direction towards the title-transfer approach? Title-transfer seems a saner path to follow because it avoids the dubious assumptions of the promised expectations approach. It does not lead to embarrassing conclusions in various problem areas.

The expectations proponents assume spuriously that law courts should hold people to their promises. However, although promise keeping may be virtuous, it does not follow that the courts should enforce every virtuous act (e.g., punctuality, pleasantness, temperance). Free market devices such as performance bonds that fit the title-transfer model, could achieve the social stability sought through law by the utilitarians.

An embarrassment for the expectations model is its position on enforcing specific

performance of promised personal services (e.g., marriage proposals withdrawn or a starlet's reneging on a promise to act in a movie). Under title-transfer, the embarrassment disappears since a marriage promise is viewed as a mere promise (a *nudum pactum*); no real thing has been transferred, only a subjective expectation. Similarly, a starlet's promise to act would not, under title-transfer, obligate her to specific performance. This would be tantamount to enforcing a slave contract (involuntary servitude) and ignore the fact that the human will is not alienable; we cannot exchange our freedom on the basis of unsound philosophy. Title-transfer would demand that, if the starlet received a money advance, she ought to return this real alienable good since it was transferred on the condition that she would perform. Many inconveniences could be anticipated and solved under title-transfer by such devices as performance bonds or detailed specific forfeit clauses in contracts. Finally, the title-transfer model could deal more effectively with the difficult cases involving "death of an offeror," unilateral covenants, and "purchase breaks hire."

Virtue in the Market

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Capitalism and the free market are wrongly indicted for fostering immorality or corrupt behavior. Most social corruption directly results from government intervention in the marketplace. With government restricted to its classical liberal role as nightwatchman protecting individuals' person, property, and contractual rights, corporate officers would find no reason for "bribing" corrupt government officials. In fact, such "bribery" is a misnomer for government functionaries' "blackmailing" regulated businessmen: the businessman must pay a black market secret tax (a bribe) to obtain nonenforcement of an interventionist law.

Although the market reflects the diverse ethics of its buyers and sellers, its

"Can the Market Sustain an Ethic?: The Ethical Consequence of Alternative Incentive Systems." (1977 D. R. Sharpe lecture on social ethics, Graduate School of Business and the Divinity School, University of Chicago, 26 pages available from the author.)

virtue is that it naturally limits corruption and harm through its corrective mechanisms. Under the free market's system of voluntary exchange, men feel natural incentives that promote the Golden Rule and reward fairness, kindness, and honesty. Honesty, in a voluntary market, "is the best policy" because the market severely punishes exposure of dishonesty through

loss of the precious market commodity: a good reputation in the eyes of the consumer.

Politicians and government offer quite different coercive "incentives." Whereas the free market's voluntary exchange for mutual benefit is a "positive sum game," government interference in men's lives is a negative sum game, a form of exploitation. Government power can benefit some only at the expense of others (taxpayers, consumers, pensioners, etc.).

The politician's game is an elaborate "swindle" which plays on the enormous "information costs" that the innocent citizen would have to pay to investigate each bewildering complexity of government. Thus, the politician depends on the ignorance and forgetfulness of citizens. It is utopian optimism to believe that when power is so concentrated into the politician's hands, he will always wield it with angelic, incorruptible, and selfless concern for citizens.

Ethically, the market serves as a training ground for moral maturity. It promotes individual autonomy by making each participant responsible for his or her own conduct. Each individual faces the responsibility and the humanizing freedom to make sound choices and avoid mistakes. The market acts also as a powerful civilizer of persons: commercial success depends on humane treatment of free and independent consumers who can take their business to competitors.

By contrast, government intervention infantilizes the moral conscience of humans. By posing as his "brother's keeper," government usurps a moral person's responsibility for choosing his own conduct. Consider the government's campaign to compel all new car buyers to buy cars equipped with air bags. This example illuminates the ethical issue of how the market nurtures moral growth and how the government arrests it. Whether or not mandatory air bags will actually decrease overall safety (by encouraging risky driving and syphoning off \$200 that some might spend better on home smoke detectors—those who already use seat belts or seldom drive), such government imposed decisions prevent individual choice. How can we develop an adult moral capacity if we are treated like children, forbidden to choose, for fear that we may make the "wrong" choice?

In short, government stunts ethical growth, fosters dependence, and leads to bureaucratic sovereignty; the market liberates man's moral potential, rewards autonomy, and leads to individual sovereignty. Although the free market does not motivate individuals necessarily by altruistic impulses, its voluntary principle guarantees that men will only deal with each other with brotherly respect. Government coercion, operating on an involuntary principle, resembles Big Brother.

Justice under Capitalism

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"Economics Is Not Enough: Notes on the Anticapitalist Spirit." *The Public Interest* (USA), 45 (1976): 109–122.

Capitalism is almost a can't win situation. Each person who judges an economic system asks not merely if it raises the general living standard, but more im-

portantly, does it distribute wealth by his individual notions of what is morally just, fair, and equal. But no system of equality or inequality can possibly satisfy everyone's sense of justice, for neither rewards our own moral desert exactly as each of us feels it ought to be rewarded. Quite apart from their lower efficiency and consequent aggravation of the burden of inequality, alternatives to the free market, once realized, tend to arouse no less hostility

than the market does. Such nonmarket or political attempts to eradicate "poverty" or economic inequality would only magnify demands for an unachievable "equality."

Intellectuals resent the market because it measures value by consumers' demand and lets people pay only for economic value. As purveyors of nonmarketable, nonmeasurable moral value, intellectuals feel deprived of the power and income they believe they deserve by virtue of their virtue. Thus, they seek to abolish the economic decision mechanism of the market (consumers' choices) and replace them with political mechanisms for distribution. Their alternative to the market—whether intervention or full socialism—is bureaucracy. Each intellectual socialist imagines the bureaucrats in charge will

distribute rewards as the intellectuals believe it should be done. Yet owing to the divergent subjective notions of justice, the intellectual cannot achieve his fantasy. Bureaucrats, seldom intellectuals themselves, win their positions by manipulating power, not by philosophically dispensing just deserts.

Capitalism sorely needs a moral justification. Lacking that, it is only from experience that people may learn that abolishing markets will actually aggravate their grievances rather than satisfy their desire for a "fairer" slice of the economic pie. Perhaps the cautionary examples of communist nonmarket tragedies and misallocations will educate us to preserve the market elsewhere.

Profits and Choice

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One cannot dismiss the private profit economic system as intrinsically "selfish and heartless" simply because it depends upon and engages interested motives. We would have to condemn eating, wage earning, and most human desires as "interested" along with profits. Nor can we condemn an economic system because it allows or encourages people to pursue their own interests in certain situations of zero sum conflict. For example, the rival candidates competing for some coveted job are not "selfish" just because all do not withdraw and defer to one another.

Three popular Aristotelian misconceptions lead towards the wrongheaded view that it is scandalous to make a profit: (1) Trade is in essence exploitation of one trader by another (it is rather a reciprocal relationship and necessarily voluntary); (2) Usury is unnatural (but since a sum of money is the substantial equivalent of the goods it might buy, there is nothing obnoxiously unnatural about receiving a return upon an investment in money); and (3) Production for profit is unjustified, production for use justified (the antithesis is false

"The Profit Motive." *Ethics* (USA), 85 (1976): 312-322.

for there can be no profit in producing what no one wishes to buy, and presumably, to use).

Some people object to deriving income from any form of private ownership. But how could one defend the rejection of rent if one conceded any rights to private property at all? Others say that ownership of the means of production is essentially exploitative. But how could collective ownership by any groups less than the whole human race be appropriately justified?

That someone wants to make a profit or earn a wage tells us nothing ethically of what he wants the money for. "Mercenary interests" innocently translate into the objects and services individuals choose to purchase.

When reduced to its essence, the socialist objection does not criticize profits as such. Instead, it basically condemns private, individual choice rather than public collective decision making.

Social Framework and Prosperity

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"Political Order and Economic Development: Reflections on Adam Smith's *Wealth of Nations*." *Political Studies* (UK), 23 (1975): 430-441.

Current political science literature limits our understanding of the relationship between polity and economic development. An important defect is the largely unargued assumption that economic and technological development directly or indirectly determines political order. In arguing that the reverse is true, we can interpret the relevance of Adam Smith's *Wealth of Nations* to the contemporary problem of economic development.

The Wealth of Nations covers three key elements of a comprehensive theory of political economy: the character of a nation's administration of justice; the type of political authority; and, the coherence and effectiveness of authority systems.

Smith recognizes that law, order, and

the justice of public authority make possible the growth of a large, and therefore relatively impersonal, highly subdivided, and interdependent market system. The character of political order determines the motivation behind economic development. Private virtues can offset public vices. Defective justice, however, cripples the very basis of economic enterprise, the desire to work, and the incentives to invest productively. The type of political authority can limit not only the rate of economic development but the ultimate level of wealth which a nation's economy can attain.

Government coercion will not produce as rapid and secure an economic progress as that which may be realized in a society where the energies of the people are freely directed toward economic enterprise. This voluntaristic society is characterized by efficient, secure, and necessarily complex economic institutions which flourish, supported by appropriate political order.

Ecology and Rights

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"Ethics, Ecology, and the Rights of Future Generations." *Modern Age* (USA), 19 (1975): 260-271.

Do we have an obligation for the welfare of future generations? Yes, say advocates of environmental control and zero economic and population growth. No, however, we can reasonably conclude after examining the ethical and philosophical underpinnings of their arguments and policies. We have to consider the consequences of their economic approach to issues and problems.

The assertion that we have an obligation for the welfare of future generations, stripped of its rhetoric, involves a call for more power to government. Many propo-

sals, if successful, would bequeath to future generations not only socialistic conservation, but a technologically, scientifically, and economically backward society.

Rational decision about what to leave future generations would be made in a society in which no innovation would be possible. Many measures advocated by the ecology and antigrowth movements are decidedly retrogressive and are masks for elitist special interests.



Business' Social Ethics

Shaffer, Butler D.

In recent years many have vociferously contended that privately-owned firms have a "social responsibility" to alleviate a myriad of social ills (ranging from pollution to income maldistribution). Poised against these critics, and coming to the rescue of the supposedly besieged businesses, are the defenders of the paramount profit ethic.

Now we see a new twist to this conventional polarization. "Social responsibility" advocates are often members of the business community itself, rather than (as is generally assumed) representing "anti-business" interests. Businessmen are drawn to the guaranteed markets, stable tax-generated revenues, and noncompetitive environment in which government operates. These attractions encourage corporate officials to advocate programs of "social responsibility" which they can manage as funded government agencies.

Various corporations, including Litton Industries, operate Job Corp projects on a cost-plus guaranteed basis. Litton has also proposed operating public school systems on the same basis. Other firms have sought business management of urban traffic, housing, and urban development. Private security companies have sought to contract state and local police and fire department functions. We cannot consider such business proposals as marketplace alternatives to government services. For example, Litton did not wish to start privately financed schools to compete on the open market with public schools. It proposed, instead, its own private management of the government-owned and tax-financed public schools. In a similar vein, as the Vietnam War wound down in the late 1960s, several defense contractors suggested rechanneling defense money into solving "social problems"—under their management.

Businesses that assume roles as government agents operate on an undisciplined and subsidized "cost-plus" basis. Competitive efficiency and sharpness erode as each representative of the business sector takes on the motives and the operational structure of political institu-

"The Social Responsibility of Business: A Dissent." *Business and Society* (published by Roosevelt University), 17 (1977): 11-18.



tions. Suddenly, they feel no need to run an economic tight ship because tax dollars can cover for mismanagement and blunders. The firm now finds itself with an unlimited revenue base.

The immediate consequences of such a government-business "marriage" is the noticeable lack of efficiency which spreads from one partner and begins to rule the affairs of the other. And in the long-run, management myopia could produce a growing pattern of national politicization of economic activity.

Interested businesses often promote the "social responsibility of business" and may confirm Gabriel Kolko's thesis of the corporate state. A mixed economy results from the amalgamation of "government" and business. Government, through the regulatory process, would run the business system, and business, in turn, would run the government.

We must scrutinize the long-run consequences of confusing economic and business institutions. To the extent that businesses adapt the motives ("social responsibility") and operational structure of political institutions, they will lose market incentives for the efficient management of resources.

VI

Equality

The ambiguous slogan of Égalité has become the hallmark uniting numerous modern social trends. Oftentimes the conflicting claims of equality are advocated by rivals (e.g., the Bakke case). Sometimes we witness a striving to make persons equal in contradictory ways.

Can individual freedom, human diversity, and personal rights be reconciled with an equality in incomes, status, education, that is achieved by coercive means? How is equality of condition or result related to equal liberty and equality before the law?

Problems with Inequality

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"The Presumption of Equality." *Australasian Journal of Philosophy* (Australia), 53 (1975): 46-53.

If you treat people unequally, you must justify your actions. If you treat them equally, no explanations are necessary. This is the presumption (take something as established until you have contrary evidence) of equality. It differs from the Aristotelian formula of justice (treat equals equally, treat unequals unequally). And it contrasts with the egalitarian belief (based on Aristotle and "empirical belief") that it is relatively uncommon to find unequal persons who deserve unequal treatment.

There is no a priori principle which says we should presume people are equal. Thus, we should not presume at all. There is no a priori reason for treating A and B differently—or the same.

Since the egalitarian believes his empirical evidence shows that only in exceptional cases are people unequal, we can see why his theory of justice requires equal

treatment. This is not an a priori presumption but a conclusion based on faulty inductive generalization.

The Victorian jurist, James Fitzjames Stephen, in his *Liberty, Equality, Fraternity*, disallowed the claim that the "presumption principle" is a normative principle deduced from a priori premises. Following Stephen, it is stated that decisions will depend on inductive knowledge of a particular situation.

Stephen writes: "The notion that apart from experience, there is a presumption in favour of equality appears to me unfounded. A presumption is simply an avowedly imperfect generalization, and this must, of course, be founded on experience. . . . In precisely the same way, the presumption (if any) to be made in favour of equality must be based on experience . . ."

Only a man blinded by the imaginary glare of *Égalité* could suppose that there were relatively few grounds justifying discrimination. At the very least, the occasions on which justice demands unequal treatment are just as common as those on which it demands equal treatment.

Equality, Power, and Values

Tilman, Rick

The Chicago-Virginia school's version of free market libertarianism (e.g., Milton Friedman, Gordon Tullock, and James Buchanan) criticizes the Establishment in a fashion resembling the collectivist New Left radicals. This has prompted various theorists to seek common ground between each movement. These "convergence theorists" believe that the two camps display an underlying unity in their discontents, and to a degree even in their policy objectives.

We need to examine this "unity" alleged by convergence theorists such as Mancur Olson and Christopher Clague. [See "Dissent in Economics: The Convergence of Extremes," *Social Research* 38 (Winter, 1971): 751-776.] Our conclusion from assessing such significant issues as equality, power, decentralization, the market, and the origin of values, is that libertarians and New Leftists advocate fundamentally diverse ideologies.

A study of equality discloses how libertarians and Left egalitarians cherish radically divergent values. For the New Left, "equality" connotes government-sponsored egalitarianism. Ideally, state coercion (graduated taxation) is employed to institute various welfare schemes. In contrast, the libertarian distrusts government income maintenance and promotes the moral right of each individual to compete equally in a laissez-faire market that achieves inequality of results.

Different "images of power" also divide the New Left and libertarianism. Whereas the New Left suggests that coercive power in America emanates from private property ownership (and thus one's position in the capitalist system), libertarians analyze oppressive power as primarily governmental. Such fundamental differences in the conception of power lead to contradictory, rather than compatible, cures for social ills. Some of the New Left insist that the power and wealth of privileged capitalists must be "decentralized" from private hands, confiscated by the government, and redistributed. Liber-

"The New Left and the Libertarian Right: Notes for a Reappraisal of the Convergence Thesis." *Nebraska Journal of Economics and Business* 15 (1976): 21-36.



tarians, however, propose that in order to achieve economic growth and individual freedom, we must curtail central planning and public sector ownership.

The Chicago-Virginia school's libertarianism differs finally from the New Left in its view of the origins of values. In utilitarian fashion these libertarians concern themselves only with the scale of values reflected in the market. The New Left interprets this as meaning that there are no evaluative grounds to object to the market's allocation of resources, no matter how uninformed the consumer's choice is.

It is doubtful that the mutual political cooperation envisaged by convergence theorists for libertarians and the New Left will ever occur. For, as the divergent no-

tions of equality and power indicate, deep, unnegotiable differences separate the two movements. Implicit in the libertarian ideology is a dominant faith in individualism and the free market system. The libertarian couples this with the recognition that governments exert a coercive force which interferes with the interaction of supply and demand. Opposing

this doctrine, New Left values distrust free markets, prescribe governmental interferences, and advocate collective, rather than individual goals.

The New Left and libertarianism exhibit fundamentally different values, goals, and radically opposed ideals of the good society.

Unequal Income

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"Income Distribution in Two Experimental Economies." *Journal of Political Economy* (USA), 85 (1977): 1259-1271.

Empirical studies show that distribution of income and earnings reveal virtually nothing about socioeconomic structure in which the observed distribution was generated. We can study two institutional structures and populations that significantly differ from national economic systems and from each other. Yet between these two empirical measures of income, distribution was not dramatically different.

In two experimental economies, we focused on the income distributions which occur. In these studies, the only sources of income differences were individual tastes for income/leisure and individual abilities to perform work.

The first experimental economy was set up in a female ward for chronic psychotics at Central Islip State Hospital in New York. There, the inmates were rewarded for doing primarily custodial work by receiving tokens which they could use to buy goods not otherwise supplied by the hospital, such as cigarettes, coffee, candy, and additional recreational facilities. The jobs they could perform were simple enough so that each inmate could do any of the jobs



available; wage rates were announced and set to clear the market; and each inmate could work as much or as little as she desired.

The second experimental economy was set up to study the socioeconomic effects of marijuana consumption. Here, subjects had to purchase all their consumption goods (except their bed space) with money they earned from selling their handwoven woolen belts. Again, each participant had unlimited access to the looms and materials for making the belts and could sell all

that he or she made at an established price.

In both these experimental economies, then, the differences in income which occurred could only be attributed to differences in the individual's desire to work and his or her ability to perform the jobs available. After five weeks of study, the income distributions which resulted in both these economies closely resembled the income distributions found in the United States and other market economies.

In conclusion, those who assert that incomes in developed countries would be more equally distributed if all sources of income inequality, except abilities and taste differences, were removed are incorrect. The experimental studies support the contention that differences in real property ownership, luck, access to capital markets, discrimination, and nepotism are not major causes of income inequality in the United States. Such inequalities seem natural and inevitable irrespective of socioeconomic structures.

Equal Opportunity

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One version of equality of opportunity is "competitive equality of opportunity." This refers to principles that insure fair competition and that guide persons in distributing scarce opportunities. Two such principles are advanced. The first principle specifies that we must limit the criteria of selection in awarding these opportunities to those characteristics relevant to taking advantage of any opportunity. For instance, being a Catholic is not relevant to whether or not we admit someone to a university. The second principle requires that we guarantee all persons equal possession of all factors that affect the success of the competition and which are open to human manipulation.

The second principle is the crucial and questionable one. If persons compete for college enrollment, they compete unequally, on this principle, if their secondary education—whose quality is open to human manipulation—was unequal. Equal competition for some opportunity depends on an entire network of past opportunities which, on this view, we must make as equal as humanly possible.

Two basic flaws appear in this notion of equalized competition. The first problem surfaces from the following consideration. Suppose at time T-1, when the persons competed, all the relevant factors which affected one's success were as equal as possible, that is, the competition was conducted "fairly." But at time T-2, following

"Competitive Equality of Opportunity." *Mind* (UK), 86 (1977): 388-404.



this competition, some win the opportunities this competition provides and some do not. However, the stated principle sees this as just since everyone competed fairly. But further suppose, as is likely, that the next generation then receives unequal benefits which result from the fair competition at time T-2. When this next generation competes at time T-3 they do so with unequal factors. These inherited unequal factors which affect the success of these competitions are now unfair according to the principle in question.

Thus, the second principle stated above is incoherent. At time T-2 the distribution

of benefits is just; yet once competition is conducted following the principle of competitive equality of opportunity, the distribution of benefits at time T-3 becomes unjust because it achieves a distribution of benefits which violates the second principle. This incoherence continues as long as one generation relates to the next.

The second problem arises since equality of opportunity, as described, inevitably conflicts with liberty. The opportunities which a person enjoys largely depend on the choices of others. The only way to equalize opportunities for any competition is to infringe upon the choices of those who have the opportunities to dispense (unless,

of course, the dispensers voluntarily choose to be egalitarians). Some might object that it infringes on no one's liberty if those dispensing the opportunities are doing so among those who have achieved equal opportunities. But this objection ignores, once again, the historical nature of the problem. In order to consider the competitors equal in their opportunities at the time when the dispensers of opportunities conduct the competition, one would need to equalize past relevant opportunities. This equalization entails infringing on the liberty of those who earlier dispensed opportunities.

Equal Liberty

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"The American Ideal of Equality: The View from the Founding." *Review of Politics* (USA), 38 (1976): 313-331.

One may question the conventional historical view (Beard, Parrington, Smith) that America progressed via sporadic overcomings of an antidemocratic constitution. Seen from the perspective of the Founding, the Declaration of Independence does not entail economic equality but rather that all men are equally entitled to liberty. Consent is necessary only to institute, not operate the government. Accordingly, the Declaration is neutral as to the form of government.

The American Constitution embodies the decision to secure equal liberty under a democratic government. Democracy is not the end but the means for securing liberty.

Such an arrangement contrasts with Jacobin democracy and Leninism which see democracy as the end of human existence. While the Founders departed importantly from ancient political beliefs that natural human inequalities constitute an entitlement to rule, they were also skeptical of democracy. Unrestrained de-



mocracy was an invitation, they thought, to disaster. They expected no transformation of human nature such as would warrant untrammelled majority rule.

Since inequality of excellence is rooted in human nature, it will manifest itself in society. Thus, the Founders intended a political order in which natural excellence, rather than artificial privilege and pretense, would flourish. The issue was not how to extinguish inequality, but rather it was how to decide best to cope with it, how to allow inequality its ambit, and above all, which inequalities to let flourish.

Equality of Condition

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Equality before the law differs critically from equality of condition or result. The concept of condition or result has reached extraordinary power with intellectuals; John Rawls's egalitarianism and distributionism theories are the root of much of this. As these intellectuals influence the political mind, liberty and authority will continue to decline.

Unless free men soon discern the distinctions between the two concepts of equality, Western Civilization is headed irreversibly towards a peculiar form of despotism.

The "servile state" is upon us. The secret of its achievement is simple: "By concentrating upon the inequalities which exist in any more or less free society, especially the inequalities observable in the economic sphere," redistributionist legislation and bureaucrats produce forms of inequality greater than those eradicated. This process is rendered more or less painless by the rhetoric of egalitarianism and social justice.

"The Fatal Ambivalence of an Idea: Equal Freeman or Equal Serfs?" *Encounter* (UK), 47 (1976): 10-21.



The Egalitarian State

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Hilaire Belloc (1870-1953) was part of the "libertarian Catholic" tradition that had such illustrious nineteenth-century predecessors as Lemennais, Lacordaire, Montalembert, Newman, Manning, and Lord Acton. Belloc's strong personality wedded Catholicism to the radicalism of William Cobbett and the French Revolution. He also shared the earlier intellectual humanism of Sir Thomas More whose *Utopia* describes a form of society advocated in Belloc's classic, *The Servile State*.

In his 1913 prophetic book, Belloc anticipated and dissected the contours of the emerging egalitarian welfare state which

"Introduction" to the Liberty Classics reissue of Hilaire Belloc, *The Servile State*. Indianapolis: Liberty Classics, 1977; original edition, 1913.

he trenchantly labels the "Servile State":

That arrangement of society in which so considerable a number of the families and individuals are constrained by positive law to labor for the advantage of other families and individuals as to stamp the whole community with the mark of such labor we call the servile state.

Indeed, in the 60-odd years since the publication of *The Servile State* the liberty of the



individual has suffered continuous erosion. Two world wars intervened with their collectivizing of nations and the trends towards totalitarianism and bureaucratic centralism, which divided people into two castes: workers and drones.

Increasingly, more families and indi-

viduals in the United States and the West are harnessed to a semiservile status. This servile caste is legally constrained (through the progressive income tax and other requirements) to labor, not for themselves, but "for the advantage of other families."

Historically, Belloc celebrated the Middle Ages as the abolition of slavery and servile status. It brought the only remedy he saw for the inroads of servility: wide distribution of individual property-tenure to promote economic independence. He saw the Reformation as a backward step politically, economically, and socially, which unleashed personal economic insecurity and modern despotism. The propertyless masses, helpless and dependent, were ripe for paternalism and lent a willing ear to the seductions of socialism and the servile state.

Belloc's and G. K. Chesterton's solution to the servile state was their economic-political doctrine of "distributivism." This prescribed that everyone should own property, be self-supporting, and, since independence, would be immune to government promises. Such freeman would have no need to abandon individual freedom in the name of welfare paternalism.

Sexual Equality

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"Sexuality and Civil Liberties." *Political Quarterly* (UK), 48 (1977): 313-327.

We need to untangle the complex web of issues surrounding sexual conduct in relationship to civil liberties, legal rights, state imposed "equal opportunity," and private toleration. This becomes clear when we consider the law relating to homosexuality. Clear dangers appear in-

herent in reformist attempts to legally guarantee and sanction full equality for all forms of sexual conduct. As a saner alternative to legally imposed acceptance of minority (e.g., homosexual) lifestyles we might consider private social tolerance and compassion.

A recent example of "discrimination" involved a Canadian university against a college teaching assistant who publicly associated with the "Gay Community Centre." The university dean ordered the assistant removed from his duties as a supervisor of student teachers. Significant in this case are the general points raised rather than the individual personalities involved. Most importantly, we must scru-

tinize the legitimacy of the argument from the "Committee to Defend" the gay assistant. It demanded the dean reverse his decision and, in the future, prohibit all "discrimination" on the grounds of sexual orientation in the university.

Such protagonists are not content with legal reforms passed in the 1960s that forbid criminal prosecution against private, voluntary, adult homosexual behavior. Such legitimate reforms rest on the sound classical argument by John Stuart Mill in his essay *On Liberty* (1859), who distinguished the sphere of private morality from public legality: "The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, over his own body and mind the individual is sovereign." But the more recent reformers now argue: "Legal acceptance does not necessarily mean social acceptance." They seek to remedy this defect by further legislation that coerces conformity and "tolerance."


Such demands that the law prescriptively recognize homosexuality and give it full parity with other forms of sexual expression are misconceived. Such demands, if legally enforced, would strain the fabric of law, endanger the bases of toleration, and lead to a proliferation of unfounded legal "rights."

We can clarify the unwarranted escalation in the reformists' program. In the 1960s they advanced the argument that it does not follow that because something is immoral, it should be made illegal. Next, they argued that if it is not illegal, how can anyone say an act is immoral? This dialectic culminates in the argument of the 1970s, that since antihomosexual beliefs can only be subjective and bigoted opinions, the law should prevent persons from acting on them. Thus, people liberated from one legal imposition (criminal prosecution of private sexual acts), attempt to burden others with new legal impositions. The new reformers seek to exact compliance in the attitudes of nonhomosexuals. They concern themselves with status rather than true liberty. They wish for official recognition and legal enforcement of their normal status.

In sum, the reformers of the 1960s

sought change by excluding the state from private bedrooms. The new sexual reformers of the 1970s turnabout and invoke the state and its power of imposition, compulsion, and coercion through such bureaucratic machinery as Human Rights and Equal Opportunity Commissions. The state's role has enlarged and circumscribed the individual's role and choices.

Undue reliance on the state and law still bring both into disrepute and pose a threat to freedom. The reformers now urge the law, once concerned with only the necessary minimum of moral conformity (no violence, fraud, etc.) to seek out heterosexual dissenters. Individual choice, found wanting by the new reformers, must yield to the new statism.

By multiplying newly discovered legal "rights" (e.g., the homosexual's "right" to teach despite the moral concerns of administration and parents of other students) we must necessarily violate other individual rights. A sounder way to win social acceptance for homosexuality is through private compassion and tolerance. Legally coerced acceptance can only cause polarization, resentment, and intolerance. Since state law was once the instrument of oppression, are homosexuals prudent in entrusting their protection to a growth in state power? 



VII

Power

Liberty vs. Power is an issue classically expressed in the debates leading up to the American Revolution, in the Declaration of Independence, and in our cover subject's (George Mason) efforts to include the Bill of Rights within the U.S. Constitution. The power that the Founders opposed was government hegemony based on the rule of violence, the substitution of the ruler's decisions for those of individual choices in society, and the exploitation of the ruled for

the benefit of the ruler. Power thus usurped the free individual's right to self-responsibility, freedom from violence, and capacity to make personal choices and benefit therefrom.

What is the anatomy of government power in its origins, growth, and consequences? Must power inevitably lead to the welfare-warfare state, empire, or Watergate? How valid, in sum, is Lord Acton's much quoted axiom of power's tendency to corrupt?

Empire, Equality, and Envy

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Egalitarianism and Empire. Menlo Park, California: Institute for Humane Studies (1975) 32 pp.

Civilizations have evolved historically according to a syndrome of "E" factors: equality, egalitarianism, envy, and empire.

Equality of opportunity before the law tolerates differences in income, property, or status. Egalitarianism desires to level and eradicate even such inequalities. Envy hates and resents the person who possesses more than the envier does (e.g., beauty, wealth, status, or power). Empire, the drive towards a centralized, bureaucratic state, is the historical offspring begotten by the hate of envy coupled with egalitarianism.

Weber, de Tocqueville, and more recently Robert A. Nisbet (*The Twilight of Authority*) underscore this trend to empire

or centralized statism and rule by bureaucracy. In discerning these symptoms, Spengler diagnosed civilization as declining in freedom and creativity while power and centralization of power were increasing and blocking creative energies.

The development of the "E" factors syndrome parallels a shift in the source of value or law. The West has drifted beyond equality towards egalitarianism and democracy. These values depend on more primary sources of value or law: supernatural law (God's plan), natural law (reason and experience), and positive law (state law). Each of these three concepts historically follow a sequence related to the "E" factors. Societies begin developing with a value system based on supernatural law. The breakdown of feudalism and the growth of equality follow natural law. Egalitarianism and empire subscribe to positive law and a belief in the state as the ultimate source of all value and law. Envy

and resentment goad on this last development.

The egalitarian thrust of "social justice" (essentially a program for leveling income, property, and status) contradicts the idea of equality. For many, egalitarianism masks an envy to replace those at the top regardless of whether their position arose from state-granted privileges or from superior ability and hard work.

Why do so many people believe that state intervention alone can achieve social justice? This follows from their belief that the state is the source of value and law. Trapped within the blinkering paradigm of the state, society becomes fixated on state solutions and is blind to the possibility that statism may be the problem.

In the West, statist developed a policy of mercantilism: the state allows private property but the rulers regulate the economy for the "general welfare." This inherently unstable mercantilistic state system tends toward "corporate syndicalism" where rival economic interests jockey to control the state. This condition results in three sets of critics: (1) reformers seeking to return the system to a "responsible" mercantilism; (2) socialists seeking to go

beyond mercantilism and abolish even the nominal private ownership; and (3) free market advocates seeking to abolish mercantilism. These last mentioned critics view state intervention as the root problem.

Mercantilism tends toward empire or centralized state power. To solve the evils and instability of the mercantilist system, the state assumes ever more power to regulate. To avoid government by vested interests, man turns to government by a supposedly impartial and impersonal bureaucracy. Now an elaborate tug of war for state power occurs between the ruler, the bureaucracy, the economic interests, and the people as a whole. An added complication introduces the military to restore final order.

Bureaucracy, begotten to promote equality, spawns the Frankenstein monster egalitarianism. Envy and egalitarianism serve as the heart of this complex interaction of values and the "E" factor syndrome. One can trace this process by carefully examining the historical development of ancient Greece, Rome, China and the modern West.

Imperial Presidency

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Since 1941 Americans have abandoned their isolationism and trusted an imperial presidency to conduct U.S. foreign relations. Liberal governments stressing "strong executives" used this as a mandate for foreign interventionism and domestic antidemocratic practices. They soon found themselves at war with the basic instincts of the American public for peace. The liberals' passion for political centralization and their search for a totally organized world to achieve stability and peace brewed a disastrous foreign policy. Abroad the result has been a "perpetual war for perpetual peace"; at home, a governmental system of executive royalism.

It is not accidental that American liberal promises of reform are followed by the

"The Ideology of the Executive State: Legacy of Liberal Internationalism." *Watershed of Empire*. Edited by Leonard P. Liggio and James J. Martin. Colorado Springs: Ralph Myles, 1976: 1-18.

reality of war (World Wars I, II, and Vietnam). Within the ideology of American liberalism there exist the seeds of the war-making state.

By its global, missionary foreign policy, liberalism drains American resources and thereby neglects domestic needs. Liberalism thus fails to deliver its promises and provokes dissent. What survived the liberals' aborted crusades was the powerful engine of the central state. In the frus-

trated attempts to push through reform measures involving "equality" and "democracy," liberalism turned to antidemocratic centralization and government by "expert" elites to secure unity.

All this drift to the Leviathan state encouraged a bipartisan imperial presidency which followed an aggressive foreign policy. How better to use a strong central government and instill national unity in a fickle people who might otherwise resent the failed domestic programs of reform?

The executive state grew deeply suspicious of mass, popular politics. Professional elites alone, rather than the people,

were deemed expert to shape delicate foreign policy decisions. Public debate on key issues was forbidden. In fact, the American public has consistently shunned war or policies leading to war. Unifying the apparently inconsistent U.S. popular enthusiasm for neutrality and isolationism (during the 20s and 30s), and the internationalism following World War II, was the belief that, in context, both policies seemed the best ways to avoid war. Liberal theorists could not tolerate any public unwillingness to "pay any price" for the risky business of global interventionism by a centralized imperial presidency.

Empire and Inflation

Hamilton, Earl J.
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"The Role of War in Modern Inflation." *Journal of Economic History* (USA), 37 (1977): 13-19.

Clear causal connections link wars and consequent inflations from the seventeenth through the twentieth centuries.

Although wars occurred more frequently in the seventeenth and eighteenth centuries than in the nineteenth and twentieth, earlier conflicts generated less price inflation because of the comparative dearth of real resources consumed in earlier wars.

Inflationary finance supplied significant resources for both the American Revolution and the French Revolution. During the Revolution, Americans so detested and resisted direct taxation to support the war that Congress failed during some years to extract tax revenues from many colonies. In lieu of taxes, the only way Congress could finance the Revolution was through paper money inflation. As a result, the country suffered one of the worst inflations in modern times.

Stemming from war financing, France suffered its only hyperinflation during the French Revolution. The French financed their Revolution by issuing fiat money in

the form of assignats. The inevitable hyperinflation that followed led the authorities to another fruitless experiment in agricultural price controls. Farmers then withheld their produce and near starvation set in. Finally, the government removed price controls and from 1790 to 1796 the assignat dropped to less than 1/1000 of its original par value. Napoleon, on the other hand, relied mainly on direct taxation rather than money creation to finance his wars.

Likewise, the famous British price inflation of this period was slight compared to modern examples; prices rose only 15-20% more than they would have if tied to gold from 1797 (Bank Restriction Act) to 1815 (Waterloo).

During the nineteenth century in America, the War of 1812 and the Civil War both led to painful price inflations (for both wars, around 120% price rise spread over several years). But World War I produced price rises in the belligerent countries that made previous price inflations (whether generated by war or specie discoveries) pale in comparison. American prices over several years again rose 120%; whereas German prices from 1919 to 1923 skyrocketed in terms of the worthless mark.

World War II sent commodity prices soaring. A large portion of recent U.S.

inflation, along with much of Western Europe's, was caused by American military involvement in Vietnam. Political leaders in both major American parties were unwilling to pay the costs of that war through current taxes.

Thus during the past two centuries, wars and revolutions (in which citizens show reluctance to pay "costs" directly) serve as the principal causes of hyperinflation in industrial countries. From a purely economic point of view, some see current taxation as the best way to finance wars. Bookkeeping and administrative costs would amount to less. Government

and private sectors would be spared the headache of accounting, in both nominal and real terms, for prices and costs. Also ruinous war debts would not mount, and we would see the "costs" of wars more clearly.

This last consideration also explains why political leaders do not adopt current taxation. Educated people would quickly perceive that the cost of the war outweighed any possible benefits and would demand peace. Inflation as a hidden tax is far easier for politicians to levy, rather than resorting to straightforward direct taxes.

Watergate as a Symptom of Empire

Bernstein, Barton J.
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Presidential rascality and improprieties did not begin with Richard Nixon.

Watergate conjures up presidential illegalities such as break-ins, violations of privacy, cover-ups, and abuse of national security personnel (FBI, CIA, and Justice Department). In important ways, President Nixon's misuse of power followed similar abuses of the executive power that often invoked "internal security" and used the FBI for personal ends. Watergate was merely the culmination of a long series of abuses in presidential power since 1940 in both domestic subversion of civil liberties and in foreign affairs.

First let us consider domestic abuses. In the administrations of Roosevelt, Truman, Eisenhower, Kennedy, and Johnson we witness some presidents and their attorneys general manipulating the FBI for political espionage. All of these presidents accepted political information on friends and enemies, and all permitted the FBI to act outside the law. Presidents often exploited "national security" as a cover to justify many illegal acts, including break-ins. During the Cold War, the FBI played on the fear of communism to try illegally to disrupt several leftist groups. Presidents and their attorneys general were either ignorant or preferred to acquiesce to such illegalities. They made no attempt to restrain J. Edgar Hoover's unsavory harass-

"The Road to Watergate and Beyond: The Growth and Abuse of Executive Authority Since 1940." *Law and Contemporary Problems*, Duke University School of Law, 40 (1976): 58-86.

ment of civil rights leader, Martin Luther King. President Johnson even used the FBI to spy on his political rivals in the Democratic and Republican parties.

Not until Watergate did the press and public seem outraged by the illegal acts permitted the FBI by modern presidents. Despite the current furor about the Watergate break-in, little concern seems to be expressed about the far more severe disruption of leftist political groups.

Next, on major foreign policy issues, the record shows that during the 30 years before Nixon, every administration deceived and manipulated Congress and the public. In the aftermath of World War II, modern presidents used covert warfare against many nations. Richard Nixon did not invent deceit and dishonesty. Inheriting these "dirty tricks" from his presidential predecessors, he did not fear violating the law. He expected, like them, that he would not get caught. Nixon's predecessors' policies in foreign affairs were serious affairs. Watergate, although a corruption of the political process, did not involve life and death issues.

The Pragmatic Presidency

Miroff, Bruce

"Reassessing the Modern Presidency." Chapter 7 in *Pragmatic Illusions: The Presidential Politics of John F. Kennedy*. New York: David McKay & Co., 1976: 271-327.

John Kennedy's presidency exposes the myth that the modern presidency can serve as a progressive instrument of change if only the right liberal or reformer occupies the White House. Predictably, no liberal will use his office to create a thorough transformation of American politics. Only those who have a real interest in change can create such a transformation. In contrast, modern presidents will tend to impede progressive changes since they are products of the status quo order and subject to that order's strong institutional, ideological, and power pressures.

Kennedy's foreign and domestic politics deflate the illusions of the modern "pragmatic" presidency. Behind the apparent pragmatism we see the actual pursuit of power. In foreign affairs power appears in the guise of an interventionist imperial presidency pursuing American liberal-corporate interests. Kennedy's domestic politics revealed a willing partnership between government and business to make the American economy prosperous. His Keynesian program of the "New Economics" sought primarily to benefit—in wealth and power—the corporate community.

Even in liberal hands, the modern presidency functions as a stabilizing force to the existing order rather than a progressive, reformist force for change. The president's role is to maintain and expand the prevailing American domestic and foreign order. In this regard, Kennedy's presidential record belies his reputation as a true reformer. Behind his charismatic image of popular hero lies his actual promotion of establishment power and values.

Thus, Kennedy's foreign policy failed to be either very progressive or even pragma-

tic. Resurrecting a distorted notion of Soviet global aggression, Kennedy heated up the Cold War to dangerous levels. At the risk of nuclear war, he intensified the confrontations in Berlin and Cuba. Despite his test ban negotiations in 1963, he waged the Cold War in the Third World. His imperial presidency stands revealed in his policy of "democratic revolution" in Latin America and in his counterinsurgency policy in Vietnam. In sum, his foreign policy continued the nonprogressive agenda of earlier presidents: containment of communism and expansion of American power and interests. Every president since Roosevelt has followed the model of Woodrow Wilson and endeavored to bring American "order" to a changing world.

The modern presidency—regardless of officeholder—seems schizophrenic. In domestic goals it has tended to be modest; in foreign affairs it has been assertive and bellicose. This is understandable. Domestically, American political power is split up among the branches of government and various private interests through a complex bargaining system. In foreign policy, monopolized control and executive centralism are the rule.

The domestic reforms of Roosevelt, Truman, and Johnson either did not cut deep (since they sought political advantage rather than true reform) or modified existing power relationships only in order to preserve them. On their domestic agenda, presidents do not seek primarily to cure inflation or unemployment so much as to stabilize corporate capitalism. By contrast, progressivism historically sought to restrict corporate power and redistribute wealth.

The nature and functions of the presidency sifts out any progressive candidates. All presidential candidates are minutely screened. They must pass muster and be acceptable to the established powers: corporate leaders for financial support, party leaders, and the dominant interest groups. The national media

further molds candidates into conformists or else it destroys them by branding with an "extremist" label.

Once in the White House, additional forces confirm this orthodoxy and conformity. Again, Kennedy's administration exemplifies the interaction of political demands and personal ambitions in main-

taining presidents as nonprogressives. Presidents seeking global activism are willing agents to those established advocates of American economic, political, and military expansion. Presidents are also politicians who must carefully calculate and bargain with the existing corporate powers if they seek reelection.

"Absolute Power" and Corruption

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"Nixon's Challenge to Carter: No More Mr. Nice Guy." *Foreign Policy* (USA), 29 (1977): 27-42.

We need a critical analysis of the conventional liberal wisdom on the origins and implications of the "Watergate crisis" during President Nixon's administration. By personalizing and criminalizing Nixon's motives, liberal critics avoid confronting some of the deeper lessons offered by the Watergate crisis. These center around the necessary relationship that exists between an administration's foreign policy and the domestic policy which it pursues. In fact, many of Nixon's critics strongly supported the major foreign policy objectives of the Nixon-Kissinger administration (energetic diplomacy in the Middle East, the opening to China, détente with Russia, and extrication from Vietnam), decrying the administration's systematic violations of political and civil liberties at home.

A certain diplomatic and domestic political style is a necessary concomitant of foreign policies. It is at best inconsistent for Nixon's critics to support the basic outlines of the Nixon administration's foreign policies while focusing their criticism on its domestic policies. Nixon's pursuit of a global, interventionist foreign policy necessarily generated manipulative, repressive internal politics. In order to wage a tough, effective foreign policy, he had to maintain social discipline to pacify the silent majority and to suppress the articulate minority. As Nixon stated in his T.V. interview with David Frost:

The actions I took with great reluctance, but recognizing I had to do what was right, the actions that I took in Vietnam: one, to try to win an honorable peace abroad; and two, to keep the peace at home, because keeping the peace at home and keeping support for the war was essential in order to get the enemy to negotiate. And that was, of course, not easy to do in view of the dissent and so forth that we had.

We must challenge the fundamental liberal tenet that one can pursue the same substantive policies by replacing "bad" people with "good" people in an effort to avoid the same excesses in the domestic sphere. The underlying problem lies not with the moral rectitude of specific individuals chosen to lead America, but with the assumptions and objectives chosen to guide our foreign policy. As long as liberals refuse to systematically reevaluate these assumptions and objectives, it will be futile to oppose the fruits of such a policy. Therein lies Nixon's basic challenge to Carter: how long can Carter remain Mr. Nice Guy if he insists on pursuing essentially the same foreign policy objectives that the Nixon-Kissinger administration pursued?

A global, interventionist foreign policy necessarily results in a major expansion of state power domestically. Strenuously opposing interventionism in both the domestic and foreign spheres will banish future "Watergates." ■

VIII

Planning vs. Choice

The concluding set of summaries surveys the nature and consequences of abridging human liberty through regulation in various spheres of human action (e.g., economics, education, and ecology). Regulation and centralized government planning are set in opposition to individual voluntary

choice. The series ends with the benefits of private "planning" over public planning based on bureaucracy and master plans. This set of summaries concretely recapitulates the contrast between spontaneous and nonspontaneous order and the conflicts in paradigms of human freedom.

Origins of Planning

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"Regulation in America: A Review Article." *Business History Review* (USA), 49 (1975): 159–183.

McCraw's survey studies economic regulation by state and federal commissions in the extensive literature of four disciplines—history, political science, law, and economics. The collection proposes a confusing number of alternative explanations for the regulatory behavior. These studies call into question cherished views of business-government relations and the true nature and actual results of Progressive and New Deal reforms, as well as the wisdom and efficacy of planned interference with market forces by the state regulators. The ill-defined notion of "public interest" so often invoked by regulators serves as no more than a slippery touchstone to guide their interventions.

The "public interest" model (which stressed the benign role and public-spirited motivation of the regulatory agencies) fails to adequately characterize all of American regulation. Similarly, the

"capture" thesis (proposed by socialist Gabriel Kolko and various free market economists of the "Chicago school," who claimed that the regulators were the agents of the "regulated"), is deemed inadequate.

Despite the vast literature on regulation, scholars still have only a vague idea of what went on inside the commissions. Their puzzlement arises from the complex interplay of contending interest groups, the relationships among commissioners and career staff members, and especially the connections between regulatory policy and perceived bureaucratic imperatives.

Commissions seldom followed paths that would diminish their own power or importance. Instead they pursued policies that would promote their institutional growth and survival. The inconsistent regulatory policies over the last 100 years suggest that the commissions' highest loyalties sometimes were neither to the "public interest" nor to the regulated industry (as the capture thesis would hold), but to regulation itself. Regulation was

the regulators' job, and they did not intend to close up shop. Regulation promoted as an end in itself begot an independent social force which may have had substantial

cumulative influence. But this area remains largely unexplored by scholars and may require concerted interdisciplinary research.

Bureaucratic Growth

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Morris Beck in a recent article, "The Expanding Public Sector: Some Contrary Evidence," *National Tax Journal* 39 (1976): 15-21, claims that the real growth of the American public sector adds up to less than the public sector's 31% share of gross domestic product would imply. But contrary to Beck's claim that, "in real terms the era of public sector growth in most developed economies may have ended," the actual data suggest that the public sector runs out of control.

During the last 20 years, the jump in the salaries of civil servants caused most of the rise in the government price index. However, civil servants were not earning less than nongovernment workers in 1950. How then, do we explain the relative rise in government salaries?

We can find the answer in the political power of civil servants themselves. At first, when bureaucracies are relatively small, bureaucrats employ their efforts and votes to expand the physical size of the public sector. This policy continued until

"The Expanding Public Sector: Wagner Squared." *Public Choice* (USA), 31 (1977): 147-150.

the early 1950s. However, once bureaucrats reach some critical size, they then use the political power (i.e., votes) to vote themselves higher salaries. While the share of the population employed in the public sector may be reaching a limit, this does not imply that the government budget itself is reaching a maximum.

Insofar as government spending continues to expand without increasing productivity in the public sector, we will witness a mixture of lower wages in the private sector, inflation, and unemployment where there exist downward wage rigidities. Hence we can partially explain the "stagflation" of the 1970s by the growth of the public sector salaries relative to private sector salaries.

Prediction and Control

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In 1972, a new federal bureau, the Office of Technology Assessment was established to advise Congress on legislative problems related to new technology and its probable impact. This is a political response to such crises as energy, population, and food supply. Government systems analysts will assess proposed technological change chiefly by cost-benefit calculations. Unfortunately, such a quantitative approach fails to ask about wider social and other immeasurable costs and be-

"Technology Assessment from the Stance of a Medieval Historian" (Presidential Address to the American Historical Association). *The American Historical Review* (USA), 79 (1974): 1-13.

nefits. The limits of knowledge or ignorance of history vitiates this approach which is blind to the complexity and un-

foreseeable ramifications of the effects of technological changes in the past.

To illustrate the limitations of government central planning and predictions in assessing technology, we can survey a few Western medieval innovations and their unforeseeable impacts. Even the most prescient medieval government futurologist could not predict certain developments. For example, brandy-alcohol was at first welcomed as a boon, a medicinal *aqua vitae* without forebodings about its social harm. Shortsighted cost-benefit analysis, based on limited knowledge, would have woefully misassessed the new medieval crossbow, longbow, artillery, and gunpowder weapons. Who, also, could foresee that chimney flues by providing separate private sleeping and living rooms would promote such seemingly remote and unrelated consequences as the art of love and

the spirit of individualism with all of its enormous social impact? How far into the future can the sharpest eye look and trace the sequence that leads in intricate steps from the invention of the spinning wheel to linen rags and paper, which in turn allowed cheaply produced books and the disturbing consequences of disseminating radical ideas and creating social unrest and revolution among the masses?

Other case studies such as the invention of eyeglasses and knit textiles (promoting infant longevity which led to the cult of children) show the limits of central planning and forecasting. Technology assessment must be based not simply on measurable elements but more so on the imponderables and unexpected. Systems analysis must become cultural analysis with a deep sense of history and its sense of the unexpected.

Government Planning

Weidenbaum, Murray and Rockwood,
Linda

"Corporate Planning versus Government Planning."
Public Interest (USA), 46 (1977): 59-72.

Advocates of national economic planning who equate corporate planning with government planning are misleading. One can recognize a fundamental distinction between members of a society forecasting and reacting to the future, on the one hand, and the government of that society trying to regulate or to control it, on the other. Further distinctions arise between the two types of planning. Usually a restricted group, notably the company's officers, employees, and shareholders feel the consequences of errors in corporate planning. However, everyone in the society, both in their roles as taxpayers and as consumers, suffers from errors in government planning. Also, the information and analysis of corporate planning, which typically focus on individual sectors of the economy, are far less formidable than gov-

ernment planning which, of necessity, must encompass the entire economy.

We can also study the historical record to evaluate the planning experience in private corporations. Surveys of the growth of corporate planning conclude that relatively few companies have in fact developed effective planning operations although many have tried in vain. Many of the same corporate constraints that have limited the success of business planning will also frustrate efforts to expand the scope and success of government planning. Thus, not only have advocates of national economic planning erred in equating corporate planning with government planning, they have also considerably overestimated the actual success of planning efforts within the private sphere.

Long-range planning efforts within private corporations have achieved very mixed results. But the government, with formal long-range planning systems, has experienced even more dismal results. In particular, when Lyndon Johnson introduced the Planning, Programming, and

Budgeting System (PPBS) in 1965, some people hailed it as "a very new and very revolutionary" system. It soon proved abortive and subsequently the White House dismantled it. Given the government's failure to implement long-range planning with regard to its own ac-

tivities, how can we reasonably expect it to plan the activities of an entire economy?

The crux of the national economic planning debate rests not on planning versus no planning but rather on who should plan: the government, or all the participants in the economic process?

Government Experts

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What do working economists serving as government policy advisers and analysts actually do?

The results of interviewing some 60 government economists (most of whom were academicians on temporary government assignment), debunk a myth. The typical government economist does not live up to the glamorized image of a high powered technician employing the panoply of sophisticated tools of modern economic science to grind out welfare-maximizing policies divorced from political pressures. The interviews asked: What does the government economist do? Under what circumstances? For what specific audiences? Pressured by what constraints? With what economic methods? And with what observable impact?

Not unexpectedly, the interviewer found that the government economists did not devote most of their time to calm academic meditation on the larger questions of the universe, nor to constructing elegant econometric models. Instead, these economists tend to become "quick-draw specialists." The scant time at their disposal creates their major problem: insufficient time to think through the policies they must devise. Deadlines of only a few hours constantly loom over their hastily scribbled memos and pronouncements. They find little time to analyze existing data on any subject; it is quixotic to dream that one can add anything new through original research. Living off their intellectual capital, government economists go stale after a very few years.

In addition, the constraints of working within the existing career bureaucracy

"Economics, Economists and Economic Policy: Modern American Experiences." *History of Political Economy* (USA), 9 (1977): 48-88.



and of hewing to party lines to keep their politicized jobs attenuate their impact. To maintain their "credibility" for the major battles, many accept "small" compromises of their integrity on issues they judge unimportant. When the compromises demanded became too enormous, some have

no alternative but to quit.

What kinds of theoretical tools did the interviewed economists wield in their government jobs? Rarely did they employ anything more sophisticated than basic economic principles. More elegant models and techniques were simply not usable for the daily rough and ready decisions; they would have been unsuitable for advising their primary audience: noneconomists and politicians who demanded simplified, elementary explanations and policies. They did not consider this a great defect,

however, since even elementary economics has much to teach such noneconomists.

Such is the demythologized governmental world and its limits within which the government economist labors. A moral is permissible for conjecture on how to improve governmental decision making, or the advising of decision makers. We suspect we might increase social welfare by "minimizing" the number and scope of governmental activities upon which government economists expend their scanty hours.

Useless Usury Laws

Oeltjan, Jarret C.

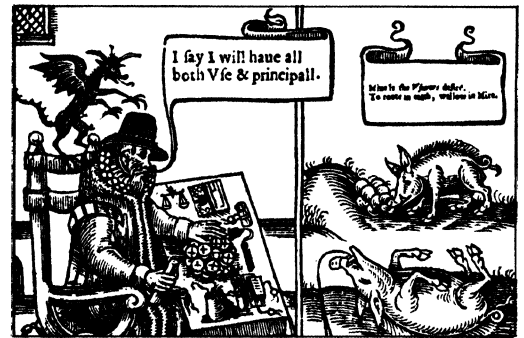
Florida State University, Law School

"Usury: Utilitarian or Useless." *Florida State University Law Review* (USA), 3 (1975): 169-235.

Debtors pay the direct and indirect costs for complex usury statutes. To determine this, we can survey the current system of credit regulations, including the historical development of modern credit transactions, the escalated use of credit cards, and the contemporary hodgepodge of legislative and judicial exceptions to the usury laws. We can also examine the methods used to avoid usury laws.

Current usury laws constrict certain types of credit. Supporters of these regulations have often based their arguments on myopic views of society and its needs. They have devised hypothetical arguments to justify a system of ad hoc regulations detrimental to the financial and social structure. Neither the educationally and economically deprived (the supposed beneficiaries of protective or low-rate usury laws) nor those sophisticated enough to avoid the pitfalls, benefit from the present arrangements.

One can develop five models of a credit system: (1) organized inaction (a stopgap arrangement that ideally would unify all rate ceilings, rates, exceptions, and com-



plexities into a single comprehensive statute); (2) loan sharking plus (a system that traditional usury laws have stimulated rather than restricted); (3) public utility (increased regulation would be a drastic error because of the constant tug of war between consumer groups for lower rates and industry for higher rates); (4) free market system (which opts for maximum competition); and (5) compromise (which would allow parties to agree but would give courts retentive power to declare contracts usurious if excessively harsh).

The free market model would best fit the needs of the general population. The goal should be to stimulate competition among lenders. All institutions should be free to enter and compete in the lending area with little government intervention. The present system should be revamped in the direction of the free market model.

Wartime Regulation

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The Imperial German wartime experience with mobilizing the aircraft industry reveals how wartime controls distort the nature of the economic system. One control inevitably leads to the need of others. The final step is complete nationalization if we pursue the full logic of intervention.

During World War I the Prussian army increasingly intervened in controlling the nascent German aircraft industry to guarantee an adequate supply of military aircraft. Even before the war, the Prussian Army effectively monopolized the aviation consumer market by strangling sport aviation to assure the industry's concentration on military planes. This military monopoly allowed the Army to control competition within the industry and to expand more stringent controls for the construction and type of military planes.

From the beginning of the war, the German government substituted non-market controls for market price signals. Attempts to mobilize the industry laid bare the scarcity of human and nonhuman resources as well as the competing claims of other wartime uses of the same resources.

In its attempt to hold prices down and preserve a pool of skilled labor within the aircraft industry, the Prussian War Ministry found itself interfering in management-labor relations and mandating wage increases. Paradoxically, it also found itself compelled to ratify price increases even while aiming at preventing these increases. Such interference in labor relations escalated state involvement in economic activity generally. Efforts to control raw material prices for aircraft were doomed because the relevant department was controlled by the same industrialists who stood to gain from rising raw material prices.

Officially, the War Ministry's policy had been to free competition among producers as a means of holding down prices. But successive wartime interventions led to forced syndication (*Zwangssyndizierung*) of the entire industry. Controls were piled

"Industrial Mobilization in World War I: The Prussian Army and the Aircraft Industry." *Journal of Economic History* (USA), 37 (1977): 26-51.

on controls, but ambivalence in the War Ministry gave no coherence to these controls. Despite the success of the army's mobilization of the aircraft industry, military regulation of the German economy in general was inefficient.

The illogic and contradictions of the controls is illustrated in the wartime Euler-Siebert debate. One "gadfly" manufacturer, August Euler, refused to enter the government-sponsored industry syndicate because it was inefficient, illegal, and violated free enterprise. Euler was denied military contracts for his defiance. The military inspector, Major Siebert, argued that "law is powerful, necessity is stronger."

In the Euler-Siebert controversy, the entrepreneur Euler correctly pointed out that the government's military plans, which spawned an unwieldy number of bureaus, were impotent to remedy the underlying shortages of men and material. On the other hand, Major Siebert's militarist position insisted that, given the previous government intervention, the existing Army systems of controls and their consequent shortages required mandatory rationing and allocation. Otherwise Germany could not continue its war production.

The Army, given the logic of intervention, could not abandon its economic controls. However, it failed to take the final logical step of nationalizing the German economy because of restraining economic and social attitudes. The Army was caught on the horns of a dilemma that it could not solve in the context of contradictory interventionist and noninterventionist sentiment within Imperial Germany.

Government Inflation

Ruebling, Charlotte E.

"Financing Government Through Monetary Expansion and Inflation." *Federal Reserve Bank of St. Louis Review* (USA), 57 (1975): 15-23.

Inflation or monetary expansion primarily benefits the Federal Government. Monetary expansion, whether or not accompanied by actual rises in the price level, taxes the wealth of money holders. Such inflation dilutes the purchasing power of money.

Unanticipated price rises further reduce the real value of monetary assets and liabilities. This activity transfers wealth from net monetary creditors to net monetary debtors. Inflation decreases the real value of government debt and thus trans-

fers wealth from bondholders and money holders to taxpayers and to beneficiaries of government spending programs. Correct anticipation of inflation would tend to reduce such transfers. Furthermore, reforms such as (a) removing the ban against paying interest on demand deposits (checking accounts), and (b) indexing income taxes and security prices to reflect the workings of inflation would reduce the degree to which inflation and monetary expansion contribute to government finance.

Monetary expansion and inflation, like income and other taxes, redistribute purchasing power from the private sector to the public sector (government spending) and among some privileged members of the private sector. Unlike other taxes, however, inflation is not legislated specifically, but results from the actions of the Federal Reserve.

Neomercantilism

Johnson, Garry G.

"The Relevance of *The Wealth of Nations* to Contemporary Economic Policy." *Scottish Journal of Political Economy* 23 (1976): 171-182.

A new synthesis of areas of economic policy, (e.g., commercial policy, public finance, and the general role of governmental intervention in economic life), which had been influenced by *The Wealth of Nations* now varies considerably from Adam Smith's classic. The synthesis comes both from the "theory of second best" (from which one invariably concludes that we need governmental intervention) and from "first best" considerations (once one assumes that "externalities" and "public goods" are all-pervasive). The shapers of the new synthesis adopt a philosophical rationale: the market is guilty until proven

innocent; while government is never guilty, however criminally or irresponsibly particular governments may have behaved.

By design, much of the terminology and conceptualization in public finance justifies the extension of the role of government, e.g., "merit goods." But once the state reaches the commanding dimensions which it does in some countries, the market, as a basis for valuing factors used by the government, ceases to have any real meaning. Thus the question of evaluating the efficiency of taxation and public expenditure, and of controlling their magnitude is beyond the bounds of Adam Smith's concept of public finance.

In the sphere of commercial policy, mercantilism has again emerged. It has two aspects. One—the naive—relates to the establishment of a favorable balance of trade. The other—sophisticated—forms the policy to develop an export surplus in "technologically sophisticated" products.

We witness the contemporary tendency to replace the mercantilist fallacy (that wealth consists of gold and silver) with the neomercantilist fallacy (that it consists in the possession of high technology). This suggests one of the main reasons why the leading industrial countries have moved a long way toward freedom of trade in industrial but not in agricultural products. These countries recognize that trade interventions have become crude methods to influence resource allocation compared with more effective fiscal alternatives. Moreover, because of its "public goods" character, technological superiority holds the promise of monopoly gains. To maximize these gains requires the largest negotiable market area of ostensibly free competition.

Economists have remained backward in evaluating the evidence on the actual economic effects of governmental economic regulation. This is because (1) the economist of today, in contrast to Adam Smith, has a vested interest in the extension of power of the state—even if only as a convenient reference point for teaching his subject; (2) economists have come to prefer the methods of governmental decision making to those of the individual operating in a competitive market; (3) economists assume better educated (than in Smith's time) public servants upgrade the quality of governmental decision making.

From these considerations, Adam Smith's views against government intervention are not likely to command much of a hearing nowadays.

Compulsory Schooling

Everhart, Robert B.

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A number of conditions made possible the passage of compulsory school attendance legislation. We can explore those structural conditions. We do not investigate the actual political maneuvering involved in passing the specific legislation. We rather pull together analyses of these underlying conditions to show the economic, social, and educational bases for the legislation.

The movement toward compulsory school attendance involved three stages. Schooling had become universal by the first half of the nineteenth century. The prevailing attitude in the colonies and the postrevolutionary era supported self-development. Increasingly that tended to mean schooling. Literacy rates for adult males generally ranged from 70%–100%. Enrollment of students between the ages of 5 to 16 exceeded 90% in many areas. In other areas the percentage enrolled at any given time dipped below 90%. However, this reflected students rotating in and out, rather than complete education for some and none for others. (Many educators today look at open-entry and open-exit as a

"From Universalism to Usurpation: An Essay on the Antecedents to Compulsory School Attendance Legislation." *Review of Educational Research* (USA), 47 (1977): 499–530.

desirable but utopian goal.) A diverse group of individual teachers and schools provided the schooling.

By the middle of the nineteenth century, states were becoming increasingly involved in the support of education. Many teachers welcomed this state involvement since it freed them from the needs to attract students and collect fees. Over a period of time the public schools' competitive edge due to tax support allowed them to prevail over most of their private rivals. We can attribute the triumph of the public schools to the working of a number of interest groups. Many upper and middle income people feared the immigrant, Catholic, and increasingly urban groups of low income people. They wanted to impose middle class American values. Educational bureaucrats wanted to build their

organizations. Teachers were freed from the demands of the market. As a result of compulsory school legislation, parents and students no longer could choose where to go to school, only whether and how long.

Traditional historians have seen compulsory school legislation as supporting and supplementing child labor laws. This is clearly false. Schools were overcrowded; laws frequently had no enforcement mechanisms; and when they did, officers rarely used those mechanisms. Rather the laws reflected America's mood, which had shifted to one of compelling goodness. Also the elites used the legislation as a symbolic tool to control the problems of social change. A new majoritarian mood stood for molding low income students into a form

preferred by the elites. They feared an impending loss of their status and identities. Of course this could not have occurred unless the public school system had been in place. Additionally, the elites had come to view private schools as narrow and discriminating.

It is clear that a market mechanism in education was working and was developing along lines that we consider desirable and even utopian today. But that was not understood. An enormous increase in the need for schooling was taking place. Elite groups used this along with an ideological base to provide schooling for their children at public expense while shaping low income and immigrant children into a preferred mold.

Planning in Nonprofit Agencies

Bélanger, Gérard
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"L'Université, organisme à but non lucratif" ("The University as a Nonprofit Organization"). *Revue d'économie politique* (France), 87 (1977): 574-590.

We cannot trace the distinction between nonmarket organizations (such as nonprofit universities) and commercial, profit making enterprises to the different traits of individuals within each organization. Rather, the differing constraints or "rules of the game" motivate the individuals involved in distinct ways. Between market and nonmarket institutions, significantly different systems of sanctions and rewards operate. A priori, we can predict that different results will flow from such different frameworks.

Those universities where nobody has an explicit right to the school's budget surplus, are nonprofit organizations. When, moreover, a nonprofit agency like a governmental university wields a certain measure of monopoly power, a surplus arises that can either dissipate in inefficiencies or show up in nonmonetary compensations. Many consequences follow

from the curtailed competition in higher education. In general, Adam Smith's words still deliver a contemporary ring. They describe the decline in educational standards when teachers lack exposure to the discipline of consumer demand and market signals.

In some universities the teacher is prohibited from receiving any honorary or fee from his pupils, and his salary constitutes the whole of the revenue which he derives from his office. His interest is, in this case, set directly in opposition to his duty as it is possible to set it. . . . It is the interest of every man to live as much at his ease as he can; and if his emoluments are to be precisely the same, whether he does, or does not perform some very laborious duty, it is certainly his interest, at least as interest is vulgarly understood, either to neglect it altogether, or if he is subject to some authority which will not suffer him to do this, to perform it in as careless and slovenly manner as that authority will permit. If he is naturally active and a lover of labour, it is his interest to employ that activity in any way, from which he can derive some advantage, rather than in the performance of his duty, from which he can derive none.

If the authority to which he is subject resides in the body corporate, the college, or university, of which he himself is a member, and in which

the greater part of the other members are, like himself persons who either are, or ought to be, teachers; they are likely to make a common cause, to be all very indulgent to one another, and every man to consent that his neighbor may neglect his duty provided he himself is allowed to neglect his own.

(*The Wealth of Nations*, Book V, part 3, article 2.)

More particularly, lack of competition in higher education arises when: (1) government restricts entry in the "industry"; (2) the consumer ignores the quality of educa-

tional services; and (3) the central planner has no way to evaluate the output and efficiency of the education "producers" (i.e., the university teachers).

In nonmarket politicized schools, a "discretionary budget" exists, and the thorny question is to determine who appropriates it. Government bureaucrats succeed in appropriating a sizeable chunk. They transform this financial leverage into more power for themselves. In effect, they directly control and allocate resources among the different programs of a university, a task they have assumed more regularly during the past 15 years.

To the extent that government contents itself with indirect control of university performance, members of the university community take a larger share of the discretionary surplus. Since they exert little effective control over the "production" or teaching function, university administrators must share much of their discretionary budget with the relatively autonomous faculty. The right of academic freedom allows university teachers to organize the production of education around their own interests; they thereby appropriate in nonmonetary compensation a large part of the university's discretionary budget.

Professors not only dominate the university, they also dominate their "clients," the students, as "consumers." Students, who often do not pay directly for their education, exert little consumer power over decisions. In fact, education seems a unique economic sector where the consumer has to satisfy minimum requirements in order to continue buying. In this nonmarket situation, students have little consumer sovereignty and have little means to gain real power.

In short, the nonmarket aspect of most universities allows the teaching faculty to appropriate a large share of the discretionary budget and thereby advance its own self-interest. Like doctors in a non-profit hospital, professors have no interest in making the institution efficient, that is, to minimize costs or adapt their services to the consumers' needs. The distinct system of nonmarket sanctions and rewards does not encourage agents in the more efficient ways of market forces such as consumer demand.



Private Capital and Education

West, E. G. and McKee, M.
Carleton University, Ottawa, Canada

"Imperfect Capital Markets as Barriers to Education." *Atlantic Economic Journal* (USA), 5 (1977): 32-42.

Economists and laymen often assume that private capital markets are imperfect suppliers of loans for education. A parallel implicit presumption is that government-funded loans can correct this alleged imperfection in the market. Both views are empirically unverified hypotheses.

In order to support these hypotheses, one must first demonstrate that private market rates of interest for educational loans are excessively high (relative to some competitive rate), and second, that the government is able to charge lower rates on some economically justifiable basis. But even if we assume that private markets are imperfect in this area, it is doubtful that government could improve on the performance of the private sector, given the high and growing cost of supplying student loans in the public sector.

The high cost of student loans results mostly from the high risk of nonrepayment and default in a group that offers no collateral for their loans. Usually individuals who are too young to have established a reliable credit rating make up this group. Because the government does not cover such default costs out of the revenues from its loan program, it understates the actual costs of governmental student loans. To find the true costs of governmental student loans, the hidden shadow rate, we must calculate the rate the government would have to charge to cover all costs including the costs of default plus a normal return. When calculated, the shadow rate of interest approximates 17% for government loans. To be an improvement over the private market rate, private loans would have to exceed rates of 17%. In fact, by more carefully screening loan applicants, the private market probably could underbid by several percentage points the government



rate of 17%.

Why then does the private market not provide student loans more frequently? Two reasons appear relevant. First, the government underprices its loans since it transfers the costs of defaults from the class of borrowers to the general taxpayers. Second, it may very well be that students find returns to education in general not sufficiently high to warrant borrowing at even these lower market rates.

The private market, then, is not imperfect in the sense that public policy can improve its operation. Rather it is inoperative because the supply curve for student loans rises so high that it never intersects the demand curve in the positive quadrant. The implication is that recent governmental subsidies to education in the form of low priced student loans has probably resulted in a misallocation of resources.

Choice and Spontaneous Order

Coase, R. H.

University of Chicago Law School

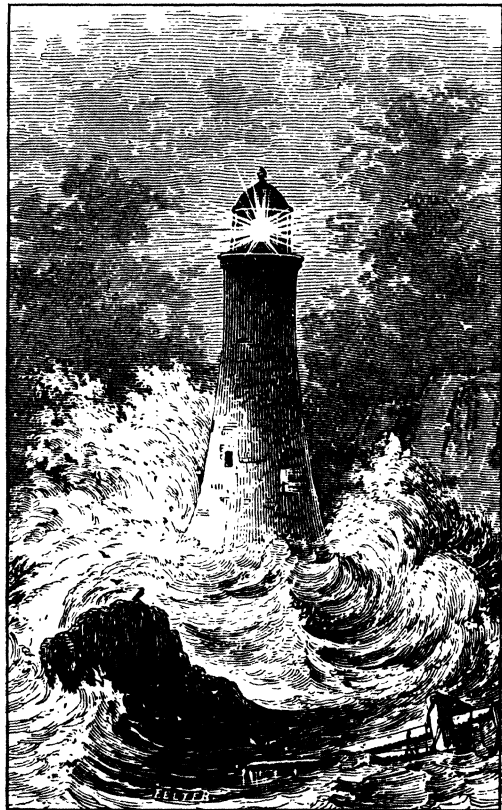
Economists such as John Stuart Mill and Paul Samuelson have used the lighthouse as a symbol and example of an economic good that can only be provided by government planning rather than private choice and enterprise. They contend that a private company would find it unprofitable to build and maintain a lighthouse because it could not secure fees from those ships which benefit from the lighthouse. A detailed historical investigation of the British lighthouse system refutes this antimarket symbolism for the lighthouse.

On the contrary, if general taxation supported lighthouses as a substitute for light dues, government cost-efficiency would reduce the efficiency of the service. The general taxpayer is less interested in high quality lighthouse service than the shipowners, underwriters, and shippers who on the free market actually pay for additional services.

Economists need a comprehensive study of lighthouse finance and administration. Such a study would show the richness of social alternatives to state ownership or state administration of economic goods and services.

The early history of the British lighthouse service shows that, contrary to the belief of many economists, private enterprise can provide profitable lighthouses. In the early sixteenth century,

"The Lighthouse in Economics." *The Journal of Law and Economics* 17 (1974): 357-376.



shipowners and shippers could petition the King to allow a private entrepreneur to construct a lighthouse and to levy a specified toll on ships benefiting from it. The lighthouses were built, operated, financed, and owned by private individuals who could sell or dispose of them by bequest. The role of government was limited to enforcing property rights in the lighthouse. Agents for the lighthouses collected the charges at the ports. The problem of collection was no different for them than for other suppliers of goods and services to the shipowner. The lighthouse owners' property rights were limited only

by price controls. The most celebrated British lighthouse, the Eddystone on a reef of rocks some 14 miles offshore from Plymouth, testifies dramatically to show how private interests promote "public" ends despite the opposition of storms and government agencies.

In the 1830s the provision of lighthouses in England and Wales was entrusted to Trinity House, a private agency with public duties. But tolls levied on ships continued to finance the service. The nonmarket system favored by Samuelson, financed by the government out of general taxation, has never been tried in Britain. ■



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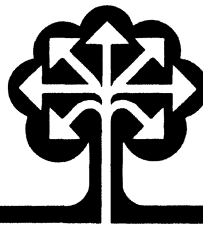
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